

## **Notification of new regulation on 'Issue of Capital and Disclosure Requirements'**

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*Change is only thing that is permanent in this Universe* - a new Companies Act, new IT Code, new accounting standards and now new securities regulations also. The entire set of DIP Guidelines is now sought to be replaced by new Guidelines notified by the SEBI.

SEBI has notified on 26<sup>th</sup> August 2009, Issue of Capital and Disclosure Requirements (ICDR) Regulations 2009 for regulating issue of equity shares and other convertible instruments by replacing the existing DIP Guidelines which now stands rescinded. The DIP Guidelines were introduced by the SEBI initially in 1992, thereafter in 2000, SEBI compiled a compendium of disclosure requirements by issuers and role of intermediaries as Disclosure and Investor Protection Guidelines 2000. The Guidelines were supplemented with new requirements and chapters to cater the need of the changing regulatory environment, The DIP Guidelines updated till July 9, 2009 comprised of 17 chapters and 30 schedules running into 373 pages. The new Guidelines have been reframed and redrafted in 205 pages divided into 11 chapters and 20 schedules.

### **Purpose of bringing new Guidelines**

The new guidelines seeks to remove redundant provisions, avoid repetitions, bring more clarity to existing provisions, adopt the changes in market design over a period, move certain provisions to other relevant Regulations, Listing Agreement, etc and incorporate the recommendations of the Malegam Committee which have not yet been included in the Guidelines. SEBI has to this end, notified separate Regulations for Issue and Listing of Debt Securities in June 2008 and made the DIP Guidelines applicable only to convertible debt instrument. Certain provisions contained in SEBI (ESOS and ESPS) Guidelines, have been shifted to the ICDR Regulations and amendments to SEBI (ESOS and ESPS) Guidelines have been notified separately by SEBI. Similarly, SEBI has also proposed amendment to Equity Listing Agreement. General obligations of Merchant Bankers have been shifted to the Merchant Bankers Regulations.

### **Major changes**

SEBI has largely rationalized the disclosure norms for rights issues, allowed investors to choose commission payable to mutual fund distributors, cut fees for financial intermediaries by 50%, and approved the concept of anchor investor. SEBI has turned a stricter eye to the promoters and strengthened the position of investors in the capital market. We shall now take a brief look at the new provisions being added to the existing regulations:

#### **Tighter norms for promoters:**

The restraint with respect to accessing capital market has been widened. Now not only the issuer who is prohibited from accessing capital market is prohibited from making issue of securities, but if any of its promoters, promoter group or directors or persons in control of the issuer are debarred from accessing the capital market by the Board or if any of the promoters, directors or persons in control of the issuer was or also is a promoter, director or person in control of any other company which is debarred from accessing the capital market under any order or directions made by the Board shall not be allowed to make an issue of securities.

Therefore, if the promoter of a debarred company is also a promoter, director or person in control of any other company, even that company would now be barred from accessing the capital markets.

### **Rationalization of disclosure norms for rights issue:**

One key relaxation in the new Guidelines is in terms of the rationalised disclosure norms for rights issue. A separate chapter has been added with respect to 'Rights issue'. SEBI has relaxed the conditions relating to disclosure requirements by removing repetitions to a large extent.

### **Greater investor participation:**

To ensure greater investor participation in the market, SEBI has in the ICDR Regulations provided that any company that proposes to come out with an IPO will have to apply to list on one nationwide stock exchange. The same clause was added to the DIP Guidelines as recently as in July 9, 2009.

### **Other changes:**

- No provision have been made in the Guidelines for OTCEI issue in view of the fact that OTCEI issue has become a thing of the past and has no relevance in the present capital market.
- The DIP Guidelines provided exemption from eligibility norms to banking and infrastructure companies which has been withdrawn and the regulations have been made uniformly applicable to all companies.
- Firm allotment in public issues is no more permitted under the new Guidelines.
- As per SEBI, there has been no issue for last 10 years using the 75% book building mechanism. Hence the same has not been given place in the ICDR Regulations.

