INTERMEDIARIES IN NEW ISSUE MARKET/ PRIMARY MARKET

The new issue market / activity was regulated by the Controller of Capital Issues (CCI) under the provisions of the Capital Issues (Control) Act, 1947 and the exemption orders and rules made under it. With the repeal of the Act and the consequent abolition of the office of the CCI in 1992, the protection of the interest of the investors in securities market and promotion of the development and regulation of the market/ activity became the responsibility of the SEBI. To tone up the operations of the new issues in the country, it has put in place rigorous measures. These cover both the major intermediaries as well as the activities. So, we will discuss here, various intermediaries, their regulation and SEBI guidelines related to them.

Merchant Bankers: In modern times, importance of merchant banker is very much, because it the key intermediary between the company and issue of capital. Main activities of the merchant bankers are – determining the composition of the capital structure, drafting of prospectus and application forms, compliance with procedural formalities, appointment of registrars to deal with the share application and transfer, listing of securities, arrangement of underwriting / sub-underwriting, placing of issues, selection of brokers, bankers to the issue, publicity and advertising agents, printers and so on. Due to overwhelming importance of merchant banker, it is now mandatory that merchant banker functioning as lead manager should manage all public issues. In case of rights issue not exceeding Rs.50 lakh, such appointments may not be necessary. The salient features of the SEBI framework, related to merchant bankers are discussed as under.

Registration: Merchant bankers require compulsory registration with the SEBI to carry out their activities. Previously there were four categories of merchant bankers, depending upon the activities. Now, since Dec. 1997, there is only one category of registered merchant banker and they perform all activities.

Grant of Certificate: The SEBI grants a certificate of registration to applicant if it fulfills all the conditions like (i) it is a body corporate and is not a NBFC (ii) it has got necessary infrastructure to support the business activity (iii) it has appointed at least two qualified and experienced (in merchant banking) persons (iv) its registration is in the general interest of investors.

Capital Adequacy Requirement: A merchant banker must have adequate capital to support its business. Hence SEBI grants recognition to only those merchant bankers who have paid up capital and free reserves of minimum Rs. 1 crore. Fee: A merchant banker has to pay a registration fee of Rs. 5 lakh and renewal fees of Rs. 2.5 lakh every three years from the fourth year from the date of registration.

Code of Conduct: Every merchant banker has to abide by the code of conduct, so as to maintain highest standards of integrity and fairness, quality of services, due diligence and professional judgment in all his dealings with the clients and other people. A merchant banker has always to endeavor to (a) render the best possible advice to the clients regarding clients needs and requirements, and his own professional skill and (b) ensure that all professional dealings are effected in a prompt, efficient and cost effective manner.

Restriction on Business: No merchant banker, other than a bank/public financial institution is permitted to carry on business other than that in the securities market w.e.f. Dec.1997. However, a merchant banker who is registered with RBI as a primary dealer/satellite dealer may carry on such business as may be permitted by RBI w.e.f. Nov.1999.

Maximum number of lead managers: The maximum number of lead managers is related to the size of the issue. For an issue of size less than Rs. 50 crores, two lead managers are appointed. For size groups of 50 to 100 crores and 100 to 200 crores, the maximum permissible lead managers are three and four respectively. A company can appoint five and five or more (as approved by SEBI) lead managers in case of issue sizes between Rs.200 to 400 crores and above Rs.400 crores respectively.

Responsibilities of Lead Managers: Every lead manager has to enter into an agreement with the issuing companies setting out their mutual rights, liabilities and obligation relating to such issues and in particular to disclosure, allotment and refund. A statement specifying these is to be furnished to the SEBI at least one month before the opening of the issue for subscription. It is necessary for a lead manager to accept a minimum underwriting obligation of 5% of the total underwriting commitment or Rs. 25 lakh whichever is less.

Due diligence certificate: The lead manager is responsible for the verification of the contents of a prospectus / letter of offer in respect of an issue and the reasonableness of the views expressed in them. He has to submit to the SEBI at least two weeks before the opening of the issue for subscription a due diligence certificate.

