

# SHREE GURU KRIPA'S INSTITUTE OF MANAGEMENT



## CORPORATE AND ALLIED LAWS FOR CA FINAL ADDITIONAL MATERIAL (FOR MAY 2011 EXAMINATIONS)

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# PART – I

## SEBI (ISSUE OF CAPITAL AND DISCLOSURE REGULATIONS), 2009

### CHAPTER OVERVIEW

SEBI (Issue of Capital and Disclosure Requirements Regulations), 2009 covers the following matters –

| CH         | Description                                    | CH          | Description                                     |
|------------|------------------------------------------------|-------------|-------------------------------------------------|
| <b>I</b>   | Preliminary                                    | <b>IV</b>   | Rights Issue                                    |
| <b>II</b>  | Common Conditions for Public / Rights Issues   | <b>V</b>    | Manner of Disclosure in the Offer Document      |
| <b>III</b> | Provisions as to Public Issue:                 | <b>VI</b>   | General Obligation of Issuer and Intermediaries |
| Part 1     | Eligibility Requirements                       | <b>VII</b>  | Preferential Issue                              |
| Part 2     | Pricing in Public Issue                        | <b>VIII</b> | Qualified Institutions Placement                |
| Part 3     | Promoters' Contribution (PC)                   | <b>IX</b>   | Bonus Issue                                     |
| Part 4     | Restriction on Transferability (Lock-In) of PC | <b>X</b>    | Issue of Indian Depository Receipts (IDR)       |
| Part 5     | Minimum offer to Public, Reservations, etc     | <b>XI</b>   | Miscellaneous                                   |

### CHAPTER I – PRELIMINARY

**1. Title and Applicability:**

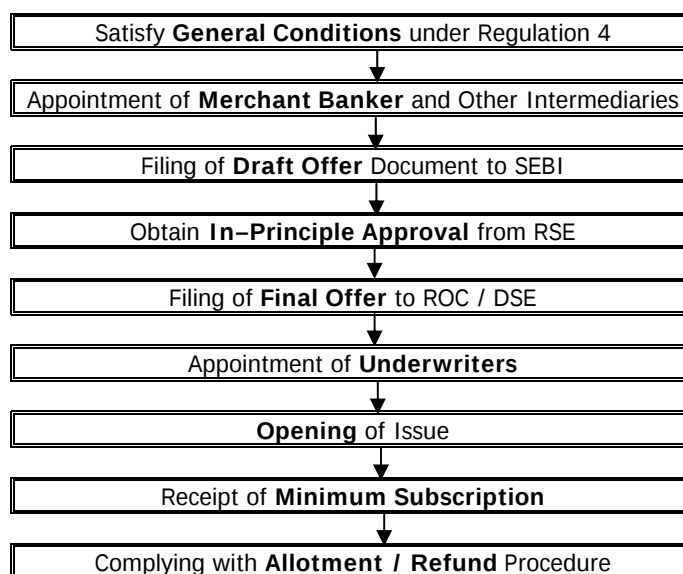
- (a) **Title:** These regulations may be called the SEBI (Issue of Capital and Disclosure Regulations) 2009, and have been issued by SEBI u/s 30 of the SEBI Act, 1992. These regulations shall come into force from **26-08-2009**.
- (b) **Applicability (R – 3):** These regulations shall be applicable to –
- a Public Issue;
  - a Rights Issue, where the aggregate value of specified securities offered is **Fifty Lakh Rupees** or more;
  - a Preferential Issue;
  - an issue of Bonus Shares by a Listed Issuer;
  - a Qualified Institutions Placement by a Listed Issuer;
  - an issue of Indian Depository Receipts (IDR).

**2. Definitions (R – 2):** Meaning of various terms. (incorporated in appropriate places)

### CHAPTER II – COMMON CONDITIONS FOR PUBLIC AND RIGHTS ISSUES

**1. What are the conditions for making Public and Rights Issue? [Ch – II]**

M 02



**2. What are the GENERAL conditions for making Public and Rights Issue? [R – 4]****M 02**

| Particulars                                                         | Description / Condition                                                                                                                                                                                                                                                                                                                                                |
|---------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Not debarred from accessing the capital market by the Board.</b> | <ul style="list-style-type: none"> <li>• <b>Issuer</b>, any of its Promoters, Promoter Group or Directors or Persons in control of the Issuer</li> <li>• <b>Any other Company</b>, in which any of the Promoters, Directors or Persons in control of the issuer was or also is a Promoter, Director or person in Control</li> </ul>                                    |
| <b>Issuer of Convertible Debt Instruments</b>                       | <ul style="list-style-type: none"> <li>• Not in the <b>list of wilful defaulters</b> published by the RBI</li> <li>• <b>No default of payment of interest or principal</b> in respect of Debt Instruments issued by it to the Public, if any, for a period of more <b>than 6 months</b>.</li> </ul>                                                                    |
| <b>Application to Recognised Stock Exchange (RSE)</b>               | Issuer shall make an application to one or more RSE for listing of specified securities on such stock exchanges and has chosen one of them as the Designated Stock Exchange (DSE). But in case of an Initial Public Offer (IPO), the issuer shall make an application for listing of the specified securities in at least one RSE having nationwide trading terminals. |
| <b>Agreement with Depository</b>                                    | Issuer shall enter into an agreement with a Depository for dematerialisation of specified securities already issued or proposed to be issued.                                                                                                                                                                                                                          |
| <b>Fully Paid Shares</b>                                            | All existing partly paid-up equity shares of the issuer have either been fully paid up or forfeited.                                                                                                                                                                                                                                                                   |
| <b>Firm arrangement of Finance</b>                                  | Issuer shall make Firm arrangements of finance through verifiable means towards 75% of the stated means of finance, excluding the amount to be raised through the proposed public issue or rights issue or through existing identifiable internal accruals.                                                                                                            |

**Note:**

1. **Time of Compliance:** Companies issuing Securities through public issue or rights issue, shall satisfy the above conditions both at the time of filing –

**(a) Draft Offer Document to SEBI****(b) Final Offer Document to ROC / DSE**2. **Offer Document:**

|                        |                                                                                                                               |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| Public Issue of Shares | Red–Herring Prospectus, Prospectus or Shelf Prospectus and Information Memorandum in terms of Sec. 60A of Companies Act, 1956 |
| Rights Issue           | Letter of Offer filed with Designated Stock Exchange                                                                          |

3. **Designated Stock Exchange (DSE)[R – 2(I)]:**

- It means a RSE in which Securities of an Issuer are listed or proposed to be listed and which is chosen by the issuer as a DSE for the purpose of a particular issue of specified securities.
- Where one or more of such stock exchanges have nationwide trading terminals, the issuer shall choose one of them as the DSE.
- The issuer may also choose a different RSE as a DSE for any subsequent issue of specified securities.

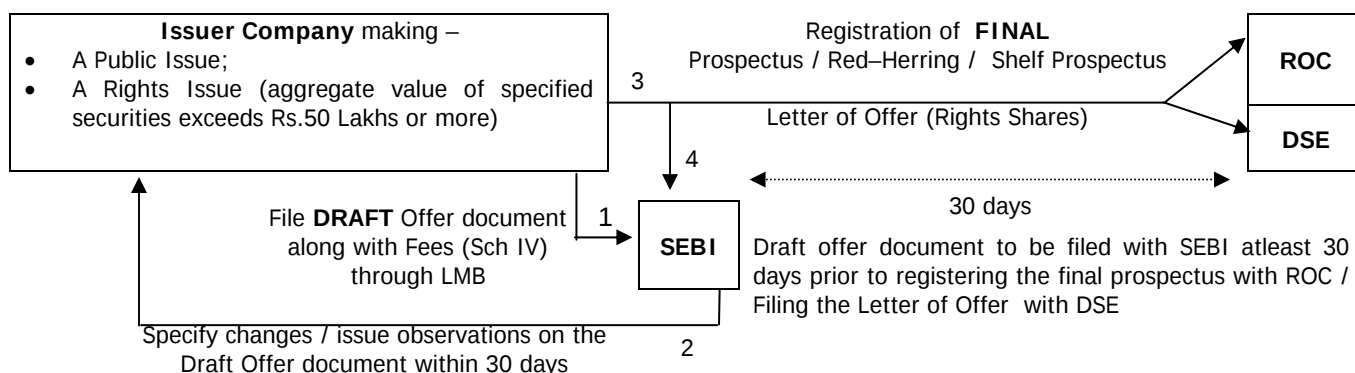
**3. State the procedure for appointment of Merchant Banker and Intermediaries? [R – 5]**

| Appointment of –                  | Description                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Merchant Banker</b>            | The Issuer shall appoint one or more merchant bankers.<br>The rights, obligations and responsibilities, relating inter alia to disclosures, allotment, refund and underwriting obligations, if any, of each merchant banker shall be predetermined and disclosed in the offer document (as per Sch I)                                                                                                                    |
| <b>Lead Merchant Banker (LMB)</b> | The Issuer shall appoint at least one of Merchant Banker as a Lead Merchant Banker (LMB) by entering into an agreement (Format Sch II)                                                                                                                                                                                                                                                                                   |
| <b>Intermediaries</b>             | <ul style="list-style-type: none"> <li>• The Issuer in consultation with the LMB shall appoint one or more intermediaries who are registered with the Board by entering into agreement (Format as per respective governing regulations)</li> <li>• The LMB shall, only after independently assessing the capability of intermediaries to carry out their obligations, advise the issuer on their appointment.</li> </ul> |
| <b>Syndicate members</b>          | The Issuer shall appoint Syndicate Members in case of Book Built Issue. The syndicate members are registered intermediary with the SEBI and who is permitted to carry on the activity as an underwriter.                                                                                                                                                                                                                 |
| <b>Bankers to the Issue</b>       | Issuer shall appoint Bankers to issue at all mandatory collection centres as specified in Sch. III and such other collection centres as it may deem fit.<br>The issuer shall take cognizance of the deemed agreement with Self Certified Syndicate Banks (SCSB).                                                                                                                                                         |

| Appointment of –                               | Description                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Registrars to the Issue</b>                 | The issuer shall appoint a registrar which has connectivity with all the depositories. If issuer itself is a Registrar to an issue registered with the Board, then another registrar to an issue shall be appointed as registrar to the issue.<br>The Lead Merchant Banker (LMB) shall not act as a registrar to the issue in which it is also handling the post issue responsibilities. |
| <b>Lead Book Runner (For Book Built Issue)</b> | The Lead Merchant Banker (LMB) appointed by the issuer shall act as the Lead Book Runner.                                                                                                                                                                                                                                                                                                |