The details of changes made in the ICDR Regulations vis-à-vis the provisions contained in DIP Guidelines, along with the rationale have been discussed in the meetings of the SEBI, an extract thereof is reproduced hereunder which gives a clear idea of the changes proposed in the ICDR Regulations.

These changes have been categorized in the following four main categories:

- Removal of redundant provisions
- Modifications on account of change in market design
- Bringing more clarity to the existing provisions
- Taking the provisions to other regulations/ the Listing Agreement and changes by way of deletion in other regulations/ESOP guidelines

Sr. No	Issue	Position in existing DIP Guidelines	Position in ICDR Regulations	Rationale for changes made in ICDR Regulations
<b>A. REMOVAL OF REDUNDANT PROVISIONS of DIP GUIDELINES</b>				
1.	Exemption from eligibility norms for making an IPO	Exemption available to: (i) a banking Company including a local area bank; (ii) a corresponding new bank set up under the Banking Companies	Exemption has been removed for all issuers and eligibility norms are made applicable uniformly to all.	(i) Presently, the DIP Guidelines provides for three alternative routes with built-in appropriate safeguards for an issuer to access the market. An issuer not having a track

		<p>(Acquisition and Transfer of Undertaking) Act, 1970, Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980, State Bank of India Act, 1955 and State Bank of India (Subsidiary Banks) Act, 1959;</p> <p>(iii) an infrastructure company whose project is appraised by a public financial institution or Infrastructure Development Finance Corporation or Infrastructure Leasing and Financing Services Ltd. or a bank which was earlier a PFI and not less than 5% of the project cost is financed by any of these institutions.</p> <p><b>[2.4 to 2.4.1 (iii)]</b></p>		<p>record of existence, profit, etc. can also come to the market through book building route, where at least 50% should be mandatory subscribed to by QIBs.</p> <p>(ii) In view of the above, “exempted categories” have been removed from the entry norms chapter.</p> <p>(iii) Further, attention is drawn to point (iii) where exemption has been given to infrastructure companies subject to project appraisal is interalia done by IDFC or ILFC. There does not appear to be any rationale for selecting only these two institutions, as the eligible appraising institutions.</p>
2.	Guidelines for OTCEI Issues and E-IPO	<p>Provided under <b>Chapter XIV</b> and <b>Chapter XI A</b> of DIP Guidelines</p>	<p>Chapter XIV of DIP Guidelines regarding OTCEI issues and Chapter XI A regarding EIPO Guidelines have been omitted in the proposed ICDR Regulations.</p>	<p>There has been no OTCEI issue and EIPO in the last decade. Hence, these provisions have been removed.</p>
3.	Firm allotment	<p>Firm allotment permitted to –</p> <p>(i) Indian and multilateral development financial institutions;</p> <p>(ii) Indian mutual funds;</p> <p>(iii) Foreign Institutional Investors (including non resident Indians and Overseas Corporate Bodies;</p> <p>(iv) Permanent/ Regular employees of the issuer; and</p> <p>(v) Scheduled Banks.</p> <p><b>[1.2.1 (xiii)]</b></p>	<p>Firm allotment facility Removed</p>	<p>(i) Currently, the features of firm allotment are contained in pre- IPO placement, wherein shares can be allotted on firm basis during the period from filing of draft offer document with SEBI till filing of offer document with ROC, except that such pre-IPO placement is subject to lock-in.</p> <p>(ii) The issuers are not using this facility of firm allotment and in the new market design, the same has become redundant. Hence, in the proposed ICDR Regulations, “Firm allotment” facility has been removed.</p> <p>(iii) Further SEBI is also examining certain alternatives like anchor investors which may serve the same purpose in the</p>

