Offer For Sale Thru Stock Exchange Route

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The Government of India has prescribed thru the Securities Contracts (Regulation) Rules, that public shareholding in a company listed in India should be 25% either at the time of listing or within 3 years from date of listing. For companies where post issue capital calculated at offer price is above Rupees one lakh crore, public shareholding should be 25% within 5 years from date of listing. It was also prescribed that the minimum threshold level of "public" (i.e., non promoter) ownership should be 25% for all listed companies. In 2010 SEBI prescribed only few modes for companies to comply with the minimum public shareholding requirement for e.g., thru issuance of shares to public through prospectus, offer for sale of shares to public through prospectus and sale of shares through the secondary market subject to limits. Issuing of shares to public through prospectus is time consuming and subjects the sellers to extended periods of market volatility. In addition, the permitted methods gave issuers limited flexibility to tap the equity markets to meet the minimum public shareholding requirements. The prescribed modes were not efficient for stake monetization and there was a need for the introduction of new format which would be quicker to execute and make it easier for companies to achieve the minimum public shareholding requirements. OFS thru Stock exchange ("**OFS-SE**") was introduced by Securities and Exchange Board of India on February 01, 2012, to enable divestment by promoters to achieve minimum public shareholding in listed companies. OFS-SE soon became the most efficient amongst the modes allowed to achieve minimum public shareholding.

OFS-SE provides a transparent framework for promoters to sell their equity shares and addresses the concern of lack of transparency generally associated with bulk sale of shares by promoters, through off-market or in the normal cash market. The OFS-SE mechanism has been successful because it provides opportunity to promoters to offload large block of shares, through a transparent bidding process, carried out on real time stock exchange platform, without unduly affecting the price in the normal cash market. It can be carried out quickly and the entire process, beginning from announcement till completion of settlement, can be completed within 5 days. On this account, OFS-SE got further extended to top 200 companies based on market capitalisation and to non-promoter offerors with more than 10% of share capital.

Promoters could also use it to ensure wider ownership of the company. Retail investors, High Net Worth Individuals, Companies, Foreign Portfolio Investors (FPIs), Qualified Institutional Buyers (QIBs) etc can bid for these shares. Promoter / promoter group entities cannot participate. The framework for OFS has been modified from time to time based on representations / suggestions received from market participants, to make it more effective.

OFS-SE does not require application form for subscription and shares are made available to the retail subscribers two days after the order is placed. For institutional and non-retail subscriber, settlement happens on T+1 basis for 100% upfront margin orders and T+2 for no margin institutional orders. An investor can put multiple bids above the floor price set by the company, unlike in IPOs, where the bid price cannot be more than one, modify/cancel the bid anytime during OFS market hours. At the same time, safeguards such as, maximum allocation limit of 25% to a single bidder, 25% reserved for mutual fund and insurance companies, 10% reservation made for retail buyers, minimum offer size of Rs. 25 crs, guidelines on settlement and risk management, cooling-off period - pre and post OFS, etc., further enhance the integrity of this mechanism.

Sale of shares through OFS-SE can be freely priced. However, the sellers are required to determine a floor price. Floor price is the minimum price at which the seller intends to sell the shares and subscribers cannot bid at a price below the floor price. Under the OFS-SE mechanism, Sellers can decide whether they would like to disclose the floor price publicly or keep it undisclosed. Most investors and market participants prefer to know the floor price before the offer is opened as this provides clarity and guidance to investors. In case floor price is not publicly disclosed, seller must provide the floor price in a sealed envelope to the designated stock exchange before opening the offer. The floor price is disseminated by the stock exchange after the offer. Once the bids are placed, shares are allocated to the different buyers. There is no minimum limit to participate in an OFS. A buyer can bid for even a single share in the OFS process. Retail investors can be offered a discount of upto 5% on the floor price. The discounted price is one of the key benefits of investing through OFS for retail investors.

The offer period for an OFS-SE does not exceed more than two trading days. In comparison, a Further Public Offering can stay open for anywhere between 3-10 days. The offeror must inform the stock exchanges one days prior to the OFS-SE. Thus, it is important to be updated to avoid losing out on a good investment opportunity. shares offered thru OFS-SE are allocated in two ways, Single clearing price or Multiple clearing prices. In single clearing price, all investors are allocated shares at the same price. In multiple clearing prices, shares are allocated to investors on a price priority basis.

SEBI has also facilitated participation by employees of eligible companies. They can participate in sale by promoters within 2 weeks from the OFS-SE either at the price discovered in the OFS-SE transaction, or at a price which is at a discount to such discovered price.

Key Advantages of the OFS mechanism

Efficient product: combines a capital raising transaction with secondary market settlement timeline.

No regulatory review: no offer document or prior regulatory review is required for OFS-SE

No approvals required: OFS-SE does not require approvals from shareholders or company's board of directors

No Pricing guidelines: Sellers are at liberty to determine their floor price

Liquidity: All investors including retail, HNI and corporates can participate (unlike in an QIP wherein only QIBs can participate)

Settlement: the settlement is as per secondary market settlement timelines (T+2)

The success of the OFS-SE route can be gauged from the number and value of transactions in the last few years. In FY 19-20 there were 26 transactions aggregating Rs 17,326 crs. In FY 20-21 there were 38 transactions aggregating Rs 28,440 crs. In FY 21-22 there were 22 transactions aggregating Rs 14,530 crs. There are many companies across the private and public sector that need to comply with minimum public shareholding requirements. The promoters of these companies need to dilute further to remain compliant with SCRR. OFS-SE is the most convenient to facilitate the stake monetization besides being beneficial for investors and markets in general.