**Note:**

- The agreements entered into for appointment of intermediaries may include such other clauses as the issuer and the intermediary may deem fit without diminishing or limiting in any way the liabilities and obligations of the Merchant Bankers, other Intermediaries and the Issuer under the Act, the Companies Act, 1956, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and the rules and regulations made thereunder.
- Self Certified Syndicate Bank is a Banker to an issue registered with the Board which offers the facility of Application Supported by Blocked Amount (ASBA).
- ASBA means an application for subscribing to a public issue or rights issue, along with an authorisation to SCSB to **block the application money in a Bank Account**.

**4. Explain the Procedure for filing of Offer Document? [R – 6]**

- Applicability:** Issuer Company making (a) A Public Issue; (b) A Rights Issue (aggregate value of specified securities exceeds Rs.50 Lakhs or more)

**2. Steps Involved:**

| Steps                                                               | Particulars                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |           |                    |         |                                      |                                                                     |                                                  |                                                                 |                                                        |                                            |                                                  |
|---------------------------------------------------------------------|--------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|--------------------|---------|--------------------------------------|---------------------------------------------------------------------|--------------------------------------------------|-----------------------------------------------------------------|--------------------------------------------------------|--------------------------------------------|--------------------------------------------------|
| (1)                                                                 | Draft Offer Document                                   | Issuer company shall file a Draft Offer document along with fees (as per Sch IV) with SEBI (both in Hard and Soft copy as per Sch V) through Lead Merchant Banker, atleast 30 days prior to registering the prospectus, Red-Herring Prospectus or Shelf Prospectus with the Registrar of Companies or filing the Letter of Offer with the Designated Stock Exchange, as the case may be. (LMB shall file the Draft Offer document to RSE where shares are proposed to be listed)                                                                                                                                                                                                                                          |           |                    |         |                                      |                                                                     |                                                  |                                                                 |                                                        |                                            |                                                  |
| (2)                                                                 | SEBI to specify changes                                | <div>The Board may specify changes or issue observations, if any, on the draft offer document within 30 days from the later of the following dates –</div> <table><tr><th>Situation</th><th>30 days from the –</th></tr><tr><td>General</td><td>Date of receipt of Draft Prospectus.</td></tr><tr><td>Clarification or Additional information sought from Lead Manager(s)</td><td>Date of receipt of satisfactory reply from them.</td></tr><tr><td>Clarification / information sought from any Regulator or Agency</td><td>Date of receipt Clarification / information from them.</td></tr><tr><td>In-Principle Approval Letter issued by RSE</td><td>Date of receipt of copy of In-Principle Approval</td></tr></table> | Situation | 30 days from the – | General | Date of receipt of Draft Prospectus. | Clarification or Additional information sought from Lead Manager(s) | Date of receipt of satisfactory reply from them. | Clarification / information sought from any Regulator or Agency | Date of receipt Clarification / information from them. | In-Principle Approval Letter issued by RSE | Date of receipt of copy of In-Principle Approval |
| Situation                                                           | 30 days from the –                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |           |                    |         |                                      |                                                                     |                                                  |                                                                 |                                                        |                                            |                                                  |
| General                                                             | Date of receipt of Draft Prospectus.                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |           |                    |         |                                      |                                                                     |                                                  |                                                                 |                                                        |                                            |                                                  |
| Clarification or Additional information sought from Lead Manager(s) | Date of receipt of satisfactory reply from them.       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |           |                    |         |                                      |                                                                     |                                                  |                                                                 |                                                        |                                            |                                                  |
| Clarification / information sought from any Regulator or Agency     | Date of receipt Clarification / information from them. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |           |                    |         |                                      |                                                                     |                                                  |                                                                 |                                                        |                                            |                                                  |
| In-Principle Approval Letter issued by RSE                          | Date of receipt of copy of In-Principle Approval       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |           |                    |         |                                      |                                                                     |                                                  |                                                                 |                                                        |                                            |                                                  |

|     |                             |                                                                                                                                                                                                                                                                                                                                                                                        |
|-----|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (3) | Filing Final Offer Document | The Issuer and Lead Merchant Banker shall carry out such changes in the Draft Offer document and comply with the observations issued by the Board before registering the Prospectus, Red-Herring Prospectus or Shelf-Prospectus, as the case may be, with the Registrar of Companies or filing the letter of offer with the DSE.                                                       |
| (4) | Filing with SEBI            | The Issuer shall, simultaneously while registering the Prospectus, Red-Herring Prospectus, or Shelf Prospectus with the Registrar of Companies or filing the Letter of Offer with the or before the Opening of the Issue, file a copy thereof with the Board through the Lead Merchant Banker. (LMB shall file the Final Offer document to RSE where shares are proposed to be listed) |

3. **Website hosting for public comments [R – 9]:**

|                                                       |                                                                                                                                                                                                                                                                                                              |
|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Hosting on Website                                    | The draft offer document filed with the Board shall be made public, for comments, if any, for a period of atleast 21 days from the date of such filing, by hosting it on the websites of the Board, RSE where specified securities are proposed to be listed and Merchant Bankers associated with the Issue. |
| Review of comments received and intimation of changes | The LMB shall, after the expiry of 21 days file with the Board a statement giving information of the comments received by them or the issuer on the draft offer document during that period and the consequential changes, if any, to be made in the draft offer document.                                   |

4. **Fast Track Issue (R – 10):** The above procedures will not apply in case of a Fast Track Issue made by a Listed Public Companies. (See Q.No.7 below)

5. **Forwarding of Offer Document (R – 12):** The LMB shall dispatch the offer document and other issue material including form for ASBA to the DSE, Syndicate Members, Underwriters, Banker's to the Issue, Investor's Associations and Self Certified Syndicate Banks.

5. **Explain the Procedure for obtaining In-Principle approval from RSE? [R – 7]**

The issuer company shall obtain in-principle approval from RSE as follows –

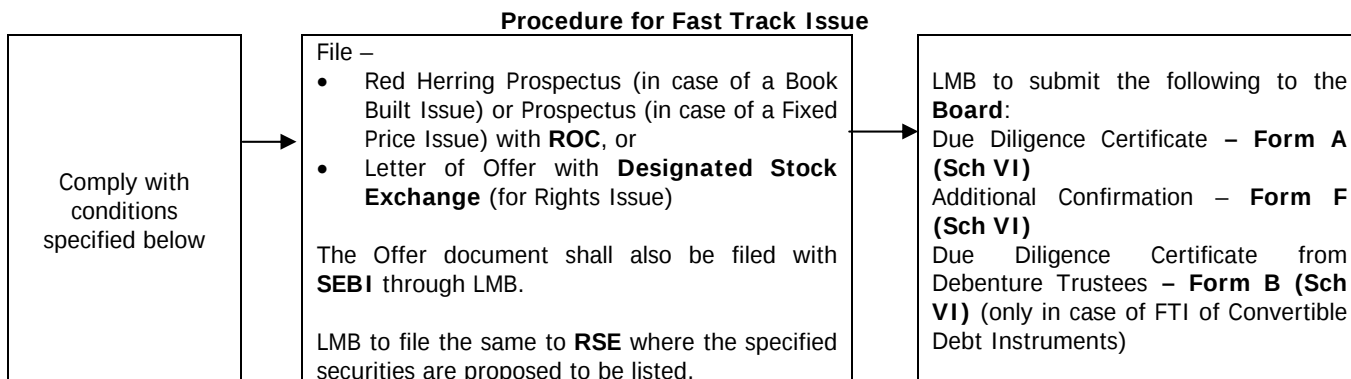
| In case of –                                                                                                                                                                                                                                                                                                                                 | Obtain Approval from –                                                                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| An Initial Public Offer (IPO)                                                                                                                                                                                                                                                                                                                | ALL the RSE's in which the Issuer proposes to get its specified securities listed                                                                                                      |
| A Further Public Offer (FPO) and Rights Issue where the specified securities are:–<br>(a) Listed only on RSE having nationwide trading terminals<br>(b) Not Listed on any RSE having nationwide trading terminals<br>(c) Listed on RSE's having nationwide trading terminals as well as on the RSE's not having nationwide trading terminals | All such Stock Exchanges<br><br>All the stock exchanges in which the specified securities of the issuer are proposed to be listed<br><br>All RSE's having nationwide trading terminals |

