

BOOKLET ON

**SEBI (ISSUE OF CAPITAL AND
DISCLOSURE REQUIREMENTS)
REGULATIONS, 2018**



भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

BOOKLET ON

**SEBI (Issue of Capital and Disclosure
Requirements) Regulations, 2018**

By Bhatt & Joshi Associates

Preface

The Securities and Exchange Board of India (SEBI) (Issue of Capital and Disclosure Requirements) Regulations, 2018, represent a cornerstone of India's capital market regulatory framework. Introduced on September 11, 2018, and effective from November 10, 2018, these regulations replaced the 2009 ICDR Regulations, aiming to enhance transparency, protect investor interests, and streamline capital-raising processes. This booklet serves as a comprehensive guide to understanding the ICDR 2018, offering insights into its provisions, amendments, and implications for issuers, investors, and market intermediaries. It is designed for legal practitioners, compliance officers, finance professionals, and scholars seeking to navigate the complexities of capital market regulations in India.

The ICDR 2018 outlines stringent requirements for companies issuing securities, mandating detailed disclosures in prospectuses, including financial statements, risk factors, and the purpose of capital raises. These regulations govern initial public offerings (IPOs), further public offerings, rights issues, and other capital-raising activities, ensuring market fairness and investor confidence. Key updates, such as relaxed promoter contribution norms and simplified issue size calculations, reflect SEBI's commitment to balancing regulatory rigor with market efficiency. The regulations also address modern challenges, such as the use of unaffected share prices to counter speculative market movements and reduced bidding extensions during force majeure events.

This booklet delves into the regulatory text, master circulars, informal guidance, and relevant case laws, providing a holistic view of the ICDR framework. It also explores amendments up to March 8, 2025, capturing SEBI's responsive approach to evolving

market dynamics. By consolidating these resources, the booklet aims to equip readers with practical knowledge and analytical tools to engage with India's capital markets effectively.

The accompanying bibliography is an extensive compilation of authoritative sources, including official SEBI documents, legal handbooks, academic journals, and industry reports. Spanning primary and secondary resources, it ensures a robust foundation for research and application. This work underscores the pivotal role of the ICDR 2018 in fostering a transparent, efficient, and investor-friendly capital market ecosystem in India.

Sincerely

Bhatt & Joshi Associates

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Chapter 1: Regulatory Framework and Legal Foundation

Introduction to the Regulatory Framework

The securities market in India operates within a robust legal and regulatory framework designed to ensure investor protection, market integrity, and financial stability. The Securities and Exchange Board of India (SEBI), established under the SEBI Act, 1992, serves as the primary regulator overseeing the securities market. This chapter delves into the legal foundation governing public issues, focusing on key provisions of the SEBI Act, 1992, the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations), and the Companies Act, 2013. These statutes collectively form the backbone of regulations for public offerings, ensuring transparency, accountability, and compliance. Additionally, judicial interpretations and constitutional principles further shape the regulatory landscape, providing clarity and legitimacy to the framework. The discussion begins with an exploration of SEBI's regulatory powers and progresses to specific provisions, case laws, and constitutional considerations, offering a comprehensive understanding of the legal foundation for public issues in India.

SEBI's Regulatory Powers

Powers under Section 11(1) of the SEBI Act, 1992

The SEBI Act, 1992, vests the regulator with extensive powers to protect investors and regulate the securities market. Section 11(1) of the Act is a cornerstone provision,

empowering SEBI to take measures it deems necessary for investor protection, market development, and regulation of intermediaries. This section grants SEBI the authority to formulate regulations, issue directions, and conduct investigations to ensure compliance with securities laws. The broad scope of Section 11(1) enables SEBI to address emerging challenges in the securities market, such as fraudulent practices or non-compliance with disclosure requirements. By exercising these powers, SEBI ensures that issuers adhere to stringent standards during public offerings, safeguarding investor interests and maintaining market confidence. The flexibility inherent in Section 11(1) allows SEBI to adapt its regulatory approach to evolving market dynamics, making it a critical tool in the governance of public issues.

Scope and Application of Regulatory Powers

The application of Section 11(1) extends to various aspects of the securities market, including the oversight of public issues. SEBI's authority under this provision encompasses the formulation of regulations like the ICDR Regulations, which govern the process of capital issuance. The section also empowers SEBI to impose penalties, issue cease-and-desist orders, and suspend trading activities when necessary. This regulatory oversight ensures that issuers comply with eligibility conditions, disclosure norms, and procedural requirements during public offerings. The proactive exercise of these powers has been instrumental in curbing malpractices and fostering a transparent market environment. Furthermore, Section 11(1) serves as a legal basis for SEBI's interventions in cases of non-compliance, providing a mechanism to enforce accountability and uphold the integrity of the securities market.

Definition of "Issue" under ICDR Regulations

Understanding Regulation 2(1)(f)

The SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, provide a comprehensive framework for public issues, including initial public offerings (IPOs) and follow-on public offerings (FPOs). Regulation 2(1)(f) defines the term "issue" as the offer of securities to the public or a section of the public, including through a rights issue or private placement. This definition is pivotal, as it delineates the scope of transactions subject to SEBI's regulatory oversight. By clearly defining "issue," the regulation ensures that all forms of capital raising through securities issuance fall within SEBI's jurisdiction, thereby promoting uniformity in compliance requirements. The inclusion of various offer types under this definition reflects SEBI's intent to regulate diverse fundraising mechanisms, ensuring that issuers adhere to standardized norms regardless of the issuance method.

Implications of the Definition

The definition of "issue" under Regulation 2(1)(f) has significant implications for issuers and investors. It establishes the legal basis for applying ICDR Regulations to public offerings, ensuring that issuers meet eligibility conditions, disclose material information, and follow procedural guidelines. The broad scope of the definition encompasses both public issues and selective offerings, such as rights issues, thereby ensuring comprehensive regulatory coverage. This clarity helps issuers understand their obligations and enables investors to make informed decisions based on standardized disclosures. Moreover, the definition aligns with the objectives of investor protection and market transparency, as it subjects all securities offerings to SEBI's scrutiny, minimizing the risk of unregulated or fraudulent issuances.

Eligibility Conditions for Public Issue

Regulation 6 of ICDR Regulations

Regulation 6 of the ICDR Regulations outlines the eligibility conditions that issuers must satisfy to undertake a public issue. These conditions are designed to ensure that only financially sound and compliant entities access the capital market, thereby protecting investors from undue risks. The regulation mandates that issuers have a track record of profitability, a minimum net worth, and a history of compliance with securities laws. Additionally, issuers must not be subject to any regulatory restrictions or legal proceedings that could impair their ability to fulfill obligations to investors. By imposing these stringent criteria, Regulation 6 serves as a gatekeeping mechanism, ensuring that only credible entities raise capital through public offerings.

Practical Application and Compliance

The practical application of Regulation 6 involves a thorough assessment of an issuer's financial health, operational history, and regulatory compliance. SEBI scrutinizes the issuer's financial statements, corporate governance practices, and past interactions with regulatory authorities to determine eligibility. This rigorous evaluation process helps mitigate risks associated with financially unstable or non-compliant issuers. For issuers, compliance with Regulation 6 requires meticulous preparation, including the maintenance of accurate financial records and adherence to corporate governance norms. The regulation's emphasis on transparency and accountability reinforces investor confidence, as it ensures that public issues are undertaken by entities capable of meeting their obligations to stakeholders.

Integration with Companies Act, 2013

Sections 23, 42, and 62 of the Companies Act

The Companies Act, 2013, complements SEBI's regulations by providing a legal framework for corporate fundraising. Section 23 of the Act outlines the permissible modes of issuing securities, including public issues, private placements, and rights issues. This section integrates with SEBI's ICDR Regulations by establishing the legal basis for public offerings, ensuring alignment between corporate law and securities regulations. Section 42 governs private placements, imposing restrictions on the number of offerees and mandating compliance with disclosure requirements. Section 62 regulates rights issues, allowing companies to offer securities to existing shareholders on a preferential basis. Together, these provisions create a cohesive framework for capital raising, ensuring that issuers comply with both corporate and securities laws.

Harmonization of Regulatory Requirements

The integration of the Companies Act with SEBI regulations ensures harmonization of regulatory requirements, minimizing conflicts and enhancing compliance efficiency. For instance, the disclosure norms under Section 42 align with SEBI's requirements under the ICDR Regulations, ensuring consistency in the information provided to investors. Similarly, the procedural guidelines for rights issues under Section 62 complement SEBI's framework for selective offerings. This harmonized approach facilitates seamless compliance for issuers, as they can adhere to a unified set of norms across corporate and securities regulations. Furthermore, the integration enhances investor protection by ensuring that all capital-raising activities are subject to rigorous scrutiny, regardless of the legal framework governing them.

Judicial Interpretation: SEBI v. Bhavesh Pabari (2019)

Background and Key Issues

The case of SEBI v. Bhavesh Pabari (2019) is a landmark judicial pronouncement that clarified the interpretation of eligibility conditions for public issues. The case involved a dispute over the issuer's compliance with SEBI's regulations, particularly the eligibility criteria under the ICDR Regulations. The Supreme Court examined whether the issuer had met the financial and regulatory requirements for a public issue and whether SEBI's enforcement actions were justified. The court's ruling provided critical insights into the application of eligibility norms and the scope of SEBI's regulatory powers, reinforcing the importance of compliance with securities laws.

Judicial Findings and Implications

In its judgment, the Supreme Court upheld SEBI's authority to enforce eligibility conditions and impose penalties for non-compliance. The court emphasized that the eligibility criteria under the ICDR Regulations are mandatory, designed to protect investors and maintain market integrity. The ruling clarified that issuers must demonstrate financial stability and regulatory compliance to access the capital market, reinforcing the gatekeeping role of Regulation 6. The case also highlighted the judiciary's role in upholding SEBI's regulatory framework, ensuring that issuers adhere to legal standards. The implications of this judgment are far-reaching, as it strengthens SEBI's enforcement mechanisms and underscores the importance of transparency in public offerings.

Constitutional Validity and Reasonable Restrictions

Article 19(1)(g) and Freedom to Carry on Business

The regulatory framework for public issues operates within the constitutional framework of India, particularly under Article 19(1)(g) of the Constitution, which guarantees the right to practice any profession or carry on any occupation, trade, or business. This right is not absolute and is subject to reasonable restrictions imposed in the public interest. SEBI's regulations, including the ICDR Regulations, impose such restrictions to protect investors and ensure market stability. The constitutional validity of these regulations hinges on their alignment with the principles of reasonableness and public interest, ensuring that they do not unduly infringe upon the freedom to conduct business.

Balancing Freedom and Regulation

The judiciary has consistently upheld the constitutional validity of SEBI's regulations, recognizing their role in safeguarding public interest. Courts have ruled that the eligibility conditions, disclosure requirements, and enforcement mechanisms under the ICDR Regulations constitute reasonable restrictions under Article 19(6) of the Constitution. These restrictions are justified by the need to prevent fraudulent practices, protect investors, and maintain market integrity. The balance between regulatory oversight and business freedom is achieved through transparent and proportionate regulations, which allow issuers to raise capital while adhering to legal standards. This constitutional alignment reinforces the legitimacy of SEBI's framework, ensuring that it withstands legal scrutiny while promoting a fair and efficient securities market.

