

Capital Markets Hotline

September 11, 2009

SEBI REPLACES IPO GUIDELINES WITH ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS REGULATIONS

Ever since the initial disclosure and investor protection guidelines were issued in 1992 and then updated in 2000, the Securities and Exchange Board of India (“SEBI”) has made endeavors to ensure that the guidelines cater to the needs of a developing and sophisticated market and are aligned with international practices. With the SEBI (Disclosure and Investor Protection) Guidelines, 2000 (“DIP Guidelines”) having become voluminous due to the major changes, a re-drafting of the regulations pertaining to the issuance of capital and disclosure requirements was thought necessary. This has led to the enactment of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (“ICDR Regulations”), which replaces the DIP Guidelines in entirety.

A regulation can be said to have greater sanctity given the fact that under Section 31 of the SEBI Act, 1992 (the “Act”) every regulation made by the SEBI is required to be laid before each House of Parliament for its approval and comments, a procedure not required to issue guidelines. Consequently, violation of the ICDR Regulations now subjects all violators to any or all penalties that the Act prescribes including the cease and desist proceedings, criminal and monetary penalties. This change makes it more onerous for a company issuing capital and its promoters, who not being ‘intermediaries’ were not targets of criminal or monetary penalties under the DIP Guidelines.

For a smooth transition, Regulation 111 of the ICDR Regulations provides that an offer document filed under the DIP Guidelines and pending before SEBI and observations made in respect of any offer document or draft filed under the DIP Guidelines shall be deemed to have been filed or made under the corresponding provision of the ICDR Regulations

For a summary of the key provisions of the ICDR Regulations, and the implications of the same, if any, in comparison with the DIP Guidelines, as well as the consequential changes made to other legislations pursuant to the promulgation of the ICDR Regulations [please click here](#).

- Capital Markets Group

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