Disclosure of Key Performance Indicators (KPIs) and price per share of issuer based on past transactions and past fund raising from the investors under SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.

1. Objective

1.1. This memorandum seeks approval of the Board to amend SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 ("ICDR Regulations") to mandate the issuers to make disclosure of Key Performance Indicators (KPIs) and price per share of issuer based on past transactions and past fund raising from the investors, under 'Basis for Issue Price' section of the offer document and appropriate disclosure in the Price Band Advertisement.

2. Background

2.1. Need for having a framework for disclosure of Key Performance Indicators (KPIs) – In the offer documents, along with audited financial numbers the issuer companies also disclose their key numbers on various key performance metrics/indicators which are not covered in the financial statements. These Key Performance Indicators (KPIs) are also disclosed in numerical measures indicating different aspects of Issuer Company's operational performance in the same manner as the financial numbers disclosed in the audited financial statements indicate the business and financial performance of the issuer company. Presently, ICDR Regulations have a detailed framework for disclosure of financial information that requires the issuer to disclose audited and restated consolidated financial statements (CFS) prepared in accordance with applicable accounting standards for the last three financial year. However, for disclosure of KPIs there is no such framework provided in the regulations, which are disclosed by the issuer companies in a discretionary manner to suit their purpose. Therefore, the KPIs disclosed in the offer document often do not receive scrutiny in an objective manner as the regulations do not provide for such numbers to be audited/certified, defined consistently, or to be presented in a comprehensive manner in the offer document.

2.2. In terms of the ICDR Regulations, an issuer company satisfying the eligibility criteria based on its track records, such as minimum average operating profit, net tangible assets, net worth etc. is eligible to make an offer under Regulation 6(1), either at fixed price or through book building process. An issuer not satisfying this criteria is also eligible to make an IPO, only if the issue is made through the book building process and the issuer undertakes to allot at least 75% of the net offer to qualified institutional buyers (QIBs) as stipulated under Regulation 6(2).

2.3. The ICDR Regulations mandate disclosure requirements in the Draft Red Herring Prospectus (DRHP), Red Herring Prospectus (RHP) and Prospectus (hereinafter referred as "offer document"). These disclosures include internal and external risks factors, details of capital structure, details of the promoters, management and board of directors, details of business, financial information, objects of the offer, basis for issue price, outstanding litigations etc. The said disclosures in the offer document are primarily aimed at enabling investors in making an informed investment decision.

2.4. As regards disclosure on 'Basis for Issue Price', in terms of Para 9(K) under Part A of Schedule VI of ICDR Regulations, an issuer is mandated to make disclosure on key accounting ratios viz. earnings per share (EPS), price to earnings (P/E), average return on net worth (RoNW) and net asset value (NAV) of the Company, including comparison of such accounting ratios with the industry averages and with the accounting ratios of the peer group i.e. companies of comparable size in the same industry.

2.5. With regard to announcement of issue price / price band, the regulations provide for issuer to arrive at the issue price / price band in consultation with the Book Running Lead Managers (BRLMs). It is observed that the issue price / price band is decided primarily on the basis of one or more of the following disclosed factors:

a) Traditional financial parameters such as Price to Earnings ratio, Net Asset Value, Return on Net Worth , Revenue, Profit etc.,

b) Trends in Key Performance Indicators (KPIs) over the past years,

c) Valuations done at the earlier rounds of fund raising from investors,

d) Market conditions and other macro & micro economic factors.

2.6. Under the extant regulations, the issuer companies are prohibited from future projections of financials and KPIs for marketing of an issue, since making the same are subjective and speculative in nature and merely reflect the view of the company / analyst. Therefore, the disclosures forming the basis for issue price in the offer documents cannot be based on any future projections.

2.7. At the same time, it is observed that the disclosure of traditional financial parameters such as EPS, P/E, RoNW, NAV etc., become redundant in cases where the Issuer Company is yet to turn profitable. It thus becomes imperative that the disclosures of traditional financial parameters / ratios in 'Basis for Issue Price', be supplemented with adequate disclosure of various non-traditional parameters like the key performance indicators (KPIs) and parameters such as price per share of issuer based on past transactions and past fund raising from investors by the issuer company.

2.8. For IPOs, SEBI follows disclosure based regime and cannot dictate IPO pricing. However, with aforesaid disclosures following objective can be achieved to a large extent:-

- Comprehensive information for investors to make informed decisions.
- Facilitating information symmetry between pre-IPO investors and public investors.
- Overcoming the deficiency in traditional valuation methods which may not be appropriate for loss making companies.
- Addressing challenges in valuation, mis-pricing which may manifest after listing, by ensuring comprehensive disclosures.

