

Review of framework for Institutional Trading Platform

1.0 Objective

1.1. This memorandum seeks to propose amendments to the regulations pertaining to Institutional Trading Platform (“ITP”) in the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“ICDR Regulations”) to make the platform more accessible to companies in view of the evolving start-up ecosystem in the country.

2.0 Background, Need for review and the Consultation Process

2.1. The regulatory framework for Institutional Trading Platform (“ITP”) was put in place vide amendments to the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (“erstwhile ICDR Regulations, 2009”) on August 14, 2015. The framework has been retained in the new SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.

2.2. Considering that the framework failed to gain interest, SEBI came up with certain recommendations to make the platform more accessible, vide Discussion Paper dated July 29, 2016. Since, the market interest in the platform continued to be tepid, no amendment to the ICDR Regulations was carried out.

2.3. Lately, there has been a lot of activity in the start-up space in India and interest has been evinced with regard to listing on the ITP by various stakeholders and industry bodies. Thus, in view of the evolving start-up ecosystem and to make the ITP platform more accessible, SEBI constituted a Group on June 12, 2018 to review the ITP framework and identify the areas which require further changes.

2.4. The Group included representatives from the Indian Software Product Industry Round Table (iSPIRT), The Indus Entrepreneurs (TIE), the Indian Private Equity and Venture Capital Association (IVCA), law firms, merchant bankers, and stock exchanges.

- 2.5.** While reviewing the ITP framework, the Group also held extensive consultations with stakeholders including start-ups, investors, investment bankers, wealth management outfits, etc. The Group submitted its recommendations to SEBI suggesting certain policy changes, which were discussed in the meeting of Primary Market Advisory Committee (PMAC) of SEBI. PMAC has made certain recommendations for amending the existing ITP framework.
- 2.6.** Based on the recommendations of PMAC, a discussion paper outlining the suggestions for amendments to the regulatory framework concerning the ITP was placed on the SEBI website for public comments on October 26, 2018, to be submitted by November 16, 2018.
- 2.7.** Around 60 comments were received from 10 entities / persons. Comments were received from a variety of stakeholders including industry participants, Start-ups, VCFs lawyers, law firms, Lead Managers, NSE etc. The public comments received are placed at Annexure-A.
- 2.8.** The proposals for amendments to ITP framework, public comments thereon and our recommendations are enumerated below:

3.0 Proposals for amendments

3.1. Name of Chapter X

3.1.1 Existing provision

The framework for ITP is specified under chapter X of ICDR Regulations which is named as 'Institutional Trading Platform'.

3.1.2 Proposal in the discussion paper

The said chapter may be renamed as 'Innovators Growth Platform'.

3.1.3 Significant Comments:

Comments have been received in favour of the proposal.

3.1.4 Recommendation

Considering that listing on the said platform is open for new age companies, the platform may be renamed as "Innovators Growth Platform".

3.2. Prior-holding by QIBs

3.2.1 Existing provision

Regulation 283(1) of ICDR Regulations stipulates a minimum level of prior holding by the Qualified Institutional Buyers (“QIBs”) in the pre-issue capital of companies seeking to list on ITP, i.e. at least 25% in technology related companies under Regulation 283(1)(a) and 50% in other companies under Regulation 283(1)(b).

3.2.2 Proposal in the discussion paper

- A. IGP has been designed with a view to facilitate listing of new age start-ups in sectors like e-commerce, data analytics, bio-technology and other start-ups. Hence, companies mentioned in Regulation 283(1)(a) of the ICDR Regulations shall be eligible to list on the IGP. Accordingly, it is proposed to delete Regulation 283(1)(b) which provides that any issuer in which at least fifty per cent of the pre-issue capital is held by qualified institutional buyers shall be eligible for listing on the institutional trading platform.
- B. In order to be eligible for listing on the IGP:
- (a) The issuer shall be a company which is intensive in the use of technology, information technology, intellectual property, data analytics, bio-technology or nano-technology to provide products, services or business platforms with substantial value.
 - (b) 25% of the pre-issue capital, of the Issuer Company for at least a period of 2 years, should have been held by:
 - I. Qualified Institutional Buyers
 - II. Family trust with net-worth of more than five hundred crore rupees, as per the last audited financial statements
 - III. The following regulated entities:
 - i. Category III Foreign Portfolio Investor;
 - ii. An entity meeting all the following criteria:

- a. It is a pooled investment fund with minimum assets under management of USD 150 million;
 - b. It is registered with a financial sector regulator in the jurisdiction of which it is a resident;
 - c. It is resident of a country whose securities market regulator is a signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding (Appendix A Signatories) or a signatory to Bilateral Memorandum of Understanding with SEBI;
 - d. It is not resident in a country identified in the public statement of Financial Action Task Force as:
 - i. jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or
 - ii. a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies;
- IV. Accredited Investors (AIs) for the purpose of IGP.