				changed market design.
4.	Categories of reservation on competitive basis	Reservation on competitive basis provided in the DIP Guidelines, inter alia, for the following categories – (i) Indian and Multilateral Development Institutions; (ii) Mutual Funds registered with the Board; (iii) Foreign Institutional Investors and sub-accounts registered with the Board; (iv) Scheduled Banks. <b>[Items (iii) to (vi) in the Table in Expla. to 8.3.4 ]</b>	Reservation on competitive basis removed for the following categories: • Indian and Multilateral Development Institutions; • Mutual Funds registered with the Board; • Foreign Institutional Investors and sub-accounts registered with the Board; • Scheduled Banks.	(i) Majority of issues are done through book building process where all these entities are covered under QIB category and they get shares on proportionate allotment basis (on competitive basis) with 5% specific reservation for mutual funds. (ii) Hence in ICDR, the reservation for the said entities has been removed.
5.	75% of the issue to be offered through book building process	Either 75% or 100% of the issue size may be offered through book building <b>[11.3 a. and b.]</b>	All provisions relating to 75% book building removed.	Though 75% book building option has been provided in the DIP Guidelines since inception of book building guidelines, there has not been any issue for last 10 years using 75% BB route. Further, 75% BB route has been found to be very inefficient in terms of time and other operational problems. Hence, the same has been removed from the proposed ICDR Regulations.
6.	Disclosure by promoters about their intention to subscribe to more than entitlement in rights issue, in case of shortfall.	Presently, as a part of the standard observation issued by the Board on Letter of Offer, promoter is required to disclose the extent to which promoters shall participate in the proposed issue and their intention to subscribe to portion more than their entitlement in case of shortfall in minimum subscription.	Now it has been provided that promoter shall disclose the extent to which promoters shall participate in the proposed issue and their intention to subscribe to portion more than their entitlement in case of shortfall in minimum subscription while ensuring the compliance with minimum public shareholding requirement as laid down in clause 40A of the Listing Agreement.	Presently, delisting is not allowed through Buy Back and Takeover. If unfettered power to subscribe to more than entitlement, in case of shortfall, is provided, then promoters may use this provision to circumvent the Delisting Guidelines provision and to delist the company through this method. Therefore, it is desired that there should be some short of mechanism to hinder any such tendencies.
<b>B. MODIFICATIONS ON ACCOUNT OF CHANGE IN MARKET DESIGN</b>				
7.	Period within Which allotment/ refund in public issues may be completed	(i) For fixed price issues – 30 days <b>[6.13.2.26 (a)]</b> (ii) For book built issues - 15 days. <b>[6.13.2.26 (b)]</b>	Period made uniform for both fixed price issues and book built issues, viz., 15 days. <b>[17 (1)]</b>	Issue processes have undergone major changes which have led to reduction in the issue period for various types of issues. There is no valid reason to give an extra 15 days to complete the process in case of a fixed price issue. Hence