2.9. This issue was deliberated and examined by a sub-group of the Primary Market Advisory Committee (PMAC) of SEBI and the recommendations made by the sub-group were considered by the PMAC.

2.10. Pursuant to the deliberations, PMAC recommended that disclosures on Key Performance Indicators (KPIs) and details of price per share of issuer based on past transactions and past fund raising by the issuer company should also be made, under the section ‘Basis for Issue Price’. The PMAC desired that a public consultation may be carried out on its recommendations by SEBI before taking a considered view in the matter.

2.11. In view of the above, a consultation paper was placed on the website of SEBI on February 18, 2022, seeking public comments on proposals made therein based on recommendations of PMAC. The consultation paper is placed at **Annexure-I**.

2.12. In response to the consultation paper, comments have been received from 32 entities as tabulated below:

Sr. no.	Entity Type	Number
1.	Individuals	5
2.	Merchant bankers	6
3.	Law firms	3
4.	Unlisted public & private companies - New Age Tech. Companies (NATCs) and other companies	5
5.	Industry associations–FICCI, CII, NASSCOM etc.	4
6.	Others – Trading Members, Consultancy firms, Accounting firms, etc.	7
7.	The Institute of Chartered Accountants of India (ICAI)	1
8.	The Institute of Cost Accountants of India (ICMAI)	1

The public comments so received and relevant to the consultation paper have been compiled and tabulated at **Annexure-II**.

2.13. The following paragraphs delve into the existing provisions, recommendation of PMAC, public comments, analysis and proposals for the consideration of the Board.

3. <u>Disclosures under ‘Basis for Issue Price’ section in offer document -</u>

A. Disclosure of Key Performance Indicators (KPIs).

B. Disclosure on details of pricing of shares by the issuer based on past transactions and past fund raising from investors prior to IPO.

A. <u>Disclosure of Key Performance Indicators (KPIs):</u>

3.1. <u>Existing provisions:</u>

i. Presently under ‘Basis for Issue Price’, issuer is required to disclose key accounting ratios as prescribed under para 9(K) under Part A of Schedule VI of ICDR Regulations. An illustrative format for disclosure of such accounting ratios is given hereunder:

1.	**Adjusted Earnings Per Share (EPS) and Adjusted Diluted EPS**	
	Past 3 Financial Year (Year wise) & Weighted Average	
2.	**Price to Earnings Ratio (P/E) in relation to Issue Price**	
	Based on Financial Year 3 EPS (latest financial year)	
	Industry P/E (High/Low/Average) * (*Indicate relevant source)	
3.	**Return on Net Worth (RoNW)**	
	Past 3 Financial Year (Year wise) & Weighted Average	
4.	**Net Asset Value (NAV) (pre and post issue)**	

ii. Issuer is also required to disclose comparison of accounting ratios of the issuer as mentioned above with the industry average and with the accounting ratios of the peer group i.e. companies of comparable size in the same industry, indicating the source from which industry average and accounting ratios of the peer group have been quoted.

Extract of ‘Basis for Issue Price’ section prescribed under para 9(K) under Part A of Schedule VI of ICDR Regulations is placed at **Annexure-III.**

3.2. <u>Recommendation of PMAC:</u>

i. PMAC after deliberation in the meeting held on February 11, 2022, recommended that the Issuer Company should apart from disclosing the aforesaid financial ratios under the ‘Basis for Issue Price’ section of DRHP/RHP as per the extant requirements, also make the disclosure of such key performance indicators (KPIs) of the business of the Issuer Company that have been considered or have a bearing for arriving at the basis for issue price.

ii. Accordingly, PMAC recommended that the Issuer Company should disclose the following :

1. Disclose relevant KPIs including material KPIs disclosed before the pre-IPO Investors during the three years prior to the IPO. Provide explanation for how these KPIs contribute to form the basis for issue price.
2. KPIs stated by Issuer Company shall be described and defined clearly, consistently and precisely. KPIs should not be misleading.
3. All KPIs to be certified / audited by auditors.
4. Comparison of KPIs with Indian listed peer companies and/ or global listed peer companies (wherever available).
5. Comparison of KPIs over time to be explained.

iii. Accordingly, public comments were sought on the following aspects:

1. Is there a need for disclosure of KPIs in 'Basis for Issue Price' section in offer document by the Issuer Company?
2. If yes, whether KPIs should be certified / audited by: (a) statutory auditors only or (b) KPIs can also be certified / audited by independent Charted Accountant?
3. Whether a 3 year look back period for KPIs is adequate? Any suggestion on increasing / decreasing this look back period? Any other suggestion on this point?
4. Whether comparison with global peers would be appropriate as some of the KPIs would be relevant for that country/ economy they operate in. If yes, whether issuer should make comparison with global peers with appropriate notes to explain such differences?

iv. Subsequent to public consultation process, all the comments received from public on the point of disclosure of all such KPIs presented to pre-IPO investors, were deliberated in PMAC. PMAC in its meeting held on August 4, 2022, after due deliberations recommended that the Audit Committee of issuer may be made responsible to confirm that all the relevant and material KPIs that have been shared with any pre-IPO investor at any point of time during the three years prior to IPO are disclosed under 'Basis for Issue Price' section of the offer document.

3.3. Public Comments and Analysis (public comments received from 32 entities as tabulated at para 2.12):

1) Is there a need for disclosure of KPIs in 'Basis for Issue Price' section in offer document by the Issuer Company?

i. 25 commentators have offered specific comments on this aspect. Analysis of the comments is as below:

KPI disclosure in 'Basis for Issue Price' section	No. of Commentators
KPIs should be disclosed	20
No need to disclose KPIs as it is already being disclosed in various sections of the offer document	5

ii. Majority of the commentators agree with the inclusion of KPIs and are of the view that KPIs to be disclosed should be decided by the Issuer Company in consultation with the Lead Managers of the issue.

iii. Majority of the commentators are of the view that KPIs should be mandatorily disclosed by loss making companies and for profitable companies disclosure of KPIs can be made voluntary. A few commentators have also suggested that KPIs should be disclosed by all issuer companies.

iv. A few commentators, while agreeing to the inclusion of KPIs, are of the view that KPIs should not be linked with Issue Price and should be disclosed separately in the offer document.

Analysis:

i. It is observed that the financial parameters/ratios as currently required to be disclosed in 'Basis for Issue Price', represents a typical evaluation criteria for those companies that take profits into consideration and such parameters do not exactly correlate with the companies who are yet to turn profitable, who are seeking to scale up their business in coming years, hence, such financial parameters can hardly serve as basis for issue price for such issuer companies. These financial parameters may not also help the investors in taking investment decision with respect to investing in an issue by a company which is yet to break-even.

ii. New age technology company (NATCs) / startup companies by their very nature of operation, in their growth phase opt for scale over profits and thus, generally break even over a long business cycle. Thus, contrary to established businesses, scale is often considered to be the means for profit rather than profit being the primary objective of such NATCs in the initial years of their operations. Prospective investors in such companies are expected to consider long-term potential market leadership, rather than present profitability.

iii. Even for a profitable issuer company, while financial numbers can be used to measure financial performance of the company, key performance indicators would additionally aid the investors to take better and more informed decision for investment in the said company.

iv. Thus, appropriate disclosures on all parameters that are relevant for assessing the issuer's performance (for both profitable and loss making companies) are required for helping investors to take informed decision. There is a need to disclose KPIs by all issuers, be it profit or loss making, in their offer documents.

v. With regard to the few comments received from public stating that there is no need to disclose KPIs under 'Basis for issue price' as they are already being disclosed in various sections of the offer document, it may be noted even though there is an entire section in offer document dedicated to financial information about the issuer company, the key financial ratios like EPS, P/E, RoNW, NAV etc. are still required to be disclosed under 'Basis for issue price' for focused attention and better appreciation by the investor. Hence disclosure on KPI's need to be included in the offer document under 'Basis for issue price' only so as to provide relevant information to the investors in one earmarked section to facilitate investors' understanding about issuer company's performance on all metrics – both on financial and non-financial measures.

2) <u>If yes, whether KPIs should be certified / audited by: (a) statutory auditors only or (b) KPIs can also be certified / audited by independent Chartered Accountant (ICA)?</u>

i. 28 commentators have offered specific comments on this aspect. Analysis of the comments is as below:

KPIs to be certified by	**No. of Commentators**
Statutory Auditor or Independent Chartered Accountant (ICA)	23
Lead Merchant Banker or Independent Credit Rating Agency	1
Yes but Cost Accountant may also be allowed	1
KPIs needs to be audited - No specific mention by commentator regarding who should audit	1
No requirement of separate audit/certificate for KPIs as long as these are coming from the audited books	1
No requirement	1

ii. Majority of the commentators (26 out of 28 commentators), agree with the requirement of audit/certification of KPIs.

iii. The Institute of Cost Accountants of India (ICMAI) has provided comment that in addition to Statutory Auditor or ICA, Cost Accountants may also be allowed for KPI certification.

iv. A few of the commentators, while agreeing with the requirement of KPI audit/certification, are of the view that Statutory Auditor or ICA should only audit/certify the KPIs related to Financial Statements and KPIs related to operational measures should be audited/certified by other independent domain experts.