6. **State the Documents to be submitted before Opening of the Issue by the Lead Merchant Banker to the SEBI? [R – 8]**

| Document to be submitted along with “Draft Offer Document” (DOD)                                                                                                                                                                                                                                                                                                                                                                                                                     | Document to be submitted after receipt of observations on DOD or if no observation were received, after expiry of specified time u/r 6                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) a copy of the agreement entered into between the Issuer and the Lead Merchant Bankers (LMB)<br>(b) a copy of inter-se allocation of responsibilities of each Merchant Banker, in case the issue is managed by more than one merchant banker<br>(c) a due diligence certificate (Sch VI – Form A)<br>(d) in case of an issue of Convertible Debt Instruments, a due diligence certificate from the Debenture Trustee (Sch VI – Form B)<br>(e) a Compliance Certificate confirming | (a) a statement certifying that all changes, suggestions and observations made by the Board have been incorporated in the offer document<br>(b) a due diligence certificate at the time of registering the prospectus with the ROC (Sch VI – Form C)<br>(c) a copy of the resolution passed by the Board of Directors of the Issuer for allotting specified securities to Promoters towards amount received against Promoters' Contribution, before opening of the issue<br>(d) a certificate from a Chartered Accountant, before opening of the issue, certifying that Promoters' contribution has been received in accordance with these regulations, accompanying therewith the names and addresses of the Promoters who have contributed to the Promoters' contribution and the amount paid by each of them towards such contribution<br>(e) a due diligence certificate immediately before the opening of the issue |

|                                                                                                                                                                                                                             |                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| compliance of the conditions mentioned therein <b>(Sch VII – Part I)</b><br>(f) Permanent Account Number, Bank Account Number and Passport number of its promoters (only to RSE where securities are proposed to be listed) | certifying that necessary corrective action, if any, has been taken <b>(Sch VI – Form D)</b><br>(f) a due diligence certificate after the issue has opened but before it closes for subscription <b>(Sch VI – Form E)</b> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## 7. State the conditions to be satisfied for making a Fast Track Issue (FTI)? [R – 10]



**Fees:** As per Sch IV

**The Issuer Company not required** under Fast Track Issue – (a) to file Draft Offer document u/r 6; (b) to obtain in-principle approval from RSE u/r 7; (c) filing of specified documents before opening of the issue u/r 8.

### Specified Conditions

The following conditions are to be satisfied by the issuer making Public Issue / Rights Issue –

| Nature                                   | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Listing                                  | The Equity Shares of the Issuer Company have been listed on any Recognised Stock Exchange having nationwide terminals for a period of atleast 3 years immediately preceding the <b>reference date</b> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Average Market Capitalisation (AMC)      | The AMC of the public shareholding of the issuer is at least Rs.5,000 Crores Rupees.<br><b>AMC</b> = Sum of Daily Market Capitalisation 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 shareholders or the board of the issuer as the case may be) ÷ The number of trading days.                                                                                                                                                                                                                                                                                                                                                                        |
| Annualised Trading Turnover (ATTO)       | The <b>ATTO</b> of the equity shares of the issuer during 6 calendar months immediately preceding the month of the <b>reference date</b> has been at least 2% of the weighted average number of equity shares listed during such 6 months' period.<br><b>Issuers whose public shareholding is less than 15% of its issued equity capital:</b> The ATTO of its Equity Shares has been at least 2% of the weighted average number of equity shares available as free float during such 6 months' period.                                                                                                                                                                                                                                                     |
| Investors Complaints                     | The Issuer has redressed at least 95% of the complaints received from the Investors till the end of the quarter immediately preceding the month of the <b>reference date</b> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Compliance with Equity Listing Agreement | The issuer has been in compliance with the Equity Listing Agreement for a period of at least 3 Years immediately preceding the <b>reference date</b> .<br><b>Exceptions:</b> If the issuer has not complied with the provision of the equity listing agreement relating to <b>composition of board of directors</b> , for any quarter during the last 3 years immediately preceding the <b>reference date</b> , but is compliant with such provisions at the time of <b>filing of offer document</b> with the ROC or DSE, as the case may be, and adequate disclosures are made in the offer document about such non-compliances during the 3 Years immediately preceding the <b>reference date</b> , it shall be deemed as compliance with the condition. |
| Auditors' Qualification Impact           | The impact of Auditors' qualifications, if any, on the audited accounts of the issuer in respect of those financial years for which such accounts are disclosed in the offer document does not exceed 5% of the Net Profit or Loss after Tax of the Issuer for the respective years.                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| No pending proceedings                   | No show-cause notices have been issued or prosecution proceedings initiated by the <b>Board</b> or pending against the Issuer or its Promoters or Whole Time Directors as on the <b>reference date</b> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Dematerialized                           | The entire shareholding of the Promoter group of the Issuer is held in Dematerialized form on the <b>reference date</b> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

**Reference Date** means –

| In case of              | Reference Date                                                                                                                    |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Fast Track Public Issue | 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. |
| Fast Track Rights Issue | Date of filing of Letter of Offer with Designated Stock Exchange.                                                                 |

**8. State the regulations with respect to appointment of Underwriters? [R – 13]****1. Appointment:**

| Issuer Making –                                                                                           | Underwriters shall be –                                                                |
|-----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| Public Issue (Other than Book Building Issues) or Rights Issue and desires to have the issue underwritten | In accordance with SEBI (Underwriters) Regulations, 1993                               |
| Book Building Issues                                                                                      | Book Runners or Syndicate Members. The issue cannot be underwritten under two grounds. |

**2. Issue cannot be Underwritten:**

| Situations                                                                                                                                                                                                                                                                                                                                | Extent underwriting not permissible                                   | Reason                                                                                                                                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>50 %</b> of Net Offer to Public proposed to be compulsorily allotted to QIB [R – 26(2)]                                                                                                                                                                                                                                                | Such <b>50 %</b> proposed to QIB                                      | Company becomes eligible to make public issue of Shares if atleast 50% of the Net Offer to Public under Book Building process is made to QIB and should refund full subscription monies if it fails to make allotment to QIB. Hence, the issue cannot be underwritten. |
| Above situation and atleast 10% of each class or kind of Equity Shares or Debentures Convertible into Equity Shares issued by the Company was offered and allotted to public in terms of an offer document if the post issue capital of the Company calculated at offer price is more than Rs.4,000 Crores u/r 19(2) of SCR (Rules), 1957 | <b>60 %</b><br>(50% proposed to QIB + 10% compulsory offer to public) |                                                                                                                                                                                                                                                                        |

- 3. Agreements:** The issuer shall enter into underwriting agreement with the book runner, who in turn shall enter into underwriting agreement with syndicate members, indicating therein the number of specified securities which they shall subscribe to at the predetermined price in the event of under-subscription in the issue.
- 4. Responsibility:** If the Syndicate Members do not fulfil their underwriting obligations, the Lead Book Runner(s) shall fulfill the underwriting obligations.
- 5. Restriction:** The Book Runners and Syndicate Members shall not subscribe to the issue in any manner except for fulfilling their underwriting obligations.
- 6. Filing of Documents:** A copy of the syndicate agreement shall be filed with the Board before the opening of bids.
- 7. Minimum Obligation:** The LMB or the lead book runner shall undertake **minimum underwriting obligations** as specified in the SEBI (Merchant Bankers) Regulations, 1992 in all case of underwritten issue. However, where 100% of the offer through offer document is underwritten, the underwriting obligations shall be for the entire 100% of the offer through offer document and shall not be restricted upto the minimum subscription level.

**9. What is the compliance with respect to Minimum Subscription of Issue? [R – 14]**

- 1. Minimum Subscription:** The minimum subscription to be received in an issue shall **not be less than 90 % of the offer** through offer document.
- 2. Non Receipt of Minimum Subscription:** In the event of non-receipt of Minimum Subscription, all application moneys received shall be refunded to the applicants forthwith, but not later than –

|                                                                                                                                                                              |                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <b>Non Underwritten Issue</b>                                                                                                                                                | <b>15 days</b> of the closure of the issue                                                                                     |
| <b>Underwritten Issue</b> – where minimum subscription including devolvement obligations paid by the underwriters is not received within 60 days of the closure of the issue | <b>70 days</b> of the closure of the issue (i.e within next 10 days after the expiry of 60 days from the closure of the issue) |

3. **Disclosure in offer document:** The offer document shall contain adequate disclosures regarding minimum subscription (Part A of Schedule VIII)
4. **Not Applicable:** The provision Minimum Subscription shall not apply to –
  - Offer for Sale of specified securities
  - Public issue by **Infrastructure Companies** if the disclosures regarding the alternate source of funding of the objects of the issue have been made in the offer document.
5. **Meaning of Infrastructure Companies:** The term “**Infrastructure Company**” means, an enterprise wholly engaged in the business of (a) developing or (b) operating and maintaining or (c) developing, operating and maintaining any infrastructure facility.

#### 10. State the allotment procedure in case of Oversubscription of an issue? [R – 15]

1. **Maximum Allotment = Quantum specified in Offer Document:** No Allotment shall be made by the issue in excess of the specified securities offered through the offer document.
2. **Allotment from oversubscribed portion:** An allotment of not more than 10% of the net offer to public may be made for the purpose of making allotment in minimum lots.
3. **Net Offer to Public [R – 2(1)(u)]:** Net Offer to Public means an offer of specified securities to the public but does not include reservations.

