

Role of Company Secretary in Public Issue

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Disclaimer

- This Presentation is **for knowledge sharing** only and not be considered as legal opinion
- The views expressed herein are of my own and **not of the ICSI or MCA.**
- Request to seek professional guidance for **specific query** before acting upon any view expressed in this material or during the presentation

What is Public Issue and its need

What

Raising of Capital by selling shares /securities of the Company

How

Securities could be of Shares, Debts or hybrid (Convertible)

Why

- Investment Opportunities, for Organic Growth, Expansion, Diversification
- Funding Global Requirements, JV or Collaboration or setting up WoS overseas
- Funding Infrastructure Requirements, Marketing Initiatives and Distribution Channels
- Financing Working Capital Requirements, General Corporate Purposes
- Repaying debt to strengthen the Balance Sheet

Various Acts and Regulations – Control, Process and Disclosures

1. Companies Act
2. SCRA, 1956
3. SEBI Act , 1992 read with ICDR, LODR, SBER & SE, PIT
4. Depositories Act 1996
5. FEMA, 1999
6. Sector Specific Acts, Regulations
7. Labour & Taxation Laws

Right TEAM at the Right TIME

Types of Public Issue

Primary IPO

Issuance of new shares to the public

E.G. Venus Pipes & Tubes Limited.

Offer for Sale (OFS)

Sale of shares by existing shareholders to the public

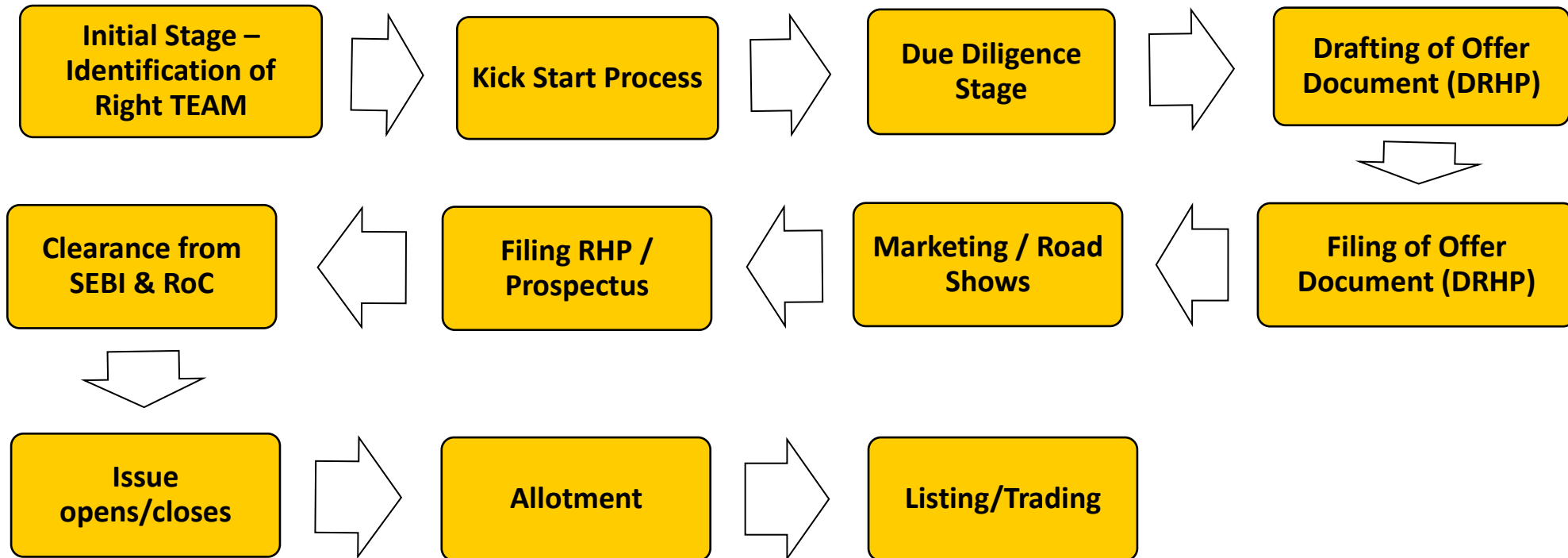
E.g. LIC

Mixed IPO

Combination of issuance of new shares and Sale of shares by the existing shareholders