<u>Consultation with the Institute of Chartered Accountants of India (ICAI) and the Institute of Cost Accountants of India (ICMAI):</u>

i. ICAI stated that the KPIs are numerical measures of the issuer company's historical financial or operational performance and its practitioners can certify such measures for financials disclosed in accordance with Indian Accounting Standards ("Ind AS") or Accounting Standards ("AS").

ii. ICAI stated that its practitioners can also certify financial measures which are not defined under Ind AS or AS, as well as the Non-Financial measures which are quantitative information that are obtained from the accounting records and are subjected to same controls as those financial measures, as these non-financial quantitative measures are also reported in the financial statements.

iii. However, ICAI represented that the Operational measures i.e. measures that have been obtained from the records of the issuer company, which are not required to be part of financial reporting process and hence, are not subjected to any control do form part of Company's KPI items. Generally such items are not relevant while conducting an audit of the financial statements of the issuer company. Hence, if any KPI under this category is relevant in relation to the basis for issue price, then the issuer company should engage relevant industry expert to report on such Operational KPIs.

iv. SEBI has also received representation from The Institute of Cost Accountants of India (ICMAI) to consider including 'Cost and Management Accountants (CMAs)' for audit and certification of KPIs, especially the operational KPIs.

v. ICMAI has submitted that the cost and management accounting methodologies applied in organizations, measure the activity/function/process-wise consumption of economic resources and support the accountability of business performance for achieving competitiveness. Thus the CMAs are able to audit even the Operational KPIs.

vi. The ICMAI has also stated that CMAs are equipped to look into, to conduct audit & certify KPIs, more particularly the Operational KPIs as they are skilled and adequately experienced to audit & analyze the financial & non-financial parameters of a business entity in respect of each of its business vertical, operation, and product or service segment, focusing purely on efficiency, effectiveness, resource/cost management, profitability, and sustainability.

Analysis:

i. After considering the public comments and interactions held with members of expert bodies including The Institute of Chartered Accountants of India (ICAI), and The Institute of Cost Accountants of India (ICMAI), it can be concluded that before making disclosure of any KPI on any quantitative parameter or measures in the offer document, such KPIs and the quantitative parameters thereof should be certified by independent expert agencies / professionals.

ii. Further, to impart credibility to such disclosures, the audit committee should identify the KPIs that need to be included in the offer document.

iii. Accordingly, KPIs proposed to be disclosed in the offer document need to be certified by any one or more of the following:-

- Statutory Auditor
- Independent Chartered Accountant having peer review certificate
- Independent Cost Accountant having peer review certificate.

3) Whether a 3 year look back period for KPIs is adequate? Any suggestion on increasing / decreasing this look back period? Any other suggestion on this point?

i. 26 commentators have offered specific comments on this aspect. Analysis of the comments is as below:

Whether a 3 year look back period for KPIs is adequate?	**No. of Commentators**
Agree with the requirement of look back period	22
There should be flexibility available with the issuer to determine look back period based on relevancy of KPIs at the time of IPO	4

ii. While all commentators agreed with the requirement of a look back period a few commentators suggested that there should be flexibility available with the issuer to determine the look back period based on relevancy of KPIs at the time of IPO.

iii. Few commentators are of the view that KPIs disclosed by the company at previous rounds of fund-raising before the IPO, may not be relevant at the time of IPO, considering the rapidly changing business environment and thus issuer and LM may decide to disclose only relevant KPIs at the time of IPO instead of all KPIs disclosed to pre-IPO investors.

iv. Some commentators have also suggested that KPIs provided to different pre-IPO investors may have been different, based on their specific internal fund requirements and therefore it should be at the discretion of the issuer to decide as to which KPI is material or relevant at the time of IPO.

