

**SEBI approves amendments to the SEBI (ICDR) Regulations and SEBI (Buy Back of Securities) Regulations**

**Listing of Start-ups and SMEs on Institutional Trading Platform without making an IPO**

The Securities Exchange Board of India ('SEBI') has at its board meeting held on June 25, 2013, inter alia approved listing of start-ups and SMEs on Institutional Trading platform (ITP) without having to make an IPO to provide easier exit options for informed investors like Angel Investors, VCFs and PE etc. and to provide better visibility, wider investor base and greater fund raising capabilities to such companies. In order to achieve the above objective SEBI has approved amendment to the SEBI (ICDR) Regulations, 2009.

The conditions for listing of start-ups and SMEs on Institutional Trading Platform are as follows:

- (a) Only informed investors to invest in start-ups and SME companies listed on ITP;
- (b) Minimum amount for trading or investment on the ITP will be Rs 10 lakh;
- (c) Start-ups and SME companies listed on ITP to be exempted from complying with 25% public shareholding requirements under rule 19(2)(b) of SC(R)R 1957;
- (d) While such companies are listed on the ITP they will not be permitted to raise capital though they can continue to make private placements.

SEBI to prescribe standardized norms of entry for companies, eligibility criteria, continuous disclosure requirements, simplified exit rules and corporate governance norms.

**Amendments to SEBI (Buy Back of Securities) Regulations, 1998 governing buy-back through open market purchase:**

SEBI has at its board meeting held on June 25, 2013, inter alia approved amendments with respect to the buyback of shares or other specified securities from the open market through stock exchange mechanism under the SEBI (Buy Back of Securities) Regulations, 1998.

The main amendments to the SEBI (Buy Back of Securities) Regulations, 1998 are as follows:

- (a) The mandatory minimum buy-back has been increased to 50% of the amount earmarked for the buy-back, as against existing 25%, failing which amount in the escrow account would be forfeited subject to a maximum of 2.5% of the total amount earmarked;
- (b) The maximum buy-back period has been reduced to 6 months from 12 months;
- (c) Companies to create an escrow account towards security for performance with an amount equivalent to at least 25% of the amount earmarked for buy-back;
- (d) Companies to not raise further capital for a period of one year from the closure of the buy-back except in discharge of subsisting obligations as against the existing 6 months;

- (e) Companies to not make another buy-back offer within a period of 1 year from the date of closure of the preceding offer;
  - (a) Companies can buy-back 15% or more of capital (paid-up capital and free reserves) only by way of tender offer;
  - (b) Promoters of such companies not to execute any transaction, either on-market or off-market, during the buy-back period.

### **ARA LAW's Views**

SEBI's amendment to Buy- Back Regulations and ICDR Regulations is a great boost to the capital market. Amendments to buy back norms have been brought in to protect the public investors from the whims of the promoters. Also the listing of start-ups and SME companies will facilitate better fund raising for such companies and provide exit options to the investors.