				the period for fixed price issue for completion of issue formalities has been reduced from 30 days to 15 days.
8.	Disclosure of price or price band	<p>(i) In case of fixed price IPO and FPO, disclosure of price or price band is to be given in the draft prospectus. <b>[3.5.1]</b></p> <p>(ii) In case of IPO and FPO through book building (BB), price or price band is not required to be given in the draft prospectus or in RHP, but is to be disclosed through a public announcement before issue opens. <b>[11.2 (viii) (b), 11.3.1 (viii) (a) and proviso to 11.3.1 (viii) (a)]</b></p>	<p>Price or price band need not be disclosed in draft prospectus for any type of issue (whether FP or BB), but shall be required to be disclosed as under: <b>[30 (1)]</b></p> <p>(i) In case of IPO and FPO (Fixed price) in the prospectus filed with ROC before opening of the issue. <b>[30 (1)]</b></p> <p>(ii) in case of IPO through Book building (BB), need not be disclosed in RHP but shall be announced at least 2 working days before the issue opens; through public advertisement <b>[30 (2)]</b></p> <p>(iii) in case of FPO through Book building (BB), need not be disclosed in RHP but shall be announced at least 1 working days before the issue opens; through public advertisement <b>[30 (2)]</b></p>	<p>Issuer should be allowed to announce the price for any type of issue as close as possible to the issue opening date to contain the market risk. In Book built issue, as per the provisions of the Companies Act, the RHP registered with ROC (before opening of the issue) need not contain any price and therefore SEBI could give the flexibility of disclosing price as close as possible to opening of the issue in case of Book Built issue. However the same is not the case with fixed price public issues. As per the provisions of the Companies Act, in case of fixed price public issue, the prospectus registered with ROC, shall contain a price. Hence similar flexibility of disclosing price through PA just before the issue opens can not be given in case of fixed price issue. However the issuer making a public issue through Fixed price route has been permitted not to give price or price band in the draft prospectus filed with SEBI.</p>
9.	Review of definitions in context of certain categories of investors eligible for reservation on competitive basis	<p>Reservation on competitive basis in a public issue is inter-alia available for –</p> <p>(i) employees of the issuer;</p> <p>(ii) shareholders of the promoting companies in case of a new company and shareholders of group companies in case of an existing company</p> <p><b>[Items No. (i) and (ii) in Table in Expla. to 8.3.4]</b></p>	<p>In respect of these categories, reservation on competitive basis is provided in the proposed ICDR Regulations for –</p> <p>(i) permanent and Regular employees of the issuer;</p> <p>(ii) in case of a new issuer, permanent employees of the issuer and promoting companies;</p> <p>(iii) shareholders of <b>listed</b> promoting companies in case of a new issuer; and</p> <p>(iv) shareholders of <b>listed</b> group companies in case of an existing issuer.</p> <p><b>[42 (1)]</b></p> <p>New Issuer defined as an entity which has not</p>	<p>(i) Reservation on competitive basis to shareholders of all promoting companies and all group companies is being misused for giving shares to closely held companies which are in turn controlled by the promoters. Thus promoters indirectly get shares at IPO price without lock-in, thereby circumventing the present provisions which put lock-in of one year on any shares subscribed to by promoters in the public issue over and above the minimum promoters' contribution.</p> <p>(ii) To prevent misuse of this provision as well as to retain</p>

			completed twelve months of commercial operations and its audited operative results are not available. <b>[Expla. To 42]</b>	its utility, the reservation on competitive basis has now been permitted for shareholders of listed promoting companies and shareholders of listed group companies. The listed companies have public shareholders also and all shareholders of listed companies whether promoter or public will get opportunity to apply for shares of the issuer under reservation category. (iii) The word “new issuer” was not defined earlier. The same has been defined in the proposed ICDR Regulations. (iv) Definition of employee has been changed as indicated on point 17 below.
10.	Transfer of surplus money in GSO Bank Account	Presently, the surplus amount is to be transferred to Investor Protection Fund (IPF) of Stock Exchanges. <b>[8A.17]</b>	The proposed ICDR Regulations has provided that the surplus money in GSO Bank Account shall be transferred to Investor Protection and Education Fund (IPEF) of SEBI instead of the IPF of Stock Exchanges. <b>[45 (9)]</b>	Surplus funds to be transferred to IPEF of SEBI instead of stock Exchanges. This will augment the IEPF of SEBI.
11.	Issue period for infrastructure companies	(i) In case of a public issue by an infrastructure company, the issue may be kept open for 21 days. <b>[8.8.1 (b)]</b> (ii) In all other cases, the maximum period for which the public issue may be kept open is 10 days. <b>[8.8.1 (a)]</b>	10 days’ period made uniform for all issues. [46]	(i) Even though relaxation up to 21 days is given to infrastructure companies, no infrastructure company has availed of this relaxation so far. (ii) There is no apparent reason for giving more period for subscription to only issuers of one sector more so when most of the subscription come at the fag end of the issuer period irrespective of the length of issue period. (iii) Longer issue period is not desirable for issuer as well as for investors. (iv) Hence, in the ICDR Regulations, the existing provision of DIP Guidelines has not been retained and the issue period provisions have been made applicable uniformly to all issuers.
12.	Currency of financial	<b>(i)</b> Particulars as per financial statements	Government companies brought at par with other	Presently there are different provisions for