#### 11. State the procedure for appointment of Monitoring Agency (Bankers to an Issue)[R – 16]

1. **Applicability:** If the issue size exceeds **Rs.500 Crores**, the issuer shall make arrangements for the use of proceeds of the issue to be monitored by a Public Financial Institution or by one of the scheduled commercial banks named in the offer document as bankers of the issuer.
2. **Not Applicable:**
  - (a) Offer for sale; or
  - (b) An issue of Specified Securities made by a Bank or Public Financial Institution
3. **Reporting by Monitoring Agency:** The Monitoring Agency shall submit its report to the Issuer in the format specified in **Sch IX** on a half yearly basis, till the proceeds of the issue have been fully utilised.

#### 12. Explain the procedure for allotment, refund and raising Call Money? [R – 17/18]

1. **Time Limit for allotment / refund:** The Issuer and Merchant Bankers shall ensure that specified securities are allotted and/or application moneys are refunded within 15 days from the date of closure of the issue.
2. **Interest on belated allotment or failure to refund:** Where specified securities are not allotted and/or application moneys are not refunded within 15 days from the date of closure of the issue, the issuer shall undertake to pay interest at such rate and within such time as disclosed in the offer document.
3. **Time Limit for raising call money:** If the issuer proposed to receive monies in calls it shall be made as follows –

| Monitoring Agency NOT appointed u/r 16                                                                                                                                                                                                                                                                                       | Monitoring Agency appointed u/r 16                                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| Outstanding subscription money is called <b>within 12 months</b> from the date of allotment in the issue and if any applicant fails to pay the call money within the said 12 months, the equity shares on which there are Calls-in-Arrears along with the subscription money already paid on such shares shall be forfeited. | It shall not be necessary to call the outstanding subscription money within 12 months. |

#### 13. Explain when and how the restriction is imposed on further capital issues u/r 19?

The issuer **shall not** make any further issue of specified securities in any manner whether by way of public issue, rights issue, preferential issue, qualified institutions placement, issue of bonus shares or otherwise as follow –

| Nature of Issue  | Restriction Period                                                                                                                                                                                                                                                                                                                                                           |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Fast Track Issue | During the period between the date of registering the red herring prospectus (in case of a book built issue) or prospectus (in case of a fixed price issue) with the Registrar of Companies or filing the letter of offer with the designated stock exchange and the listing of the specified securities offered through the offer document or refund of application moneys. |
| Other Issues     | During the period between the date of filing the draft offer document with the Board and the listing of the specified securities offered through the offer document or refund of application moneys                                                                                                                                                                          |

**Issue permitted:** If full disclosures regarding the total number of specified securities and amount proposed to be raised from such further issue are made in such draft offer document or offer document, as the case may be.

#### 14. Explain the additional requirements w.r.t to issue of Convertible Debt Instruments [R – 20]?

**Applicability:** Issue making a public issue or rights issue of **Convertible Debt Instruments** shall comply with the following conditions in addition to other requirements laid down in these regulations –

| Condition                                           | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Credit Rating</b>                                | It has obtained credit rating from one or more credit rating agencies                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Appointment of Debenture Trustees</b>            | It has appointed one or more debenture trustees in accordance with the provisions of section 117B of the Companies Act, 1956 and SEBI (Debenture Trustees) Regulations, 1993                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Creation of DRR</b>                              | It has created Debenture Redemption Reserve (DRR) in accordance with the provisions of section 117C of the Companies Act, 1956                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Creation of Charge or Security on its Assets</b> | If the issuer proposes to create a charge or security on its assets in respect of secured Convertible Debt Instruments, it shall ensure that –<br>(a) such assets are <b>sufficient</b> to discharge the principal amount at all times;<br>(b) such assets are <b>free from any encumbrance</b> ;<br>(c) where security is already created on such Assets in favour of Financial Institutions or Banks or the issue of Convertible Debt Instruments is proposed to be secured by creation of security on a Leasehold Land, the consent of such Financial Institution, Bank or Lessor for a <b>second or Pari Passu charge</b> has been obtained and submitted to the Debenture Trustee before the opening of the issue;<br>(d) the Security/Asset cover shall be arrived at after <b>reduction of the liabilities</b> having a first/prior charge, in case the convertible debt instruments are secured by a second or subsequent charge. |
| <b>Redemption</b>                                   | It shall redeem the convertible debt instruments in terms of the offer document.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

#### 15. Explain the provision w.r.t Roll Over of Non Convertible portion of Partly Convertible Debt Instruments [R – 21]?

**Applicability:** The Non Convertible portion of Partly Convertible Debt Instruments (PCD) issued by a listed Issuer, the value of which exceeds Rs.50 Lakhs, may be rolled over without change in the interest rate, subject to compliance with section 121 of the Companies Act, 1956 and the following conditions –

| Condition                              | Description                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Resolution</b>                      | 70% of the holders of the Convertible Debt Instruments of the Issuer have, through a resolution, approved the rollover through postal ballot                                                                                                                                                                                                                                            |
| <b>Auditors' Certificate</b>           | the Issuer has, along with the notice for passing the resolution, sent to all holders of the Convertible Debt Instruments, an Auditors' Certificate on the cash flow of the Issuer and with comments on the liquidity position of the Issuer                                                                                                                                            |
| <b>Discharge of dissenting holders</b> | The issuer has undertaken to redeem the non-convertible portion of the PCD's of all the holders who have not agreed to the above resolution                                                                                                                                                                                                                                             |
| <b>Credit Rating</b>                   | Credit Rating has been obtained from at least one credit rating agency registered with the Board within a period of 6 months prior to the due date of redemption and has been communicated to the holders of the Convertible Debt Instruments, before the roll over                                                                                                                     |
| <b>Creation of fresh trust deed</b>    | Whether the issuer is required to create fresh security and to execute fresh trust deed or not shall be decided by the debenture trustee. The creation of fresh security and execution of fresh trust deed shall not be mandatory if the existing trust deed or the security documents provide for continuance of the security till redemption of secured convertible debt instruments. |

**16. Explain the procedure for conversion of Convertible Debt Instruments into Equity Shares. [R – 22]?**

| Steps | Particulars                                                                   | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------|-------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1     | Issue of Notice by Issuer                                                     | The issuer shall send notice to the holders of convertible debt instrument                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 2     | Reply from Holders                                                            | An issuer shall not convert its optionally convertible debt instruments into equity shares unless the holders of such convertible debt instruments have sent their positive consent to the issuer                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 3     | Non Receipt of reply                                                          | Non-receipt of reply to any notice sent by the issuer for this purpose shall not be construed as consent for conversion of any convertible debt instruments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 4     | Determination of conversion price – if not determined at the time of offering | Where the value of the convertible portion of any convertible debt instruments issued by a listed issuer exceeds fifty lakh rupees and the issuer has not determined the conversion price of such convertible debt instruments at the time of making the issue                                                                                                                                                                                                                                                                                                                                                                 |
| 5     | Conversion decision – at the option of the holder                             | The holders of such convertible debt instruments shall exercise the option to convert into equity shares and shall also be given the option of not converting the convertible portion into Equity Shares if price is determined later as above. Where the upper limit on the price of such convertible debt instruments and justification thereon is determined and disclosed to the investors at the time of making the issue, it shall not be necessary to give such option to the holders of the convertible debt instruments for converting the convertible portion into equity share capital within the said upper limit. |
| 6     | Redemption when option not exercised as per Step 5                            | Where an option is to be given to the holders of the convertible debt instruments as per Step 5 and if one or more of such holders do not exercise the option to convert the instruments into equity share capital at a price determined in the general meeting of the shareholders, the issuer shall redeem that part of the instruments within one month from the last date by which option is to be exercised, at a price which shall not be less than its face value.                                                                                                                                                      |

**Note:** The above regulation as the redemption shall not apply if such redemption is in terms of the disclosures made in the offer document.

**17. Shiva Ltd intends to give loan to its 100% subsidiary Vishnu Ltd by raising Convertible Debentures in its name. Is the same permissible under the provision of SEBI Regulations? [R – 23]****1. The permission for raising Convertible Debt Instruments for financing is analyzed as follows –**

| Generally NOT Permitted                                                                                                                                                                                                                        | Permitted if maturity period $\leq$ 18 Months                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| No issuer shall issue Convertible Debt Instruments for financing replenishment of funds or for providing loan to or for acquiring Shares of any person who is “ <b>part of the same group</b> ” or who is “ <b>under the same management</b> ” | The Issuer may issue fully Convertible Debt Instruments for these purposes if the period of conversion of such debt instruments is less than 18 months from the date of issue of such debt instruments. |

2. **Meaning of “Part of Same Group”:** Two persons shall be deemed to be “**part of the same group**” if they belong to the group within the meaning of Section 2(e) of the MRTP Act, 1969 or if they own Inter-Connected undertakings within the meaning of Section 2(g) of the said Act

**3. Meaning of Group u/s 2(e) of the MRTP Act, 1969:**

(a) “**Group**” means

- two or more individuals, associations of individuals, Firms, Trusts, Trustees or Bodies Corporate (excluding financial institutions), or any combination thereof, which exercises, or is established to be in a position to exercise, control, directly or indirectly, over any body corporate, firm or trust; or
- Associated Persons.

(b) **Control:** A group of persons who are able, directly or indirectly, to control the policy of a body corporate, firm or trust, without having a controlling interest in that body corporate, firm or trust, shall also be deemed to be in a position to exercise control over it.

