KNOWLEDGE UPDATE # 22/2020-21

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SEBI UPDATES ON QUALIFIED INSTITUTIONAL PLACEMENTS, CREEPING ACQUISITIONS AND EXTENSION OF TIME LIMIT FOR SUBMISSION OF FINANCIAL RESULTS

EXECUTIVE SUMMARY

Securities and Exchange Board of India (SEBI) has issued certain notifications and circulars under SEBI(Issue of Capital and Disclosure Requirements) Regulations, Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and certain extension toward the issuance of financial statements. This article covers the above in detail.

NOTIFICATION NO. SEBI/LAD-NRO/GN/2020/17 on Qualified Institutional Placements

Qualified Institutional Placements is a way to issue shares to the public without going through the standard regulatory compliance. The QIP allows an Indian-listed company to raise capital from domestic markets without the need to submit any pre-issue filings to market regulators.

The SEBI has imposed various eligibility conditions for making QIPs by a listed issuer vide Regulation 172 of SEBI(Issue of Capital and Disclosure Requirements) Regulations 2018. Earlier, a listed issuer shall not make any subsequent qualified institutions placement until the expiry of **six months** from the date of the prior qualified institutions placement made pursuant to one or more special resolutions. Now the word **"six months"** is substituted by the words **"two weeks"** in the regulation 172(3) vide aforesaid Notification dated 16th June 2020.

NOTIFICATION NO. SEBI/LAD-NRO/GN/2020/14 on Creeping Investments

Creeping acquisitions refer to the purchase of company shares by its promoters or shareholders with significant holdings, over a number of small transactions, so as to increase their stake in the company by an economically significant amount without requiring any disclosure or other action by the investors. Thus, creeping acquisitions allow promoters to increase their stakes in firms by up to the maximum amount allowed under the prevailing securities regulations without triggering the need for any action mandated by the regulators.

The limit of creeping acquisitions during a financial year without making a public announcement of an open offer for acquiring the shares of the target company is 5% of the voting rights, provided the holding of the acquirer together with the persons acting in concert with him does not exceed the maximum permissible non-public shareholding. This is mandated vide regulation 3 of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

The board has inserted the following proviso in regulation 3, sub regulation (2):

"Provided that the acquisition beyond five per cent but up to ten per cent of the voting rights in the target company shall be permitted for the financial year 2020-21 only in respect of acquisition by a promoter pursuant to preferential issue of equity shares by the target company."

So, the creeping acquisition limit for the FY 2020-21 has been increased from 5% to 10% if the acquisition is pursuant to preferential issue of shares by the target company.

Further, the board has also inserted a proviso after the first proviso of regulation 6(1) to give relaxation from first proviso of regulation 6(1) till 31st March 2021. The regulation 6(1) and the first proviso is given below:

"An acquirer, who together with persons acting in concert with him, holds shares or voting rights in a target company entitling them to exercise twenty-five per cent or more but less than the maximum permissible non-public shareholding, shall be entitled to voluntarily make a public announcement of an open offer for acquiring shares in accordance with these regulations, subject to their aggregate shareholding after completion of the open offer not exceeding the maximum permissible non-public shareholding:

Provided that where an acquirer or any person acting in concert with him has acquired shares of the target company in the preceding fifty-two weeks without attracting the obligation to make a public announcement of an open offer, he shall not be eligible to voluntarily make a public announcement of an open offer for acquiring shares under this regulation".

NOTIFICATION NO. SEBI/HO/CFD/CMD1/CIR/P/2020/106 on extension of time limit for furnishing of Financial Statements.

SEBI, vide circular No. SEBI/HO/CFD/CMD1/CIR/P/2020/38 dated March 19, 2020 and circular No. SEBI/HO/DDHS/ON/P/2020/41 dated March 23, 2020, had extended the timeline for submission of financial results under regulations 33 and 52 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR Regulations') to June 30, 2020 from May 30, 2020 (extension of one month) due to the impact of the CoVID-19 pandemic.

SEBI has received representations seeking further extension of time for preparation, finalization and submission of financial results for listed entities for the quarter/half year/financial year ending 31st March 2020, due to operational challenges on account of the CoVID-19 pandemic.

After taking into consideration the aforementioned issues, it has been decided to further extend the timeline for submission of financial results under Regulation 33 of the LODR Regulations, by a month, to July 31, 2020, for the quarter and the year ending 31st March 2020. Similarly, the timeline under Regulation 52 of the LODR for submission of half yearly and/or annual financial results for the period ending March 31, 2020 for entities that have listed NCDs, NCRPS', CPs, MDS' is also extended to July 31, 2020.

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