



भारतीय प्रतिभूति और विनिमय बोर्ड Securities and Exchange Board of India

Discussion Paper on "Annual Information Memorandum"

Background

- a) International Organization of Securities Commissions ("IOSCO") technical committee has prescribed certain high level principles in the paper titled "Principles for Ongoing Disclosure and Material Development Reporting by Listed Entities" in 2002. The technical committee noted that reliable, timely and readily accessible information is fundamental for investors. Information should be disclosed on a timely basis, whether in connection with an initial public offering or continuous listing, currently or periodically, and in a form or manner either prescribed by accounting standards, regulations, listing rules or law, together with the information that is provided by the management under the principles of fair presentation.
- b) Presently, in India, companies make comprehensive disclosure at the time of filing offer document for a public issue. Thereafter, upon listing, issuers are bound by the continuous disclosure obligations cast on them in terms of various provisions of the listing agreement. These provisions include periodical disclosures such as financial position/performance of the company, shareholding pattern, corporate governance, as well as event-based disclosures including material developments in the business, changes in shareholding pattern, etc.
- c) Such disclosures are made by way of announcements on the stock exchange(s) on an as and when basis. Such disclosures depend on the company's judgment with respect to materiality.
- d) Additional disclosures to be included in Annual Report by listed companies in India have been specified through the Listing Agreement. Some of the key requirements are as under:
 - Clause 49 specifies a detailed compliance report on Corporate Governance should be provided as part of the Annual Report
 - Clause 55 requires specified listed companies to include in the specified format, a Business Responsibility Report as part of the Annual Report describing the initiatives taken from an environmental, social and governance perspective.
- e) All such information is available in fragments and there is no single document which contains all subsequent updates of the company at one place.

- f) Further, Listed companies in India are required to make submissions with various authorities, viz. Stock Exchange, Registrar of Companies, Regulators, etc. The frequency of such submissions is stipulated by the relevant legislation and can be annual, half yearly, quarterly, event based, etc. While listed companies in India make such submissions, there is no availability of a comprehensive information memorandum about the company which would enable investors to obtain all relevant information at one place. Further, the material events after listing disclosed to the public are available across a large time span and investors may find it difficult to access all relevant information for the purpose of making an informed investment decision.
- g) An investor in primary market has all the information relevant to investment decision making at one place in the form of offer document. On the other hand, the investors in secondary market have to sift through various individual disclosures made over time to aggregate the information for investment decision making. It is thus felt that the investors in secondary markets should also be able to access the desired information with similar ease.
- h) Accordingly, it is felt that listed companies may be required to prepare an annual document where all the relevant information is available at one place. Such document shall be known as "Annual Information Memorandum" ("AIM").
- i) The benefits of filing an Annual Information Memorandum
- ✓ The objective of AIM is to provide shareholders and prospective shareholders with accurate and relevant information about the financial and operating performance of the company. AIM would be comprehensive in nature and will provide investors with detailed information at one place about the company, thereby assisting in making of informed investment decisions.
 - ✓ Inclusion of reports such as Corporate Governance Report (Clause 49), Business Responsibility Report (Clause 55) and Related Party disclosures (Clause 32) etc. in the AIM could pave way for removing such disclosures from Annual Report limiting its scope only to details required under the Companies Act, 1956/ Companies Act, 2013, thereby significantly reducing disclosures required in Annual Report and consequently reducing costs for the listed companies as AIM will be required to be filed in electronic format.
 - ✓ Listed companies filing an AIM would be able to utilize it for future capital raisings. The issuer may use AIM as a reference document for preparing offer document containing updated information/ events after the date of AIM. This will enable corporates to raise capital expeditiously.

SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 Amendment

SEBI, vide an amendment dated October 12, 2012, to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 inserted Regulation 51A, as follows:

"Annual Updation of Offer Document

51A. The disclosures made in the red herring prospectus while making an initial public offer, shall be updated on an annual basis by the issuer and shall be made publicly accessible in the manner specified by the Board."

International Practices

In United States, companies file similar report to Securities and Exchange Commission as mentioned below:

- a) 10 K is a comprehensive summary report of a company's performance that must be submitted annually to the SEC. Typically, the 10-K contains much more detail than the annual report. It includes information such as company history, organizational structure, equity, holdings, earnings per share, subsidiaries, etc.
- b) Similar to a 10-K, the 10-Q is a report on the state of a publicly traded business. The difference is that a 10-Q has to be filed every quarter (3 months) whereas a 10-K is a yearly report.
- c) The 20-F is a form filed by a company with the SEC which is completed and submitted by foreign companies which have shares traded on a US exchange and 8-K is an SEC filing which companies are required to complete and submit in the event of any situation that may be important to either shareholders or the US Government and SEC.