Analysis:

i. Public comments received as highlighted above on disclosure of KPIs disclosed to pre-IPO investors were also deliberated in the PMAC. PMAC deliberated and recommended that it may not be necessary for an issuer to disclose all KPIs disclosed to pre-IPO investors since prior to listing different investors have different views for assessing the company and accordingly the information is provided by the company to such investors on basis of their specific demand. Therefore, assessment of Issuer Company based on adequate and auditable KPIs for the proposed IPO may be completely different from the point of view of the prospective investors, than the early stage pre-IPO investors.

ii. The PMAC has therefore recommended that the Audit Committee of the issuer should confirm that all relevant and material KPIs that have been shared with any pre-IPO investor at any point of time during the three years prior to IPO are disclosed under ‘Basis for Issue Price’ section.

iii. After carefully examining the aforesaid recommendation of PMAC, SEBI is of the view that instead of leaving it to the discretion of the audit committee of the issuer company to decide the relevant and material KPIs, that may be susceptible to subjective decision, disclosure of all the KPIs previously disclosed to pre-IPO investors shall aid the prospective investors with same insight that the pre-IPO investors had, before investing in the IPO. Therefore, it is appropriate that all the KPIs pertaining to the issuer company as disclosed to the earlier investors at any point of time during the three years period prior to IPO are duly disclosed under ‘Basis for Issue Price’ section of the offer document.

iv. Further, it is desirable that the Audit Committee of the issuer company shall confirm that verified and audited details for all KPIs pertaining to the issuer company that have been disclosed to previous investors at any point of time during the three years period prior to IPO, have been disclosed under ‘Basis for Issue Price’ section of the offer document.

v. Additionally, for the KPIs that are disclosed in other sections of the offer document like ‘Our Business’ and ‘Management Discussion and Analysis’, suitable cross references of such KPIs disclosed in other sections of offer document need to be provided in the ‘Basis for Issue Price’ section, to facilitate a comprehensive understanding of all the quantifiable and verified performance metrics of the company that have critical bearing on the basis for determination of issue price.

4) Whether comparison with global peers would be appropriate as some of the KPIs would be relevant for that country/ economy they operate in. If yes, whether issuer should make comparison with global peers with appropriate notes to explain such differences?

i. 24 commentators have offered specific comments on this aspect. An analysis of the comments is as below:

Comparison with global peers	**No. of Commentators**
Agree with the requirement	16
Not agree as global companies may not be comparable or KPIs are very wide in scope and specific to a Company to be compared with other companies	8

ii. Majority (16 out of 24) of the commentators are of the view that KPIs being reported by global peers, if any, should be adopted and disclosed by the issuer. However, comparison should not be made mandatory and flexibility should be provided to the issuer.

iii. Commentators have suggested that in case where any comparison with global peers is disclosed, adequate disclaimers and rationale should be provided for any adjustments made to make such KPIs comparable, with the KPIs of the issuer company.

iv. It is also suggested that comparison with domestic peers should be made by the issuer, if information about the domestic peers are available from verifiable sources.

Analysis:

i. For the KPIs that are to be disclosed under 'Basis for Issue Price' section, the issuer and the lead merchant bankers (LMs) should also disclose a comparison with Indian listed peer companies and/ or global listed peer companies, as the case may be (where ever available).

ii. Peer companies set shall include companies of comparable size, in the same industry or with similar business model (if one to one comparison is not possible, appropriate notes to explain the differences may be included).

5) Additional recommendations of PMAC :

i. Comparison of KPIs over time needs to be explained, based on additions or dispositions to the business, if any. For e.g., in case the Issuer Company has undertaken a material acquisition or disposition of assets / business for the periods that are covered by the KPIs, the KPIs shall reflect that and explain the same.

ii. The Issuer should continue to disclose KPIs, being disclosed in the 'Basis for Issue Price' section of the offer document, on a periodic basis at-least once in a year (as determined by the Issuer), for a duration that is at least the later of (i) one year after the listing date or (ii) till the utilization of the issue proceeds as per the disclosure made in the objects of the issue section of the prospectus. Any change in these KPIs, during the aforementioned period, should be explained by the issuer. These ongoing KPIs should continue to be certified by a member of an expert body.

3.4. Proposal for consideration of the Board:

i. Based on the PMAC recommendations, public comments and analysis made thereof as above, the following disclosures / requirements are proposed be included in the section titled 'Basis for Issue Price' after clause 2 at para 9(K) under Part A of Schedule VI of ICDR Regulations:

"(3) For all the Key Performance Indicators (KPIs) disclosed in the offer document, issuer and the lead merchant bankers (LMs) shall ensure the following:

a) KPIs stated in the offer document and the terms used in KPIs shall be defined consistently and precisely in the "Definitions and Abbreviations" section of the offer document using simple English terms / phrases so as to enable easy understanding of the contents. Technical terms, if any, used in explaining the KPIs shall be further clarified in simple terms.

b) KPIs disclosed in the offer document shall be approved by “Audit Committee” of the Issuer Company.

