

SEBI/CFD/DIL/DIP/25/2007/30/4

April 30, 2007

To All Registered Merchant Bankers / Stock Exchanges

Dear Sirs,

Sub.: Amendments to SEBI (Disclosure and Investor Protection) Guidelines, 2000.

1. In exercise of the powers conferred under sub-section (1) of Section 11 of the Securities and Exchange Board of India Act, 1992, it has been decided to amend the SEBI (Disclosure and Investor Protection) Guidelines, 2000 (hereinafter referred as "the Guidelines").

2. The full text of amendments are given in detail in **Annexure I** and given in brief as under:

2.1 Processing of draft offer documents

It is observed that many times, draft offer documents are filed with SEBI with incomplete documentation, incomplete disclosures or information which necessitates clarification from/ discussion with the Lead Manager/s. SEBI issues observations on the draft offer documents so filed, only after receipt of satisfactory replies from the Lead Manager/s to queries raised, receipt of comments from regulators or other agencies where reference has been so made and receipt of copies of in-principle approvals from all the stock exchanges on which the issuer intends to list the securities proposed to be offered through the prospectus.

It has therefore been decided to amend the Guidelines to reflect the aforementioned existing practice in the Guidelines.

2.2 Grading of Initial Public offerings (IPOs)

It has been decided to make grading of all IPOs mandatory. The grading shall be done by credit rating agencies, registered with SEBI under the SEBI (Credit Rating Agencies) Regulations, 1999. It shall be mandatory to obtain grading from at least one credit rating agency. The issuer shall be required to disclose all the grades obtained by it for its IPO in the prospectus, abridged prospectus, issue advertisements and all other places where the issuer is advertising for the IPO. Expenses incurred for grading of IPO shall be borne by the issuer.

2.3 Guidelines on preferential allotment

At present, the provisions relating to pricing in preferential allotment guidelines presuppose existence of listing history of at least six months in a company proposing a preferential allotment. It has been decided to amend the preferential allotment guidelines, so as to enable companies with listing history of less than six months to raise money through preferential allotment, subject to complying with the modified pricing and disclosure norms.

2.4 Guidelines on Qualified Institutions Placement (QIP)

It has been decided to amend the eligibility criteria for a company desirous of making a QIP. In addition to fulfilling other criteria specified in the guidelines governing QIP, such company shall now be required to have, a listing history of at least one year as on the date of issuance of notice to its shareholders for convening a general meeting in terms of Section 81(1A) of the Companies Act, 1956 to consider the QIP.

2.5 Eligibility of pledged shares for computation of minimum promoters' contribution

It has been decided to amend the Guidelines to provide that securities which have been pledged with banks or financial institutions as collateral

security for loans granted by such banks or financial institutions shall not be eligible for computation of minimum promoters' contribution.

2.6 **Miscellaneous**

It has also been decided to bring more clarity to the provisions pertaining to eligibility of shares for promoters' contribution and incorporate the new addresses of SEBI offices at relevant places in the Guidelines.

3. **Applicability**

3.1 The amendments made vide this circular shall be applicable as under:

- a. Amendments to clauses 2.0, 2.1.1, 2.1.2, 4.0, 4.6.1(ii), 4.6.2, 4.6.4A, 4.15.1, 5.6.1, 5.8.1 and 11.3.1(x) shall be applicable to all draft offer documents on which observations are issued by SEBI on or after the date of the circular;
- b. Amendments to clauses 2.5A, 5.6B, 6.4.2.2(a)(x-a), 6.8.2.9A, 6.17.3A, Schedule VIIA and Schedule XX-A shall be applicable to all draft offer documents filed with SEBI after the date of the circular.
- c. All amendments other than those specified in para (3.1) (a) and (3.1) (b) above shall come into force with immediate effect. (*i.e. 13.1.1.1, 13.1.1.2, Explanation to clauses 13.1.1.1 and 13.1.1.2, 13.1A, Proviso inserted after 13.3.1(e), 13.7.2, 13A.1.1(a), Schedule XXII*)

4. This circular is available on SEBI website at www.sebi.gov.in under the category "Legal Framework". The entire text of the SEBI (DIP) Guidelines, 2000, including the amendments issued vide this circular, is available on the SEBI website under the categories "Legal Framework" and "Issues and Listing".

5. All registered merchant bankers are directed to ensure compliance with the applicable amendments made vide this circular.

6. All stock exchanges are advised to bring to the notice of all the listed companies, amendments mainly pertaining to preferential allotment and QIP, made vide this circular.