(c) **Meaning of the term “Associated Persons” –**

|                                               |                                                                                                                                                           |
|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| In relation to a Director of a body corporate | <ul style="list-style-type: none"> <li>• a relative of such director, and includes a firm in which such director or his relative is a partner;</li> </ul> |
|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                       | <ul style="list-style-type: none"> <li>any trust of which any such director or his relative is a trustee;</li> <li>any company of which such director, whether independently or together with his relatives, constitutes one-fourth of its board of directors;</li> <li>any other body corporate, at any general meeting of which not less than 1/4<sup>th</sup> of the total number of directors of such other body corporate are appointed or controlled by the director of the first mentioned body corporate or his relative, whether acting singly or jointly</li> </ul> |
| in relation to the partner of a firm  | means a relative of such partner and includes any other partner of such Firm                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| in relation to the trustee of a trust | means any other trustee of such trust                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| AP in relation to other               | Where any person is an associated person in relation to another, the latter shall also be deemed to be an associated person in relation to the former                                                                                                                                                                                                                                                                                                                                                                                                                         |

4. **Meaning of the term Inter-Connected Undertaking u/s 2(f)(g) of MRTP Act, 1969:**– Two undertakings are said to be interconnected, if they fall in any one of the following –

| Aspect                           | When Considered as ICU?                                                                                                                                                                                                                               |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Control                          | (a) One owns or controls the other.<br>(b) They are owned or controlled by same person.                                                                                                                                                               |
| Firm                             | Firms having Common Partners.                                                                                                                                                                                                                         |
| Companies                        | (a) Companies under same management; or<br>(b) One Company is Subsidiary of the other; or<br>(c) One Company manages the another; or<br>(d) One Company exercise Control over the other in any other manner.                                          |
| Partners of the Firm in Company  | If one or more Partners of the Firm –<br>(a) Own directly or indirectly more than 50% of Shares (Equity or Preference) in another Body Corporate.<br>(b) Exercise Control (as a Director or Otherwise) directly / indirectly over the Body Corporate. |
| Body Corporate partner in a Firm | Body Corporate is an ICU of Firm, if one of the Body Corporate which is a Partner in the Firm and the Body Corporate are managed by the Same Person / under the Same Mgmt.                                                                            |
| Residual Category – ICU of ICU   | One Connected with the other either directly or indirectly, through any number of undertakings which are ICU within one or more of the foregoing aspects.                                                                                             |

5. **Meaning of the term “under the same management”** shall have the same meaning as assigned to it in Section 370(1B) of the Companies Act, 1956. Two bodies corporate shall be deemed to be under the same management u/s 370(1B) under the following grounds –
- if the managing director or manager of the one body is the managing director or manager of the other body; or
  - if a majority of the directors of the one body constitute, or at any time within the 6 months immediately preceding constituted, a majority of the directors of the other body; or
  - if not less than 1/3<sup>rd</sup> of the total voting power with respect to any matter relating to each of the two bodies corporate is exercised or controlled by the same individual or Body Corporate; or
  - if the holding company of the one body corporate is under the same management as the other body corporate; or
  - if one or more directors of the one body corporate while holding, whether by themselves or together with their relatives, the majority of shares in that body corporate also hold, whether by themselves or together with their relatives, the majority of shares in the other body corporate.

18. **Vishnu Ltd who issued Convertible Debentures during the Financial Year 2009–10 wants to alter the terms of redemption. Is it permissible under the provision of SEBI Regulations? [R – 24]**

| Alteration NOT Permissible                                                                                                                                                  | Alteration Permissible if –                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| No Issuer shall alter the terms (including the terms of issue) of specified securities which may adversely affect the interest of the Holders of that specified Securities. | <ul style="list-style-type: none"> <li>The consent in writing of the Holders of not less than 3/4<sup>th</sup> of the specified Securities of that class; or</li> <li>With the sanction of a Special Resolution passed at a meeting of the holders of the specified Securities of that class.</li> </ul> |

## CHAPTER III – PART I – ELIGIBILITY REQUIREMENTS

### 19. What are the eligibility requirements for Initial Public Offers (IPO) by an Companies (Unlisted)?

RTP

1. **Basic Conditions:** An Issuer can make an IPO if it meets **all** the following **basic conditions are satisfied**–

| Condition                    | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Net Tangible Assets</b>   | The Company has Net <b>Tangible Assets</b> of atleast <b>Rs.3 Crores</b> in each of the preceding <b>3 full years</b> (of 12 months each), of which not more than 50% is held in monetary assets. [If more than 50% is so held in monetary assets, the Company should have made firm commitments to deploy such excess monetary assets in its business / project].<br><br>“ <b>Net Tangible Assets</b> ” means the sum of all Net Assets of the Issuer, excluding Intangible Assets as defined in AS – 26 issued by the ICAI. |
| <b>Distributable Profits</b> | The Company has a track record of <b>Distributable Profits</b> in terms of Sec. 205 of the Companies Act, for atleast 3 out of immediately preceding 5 years. [Extraordinary Items shall not be considered for calculating the Distributable Profits].                                                                                                                                                                                                                                                                        |
| <b>Networth</b>              | The Company has a <b>Net Worth</b> of atleast <b>Rs.1 Crore</b> in each of the preceding 3 full years (of 12 months each).                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Maximum Size</b>          | 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), <b>does not exceed 5 times its Pre-Issue Net Worth</b> as per the audited Balance Sheet of the preceding financial year.                                                                                                                                                                              |
| <b>Change in Name</b>        | If the Company has <b>changed its name</b> 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.                                                                                                                                                                                                                                                                                                                          |

2. **Alternative Conditions:** An Issuer **not complying** with any of the above basic conditions may make an Initial Public Offering (IPO), only if it meets **both** the conditions given below –

| CONDITION (a)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | CONDITION (b)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: center;"><b>EITHER</b></p> <p>The issue is made through Book–Building Process, with <b>atleast 50 %</b> of the Issue Size being allotted to the Qualified Institutional Buyers (QIB), failing which the full subscription monies shall be refunded.</p> <p style="text-align: center;"><b>OR</b></p> <p>Atleast 15% of the <b>Cost of Project</b> is contributed by Public Financial Institutions or Scheduled Commercial Banks, of which atleast 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. [“<b>Project</b>” means the object for which monies are proposed to be raised to cover the objects of the issue]</p> | <p style="text-align: center;"><b>EITHER</b></p> <p>The minimum Post–Issue Face Value Capital of the Company shall be Rs.10 Crores.</p> <p style="text-align: center;"><b>OR</b></p> <p>There shall be a <b>compulsory market–making</b> for at least 2 years from the date of listing of the shares subject to the following –</p> <ul style="list-style-type: none"> <li>• Market–makers undertake to offer buy and sell quotes for a minimum depth of <b>300 Shares</b>.</li> <li>• Market–makers undertake to ensure that the <b>bid–ask spread</b> (difference between quotations for sale and purchase) for their quotes shall not at any time exceed 10%.</li> <li>• The inventory of the market makers on each of such Stock Exchanges, as on the date of allotment of securities, shall be atleast 5% of the proposed issue of the Company.</li> </ul> |
| <p><i>Note that <b>both</b> Conditions (a) and (b) should be satisfied. The concept of <b>book building</b> and <b>market making</b> are discussed in forthcoming pages.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

3. **Relevant Date for Satisfaction of Condition:** Generally an issuer making a Public Issue shall satisfy the conditions listed above as on the date of filing draft offer document with the Board and also as on the date of registering the offer document with the Registrar of Companies.
4. **Issue of Convertible Debt Instruments:** An Issuer may make an Initial Public Offer of Convertible Debt Instruments without making a prior public issue of its Equity Shares and listing thereof.
5. **Minimum Allottees:** An issuer shall not make an allotment pursuant to a public issue if the number of prospective allottees is less than 1000.