c) KPIs disclosed in the offer document shall be certified by the statutory auditor(s) or Chartered Accountants or firm of Charted Accountants, holding a valid certificate issued by the Peer Review Board of the Institute of Chartered Accountants of India or by Cost Accountants, holding a valid certificate issued by the Peer Review Board of the Institute of Cost Accountants of India.

d) Certificate issued with respect to KPIs shall be included in the list of material documents for inspection.

e) For each KPI being disclosed in the offer document, the details thereof shall be provided for period which will be co-terminus with the period for which the restated financial information is disclosed in the offer document.

f) KPIs stated in the offer document should be comprehensive and explanation shall be provided on how these KPIs have been used by the management historically to analyse, track or monitor the operational and/or financial performance of the issuer.

g) Comparison of KPIs over time needs to be explained based on additions or dispositions to the business, if any. For e.g. in case the Issuer Company has undertaken a material acquisition or disposition of assets / business for the periods that are covered by the KPIs, the KPIs shall reflect and explain the same.

h) For ‘Basis for Issue Price’ section, the following disclosures shall be made :

1. Issuer shall disclose all the KPIs pertaining to the issuer company that have been disclosed to its investors at any point of time during the

three years period prior to its IPO (three years period prior to the date of filing of the offer document [DRHP / RHP]).

2. The Audit Committee of the issuer shall confirm that verified and audited details for all the KPIs pertaining to the issuer company that have been disclosed to the earlier investors at any point of time during the three years period prior to IPO are disclosed under ‘Basis for Issue Price’ section of the offer document.

3. Issuer Company in consultation with the lead merchant banker may make disclosure of any other relevant and material key performance indicators (KPIs) of the business of the issuer as it deems appropriate that have a bearing for arriving at the basis for issue price.

4. Cross reference of KPIs disclosed in other sections of the offer document, shall be provided in the ‘Basis for Issue Price’ section of the offer document.

5. For the KPIs disclosed under the ‘Basis for Issue Price’ section, the issuer and the lead merchant bankers (LMs) shall also disclose comparison with Indian listed peer companies and/ or global listed peer companies, as the case may be (wherever available). The set of peer companies shall include companies of comparable size, from the same industry and with similar business model (if one to one comparison is not possible, appropriate notes to explain the differences may be included).

i) The Issuer shall continue to disclose the KPIs, which were disclosed in the ‘Basis for Issue Price’ section of the offer document, on a periodic basis, at-least once in a year (or for any lesser period as determined by the Issuer Company), for a duration that is at least the later of (i) one year after the listing date or period specified by the Board; or (ii) till the utilization of the issue proceeds as per the disclosure made in the objects of the issue section of the prospectus. Any change in these KPIs, during the aforementioned period, shall be explained by the issuer. These ongoing KPIs shall continue to be certified by a member of an expert body as per para 3(c) above."

B. <u>Disclosure on details of pricing of shares by the issuer based on past transactions and past fund raising from investors by issuer prior to IPO :</u>

3.5. <u>Existing provisions & issues for consideration:</u>

i. In terms of ICDR Regulation, Issuer Company discloses capital history covering details of all past allotments along with the issue price, date of allotment, allottee name etc. in 'Capital Structure' section of the offer document (as mentioned at Para 8 under Part A of Schedule VI of ICDR Regulations).

ii. Thus, details of fund raising through pre-IPO issuances by company are duly reflected in the Capital Structure section of offer document. However, to ascertain price per share made to pre-IPO investors of company at the time of such issuance, an investor needs to compute such information, as the same is not disclosed directly in the offer document. Also, secondary transactions made by investors during pre-IPO phase are not available for disclosure in the offer document.

iii. Presently, the 'Basis for Issue Price' section does not cover the details of price per share of issuer company based on the transactions done in past. Thus, details of past transactions and past fund raising from investors are not disclosed under 'Basis for issue price', though disclosure of such details may aid the investors to take an informed decision before making investment.

3.6. <u>Recommendation of PMAC:</u>

i. PMAC pursuant to deliberations has recommended that in 'Basis for Issue Price' section, the issuer should make disclosure of :

a. Price per share of Issuer Company based on secondary sale / acquisition of shares (equity/convertible securities) excluding gifts, in the 18 months period prior to the date of filing of the DRHP / RHP [where either acquisition or sale is equal to or more than 5% of the fully diluted paid-up share capital of the Issuer Company in a single transaction or a group of transactions in a short period of time].

b. Price per share charged by the Issuer Company based on primary / new issue of shares (equity/convertible securities) in the 18 months period prior to the date of filing of the DRHP / RHP [equal to or more than 5% of the fully diluted paid-up share capital of the Issuer Company (calculated on the pre-issue capital on the date of allotment), in a single transaction or a group of transactions in a short period of time].