Yours faithfully,

Neelam Bhardwaj

Encl.: Annexure I

ANNEXURE I

AMENDMENTS TO SEBI (DIP) GUIDELINES, 2000

CHAPTER II

ELIGIBILITY NORMS FOR COMPANIES ISSUING SECURITIES

1. In Clause 2.0, the words “; *unless specified otherwise in the Chapter*” shall be inserted after the words “filing the draft offer document with SEBI” and before the words “and also at the time of filing the final offer document”.
2. For clause 2.1.1, the following clause shall be substituted, namely:-

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

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

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

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

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

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

3. For clause 2.1.2, the following clause shall be substituted, namely:-

“2.1.2 No listed issuer company shall make any rights issue of securities, unless a draft letter of offer has been filed with the Board, through a Merchant Banker, at least 30 days prior to the filing of the letter of offer with the Designated Stock Exchange (DSE).

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

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

Provided further that where the Board has sought any clarification or additional information from the Lead Manager/s to the Issue, the period within which the Board may specify changes or issue observations, if

any, on the draft Letter of Offer shall be 15 days from the date of receipt of satisfactory reply from the Lead Manager/s to the Issue.

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

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

4. After clause 2.5, the following new clause shall be inserted, namely:-

“2.5A IPO Grading

2.5A.1 *No unlisted company shall make an IPO of equity shares or any other security which may be converted into or exchanged with equity shares at a later date, unless the following conditions are satisfied as on the date of filing of Prospectus (in case of fixed price issue) or Red Herring Prospectus (in case of book built issue) with ROC:*

- (i) the unlisted company has obtained grading for the IPO from at least one credit rating agency;*
- (ii) disclosures of all the grades obtained, along with the rationale/ description furnished by the credit rating agency(ies) for each of the grades obtained, have been made in the Prospectus (in case of fixed price issue) or Red Herring Prospectus (in case of book built issue); and*

- (iii) *the expenses incurred for grading IPO have been borne by the unlisted company obtaining grading for IPO.*"

CHAPTER IV PROMOTERS' CONTRIBUTION AND LOCK-IN REQUIREMENTS

PART I – PROMOTERS' CONTRIBUTION

5. The following words shall be inserted in clause 4.0 after the words "the following provisions", namely:-

"as on the date of filing of draft offer document with SEBI, unless specified otherwise in this Part "

6. In sub-clause (ii) of clause 4.6.1, the following words shall be inserted after the words "without accrual of cash resources ", namely:-

" or against shares which are otherwise ineligible for computation of promoters' contribution"

7. In clause 4.6.2, for the words "issued to" appearing after the words "securities which have been" and before the words "the promoters during the preceding one year", the words "*acquired by*" shall be substituted.

8. After 1st proviso to clause 4.6.2, the following proviso shall be inserted to clause 4.6.2, namely:-

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

9. After clause 4.6.4, the following clause shall be inserted, namely:-

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

PART III - OTHER REQUIREMENTS IN RESPECT OF LOCK-IN

10. After clause 4.15.1, the following proviso shall be inserted to clause 4.15.1, namely:-

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

CHAPTER V

PRE- ISSUE OBLIGATIONS

11. In clauses 5.6.1 and 5.8.1, for the figures and words “21 days”, the figures and words “30 days” shall be substituted.
12. For clause 5.6B, the following clause shall be substituted, namely:-

“5.6B IPO Grading

5.6B.1 Every unlisted company obtaining grading for IPO under clause 2.5A.1 shall disclose all the grades obtained, along with the rationale/ description furnished by the credit rating agency(ies) for each of the grades obtained, in the Prospectus, Abridged Prospectus, issue advertisements and at all other places where the issuer company is advertising for the IPO.”

**CHAPTER VI
CONTENTS OF OFFER DOCUMENT**

SECTION I - CONTENTS OF THE PROSPECTUS

13. In sub-clause (a) of clause 6.4.2.2, for item (x-a), the following item shall be substituted, namely:-

“(x-a) Disclosure under the heading “IPO Grading”, stating all the grades obtained for the IPO and giving reference to the page number(s) on which details of IPO Grading, as provided for in clause 6.8.2.9A, are given.”

14. In sub-clause (a) of clause 6.8.2.9A, –

,(a) for the words “Name of the credit rating agency”, the words *“Names of all the credit rating agencies”* shall be substituted.

(b) the words *“and the grading so obtained, including unaccepted grades”* shall be omitted.

15. For sub-clause (b) of clause 6.8.2.9A, the following sub-clause shall be substituted, namely:-

“(b) Disclosure of all the grades obtained from the credit rating agencies.”