Submission of documents: The lead managers to an issue have to submit at least two weeks before the date of filing with the ROC/regional SE or both, particulars of the issue, draft prospectus/ letter of offer, other literature to be circulated to the investors / shareholders, and so on to the SEBI.

Underwriters: Another important intermediary in the new issue/ primary market is the underwriters to issue of capital who agree to take up securities which are not fully subscribed. They make a commitment to get the issue subscribed either by others or by themselves. Though underwriting is not mandatory after April 1995, its organization is an important element of primary market. Underwriters are appointed by the issuing companies in consultation with the lead managers / merchant bankers to the issues.

Registration: To act as underwriter, a certificate of registration must be obtained from SEBI. On application registration is granted to eligible body corporate with adequate infrastructure to support the business and with net worth not less than Rs. 20 lakhs.

Fee: Underwriters had to pay Rs. 5 lakh as registration fee and Rs. 2 lakh as renewal fee every three years from the fourth year from the date of initial registration. Failure to pay renewal fee leads to cancellation of certificate of registration.

Code of conduct: Every underwriter has at all times to abide by the code of conduct; he has to maintain a high standard of integrity, dignity and fairness in all his dealings. He must not make any written or oral statement to misrepresent (a) the services that he is capable of performing for the issuer or has rendered to other issues or (b) his underwriting commitment.

Agreement with clients: Every underwriter has to enter into an agreement with the issuing company. The agreement, among others, provides for the period during which the agreement is in force, the amount of underwriting obligations, the period within which the underwriter has to subscribe to the issue after being intimated by/on behalf of the issuer, the amount of commission/brokerage, and details of arrangements, if any, made by the underwriter for fulfilling the underwriting obligations.

General responsibilities: An underwriter cannot derive any direct or indirect benefit from underwriting the issue other than by the underwriting commission. The maximum obligation under all underwriting agreements of an underwriter cannot exceed twenty times his net worth. Underwriters have to subscribe for securities under the agreement within 45 days of the receipt of intimation from the issuers.

Bankers to an Issue: The bankers to an issue are engaged in activities such as acceptance of applications along with application money from the investor in respect of capital and refund of application money.

Registration: To carry on activity as a banker to issue, a person must obtain a certificate of registration from the SEBI. The applicant should be a scheduled bank. Every banker to an issue had to pay to the SEBI an annual free for Rs. 5 lakh and renewal fee or Rs. 2.5 lakh every three years from the fourth year from the date of initial registration. Non-payment of the prescribed fee may lead to the suspension of the registration certificate.

General Obligations and Responsibilities to Furnish Information: When required, a banker to an issue has to furnish to the SEBI the following information : (a) the number of issues for which he was engaged as banker to an issue (b) the number of applications / details of the applications money received (c) the dates on which applications from investors were forwarded to the issuing company / registrar to an issue (d) the dates / amount of refund to the investors.

Books of account/record / documents: A banker to an issue is required maintain books of accounts/ records/ documents for a minimum period of three years in respect of, inter alia, the number of applications received, the names of the investors, the time within which the applications received were forwarded to the issuing company / registrar to the issue and dates and amounts of refund money to investors.

Agreement with issuing companies: Every banker to an issue enters into an agreement with the issuing company. The agreement provides for the number of collection centers at which application/ application money received is forwarded to the registrar for issuance and submission of daily statement by the designated controlling branch of the baker stating the number of applications and the amount of money received from the investor.

Code of Conduct: Every banker to an issue has to abide by a code of conduct. He should observe high standards of integrity and fairness in all his dealings with clients/ investors/ other members of the profession. He should exercise due diligence. A banker to an issue should always endeavor to render the best possible advice to his clients and ensure that all professional dealings are effected in a prompt, efficient and cost-effective manner.