Comparison of disclosure requirements in various jurisdictions

Typical Disclosures In An Indian Offer Document	United States	Australia	United Kingdom	Hong Kong	Singapore	Germany
	10-K	Annual Report	Annual Report	Annual Report	Annual Report	Annual Report
Business Overview and details	✓	✓	✓	✓	✓	✓
General Information	✓	✓	✓	✓	✓	✓
Shareholding Pattern	✓	✓	✓	✓	✓	✓
Industry Overview	✓	✓	✓	✓	✓	✓
Risk Factors	✓					

Management details	✓	✓	✓	✓	✓	✓
Selected Financial Data: Presented for 5 years*	✓	✓	✓	✓	✓	✓
Management Discussion & Analysis (MD&A)	✓	✓	✓	✓	✓	✓
Financial statements and notes to accounts	✓	✓	✓	✓	✓	✓
Properties	✓					
Legal Proceedings	✓					
Unresolved Staff Comments: disclosure of any outstanding matters of non-compliance, observation, correspondence with SEC	✓					

Proposed AIM Framework

1. Format

The proposed framework for disclosure in AIM is enclosed as Annexure. Format of AIM is in line with the format of offer documents prepared for primary market offerings to maintain consistency in disclosures.

2. Frequency of Preparation

Frequency for preparation of AIM shall be yearly.

3. Timeline for Dissemination

AIM shall be disseminated within 135 days from the end of financial year.

4. Mode of Dissemination

AIM may be disseminated electronically by uploading the same on the company's website and simultaneous filing with stock exchanges.

5. Approval of AIM

AIM shall be approved by Board of Directors at their meeting prior to dissemination.

6. Annual updation

AIM will be required to be updated every year. While, updating the AIM, the companies may update the quantitative as well as qualitative information by replacing the details pertaining to most distant year with details pertaining to most recent year where such information is required to be furnished for

multiple years. Further, all the information (qualitative as well as quantitative) shall be reviewed for accuracy, sufficiency and relevance.

7. Implementation timelines

Category	Proposed Time Frame
Top two hundred listed companies based on market capitalization at BSE or NSE as on March 31, 2014	Financial year beginning on or after April 1, 2014
All other listed companies	Financial year beginning on or after April 1, 2015

For companies which are planning IPOs (Initial Public Offers), the requirement of AIM would commence with the IPO. This would require that the disclosures made by the companies at the IPO stage be updated on an annual basis so as to ensure that at any point of time, updated information about them is available in public domain.

8. Auditor's Examination Report

The companies desirous of using AIM as draft offer document for future capital raisings shall be required to submit an Auditor's Examination Report along with AIM.

Public Comments

It is proposed to notify the framework placed at Annexure for disclosures required under Reg. 51A of SEBI (ICDR) Regulations, 2009 (Annual Updation of Offer Document). Considering the importance of specified disclosures for all the stakeholders including the listed companies, public comments on the draft framework are solicited. Specific comments/ suggestions would be highly appreciated. Such comments may please be emailed on or before March 9, 2014, to aim@sebi.gov.in or sent, by post, to:-

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Securities and Exchange Board of India
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Annexure

Proposed Disclosure Framework of Annual Information Memorandum (AIM)

1. Cover Page

- 1.1. Name of issuer, corporate logo, registered address, corporate office if different from registered office, website and contact details of company secretary including address, telephone, email address etc.
- 1.2. Name of the promoters
- 1.3. Registrar details including address, telephone, email address etc.
- 1.4. Corporate Identity Number (CIN) of the Company, ROC jurisdiction
- 1.5. Date of filing of Annual Information Memorandum (AIM)

2. Table of Contents

3. Glossary of terms/abbreviations

- 3.1. Conventional or general terms
- 3.2. Company and industry related terms
- 3.3. Abbreviations

4. Capital Structure

- 4.1. Shareholding pattern as per clause 35 format
- 4.2. Significant changes in capital structure during the year
- 4.3. Promoter shareholding details including, aggregate purchase and aggregate sale of shares by promoters during the year and number of pledged shares held.
- 4.4. Change of 2% or more of share capital during the year including the name of such shareholder and share transaction details
- 4.5. Maximum number of shares pledged during the year shall also be disclosed for each of the promoter.