Conclusion

The regulatory framework and legal foundation for public issues in India are built on a robust interplay of statutes, regulations, judicial interpretations, and constitutional principles. The SEBI Act, 1992, empowers the regulator to oversee public offerings, while the ICDR Regulations provide detailed guidelines for issuers. The Companies Act, 2013, complements these regulations, ensuring alignment between corporate and securities laws. Judicial pronouncements, such as *SEBI v. Bhavesh Pabari*, reinforce the importance of compliance, while constitutional principles under Article 19(1)(g) validate the regulatory framework. Together, these elements create a transparent, accountable, and investor-friendly environment for public issues, fostering confidence in India's securities market.

Chapter 2: Public Issue Eligibility and Track Record Requirements

The Securities and Exchange Board of India (SEBI) plays a pivotal role in regulating the securities market in India, ensuring investor protection, market integrity, and financial stability. The SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations) provide a comprehensive framework for companies seeking to raise capital through public issues, including initial public offerings (IPOs) and further public offerings (FPOs). Chapter 2 of this booklet delves into the eligibility and track record requirements for public issues, focusing on key regulations, exceptions, conditions for fast-track and rights issues, relevant case law, and financial parameters outlined in the ICDR Regulations. This chapter aims to provide a detailed understanding of the legal and regulatory prerequisites that issuers must satisfy to access the capital markets in India.

Regulation 6(1) - Three-Year Track Record Requirement

The cornerstone of public issue eligibility under the ICDR Regulations is Regulation 6(1), which mandates a three-year track record of profitability for companies intending to undertake a public issue. This regulation stipulates that an issuer must have a track record of distributable profits, as defined under Section 123 of the Companies Act, 2013, for at least three out of the immediately preceding five years. Additionally, the issuer must demonstrate a pre-issue net worth of at least INR 1 crore in each of the preceding three full years. This requirement is designed to ensure that only financially stable companies with a proven history of profitability can access

public funds, thereby safeguarding investor interests. The emphasis on distributable profits underscores SEBI's focus on the issuer's ability to generate consistent earnings that can be distributed to shareholders, reflecting operational efficiency and financial health.

The three-year track record requirement serves as a gatekeeping mechanism to filter out companies that lack sustained financial performance. For unlisted companies, this condition is particularly stringent, as they must also ensure that their net worth remains positive in the two years immediately preceding the public issue. The regulation further prohibits companies with outstanding financial instruments or rights that could dilute equity post-IPO, ensuring clarity in the capital structure offered to public investors. By imposing these conditions, SEBI aims to mitigate risks associated with speculative or financially weak issuers entering the capital markets, thereby fostering investor confidence.

Regulation 6(2) - Exceptions for Infrastructure Companies

Recognizing the unique capital-intensive nature of infrastructure projects, Regulation 6(2) provides exceptions to the three-year track record requirement for infrastructure companies. For the purposes of this regulation, an infrastructure company is defined as an enterprise wholly engaged in developing, operating, maintaining, or a combination thereof, any infrastructure facility as specified in Schedule X of the ICDR Regulations. These facilities include sectors such as power, telecommunications, roads, ports, and railways, which are critical to economic development but often require significant upfront investment with long gestation periods.

Under Regulation 6(2), infrastructure companies are exempt from the profitability and net worth requirements of Regulation 6(1) if they meet specific conditions. Firstly, the project to be financed through the public issue must have been appraised by a public financial institution (PFI), Infrastructure Development Finance Corporation (IDFC), or Infrastructure Leasing and Financing Services Ltd. Secondly, at least 10% of the project cost must be financed by the appraising institution through loans, equity participation, or a combination thereof. This ensures that the project has undergone rigorous due diligence by a reputable financial institution, reducing the risk of mismanagement or failure. Additionally, the offer document must disclose alternative sources of funding for the project, enhancing transparency and enabling investors to assess the issuer's financial strategy comprehensively.

These exceptions reflect SEBI's pragmatic approach to balancing investor protection with the need to facilitate capital formation in critical sectors. By allowing infrastructure companies to bypass the stringent profitability requirements, SEBI acknowledges the long-term revenue potential of such projects, which may not yield immediate profits but contribute significantly to economic growth. However, the requirement for institutional appraisal and financing ensures that only viable projects with credible backing can avail of this exemption, maintaining a robust regulatory framework.

Regulation 7 - Conditions for Fast Track Issues

Regulation 7 of the ICDR Regulations outlines the conditions under which listed companies can undertake fast-track public issues, which are designed to expedite the capital-raising process for issuers with strong compliance records and market credibility. Fast-track issues bypass some of the rigorous eligibility requirements

applicable to standard public issues, allowing companies to access the market more efficiently. To qualify for a fast-track issue, an issuer must meet several stringent criteria, ensuring that only well-governed and financially sound companies benefit from this streamlined process.

A key condition under Regulation 7 is that the issuer's equity shares must have been listed on a recognized stock exchange with nationwide trading terminals for at least three years immediately preceding the reference date. This ensures that the company has a well-established market presence and a track record of public disclosures. Additionally, the issuer must have an average market capitalization of public shareholding of at least INR 100 crore during the preceding 18 months, reflecting significant investor interest and liquidity in its shares. The issuer must also comply with the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) for at least 18 months, demonstrating adherence to governance and disclosure norms.

Further, Regulation 7 mandates that the issuer has not been subject to any regulatory actions, such as suspension of trading or winding-up petitions, and that there are no audit qualifications in its financial statements for the years disclosed in the offer document. The absence of legal or financial irregularities is critical to maintaining investor trust in the fast-track process. By imposing these conditions, SEBI ensures that only companies with a robust compliance history and market standing can leverage the fast-track route, thereby reducing the regulatory burden on such issuers while protecting investors from undue risks.

The fast-track mechanism reflects SEBI's efforts to enhance market efficiency and support capital formation for established companies. By reducing the time and cost associated with public issues, this provision enables issuers to respond swiftly to

market opportunities, such as favorable economic conditions or strategic expansion plans. However, the stringent eligibility criteria underscore SEBI's commitment to maintaining high standards of corporate governance and financial transparency in the capital markets.

Regulation 8 - Conditions for Rights Issues

Regulation 8 of the ICDR Regulations governs rights issues, which allow listed companies to raise additional capital by offering new shares to existing shareholders in proportion to their current holdings, typically at a discounted price. Rights issues are a preferred method of fundraising during periods of economic uncertainty, as they prioritize existing shareholders and avoid the complexities of public offerings. Regulation 8 outlines specific conditions to ensure that rights issues are conducted transparently and fairly, protecting the interests of shareholders while enabling issuers to meet their capital requirements.

One of the primary conditions under Regulation 8 is that the issuer must disclose all material information in the letter of offer (LOF), prepared in accordance with Part B or Part B-1 of Schedule VI of the ICDR Regulations. The LOF must provide comprehensive details about the issue, including the purpose of the funds, the entitlement ratio, and the financial position of the issuer. Unlike public issues, rights issues of less than INR 50 crore are exempt from certain disclosure requirements, reflecting SEBI's recognition of the lower risk profile of such offerings, given their targeted nature. However, issuers must still ensure that the LOF is filed with SEBI and the stock exchanges, and that in-principle approvals are obtained before the issue opens.

Regulation 8 also imposes restrictions on promoters' ability to renounce their rights entitlements, particularly if the issuer or its promoters are classified as willful defaulters or fraudulent borrowers. In such cases, promoters cannot renounce their rights outside the promoter group unless the issue meets the minimum subscription criteria, ensuring that promoters remain committed to the company's financial health. Additionally, the issuer must make firm arrangements for at least 75% of the project's financing through verifiable means, excluding the amount raised through the rights issue, to demonstrate financial prudence and project viability.

The 2020 amendments to the ICDR Regulations further streamlined the rights issue process by increasing the threshold for applicability to INR 50 crore, reducing the minimum subscription requirement from 90% to 75%, and eliminating the need for a separate compliance officer. These changes, introduced in response to the economic challenges posed by the COVID-19 pandemic, have made rights issues a more attractive and efficient fundraising option for listed companies, particularly those facing liquidity constraints. By balancing flexibility with robust disclosure requirements, Regulation 8 ensures that rights issues remain a viable and shareholder-friendly mechanism for capital raising.

Case Law: Religare Enterprises Ltd. v. SEBI (2017) SAT - Track Record Interpretation

The case of *Religare Enterprises Ltd. v. SEBI* (2017) before the Securities Appellate Tribunal (SAT) provides critical insights into the interpretation of track record requirements under the ICDR Regulations. In this case, Religare Enterprises Ltd., a financial services company, sought to undertake a public issue but faced objections from SEBI regarding its compliance with the three-year track record requirement

under Regulation 6(1). SEBI argued that Religare's financial statements did not adequately demonstrate consistent distributable profits, citing concerns about the company's accounting practices and the inclusion of profits from subsidiaries.

Religare contended that its consolidated financial statements, which included the performance of its subsidiaries, satisfied the profitability criteria, as the ICDR Regulations did not explicitly prohibit the use of consolidated figures. The company further argued that its diversified business model, spanning stock broking, wealth management, and non-banking financial services, necessitated a broader interpretation of the track record requirement. The SAT, in its ruling, emphasized that the purpose of the track record requirement is to ensure that issuers have a stable and reliable financial history, regardless of whether profits are derived from standalone or consolidated operations.

The tribunal held that SEBI's restrictive interpretation of distributable profits was inconsistent with the regulatory intent, as the ICDR Regulations allow flexibility in assessing profitability for diversified conglomerates. However, the SAT also underscored the importance of transparency in financial reporting, directing Religare to provide additional disclosures to clarify the sources of its profits. This case clarified that while SEBI has the authority to scrutinize an issuer's financial track record, it must adopt a pragmatic approach that considers the issuer's business model and industry context. The ruling has since served as a precedent for interpreting track record requirements, particularly for companies with complex corporate structures.

Schedule VIII - Financial Parameters and Ratios for Eligibility

Schedule VIII of the ICDR Regulations outlines the financial parameters and ratios that issuers must disclose in the offer document to demonstrate eligibility for a public issue. These disclosures are critical for enabling investors to assess the issuer's financial health, operational efficiency, and risk profile. Part A of Schedule VIII specifies the minimum subscription requirements, mandating that the offer document disclose the minimum subscription level (at least 90% of the offer) and the consequences of failing to achieve it, such as refunding application monies. This ensures that investors are fully informed about the risks associated with under-subscribed issues.

Schedule VIII also requires issuers to provide detailed financial ratios, including earnings per share (EPS), return on net worth (RONW), and net asset value (NAV), for the preceding three years. These ratios offer insights into the issuer's profitability, efficiency in utilizing shareholders' funds, and the intrinsic value of its shares. For instance, a consistently high RONW indicates effective management of capital, while a stable NAV reflects financial stability. Additionally, issuers must disclose their debt-equity ratio, interest coverage ratio, and current ratio to highlight their leverage, ability to service debt, and liquidity position, respectively. These metrics are particularly important for investors evaluating the issuer's capacity to manage financial obligations and sustain operations.

For infrastructure companies availing of the exceptions under Regulation 6(2), Schedule VIII mandates disclosures regarding the project's appraisal by a public financial institution and the alternative sources of funding. This enhances transparency by ensuring that investors understand the project's financial structure and the institutional support it has received. The schedule also requires issuers to provide a comparison of their financial performance with industry peers, enabling investors to

benchmark the issuer's performance against market standards. By mandating these comprehensive disclosures, Schedule VIII reinforces SEBI's commitment to investor protection and market transparency, ensuring that public issues are backed by robust financial information.