	statements disclosed in the offer document	should not be more than 6 months old from the issue opening date. <b>[8.12.1]</b> (ii) However, in case of Government companies, the auditors' report should not be more than 6 months old from the date of filing the prospectus with the Registrar of Companies or the Letter of Offer with the Stock Exchanges. <b>[8.12.2]</b>	issuers, i.e., financial statements of government companies not to be more than 6 months old from the issue opening date. <b>[69]</b>	Government companies and non government companies. The provision enables a government companies to access the market with audited financials which can be as old as nine months whereas for non- govt companies this period is 6 months. A need is felt to bring uniformity so that all issuers access market with audited accounts not older than 6 months at the time of issue opening. ICDR regulations have been drafted accordingly.
<b>C. BRINGING MORE CLARITY TO THE EXISTING PROVISIONS</b>				
13.	Further public offer (FPO) with partly paid up equity shares to be allowed	No public issue whether initial public offer (IPO), FPO or rights issue can be made unless all the existing partly paid up shares have been fully paid or forfeited in a manner specified in clause 8.6.2. <b>[2.7.1]</b>	While incorporating clause 2.7.1 of DIP guidelines, reference to clause 8.6.2 has been removed. <b>[4 (2) (e)]</b>	(i) Clause 8.6.2 of DIP states that an issuer may invite calls or forfeit the shares within a period of 12 months from the date of allotment. This clause is relevant when partly paid-up shares are allotted in IPO, FPO and Rights issues but not relevant for the partly paid up shares existing prior to an issue. (ii) However, reference of clause 8.6.2 in clause 2.7.1 implies that an issue can be made even if there are partly paid up shares of the issuer prior to the issue. This is not the intention of clause 2.7.1. (iii) The objective of making partly paid-up shares fully paid-up before an issuer raises funds from public/ shareholders is to ensure that the issuer gets the entire amount due on share capital before making a fresh issue. (iv) The regulation has been provided accordingly in ICDR Regulations
14.	Definition of "Key Management Personnel"	Malegam Committee in its Report recommended that the "Key Management Personnel" be defined as meaning any person who is an executive director of the company or an employee of the company of a level immediately below the Board of Directors of the	The said recommendation of the committee has been accepted and incorporated in the ICDR Regulation as (s) "key management personnel" means any person who is an executive director of the issuer or an employee of the issuer at two levels immediately below the	Key management Personnel has been defined as including Board of Directors of the company and two levels immediately below the Board of Directors. This change has been brought to harmonise the definition with the definition provided under the SEBI (PIT) Regulations, 1992.

		company.”	Board of Directors of the issuer”.	
15.	Undertaking about means of Finance.	Issuer is required to give an undertaking in the offer document confirming 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/rights issue.	Confirmation will be required for finance through verifiable means towards 75% of the stated means of finance excluding (a) the amount to be raised through proposed public/rights issue and (b)the estimated internal accruals.	This change has been made to clarify the existing implementation practice for the said clause and to give effect to recommendation of the Malegam Committee Report
16.	Meaning of “minimum subscription”	Defined as “90% of the issue size” in one clause and “90% of the net offer to public” in another clause. <b>[6.13.1.7 (a) and (b)]</b>	Changed to 90% of the offer through offer document. <b>[13 (1)]</b>	This has been done to remove confusion and bring uniformity within the regulations. The term “Offer through offer document” has been used as it covers net offer to public and reservations on competitive basis but does not include promoters’ contribution.
17.	Extent of underwriting obligation	Not provided	It is provided that where 100% of the issue size is underwritten, the underwriting obligations shall be for the entire 100% of the net offer to public and shall not be restricted up to the minimum subscription level. <b>[Second proviso to 13 (3)]</b>	(i) While minimum Subscription clause is valid for considering an issue a success from legal point of view, an issuer may agree to have the issue underwritten with an understanding to get the full amount of funds. (ii) Therefore, in such cases, the obligation of underwriters must be for the entire net offer to public and must not be limited to the extent of minimum subscription.
18.	Monitoring agency for monitoring utilisation of issue proceeds	Any financial institution <b>[8.17.1]</b>	Any public financial institution and scheduled commercial bank. <b>[15 (1)]</b>	(i) The word “financial institution” is not defined anywhere. Hence the term “public financial institution” is used, which is defined in section 4A of the Companies Act. (ii) Further since the entity is expected to monitor the issue proceeds, it is felt that banks can also do this job more effectively. (iii) Hence, the proposed ICDR Regulations uses the term “public financial institutions” and “scheduled commercial banks” as eligible entities for monitoring agencies.
19.	Release of the	Currently it is provided	Provisions modified to	Not possible for merchant

