

Guidelines for returning of draft offer document and its resubmission

On February 6, 2024, Securities and Exchange Board of India (“**SEBI**”) issued ‘Guidelines for returning of draft offer document and its resubmission’¹ (“**Guidelines**”). SEBI had observed that some draft offer documents filed with the Board for public issue/ rights issue of securities lack in compliance with instructions provided under Schedule VI of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“**ICDR regulations**”) which require revisions/changes, thus leading to longer processing time. To ensure the completeness of the offer document for investors and provide greater clarity and consistency in the disclosures and for the timely processing, SEBI decided to issue the Guidelines. The Guidelines emphasize that adequate disclosures by the issuer and the timely processing of the offer documents are important for the spirit of the primary market. The draft offer document should be scrutinized basis the broad Guidelines and any documents not in compliance with the instructions provided under Schedule VI of the ICDR Regulations and the Guidelines, will be returned to the issuer.

The broad parameters set out in the Guidelines are as follows:

1. The draft offer document should be drafted in simple language with clear visual representation of data ensuring short, definitive and unambiguous statements, use of conventional words, active voice, tabular presentation or bullets and avoiding multiple negatives;
2. The draft offer document is presented in a clear, concise, and intelligible manner while ensuring with clear and concise sections, paragraphs and sentences, descriptive headings and subheadings. Legal and technical terminology and clarifications of technical should be avoided and technical terms, if used, are clarified if needed to explain the issuer’s business or other matters in simpler terms;
3. The issuer of the draft offer document must avoid complex presentations, vague, ambiguous or imprecise explanations, complex information quoted or copied from legal documents unless accompanied with clear and concise explanation, repetition of disclosures in different sections of the documents unless required otherwise and any inconsistency in numbers, data, facts in the draft offer document;
4. The risk factor should be worded in simple, clear and unambiguous language to clearly communicate the risk to the investor;
5. The draft offer document would necessitate substantial revision or addenda on key disclosures on account of regulatory interpretation or clarification sought on the draft offer document;
6. The draft offer document should be clearly understandable without relying on the general rules and conditions;

¹ Circular number SEBI/HO/CFD/PoD-1/P/CIR/2024/009.

7. No regulatory authority or enforcement agencies should express material concerns with regard to the issue or the draft offer document;
8. If any pending litigation matters in any court or tribunal impact the eligibility criteria provided under the ICDR Regulations for the issue/ draft offer document filed by the issuer, then such information must be mentioned in the draft offer document.

The Guidelines further state that there is no requirement for the payment of any fees on account of the draft offer document and the requirement for paying the applicable fees for the changes, in terms of the changes specified in Schedule XVI of the ICDR Regulations for the updated offer document. However, in case of non-submission of the draft offer document, there will be no refund of the filing fees.

The issuer and the lead manager must resubmit the offer document only after addressing the insufficiency in the draft offer document and ensuring it complies with the provisions of the ICDR Regulations. Upon resubmission, the Issuer must within 2 (two) days make a public announcement as specified in the ICDR Regulations and disclose the resubmission. The issuer will also make a written intimation to its sectoral regulators informing them of the return resubmission of the draft offer document.

SEBI *vide* the issuance of these Guidelines have brought about stricter checks and balances emphasising the need for compliance with disclosure requirements under Schedule VI of the ICDR Regulations and have laid down a streamlined process for the rejection and resubmission of the draft offer document.

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This Prism has been prepared by:



Madhurima Mukherjee Saha
Partner



Tanvi Ginodia
Associate

		
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For more details, please contact km@jsalaw.com

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