Brokers to the Issue: Brokers are persons mainly concerned with the procurement of subscription to the issue from the prospective investors. The appointment of brokers is not compulsory and the companies are free to appoint any number of brokers. The managers to the issue and the official brokers organize the preliminary distribution of securities and procure direct subscription from as large or as wide a circle of investors as possible. A copy of the consent letter from all the brokers to the issue, should be filed with the prospectus to the ROC. The brokerage applicable to all types of public issue of industrial securities is fixed at 1.5%, whether the issue is underwritten or not. The listed companies are allowed to pay a brokerage on private placement of capital at a maximum rate of 0.5%. Brokerage is not allowed in respect of promoters' quota including the amounts taken up by the directors, their friends and employees, and in respect of the rights issues taken by or renounced by the existing shareholders. Brokerage is not payable when the applications are made by the institutions/ bankers against their underwriting commitments or on the amounts devolving on them as underwriters consequent to the under subscription of the issues.

Registrars to an Issue and Share Transfer Agents: The registrars to an issue, as an intermediary in the primary market, carry on activities such as collecting applications from the investors, keeping a proper record of applications and money received from the investors or paid to the sellers of securities and assisting companies in determining the basis of allotment of securities in consultation with the stock exchanges, finalizing the allotment of securities and processing / dispatching allotment letters, refund orders, certificates and other related documents in respect of the issue of capital. To carry on their business, the registrars must be registered with the SEBI. They are divided into two categories : (a) Category I, to carry on the activities as registrar to an issue and share transfer agent; (b) Category II, to carry on the activity either as registrar or as a share transfer agent. Category I registrars mush have minimum net worth of Rs. 6 lakhs and Category II, Rs. 3. Category I is required to pay a initial registration fee of Rs. 50,000 and renewal fee of Rs.40,000 every three years, where as Category II is required to pay Rs.30,000 and Rs. 25,000 respectively.

Code of Conduct: The registrars to an issue and the share transfer agents have to maintain high standards of integrity and fairness in all dealings with their clients and other registrars to the issue and share transfer agents in the conduct of the business. They should endeavor to ensure that (a) enquiries from investors are adequately dealt with, and (b) adequate steps are taken for proper allotment of securities and refund of application money without delay and as per law. Also, they should not generally and particularly in respect of any dealings in securities to be a party to (a) creation of false market, (b) price rigging or manipulation (c) passing of unpublished price sensitive information to brokers, members of stock exchanges and other intermediaries in the securities market or take any other action which is not in the interest of the investors and (d) no registrar to an issue, share transfer agent or any of its directors, partners or managers managing all the affairs of the business is either on their respective accounts, or though their respective accounts, or through their associates or family members, relatives or friends indulges in any insider trading.

Debenture Trustees: A debenture trustee is a trustee for a trust deed needed for securing any issue of debentures by a company. To act as a debenture trustee, a certificate from the SEBI is necessary. Only scheduled commercial banks, PFIs, Insurance companies and companies are entitled to act as a debenture trustees. The certificate of registration is granted to suitable applicants with adequate infrastructure, qualified manpower and requisite funds. Registration fee is Rs. 5 lakh and renewal fee is Rs. 2.5 lakh every three years.

Responsibilities and obligations: Before the issue of debentures for subscription, the consent in writing to the issuing company to act as a debenture trustee is obligatory. He has to accept the trust deed which contains matters pertaining to the different aspects of the debenture issue.

Duties: The main duties of a debenture trustee include the following:

i.Call for periodical report from the company.

ii. Inspection of books of accounts, records, registration of the company and the trust property to the extent necessary for discharging claims.

iii. Take possession of trust property, in accordance with the provisions of the trust deed.

iv. Enforce security in the interest of the debenture holders.

v. Carry out all the necessary acts for the protection of the debenture holders and to the needful to resolve their grievances.

vi. Ensure refund of money in accordance with the Companies Act and the stock exchange listing agreement.

vii. Exercise due diligence to ascertain the availability of the assets of the company by way of security as well as their adequacy / sufficiency to discharge claims when they become due.

viii. Take appropriate measure to protect the interest of the debenture holders as soon as any breach of trust deed/ law comes to notice.

ix. Ascertain the conversion / redemption of debentures in accordance with the provisions / conditions under which they were offered to the holders.

x. Inform the SEBI immediately of any breach of trust deed / provisions of law.

In addition, it is also the duty of trustees to call or ask the company to call a meeting of the debenture holders on a requisition in writing signed by debenture holders, holding at least one-tenth of the outstanding amount, or on the happening of an event which amounts to a default or which, in his opinion, affects their interest.