E.g. Ethos Ltd ,
Aether Industries Limited

Stages of Public Issue



Recent Trends in Capital Raised through Public Issues

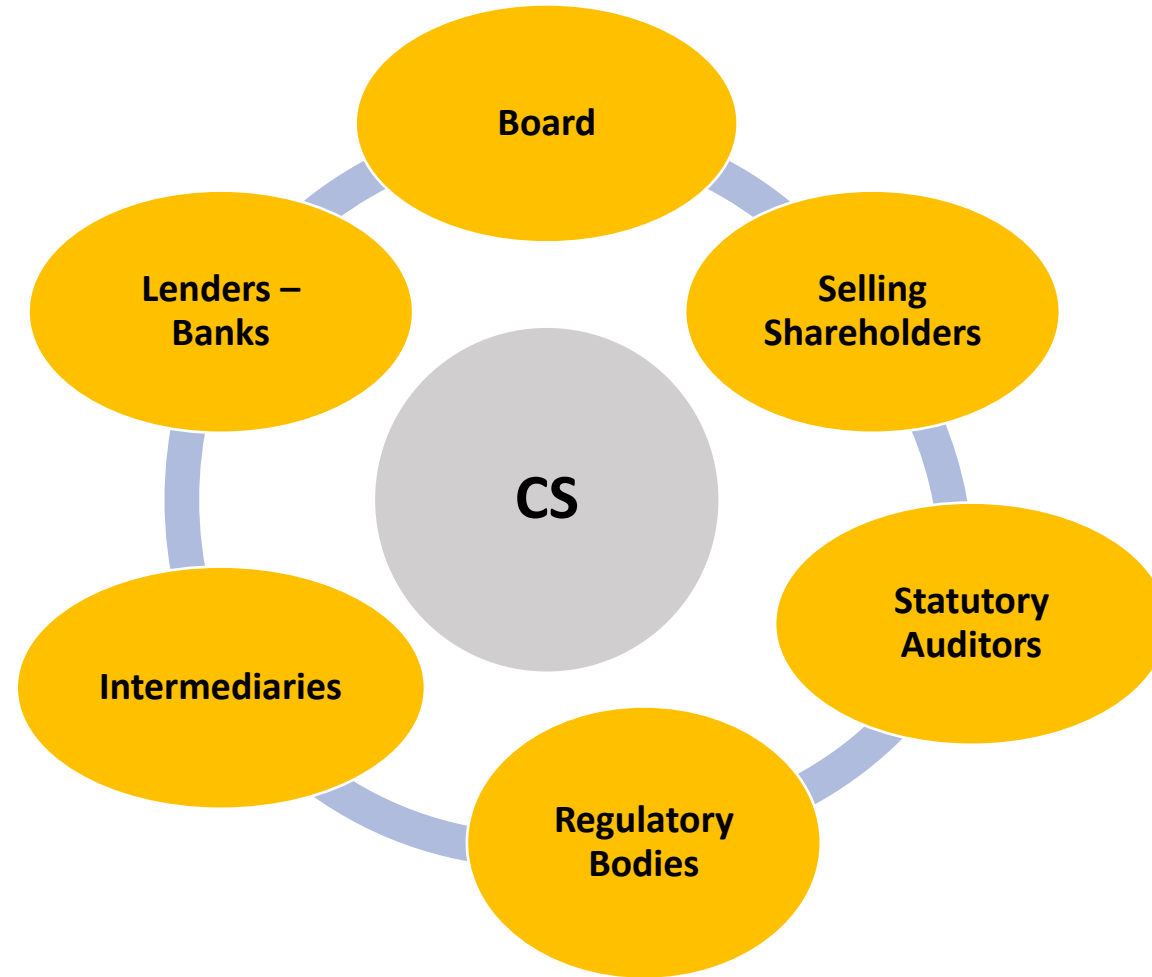
Sr. No.	Financial Year	IPOs (incl. SME IPOs)	FPOs (incl. SME IPOs)	OFS	Total (All amount in Crores)
1	2021-22	Rs. 112,349	Rs. 4314	Rs. 11,513	Rs. 128,176
2	2020-21	Rs. 31,512	Rs. 15,029	Rs. 28,440	Rs. 74,981
3	2019-20	Rs. 20,786	Rs. 35	Rs. 17,326	Rs. 38,147
4	2018-19	Rs. 16,340	Rs. 0	Rs. 21,686	Rs. 38,026

Source: Prime Database

Intermediaries in a Public Issue

- Merchant Banker/Book Running Lead Manager (BRLM)- Broker Syndicate
- Legal Counsels
- Credit Rating Agency/ Industry Report
- Statutory Auditors of the Issuer company
- Registrar to the Issue
- Escrow Bankers
- Advertisement/PR Agency/
- Printers
- Monitoring Agency