- 4.5.1. Borrowing involving pledge of shares (personal or corporate borrowings)
- 4.6. Details of preference and equity shares issued (including shares converted) during the year with following details
 - 4.6.1. Date of allotment
 - 4.6.2. Method of allotment (QIP, FPO, GDRs, Rights, preferential, ESOP, conversion of securities etc.)
 - 4.6.3. Issue Price/Conversion Price
 - 4.6.4. Number of shares allotted
 - 4.6.5. Number of shares allotted to promoter group (including shares represented by DRs)
- 4.7. Scheduled conversions of convertible securities (including convertible debt) and warrants in equity shares(including earliest conversion dates) for the next financial year
- 4.8. Scheduled completion dates of lock-in period for securities
- 4.9. Fully Diluted Capital Structure (assuming full conversion of all outstanding convertibles/ options)

5. Market price information

- 5.1. Current disclosures in Corporate Governance Report
- 5.2. High, low, average market price of equity shares in the past financial year and on a monthly basis on each stock exchange where the equity shares of the company are listed
- 5.3. Number of shares and delivery based and gross volume traded for above on each stock exchange where the equity shares of the company are listed.

6. General Information

- 6.1. Brief details of Company, Company Secretary, Bankers to the Company, Statutory Auditors, Monitoring Agency and other intermediaries
- 6.2. Brief description of the whistleblower mechanism of the company

- 6.3. Mechanism evolved for redressal of investor grievances
- 6.4. Number of complaints received, disposed off and outstanding during the year with complaints under SCORES indicated separately.

7. History and Certain corporate matters

- 7.1. Brief history, major events, details of acquisitions, mergers, revaluations, induction of strategic and financial partners in past 5 years. (Five year disclosure shall apply only to the first AIM document. For all subsequent years, disclosure shall relate to the reporting period only.)
- 7.2. Key terms of shareholder agreements where company is a party to the agreement (including modifications during the year), induction of new strategic and financial partners in last financial year. Disclosure of key terms shall be restricted to terms that affect the rights and obligations of other shareholders.
- 7.3. Ownership of IPR/ Logo of the Company

8. Risk factors

- 8.1. Risk applicable to company and industry relevant to the company shall be disclosed. Risk Factors shall be in line with disclosure in 'Risks and Concerns' forming a part of Management Discussion and Analysis Report (MDA).

9. Industry description

- 9.1. Overview of the industry in which issuer operates. Specific mention of important changes in the industry in the last financial year and industry trends.

10. Business description

- 10.1. Business description including key strengths and strategies
- 10.2. Brief description of business segments, geographic segments.

- 10.3. Specific mention of important changes in the business of the company in the last financial year. Details of business reorganization, divestments, acquisitions to be provided
- 10.4. Details of intangible assets including details of ownership and usage rights

11. Our Management

- 11.1. Brief details of Chairman, Board of directors (BoD) including experience, qualification and other directorships, shareholdings, inter-se relationships with Promoters (preferably in tabular form)
- 11.2. Organization structure (at least up to one level below the Board)
- 11.3. Key Managerial Personnel (KMP) details (similar to BoD)
- 11.4. Changes in BoD
- 11.5. Changes in KMP
- 11.6. ESOP details similar to the Directors Report under Annual Report.

Disclosures for involvement in material legal proceedings of any director, person nominated to be director or executive officer of the company in the past 5 years should be included

12. Promoters or Principal Shareholders

- 12.1. Brief Profile of Promoters or Principal Shareholders (where individuals)
- 12.2. For Promoters or Principal Shareholders (where body corporate): Brief Details of business of the company, history, changes in control during the last financial year, changes in business etc.
- 12.3. Brief details of audited financials of Promoters or Principal Shareholders (where body corporate) as available.
- 12.4. Group company details as per SEBI (ICDR) Regulations for top 5 companies by market cap (for listed group companies) or by turnover (for unlisted companies).

12.5. Annual disclosures by promoters, promoter group during the year under SEBI Takeover Regulations and SEBI (PIT) Regulations

12.6. Brief details of ultimate natural person promoters

Note: In certain cases, there are no identifiable promoters for the company. In such cases details as outlined above for Principal Shareholders need to be disclosed.

13. Financial Statements

13.1. Audited standalone and consolidated financial statements prepared in accordance with Indian GAAP for past 3 years containing:

13.1.1. Auditors report

13.1.2. Balance Sheets

13.1.3. Statements of Income

13.1.4. Schedules to accounts

13.1.5. Statements of changes in stockholders' equity

13.1.6. Statements of cash flows

13.1.7. Statement of accounting policies

13.1.8. Notes to financial statements

13.1.9. Statement relating to subsidiary companies (in case of unconsolidated financial statements)

13.1.10. Capitalization statement

13.2. Companies have the option to restate their standalone and consolidated financial statements as well as presentation of pro-forma financials if they so choose.

13.3. The restatements directed by regulatory/statutory bodies such as SEBI, MCA etc. must be carried out.

Details of fresh and outstanding foreign currency loans, any default on loan repayment, referral to CDR etc. may be disclosed.