	issue proceeds to the issuer by the banker to the issue	that the merchant banker shall ensure that the money is released by the bankers to the issue only after the listing permission is obtained [7.4.1.3]	provide that – the merchant banker shall confirm to the bankers to the issue that all formalities in connection with the issue have been completed and the banker is free to release the money to the issuer or release the money for refund in case of failure of the issue. [68 (5)]	bankers to ensure that money is released. Therefore, the concerned regulation of the proposed ICDR regulations has been redrafted to provide for a confirmation to be given by the merchant bankers
20.	Definition of “employee”	Presently, definition of “employee” in DIP Guidelines is similar to the one appearing in SEBI (ESOS and ESPS) Guidelines. It includes a permanent employee of the company working in India or out of India, a director of the company, whether whole time or part time and an employee of a subsidiary or holding company of the issuer. [1.2.1 (xiib)]	The definition has been changed in the proposed ICDR Regulations to exclude – (i) permanent employees and directors of subsidiary or holding company of the issuer; and (ii) promoters. [2 (1) (I)]	(i) In proposed ICDR Regulations, the term “employee” is used mainly for reservation for employees of the issuer and to give benefit of no-lockin on options allotted to employees of the issuer before an IPO. (ii) It is felt that this benefit should be confined to only employees of the issuer company. Hence, employees and directors of subsidiary or holding company of the issuer have been excluded from the definition of the term. (iii) Also, promoters are not an eligible category for employee stock options under the SEBI ESOS and ESPS) Guidelines. Therefore, promoters have also been excluded.
21.	Definition of “listed issuer”	Listed issuer is an issuer whose any security offered through offer document is listed on a recognized stock exchange. [1.2.1 (xviii)]	Listed issuer is an issuer whose equity shares are listed on a recognized stock exchange. [2 (1) (s)]	(i) In the proposed ICDR Regulations, there are certain benefits given to listed issuers such as no eligibility norms, reduced disclosures, etc. (ii) It is felt that these benefits may only be given to those issuers whose equity shares are listed, as the equity listing agreement entered into by them is much more comprehensive than the listing agreement signed for listing other instruments such as debt. The definition of “listed issuer” has accordingly been modified.
22.	In-principle approval from which stock exchanges	Both in the case of IPO and FPO/rights issues, before SEBI issues observations, in-principle	The provision in case of IPO has been left unchanged. In the case of FPO/rights issues, it has	(i) This provision is only a procedural provision as to when SEBI shall issue its observations. Shall it wait

	necessary for issuance of observations by SEBI	approval is to be obtained from all stock exchanges where the issuer proposes to list its securities. <b>[5.6.2 (iii)]</b>	been provided that – <b>(i)</b> if the issuer is listed only on stock exchanges having nationwide trading terminals or on stock exchanges having nationwide trading terminals as well as regional stock exchanges, in-principle approval is to be obtained from all stock exchanges having nationwide trading terminals; <b>[Explanation B of 6(2)]</b> <b>(ii)</b> if the issuer is listed only on regional stock exchanges, then in-principle approval is to be obtained from all stock exchanges where the issuer intends to list its securities. <b>[Explanation B of 6(2)]</b>	for in-principle approval from all stock exchanges or only few? <b>(ii)</b> It is felt that in case of issuers listed on stock exchanges having nationwide trading terminals as well as on regional stock exchanges, SEBI may issue observations after receipt of in-principle approval from stock exchanges with nationwide trading terminals, as the same can be taken as a sufficient presumption of their compliance with the listing conditions.
23.	Restrictions on Advertisements	If issue opening and Closing advertisement contains highlights, then it shall also contain risk factors <b>[9.1.12(c),9.1.13]</b>	If advertisement contains Information other than the details contained in the format for pre-issue advertisement, the advertisement shall contain risk factors. <b>[61(7)(n)]</b>	DIP guidelines has provided a format of issue advertisement, which contains main details of the issue and draws attention of investors to website where full offer document is available. The said format has been taken as it is in ICDR regulations. It has been noted that certain advertisement refers to growth figures or certain pictures etc which are mainly in the nature of highlights without using the word “highlights”. In order to curtail this malpractice, it is provided in ICDR regulations that any advertisement which contains details other than the minimum mandated through the format, shall also give risk factors.
24.	Responsibility of merchant bankers in case the issue is devolved on the underwriters	Merchant bankers to ensure that underwriters honour their commitments in case there is a devolvement on underwriters. <b>(5.3.2.2)</b>	In case there is a devolvement on underwriters, the merchant banker shall ensure that the notice for devolvement containing the obligation of the underwriters is issued within a period of 10 days from the date of closure of the issue. <b>[68(3)]</b>	<b>(i)</b> It may not be possible for merchant bankers to ensure that the underwriters honour their underwriting obligations as the underwriters could also renege on their underwriting obligations. <b>(ii)</b> Hence, the drafting has been modified to clarify that notice of devolvement of underwriting obligations is

