

PART V - MINIMUM OFFER TO PUBLIC, RESERVATIONS, ETC.

Minimum offer to public.

41. (1) Subject to the provisions of sub-clause (b) of clause (2) of rule 19 of Securities Contracts (Regulations) Rules, 1957, the net offer to public:

- (a) in case of an initial public offer, shall be at least ten per cent. or twenty five per cent. of the post-issue capital, as the case may be; and
- (b) in case of a further public offer, shall be at least ten per cent. or twenty five per cent. of the issue size, as the case may be.

(2) Nothing contained in sub-regulation (1) shall apply if the issuer is:

- (a) 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;
- (b) an infrastructure company fulfilling the following conditions:
 - (i) its project has been appraised by one or more public financial institutions;
 - (ii) not less than fifty per cent. of the project cost is financed by one or more such institutions, jointly or severally, by way of loan or subscription to equity shares or a combination of both, irrespective of whether they appraise the project or not.

Explanation: For the purpose of this regulation:

- (I) The term “infrastructure company” means, an enterprise wholly engaged in the business of (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining any infrastructure facility;
- (II) The term “infrastructure sector” includes the facilities or services as specified in **Schedule X**.

Reservation on competitive basis.

42. (1) In case of an issue made through the book building process, the issuer may make reservation on competitive basis out of the issue size excluding promoters’ contribution and net offer to public in favour of the following categories of persons:

- (a) ²⁷[employees; and in case of a new issuer, persons who are in the permanent and full time employment of the promoting companies excluding the promoters and an immediate relative of the promoter of such companies;]
- (b) shareholders (other than promoters) of:
 - (i) listed promoting companies, in case of a new issuer; and
 - (ii) listed group companies, in case of an existing issuer:

Provided that if the promoting companies are designated financial institutions or state and central financial institutions, the shareholders of such promoting companies shall not be eligible for the reservation on competitive basis;

- (c) persons who, as on the date of filing the draft offer document with the Board, are associated with the issuer as depositors, bondholders or subscribers to services of the issuer making an initial public offer:

Provided that the issuer shall not make the reservation to the issue management team, syndicate members, their promoters, directors and employees and for the group or associate companies of the issue management team and syndicate members and their promoters, directors and employees;

²⁷ Substituted by SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2010, w.e.f. 13.04.2010. Prior to substitution, clause (a) read as under:

“(a) employees of the issuer including employees of the promoting companies in case of a new issuer;”

(2) In case of an issue made other than through the book building process, the issuer may make reservation on competitive basis out of the issue size excluding promoters' contribution and net offer to public in favour of the following categories of persons:

- (a) ²⁸[employees; and in case of a new issuer, persons who are in the permanent and full time employment of the promoting companies excluding the promoters and an immediate relative of the promoter of such companies;]
- (b) shareholders (other than promoters) of:
 - (i) listed promoting companies, in the case of a new issuer; and
 - (ii) listed group companies, in the case of an existing issuer:
Provided that if the promoting companies are designated financial institutions or state and central financial institutions, the shareholders of such promoting companies shall not be eligible for the reservation on competitive basis.

(3) In case of a further public offer (not being a composite issue), the issuer may make reservation on competitive basis out of the issue size excluding promoters' contribution and net offer to public in favour of retail individual shareholders of the issuer.

(4) The reservation on competitive basis shall be subject to following conditions:

- (a) the aggregate of reservations for employees shall not exceed ²⁹[five per cent. of the post issue capital of the issuer];
- (b) reservation for shareholders shall not exceed ten per cent. of the issue size;
- (c) reservation for persons who as on the date of filing the draft offer document with the Board, have business association as depositors, bondholders and subscribers to services with the issuer making an initial public offer shall not exceed five per cent. of the issue size;
- (d) no further application for subscription in the net offer to public category shall be entertained from any person (except an employee and retail individual shareholder) in favour of whom reservation on competitive basis is made;
- (e) any unsubscribed portion in any reserved category may be added to any other reserved category and the unsubscribed portion, if any, after such inter-se adjustments among the reserved categories shall be added to the net offer to the public category;
- (f) in case of under-subscription in the net offer to the public category, spill-over to the extent of under-subscription shall be permitted from the reserved category to the net public offer category;
- (g) ³⁰[value of allotment to any employee in pursuance of reservation made under sub-regulations (1) or (2), as the case may be, shall not exceed ³¹[two lakhs] rupees.]

(5) In the case of reserved categories, a single applicant in the reserved category may make an application for a number of specified securities which exceeds the reservation.

Explanation: For the purposes of this regulation:

²⁸ Substituted by SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2010, w.e.f. 13.04.2010. Prior to substitution, clause (a) read as under:

“(a) employees of the issuer including employees of the promoting companies in case of a new issuer;”

²⁹ Substituted for the words “ten per cent. of the issue size” by SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2009 w.e.f. 11.12.2009.

³⁰ Inserted, *ibid.*

³¹ Substituted for “one lakh” by the SEBI (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2010, w.e.f. 12.11.2010.