c. With reference to the above two points at (i) and (ii), disclosure of floor price and cap price being [●] times the weighted average cost of acquisition (WACA) based on primary/ secondary transaction(s) may be disclosed in the following manner:

	Floor Price Rs. [●]	**Cap Price Rs. [●]**
WACA* of Primary issuance in last 18 months#	[●] times	[●] times
WACA*of Secondary transactions in last 18 months#	[●] times	[●] times
*WACA – Weighted average cost of acquisition #Equivalent or more than 5% of the fully diluted paid-up share capital [excluding employee stock options granted but not vested]		

d. Issuer shall offer detailed explanation for offer price / cap price being [●] times of the Primary issuance price / Secondary transaction price (as stated in table above), as the case may be, along with comparison of the Issuer's KPIs and financials ratios viz. EPS, P/E Ratio, Return on net worth, Net asset value etc. for the last two full financial years and for the interim period (if any) included in the offer document. This will enable the investors to have a comparative view of the KPIs and other financial ratios for the same period.

ii. <u>Accordingly, public comments were sought on following aspect:</u>

1. Whether an 18 months look back period for past transactions and disclosure of valuation (price per share) based on such transactions is adequate? Any suggestion on increasing / decreasing this look back period?

3.7. <u>Public Comments and Analysis:</u>

1) <u>Whether an 18 months look back period for past transactions and disclosure of valuation (price per share) based on such transactions is adequate? Any suggestion on increasing / decreasing this look back period?</u>

i. 21 commentators have offered specific comments on the aspect of whether 18 months look back period for past transactions and disclosure of price per share based on such transactions, is adequate.

ii. Majority of the commentators have agreed that pricing of shares by the issuer based on past transactions should be disclosed by the issuer and a look back period of 18 months is adequate. Analysis of the comments is as below:

18 months look back period is adequate for past transactions	**No. of Commentators**
Agree	19
Not agree	2

iii. Majority of the commentators are in agreement that details of price per share based on previous transactions are necessary for investors to take an informed decision as to whether issue price is adequate/reasonable to them and considering the dynamic nature of business models, a look back period of 18 months may be adequate for all issuers.

iv. While majority have agreed with the look back period of 18 months, many commentators are of the view that such disclosure should be limited only to the pre – IPO primary issuance of equity shares by the issuer, as the issuer may not have access to the details of pre- IPO secondary transactions of its shares.

Analysis:

i. Comments have been received that since secondary transactions details may not be available with issuer, the transactions by promoters and shareholders selling shares through offer for sale in IPO may only be covered as the issuer may not have details of secondary transactions of all the investors. Also, details of transactions done by individual investors may not be subject to any pricing of shares by the issuer. Accordingly, secondary transactions of promoter, promoter group, shareholders selling shares through offer for sale in IPO and shareholder having nomination right(s) may only be included.

ii. Comments have been received that secondary transactions details may not be important for the purpose of pricing of shares by issuer as secondary transaction can be done between two individuals as well. It is stated that a threshold of 5% will ensure that only transactions which are significant in size are covered in disclosure related to secondary transactions.

iii. Comments have been received that a group of transactions within a short period of time may be adequately defined. Accordingly, group of transactions in short period of time can be rephrased as multiple transactions combined together over a span of rolling 30 days.

iv. Comments have been received that transactions for 3 years may be covered, as in some cases there may be no transactions in the last 18 months. Since, the intent is to capture transactions which may cover the latest pricing of shares by the issuer, an 18 months period was decided for disclosure. However, in view of the aforesaid suggestion, in case there are no such secondary transactions to report in the last 18 months, then information shall be disclosed for pricing of shares by the Issuer Company based on last 5 primary or secondary transactions, not older than 3 years prior to the date of filing of the DRHP / RHP, irrespective of the size of transactions.

v. Comments have been received that the Issuer should offer detailed explanation for offer price / cap price being [●] times of WACA for the last three full financial years and stub period (if any). Since WACA can cover transactions of last three years explanation can be offered in the document for last three full financial year and stub period (if any).

vi. Further, Issuer should also offer explanation for offer price / cap price being [●] times of WACA of Primary issuance / Secondary transaction in view of the external factors (as the case may be) which may have influenced the pricing of the issue.

2) Additional recommendations of PMAC :

i. Recommendation of the Committee of Independent Directors shall be included in the price band advertisement mentioning that the price band is justified based on the quantitative factors / KPIs disclosed in 'Basis for Issue Price' section vis-à-vis the WACA of primary issuance / secondary transaction(s) disclosed in 'Basis for Issue Price' section.