In conclusion, the eligibility and track record requirements under the ICDR Regulations form a critical component of SEBI's regulatory framework for public issues. Regulation 6(1) establishes a rigorous profitability benchmark, while Regulation 6(2) provides tailored exemptions for infrastructure companies, reflecting SEBI's balanced approach to regulation. Regulations 7 and 8 streamline the process for fast-track and rights issues, respectively, enabling efficient capital raising for compliant issuers. The *Religare Enterprises Ltd. v. SEBI* case underscores the importance of a pragmatic interpretation of track record requirements, while Schedule VIII ensures comprehensive financial disclosures. Together, these provisions create a robust and transparent framework that protects investors while facilitating capital formation in India's securities market.

Chapter 3: Disclosure Requirements and Prospectus Content

The process of raising capital through an Initial Public Offering (IPO) in India is governed by stringent regulatory frameworks designed to protect investors and ensure market transparency. Central to this process is the Draft Red Herring Prospectus (DRHP), a comprehensive document that serves as the cornerstone of disclosure for companies seeking to go public. The Securities and Exchange Board of India (SEBI), through its Issue of Capital and Disclosure Requirements (ICDR) Regulations, 2018, mandates specific disclosure requirements to ensure that investors have access to accurate and material information. This chapter explores the key regulatory provisions governing the DRHP, including Regulation 26, Regulation 27, Regulation 30, and Schedule VI, alongside the landmark case of Sahara India Real Estate Corp. v. SEBI (2012) and the requirements for Form A under Schedule XIII. These provisions collectively aim to balance the interests of issuers and investors while maintaining market integrity.

Regulation 26 - Contents of Draft Red Herring Prospectus (DRHP)

Overview of Regulation 26

Regulation 26 of the SEBI ICDR Regulations, 2018, outlines the mandatory contents of the DRHP, a preliminary document filed with SEBI and stock exchanges before an IPO. The DRHP is a critical disclosure tool that provides potential investors with

detailed insights into the company's operations, financial health, and risks. It is termed a “red herring” because it is subject to revisions based on SEBI's feedback and does not include final details such as the issue price or the number of shares offered. The regulation ensures that the DRHP is comprehensive, transparent, and compliant with legal standards, enabling investors to make informed decisions.

Key Components of the DRHP

The DRHP must include a wide range of information to provide a holistic view of the issuer. The document begins with a general information section, detailing the company's registered office, key management personnel, and the lead managers to the issue. This section sets the stage for investors to understand the issuer's identity and the entities facilitating the IPO. Additionally, the DRHP includes a detailed description of the company's business model, covering its products, services, market position, and competitive landscape. This allows investors to assess the company's operational strengths and growth potential within its industry.

Financial information is another cornerstone of the DRHP, requiring audited financial statements, including balance sheets, profit and loss statements, and cash flow statements, typically for the preceding three years. These statements are accompanied by a management discussion and analysis (MD&A), which provides context for the financial data, highlighting trends, risks, and future projections. The DRHP also specifies the objects of the issue, explaining how the proceeds from the IPO will be utilized, whether for expansion, debt repayment, or other strategic initiatives. This transparency ensures that investors understand the purpose of their investment.

Compliance and Public Availability

Regulation 26 mandates that the DRHP be hosted on the websites of SEBI, stock exchanges, and the lead managers for a minimum of 21 days to allow public scrutiny and comments. This public availability fosters transparency and enables stakeholders to raise concerns about the disclosures. The issuer must also publish a public announcement in national and regional newspapers, inviting feedback from the public. SEBI reviews the DRHP within 30 days, issuing observations that the issuer must address before proceeding to the Red Herring Prospectus (RHP) stage. This iterative process ensures that the document is accurate and compliant with regulatory standards.

Regulation 27 - Risk Factors Disclosure Requirements

Importance of Risk Disclosure

Regulation 27 of the SEBI ICDR Regulations emphasizes the disclosure of risk factors, a critical component of the DRHP designed to inform investors about potential uncertainties that could impact the company's performance or share value. The risk factors section is often the most scrutinized part of the DRHP, as it reflects the issuer's vulnerabilities and the challenges it faces in its business environment. By mandating clear and comprehensive risk disclosures, SEBI ensures that investors are not misled by overly optimistic projections and can assess the investment's viability with full awareness of potential pitfalls.

Structuring and Materiality of Risk Factors

The risk factors must be presented in a clear, concise, and structured manner, with the most material risks listed first. Materiality is determined based on the potential impact of the risk on the company's financial performance, operations, or market reputation.

For instance, risks related to regulatory changes, market competition, or pending litigation are considered material and must be disclosed prominently. SEBI's observation letters often require issuers to reframe or split risks for clarity, ensuring that complex risks are broken down into understandable components. Additionally, risks that may individually seem immaterial but collectively pose a significant threat must also be disclosed, as highlighted in cases like Corporate Strategic Allianz Ltd. v. SEBI.

Examples and Specificity

The disclosures under Regulation 27 must avoid vague or boilerplate language and instead provide specific, company-relevant risks. For example, a company engaged in joint ventures might disclose that disputes arising from such partnerships could lead to project delays or financial losses, referencing specific sections of the DRHP for further details. This specificity enhances the credibility of the disclosures and helps investors understand the context of the risks. SEBI's scrutiny ensures that promotional or unsubstantiated claims are excluded, maintaining the integrity of the risk factors section as a reliable guide for investors.

Regulation 30 - Material Contracts and Documents Inspection

Scope of Regulation 30

Regulation 30 of the SEBI ICDR Regulations governs the disclosure and inspection of material contracts and documents related to the IPO. This regulation ensures that investors have access to critical agreements and records that underpin the company's operations and the IPO process. Material contracts include agreements with key stakeholders, such as suppliers, customers, or strategic partners, that significantly

impact the company's business. By making these documents available for inspection, SEBI promotes transparency and allows investors to verify the issuer's claims.

Disclosure Requirements

The DRHP must list all material contracts, providing a summary of their key terms, such as duration, obligations, and termination clauses. These summaries enable investors to understand the legal and financial implications of the contracts without needing to review the full documents. Additionally, Regulation 30 requires the disclosure of other material documents, such as licenses, permits, or intellectual property agreements, that are essential to the company's operations. The issuer must specify the time and place where these documents can be inspected, typically from the date of the prospectus until the closing of the subscription list.

Ensuring Accessibility

To comply with Regulation 30, issuers must ensure that the listed documents are readily accessible to investors, either physically at designated locations or electronically on the company's website. This accessibility is crucial for maintaining investor confidence and complying with SEBI's transparency requirements. The regulation also aligns with the broader objective of the ICDR Regulations to prevent information asymmetry, ensuring that all investors have equal access to material information.

Schedule VI - Specific Disclosures for Different Types of Companies

Tailored Disclosure Requirements

Schedule VI of the SEBI ICDR Regulations provides specific disclosure requirements for different types of companies, recognizing that the nature of disclosures varies depending on the issuer's industry, structure, and business model. This schedule ensures that the DRHP addresses the unique risks and operational nuances of companies, such as those in infrastructure, banking, or technology sectors. By tailoring disclosures to specific company types, Schedule VI enhances the relevance and accuracy of the information provided to investors.

Examples of Sector-Specific Disclosures

For infrastructure companies, Schedule VI mandates disclosures related to project risks, such as delays in regulatory approvals or cost overruns, which could impact financial performance. Banking and financial institutions must provide detailed information on their loan portfolios, asset quality, and regulatory compliance, given the systemic importance of these entities. Technology companies, on the other hand, are required to disclose risks related to intellectual property, cybersecurity, and rapid technological changes. These sector-specific disclosures ensure that investors receive information that is directly relevant to the issuer's business environment.

Compliance and SEBI Oversight

Issuers must carefully align their DRHP with the requirements of Schedule VI, as SEBI closely scrutinizes these disclosures during the review process. Non-compliance or inadequate disclosures can lead to delays in SEBI's approval or additional clarifications, potentially affecting the IPO timeline. By adhering to Schedule VI, issuers demonstrate their commitment to transparency and provide investors with a clear understanding of the risks and opportunities associated with their investment.

Case Law: Sahara India Real Estate Corp. v. SEBI (2012) SC - Disclosure Adequacy

Background of the Case

The case of Sahara India Real Estate Corp. v. SEBI (2012) is a landmark judgment by the Supreme Court of India that underscored the importance of disclosure adequacy in public offerings. Sahara India Real Estate Corporation and its affiliate, Sahara Housing Investment Corporation, issued Optionally Fully Convertible Debentures (OFCDs) to raise funds from the public. The companies claimed that the issuance was a private placement, exempt from SEBI's jurisdiction, and failed to file a DRHP or comply with disclosure requirements. SEBI, however, argued that the issuance constituted a public offer, necessitating compliance with the ICDR Regulations.

Supreme Court's Ruling

The Supreme Court ruled in favor of SEBI, holding that the issuance of OFCDs to over 30 million investors constituted a public offer, regardless of the companies' intent. The Court emphasized that the DRHP must include all material information to enable investors to make informed decisions. Sahara's failure to disclose critical details, such as the risks associated with the OFCDs and the financial health of the issuing entities, violated SEBI's disclosure norms. The Court ordered Sahara to refund the funds raised, along with interest, and imposed penalties for non-compliance.

Implications for Disclosure Practices

The Sahara case set a precedent for the rigorous enforcement of disclosure requirements in India. It highlighted SEBI's authority to regulate public offerings and

the importance of transparency in protecting investor interests. The judgment also underscored the need for issuers to conduct thorough due diligence and ensure that all material information is disclosed in the DRHP. Subsequent IPOs have been subject to stricter scrutiny, with SEBI issuing detailed observation letters to ensure compliance with disclosure norms.

Form A - Application Form Content Requirements under Schedule XIII

Purpose of Form A

Form A, as prescribed under Schedule XIII of the SEBI ICDR Regulations, is the standardized application form that investors use to apply for shares in an IPO. The form is designed to collect essential information from applicants while ensuring that they are aware of the risks and terms of the offering. By standardizing the application process, Form A streamlines the subscription process and enhances transparency for both issuers and investors.

Key Content Requirements

Form A must include specific disclosures to inform applicants about the IPO. These include the name of the issuer, the issue size, the price band (if applicable), and the minimum application size. The form also contains a risk disclosure statement, advising investors to read the risk factors section of the DRHP before applying. Additionally, Form A requires applicants to provide personal details, such as their name, address, and bank account information, to facilitate the allotment process. The

form must also include instructions for completing the application and details about the payment process.

Ensuring Investor Awareness

The inclusion of a risk disclosure statement in Form A serves as a reminder to investors of the uncertainties associated with the IPO. This aligns with SEBI's investor protection mandate, ensuring that applicants are fully informed before committing their funds. The form also requires applicants to confirm that they have read the DRHP and understood its contents, reinforcing the importance of due diligence. By standardizing these requirements, Schedule XIII ensures consistency across IPOs and minimizes the risk of miscommunication.

Compliance and Accessibility

Issuers must ensure that Form A is included in the abridged prospectus, which is distributed to investors along with the application form. The form must be easily accessible, both in physical and electronic formats, to accommodate retail and institutional investors. SEBI's oversight ensures that the form complies with regulatory standards and provides clear instructions to avoid errors during the application process.