6. **Potential Equity Shares:** The Issuer shall not make an IPO if as on the date of registering the Prospectus with the Registrar of Companies there are any outstanding convertible Securities or any other right which would entitle any person any Option to receive Equity Shares after the IPO, except in case of the following –
  - a Public Issue made during the currency of Convertible Debt Instruments which were issued through an earlier Initial Public Offer, if the conversion price of such Convertible Debt Instruments was determined and disclosed in the prospectus of the earlier issue of Convertible Debt Instruments;
  - Outstanding options granted to employees pursuant to an Employee Stock Option Scheme framed in accordance with the relevant Guidance Note or Accounting Standards, if any, issued by the ICAI in this regard.
7. **Offer for Sale by Issuer:** Equity Shares may be offered for sale to public if such Equity Shares have been held by the Sellers for a period of at least one year prior to the filing of draft offer document with the Board and subject to the provisions of the Companies Act, 1956 and the regulations under SEBI. The following principles shall be abide in this respect –
  - (a) In case equity shares received on conversion or exchange of fully paid-up compulsorily convertible securities including depository receipts are being offered for sale, the holding period of such convertible securities as well as that of resultant equity shares together shall be considered for the purpose of calculation of one year period
  - (b) The requirement of holding equity shares for a period of one year shall not apply:
    - in case of an offer for sale of specified securities of a Government Company or statutory authority or Corporation or any special purpose vehicle set up and controlled by any one or more of them, which is engaged in Infrastructure Sector;
    - if the specified securities offered for sale were acquired pursuant to any scheme approved by a High Court u/s 391–394 of the Companies Act, 1956, in lieu of business and invested capital which had been in existence for a period of more than one year prior to such approval.
8. **Offer for Sale by Unlisted Companies:** An Offer for Sale of Equity Shares of a Company or any other security which may be converted into or exchange with Equity Shares of the Company at a later date, shall be made only if either the basic conditions or the alternative conditions laid down above are satisfied. Offer for Sale can also be made if the alternative conditions specified above are complied with at the time of submission of offer document with SEBI.
9. **Minimum 1000 Allottees:** An Unlisted Public Company shall make an allotment pursuant to a Public Issue or Offer for Sale of Equity Shares or any security convertible into Equity Shares, **only** if the prospective allottees are **not less than 1,000** in number.
10. **Outstanding Warrants or Financial Instrument:** An Unlisted Company **shall not** 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 IPO.
11. **Grading:** The Issuer shall not make an Initial Public Offer, unless as on the date of registering prospectus or red herring prospectus with the Registrar of Companies, the issuer has obtained grading for the initial public offer from at least one credit rating agency registered with the Board.
12. **Track Record of Partnership Firms:** In case of an Issuer which had been a Partnership Firm, the track record of distributable profits of the partnership firm shall be considered only if the financial statements of the partnership business for the period during which the issuer was a partnership firm, conform to and are revised in the format prescribed for companies under the Companies Act, 1956 and also comply with the following –
  - adequate disclosures are made in the financial statements as required to be made by the issuer as per Schedule VI of the Companies Act, 1956;
  - the financial statements are duly certified by a Chartered Accountant stating that –
  - the accounts and the disclosures made are in accordance with the provisions of Schedule VI of the Companies Act, 1956;
  - the accounting standards of the Institute of Chartered Accountants of India have been followed;
  - the financial statements present a true and fair view of the firm's accounts;
13. **Track Record of Demerged Companies:** 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 above for Partnership Firms are complied with.
14. **Qualified Institutional Buyer (QIB)** shall mean –
  - (a) a Mutual Fund, Venture Capital Fund and Foreign Venture Capital Investor registered with the Board;
  - (b) a Foreign Institutional Investor and sub-account (other than a sub-account which is a foreign corporate or foreign individual), registered with the Board;

- (c) a Public Financial Institution u/s 4A of the Companies Act, 1956;
- (d) a Scheduled Commercial Bank;
- (e) a Multilateral and Bilateral Development Financial Institution;
- (f) a State Industrial Development Corporation;
- (g) an Insurance Company registered with the IRDA;
- (h) a Provident Fund with minimum corpus of Rs.25 Crores;
- (i) a Pension Fund with minimum corpus of Rs.25 Crores;
- (j) National Investment Fund set up by Government of India;
- (k) Insurance Funds set up and managed by Army, Navy or Air Force of the Union of India

|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                             |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PRACTICAL QUESTION M 03</b> | <p>Super Chemicals Ltd, a closely held Unlisted Company, is in need of about Rs.20 Crores for financing its expansion programme. The Company has not declared any dividend so far, though it has made good profits from the commencement of commercial production on 1<sup>st</sup> January 1998. The Paid Up Capital of the Company was increased to Rs.3.5 Crores on 1<sup>st</sup> April 2001. The Net Worth of the Company as per the latest audited Balance Sheet as at 31<sup>st</sup> March 20XX is Rs.5 Crores. The Company seeks your advise as to its eligibility to raise Rs.20 Crores through public issue of equity shares at a premium. Advise with reference to relevant guidelines of SEBI.</p> | <p><b>Hint / Answer:</b><br/>Super Chemicals Ltd fulfils the necessary conditions described for an Unlisted Company and is hence entitled to make the public issue, in accordance with SEBI Guidelines.</p> |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                |                                                                                                                                                                                                                                                                          |                                                      |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|
| <b>PRACTICAL QUESTION M 01</b> | <p>Ambitious Financiers Ltd an existing unlisted Public Company is planning to issue to the Public 5 Lakhs Fully Convertible Debentures of Rs.100 each. Explain the eligibility norms to be fulfilled by the Company as per SEBI Guidelines before making the issue.</p> | <p><b>Hint / Answer:</b> See point 1 and 2 above</p> |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|

|                               |                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PRACTICAL QUESTION RTP</b> | <p>An Unlisted Company is contemplating to make an IPO of Equity Shares for which it falls short of the prescribed net tangible Assets and track record of distributable profits in terms of Sec.205 of the Companies Act. Is there any possibility for the Company to make IPO in such situation? If so, what are the other requirements, it should comply with?</p> | <p><b>Hint / Answer:</b> An Issuer <b>not complying</b> with any of the above basic conditions may make an Initial Public Offer (IPO), only if it meets <b>both</b> the conditions given in point 2 above.</p> |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                        |
|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| <b>PRACTICAL QUESTION N 05, N 07</b> | <p>Following information is available from the records of Star Chemicals and Engineering Ltd –</p> <ol style="list-style-type: none"> <li>1. The Company is a closely-held Unlisted Company.</li> <li>2. The Paid Up Share Capital of the Company since 1<sup>st</sup> April 2005 is Rs.3 Crores and its Net Worth as at 31<sup>st</sup> March 2011 was Rs.5 Crores, as per audited Balance Sheet.</li> <li>3. The Net Tangible Assets of the Company as per last 3 audited Balance Sheets as at 31<sup>st</sup> March 2009, 2010 and 2011 were Rs.4 Crores, Rs.4.50 Crores and Rs.5 Crores, out of which monetary assets were less than Rs.50 Lakhs, in each of the three years.</li> <li>4. The Company was incorporated in 2002 and commenced its business on 1<sup>st</sup> April 2002 and since then, it has earned good profits and it has not incurred any losses in any year in the past.</li> <li>5. The Company has not declared any dividend so far, but according to the profits earned so far, the management could have declared dividend in each of the past 5 years.</li> <li>6. The name of the Company was changed from Star Engineering Ltd to its present name w.e.f 1<sup>st</sup> Oct 2010.</li> <li>7. The Company wants to make a public issue of shares to raise Rs.20 Crores by issuing Equity Shares at a premium. For the purpose of including information in the Prospectus, the Company has prepared its accounts for 12 months ended 30<sup>th</sup> September 2011 showing segment-wise revenue, which reveals that revenue from chemical segment is more than the revenue from the engineering segment.</li> </ol> <p>State the relevant SEBI Guidelines and explain whether the Company can make the desired public issue, on the basis of the above facts.</p> | <p><b>Hint / Answer:</b> See Below</p> |
|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|

| Condition                                                                                                                                                                                                                                                                                                                              | Analysis                                                                                                                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Net <b>Tangible Assets</b> of at least <b>Rs.3 Crores</b> in each of the preceding <b>3 full years</b> (of 12 months each), of which not more than 50% is held in monetary assets.                                                                                                                                                     | Net Tangible Assets > Rs.3 Crores in each of the 3 years. The condition relating to monetary assets is also satisfied.                                                                           |
| Track record of <b>Distributable Profits</b> for at least 3 out of immediately preceding 5 years                                                                                                                                                                                                                                       | Company has earned profits since its inception. Hence, this condition is also satisfied.                                                                                                         |
| <b>Net Worth</b> of atleast <b>Rs.1 Crore</b> in each of the preceding 3 full years                                                                                                                                                                                                                                                    | Paid Up Capital is Rs.3 Crores and there are no Losses. Net Worth as per recent audited B/S is Rs.5 Crores. Hence, this condition is satisfied.                                                  |
| Where the Company has <b>changed its name</b> 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.                                                                                                                                | Revenue from Chemical Segment (new name) is more than revenue from Engineering Segment (old name). Hence, this condition is also met.                                                            |
| 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), <b>does not exceed 5 times its Pre-Issue Net Worth</b> as per the audited Balance Sheet of the last financial year. | Pre-Issue Net Worth = Rs.5 Crores. Hence, permissible maximum issue size = Rs.5 Crores × 5 = Rs.25 Crores. Since the proposed issue size is only Rs.20 Crores, this condition is also satisfied. |

**Conclusion:** Since the Company satisfies **all the basic conditions**, it can proceed with the Public Issue, in accordance with SEBI Regulations.

## 20. What are the special considerations for Further Public Offer (FPO) by Listed Companies? [R – 27]

RTP, M 02

- Basic Conditions:** 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, if it satisfies the following conditions –
  - 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 5 times its Pre-Issue Net Worth** as per the audited Balance Sheet of the last financial year.
  - If the Company has **changed its name** within the last 1 year (reckoned from the date of filing the Offer Document), 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.
- Alternative Conditions:** A Listed Company which does not fulfil the conditions given above, shall be eligible to make a Public Issue subject to complying with the alternative conditions specified for Unlisted Companies. [See conditions (a) and (b) of Point 2 in the Table given in Question 20 above.]
- Further Public Offer by existing Listed Companies need not comply with the above conditions in case of **Fast Track Issues**.

