CONTENTS

Raising Money: The QIP Way

Raising Money: The QIP Way

☞ INTRODUCTION

Qualified Institutions Placement (QIP), which is recent in origin, is an option for the listed companies to raise money in India for their business requirements. Securities and Exchange Board of India (SEBI) introduced QIP[1] from 8th May 2006. Since then this route has been gaining ground as more and more companies are opting for it. This newsletter aims at explaining the mechanism of QIP.

1. Salient Features of QIP

The companies, listed on stock exchanges having nation-wide terminals, which are permitted to raise money through QIP, are called Issuers. The Issuer can raise money through the issuance of equity shares or partly and fully convertible debentures or any securities other than warrants (Securities). Securities have to be converted into equity shares any time before sixty months from the date of allotment. They must be fully paid-up at the time of allotment. The maximum amount that can be raised through QIP in one financial year should not exceed five times the net worth of the Issuer as per the audited balance sheet of the previous year.[2] The guidelines are, however, silent on the minimum size of the issue.

The Securities can be issued to Qualified Institutional Buyers (QIB) only. The QIBs[3] include public financial institutions; scheduled commercial banks; mutual funds; foreign institutional investor registered with SEBI; state industrial development corporations; insurance companies registered with the Insurance Regulatory and Development Authority (IRDA); venture capital funds registered with SEBI and foreign venture capital funds registered with SEBI. Any single allottee can be allotted a maximum of 50% of the issue size.

Any person who is the promoter of the Issuer or directly or indirectly connected to the promoter cannot be a QIB. In an issue there can be at least two QIBs where the issue size is less than INR 2,500,000,000 (US$ 555 millions approx.)[4] and at least five if the issue size is greater than this amount.

Minimum of 10% of the Securities under each placement have to be allotted to the mutual funds. If no mutual fund agrees to accept the stipulated allotment, then the offer can be made to the other QIB.

2. Shareholders Resolution

The placement of issues is made pursuant to the special resolution[5] passed in the general meeting of the shareholders. The resolution should clearly specify the relevant date to determine the price of the issue. Relevant date is the day, 30 days prior to the date of the general meeting of the shareholders[6]. It should also specify that the allotment is proposed to be made to QIBs as per the Guidelines.

The process of allotment must be completed within 12 months from the relevant date as decided in the shareholders resolution.[7] If there is more than one proposed placement based on the same resolution then a gap of 6 months has to be maintained between each of them.[8]

The issue is made at a price, which should not be less than the higher of the following:[9]

---

[1] Chapter XIIIA of SEBI (DIP) Guidelines.
[2] Clause 13A.9.1.
[3] Clause 2.2.2B(v).
[4] 1 USD = 45 INR.
[5] Section 81(1A) of the Companies Act, 1956.
[6] Explanation to Clause 13A.3.1.
[7] Clause 13A.6.1.
[8] Clause 13A.6.3.
[9] Clause 13A.3.1.

a. Average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during six months preceding the relevant date; or
b. Average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during two weeks preceding the relevant date.

The Guidelines provide for the adjustment in issue price of the Securities if the Issuer makes an issue of shares by way of capitalization of profits or reserves (other than by way of dividend on shares); makes an issue of shares on rights basis; consolidates its outstanding shares into a smaller number of shares; divides his outstanding shares by stock split and re-classifies any of its shares into other securities of the company. Therefore, the issue price can be adjusted, subject to corporate actions by the Issuer.

3. Placement Document[10]

The Issuer shall prepare the placement document containing relevant and material disclosures. Placement documents are private documents which are provided to select investors. The copies of the placement document should be serially numbered. It should also be placed on the website of the concerned stock exchange with a disclaimer that:

a. It is in connection with the issue to QIBs.
b. No offer is made to the public or any other categories of investors.

A copy of the placement document should be filed with SEBI for record purposes within 30 days of allotment of the specified Securities. Placement documents help the investors to come to a reasoned judgement. They include the financial statement, risk factors, capitalization statement, dividends, market price information and other relevant information, which are required by the investor.

4. Filings

QIP does not require any pre-issue filing with SEBI. The Guidelines impose an obligation on the Issuer to furnish the following documents to the stock exchanges where similar classes of shares or equities are listed:[11]

a. Copy of placement document.
b. Certificate stating that the issue is made as per chapter XIIIA.
c. Documents specified in the listing agreement, which are required for the approval and final permission for the listing of the specified Securities on the stock exchange.

5. Due Diligence

QIP has to be managed by a merchant banker registered with SEBI.[12] It is the duty of the merchant banker to furnish a due diligence certificate to stock exchanges stating that the issue complies with all the relevant requirements. He has to file the required documents specified in the listing agreement for the purpose of in-principal approval and final permission of the stock exchange for listing. This provision ensures the security net for the placement. It takes around seven days for the issue to be listed on the stock exchange.

6. Sale and conversion of Securities

There is no lock-in period for Securities in case of QIP. However, the Securities cannot be sold except on recognised stock exchanges for a period of one year from the date of allotment.

The Securities can be converted at any time after the date of allotment. But the option has to be exercised before sixty months from the date of allotment. The formula of deducing the price is similar to the pricing of issue at the time of issue. Relevant date is the basis to deduce the price of the issue. The Guidelines propose that the relevant date could either be 30 days prior to the date of shareholders meeting or a day 30 days prior to the date when the holder of the Securities becomes eligible to convert them.

[10] Clause 13A.7.1.

[11] Clause 13A.12.

[12] Clause 13A.11.

☞ CONCLUSION

QIP is recent in origin as compared to other options of raising money. The basic advantage of QIP is that it does not have any pre-issue filings with SEBI. The placement document contains all the material disclosures, which are required to be made by the Issuer at the time of making the placement. It has to be placed before the investor through private placement. The issue requires relatively less compliances when compared to other routes. Therefore, QIP is a quicker way of raising money as compared to other options available for the companies.

(Prashant Kumar)

Contact Lawyers

V.C.Singh
vc.singh@psalegal.com
Mobile +(91) 98115-40773

Prashant Kumar
p.kumar@psalegal.com
Mobile +(91) 93131-64290

Contact Details

PSA
Legal Counsellors
E-601, Gauri Sadan
5, Hailey Road
New Delhi – 110 001
India

Tel: +(91 11) 43500-500
Fax: + (91 11) 43500-502