14. **Dividend Track Record:** Rate of dividend paid may be mentioned as part of financial statements for past three years.

15. Management's Discussion and Analysis of financial condition and results of operations

- 15.1. Overview of business
- 15.2. Significant developments in the last financial year
- 15.3. Factors affecting results of operations
- 15.4. Discussion on results of operations for the past 3 years. Key heads of the Profit and Loss Statement and Balance Sheet shall be compared and percentage increase/decrease shall be explained. Movement in key heads in balance sheet and cash-flow shall also be explained.
- 15.5. Key performance indicators for the company, ratios as appropriate for meaningful description of the company performance, based on the industry it operates in shall be disclosed and explained

16. Utilization of Issue Proceeds

- 16.1. In case of any offer to the public of equity capital including convertibles and FCCBs issued by the company, for which entire issue proceeds have not been utilized as on the date of filing the Annual Information Memorandum, provide the following:
 - 16.1.1. Details of utilization of issue proceeds during the year as compared to the objects mentioned in offer document
 - 16.1.2. In case of change of utilization of objects duly approved, reasons for change and details of utilization of proceeds as per revised objects
 - 16.1.3. Details of any adverse comments by Monitoring Agency regarding utilization of issue proceeds
 - 16.1.4. Details of all unutilized monies out of the issue proceeds along with the reasons for the same shall be disclosed

17. Regulations and policies

17.1. Voluntary disclosure of industry specific regulations

18. Legal and other information

18.1. All outstanding material litigations filed against Company and/or material subsidiaries including: criminal, civil and other outstanding litigations including for economic offenses

18.2. Details of material litigations involving Company and material subsidiaries closed, including settled or where decisions awarded (unless appealed to higher court). Details of financial implication, if material, for issuer or subsidiary should be clearly mentioned. These details should be provided for closed cases during last financial year.

18.3. Material enforcement actions by regulatory authorities such as adjudication penalty, warning, consent order, debarment / prohibition, prosecution, inclusion in RBI willful defaulter list etc.

19. Material events during the year

Brief tabular presentation of notices given by the company in compliance with Clause 36 of the Listing Agreement for reporting material developments such as:

19.1. Change in general character or nature of business

19.2. Commencement of commercial production/operations

19.3. Developments with respect to pricing/realization arising out of change in regulatory framework

19.4. Litigation/dispute with a material impact

19.5. Revision in credit ratings

19.6. Any other information having a bearing on the operations/performance of the company including price sensitive information

19.7. The table shall contain a link to the relevant stock exchange website where full notice is available.

Note: For the purpose of this section, only such events/intimations which in the company's judgment were material or had significant financial impact or which are of relevance even at the time of reporting under 'Annual Information Document' should be disclosed.

20. Annexure to the Annual Information Memorandum :

- 20.1. Corporate Governance Report as per clause 49 of the Listing Agreement, with relevant cross references to the AIM wherever information overlaps exist
- 20.2. Business Responsibility Report (as applicable to specified companies as per clause 55 of Listing Agreement)
- 20.3. Related Party disclosure as per Clause 32 of the Listing Agreement (other than the information required to be provided in accordance with accounting standards), with relevant cross reference to the AIM where information overlaps exist

21. Certifications

- 21.1. Declaration as provided by clause 49 I(D) of the Listing Agreement
- 21.2. Certifications as provided by clause 49 of the Listing Agreement

22. Declaration

- 22.1. Signature by Chief Executive Officer or Managing Director, Chief Financial Officer and Compliance Officer
- 22.2. Signatories to certify that all disclosures made in the offer document are true and correct
- 22.3. Shall be submitted to the stock exchange(s) and shall be placed before the Board in next meeting. In case of any change suggested by Board of Directors, the same shall be informed to the stock exchange(s) promptly. Even if there is no change, such fact shall be informed to the stock exchange(s).

Notes:

- *Appropriate cross references may be provided in sections where disclosure requirements are being repeated in the AIM document.*
- *The periodicity of the disclosure throughout the document shall be as required under SEBI (ICDR) Regulations, unless specifically mentioned otherwise.*
- *Monitoring Agency for the purpose of disclosures under AIM shall have the same meaning as in SEBI (ICDR) Regulations, 2009.*
- In case of any material development between the end of financial year and the date of publication/ dissemination of AIM, the same should be appropriately disclosed along with its impact.
- Following shall be the hierarchy of disclosure requirements throughout the AIM, unless specifically mentioned otherwise:
 - As required in AIM Framework
 - As required in SEBI (ICDR) Regulations, 2009
 - As required in Annual Report