## CHAPTER III – PART 2 – PRICING IN PUBLIC ISSUE

## 21. What are the conditions to be followed by Companies eligible to make public issue, in pricing their securities? [R – 28]

RTP, N 98, N 00

- Consultation with Merchant Banker:**
  - An Issuer may determine the price of specified securities in consultation with the Lead Merchant Banker or through the book building process.
  - An Issuer may determine the coupon rate and Conversion Price of Convertible Debt Instruments in consultation with the Lead Merchant Banker or through the book building process.
  - The Issuer shall undertake the Book Building Process in a manner specified in Schedule XI.
- Differential Pricing:** Differential Pricing is a process by which the Shares of the Company are issued at two different prices depending on the type of the allottees. Such differential pricing shall be allowed in respect of – (a) Higher Price for Firm Allotment Category Applicants, (b) Issue to Retail Individual Investors, and (c) Composite Public and Rights Issue. [See Question below]

**3. Price Band:**

| Nature            | At the time of filing draft prospectus (for fixed price issue) | At the time of filing Red Herring prospectus (book built issue)             | At the time of filing Final Prospectus registering with the ROC                         |
|-------------------|----------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| Price declaration | Price or Price band                                            | Floor Price or Price Band shall be declared at the time of filing otherwise | Contain only one price or the specific coupon rate (in case of convertible instruments) |

4. **Failure to mention floor price in case of book built issue:** The issuer shall announce the same at least two working days before the opening of the bid (in case of an initial public offer) and at least one working day before the opening of the bid (in case of a further public offer), in all the newspapers in which the pre-issue advertisement was released.
5. **Disclosures of ratios:** The announcement shall contain relevant financial ratios computed for both upper and lower end of the price band and also a statement drawing attention of the investors to the section titled “**Basis of Issue Price**” in the prospectus.
6. **Maximum Cap:** The cap on the price band shall be less than or equal to 120% of the Floor Price. (i.e max 20% cap between upper and lower end of the price). The “Cap on the Price Band” includes cap on the coupon rate in case of convertible debt instruments.
7. **Final Price  $\geq$  Face Value:** The floor price or the final price shall not be less than the face value of the specified securities.

**22. What are the SEBI regulations relating to differential pricing of securities? [R – 29]**

| Category                                                                                                                                                                                                            | Nature of Offer Price                                                                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Retail Individual Investors (RII) or Retail Individual Shareholders or employees of the Issuer entitled for reservation made u/r 42 making an application for specified securities of value not more than Rs.1 Lakh | <b>Lower Price</b> than the price at which Net Offer is made to other categories of applicants. However, such difference shall not be more than 10%.                                                               |
| Securities issued to anchor investors under Book Built Issue                                                                                                                                                        | <b>Higher Price</b> than the securities offered to other categories of applicants                                                                                                                                  |
| Composite Issue (Public and Rights Issue)                                                                                                                                                                           | The price of the specified securities offered in the <b>public issue may be different from the price offered in rights issue</b> and justification for such price difference shall be given in the offer document. |

**23. Can Companies freely determine the denomination of Shares? What are the SEBI regulations in this regard? [R – 31]**

1. An issuer making IPO shall determine the face value of shares as follows –

| Issue Price      | Face Value                                                               |
|------------------|--------------------------------------------------------------------------|
| Less than Rs.500 | Rs.10 per share.                                                         |
| Rs.500 or more   | Can be below Rs.10 per share, but shall not be less than Re.1 per share. |

2. **Disclosure of Face Value:** The disclosure about the Face Value of Equity Shares (including the statement about the issue price being “X” times of the face value) shall be made in the advertisements, offer documents and application forms in identical font size as that of issue price or price band.
3. **Not applicable:** The regulation as the Face Value is not applicable for the IPO 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** (includes the facilities or services as specified in Sch X – See Q.No.25)

**24. List the facilities or services specified in Schedule X as Infrastructure Sector.**

| Nature                                 | List of Facilities or Services                                                                                                                                                                       |
|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Transportation (including Inter</b> | (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 |

|                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Modal Transportation)</b>                                         | services;<br>(b) Rail system, rail transport providers, metro rail roads and other railway related services;<br>(c) Ports (including minor ports and harbours), inland waterways, coastal shipping including shipping lines and other port related services;<br>(d) Aviation, including airports, heliports, airlines and other airport related services;<br>(e) Logistics services.                                                                                                                          |
| <b>Agriculture</b>                                                   | (a) Infrastructure related to storage facilities;<br>(b) Construction relating to projects involving agro-processing and supply of inputs to agriculture;<br>(c) Construction for preservation and storage of processed agro-products, perishable goods such as fruits, vegetables and flowers including testing facilities for quality                                                                                                                                                                       |
| <b>Water management</b>                                              | (a) Water supply or distribution;<br>(b) Irrigation;<br>(c) Water treatment, etc.                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Telecommunication</b>                                             | (a) Basic or Cellular, including radio paging;<br>(b) Domestic satellite service (i.e., satellite owned and operated by an Indian company for providing telecommunication service)<br>(c) Network of trunking, broadband network and internet services.                                                                                                                                                                                                                                                       |
| <b>Industrial, Commercial and Social development and maintenance</b> | (a) Real estate development, including an industrial park or special economic zone;<br>(b) Tourism, including hotels, convention centres and entertainment centres;<br>(c) Public markets and buildings, trade fair, convention, exhibition, cultural centres, sports and recreation infrastructure, public gardens and parks;<br>(d) Construction of educational institutions and hospitals;<br>(e) Other urban development, including solid waste management systems, sanitation and sewerage systems, etc. |
| <b>Power</b>                                                         | (a) Generation of power through thermal, hydro, nuclear, fossil fuel, wind and other renewable sources;<br>(b) Transmission, distribution or trading of power by laying a network of new transmission or distribution lines.                                                                                                                                                                                                                                                                                  |
| <b>Petroleum and Natural Gas</b>                                     | (a) Exploration and production;<br>(b) Import terminals;<br>(c) Liquefaction and re-gasification;<br>(d) Storage terminals;<br>(e) Transmission networks and distribution networks including city gas infrastructure.                                                                                                                                                                                                                                                                                         |
| <b>Housing</b>                                                       | (a) Urban and rural housing including public/mass housing, slum rehabilitation etc.<br>(b) Other allied activities such as drainage, lighting, laying of roads, sanitation facilities etc.                                                                                                                                                                                                                                                                                                                    |
| <b>Other miscellaneous facilities/services</b>                       | (a) Mining and related activities;<br>(b) Technology related infrastructure;<br>(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.;<br>(d) Environment related infrastructure;<br>(e) Disaster management services;<br>(f) Preservation of monuments and icons;<br>(g) Emergency services (including medical, police, fire, and rescue)                                           |
| <b>Other Notified</b>                                                | Such other facility/service which, in the opinion of the Board, constitutes infrastructure sector.                                                                                                                                                                                                                                                                                                                                                                                                            |

### CHAPTER III – PART 3 – MINIMUM PROMOTERS' CONTRIBUTION

#### 25. What should be the minimum Promoters' Contribution in respect of various types of issues?

##### 1. Amount of Minimum Contribution:

| Type of Issue                                      | Promoters' Contribution                                                                                                                                                                                  |
|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) Initiation Public Offer (IPO)                  | Not less than 20% of the Post Issue Capital.                                                                                                                                                             |
| (b) Further public Offer (FPO)                     | Either 20% of the Proposed Issue or 20% of the Post Issue Capital.                                                                                                                                       |
| (c) Composite Issue (by existing Listed Companies) | Either 20% of the Proposed Public Issue or 20% of the Post Issue Capital, at the option of the Promoters. However, Rights Issue component shall be <b>excluded</b> while calculating Post Issue Capital. |

##### 2. Date of compliance:

| Amount of "Minimum Promoter Contribution" | Date of Compliance                                                                                                                                                                                                                                                                                                    |
|-------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) Less than or equal to Rs.100 Crores   | Promoters shall satisfy the requirements of this regulation at least one day prior to the date of opening of the issue and the amount of promoters' contribution shall be kept in an escrow account with a scheduled commercial bank and shall be released to the issuer along with the release of the issue proceeds |
| (b) More than Rs.100 Crores               | Promoters shall bring in at least Rs.100 Crores before the date of opening of the issue and the remaining amount may be brought on pro rata basis before the calls are made to public                                                                                                                                 |

**Note:** Where the promoters' contribution has already been brought in and utilised, the issuer shall give the **Cash Flow Statement** disclosing the use of such funds in the offer document.

3. **Ineligible Securities:** All contributions by Promoters' are not eligible for computation as Promoters' Contribution. The details of ineligible securities and the situations when they become eligible are discussed in a separate question below.
4. **Issue of Convertible Securities:** In case of issue of convertible securities, the Promoters can bring in their subscription either by way of equity or by way of subscription to the convertible security. [See separate question below.]