C. Criteria to be considered as an Accredited investor for the purpose of IGP

The following entities shall be eligible to be considered as accredited investors for the purpose of IGP:

- i. Any individual with total gross income of ₹ 50 lakhs annually and who has minimum liquid net worth of ₹ 5 crores or
- ii. Any body corporate with net worth of ₹ 25 crores

D. Process of Accreditation for the purpose of IGP

In order to be recognized as an accredited investor, such investor shall need to approach Exchanges/Depositories for accreditation.

- E. Not more than 10% of the pre-issue capital may be held by AIs.

3.2.3 Significant Comments

Most of the comments are in nature of suggestions. There are suggestions to reduce minimum prior holding to 10%, to reduce pre-issue capital holding period to 1 year, to reduce pre-issue capital holding period to 6 months for QIBs, not to keep any limit on holding by AIs and to do away with accreditation of investors by the exchanges and depositories.

3.2.4 Recommendations

The proposal in the discussion paper is recommended to be adopted and depending on the experience, further relaxation as suggested by few commentators may be examined in due course. With regard to the process of accreditation for the purpose of IGP, Exchanges shall, in consultation with SEBI, devise a mechanism for grant of accreditation based on the criteria given at prescribed by the Board.

3.3. Cap on holding in the post-issue capital

3.3.1 Existing provision

Reg. 283(2) of ICDR Regulations stipulates that no person, individually or collectively with persons acting in concert, shall hold 25% or more of the post-issue capital, as an eligibility criterion for the entity to list on ITP.

3.3.2 Proposal in the discussion paper

The provision may be deleted.

3.3.3 Significant Comments

Comments received are in favour of the proposal.

3.3.4 Recommendation

The requirement of cap on holding may be done away with so as to ensure that investors are able to invest more than 25% in a startup thereby providing the much needed boost to such companies.

3.4. Minimum application size

3.4.1 Existing provision

In terms of Regulation 286 of ICDR Regulations, the minimum application size shall be INR 10 lakh.

3.4.2 Proposal in the discussion paper

It is proposed that the minimum application size shall be INR 2 lakh and in multiples thereof.

3.4.3 Significant Comments

A suggestion has been received that application size should be for a minimum of Rs. 2 lakhs and in multiples of 1 lakh thereafter whereas one commentator has stated that application size should be for a minimum of Rs. 1 lakhs and in multiples of 1 lakh thereafter.

3.4.4 Recommendation

The minimum application may be revised to INR Rs. 2 Lakhs and in multiples of INR Rs. 2 Lakhs thereof to attract more number of investors to the IGP.

3.5. Allocation to investors

3.5.1 Existing provision

In terms of Regulation 287(2) (a) & (b) of ICDR Regulations, 75% of the net offer to public shall be allocated for institutional investors and remaining 25% shall be allocated to Non Institutional Investors.

3.5.2 Proposal in the discussion paper

It is proposed that there should not be any minimum reservation of allocation to any specific category of investors. Allocation is proposed to be on a proportionate basis.

3.5.3 Significant Comments

One suggestion is to retain the concept of buckets between smaller Non-Institutional Investors, and larger Non-Institutional Investors and Institutional Investors whereas One commentator has suggested that part of the issue should be available for allotment on a discretionary basis and this can be a percentage of overall issue and available for allotment only to Qualified Institutional Buyers.

3.5.4 Recommendation

The minimum reservation of allocation to any specific category of investors may be limiting and accordingly the allocation is proposed to be on a

proportionate basis. Hence it is recommended to delete the provision as proposed.

3.6. Discretionary allotment to institutional investors

3.6.1 Existing provision

Regulation 287(5) of ICDR Regulations prescribes that in case of discretionary allotment to institutional investors, no institutional investor shall be allotted more than 10% of the issue size.

3.6.2 Proposal in the discussion paper

In view of the proposed allocation to investors on a proportionate basis, without any reservation, the provision of discretionary allotment is not required. Thus it is proposed to delete the existing provision.

3.6.3 Significant Comments

One commentator has suggested that revised change should not be applicable to Anchor Investors which may continue to be governed by the 10% cap in the Anchor Investor portion.

3.6.4 Recommendation

The provision as per Regulation 287(5) of ICDR Regulations may be deleted in view of the recommendation to delete the provision related to minimum reservation of allocation to any specific category of investors.

3.7. Minimum number of allottees

3.7.1 Existing provision

Regulation 287(1) of the ICDR Regulations stipulates that the number of allottees shall be more than two hundred.

