Listing without a Public Issue: The Opportunity & Challenges

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In order to provide a trading platform to the Institutional players like the Private equity, the Venture capitalists etc. who play an important role in certain Companies in providing the much needed initial or seed capital the Institutional Trading Platform **(ITP)** was put in place by Securities & Exchange Board of India (SEBI) in August 2013. Talent is available with the entrepreneurs but they lack of capital and these institutions provide the much needed capital to these ventures so that these Companies achieve its target growth. Most of the private equity players and venture capitalists from time to time have represented to the Capital Market Regulator the necessity to have a trading platform for these Companies without raising resources. The main objective being the process can be simple, easy and quick. SEBI had inserted a new Chapter in the ICDR guidelines titled Chapter XC for Listing of specified securities on the ITP. The SEBI (Listing of Specified Securities on Institutional Trading Platform) Regulations 2013 was inserted w.e.f. 08/10/2013.

The preparation of Information Memorandum was with the Investment Banker and the due diligence was also to be conducted by the Investment Bankers. Though initially it took time before the first issue to hit the BSE ITP platform and NSE ITP platform, this platform had witnessed a total of 41 issues in both the exchanges BSE & NSE. The first issue which got listed in the BSE ITP was 29/04/2014 and in NSE was 02/05/2014. The Regulations had also prescribed certain eligibility criteria which had to be satisfied in case a small & medium enterprise wishes to list its securities on ITP. Apart from satisfying the normal regulatory conditions, the Regulation had provided for that :

- The Company should not have completed a period of more than 10 years after incorporation &
- Its revenues have not exceeded Rs.100 crores

The major point which deserves attention in respect of eligibility is in respect of participation by the Investment Banker and also a Qualified Institutional Buyer. The Regulations provides that the Merchant Banker should have exercised his due diligence and has invested not less than Rs.50 lacs (Rupees Fifty Lacs) in the equity shares of the Company. Further these shares are required to be locked-in for a period of 3 years from the date of listing. In case the Merchant Banker has not taken up an investment then the Qualified Institutional Buyer should have invested not less than Rs. 50 lacs (Rupees Fifty Lacs) in the equity shares of the Company and these shares are also required to be locked-in for a period of 3 years. Thus the Regulation had clearly indicated the eligibility criteria for companies wanting to list their securities in the ITP without raising resources.

It should also be appreciated that the Regulations had also given clear cut directions in respect of exit from this platform. Obviously the conditions regarding equity paid up share capital exceeding Rs.25 crores and the revenues exceeding more than Rs.300 crores and also the completion of 10 years of listing in this platform are stipulated. The exit conditions had also provided that the exchanges could give a maximum extension upto 18 months for the companies to exit from this trading platform once the exit conditions are satisfied by the Company. In essence the life of listing in the ITP can be only upto 10 years from the date of listing.

On 14/08/2015 the existing Chapter XC was substituted by a new Chapter XC titled "Listing on Institutional Trading Platform". The chapter now provides for the following :

- Listing without Public issue [Regulation 106 Z]
- Listing pursuant to Public issue [Regulation 106 Z(A)]

The startup ventures which are intensive in the use of technology, information technology, intellectual property, data analysis etc. which had a start up funding and wanting to raise more resources were in search of a platform for raising money with the reduced disclosure. As this was supposed to target only Institutional Investors, Family Trusts, Strategic NBFCs, Large HNIs and Investors who have a large risk taking capacity. Basically the entry level for an application in an IPO by these ventures was kept high at Rs.10 lacs (Rupees Ten Lacs) so that the small retail investors do not enter. These are high risk and high return ventures. The interaction with the regulators with the startup had resulted in a Chapter XC undergoing a total change as mentioned earlier. The fear of the regulator was that many startups with potential growth were shifting out of the country and were getting their securities listed at international bourses. This was depriving the domestic exchanges from having this potential business and also depriving the investors of an opportunity to participate in such venture. Considering this the existing Chapter XC which was introduced in 2013 was removed and a new Chapter XC was coined for listing on the ITP which would enable the startups to raise money with limited disclosures as compared to an extensive disclosure required under the ICDR and this was made effective from 14th August 2015. The otherwise vibrant ITP without raising resources was automatically stopped since certain conditions imposed for the startup raising money under this Chapter got invariably made applicable to the issuers who are not raising money from the capital market. With a result from August 2015 till date no issues could come either in the ITP with resource raising and without resource raising. Many challenges have to be faced and these have to be addressed. Sometimes it gives an impression that possibly a syndicate of investors taking position in the early startup are cartelizing themselves to gain disproportionate to their investment and to make a windfall gain by making an Offer for Sale in this platform. While on the flip side we have the advantages of high technology growth oriented Companies getting listed in domestic exchanges rather than the international stock exchange but what is the potential it offers to the economic growth in the country has to be watched.

The reason for this platform not being used by corporates both at the resource raising and without resource raising is because of the requirement of filing the document with the Board (SEBI) and only after obtaining observation letter from SEBI, the listing and trading of securities will be in place. This reflects the concern of the regulator to ensure efficient and safe capital market trading platform. Definitely there are great opportunities for corporate to list its securities in the ITP platform without a public issue. It enables them to understand the capital market though to a minimum extent but definitely puts them on to the corporate world and inculcates corporate governance & compliance. The challenge of disclosure definitely prevails. The benefit of economic advantage by listing & trading at the ITP platform by some of the startups may have a positive impact in the economy. May be the Companies wanting to list its securities without a public issue under the Regulations should be permitted to file their Information Memorandum with the exchanges rather than with SEBI as provided in the earlier Regulations. This might possibly invite many corporate to look into this platform.