## 26. What are the specific guidelines in respect of Promoters Contribution in case of Issue of Convertible Security?

In case of public issue or composite issue of convertible securities, minimum promoters' contribution shall be as follows –

| Situation                                                                                                                                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Price of the Equity Shares allotted pursuant to conversion is predetermined and disclosed in the offer document                                                      | Promoters shall have an option to bring in their subscription – <b>(a) by way of equity or, (b) by way of subscription to the convertible security</b> being offered through the proposed issue, so that the total Promoters Contribution shall not be less than the required minimum of 20% specified above (Point 2 Q.No26), depending upon the type of issue.                                                                                                                                                                                                                   |
| Price of the Equity Shares allotted pursuant to conversion is not predetermined and not disclosed in the offer document                                              | Promoters shall contribute only by way of subscription to the Convertible Securities being issue in the public issue and shall undertake in writing to subscribe to the Equity Shares pursuant to conversion of such securities.                                                                                                                                                                                                                                                                                                                                                   |
| Price of the Equity Shares allotted pursuant to conversion is predetermined and disclosed in the offer document but <b>conversion takes place in different dates</b> | The Promoters Contribution by way of Equity Shares shall not be at a price lower than the <b>Weighted Average Price</b> of the Equity Share Capital arising out of conversion of such securities.<br>For computation of " <b>Weighted Average Price</b> " –<br>(a) " <b>Weights</b> " means the number of equity shares arising out of conversion of such specified securities into equity shares at various stages;<br>(b) " <b>Price</b> " means the price of equity shares on conversion arrived at after taking into account predetermined conversion price at various stages. |
| IPO of Convertible Debt Instruments without a prior public issue of Equity Shares – project implement immediately                                                    | Promoters shall bring in a contribution of at least 20% of the Project Cost in the form of Equity Shares, subject to contributing at least 20% of the issue size from their own funds in the form of equity shares.                                                                                                                                                                                                                                                                                                                                                                |
| IPO of Convertible Debt Instruments without a prior public issue of Equity Shares and the project is implement in stages                                             | Promoters shall bring contribution with respect to total equity participation till the respective stage vis-à-vis the debt raised or proposed to be raised through the public issue.                                                                                                                                                                                                                                                                                                                                                                                               |
| In case of Further Public Offer (FPO) or Composite Issue and the Promoters contribute more than the stipulated minimum promoters' contribution                       | The allotment with respect to excess contribution shall be made at a price higher of the following – (a) Price determined u/r 76 or (b) Issue Price                                                                                                                                                                                                                                                                                                                                                                                                                                |

**Note:**

**Method of computing Promoters' Contribution:** It shall be computed on the basis of the Post Issue expanded capital –

- (a) assuming full proposed conversion of convertible securities into Equity Shares;
- (b) assuming exercise of all vested options, where any employee stock options are outstanding at the time of IPO (Option granted to employees pursuant to an scheme framed as per Accounting Standards or Guidance Note issued by ICAI)

**27. All Investments / Securities are not eligible for computation of Promoters' Contribution under SEBI regulations. Comment.**

The following securities shall not be considered in computation of Promoters' Contribution –

| <b>Ineligible Securities</b>                                                                                                                                                                                                                                                                                                                         | <b>Conditions (Ineligibility)</b>                                                                                                                                                                                                                                                                                                                                                                                   | <b>Exceptions (Eligibility Conditions)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Any Company</b> – Specified securities acquired by Promoters during <b>preceding 3 years</b> before filing of Offer Documents with SEBI                                                                                                                                                                                                           | <ul style="list-style-type: none"> <li>acquired for consideration other than cash, and revaluation of assets or capitalisation of intangible assets is involved in such transaction(s), or</li> <li>resulting from a Bonus Issue, out of Revaluation Reserves or Reserves without accrual of cash resources or against Shares which are otherwise ineligible for computation of Promoters' contribution.</li> </ul> | Eligible if these are acquired pursuant to a scheme of merger or amalgamation approved by a High Court u/s 391 – 394 of Companies Act.                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Initial Public Offer (IPO)</b> – Specified Securities acquired by Promoters during <b>preceding 1 year</b> .<br><br>The above provisions are not applicable to an Unlisted Government Company, Statutory Authority /Corporation / Special Purpose Vehicle set up by any of them, which is engaged in <b>infrastructure sector. (See. Q.No.25)</b> | Not eligible if the Securities are issued at a price <b>lower</b> than the price at which Equity is being offered to public in IPO.                                                                                                                                                                                                                                                                                 | <ul style="list-style-type: none"> <li>If the promoters pay to the issue, the difference between the priced at which specified securities are offered in the IPO and the price at which the specified securities had been acquired.</li> <li>If such specified securities are acquired pursuant to a scheme of merger or amalgamation approved by a High Court u/s 391 – 394 of Companies Act by promoters in lieu of business and invested capital that had been in existence for a period of more than 1 year prior to such approval.</li> </ul> |
| <b>Partnership Firm converted into Company</b> – Shares allotted to Promoters during previous one year.                                                                                                                                                                                                                                              | <ul style="list-style-type: none"> <li>Allotted for a price less than the Issue Price</li> <li>Partners of erstwhile Firm and the Promoters of the converted Company are the same.</li> <li>There is no change in management, and</li> <li>Shares are allotted to Promoters out of funds brought in during previous one year.</li> </ul>                                                                            | <ul style="list-style-type: none"> <li>If Shares have been issued at the same price at which public offer is made, or</li> <li>If Partners' Capital existed in the Firm for a period of more than 1 year on a continuous basis, and the Shares have been allotted to Promoters against such Capital, or</li> <li>If these shares are acquired pursuant to a scheme of merger or amalgamation approved by a High Court u/s 391 – 394 of Companies Act.</li> </ul>                                                                                   |
| Specified Securities pledged with any Creditor                                                                                                                                                                                                                                                                                                       | Securities pledged with any Creditor by promoters cannot be included for computing Promoters Contribution.                                                                                                                                                                                                                                                                                                          | –                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

**28. Explain the circumstances in which the requirement of Minimum Promoters' contribution is not applicable?**

The requirements of Minimum Promoters' Contribution shall not apply in case of –

| <b>Situation</b>           | <b>Promoters' contribution not required –</b>                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Initial Public Offer (IPO) | When an Issuer which does not have any identifiable promoter                                                                                                                                                                                                                                                                                                                                                                                                   |
| Further Public Offer (FPO) | Where the Equity Shares of the same class which are proposed to be allotted (including those which are allotted pursuant to conversion or exchange of Convertible Securities) – <ul style="list-style-type: none"> <li>are already being <b>listed</b></li> <li>are not <b>infrequently traded</b> in a recognised stock exchange and</li> <li>the Issuer has a <b>track record of dividend payment</b> for at least immediately preceding 3 years.</li> </ul> |

|              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|              | <b>Meaning of Infrequently traded shares:</b> Shares shall be deemed to be infrequently traded if on the stock exchange, the <b>Annualised Trading Turnover</b> in that share during the preceding 6 calendar months prior to the month in which the public announcement is made is less than 5% (by number of shares) of the listed shares. For this purpose – <ul style="list-style-type: none"> <li>the <b>weighted average number of shares</b> listed during the said 6 months period may be taken and</li> <li>the <b>reference date for the purpose of computing the annualised trading turnover</b> shall be the date of filing the draft offer document with the Board and in case of a Fast Track Issue, the date of filing the offer document with the ROC before opening of the issue</li> </ul> |
| Rights Issue | Where the offer of specified securities by a listed issuer to the Shareholders of the Issuer as on the record date fixed for the said purpose is made the requirement as to promoters' contribution need not be complied with.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

**Note:** Generally in case of a Further Public Offer (FPO) the minimum contribution of the Promoters shall be Either (a) 20% of the Proposed Issue or (b) 20% of the Post Issue Capital. Where the Promoters propose to subscribe to the specified securities offered to the extent greater than higher of the two options available, the subscription in excess of such percentage shall be made at a price determined at the higher of the following (i) Price u/r 76 or (ii) the issue price. That excess subscription is also not subject to any lock-in period.

### CHAPTER III – PART 4 – RESTRICTION ON TRANSFERABILITY (LOCK-IN) OF PROMOTERS' CONTRIBUTION

#### 29. Outline the SEBI Guidelines in respect of Lock-In Period of Promoters' Contribution.

##### 1. General requirements [R – 35]:

- Not Transferable:** The specified securities held by **Promoters and persons other than Promoters** shall not be transferable from the date of allotment of the specified securities in the proposed public issue during the lock-in period.
- Inscription in Certificate:** The certificate of specified securities which are subject to lock-in shall contain the inscription "**Non-Transferable**" and the lock-in period and in case such specified securities are dematerialised, the issuer shall ensure that lock-in is recorded by the Depository.
- Partly Paid up Shares:** Where the specified securities which are subject to lock-in are **partly paid-up** and the amount called-up on such specified securities is less than the amount called-up on the specified securities issued to the public, the "lock-in" shall end only on the expiry of 3 years after such specified securities have become pari-passu with the specified securities issued to the public.

##### 2. Lock-in of specified Securities held by Promoters [R – 36]:

| Type                                                         | Lock-In Period                                                                                                                                                                                     |
|--------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Minimum Specified Promoters Contribution in Public Issues | <b>3 years</b> from later of the following – <ul style="list-style-type: none"> <li>date of commencement of commercial production or</li> <li>the date of allotment in the public issue</li> </ul> |
| 2. Excess Contribution over minimum contribution             | <b>1 Year</b><br><b>(Exception: See note below Q.No.29)</b>                                                                                                                                        |

**Note:** The 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.

##### 3. Lock-in of specified Securities held by Persons other than Promoters [R – 37]:

| Type                                                                                  | Lock-In Period                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. In case of an IPO, the entire pre-issue capital held by Person other than Promotes | <b>1 Year</b><br><br><b>Exception:</b> The following shall not be subject to lock-in – <ol style="list-style-type: none"> <li>Equity Shares allotted to Employees under an ESOP or ESPS of the issuer prior to the IPO, if the issuer has made full disclosures with respect to such options or scheme in accordance with Part A of Schedule VIII;</li> <li>Equity Shares held by a Venture Capital Fund or a Foreign Venture Capital Investor for a period of at least one year prior to the date of filing the draft prospectus with the Board.</li> </ol> Pre-issue shares held by a Venture Capital Fund (VCF) or a Foreign Venture Capital Investor (FVCI), subject to the following conditions – |