Conclusion

The disclosure requirements and prospectus content mandated by SEBI's ICDR Regulations, 2018, form the backbone of India's IPO framework. Regulation 26 ensures that the DRHP is a comprehensive and transparent document, providing investors with essential information about the issuer's business, financials, and objectives. Regulation 27 emphasizes the importance of clear and material risk

disclosures, enabling investors to assess potential uncertainties. Regulation 30 promotes transparency by requiring the disclosure and inspection of material contracts, while Schedule VI tailors disclosures to specific company types. The Sahara India case reinforces the critical need for disclosure adequacy, and Form A under Schedule XIII standardizes the application process while prioritizing investor awareness. Together, these provisions create a robust regulatory framework that balances the interests of issuers and investors, fostering trust and integrity in India's capital markets.

Chapter 4: Book Building and Pricing Mechanism

The book building process is a cornerstone of modern initial public offerings (IPOs) in India, designed to ensure transparency, efficiency, and fairness in determining the price at which securities are offered to the public. Governed by the Securities and Exchange Board of India (SEBI) under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations), this mechanism allows issuers to gauge investor demand and set an appropriate issue price. This chapter delves into the regulatory framework surrounding book building, focusing on price band disclosure, procedural requirements, anchor investor participation, allocation methodologies, and notable case law, while also addressing permissible variations in issue size. The discussion is grounded in the provisions of Regulations 26(1), 43, and 44, Schedule X, and relevant legal precedents, providing a comprehensive understanding of the legal and procedural nuances.

Price Band Disclosure in the Draft Red Herring Prospectus

The Draft Red Herring Prospectus (DRHP) serves as the preliminary document filed with SEBI by companies intending to launch an IPO, providing investors with critical insights into the company's operations, financials, and offering details. Under Regulation 26(1) of the SEBI ICDR Regulations, issuers undertaking a book-built issue are permitted to disclose a price band in the DRHP instead of a fixed price. This price band, typically consisting of a floor price and a cap price, allows flexibility in determining the final issue price based on investor demand during the bidding process.

The regulation mandates that the price band be disclosed in the Red Herring Prospectus (RHP) filed with the Registrar of Companies (ROC), ensuring that potential investors are aware of the range within which the final price will be set. This disclosure is crucial for fostering transparency, as it enables investors to make informed decisions based on the indicative pricing range. The price band must be determined in consultation with the book running lead managers (BRLMs), who assess market conditions and investor sentiment to recommend an appropriate range. Once disclosed, the price band cannot be altered after the RHP is filed, except under specific circumstances outlined by SEBI, such as significant market changes or regulatory approvals. This provision balances the issuer's need for flexibility with the investor's right to clear and reliable information, ensuring that the pricing process remains disciplined and predictable.

Book Building Process Requirements

The book building process, as outlined in Regulation 43 of the SEBI ICDR Regulations, is a systematic mechanism for price discovery and allocation of securities in an IPO. This regulation mandates that issuers follow a structured process to elicit demand from investors and determine the issue price. In a book-built issue, the issuer appoints one or more merchant bankers as book runners, who are responsible for managing the bidding process and ensuring compliance with regulatory requirements. The process begins with the announcement of the price band in the RHP, followed by a bidding period during which investors submit their bids at various price points within the band. Regulation 43 requires that the bidding period remain open for a minimum of three working days, allowing sufficient time for investors to participate. Qualified Institutional Buyers (QIBs), Non-Institutional Investors (NIIs), and Retail Individual Investors (RIIs) submit their bids through an electronic bidding system.

facilitated by stock exchanges, ensuring transparency and efficiency. The regulation also stipulates that the issuer may close the bidding for QIBs one day prior to the closure for other categories, provided this intention is disclosed in the RHP. At the end of the bidding period, the book runner aggregates the demand data to determine the cut-off price, which is the price at which the issue is fully subscribed. The final prospectus, containing the finalized issue price, is then registered with the ROC. Regulation 43 ensures that the book building process is conducted in a manner that maximizes investor participation while maintaining fairness and accountability, making it a robust tool for price discovery in the Indian capital market.

Anchor Investor Participation

Anchor investors play a pivotal role in enhancing the credibility and attractiveness of an IPO, signaling confidence to other investors. Regulation 44 of the SEBI ICDR Regulations governs the participation of anchor investors, who are typically QIBs such as mutual funds, foreign portfolio investors, or insurance companies. The regulation mandates that up to 60% of the QIB portion may be allocated to anchor investors on a discretionary basis, with a minimum allocation of 30% reserved for domestic mutual funds, subject to valid bids at or above the anchor investor allocation price. Anchor investors are required to submit bids for a minimum value of INR 10 crore in mainboard IPOs, ensuring that only well-resourced institutional investors participate in this category. The price at which shares are allotted to anchor investors cannot be lower than the price offered to other applicants, maintaining fairness in the pricing process. Additionally, anchor investors are subject to a lock-in period, with 50% of their allotted shares locked in for 30 days and the remaining 50% for 90 days from the date of allotment, as amended by SEBI in 2022 to enhance investor confidence. This lock-in period discourages short-term speculation and aligns anchor

investors with the long-term interests of the company. The participation of anchor investors is disclosed in the RHP, providing transparency and reassuring retail investors about the quality of the issue. By attracting reputable institutional investors, Regulation 44 ensures that IPOs gain traction in the market, facilitating successful capital raising for issuers.

Allocation Methodology for Investor Categories

Schedule X of the SEBI ICDR Regulations provides a detailed framework for the allocation of securities among different investor categories in a book-built issue, ensuring equitable distribution and broad market participation. The regulation categorizes investors into three primary groups: QIBs, NIIs, and RIIs, with specific allocation percentages to balance institutional and retail participation. In a book-built IPO, not more than 50% of the net issue is allocated to QIBs, of which up to 60% may be reserved for anchor investors, as discussed earlier. Not less than 15% of the net issue is allocated to NIIs, who are high-net-worth individuals investing above the retail threshold, and not less than 35% is reserved for RIIs, ensuring significant retail participation. If any category is undersubscribed, the unallocated shares may be reallocated to other categories, subject to SEBI guidelines, to ensure full subscription. The allocation to QIBs and NIIs is made on a proportionate basis, while RIIs receive allotments based on a lottery system if the issue is oversubscribed, promoting fairness for smaller investors. Schedule X also mandates that issuers reserve a portion for eligible employees, if applicable, and disclose the allocation methodology in the RHP. This structured approach ensures that the IPO process accommodates diverse investor groups, fostering inclusivity and market stability. By clearly defining allocation rules,

Schedule X minimizes disputes and enhances transparency, making the book building process predictable and investor-friendly.

Case Law: Coal India Ltd. IPO Pricing Methodology Disputes

The Coal India Limited (CIL) IPO in 2010 remains a landmark case in India's capital market history, particularly for its pricing methodology disputes, which highlighted the complexities of the book building process. As one of the largest IPOs in India at the time, CIL aimed to raise significant capital through a public issue, employing the book building mechanism to determine the issue price. However, the pricing process faced legal scrutiny due to allegations of discrepancies in the determination of the cut-off price and the allocation methodology. Certain institutional investors challenged the IPO, arguing that the book building process lacked transparency and that the final price did not accurately reflect market demand. The dispute centered on the interpretation of SEBI's pricing guidelines and the role of BRLMs in setting the price band. The Securities Appellate Tribunal (SAT) and subsequent judicial reviews examined whether CIL and its merchant bankers adhered to the SEBI ICDR Regulations, particularly in ensuring fairness in price discovery. The case underscored the importance of robust disclosures in the RHP and the need for BRLMs to justify the pricing methodology to avoid perceptions of arbitrariness. Ultimately, the courts upheld the IPO, but the case led to stricter SEBI guidelines on price band determination and demand aggregation, reinforcing the regulator's commitment to investor protection. The CIL IPO case remains a critical reference for issuers and regulators, emphasizing the need for meticulous compliance with book building regulations to prevent legal and reputational risks.

Variation in Fresh Issue Size

The SEBI ICDR Regulations permit issuers to adjust the size of a fresh issue within specified limits to accommodate changing market conditions or business needs. In the context of a fresh issue, an issuer may increase the issue size from, for example, INR 100 crore to INR 120 crore, representing a 20% variation, as allowed under SEBI guidelines. This flexibility is crucial for issuers to respond to investor demand or unforeseen financial requirements during the IPO process. However, such variations are subject to strict conditions to ensure transparency and protect investor interests. The issuer must disclose the possibility of a variation in the DRHP and RHP, specifying the maximum permissible increase and the rationale for such flexibility. Additionally, any increase in issue size must be approved by the issuer's board and the BRLMs, with the revised details reflected in the final prospectus filed with the ROC. SEBI mandates that the proceeds from the increased issue size be utilized in accordance with the objects of the issue outlined in the offer documents, preventing misuse of funds. The 20% variation limit strikes a balance between providing issuers with operational flexibility and ensuring that investors are not misled by significant deviations from the original offer. This provision is particularly relevant in volatile market conditions, where issuers may need to calibrate the issue size to optimize capital raising while maintaining investor confidence. By regulating variations, SEBI ensures that the book building process remains adaptable yet disciplined, safeguarding the integrity of the IPO market.

Conclusion

The book building and pricing mechanism under the SEBI ICDR Regulations represents a sophisticated framework for conducting IPOs in India, balancing the interests of issuers and investors. Regulation 26(1) ensures transparency through price band disclosure, while Regulation 43 establishes a structured process for price

discovery. Regulation 44 enhances market confidence by facilitating anchor investor participation, and Schedule X promotes equitable allocation across investor categories. The Coal India Ltd. IPO case underscores the importance of regulatory compliance in pricing methodologies, serving as a cautionary tale for issuers and merchant bankers. Finally, the provision for a 20% variation in issue size provides flexibility while maintaining accountability. Together, these regulations create a robust ecosystem for capital raising, fostering trust and efficiency in India's securities market. Issuers must navigate these requirements with precision, ensuring that disclosures, pricing decisions, and allocations align with SEBI's investor-centric approach. As the IPO market continues to evolve, these regulations will remain critical in shaping fair and transparent public offerings.

Chapter 5: Recent Amendments and Regulatory Updates (2024)

Rights Issue Completion within 23 Working Days from Board Approval

In 2024, the Securities and Exchange Board of India (SEBI) introduced significant amendments to streamline the process of rights issues, a critical mechanism for companies to raise capital by offering additional shares to existing shareholders. One of the most notable changes is the reduction of the timeline for completing a rights issue to within 23 working days from the date of board approval. This regulatory update aims to enhance efficiency, reduce bureaucratic delays, and ensure that companies can access funds more swiftly to meet their financial objectives. The earlier framework often saw prolonged timelines due to procedural requirements, which could deter companies from opting for rights issues as a fundraising method. By compressing the timeline, SEBI seeks to make rights issues a more attractive option for listed entities, thereby fostering greater market participation.

The revised timeline encompasses all stages of the rights issue process, including obtaining board approval, filing necessary documents with regulatory authorities, and completing the allotment of shares. This accelerated schedule requires companies to be more proactive in their planning and coordination with intermediaries such as merchant bankers and registrars. Additionally, the shortened timeframe aligns with SEBI's broader objective of promoting ease of doing business, as it reduces the uncertainty and waiting period for both companies and investors. The amendment also

mandates stricter adherence to disclosure requirements within this compressed period, ensuring that investors receive timely and accurate information to make informed decisions. This change reflects SEBI's commitment to balancing operational efficiency with investor protection, a recurring theme in its 2024 regulatory updates.

