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Analysing developments impacting business

ADDRESSING THE ISSUES RELATING TO INVESTING IN PUBLIC ISSUES THROUGH THE UPI PROCESS – AN ANALYSIS OF THE SEBI CIRCULAR DATED 16 MARCH 2021

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Introduction

The Securities and Exchange Board of India (SEBI), on 1 November 2018, had introduced the Unified Payment Interface (UPI) with Application Supported by Blocked Amount (ASBA) as an additional payment mechanism for retail individual investors to invest in certain capital market transactions. UPI is an instant payment system, which was developed by the National Payments Corporation of India. UPI merged several banking features, seamless fund routing and merchant payments under one umbrella, which allows instant transfer of money between the bank accounts of two persons by using a unique payment address.

As a relatively new concept, the system was imperfect, with issues such as delays in receipt of mandates for blocking of funds due to systemic issues at intermediaries / self-certified syndicate banks (SCSBs), failure to unblock funds in respect of cancelled, withdrawn or deleted bids, failure to unblock amounts in case of partial or non-allotment of shares and the blocking of amounts inconsistent with the actual application made. In order to address such issues, SEBI, through a circular notified on 16 March 2021 (Circular), has introduced a mechanism to compensate aggrieved investors and to further streamline the reconciliation process among intermediaries and SCSBs. The Circular is applicable to all initial public offerings (“IPOs”) opening for subscription on or after 1 May 2021.

Responsibilities and obligations imposed on various intermediaries and streamlining of the reconciliation process

Responsibilities imposed on the lead managers

SEBI identifies the lead manager as the nodal entity for any issues arising out of a public issuance process. Through the Circular, SEBI has imposed on the lead manager, as the nodal entity, the additional responsibility of ensuring adherence of timelines, processes and monitoring of the compensation policy. The timelines, processes and compensation policy are now required to be included in the agreement signed amongst the intermediaries appointed for a public issue.

Responsibilities imposed on the SCSBs

The Circular has imposed the obligation on SCSBs to identify and submit details of a “nodal officer” for IPO applications processed through the UPI payment mechanism, to

SEBI within 7 working days from the issuance of the Circular. The details of such nodal officers will be hosted on the SEBI website.

Further, in order to ensure that investors are kept notified of their application status and other details, the Circular has required SCSBs to send SMS alerts for mandate blocks and unblocks, which will include details such as the name of the issuer company, the total number of shares bid for, amount blocked, date of the block, total amount to be unblocked and date of such unblock.

Responsibilities imposed on sponsor banks

The Circular has required sponsor banks to host a closed user group web portal for the intermediaries. Such portal shall be active from the date of opening of an IPO till listing of the shares. The portal shall include details of mandate blocks or unblocks, downtime or network latency across intermediaries, and any processes that may have an impact on the IPO bidding process.

Responsibilities imposed on the registrar

The registrars to a public issue shall, on a daily basis, and within 60 minutes of the bid closure time, from the date of opening of the issue till the date of issue closure, submit the details of cancelled, withdrawn or deleted applications to SCSBs, once such details are obtained by the registrar from the stock exchanges. SCSBs shall, as per the format specified in the Circular, unblock the amounts corresponding to such applications by the closing hours of the bank day. Subsequently, SCSBs are required to submit a confirmation of such duty fulfilment to the lead managers as well as the registrar.

Process of unblocking of funds

In public issues, once the basis of allotment is finalised, the amounts blocked in the ASBA account is either transferred to the public issue account or unblocked in the applicant's account. In order to provide liquidity, SEBI had intended that such unblocking be completed within a day from the finalisation of the basis of allotment. However, SEBI continued to receive complaints pertaining to delays in unblocking of funds. Consequently, through the Circular, the following process for unblocking of funds in the ASBA account has been introduced, which is required to be implemented by intermediaries:

- Sponsor banks will be required to execute the online mandate revoke file for unsuccessful allottees or partial allottees within one day of finalisation of the basis of allotment, post which pending applications for unblock of funds, if any, must be submitted to the registrar no later than 12:30 pm on the same date.
- The registrar shall then submit the bank-wise pending UPI applications for unblock to the SCSBs with the allotment file, no later than 2:00 pm on the same day, which shall include applications in relation to full allotment, partial allotment, non-allotment, and cancelled, withdrawn or deleted applications, etc.
- SCSBs will be required to submit to the lead managers and the registrar, again on the same day, a confirmation per the format prescribed in the Circular, confirming that the unblock of funds relating to non-allotted or partially allotted applications are complete.

Penalties

SCSBs that fail to provide the requisite details to the lead managers and the registrar any later than the prescribed timelines shall be liable under appropriate action under securities laws. SCSBs shall also be liable to compensate the investor, immediately on the date of receipt of complaint from the investor, as per the compensation structure prescribed in the Circular. Additionally, SCSBs and lead managers are also required to resolve all pending issues related to pending unblock applications whether on the SEBI SCORES portal (SEBI's online complaints redressal system) or otherwise using the compensation policy of the Circular.

Further, the post-issue lead managers will also be required to pay a penalty for delays in redressal of investor grievances. It shall also be the lead manager's responsibility to ensure that the fees or commission of the intermediaries is released only after ascertaining that there are no pending complaints or pending confirmations on unblocks from the sponsor banks or SCSBs.

Comments

It is observed that the standardisation of operating procedures and processes in respect of public issue of equity shares and other convertible instruments has led to the addressal of many issues being faced by the investors. In line with the same intent, the steps envisaged under the Circular are expected to increase accountability and responsiveness to investor grievances while streamlining the IPO process.

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