3.8. Proposal for consideration of the Board :

i. Based on the PMAC recommendations, public comments and analysis made in the foregoing paragraphs, the following disclosures / requirements are proposed to be included in the section titled 'Basis for Issue Price' at para 9(K) under Part A of Schedule VI of ICDR Regulations:

"(4) For Issue Price, floor price or price band, as the case may be, disclosed in the offer document, the issuer and the lead merchant banker shall disclose the details with respect to the following :

a) Price per share of Issuer Company based on primary / new issue of shares (equity/convertible securities), excluding shares issued under ESOP/ESOS and issuance of bonus shares, during the 18 months preceding the date of filing of the DRHP / RHP, where such issuance is equal to or more than 5% of the fully diluted paid-up share capital of the Issuer Company (calculated based on the pre-issue capital before such transaction/s and excluding employee stock options granted but not vested), in a single transaction or multiple transactions combined together over a span of rolling 30 days;

and

b) Price per share of Issuer Company based on secondary sale / acquisition of shares (equity/convertible securities), where promoter / promoter group entities or shareholder(s) selling shares through offer for sale in IPO or shareholder(s) having the right to nominate director(s) in the Board of the Issuer Company, are a party to the transaction (excluding gifts), during the 18 months preceding the date of filing of the DRHP / RHP, where either acquisition or sale is equal to or more than 5% of the fully diluted paid-up share capital of the Issuer Company (calculated based on the pre-issue capital before such transaction/s and excluding employee stock options granted but not vested), in a single transaction or multiple transactions combined together over a span of rolling 30 days .

Note: 1. In case there are no such transactions to report under (a) and (b) above, then information shall be disclosed for price per share of the Issuer Company based on last 5 primary or secondary transactions (secondary transactions where promoter / promoter group entities or shareholder(s) selling shares through offer for sale in IPO or shareholder(s) having the right to nominate director(s) in the Board of the Issuer Company, are a party to the transaction), not older than 3 years prior to the date of filing of the DRHP / RHP, irrespective of the size of transactions.

2. Price per share disclosed, shall be adjusted for corporate actions e.g. split, bonus etc. done by the Issuer Company.

c) Floor price and cap price being [●] times the weighted average cost of acquisition (WACA) based on primary/ secondary transaction(s) as disclosed in terms of clause (a) and (b) or Note 1 above, shall be disclosed in the following manner:

Past Transactions	**WACA (in Rs.)**	**IPO Floor Price in Rs. [●]**	**IPO Cap Price in Rs. [●]**
WACA of Primary issuance		[●] times	[●] times
WACA of Secondary transactions		[●] times	[●] times

d) Issuer shall offer detailed explanation for offer price / cap price being [●] times of WACA of Primary issuance price / Secondary transaction price, along with comparison of issuer's KPIs and financials ratios for the last three full financial years and stub period (if any) included in the offer document.

e) Issuer shall also offer explanation for offer price / cap price being [●] times of WACA of Primary issuance price / Secondary transaction price in view of the external factors which may have influenced the pricing of the issue, if any.

f) Table at para (c) above shall be disclosed in the Price Band Advertisement under 'Risks to Investors' section. Recommendation of a Committee of Independent Directors to be included in the price band advertisement stating that the price band is justified based on quantitative factors / KPIs disclosed in 'Basis for Issue Price' section vis-à-vis the WACA of primary issuance / secondary transaction(s) disclosed in 'Basis for Issue Price' section.**"**

3.9. Implementation: The proposal is placed before the Board to implement the aforesaid amendments which shall be made effective for all issues where RHP is filed with Registrars of Companies (ROC) on or after the date of the notification in the official gazette.

4. Proposal

4.1. The Board is requested to consider and approve the proposals at para 3.4, para 3.8 and para 3.9 above and related amendments to SEBI (Issue of Capital and Disclosure Requirement) Regulations, 2018, as contained in the draft amendments placed at **Annexure IV**.

4.2. The Board is requested to authorize the Chairman to take consequential and incidental steps to give effect to the decisions of the Board.

Annexure - I

Discussion paper on *"Disclosures for 'Basis of Issue Price' section in offer document under SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018"* is a publicly available document and same is placed on SEBI website.

Annexure-II

(This has been excised for reasons of confidentiality)

Annexure-III

SEBI (ICDR) Regulations, 2018 is a publicly available document and same is placed on SEBI website.

Annexure-IV

(This shall be notified at a later date)