				sent by merchant bankers within a specified time period.
25.	Forfeiture of money on unexercised warrants in preferential issues.	Upfront payment made against warrants to be adjusted against the payment to be made on allotment of equity shares upon exercise of warrants. <b>[13.1.2.3(a) and (b)]</b>	Provision modified in the proposed ICDR Regulations to provide that in preferential issue of warrants, where the warrant holder exercises his option to convert only some of the warrants held by him, margin money paid against only such warrants can be adjusted. The balance amount against the remaining warrants/ margin money payable against the unexercised warrants shall be forfeited. <b>[78(2)]</b>	On account of lack of clarity, there have been different interpretations. It is therefore decided to provide the same clearly in ICDR regulations, that Warrant holder is allowed to adjust payment only against that many warrants on which he decides to exercise the option to get equity shares and not against all the warrants which were initially allotted to him.
26.	Period within which allotment in preferential issues may be completed	(i) Allotment may be made within 15 days from the date of shareholders' resolution; <b>(13.4.1)</b> (ii) In case allotment is pending on account of pendency of approval of any regulatory authority or the Central Government, allotment to be made within 15 days from such approval. <b>(First proviso to 13.4.1)</b>	(i) Provisions retained in the proposed ICDR Regulations. <b>[75(1)]</b> (ii) Provisions retained in the proposed ICDR Regulations. Further, Explanation provided that for the purpose of this regulation, approval of any regulatory authority or the Central Government shall include any order passed by SEBI on an application for exemption from the applicability of the SEBI (SAST) Regulations. <b>[Explanation to first proviso to 75(1)]</b>	(i) In several cases, companies could not complete the preferential issue within 15 days of shareholders' resolution, as they were waiting for the outcome of their application for exemption from the SEBI (SAST) Regulations and the companies could have triggered these regulations had they tried to comply with the 15 days stipulation. (ii) Hence, in the proposed ICDR Regulations, specific provision has been made for such an exemption.
27.	Participation in an appraised project	In the entry norm popularly known as "appraisal route", it is stated that the project should have at least 15% participation by financial institutions/ scheduled commercial banks. <b>[2.2.2(a)(ii)]</b>	The word "financial institutions" has been omitted in the proposed ICDR Regulations and in its place "public financial institutions" has been included. <b>[25(2)(a)(ii)]</b>	The word 'financial institution' is not defined anywhere. Since the term "public financial institutions" is defined in the Companies Act, the same has been used in ICDR regulations in place of "financial institutions".
28.	Extending the scope of outstanding convertible instruments and holders of such instruments at the time of IPO Requirement of no outstanding	At present, Outstanding convertible instruments and other rights that entitle existing promoters or shareholders any option to receive equity shares after the IPO are required to be converted before the issuer can make an IPO. <b>(2.6 and 2.6.1)</b>	It is proposed to extend this requirement to all Outstanding convertible instrument holders and other right holders, irrespective of whether they are promoters or shareholders. <b>[25(5)]</b> It is proposed that the issuer may be asked to convert such instruments before filing RHP with ROC and not before filing	(i) The DIP Guidelines presently prohibit a company to make an issue if there are outstanding convertible instrument with promoters or shareholders which may result in to additional equity shares after the IPO. (ii) It is felt that the prohibition shall be applicable if there are Outstanding convertible instruments, irrespective of

