



## Monthly Updates - SEBI January 2019.

### 1. CIRCULARS

- **Amendment regarding public issue of units of InvITs and REITs** [Circular no. SEBI/HO/DDHS/CIR/P/2019/15, dated January 15 ,2019]

SEBI in its earlier circulars had issued guidelines pertaining to issue and allotment of units by a Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs)

In order, to ease the process of public issue of their units, the markets regulator vide two circulars amended the guidelines for REITs and Infrastructure Investment Trusts InvITs.

#### **Bidding process**

The bidding process shall be done only through electronic bidding platform provided by recognized stock exchange. The trusts can now accept bids using only Applications Supported by Blocked Amount (ASBA).

An investor, intending to subscribe to a public issue, shall submit a completed bid- cum-application form to Self-Certified Syndicate Banks (SCSBs), with whom the bank account to be blocked is maintained or any of the intermediaries recommended by SEBI.

Further, the intermediaries accepting the application shall upload the bid along with relevant details on electronic bidding system of stock exchange and submitting the form to SCSB for blocking the funds.

The stock exchange(s) shall validate the electronic bid details with depository's records by the end of each bidding day and bring the inconsistencies to the notice of SCSBs or intermediaries concerned, for rectification and re-submission within the time specified by stock exchange(s). They shall also allow modification in the bid details and, shall make a platform to facilitate the investors to view the status of their public issue applications on their websites and sending the details of applications and allotments through SMS and E-mail alerts to the investors.

#### **Issue period**

The regulator has also expanded the clause with regard to issue period. From now onwards, the trusts may extend the bidding issue period for a minimum of three working days, in case of force majeure, banking

strike or similar circumstances. However, such extension should not exceed the 30-day bidding period.

### **Price and Price Band**

With regard to price and price band, the manager on behalf of the REIT or InvIT shall announce the floor price or price band at least two working days prior to the opening of the bid in case of an initial public offer, on the website of the sponsor, manager and stock exchanges and in all the newspapers in which the pre issue advertisement was released and website of REIT, if applicable. Currently, it is five days.

### **Applicability of anchor investment**

The guidelines had earlier specified the eligibility criteria for applying under Anchor Investor category. While it had prohibited Merchant Bankers or its associates from investing as Anchor Investor Category, it had allowed. Mutual Funds, Insurance Companies and Pension Funds to invest under this category.

However, vide this amendment, the market regulator has additionally allowed alternative investment funds and FPIs (other than Category III) to make investments under Anchor Investor Category.

Nonetheless, Mutual Fund, Insurance Company, Pension Fund, AIF and FPI need to be an associate of merchant bankers to invest under Anchor investment.

#### **➤ Cyber Security and Cyber Resilience framework for Mutual Funds / Asset Management Companies (AMCs)**

[Circular no. SEBI/HO/IMD/DF2/CIR/P/2019/ 12 dated January 10, 2019]

The markets regulator *vide* circular dated January 11,2018, put in place a robust and stricter cybersecurity framework for mutual funds and asset management companies (AMCs) to guard against breaches of data leak.

It is required for all the entities to formulate a cybersecurity and cyber resilience policy document adhering to the required framework and document needs to be approved by the board of AMC and trustees. This policy document is to be reviewed by the board at least once annually with a view to strengthen and improve the cyber security framework.

These guidelines norms would be effective from **April 1, 2019**

## **2. ORDER OF ADJUDICATING OFFICER**

### **➤ Failure to frame code of conduct for prevention of insider trading amounts to violation.**

**In respect of 28 Entities in the matter of Exelon Infrastructure Ltd** [Adjudication Order NO. EAD-7/BJD/NJMR/2018-19/1979-2006 dated 28 January 2019]

Markets regulator SEBI recently imposed fine on Exelon Infrastructure Ltd and 27 other entities, including promoters and directors, for the following violations:

- a) Formulated a manipulative scheme to make illegal gains and defrauded the genuine investors.
- b) Non-compliance of listing agreement.
- c) Failure to make disclosures under SEBI (SAST) and (PIT) Regulations.
- d) Execution of self-trades, thereby creating artificial volume.
- e) Execution of synchronized trades thereby creating artificial volume, thus leading to false & misleading appearance of trading in the scrip

As seen above, one among these violations identified by SEBI is with regard to framing of code of conduct for prevention of insider trading.

Under SEBI (PIT) Regulations, it is mandatory for every listed company to frame its own code of internal procedures and conduct for prevention of Insider Trading and adopt appropriate mechanisms and procedures to enforce the codes. The objective of framing a Model Code of Conduct is to prevent insider trading and prevent misuse of the price sensitive information which undermines the confidence of the investor.

The company upon receipt of a notice as to whether it has adopted the Model Code of Conduct prescribed under Schedule I of the SEBI (PIT) Regulations, 1992, stated that the code of conduct as finalized will be minuted in the ensuing board meeting of the Company scheduled in the month of January / February 2014. In consideration of the reply of the Company, Adjudicating officer concluded that the Company has not framed the Code of Conduct for prevention of insider trading as on that date.

Failure to frame the code of conduct is held to be in dereliction of their duties to set forth policies, procedures, monitor and implement the prescribed model code of conduct for prevention of code of conduct. In view of this failure, it is observed that 13 noticees along with the company had violated the provisions of Regulation 12 (1) read with Clause 1.2 of Schedule I of Part A of Model Code of Conduct prescribed under the SEBI (PIT) Regulations, 1992 read with Regulation 12 of SEBI (PIT) Regulations, 2015

Henceforth, the Adjudicating officer imposed a penalty of Rs. 10,00,000 as against Exelon Infrastructure Ltd, 2,00,000 each on 11 directors, and 5,00,000 on CEO cum compliance officer, making it a totalling amount of Rs.37,00,000 for not framing code of conduct under PIT Regulations, 2015.

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