

⁵¹[⁵² CHAPTER XB
ISSUE OF SPECIFIED SECURITIES BY SMALL AND MEDIUM ENTERPRISES]

Applicability.

⁵³[106M.] (1) An issuer whose post-issue face value capital does not exceed ten crore rupees shall issue its specified securities in accordance with provisions of this Chapter.

(2) An issuer, whose post issue face value capital is more than ten crore rupees and upto twenty five crore rupees, may also issue specified securities in accordance with provisions of this Chapter.

(3) The provisions of these regulations, in respect of the matters not specifically dealt or excluded under this Chapter, shall mutatis mutandis apply to any issue of specified securities under this Chapter:

Provided that provisions of sub-regulations (1), (2) and (3) of regulation 6, regulation 7, regulation 8, regulation 9, regulation 10, regulation 25, regulation 26, regulation 27 and sub-regulation (1) of regulation 49 of these regulations shall not apply to an issue of specified securities made under this Chapter.

Definitions.

⁵⁴[106N.] (1) In this Chapter, unless the context otherwise requires, -

(a) “Main Board” means a recognized stock exchange having nationwide trading terminals, other than SME exchange;

(b) “nominated investor” means a qualified institutional buyer or private equity fund, who enters into an agreement with the merchant banker to subscribe to the issue in case of under-subscription or to receive or deliver the specified securities in the market-making process;

Explanation: “private equity fund” means a fund registered with any regulatory authority or a fund established by any person registered with any regulatory authority;

(c) “SME exchange” means a trading platform of a recognised stock exchange having nationwide trading terminals permitted by the Board to list the specified securities issued in accordance with this Chapter and includes a stock exchange granted recognition for this purpose but does not include the Main Board;

(2) All other words and expression used in this Chapter but not defined under sub-regulation (1) shall derive their meaning from regulation 2 of these regulations.

Filing of offer document and due diligence certificate.

⁵⁵[106O.] (1) The issuer making a public issue or rights issue of specified securities under this Chapter shall not file the draft offer document with the Board:

⁵¹ Substituted for “CHAPTER XA” by SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2011, w.e.f. 23.09.2011.

⁵² Inserted by SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2010, w.e.f. 13.04.2010.

⁵³ Substituted for “106A” by SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2011, w.e.f. 23.09.2011.

⁵⁴ Substituted for “106B”, *ibid.*

⁵⁵ Substituted for “106C”, *ibid.*

Provided that the issuer shall file a copy of the offer document with the Board through a merchant banker, simultaneously with the filing of the prospectus with the SME exchange and the Registrar of Companies or letter of offer with the SME Exchange:

Provided further that the Board shall not issue any observation on the offer document.

(2) The merchant banker shall submit a due-diligence certificate as per Form A of Schedule VI including additional confirmations as provided in Form H of Schedule VI alongwith the offer document to the Board.

(3) The offer document shall be displayed from the date of filing in terms of sub-regulation (1) on the websites of the Board, the issuer, the merchant banker and the SME exchange where the specified securities offered through the offer document are proposed to be listed.

Underwriting by merchant bankers and underwriters.

⁵⁶[106P.] (1) The issue made under this Chapter shall be hundred per cent. underwritten.

Explanation: The underwriting under this regulation shall be for the entire hundred percent of the offer through offer document and shall not be restricted upto the minimum subscription level.

(2) The merchant banker/s shall underwrite at least fifteen per cent of the issue size on his/ their own account/s.

(3) The issuer in consultation with merchant banker may appoint underwriters in accordance with Securities and Exchange Board of India (Underwriters) Regulations, 1993 and the merchant banker may enter into an agreement with nominated investor indicating therein the number of specified securities which they agree to subscribe at issue price in case of under-subscription.

(4) If other underwriters fail to fulfill their underwriting obligations or other nominated investors fail to subscribe to unsubscribed portion, the merchant banker shall fulfill the underwriting obligations.

(5) The underwriters other than the merchant banker and the nominated investors, who have entered into an agreement for subscribing to the issue in case of under-subscription, shall not subscribe to the issue made under this Chapter in any manner except for fulfilling their obligations under their respective agreements with the merchant banker in this regard.

(6) All the underwriting and subscription arrangements made by the merchant banker shall be disclosed in the offer document.

(7) The merchant banker shall file an undertaking to the Board that the issue has been hundred per cent. underwritten along with the list of underwriters and nominated investors indicating the extent of underwriting or subscription commitment made by them, one day before the opening of issue.

Minimum Application Value.

⁵⁷[106Q.] The issuer shall stipulate in the offer document, the minimum application size in terms of number of specified securities which shall not be less than one lakh rupees per application.