- (I) The term "reservation on competitive basis" means reservation wherein specified securities are allotted in proportion of the number of specified securities applied for in respect of a particular reserved category to the number of specified securities reserved for that category;
- (II) The term "new issuer" means an issuer which has not completed twelve months of commercial operation and its audited operative results are not available.

Allocation in net offer to public.

43. (1) No person shall make an application in the net offer to public category for that number of specified securities which exceeds the number of specified securities offered to public.

(2) In an issue made through the book building process, the allocation in the net offer to public category shall be made as follows:

- (a) not less than thirty five per cent. to retail individual investors;
- (b) not less than fifteen per cent. to non-institutional investors;
- (c) not more than fifty per cent. to qualified institutional buyers, five per cent. of which shall be allocated to mutual funds:

Provided that in case of an issue made in terms of sub-clause (i) of clause (a) of sub-regulation (2) of regulation 26, at least fifty per cent. of the net offer to public shall be allotted to qualified institutional buyers:

³²[***]

Provided further that in addition to five per cent. allocation available in terms of clause (c), mutual funds shall be eligible for allocation under the balance available for qualified institutional buyers.

(3) In an issue made through the book building process, the issuer may allocate upto thirty per cent. of the portion available for allocation to qualified institutional buyers to an anchor investor in accordance with the conditions specified in this regard in Schedule XI.

(4) In an issue made other than through the book building process, allocation in the net offer to public category shall be made as follows:

- (a) minimum fifty per cent. to retail individual investors; and
- (b) remaining to:
 - (i) individual applicants other than retail individual investors; and
 - (ii) other investors including corporate bodies or institutions, irrespective of the number of specified securities applied for;
- (c) the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in the other category.

Explanation: For the purpose of sub-regulation (4), if the retail individual investor category is entitled to more than fifty per cent. on proportionate basis, the retail individual investors shall be allocated that higher percentage.

Safety-net arrangement.

44. An issuer may provide for a safety-net arrangement for the specified securities offered in any public issue in consultation with the merchant banker after ascertaining the financial capacity of the person offering the safety-net arrangement, subject to disclosures specified in this regard in **Part A of Schedule VIII**:

³² Omitted, *ibid.* Prior to its omission, proviso read as under :

"Provided further that where the issuer is required to allocate sixty per cent of the net offer to public to qualified institutional buyers in terms of the provisions of sub-clause (b) of clause (2) of rule 19 of Securities Contracts (Regulation) Rules, 1957, allocation to retail individual investors and non-institutional investors shall be thirty per cent and ten per cent respectively."

Provided that any such arrangement shall provide for an offer to purchase up to a maximum of one thousand specified securities per original resident retail individual allottee at the issue price within a period of six months from the last date of despatch of security certificates or credit of demat account.

Explanation: For the purpose of this regulation, the term “safety net arrangement” means an arrangement provided by the issuer under which a person offers to purchase specified securities from the original resident retail individual allottees at the issue price.

Price stabilisation through green shoe option.

45. (1) An issuer making a public issue of specified securities may provide green shoe option for stabilising the post listing price of its specified securities, subject to the following:

- (a) the issuer has been authorized, by a resolution passed in the general meeting of shareholders approving the public issue, to allot specified securities to the stabilising agent, if required, on the expiry of the stabilisation period;
- (b) the issuer has appointed a merchant banker or book runner, as the case may be, from amongst the merchant bankers appointed by the issuer as a stabilising agent, who shall be responsible for the price stabilisation process;
- (c) prior to filing the draft offer document with the Board, the issuer and the stabilising agent have entered into an agreement, stating all the terms and conditions relating to the green shoe option including fees charged and expenses to be incurred by the stabilising agent for discharging his responsibilities;
- (d) prior to filing the offer document with the Board, the stabilising agent has entered into an agreement with the promoters or pre-issue shareholders or both for borrowing specified securities from them in accordance with clause (g) of this sub-regulation, specifying therein the maximum number of specified securities that may be borrowed for the purpose of allotment or allocation of specified securities in excess of the issue size (hereinafter referred to as the “over- allotment”), which shall not be in excess of fifteen per cent. of the issue size;
- (e) subject to clause (d), the lead merchant banker or lead book runner, in consultation with the stabilising agent, shall determine the amount of specified securities to be over-allotted in the public issue;
- (f) the draft and final offer documents shall contain all material disclosures about the green shoe option specified in this regard in **Part A of Schedule VIII**;
- (g) in case of an initial public offer pre-issue shareholders and promoters and in case of a further public offer pre-issue shareholders holding more than five per cent. specified securities and promoters, may lend specified securities to the extent of the proposed over-allotment;
- (h) the specified securities borrowed shall be in dematerialised form and allocation of these securities shall be made pro-rata to all successful applicants.

(2) For the purpose of stabilisation of post-listing price of the specified securities, the stabilising agent shall determine the relevant aspects including the timing of buying such securities, quantity to be bought and the price at which such securities are to be bought from the market.

(3) The stabilisation process shall be available for a period not exceeding thirty days from the date on which trading permission is given by the recognised stock exchanges in respect of the specified securities allotted in the public issue.