Portfolio Managers: Portfolio manager are defined as persons who in pursuance of a contract with clients, advise, direct, undertake on their behalf the management/ administration of portfolio of securities/ funds of clients. The term portfolio means the total securities belonging to any person. The portfolio management can be (i) Discretionary or (ii) Non-discretionary. The first type of portfolio management permits the exercise of discretion in regard to investment / management of the portfolio of the securities / funds. In order to carry on portfolio services, a certificate of registration from SEBI is mandatory. The certificate of registration for portfolio management services is granted to eligible applicants on payment of Rs.5 lakh as registration fee. Renewal may be granted by SEBI on payment of Rs. 2.5 lakh as renewal fee (every three years).

DIFFERENCE BETWEEN MONEY MARKET AND CAPITAL MARKET

S.NO.	BASIS	MONEY MARKET	CAPITAL MARKET
1.	Period of Finance	Money market is a market for short-term funds. The maturity of these instruments vary from one day to 12 months.	Capital market is a market for long-term funds. The maturity of the capital market instruments are more than a year.
2.	Type of Instruments	The instruments that are dealt in a money market are mainly T-bills, Commercial Papers (CPs), Certificate of Deposits (CDs) etc.	Capital market deals with instruments like shares, debentures, government bonds etc.
3.	Use of Funds	Funds mobilized through money market are used for financing current business operations, working capital requirement of industries, liquidity requirement of banks, short-term fund requirement of government etc.	The capital market supplies funds for financing capital requirements of corporates and long term requirement of government.
4.	Volume of funds	Money markets instruments deals in large amount. A treasury bill is of minimum one lakh. Each CD or CP is for minimum 25 Lakh.	Face value of capital market instruments are smaller. The value of one share could be Rs. 10 and value of one debenture could be Rs. 100.
5.	Presence of secondary market	Money market instruments do not have secondary market.	Capital market instruments are tradable in stock exchanges.
6.	Intermediaries	Intermediaries in money market includes banks, discount houses, acceptance houses etc.	Capital market intermediaries are stock exchanges, brokers, jobbers etc.
7.	Specific Location	There is no formal place for transaction. Most of the transactions are done over-the-phone .	Transaction takes place through stock exchange situated at a specific place.
8.	Involvement of Brokers	There is no need of brokers.	Involvement the help of brokers is common in capital market
9.	Link	Money market is a link between lenders and borrowers for a short-term needs.	Capital market is a link between investors and borrowers for long-term needs.

DIFFERENCE BETWEEN PRIMARY AND SECONDARY MARKET

S.NO.	BASIS	PRIMARY MARKET (New Issue Market)	SECONDARY MARKET (Stock Exchange)
1.	Meaning	Primary market is a market where new securities are issued in the market for the first time, either by existing company or new company.	Secondary market Is a market where already issued, existing securities are traded on stock exchanges.
2.	Regulatory Authority	Activities in primary market is governed by SEBI and Companies Act.	It is regulated by bye-laws of stock exchanges and SEBI.
3.	Price determination	When securities are issued for first time in primary market, the price of securities is determined by company itself.	Prices of securities is determined by demand and supply forces in the stock exchange.
4.	Price fluctuation	Price of securities is fixed.	Price of securities keep fluctuating because of demand and supply forces.
5.	Involvement of Companies	Companies are directly involved as shares are sold by company directly to public.	There is no involvement of companies.
6.	Type of Company	All types of companies can issue new shares whether listed or unlisted.	In secondary market, shares of only listed companies are bought and sold.
7.	Geographical location	There is no fixed geographical location for new issue market. The issuing companies may have offices at different locations.	The location of a stock exchange is fixed at a specific place. E.g. NSE is situated in Mumbai.
8.	Buying and selling between	The securities are sold by companies and bought by public. So buying and selling is done between company and public.	Buying and selling is done among investors only.
9.	Intermediaries	Major intermediaries in primary market are, registrar to the issue, merchant bankers, underwriters, collection banks, debenture trusties, portfolio managers etc.	Main intermediaries in secondary market are Brokers, sub-brokers, jobbers etc.
10.	Financing to companies	Through primary market funds are raised for financing companies for their expansion and diversification.	No fund is raised for company. Only buying and selling of securities is done among investors.