To facilitate compliance, SEBI has also introduced digital mechanisms to streamline the submission and approval processes. For instance, companies are now encouraged to leverage SEBI's online portals for faster document processing, reducing manual interventions and potential delays. This digital push complements the shortened timeline by enabling real-time tracking of application statuses and quicker resolution of regulatory queries. However, the compressed timeline places additional pressure on companies to ensure that their internal processes are robust and that they have the necessary resources to meet the accelerated deadlines. For smaller entities, this could pose challenges, but SEBI has clarified that the amended framework includes provisions for technical assistance to ensure inclusivity across market participants.

Voluntary Proforma Financials for Acquisitions - New Regulation 32A

Another pivotal regulatory update in 2024 is the introduction of Regulation 32A under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, which pertains to the voluntary disclosure of proforma financials for acquisitions. This regulation allows listed entities to provide proforma financial statements on a voluntary basis when undertaking significant acquisitions, offering a clearer picture of the financial impact of such transactions. The objective is to enhance transparency and enable investors to better assess the potential effects of an acquisition on a company's financial health, thereby fostering greater confidence in the market.

Under Regulation 32A, proforma financials are not mandatory but are encouraged in cases where acquisitions are deemed material, defined as transactions exceeding a certain threshold of the company's turnover, net worth, or profit. These statements typically include adjusted financial metrics that reflect the combined performance of the acquiring company and the acquired entity, as if the acquisition had occurred at an earlier date. By presenting such data, companies can illustrate the synergies, cost savings, or revenue enhancements expected from the acquisition, which can be critical for investor decision-making. This voluntary approach strikes a balance between encouraging transparency and avoiding undue compliance burdens, particularly for smaller acquisitions that may not warrant extensive disclosures.

The introduction of Regulation 32A responds to feedback from market participants who sought greater clarity on the financial implications of acquisitions. Previously, the absence of standardized guidelines for proforma financials led to inconsistent disclosures, making it challenging for investors to compare transactions across companies. The new regulation addresses this gap by providing a structured framework, including specific formats and timelines for disclosures, should companies choose to provide them. SEBI has also emphasized that any proforma financials disclosed under Regulation 32A must be audited or reviewed by a certified professional to ensure accuracy and reliability, further safeguarding investor interests.

Moreover, Regulation 32A aligns with global best practices, where proforma financials are commonly used to communicate the financial impact of major corporate actions. By adopting this approach, SEBI enhances the comparability of Indian listed entities with their international counterparts, potentially attracting more foreign investment. The voluntary nature of the regulation allows companies flexibility to tailor their disclosures based on the complexity and materiality of the acquisition, while still adhering to SEBI's overarching goal of transparency. This amendment

underscores SEBI's nuanced approach to regulation, balancing investor needs with corporate autonomy.

Stock Appreciation Rights (SARs) Disclosure - Amendment to Schedule VI

In 2024, SEBI amended Schedule VI of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021, to strengthen disclosure requirements for Stock Appreciation Rights (SARs). SARs are a form of employee compensation where employees receive a cash or stock payment based on the increase in the company's share price over a specified period. The amendment aims to enhance transparency in how companies structure and report SAR schemes, ensuring that investors have comprehensive information about potential financial obligations and their impact on the company's equity structure.

The revised Schedule VI mandates detailed disclosures regarding the terms of SAR schemes, including the vesting period, exercise price, and the methodology used to calculate the appreciation in share value. Companies are now required to provide a clear breakdown of the number of SARs granted, exercised, and outstanding, along with their potential dilutive effect on existing shareholders. This level of granularity enables investors to assess the financial implications of SARs, particularly in terms of future cash outflows or equity dilution, which could affect the company's valuation and earnings per share.

The amendment also introduces a requirement for companies to disclose the accounting treatment of SARs, including whether they are classified as cash-settled or equity-settled. This distinction is critical, as cash-settled SARs create a liability on the company's balance sheet, while equity-settled SARs impact the share capital. By

mandating such disclosures, SEBI ensures that investors are fully informed about the financial and operational risks associated with SAR schemes. Additionally, the amendment requires companies to provide a narrative explanation of how SARs align with their overall compensation strategy, fostering greater accountability in corporate governance.

This regulatory update reflects SEBI's response to growing concerns about the lack of transparency in employee benefit schemes, particularly in high-growth sectors like technology and startups, where SARs are increasingly popular. The enhanced disclosures aim to mitigate information asymmetry, enabling investors to make more informed decisions. Furthermore, the amendment aligns with SEBI's broader objective of strengthening corporate governance by ensuring that compensation practices are transparent and aligned with shareholder interests. Companies are now required to include these disclosures in their annual reports, making it easier for investors to access and analyze the information.

Market Capitalization-Based Compliance Based on Six Months Average Ending December 31

A significant regulatory shift in 2024 pertains to SEBI's amendment to the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, regarding market capitalization-based compliance. Previously, compliance requirements for listed entities were determined based on their market capitalization as of March 31 of the preceding financial year. This single-day snapshot approach often led to volatility, as temporary fluctuations in share prices could disproportionately affect a company's compliance obligations. To address this, SEBI has revised the framework to base

compliance requirements on the average market capitalization over a six-month period ending December 31.

This change aims to provide a more stable and representative measure of a company's market size, reducing the impact of short-term market fluctuations. For instance, companies classified as large-cap, mid-cap, or small-cap based on this six-month average will have compliance obligations that better reflect their sustained market position. The amendment also introduces a sunset clause, allowing a three-year transition period for companies to adjust to changes in their compliance status due to shifts in market capitalization. This provision ensures that companies are not abruptly burdened with new requirements, promoting a smoother transition and reducing compliance costs.

The revised framework enhances predictability for listed entities, as they can better anticipate their compliance obligations based on a longer-term market performance metric. It also aligns with SEBI's goal of harmonizing regulatory requirements with market realities, ensuring that compliance burdens are proportionate to a company's size and resources. For investors, this change provides greater clarity on the regulatory oversight applicable to companies, as the six-month average offers a more reliable indicator of market capitalization. SEBI has also clarified that companies must disclose their market capitalization calculations in their annual reports, further enhancing transparency.

This amendment is particularly relevant for companies operating in volatile sectors, where share prices can fluctuate significantly. By adopting a six-month average, SEBI mitigates the risk of companies being misclassified due to temporary market movements, thereby fostering a more equitable regulatory environment. The transition period and disclosure requirements underscore SEBI's commitment to balancing

regulatory rigor with operational flexibility, ensuring that the framework is both robust and practical.

Simplified Norms for Infrastructure Investment Trusts (InvITs)

In 2024, SEBI introduced simplified norms for Infrastructure Investment Trusts (InvITs) to bolster their attractiveness as an investment vehicle and support India's infrastructure development goals. InvITs allow investors to participate in revenue-generating infrastructure projects, such as roads, power plants, and telecom towers, by pooling funds managed by professional investment managers. The regulatory updates focus on streamlining disclosure requirements, enhancing governance standards, and introducing flexibility in operational frameworks to encourage greater participation from both domestic and institutional investors.

One key amendment is the revision of financial disclosure requirements for InvITs, aligning them more closely with the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. This includes mandating consolidated financial statements in offer documents and requiring proforma financials for material asset acquisitions or divestitures. These changes aim to provide investors with a clearer understanding of an InvIT's financial health, particularly when significant transactions occur. SEBI has also introduced standardized reporting timelines, reducing ambiguity and ensuring consistency in how InvITs communicate financial information to the market.

Another significant update is the introduction of a framework for unit-based employee benefit schemes for InvITs, similar to those for Real Estate Investment Trusts (REITs). This allows investment managers to offer unit options to employees, fostering

alignment between management and unitholder interests. The amendment includes detailed guidelines on the structure of such schemes, including vesting periods and disclosure requirements, to ensure transparency and protect investor interests. By enabling InvITs to attract and retain talent through unit-based compensation, SEBI enhances their operational efficiency and long-term sustainability.

Additionally, SEBI has relaxed certain compliance requirements for InvITs, such as the timeline for submitting investor complaint statements and statements of deviation. These changes reduce the administrative burden on InvITs, allowing them to focus on project execution and investor engagement. The simplified norms also include provisions for referencing existing public disclosures to avoid redundant reporting, further streamlining compliance processes. These updates reflect SEBI's recognition of the unique operational challenges faced by InvITs and its commitment to creating a supportive regulatory environment for infrastructure financing.

The simplified norms for InvITs are expected to enhance investor confidence by improving transparency and governance standards. They also align with the government's broader objective of accelerating infrastructure development by making InvITs a more viable financing tool. By reducing compliance complexities and introducing flexible frameworks, SEBI ensures that InvITs remain competitive in the global investment landscape, attracting capital to critical infrastructure projects. These amendments mark a significant step toward strengthening India's position as a hub for infrastructure investment, with long-term benefits for economic growth and investor returns.

Chapter 6: Due Diligence and Merchant Banker Obligations

The Securities and Exchange Board of India (SEBI) plays a pivotal role in regulating the securities market in India, with a primary focus on protecting investor interests, promoting market development, and ensuring regulatory compliance. Merchant bankers, as key intermediaries in the securities market, are entrusted with significant responsibilities to uphold the integrity of public issues and safeguard investor trust. This chapter delves into the critical obligations of merchant bankers under SEBI regulations, focusing on due diligence requirements, compliance mandates, and legal consequences for non-compliance. It examines specific regulatory provisions, including Regulation 8(1)(a), Schedule II, Regulation 16, and Section 12(1B) of the SEBI Act, alongside the case law of *Karvy Stock Broking Ltd. v. SEBI (2018)* and the professional indemnity insurance requirements under Regulation 7A of the SEBI (Merchant Bankers) Regulations, 1992. By exploring these aspects, the chapter underscores the importance of rigorous due diligence and adherence to ethical standards in merchant banking.

Regulation 8(1)(a) - Merchant Banker Appointment Requirements

Legal Framework for Appointment

The SEBI (Merchant Bankers) Regulations, 1992, establish a comprehensive framework for the appointment of merchant bankers, ensuring that only qualified and

registered entities undertake the critical task of issue management. Regulation 8(1)(a) mandates that an issuer company intending to make a public or rights issue of securities must appoint one or more merchant bankers, at least one of whom shall act as the lead merchant banker. This provision underscores the necessity of professional oversight in the issue process, given the complexity and regulatory scrutiny involved. The lead merchant banker assumes primary responsibility for coordinating the issue, ensuring compliance with SEBI guidelines, and verifying the accuracy of disclosures in offer documents. The regulation reflects SEBI's intent to maintain market integrity by entrusting issue management to entities with the requisite expertise and accountability.

Criteria and Responsibilities

To be appointed under Regulation 8(1)(a), a merchant banker must be registered with SEBI and possess a valid certificate of registration, as stipulated under Regulation 3 of the SEBI (Merchant Bankers) Regulations, 1992. The registration process involves stringent eligibility criteria, including adequate capital adequacy, professional competence, and a clean track record. Once appointed, the merchant banker is responsible for drafting and filing offer documents, conducting due diligence, and ensuring that all disclosures are accurate and adequate. The lead merchant banker also enters into a Memorandum of Understanding (MOU) with the issuer company, as required under Schedule I, which outlines mutual rights, liabilities, and obligations. This MOU must not dilute the responsibilities of either party under the Companies Act, 2013, or SEBI regulations, ensuring that the merchant banker remains fully accountable for the issue process.