SECTION II - CONTENTS OF ABRIDGED PROSPECTUS

16. For clause 6.17.3A, the following clause shall be substituted, namely:-

“6.17.3A Disclosure under the heading “IPO Grading”, stating all the grades obtained for the IPO, along with the rationale/ description furnished by the credit rating agency(ies) for each of the grades obtained.”

**CHAPTER XI
GUIDELINES ON BOOK BUILDING**

17. In clause 11.3.1, sub-clause (x) shall be omitted.

**CHAPTER XIII
GUIDELINES FOR PREFERENTIAL ISSUES**

18. For the opening para of clause 13.1.1.1, the following para shall be substituted, namely:-

“Where the equity shares of a company have been listed on a stock exchange for a period of six months or more as on the relevant date, the issue of shares on preferential basis shall be made at a price not less than higher of the following.”

19. After clause 13.1.1.1 and before the Explanation given under clause 13.1.1.1, the following clause shall be inserted, namely:-

“13.1.1.2 Where the equity shares of a company have been listed on a stock exchange for a period of less than six months as on the relevant date, the issue of shares on preferential basis can be made at a price not less than the higher of the following:

- i) The price at which shares were issued by the company in its IPO or the value per share arrived at in a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956, pursuant to which the shares of the company were listed, as the case may be;*

OR

ii) *The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the period shares have been listed preceding the relevant date;*

OR

iii) *The average of the weekly high and low of the closing prices of the related shares quoted on a stock exchange during the two weeks preceding the relevant date.*

Provided that on completing a period of six months of being listed on a stock exchange, the company shall recompute the price of the shares in accordance with the provisions mentioned in sub-clause (i) of clause 13.1.1.1 and if the price at which shares were allotted on a preferential basis under clause 13.1.1.2 was lower than the price so recomputed, the difference shall be paid by the allottees to the company.

20. In the Explanation appearing after clause 13.1.1.2 inserted as above, -

(a) in clauses (a) and (b), for the words “for the purpose of this clause”, the words “*for the purpose of clauses 13.1.1.1 and 13.1.1.2*” shall be substituted.

(b) In clause (a), at the end, after the words “to consider the proposed issue” and before the full stop, the following words shall be inserted, namely:-

“; provided however that in respect of shares issued on preferential basis pursuant to a scheme approved under the Corporate Debt Restructuring framework of Reserve Bank of India, the date of approval of the Corporate Debt Restructuring package shall be the relevant date”.

21. In clause 13.1A, after sub-clause (v), the following sub-clause shall be inserted, namely:-

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

22. In clause 13.3.1, after clause (e), the following proviso shall be inserted, namely:-

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

23. After clause 13.7.1, the following clause shall be inserted, namely:-:

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

CHAPTER XIII-A

GUIDELINES FOR QUALIFIED INSTITUTIONS PLACEMENT

24. In clause 13A.1.1, for sub-clause (a), the following shall be substituted, namely:-

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

SCHEDULE VIIA
ORDER OF PRESENTATION OF DISCLOSURES IN PROSPECTUS

25. In Schedule VIIA, -
- (a) under the sub-heading “Issue Details” appearing under the heading “Front Cover Pages”, the following item shall be inserted after item (i), namely:-
“(i-a) IPO Grading.”

 - (b) under the sub-heading “General Information” appearing under the heading “Introduction”, the following item be inserted after item (ix), namely:-
“(ix-a) IPO Grading.”

SCHEDULE XX-A
FORMATS OF ISSUE ADVERTISEMENTS

26. In Parts A, B and C of Schedule XX-A, the words ***“IPO GRADING”*** shall be inserted after the information about “Debenture Trustees” and before the information about “Availability of Application Forms”.

SCHEDULE XXII
[Clause 16.1.1(b), 16.2.3.1, 16.2.4.3]
JURISDICTION OF REGIONAL OFFICES/ HEAD OFFICE OF THE BOARD

27. In Schedule XXII, the Northern Region and Eastern Region addresses of SEBI offices shall be substituted by the following, namely:-

Northern Region – *“5th Floor, Bank of Baroda Building,
16, Sansad Marg,
New Delhi - 110 001.”*

Eastern Region – *“3rd Floor, 16 Camac Street,*

Kolkata - 700 017.”

28. In Schedule XXII, the following address shall be inserted in the list of Head Office addresses of SEBI offices, namely:-

Head Office – “3) *Plot No.C4-A, 'G' Block,
Bandra Kurla Complex,
Bandra (East),
Mumbai - 400051.”*