Minimum Number of Allottees.

⁵⁸[106R.] No allotment shall be made pursuant to any initial public offer made under this Chapter, if the number of prospective allottees is less than fifty.

Listing of specified securities.

⁵⁹[106S.] (1) Specified securities issued in accordance with this Chapter shall be listed on SME exchange.

⁵⁶ Substituted for "106D" by SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2011, w.e.f. 23.09.2011.

⁵⁷ Substituted for "106E", *ibid.*

⁵⁸ Substituted for "106F", *ibid.*

⁵⁹ Substituted for "106G", *ibid.*

(2) Where any listed issuer issues specified securities in accordance with provisions of this Chapter it shall migrate the specified securities already listed on any recognized stock exchange/s to the SME exchange.

Migration to SME exchange.

⁶⁰[106T.] A listed issuer whose post-issue face value capital is less than twenty five crore rupees may migrate its specified securities to SME exchange if its shareholders approve such migration by passing a special resolution through postal ballot to this effect and if such issuer fulfils the eligibility criteria for listing laid down by the SME exchange:

Provided that the special resolution shall be acted upon if and only if the votes cast by shareholders other than promoters in favour of the proposal amount to at least two times the number of votes cast by shareholders other than promoter shareholders against the proposal.

Migration to Main Board.

⁶¹[106U.] (1) An issuer, whose specified securities are listed on a SME Exchange and whose post issue face value capital is more than ten crore rupees and upto twenty five crore rupees, may migrate its specified securities to Main Board if its shareholders approve such migration by passing a special resolution through postal ballot to this effect and if such issuer fulfils the eligibility criteria for listing laid down by the Main Board:

Provided that the special resolution shall be acted upon if and only if the votes cast by shareholders other than promoters in favour of the proposal amount to at least two times the number of votes cast by shareholders other than promoter shareholders against the proposal.

(2) Where the post issue face value capital of an issuer listed on SME exchange is likely to increase beyond twenty five crore rupees by virtue of any further issue of capital by the issuer by way of rights issue, preferential issue, bonus issue, etc. the issuer shall migrate its specified securities listed on SME exchange to Main Board and seek listing of specified securities proposed to be issued on the Main Board subject to the fulfilment of the eligibility criteria for listing of specified securities laid down by the Main Board:

Provided that no further issue of capital by the issuer shall be made unless –

- (a) the shareholders of the issuer have approved the migration by passing a special resolution through postal ballot wherein the votes cast by shareholders other than promoters in favour of the proposal amount to at least two times the number of votes cast by shareholders other than promoter shareholders against the proposal;
- (b) the issuer has obtained in- principle approval from the Main Board for listing of its entire specified securities on it.

Market Making.

⁶²[106V.] (1) The merchant banker shall ensure compulsory market making through the stock brokers of SME exchange in the manner specified by the Board for a minimum period of three years from the date of listing of specified securities issued under this Chapter on SME exchange or from the date of migration from Main Board in terms of regulation ⁶³[106T], as the case may be.

(2) The merchant banker may enter into agreement with nominated investors for receiving or delivering the specified securities in the market making subject to the prior approval by the SME exchange where the specified securities are proposed to be listed.

(3) The issuer shall disclose the details of arrangement of market making in the offer document.

⁶⁰ Substituted for “106H”, by SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2011, w.e.f. 23.09.2011.

⁶¹ Substituted for “106I”, *ibid.*

⁶² Substituted for “106J”, *ibid.*

⁶³ Substituted for “106H”, *ibid.*

(4) The specified securities being bought or sold in the process of market making may be transferred to or from the nominated investor with whom the merchant banker has entered into an agreement for the market making:

Provided that the inventory of the market maker, as on the date of allotment of the specified securities, shall be at least five per cent. of the specified securities proposed to be listed on SME exchange.

(5) The market maker shall buy the entire shareholding of a shareholder of the issuer in one lot, where value of such shareholding is less than the minimum contract size allowed for trading on the SME exchange:

Provided that market maker shall not sell in lots less than the minimum contract size allowed for trading on the SME exchange.

(6) Market maker shall not buy the shares from the promoters or persons belonging to promoter group of the issuer or any person who has acquired shares from such promoter or person belonging to promoter group, during the compulsory market making period laid down under sub-regulation (1).

(7) The promoters' holding shall not be eligible for offering to the market maker under this Chapter during the period specified in sub-regulation (1):

Provided that the promoters' holding which is not locked-in as per these regulations can be traded with prior permission of the SME exchange, in the manner specified by the Board.

(8) Subject to the agreement between the issuer and the merchant banker/s, the merchant banker/s who have the responsibility of market making may be represented on the board of the issuer.]