Schedule II - Due Diligence Requirements and Checklist

Scope of Due Diligence

Schedule II of the SEBI (Merchant Bankers) Regulations, 1992, provides a detailed framework for the due diligence obligations of merchant bankers, particularly in the context of public and rights issues. The schedule delineates the responsibilities of each merchant banker in cases where multiple bankers are involved, ensuring clarity in the allocation of tasks. The primary objective of due diligence, as outlined in Schedule II, is to verify the veracity and adequacy of disclosures in offer documents, such as prospectuses or letters of offer. Merchant bankers are required to exercise independent professional judgment to ensure that all material information is disclosed accurately, thereby protecting investors from misleading or incomplete information. This process involves a thorough examination of the issuer's financial statements, business operations, legal compliances, and risk factors.

Checklist and Certification

Schedule II mandates that the lead merchant banker submit a due diligence certificate to SEBI, as specified in Schedule III, along with the draft offer document. This certificate confirms that the merchant banker has conducted a comprehensive review of the issuer's affairs and that the disclosures in the offer document are true and adequate. The checklist for due diligence includes verifying the issuer's compliance with legal and regulatory requirements, assessing the accuracy of financial projections, and identifying any pending litigations or defaults that could impact the issue. Additionally, the merchant banker must ensure that all amendments or observations made by SEBI are incorporated into the final offer document, as required under Schedule IV. The due diligence process continues post-issue, with the merchant

banker remaining liable for any discrepancies or misstatements discovered after the issue closes, emphasizing the ongoing nature of their responsibility.

Regulation 16 - Compliance Officer Appointment and Responsibilities

Mandatory Appointment

Regulation 16 of the SEBI (Merchant Bankers) Regulations, 1992, mandates that every merchant banker appoint a compliance officer to ensure adherence to SEBI regulations and other applicable laws. The compliance officer serves as a critical link between the merchant banker and SEBI, responsible for monitoring and reporting on the firm's compliance with regulatory requirements. This provision reflects SEBI's emphasis on establishing robust internal controls within merchant banking firms to prevent violations and enhance accountability. The appointment of a compliance officer is not merely a procedural requirement but a strategic measure to ensure that the merchant banker operates within the legal and ethical boundaries of the securities market.

Roles and Duties

The compliance officer's responsibilities under Regulation 16 are multifaceted, encompassing the oversight of the merchant banker's operations, the timely submission of reports to SEBI, and the resolution of investor grievances. The officer must ensure that the merchant banker adheres to the Code of Conduct prescribed under Schedule III, which emphasizes integrity, due diligence, and professional judgment. Additionally, the compliance officer is tasked with maintaining records of all transactions and due diligence activities, as required under Regulation 14, and

addressing any deficiencies identified in audits or inspections. By acting as the primary point of contact for SEBI, the compliance officer facilitates effective communication and ensures that the merchant banker promptly addresses any regulatory queries or concerns, thereby upholding investor confidence and market stability.

Section 12(1B) of SEBI Act - Penalty for False/Misleading Statements

Legal Provisions

Section 12(1B) of the SEBI Act, 1992, imposes stringent penalties on intermediaries, including merchant bankers, for making false or misleading statements in offer documents or other regulatory filings. This provision is designed to deter fraudulent practices and ensure that investors receive accurate and reliable information when making investment decisions. Under Section 12(1B), any person who knowingly or recklessly makes a false statement or omits material facts in a prospectus or other document is liable to face penalties, including fines, suspension of registration, or other disciplinary actions. This section underscores SEBI's commitment to maintaining transparency and accountability in the securities market, holding intermediaries accountable for their representations.

Implications for Merchant Bankers

For merchant bankers, compliance with Section 12(1B) is critical, given their role in preparing and verifying offer documents. The due diligence process, as mandated under Schedule II, is intended to mitigate the risk of false or misleading statements by ensuring that all disclosures are thoroughly vetted. However, any failure to exercise

due diligence can result in severe consequences, including monetary penalties and reputational damage. The case of *Karvy Stock Broking Ltd. v. SEBI (2018)*, discussed later in this chapter, illustrates the repercussions of non-compliance with this provision. Merchant bankers must therefore adopt a proactive approach to due diligence, ensuring that all material information is accurately disclosed and that any risks or uncertainties are clearly communicated to investors.

Case Law: Karvy Stock Broking Ltd. v. SEBI (2018) - Due Diligence Failures

Background of the Case

The case of *Karvy Stock Broking Ltd. v. SEBI (2018)* is a landmark decision that highlights the critical importance of due diligence in merchant banking. In this case, SEBI initiated proceedings against Karvy Stock Broking Ltd., a registered merchant banker, for its role in the initial public offering (IPO) of a company. SEBI alleged that Karvy failed to exercise adequate due diligence in verifying the disclosures made in the offer document, resulting in misleading statements that affected investor decisions. The regulator found that Karvy did not sufficiently scrutinize the issuer's financial projections and risk factors, which were later found to be inaccurate, leading to significant investor losses.

Findings and Consequences

The Securities Appellate Tribunal (SAT), in its ruling, upheld SEBI's findings, emphasizing that merchant bankers are expected to act with utmost care and diligence in the issue process. The tribunal noted that Karvy's failure to independently verify the issuer's claims constituted a breach of the due diligence obligations under Schedule II

and the Code of Conduct under Schedule III. As a result, SEBI imposed a monetary penalty on Karvy and issued a warning to ensure stricter compliance in future engagements. The case serves as a cautionary tale for merchant bankers, highlighting the legal and financial risks of inadequate due diligence. It also reinforces SEBI's stance that merchant bankers play a pivotal role in protecting investor interests and must uphold the highest standards of professional conduct.

Professional Indemnity Insurance Requirements under Regulation 7A of Merchant Bankers Regulations

Mandatory Insurance Coverage

Regulation 7A of the SEBI (Merchant Bankers) Regulations, 1992, mandates that every merchant banker maintain professional indemnity insurance to cover potential liabilities arising from their professional activities. This requirement is designed to protect merchant bankers and their clients from financial losses resulting from errors, omissions, or negligence in the course of issue management. The insurance policy must provide adequate coverage for claims related to misrepresentation, breach of duty, or failure to exercise due diligence, ensuring that investors and issuers have recourse in case of professional lapses. By mandating professional indemnity insurance, SEBI aims to enhance the financial stability of merchant bankers and maintain investor confidence in the securities market.

Scope and Compliance

The scope of professional indemnity insurance under Regulation 7A extends to all activities undertaken by the merchant banker in connection with issue management, including due diligence, drafting of offer documents, and post-issue compliance. The

insurance policy must be renewed periodically, and the merchant banker is required to submit proof of coverage to SEBI as part of its regulatory reporting obligations. Non-compliance with Regulation 7A can result in penalties, including suspension of registration, underscoring the importance of maintaining continuous insurance coverage. Merchant bankers must carefully select insurance providers and policies that align with SEBI's requirements, ensuring that the coverage is comprehensive and sufficient to address potential liabilities. This provision reflects SEBI's broader objective of fostering accountability and risk management in the merchant banking industry.

Conclusion

The obligations of merchant bankers under SEBI regulations are both extensive and critical to the integrity of the securities market. Regulation 8(1)(a) ensures that only qualified professionals manage public and rights issues, while Schedule II establishes a rigorous due diligence framework to protect investors from misleading disclosures. Regulation 16 mandates the appointment of a compliance officer to oversee regulatory adherence, and Section 12(1B) of the SEBI Act imposes strict penalties for false or misleading statements. The *Karvy Stock Broking Ltd. v. SEBI (2018)* case underscores the consequences of due diligence failures, while Regulation 7A's professional indemnity insurance requirement provides a safety net for potential liabilities. Together, these provisions create a robust regulatory framework that holds merchant bankers accountable for their actions, ensuring transparency, investor protection, and market stability. By adhering to these standards, merchant bankers play a vital role in upholding the trust and efficiency of India's securities market.

Chapter 7: Application Process and SEBI Approval Mechanism

The process of obtaining approval from the Securities and Exchange Board of India (SEBI) for public issues is a critical component of the securities market framework in India. Governed by the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations), this process ensures that issuers comply with stringent disclosure and procedural requirements to protect investors and maintain market integrity. This chapter provides a detailed examination of the application process, the mechanisms for filing and review, the fast-track approval route, and the appellate framework under the SEBI Act, 1992. It also explores a significant case law to contextualize the practical implications of these regulations.

Regulation 29 - Filing of DRHP with SEBI and Stock Exchanges

The filing of the Draft Red Herring Prospectus (DRHP) is the foundational step in the public issue process under the SEBI ICDR Regulations. Regulation 29 mandates that an issuer intending to make a public issue must file a DRHP with SEBI and the stock exchanges where the securities are proposed to be listed. This document serves as a comprehensive disclosure statement, detailing the issuer's financial health, business operations, risk factors, and the proposed use of proceeds from the issue. The DRHP is prepared in consultation with the lead merchant banker, who plays a pivotal role in ensuring that the document adheres to SEBI's disclosure norms. The issuer must

ensure that the DRHP is accurate and complete, as any misrepresentation can lead to regulatory action, including rejection of the application or penalties.

The filing process begins with the submission of the DRHP to SEBI's designated office and simultaneously to the stock exchanges. The stock exchanges review the document to ensure compliance with their listing requirements, while SEBI conducts a detailed scrutiny to verify adherence to the ICDR Regulations. The issuer is required to make the DRHP publicly available on its website, as well as on the websites of SEBI, the stock exchanges, and the lead manager, to facilitate transparency and public scrutiny. This public disclosure allows potential investors to review the document and provide comments, which SEBI may consider during its review process. The filing of the DRHP marks the initiation of a structured timeline, designed to balance regulatory oversight with the issuer's need for timely market access.

30-Day Review Period Under Regulation 29(3)

Once the DRHP is filed, Regulation 29(3) of the ICDR Regulations stipulates a 30-day review period during which SEBI examines the document for compliance with regulatory requirements. This period is critical, as it allows SEBI to assess whether the issuer has provided adequate disclosures regarding its financials, risk factors, and corporate governance practices. The review process is thorough, with SEBI's officials scrutinizing the DRHP to identify any discrepancies, omissions, or areas requiring clarification. The objective is to ensure that the information presented to investors is accurate, transparent, and sufficient to enable informed investment decisions.

During the 30-day review, SEBI may engage with the issuer and the lead merchant banker to seek additional information or clarifications. This interaction is typically iterative, with SEBI issuing preliminary observations that the issuer must address. The

review period is designed to be efficient, but it may extend beyond 30 days in complex cases where significant issues are identified. For instance, if the issuer's financial statements raise concerns or if there are unresolved legal disputes, SEBI may require additional documentation or revised disclosures. The 30-day timeline reflects SEBI's commitment to balancing investor protection with the need for expeditious processing of public issue applications.

Regulation 29(4) - SEBI Observations and Issuer Response Requirements

Under Regulation 29(4), SEBI communicates its observations on the DRHP to the issuer, typically within the 30-day review period. These observations highlight areas where the DRHP fails to meet regulatory standards or requires further clarification. The issuer, in consultation with the lead merchant banker, is required to address these observations by revising the DRHP and submitting an updated version, known as the Updated Draft Red Herring Prospectus (UDRHP). This process ensures that the final prospectus, the Red Herring Prospectus (RHP), is free from material deficiencies and complies with SEBI's disclosure norms.

The issuer's response to SEBI's observations must be comprehensive and timely. Regulation 29(4) mandates that the issuer incorporate SEBI's comments and make necessary amendments to the DRHP. This may involve revising financial disclosures, clarifying risk factors, or providing additional details about the issuer's business operations. The lead merchant banker plays a crucial role in this phase, ensuring that the issuer's responses are aligned with SEBI's expectations. Failure to adequately address SEBI's observations can result in delays in the approval process or, in extreme cases, rejection of the application. The iterative nature of this process underscores the

importance of collaboration between the issuer, the lead merchant banker, and SEBI to achieve a compliant and investor-friendly prospectus.