(4) The stabilising agent shall open a special account, distinct from the issue account, with a bank for crediting the monies received from the applicants against the over-allotment and a special account with a depository participant for crediting specified securities to be bought from the market during the stabilisation period out of the monies credited in the special bank account.

(5) The specified securities bought from the market and credited in the special account with the depository participant shall be returned to the promoters or pre-issue shareholders immediately, in any case not later than two working days after the end of the stabilisation period.

(6) On expiry of the stabilisation period, if the stabilising agent has not been able to buy specified securities from the market to the extent of such securities over-allotted, the issuer shall allot specified securities at issue price in dematerialised form to the extent of the shortfall to the special account with the depository participant, within five days of the closure of the stabilisation period and such specified securities shall be returned to the promoters or pre-issue shareholders by the stabilising agent in lieu of the specified securities borrowed from them and the account with the depository participant shall be closed thereafter.

(7) The issuer shall make a listing application in respect of the further specified securities allotted under sub-regulation (6), to all the recognised stock exchanges where the specified securities allotted in the public issue are listed and the provisions of Chapter VII shall not be applicable to such allotment.

(8) The stabilising agent shall remit the monies with respect to the specified securities allotted under sub-regulation (6) to the issuer from the special bank account.

(9) Any monies left in the special bank account after remittance of monies to the issuer under sub-regulation (8) and deduction of expenses incurred by the stabilising agent for the stabilisation process shall be transferred to the Investor Protection and Education Fund established by the Board and the special bank account shall be closed soon thereafter.

(10) The stabilising agent shall submit a report to the stock exchange on a daily basis during the stabilisation period and a final report to the Board in the format specified in **Schedule XII**.

(11) The stabilising agent shall maintain a register for a period of at least three years from the date of the end of the stabilisation period and such register shall contain the following particulars:

- (a) The names of the promoters or pre-issue shareholders from whom the specified securities were borrowed and the number of specified securities borrowed from each of them;
- (b) The price, date and time in respect of each transaction effected in the course of the stabilisation process; and
- (c) The details of allotment made by the issuer on expiry of the stabilisation process.

Period of subscription.

46. (1) ³³[Except as otherwise provided in these regulations] a public issue shall be kept open for at least three working days but not more than ten working days including the days for which the issue is kept open in case of revision in price band.

(2) In case the price band in a public issue made through the book building process is revised, the bidding (issue) period disclosed in the red herring prospectus shall be extended for a minimum period of three working days:

Provided that the total bidding period shall not exceed ten working days.

Pre-issue advertisement for public issue.

47. (1) Subject to the provisions of section 66 of the Companies Act, 1956, the issuer shall, after registering the red herring prospectus (in case of a book built issue) or prospectus (in case of fixed price issue) with the Registrar of Companies, make a pre-issue advertisement in one English national daily newspaper with wide circulation, Hindi national daily newspaper with wide

³³ Inserted by SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2010, w.e.f. 13.04.2010.

circulation and one regional language newspaper with wide circulation at the place where the registered office of the issuer is situated.

(2) The pre-issue advertisement shall be in the format and shall contain the disclosures specified in **Part A of Schedule XIII**.

Issue opening and issue closing advertisement for public issue.

48. An issuer may issue advertisements for issue opening and issue closing advertisements, which shall be in the formats specified in **Parts B and C of Schedule XIII**.

Minimum application value.

49. (1) The issuer shall stipulate in the offer document, the minimum application size in terms of number of specified securities which shall fall within the range of minimum application value of five thousand rupees to seven thousand rupees.

(2) The issuer shall invite applications in multiples of the minimum application value, an illustration whereof is given in **Schedule XIV**.

(3) The minimum sum payable on application shall not be less than twenty five per cent. of the issue price:

Provided that in case of an offer for sale, the issue price payable for each specified security shall be brought in at the time of application.

Explanation: For the purpose of this regulation, “minimum application value” shall be with reference to the issue price of the specified securities and not with reference to the amount payable on application.

Allotment procedure and basis of allotment.

50. (1) The allotment of specified securities to applicants other than anchor investors shall be on proportionate basis within the specified investor categories and the number of securities allotted shall be rounded off to the nearest integer, subject to minimum allotment being equal to the minimum application size as determined and disclosed by the issuer:

³⁴[Provided that value of specified securities allotted to any person in pursuance of reservation made under clause (a) of sub-regulation (1) or clause (a) of sub-regulation (2) of regulation 42, shall not exceed ³⁵[two lakhs] rupees.]

(2) The executive director or managing director of the designated stock exchange along with the post issue lead merchant bankers and registrars to the issue shall ensure that the basis of allotment is finalised in a fair and proper manner in accordance with the allotment procedure as specified in **Schedule XV**.

Utilisation of subscription money.

51. The post-issue lead merchant banker shall ensure that moneys received in respect of the issue are released to the issuer in compliance with the provisions of section 73 of the Companies Act, 1956.

³⁴ Inserted by SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2009, w.e.f. 11.12.2009.

³⁵ Substituted for “one lakh” by the SEBI (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2010, w.e.f. 12.11.2010.