SEBI TIGHTENS IPO RULES

The Securities and Exchange Board of India (SEBI), India's stock market regulator, has tightened disclosure requirements for any company looking to raise funds through an initial public offering (IPO).

The new requirements primarily relate to the disclosure of the issuer's Key Performance Indicators (KPIs) and price-per-share of the issuer company based on past transactions, including past fundraising completed by the issuer from investors before the IPO. Apart from the existing requirements, companies looking to file for an IPO will have to disclose additional information based on their past performance. Companies will also have to disclose transactions carried out just before the listing.

SEBI has said that the new rules aim to give investors, particularly retail ones, more information before they invest in an IPO. Experts believe that this move is expected to bring transparency to investors when many Indian companies that got listed on the capital markets faced intense scrutiny over their issue pricing.

What sort of impact will the new rules have on companies planning to go public?

One of the key changes is that companies will have to come out with precise reasoning and rationale on the issue price at the time of the IPO.

"The proposed new rules require a committee of independent directors of the issuer company to recommend the price band for the IPO based on quantitative factors or KPIs vis-a-vis weighted average cost of acquisition of prior fund-raising transactions by the issuer company and secondary sales. While the final rules are yet to be notified, these disclosure requirements appear to be onerous and will impact transaction timelines," says Abhimanyu Bhattacharya, a partner at Khaitan & Co.

"Both are private placement transactions which previously did not require monitoring of offer proceeds. SEBI has aligned these routes to monitoring applicable to public offers and rights issues," says Bhattacharya.

What kind of impact is expected on REIT and InvIT structures?

SEBI has aligned the REIT (Real Estate Investment Trust) Regulations to the InvIT (Infrastructure Investment Trust) Regulations concerning minimum holding requirements for sponsors. REIT sponsors will now be required to hold at least 15 percent of the total issued units of a REIT post-IPO.

"This is a positive development for REIT sponsors and aligns the sponsor's holding requirements across both regulations. SEBI has also extended the popular OFS (offer for sale) mechanism to unit holders of REITs and InvITs," says Bhattacharya.

He notes that the market regulator has also introduced important changes to the OFS mechanism. SEBI has now permitted non-promoter shareholders who hold less than 10 percent of a listed company to offer shares through the OFS mechanism. "However, the requirement to offer at least $3 million in shares remains. SEBI has also reduced current cooling-off periods based on the liquidity of securities for such eligible companies. Retail investors are now permitted to bid for the non-subscribed portion of the non-retail segment. The final notified rules are awaited, but these changes will add further impetus to an already favoured divestment route by shareholders of listed companies," adds Bhattacharya.

What further clarifications are awaited?

Bhattacharya says that as SEBI announced the changes through a press release, companies are seeking further clarifications on the law, as well as the operational aspect of these rules.

"The final notified rules and amendments across all the applicable regulations are awaited, which would include the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, SEBI (Real Estate Investment Trusts) Regulations, 2014, SEBI (Infrastructure Investment Trusts) Regulations, 2014 SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and amendments to SEBI'S OFS Mechanism Circulars," notes Bhattacharya. ALB

Deals

$1.6 BLN

SingTel's sale of stake in Bharti Airtel to Bharti Telecom

Deal Type: M&A
Firm: J Sagar Associates
Jurisdictions: India, Singapore

$1.5 BLN

Sembcorp Industries' sale of India unit to Tanweer Infrastructure

Deal Type: M&A
Firm: Sidley Austin
Jurisdictions: India, Oman, Singapore

$450 MLN

KKR & Co's joint investment with Hero Group in Hero Future Energies

Deal Type: M&A
Firms: Linklaters; Simpson Thacher & Bartlett
Jurisdictions: India, U.S.

$395 MLN

Resurgent Power's agreement to buy South East UP Power Transmission

Deal Type: M&A
Firm: Khaitan & Co
Jurisdiction: India

$246 MLN

Curatio Healthcare's acquisition of Torrent Pharmaceuticals

Deal Type: M&A
Firm: J Sagar Associates
Jurisdiction: India

$241 MLN

Rakesh Gangwal's sale of stake in InterGlobe Aviation

Deal Type: M&A
Firms: Cyril Amarchand Mangaldas; Khaitan & Co; Latham & Watkins
Jurisdiction: India