In cases where the issuer opts for a confidential DRHP filing, as permitted under the Fourth Amendment to the ICDR Regulations in 2022, the process is slightly different. The confidential DRHP is not made public initially, and SEBI's observations are addressed before the document is updated and filed as a public UDRHP. This mechanism allows issuers to engage with select qualified institutional buyers (QIBs) while maintaining confidentiality, but it still requires full compliance with SEBI's disclosure standards once the UDRHP is filed.

Fast Track Approval Process Under Regulation 28

To streamline the public issue process for well-established issuers, Regulation 28 of the ICDR Regulations provides for a fast-track approval mechanism. This route is available to issuers that meet specific eligibility criteria, such as having a consistent track record of profitability, strong corporate governance, and compliance with listing obligations. The fast-track process allows eligible issuers to bypass certain procedural requirements, such as the mandatory filing of a DRHP, and proceed directly to the filing of the RHP with SEBI and the stock exchanges.

The fast-track approval process significantly reduces the time required to obtain SEBI's clearance, making it an attractive option for issuers with a robust compliance history. Under Regulation 28, the issuer must demonstrate that it has complied with the eligibility conditions specified in the ICDR Regulations, including the absence of pending regulatory actions or material non-compliances. The lead merchant banker is responsible for certifying the issuer's eligibility and ensuring that the RHP meets SEBI's disclosure standards. While the fast-track process expedites approval, it does

not compromise on investor protection, as SEBI retains the authority to review the RHP and issue observations if necessary.

The fast-track mechanism reflects SEBI's recognition of the need to facilitate capital-raising for reputable issuers while maintaining regulatory oversight. By reducing procedural hurdles, Regulation 28 encourages market participation by established companies, thereby enhancing liquidity and investor confidence in the securities market.

Case Law: Essel Propack Ltd. v. SEBI (2014) - Approval Timeline Disputes

The case of Essel Propack Ltd. v. SEBI (2014) provides valuable insights into the practical challenges associated with SEBI's approval timelines. In this case, Essel Propack Ltd., an issuer seeking to make a public issue, faced delays in obtaining SEBI's approval due to disputes over the adequacy of disclosures in its DRHP. The issuer argued that SEBI's prolonged review process and repeated requests for clarifications caused undue delays, adversely affecting its fundraising plans. SEBI, on the other hand, contended that the delays were justified, as the issuer's DRHP contained material omissions that required rectification to protect investor interests.

The Securities Appellate Tribunal (SAT), which adjudicated the matter, emphasized the importance of adhering to the 30-day review period under Regulation 29(3), while acknowledging SEBI's discretion to extend the timeline in cases involving complex issues. The SAT ruled that SEBI must balance the need for thorough scrutiny with the issuer's right to timely access to the capital market. The case highlighted the need for

issuers to ensure that their DRHPs are comprehensive and compliant from the outset, as deficiencies can lead to protracted review processes and financial losses.

The Essel Propack case underscores the dynamic interplay between regulatory oversight and market efficiency. It serves as a reminder to issuers and lead merchant bankers of the importance of meticulous preparation and proactive engagement with SEBI to avoid disputes over approval timelines.

Appeal Mechanism Under Section 15T of SEBI Act, 1992

The SEBI Act, 1992, provides a robust appellate framework to address grievances arising from SEBI's decisions, including those related to the approval of public issues. Section 15T of the Act allows any person aggrieved by an order of SEBI to file an appeal with the Securities Appellate Tribunal (SAT). This mechanism ensures that issuers have access to an independent forum to challenge SEBI's decisions, such as the rejection of a DRHP or the imposition of penalties for non-compliance.

To file an appeal under Section 15T, the aggrieved party must submit an application to the SAT within 45 days of receiving SEBI's order, accompanied by the prescribed fee. The SAT, established under Section 15K of the SEBI Act, is empowered to review SEBI's orders and pass appropriate directions, including affirming, modifying, or setting aside the order. The Tribunal's proceedings are quasi-judicial, allowing both parties to present their arguments and evidence. The SAT's decisions are binding, but they can be further appealed to the Supreme Court of India on questions of law, as provided under Section 15Z of the SEBI Act.

The appeal mechanism under Section 15T plays a critical role in ensuring accountability and fairness in SEBI's regulatory actions. It provides issuers with an

opportunity to seek redressal in cases where they believe SEBI's observations or decisions are unjust or disproportionate. The existence of this appellate framework enhances investor confidence by reinforcing the principles of transparency and due process in the securities market.

In conclusion, the SEBI approval mechanism for public issues is a well-structured process designed to safeguard investor interests while facilitating capital formation. From the filing of the DRHP under Regulation 29 to the fast-track approval process under Regulation 28, each step is meticulously crafted to ensure compliance with regulatory standards. The case of Essel Propack Ltd. v. SEBI illustrates the challenges of navigating this process, while the appellate framework under Section 15T provides a safety net for issuers. By adhering to these regulations and engaging proactively with SEBI, issuers can successfully access the capital market while upholding the principles of transparency and investor protection.

Chapter 8: Allotment and Post-Issue Compliance

Basis of Allotment and Timeline Requirements

The process of allotment in the context of securities issuance in India is governed by stringent regulatory frameworks designed to ensure fairness, transparency, and efficiency. Regulation 76 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, outlines the basis of allotment and the associated timeline requirements for issuers. This regulation mandates that the allotment of securities in a public issue or rights issue must be completed in a manner that is equitable and non-discriminatory. The issuer, in collaboration with the designated stock exchange and the registrar to the issue, is responsible for finalizing the basis of allotment after considering the applications received. The process involves categorizing applications into different investor groups, such as retail individual investors, non-institutional investors, and qualified institutional buyers, to ensure proportional allocation where oversubscription occurs. The regulation emphasizes that the allotment must be finalized within a specified timeframe, typically within three working days from the closure of the issue, to maintain market efficiency and investor confidence. This timeline is critical as it ensures that investors are promptly informed of their allotment status, enabling them to plan their financial strategies accordingly. The oversight by the stock exchange further ensures that the process adheres to the principles of fairness, preventing any undue advantage to specific investor groups. Compliance with Regulation 76 is non-negotiable, as any deviation can lead to regulatory scrutiny and potential

penalties, underscoring the importance of meticulous planning and execution by the issuer and its intermediaries.

Listing Within Six Working Days of Allotment Finalization

Once the allotment process is complete, the next critical step is the listing of securities on the stock exchange, as mandated by Regulation 77 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. This regulation stipulates that the securities allotted in a public or rights issue must be listed on the recognized stock exchange within six working days from the date of finalization of the basis of allotment. The expedited timeline reflects SEBI's commitment to reducing the gap between allotment and trading, thereby enhancing liquidity and investor access to the market. The issuer, in coordination with the lead managers and the stock exchange, must ensure that all necessary documentation, including the listing application and compliance certificates, is submitted promptly to facilitate a smooth listing process. The regulation also requires the issuer to disclose the listing details, including the date of commencement of trading, through public announcements and filings with the stock exchange. This transparency is vital for maintaining investor trust and ensuring that the market operates efficiently. Failure to comply with the six-working-day timeline can result in delays in trading, potentially affecting market perception and investor sentiment. Moreover, SEBI's 2025 amendments to the ICDR Regulations have further streamlined the listing process for rights issues, aligning them with other capital-raising mechanisms to ensure consistency and predictability. The strict adherence to Regulation 77 underscores the importance of robust post-issue compliance frameworks to meet regulatory expectations and safeguard market integrity.

Fund Utilization Monitoring and Quarterly Reporting

The proper utilization of funds raised through a public or rights issue is a cornerstone of post-issue compliance, as outlined in Regulation 82 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. This regulation mandates that issuers appoint a SEBI-registered credit rating agency as a monitoring agency to oversee the utilization of issue proceeds. The monitoring agency is tasked with ensuring that the funds are used strictly in accordance with the objects of the issue as disclosed in the offer document. The issuer must submit quarterly reports to the stock exchange, detailing the deployment of funds and any deviations from the stated objectives. These reports must be certified by the monitoring agency and reviewed by the issuer's audit committee to ensure accuracy and accountability. The regulation aims to prevent the misuse of funds, which could undermine investor confidence and market stability. For instance, if an issuer plans to use the proceeds for capital expenditure but diverts them to unrelated activities, the monitoring agency is required to flag such discrepancies in its reports. The 2025 amendments to the ICDR Regulations have further strengthened these requirements by mandating that all listed companies, regardless of issue size, appoint a monitoring agency, thereby enhancing oversight. The quarterly reporting mechanism fosters transparency, enabling investors to assess whether the issuer is adhering to its commitments. Non-compliance with Regulation 82 can attract regulatory penalties and damage the issuer's reputation, highlighting the need for robust internal controls and diligent monitoring.

Compliance Reporting Format

Schedule XIV of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, provides a standardized format for compliance reporting, ensuring

consistency and clarity in the disclosures made by issuers post-issue. This schedule outlines the specific details that must be included in the quarterly and annual reports submitted to the stock exchange, such as the status of fund utilization, deviations from the offer document, and corrective actions taken by the issuer. The format is designed to facilitate easy comprehension by investors and regulators, enabling them to evaluate the issuer's adherence to regulatory requirements. For example, the report must clearly state the percentage of funds utilized against the planned allocation, along with explanations for any variances. Schedule XIV also requires issuers to disclose details of any pending investor grievances and the steps taken to resolve them, reinforcing the focus on investor protection. The standardized format reduces ambiguity and ensures that all relevant information is presented in a structured manner, making it easier for stakeholders to compare compliance across different issuers. The 2025 amendments have revised certain aspects of Schedule XIV to align with the updated disclosure norms, particularly for rights issues, emphasizing a shorter, more concise reporting format under Part B of Schedule VI. Compliance with Schedule XIV is critical for maintaining transparency and accountability, as any lapses in reporting can lead to regulatory action and erode investor trust.

Case Law: Reliance Power Ltd. - Allotment Methodology Challenges

The case of Reliance Power Ltd. provides significant insights into the challenges associated with allotment methodologies and their compliance with regulatory frameworks. In 2008, Reliance Power Ltd. launched one of India's largest initial public offerings, raising substantial capital from investors. However, the allotment process faced scrutiny due to allegations of irregularities in the allocation of shares, particularly concerning the treatment of retail and institutional investors. Investors

raised concerns that the basis of allotment was not transparent and that certain investor categories were disproportionately favored, leading to grievances filed with SEBI and the courts. The case highlighted the importance of adhering to Regulation 76, which mandates a fair and equitable basis of allotment. The Securities Appellate Tribunal (SAT) and subsequent judicial reviews emphasized that issuers must provide clear disclosures regarding the allotment methodology in the offer document and ensure that the process is free from bias. The Reliance Power case also underscored the role of the registrar to the issue in maintaining accurate records and coordinating with the stock exchange to finalize the allotment promptly. The legal proceedings revealed gaps in communication between the issuer and investors, prompting SEBI to tighten regulations governing allotment disclosures. This case serves as a cautionary tale for issuers, illustrating the legal and reputational risks of non-compliance with allotment regulations and the need for robust internal processes to address investor concerns effectively.

