



CAPITAL MARKETS

N. A. SHAH BULLETIN

November 2021

N. A. SHAH ASSOCIATES LLP
Chartered Accountants

INDEX

1. Constituents of Foreign Portfolio Investors ("FPI").....	4
2. Issuance of modalities for filing of Placement Memorandum.....	4
3. Amendments in Issue of Capital and Disclosure Requirements ("ICDR").....	4
4. Amendments in relation to Non-Convertible Securities.....	5
5. Amendment in relation to Infrastructure Investment Trust (InvITs) and Real Estate Investment Trust (REITs).....	5

EXECUTIVE SUMMARY

- SEBI has widened the scope of eligibility criteria of Foreign Portfolio Investor (FPI).
- Under AIF Regulations, SEBI has now provided modalities for filing of Placement Memorandum with SEBI through the merchant banker on launching any scheme of AIFs or changes in any existing scheme.
- Under the ICDR regulations, the SEBI has relaxed the upper limit of Net worth of Superior right equity shareholders and has extended the relaxation for additional optional mechanism for applying for rights issue.
- SEBI has issued new formats of audit report/ limited review report and for filing financial information by entities which has listed its Non-Convertible Securities.
- SEBI has provided with the manner and mechanism for providing exit option to the dissenting unit holders in case of acquisition of units my more than 25% without approval or in case of change in sponsor or control of sponsor.

1. Constituents of Foreign Portfolio Investors ("FPI")

- SEBI has amended the FPI rules to now include resident Indian (other than individuals) to be constituents of Alternative Investment Funds ("AIFs") subject to following conditions:
 - 1) The applicant should have AIF set up in International Financial Services Centers and regulated by them,
 - 2) Such applicant is a Sponsor or Manager of the AIF,
 - 3) The contribution of such applicant shall not exceed:
 - a) Lower of – 2.5% of the Corpus or USD 750,000 (in case of AIF I and II).
 - b) Lower of – 5% of the Corpus or USD 1.5 Mil. (in case of AIF III).

2. Issuance of modalities for filing of Placement Memorandum.

- On August 13, 2021, SEBI had amended AIF Regulations which mandated AIFs to launch scheme subject to filing of placement memorandum ("PM") with SEBI through registered merchant banker ("MB") who shall not be an associate of the AIF, its sponsor, manager or trustee. In this context SEBI has now issued the form, manner and modalities which are as under:
 - 1) MB shall independently exercise due diligence of all the disclosures made in the PM and provide a due diligence certificate.
 - 2) While filing PM with the SEBI, such due diligence certificate shall also be submitted.
 - 3) The details of the MB shall be disclosed in the PM.
 - 4) Any changes made in the PM shall be disclosed collectively for the Financial year to the SEBI through the MB along with the due diligence certificate.

3. Amendments in Issue of Capital and Disclosure Requirements.

- Eligibility requirements for an initial public offer: In case of Superior Rights Equity Shares ("**SR Equity Shares**"), the issuer Company which had issued SR Equity Shares to its promoters or founders may be allowed to do initial public offering of only ordinary shares provided that the SR Shareholder shall not form part of Promoter Group whose collective net worth exceeds INR 500 Cr. Such restriction has been replaced to provide that the Net Worth of SR Shareholder shall not exceed INR 1,000 Cr. (excluding the worth of the issuer company).
- Relaxations relating to procedural matters - Right Issue: As per the ICDR, an application towards the right issue can be made only through ASBA facility. However, due to difficulties faced during COVID-19 pandemic and in order to

ensure that all the shareholders are able to apply to the rights issue during such times, a relaxation was provided by SEBI for rights issue upto July 31, 2020 by allowing the issuer company along with the lead manager and the registrar to institute an additional optional mechanism (non-cash mode) to accept the applications of the shareholders. Considering the current situation such relief is now extended from September 30, 2021 to March 31, 2022. Further, in addition to the other conditions, the issuer company needs to conduct a Vulnerability Test for such optional mechanism from an independent IT auditor and submit the report to the stock exchange.

4. Amendments in relation to Non-Convertible Securities.

- In order to have greater transparency, SEBI has now prescribed revised formats in which the entities (having listed non-convertible securities) to disclose the financial results, limited review/ audit report on a quarterly basis including assets and liabilities, cash flows and changes in the line item. Banking and Insurance companies shall disclose financial information as per the formats prescribed under the respective Acts/ Regulations as specified by their Regulators.

5. Amendments in Infrastructure Investment Trust (InvITs) and Real Estate Investment Trust (REITs).

- As per the InvIT and REIT regulations, a person (other than the sponsor and their relatives) along with the person acting in concert would require approval of the 75% of the unit holders for acquiring more than 25% of the units of the investment trust. Further, if no such approval is received, the acquirer shall provide an exit option to the dissenting unit holders.
- Similarly, if there is change in the sponsor or control of sponsor, the above procedure is to be followed.
- SEBI has provided the manner and mechanism for providing exit option as follows:
 - 1) Relevant date for the purpose of calculation of offer price shall mean the last day of voting for resolution. However, it shall be the date of public announcement required under Substantial acquisition and takeover Regulations (SAST) where open offer gets triggered.
 - 2) Timelines for various activities where open offer gets triggered under SAST regulations are as follows:

Sr. No.	Activity Description	Timelines
1	Acquirer to give notice to Investment Manager (IM).	Along with Public announcement.

Sr. No.	Activity Description	Timelines
2	On receipt of notice, IM shall intimate to Stock exchange.	Within 24 hours of receipt.
3	Acquirer shall give second notice to IM for obtaining approval of the unit holders, also confirming that exit option to dissenting unit holders will be provided.	Within 2 working days from completion of acquisition.
4	On receipt of second notice, IM shall intimate to Stock exchange.	Within 24 hours of receipt.
5	IM shall convene meeting of unit holders.	Voting to be completed within 3 days from cut-off date and within 21 days from receipt of second notice.
6	Intimation of voting results by IM to acquirer and stock exchange (including details of dissenting unit holders) – referred as date of intimation.	Within 48 hours of last day of voting.
7	Acquirer through Lead Manager shall send the Letter of Offer to the dissenting unit holders.	Within 3 working days from date on intimation.
8	Acquirer to create Escrow Account for payment of consideration to the dissenting unit holders.	Atleast 2 working days prior to opening of the tendering period.
9	Tender date and tendering period.	- 7 th working date form the date of intimation. - 5 working days.
10	Payment of consideration to dissenting unit holders.	Within 3 working days from last day of tendering period.
11	Lead Manager to provide details to IM about payment made. IM to provide the same to stock exchange.	Within 2 working days from the date of payment.

- 3) In case of acquisition or change in sponsor or change in control of sponsor is triggered due to open offer under SAST Regulations, the exit option price (as calculated) shall be enhanced by 10% p.a. from period between first and second notice date.

- The contents provided in this newsletter are for information purpose only and are intended, but not promised or guaranteed, to be correct, complete and up-to-date. The firm hereby disclaims any and all liability to any person for any loss or damage caused by errors or omissions, whether such errors or omissions result from negligence, accident or any other cause.

From:

N. A. Shah Associates LLP
Chartered Accountants

Address: B 21-25 / 41-45, Paragon Centre, Pandurang Budhkar Marg, Mumbai –
400013.

Tel: 91-022-4073 3000, Fax: 91-022-4073 3090

E-mail Id: info@nashah.com