Parties with whom CS need to deal with in a Public Issue



Business Review by BRLM

- Brief introduction of Board of Directors, Key Managerial Personnel and Management Team
- Conducting SWOT Analysis
- Market Share in the sector in which the Issuer Company operates
- Defining Corporate Structure/preparing Organization Chart
- Key Milestones of the Issuer Company
- Awards / Recognitions of the Issuer Company
- Endeavors undertaken by the Company for growth & expansion
- Objective of the IPO

Due Diligence

Checklist for Due Diligence

1. Corporate Matters
2. Capital Structure
3. Object of the Issue
4. Risk Factors & MDA
5. About the Company
6. Our Management
7. Promoter & Promoter Group
8. Subsidiaries

Due Diligence

Checklist for Due Diligence

9. Government Regulations & Filing
10. Financial Indebtedness, Charges
11. Movable & Immovable properties
12. IPR
13. Litigation
14. Insurance of assets and D & O
15. Human Resources
16. Miscellaneous

Preparatory Steps prior to Public Issue – Set Your House In Order

1. Eligibility
2. MoA & AoA (Removal of Restrictive Clauses or Special Rights, if any)
3. Conversion into Public Company (in case the issuer is a Private Company)
4. Dematerialization of shares, Capital History, Revaluation Reserves , Bonus
5. Review of Accounting policies and related matters
6. Review of Auditor Qualifications

Preparatory Steps prior to Public Issue – Set Your House In Order

7. Review of all important litigations by or against the issuer company
8. Insurance / Approvals & Licenses- Up to date
9. Compounding of any violations
10. Formulation of Business Plan
11. Delegation of work amongst team members and various intermediaries
12. Review of Profile of all Directors and KMPs and ensure no one is disqualified

Preparatory Steps prior to Public Issue – Set Your House In Order

13. Identification of Promoters and Promoter Group – CA, ICDR & LODR
14. Identification of Group Companies and Material Subsidiaries
15. Identifying status of various Intellectual Property Rights (IPR)
16. Identifying Significant Beneficial Owner (SBO)
17. Establishment of Internal Controls (Financial or otherwise)
18. Exemption application (No identifiable promoter, relatives of promoters)

Preparatory Steps prior to Public Issue – Set Your House In Order

19. Drafting of various Codes and Policies
20. Ensuring compliance with Corporate Governance – ID, Committee, ToR
21. ESOP in compliance with SEBI Regulations
22. RPT details / CSR compliances / Website review
23. Working of Promoters Contribution, Lock In
24. Role of each Intermediaries and EL with them

Post Kick Start Process

Creation of VDR
(Virtual Data Room)

Populating of Data
(Section wise) in VDR

Obtain Standard
Certificates/ Consents,
NOCs from lenders .

Obtain approval of IPO
Committee/ Board /
Shareholders

Agreements with
Intermediaries

Industry Report

Restatement of
Financials as per
Ind-AS

Certificates / Deliverables
from Auditors / ICA
(must be Peer Reviewed)

Draft Red Herring
Prospectus
(DRHP)

Standard Certificate/ Undertaking/ Consents

- The Issuer Company will dedicate a team to create a Virtual Data Room (VDR) and to populate section wise data in the VDR as per the requirements of the law firm

- Standard Certifications from the following:-- **Prepare Deal Tracker**
 - Promoters and Promoter Group
 - Promoter Entities
 - Directors and Key Managerial Personnel
 - Selling Shareholders
 - Subsidiaries/ Associates / Joint Ventures
 - Group Companies

Standard Certificate/ Undertaking/ Consents

Company Certificate

- About Promoters
- About KMP
- About Investor Grievances
- About Loans and advances
- About Corporate Governance
- About subsidiaries, JV
- About eligibility for public issue

Standard Certificate/ Undertaking/ Consents

Company Undertaking & Confirmation

- Advertisement
- In relation to Stock Exchanges

Company DD Certificate

- Capital
- Promoter
- Group/ subsidiaries
- Approval and license
- Loans & Advances

Standard Certificate/ Undertaking/ Consents

Standard Consents

- Lead Manager BRLMs
- Bankers to the Issue/ Syndicate Members
- Registrar to the Offer
- Legal Advisors/ Auditors/ ICA/ KMPs
- Escrow Collection Bank/ Monitoring Agency/ Share Escrow agent

No Objection Letters

- Creditors
- Lenders

Industry Report/ Grading Process

- Seek information required from Credit Rating Agencies
- Discuss with management
- Visit to company's locations
- Meeting ED and ID
- Analytical Assessment Report
- Discussion with core management team