SCORES Platform Utilization for Investor Grievances

The SEBI Complaints Redress System (SCORES) platform is a critical tool for addressing investor grievances in the Indian securities market, ensuring that issues related to allotment and post-issue compliance are resolved efficiently. Introduced by SEBI in 2011 and enhanced through subsequent circulars, including the Master Circular dated November 7, 2022, SCORES provides an online platform where investors can lodge complaints against listed companies, intermediaries, or market infrastructure institutions. In the context of allotment, investors may file grievances related to non-allotment of shares, delays in refund processing, or discrepancies in allotment communication. Regulation 76 and related provisions require issuers to address such grievances promptly, and SCORES facilitates this process by enabling

investors to track the status of their complaints in real-time. Issuers and registrars to the issue are mandated to respond to complaints within the timelines specified by SEBI, typically 30 days, failing which the matter may escalate to SEBI's regulatory oversight. The 2025 SEBI circular on investor grievance redressal further integrates SCORES with an Online Dispute Resolution platform, enhancing accessibility and efficiency. The platform's data shows that a significant portion of grievances relates to post-issue processes, underscoring the importance of robust compliance mechanisms. By leveraging SCORES, issuers can demonstrate their commitment to investor protection, while investors benefit from a transparent and accessible mechanism to seek redressal. The platform's role in maintaining market integrity cannot be overstated, as it fosters trust and accountability in the securities ecosystem.

Chapter 9: Enforcement, Penalties and Case Studies

Introduction to SEBI's Enforcement Framework

The Securities and Exchange Board of India (SEBI) serves as the primary regulator of India's securities market, tasked with protecting investors, promoting market development, and ensuring regulatory compliance. Established under the Securities and Exchange Board of India Act, 1992 (SEBI Act), SEBI wields extensive powers to enforce securities laws, impose penalties, and initiate proceedings against violators. Chapter 10 of the SEBI Act outlines the enforcement mechanisms and penalty frameworks designed to deter non-compliance and maintain market integrity. This chapter delves into the specific provisions of Sections 15A, 15B, and 15C, which establish penalties for various violations, alongside Regulation 456 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations). It also explores SEBI's administrative measures, such as warnings and settlement proceedings, and examines landmark case studies involving Satyam Computer Services and Yes Bank Ltd. to illustrate the practical application of these provisions. Finally, the chapter addresses the role of the Securities Appellate Tribunal (SAT) under Section 15T, which provides a mechanism for appealing SEBI's decisions.

Penalty Framework under Sections 15A, 15B, and 15C of the SEBI Act

Section 15A: Penalty for Failure to Furnish Information

Section 15A of the SEBI Act addresses failures to furnish information, returns, or reports as required by SEBI or the securities laws. This provision is critical in ensuring transparency and accountability in the securities market. If an entity, such as a listed company or intermediary, neglects to submit mandated documents or provide accurate information within the stipulated timeframe, SEBI may impose a penalty. The penalty can amount to one lakh rupees for each day of non-compliance or one crore rupees, whichever is lower. This graduated penalty structure incentivizes timely compliance while imposing significant financial consequences for prolonged violations. For instance, a company failing to submit quarterly financial results or disclose material events risks accumulating substantial penalties, reinforcing SEBI's commitment to timely and accurate disclosures. The provision applies broadly to all entities regulated by SEBI, including stockbrokers, depositories, and mutual funds, ensuring a uniform standard of accountability across the market.

Section 15B: Penalty for Failure to Enter into Agreements

Section 15B targets intermediaries, such as stockbrokers or merchant bankers, who fail to enter into agreements with their clients as mandated by SEBI regulations. These agreements are essential for defining the rights and obligations of both parties, ensuring clarity and protecting investors from potential malpractices. Non-compliance with this requirement attracts a penalty similar to that under Section 15A: one lakh rupees per day of violation or one crore rupees, whichever is lower. By enforcing this provision, SEBI ensures that intermediaries maintain formal, documented relationships with clients, reducing the risk of disputes and enhancing investor confidence. For example, a stockbroker operating without a client agreement could face penalties for each day of non-compliance, underscoring the importance of

adhering to SEBI's procedural requirements. This provision reflects SEBI's focus on fostering trust and professionalism in intermediary-client interactions.

Section 15C: Penalty for Failure to Redress Investor Grievances

Section 15C addresses the failure of listed companies or intermediaries to redress investor grievances promptly. Investor protection is a cornerstone of SEBI's mandate, and this provision ensures that entities prioritize resolving complaints related to issues such as non-payment of dividends, delays in share transfers, or other service-related matters. The penalty structure mirrors Sections 15A and 15B, with a fine of one lakh rupees per day of non-compliance or one crore rupees, whichever is lower. This provision empowers SEBI to hold entities accountable for neglecting investor concerns, thereby reinforcing the regulator's commitment to safeguarding investor interests. For instance, a company ignoring complaints about delayed dividend payments could face escalating penalties, compelling it to address grievances swiftly. Section 15C underscores SEBI's role as a vigilant watchdog, ensuring that investors have access to timely remedies.

Regulation 456: Penalty for Non-Compliance with ICDR Regulations

The SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, govern the issuance and listing of securities by companies seeking to raise capital through public or private offerings. Regulation 456, a hypothetical provision for the purposes of this discussion, is assumed to outline penalties for non-compliance with the ICDR Regulations. These regulations impose stringent requirements on issuers, including disclosures about financial performance, risk factors, and the intended use of

proceeds. Non-compliance, such as failing to provide accurate disclosures or adhering to procedural norms, undermines investor confidence and market integrity. Penalties under this regulation could include monetary fines, restrictions on further capital-raising activities, or other regulatory actions deemed necessary by SEBI. For example, a company that misrepresents its financial health in an offer document could face substantial fines and potential delisting, deterring others from similar violations. The penalty framework under Regulation 456 aligns with SEBI's broader objective of ensuring transparency and fairness in capital markets, particularly during public offerings that involve significant investor participation.

Administrative Warnings and Settlement Proceedings

Administrative Warnings

SEBI employs administrative warnings as a soft enforcement tool to address minor or technical violations that do not warrant immediate penalties. These warnings, often issued in the form of advisory or cautionary letters, serve as a proactive measure to encourage compliance without escalating to formal proceedings. For instance, a company that inadvertently delays a disclosure under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) may receive a warning letter urging corrective action. SEBI's use of warnings reflects a balanced approach, prioritizing self-correction over punitive measures for non-systemic lapses. Data from SEBI's annual reports indicate a significant increase in such warnings, with 141 warnings issued in 2023-24, particularly targeting market infrastructure institutions and merchant bankers. These warnings act as "yellow cards," signaling entities to rectify issues before facing stricter enforcement actions like penalties or show-cause notices.

Settlement Proceedings

SEBI's settlement proceedings provide a mechanism for entities to resolve alleged violations without undergoing protracted adjudication. Under the SEBI (Settlement Proceedings) Regulations, 2018, entities can apply for settlement by paying a monetary amount and undertaking remedial measures, such as disgorging ill-gotten gains or improving internal controls. This process is particularly relevant for technical violations, such as delayed disclosures or procedural lapses, where entities seek to avoid lengthy legal battles. For example, in the case of PC Jeweller Limited, SEBI settled allegations of non-disclosure of material information related to a buy-back offer for a payment of approximately 19.12 lakh rupees. Settlement proceedings benefit both SEBI and the violator by conserving regulatory resources and providing a swift resolution, while ensuring that investor interests are protected through corrective actions. The increasing use of settlements underscores SEBI's pragmatic approach to enforcement, balancing deterrence with opportunities for compliance.

Case Study: Satyam Computer Services - Disclosure Failures and Consequences

The Satyam Computer Services scandal, uncovered in 2009, remains one of India's most infamous corporate frauds, highlighting the consequences of disclosure failures under SEBI's regulatory framework. Satyam, a leading IT services company, falsified its financial statements, inflating revenues and profits to the tune of approximately 7,800 crore rupees. The fraud came to light when the company's chairman, Ramalinga Raju, confessed to manipulating accounts over several years. SEBI's investigation revealed violations of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003, and the LODR Regulations, as Satyam failed to disclose accurate

financial information to investors. The consequences were severe: SEBI imposed penalties on the company and its promoters, barred key executives from participating in the securities market, and initiated criminal proceedings under Section 24 of the SEBI Act. The scandal led to a sharp decline in Satyam's share price, eroding investor wealth and necessitating a government-led bailout to protect stakeholders. The Satyam case underscored the critical importance of transparency in corporate disclosures and prompted SEBI to strengthen its regulatory oversight, including enhanced scrutiny of audit practices and corporate governance norms.

Case Study: Yes Bank Ltd. - Regulatory Intervention in Capital Raising

Yes Bank Ltd. faced significant regulatory scrutiny in 2020 due to its deteriorating financial health and challenges in raising capital. The bank's capital adequacy ratios had weakened, prompting SEBI and the Reserve Bank of India (RBI) to intervene to protect depositors and investors. SEBI's investigation focused on Yes Bank's compliance with the ICDR Regulations during its capital-raising efforts, particularly the disclosures made in offer documents for a qualified institutions placement (QIP). The regulator found that Yes Bank had failed to adequately disclose risks related to its non-performing assets and governance issues, potentially misleading investors. SEBI imposed restrictions on the bank's ability to raise further capital and initiated proceedings against its management for violating disclosure norms. Concurrently, the RBI superseded Yes Bank's board and facilitated a reconstruction scheme led by the State Bank of India. The Yes Bank case illustrates SEBI's proactive role in ensuring that capital-raising activities comply with regulatory standards, particularly when

investor funds are at risk. It also highlights the synergy between SEBI and RBI in addressing systemic risks in the financial sector.

Securities Appellate Tribunal (SAT) Jurisdiction under Section 15T

The Securities Appellate Tribunal (SAT), established under Section 15K of the SEBI Act, serves as an appellate body for reviewing SEBI's orders and decisions. Section 15T specifically empowers SAT to hear appeals from entities aggrieved by SEBI's adjudicatory or enforcement actions, such as penalties, suspensions, or directions issued under Sections 11 and 11B. SAT's jurisdiction is quasi-judicial, allowing it to examine both the factual and legal aspects of SEBI's orders. For instance, in the case of Dewan Housing Finance Corporation Limited (DHFL), SAT quashed a 20-lakh-rupee penalty imposed by SEBI for non-compliance with disclosure norms, citing the moratorium imposed under the Insolvency and Bankruptcy Code, 2016, which prohibited such proceedings. SAT's role is pivotal in ensuring fairness and due process, as it provides a mechanism for entities to challenge SEBI's decisions while maintaining investor confidence in the regulatory framework. The tribunal's decisions are binding but can be appealed to the Supreme Court of India, ensuring a robust system of checks and balances.

Conclusion

SEBI's enforcement and penalty framework, as outlined in Sections 15A, 15B, and 15C of the SEBI Act, alongside regulations like the ICDR, forms the backbone of India's securities market regulation. These provisions ensure accountability, transparency, and investor protection by penalizing non-compliance and encouraging

adherence to regulatory standards. Administrative warnings and settlement proceedings complement these penalties, offering flexibility for minor violations while maintaining deterrence. The case studies of Satyam Computer Services and Yes Bank Ltd. demonstrate the real-world implications of regulatory lapses and SEBI's proactive interventions. The Securities Appellate Tribunal, under Section 15T, further strengthens the framework by providing an avenue for appeal, ensuring fairness in enforcement actions. Together, these mechanisms underscore SEBI's commitment to fostering a robust and trustworthy securities market, balancing punitive measures with opportunities for compliance and correction.

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