DIFFERENCE BETWEEN GOVERNMENT SECURITIES AND CORPORATE SECURITIES

S.NO.	Basis	Corporate Securities	Government securities
1.	Meaning	Corporate securities are securities issued by private and public companies whether listed or unlisted.	Government securities are securities issued by central government, semi-governmental bodies, state government and other government institutions like IDBI, SIDBI etc.
2.	Return	In corporate securities returns are not assured. If the company becomes insolvent investors may lose money.	In government securities, returns are assured. Government itself assures repayment of principal along with interest.
3.	Risk	There is risk of default in corporate securities.	In government securities there is no risk of default.
4.	Type of security	Major corporate securities are shares and debentures.	Government Securities include Promissory note, bonds and stock certificates.
5.	Issuing authority	Private and public sector Companies issue securities.	Reserve Bank of India issues securities on behalf of government.
6.	Regulatory authority	Corporate securities are regulated by Securities Contract (Regulation) Act and SEBI.	Government is the regulatory authority.
7.	Income tax Concession	No special tax concession for corporate securities.	Government securities are qualified for special tax concessions like Exception from Tax Deducted from source (TDS), interest on some bonds are exempted from tax etc.
8.	Speculative gains	There is a possibility of speculative gains in corporate securities when they are traded in stock exchanges.	No possibility of speculative gains.

MARKETING STRATEGY FOR PUBLIC ISSUE

to attract investors and make the issue a success, the company and the merchant banker have to carefully develop a marketing strategy

1. Feeling the pulse of investors: Different kinds of investors have different objectives, some want regular, risk-free income, some are of adventurous type and want to invest in risky ventures hoping for exceptional High returns and appreciation in capital. The company should offer such securities for which there are takers.

2. Publicity: Publicity about the issue plays an important part in success of an issue, if the company is well known, it may not have to do much publicity but a not so well known company will have to give a lot of advertisements in newspaper and TV so that people know that there exists a good investment opportunity. As a part of issue campaign it proves helpful to do liaison work with brokers, investors, underwriters and organize conferences, seminars etc, to know their views. They can be motivated to invest in securities being issued.

3. Identify target segment of investors: Some scripts are likely to be popular with retail investors, some with institutional investors like mutual funds, the marketing strategy and modes of publicity will depend which class of investors will be interested in the issue. Some securities prove successful in one geographical region and some in others. For example, investors in Jute industry will be found in West Bengal for those of textiles in Maharashtra and or information technology in Karnataka. The publicity and propaganda will be done in the areas where there is likelihood of demand for the securities.

4. Right timing: One of the most important and critical factor for success of issue is its timing. Sometimes the investment climate is very bad because of government policies, or some scams, it is not advisable to bring the issue at such a time. Sometimes other good and popular big issues are hitting the market, it is advisable to avoid that time to issue securities of not so well known companies.

5. Consultations: Some organisation conduct surveys and opinion polls among investors, it proves fruitful to consult them about timing of issue and type of securities to be issued.

PRICING OF PUBLIC ISSUE

It is an era of free pricing, the companies are free to issue securities at prices they like, SEBI has issued following guidelines about pricing of public issues

1. **Free Pricing:** There is no restriction on prices at which shares can be issued. The price can be freely decided by the issuer company and the lead manager.

2. **Different prices for firm allotment and public issue:** Companies are free to charge different prices for firm allotment and public offer, however price for firm allotment should be higher than the price at which public offer is made.

3. **Rights issue at concessional price:** A listed company which issues securities both to public and through rights issue can issue securities at different prices in its public issue and rights issue.

4. **Mentioning the price band of 20%:** Issuer company can mention a price band of 20% in the offer documents filed with the SEBI and the actual price can be determined at a later date before filing of the offer document with the registrar of the company.

5. **No discount, commission, allowance etc. to firm allotees:** No payment, direct or indirect, in the nature of discount, commission, allowance or otherwise shall be made either by the issuer company or promoters in any public issue to the person who have received firm allotment in such public issue.