3.7.2 Proposal

It is proposed that minimum number of allottees should be 50.

3.7.3 Significant Comments

Suggestions have been received stating that there either there should be no stipulation for minimum number of allottees, and if at all it is prescribed, it should not be more than 5, 10 or 20.

3.7.4 Recommendation

Minimum number of allottees should be 50 so that there is liquidity in the proposed IGP.

3.8. Lock-in of pre-issue capital

3.8.1 Existing provision

In accordance with Regulation 288(1) of ICDR Regulations, the entire pre-issue capital of the shareholders shall be locked-in for a period of 6 months from the date of allotment . However, the lock-in is subject to certain exemptions provided for shares arising out of ESOPs and shares held by VCF/AIF Category I/FVCI.

3.8.2 Proposal in the discussion paper

It is proposed that the lock-in of 6 months shall apply uniformly to all the categories of pre-IPO public shareholders. Exemption from the provision shall be available for shares arising out of ESOPs.

3.8.3 Significant Comments

It has been suggested that existing exemptions to VCF/ AIF Category I/ FVCI should continue. A suggestion has also been received proposing that promoter lock in should be for 36 months and non-promoter lock in should be for 6 months.

3.8.4 Recommendation

It is recommended that the existing provisions for lock-in may be retained in view of the public comments received with regard to the proposed change in lock-in conditions. This would also lend confidence to the entities investing in the Company.

3.9. Trading lot

3.9.1 Existing provision

In terms of Regulation 289 of ICDR Regulations, the minimum trading lot shall be INR 10 lakh.

3.9.2 Proposal in the discussion paper

It is proposed that the minimum trading lot size in secondary market shall be INR 2 lakh and in multiples thereof.

3.9.3 Significant Comments:

A suggestion have been received to reduce the trading lot size to INR 1 lakh.

3.9.4 Recommendation

The minimum trading lot size may be lowered to INR 2 lakh and in multiples thereof in order to make the platform attractive for the investors since it is felt that a lot size of INR 10 lakh is too large and will result in less liquidity in the scrip.

3.10. Migration to the main board

3.10.1 Existing provision

In terms of Regulation 292, an entity listed on ITP may at its option migrate to the Main Board after expiry of three years from the date of listing subject to compliance with the eligibility requirements of the stock platform.

3.10.2 Proposal

It is proposed that IGP be designated as a Main Board platform for start-ups with an option to trade under regular category after completion of one year of listing.

3.10.3 Significant Comments

One commentator has suggested that start-up listed on 'IGP' should be given option to move on to regular category on meeting certain criteria such as completion of one year on IGP, market capitalization more than INR 100 Crore, minimum paid up capital of INR 10 Crores, minimum of 200 shareholders and no disciplinary actions pending against the Company and /or its promoters/promoter Group.

3.10.4 Recommendation

IGP be designated as a platform for start-ups with an option to trade under regular category after completion of one year of listing subject to compliance with exchange requirements.

3.11. Minimum offer to public

3.11.1 Existing provision

Regulation 31 of ICDR Regulations provides that the minimum offer to the public shall be subject to the provisions of clause (b) of sub-rule (2) of rule 19 of Securities Contracts (Regulations) Rules, 1957.

3.11.2 Proposal

It is proposed that minimum net offer to public should be in compliance with Minimum Public Shareholding (MPS) norms and minimum offer size should be INR 10 crores.

3.11.3 Significant Comments

Couple of suggestions propose that the minimum net offer to the public be not less than 10% of the post-issued paid up capital and that the minimum offer size to the public be reduced to INR 2 crore from the INR 10 crore as stipulated in the SEBI Consultation Paper. Suggestions have also been received regarding deletion of requirement related to minimum public shareholding norms.

3.11.4 Recommendation

It is recommended that minimum net offer to public should be in compliance with Minimum Public Shareholding (MPS) norms and minimum offer size should be 10 crores.

3.12. Other Comments received from public

3.12.1 Special Rights & Retention of CCPS

Suggestions have been made that the investors could have special rights including on convertible instruments, and governance, such as Board representation, appointment of auditor / internal auditor, and the like if such rights can be incorporated as part of Articles of Association of the Company and disclosed in the RHP / Prospectus.

3.12.2 Comments

The issue of special rights shall be examined by SEBI in conjunction with the issue of Differential Voting Rights which is already being examined by a sub-Group within PMAC.

4.0 Proposal for consideration and approval

4.1 The Board is requested to consider and approve the proposals under paragraph 3.1-3.11 and authorize the Chairman to amend the Regulations and take consequential and incidental steps to give effect to the decisions of the Board.

(This has been excised for reasons of confidentiality)