	convertible instruments at the time of IPO <b>(REG NO. 24(5))</b>		the draft OD with SEBI.	who is holding the outstanding convertible instruments. (iii) The regulation has been drafted accordingly. (i) The said issue was part of the GRIP recommendation and was placed before the PMAC. PMAC after deliberation, agreed with the proposal. The said proposal now requires the approval of the Board for its implementation. (ii) Therefore, we may mention this proposal in the Board note informing the board about PMAC Recommendation and for seeking the Board approval for incorporating the same in the ICDR.
29.	Minimum promoters' contribution	(i) Presently, minimum promoters' contribution can be brought in by promoters/ persons belonging to promoter group / friends, relatives and associates of promoters. (ii) In practice, only those who are main promoters and whose identity is disclosed along with photograph or other identification parameters are allowed to contribute. <b>(4.9.4)</b>	Promoters' contribution can be brought in only by promoters whose identity, photograph, etc is disclosed in the offer document. <b>[7(2)(d) and 32(1)]</b>	Minimum promoters' contribution can be contributed only by promoters whose identity, photograph, etc. is disclosed in the offer document. This also gels with the objective of showing continued commitment to the company or project by the main promoters.
30.	Issue period	At one place, it is stated that the issue period may not exceed 10 days while at another place, it is stated that the issue period may not exceed 13 days. <b>[8.8.1(a), 11.3.1(viii)(b)(d)]</b>	The proposed ICDR Regulations has provided that – (i) the total period of public issue shall not to exceed 10 days, including any extension in period on account of revision in price band in a book built public issue. <b>(46)</b> (ii) in case of revision in price band, bidding period to be extended by a minimum of 3 days. <b>(Proviso to 46)</b>	There were inconsistencies within the DIP Guidelines. The proposed ICDR Regulations has removed the same and has also provided more clarity by having requisite provisions. Thus for any revision, issuer would need to take a call by 7th day of the issue period, if the issue is kept open for 10 days.
31.	Timing of pre-issue advertisement	Pre-issue advertisement to be made immediately after receipt of observations from SEBI on the draft Offer document. <b>(5.6A.1)</b>	Pre-issue advertisement to be made immediately after filing Prospectus/ Red Herring Prospectus with ROC and not after receipt of observations from SEBI. <b>(47)</b>	The advertisement shall come before the issue opens. To reflect this, the provision has been redrafted to say that advertisement to be issued after filing the RHP / Prospectus with ROC.

32.	Reporting of transactions by promoters	In case of all issues, whether, IPO, FPO or rights Issues, issuer to give an undertaking to SEBI that – Transactions in securities by the promoters, the promoter group and the immediate relative of the promoters during the period between the date of filing the offer document with the RoC/ Stock Exchange and the date of closure of the issue shall be reported to the stock exchanges concerned within 24 hours of the transactions. <b>(5.3.5.1)</b>	This requirement has been redrafted in proposed ICDR Regulations as obligation of the issuer to report the transactions to Stock Exchanges. <b>[70(6)]</b>	The requirement will place obligation on the issuer for reporting details of transactions to Stock Exchanges
33.	Documents to be attached with due diligence certificate	Documents such as MoA and AoA of the company, listing agreement, audited balance sheet, checklist for compliance with DIP Guidelines etc. to be attached as an annexure to the due diligence certificate. <b>[Schedule IV]</b>	Only the checklist for compliance with DIP Guidelines to be attached as an annexure to the due diligence certificate <b>[7 (1) (c) and 9 (3) (a)]</b>	Since other documents are not required for processing by SEBI they are not required to be submitted to SEBI