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Analysing developments impacting business

SEBI ADDRESSES THE 'FASTEST FINGER FIRST' ISSUE IN ALLOCATION OF LISTED DEBT SECURITIES

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Securities and Exchange Board of India (SEBI) has by its circular bearing reference no. SEBI/HO/DDHS/DDHS_Div1/P/CIR/2022/00139 dated 10 October 2022 (2022 EBP Circular) amended and replaced Chapter VI (*Electronic Book Provider platform*) of the Operational Circular dated 10 August 2021 (Operational Circular). The 2022 EBP Circular primarily addresses the concerns of the stakeholders, inter alia, in relation to the issues faced by them on the electronic book provider (EBP) platform due to the issue of 'fastest finger first' (i.e. allotment based on time priority in bidding for issuances with fixed parameters), the high ratio of green shoe to base issue size. The 2022 EBP Circular is effective from 1 January 2023.

The key changes to the Operational Circular introduced by the 2022 EBP Circular are as follows:

- **Reduction in the threshold limits for applicability of the EBP platform:** The Operational Circular required the issuers of debt securities and non-convertible redeemable preference shares (NCRPS) to mandatorily use the EBP platform if it proposed to issue listed debt securities or NCRPS of or above INR 100 crores (including green shoe option) in a financial year. This threshold has now been reduced to INR 50 Crores and above in a financial year under the 2022 EBP Circular. Accordingly, any issuer proposing to issue listed debt securities or NCRPS of INR 50 Crores or above will have to be made only through the EBP platform.
- **Anchor Investor:** The 2022 EBP Circular has introduced concepts of 'anchor portion' and 'anchor investor'. The 'anchor portion' availed by the issuer shall not exceed 30% of the base issue size and the issuer shall have discretion to select 'anchor investor' who will subscribe to the 'anchor portion'. The issuer will have to disclose the details of the 'anchor investor' and the 'anchor portion' to the EBP along with the information memorandum and the term sheet. Further, the 'anchor investor' will not have to bid for the 'anchor portion' on the EBP platform. The settlement amount of the 'anchor investor' shall be either on the basis of coupon specified by the issuer or as determined in the bidding process. It is clarified that the 'anchor investor' can also bid for the 'non-anchor portion' of the base issue size and the green shoe portion.
- **Role of Arrangers:** The 2022 EBP Circular has placed certain limitations on the role of arrangers to the issue. The arranger is restricted from placing bids of more than 100 crores or 5% of the base issue size on behalf of an eligible participant. The arranger can, however, bid for multiple eligible participants

subject to the above limits. Further, if the clients of the arranger fail in their pay-in obligations in three instances across all EBPs, then such arranger shall be debarred from accessing the bidding platform on any EBPs for a period of seven days from the date of the third or subsequent default.

- **Role of EBP platform, eligible participants and issuers:** The 2022 EBP Circular has imposed certain obligations on the EBP including to (i) ensuring that the platform doesn't provide any preferential access to any bidder; and (ii) providing a facility to the eligible participants to define the limits/ range, within which quotes may be placed on the EBP platform to avoid 'fat finger' errors. Each eligible participant on the EBP platform is now required to provide a confirmation to the EBP that it is not using any software, algorithm, Bots or other automation tools, which would give it unfair access for placing bids on the EBP platform. Further, SEBI has now restricted the amount of green shoe portion which shall not exceed five times the base issue size.

Comment

The review of the Operational Circular by SEBI was long overdue especially in the context of the issues faced by the stakeholders due to the 'fastest finger first' style of allocation on the EBP platform. Due to operational issues, many investors lost out on deals which have been arranged by them through weeks and months of hard work. In addition, the introduction of 'anchor investor' and 'anchor portion' further assures the investor who has worked on the deal a minimum allocation in the base issue size without compromising the intent of the EBP platform which is transparency and effective price discovery mechanism.

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