Board / Shareholders approval

➤ Approval of the Board & Shareholders for the following:

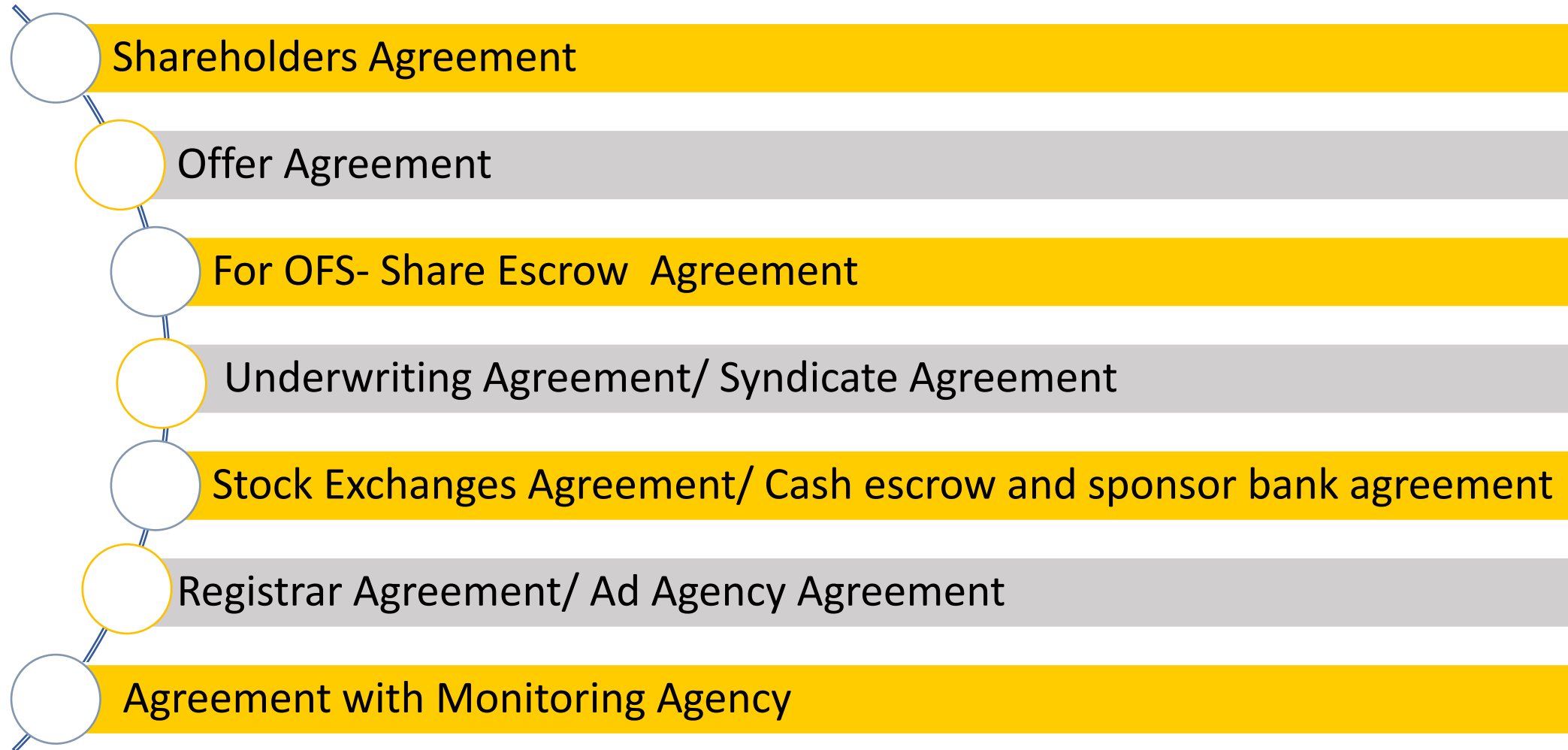
- Issue of shares to the Public (Fresh Issue, OFS, Hybrid)
- Alterations in MoA & AoA, if any
- Set-up an IPO committee
- Reconstitute Board of Directors with ID/ Women Director
- Appoint CS & Compliance Officer
- Establish/reconstitute Committees and adopt their Terms of Reference
- Revise or adopt applicable Codes and Policies
- Appoint BRLM, Law Firm/s and other key intermediaries
- Authorize directors to execute engagement letters with the intermediaries

Board / Shareholders approval

➤ Approval of the Board & Shareholders for the following:

- Increase in Authorized Share Capital, if any
- Alteration of Object Clause if required
- Increase in powers of Board u/s 180
- Amendment to ESOP and / or Setting up new ESOP, if any
- Increase in Investment limit for NRI/ FPI
- Appointment of Statutory Auditors or ICA for certificates
- Identification of Designated and Connected Persons for PIT
- Approval of Materiality for disclosure in DRHP about Group Company, Litigation & Creditors
- Revision in sitting fees or remuneration to ED or Non ED / ID etc

Various Agreements



Auditors/ ICA Deliverables

- Restated Financial Statements for preceding 3 FY & stub period as per Ind-AS
 1. Consent letter for naming the Auditor in the Offer Document
 2. Peer Review Certificate
 3. Certificate for eligibility to undertake the offer under SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2018
 4. Statement of Possible Special Tax Benefits available to the Company, Material Subsidiaries and Company's Shareholders

Auditors/ ICA Deliverables

5. Certificate on Corporate Governance,
6. Related Party Transactions,
7. Identification of Material Subsidiaries,
8. Litigations,
9. Loans & Advances,
10. ESOP Scheme,
11. Financial Indebtedness,
12. Group Companies,
13. Auditors Qualifications, Reservations & Adverse Remarks,
14. Policies

Auditors/ ICA Deliverables

15. Capitalisation Statement
16. Certificate on basis of Offer Price
17. No material Development
18. Confirmation of acquisition and divestment
19. Outstanding due to MSME Creditors
20. Non payment of statutory Dues and contingent liabilities
21. Reservation , Qualification and adverse remarks of Auditors
22. Change in accounting policies
23. Details of acquisition and cost of acquisition of shares
24. No material Frauds

Auditors/ ICA Deliverables

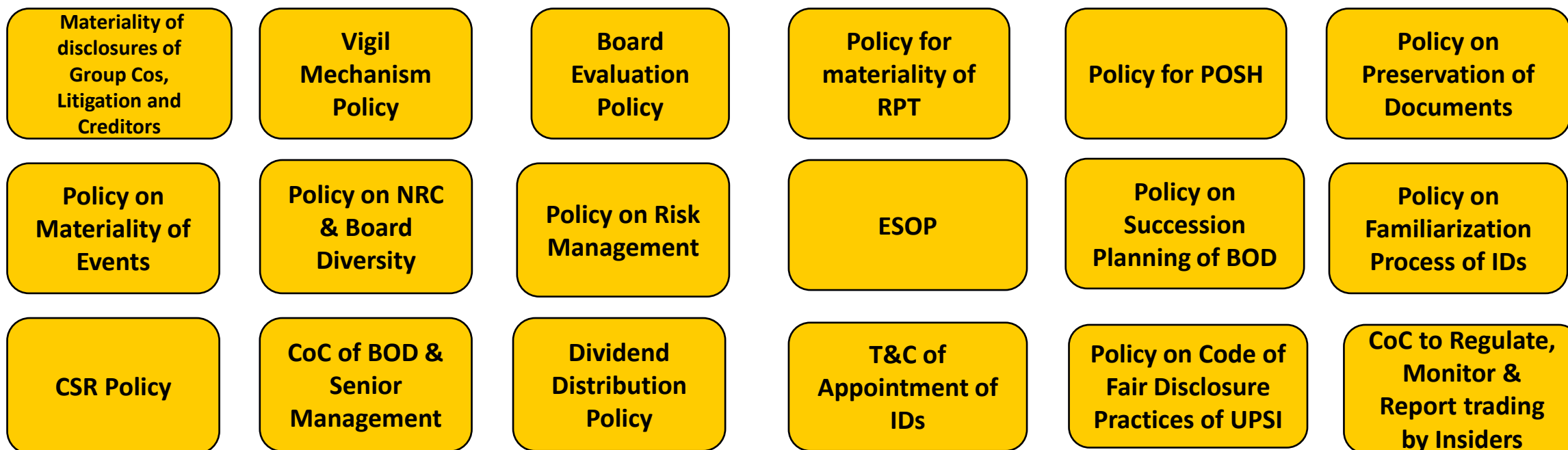
25. Promoters contribution
26. Dividend
27. Share Capital built up
28. Tax litigation , if any
29. Remuneration paid to Directors and KMPs
30. Certificate on SEBI Order 2015
31. Certificate on SEBI Order 2020
32. Certificate on Rejection Criteria under the SEBI General Order(s) relating to financial matters

Role of Company Secretary in Public Issue Deliverables

1. Preliminary Due Diligence with Legal Counsel and reply to Requisition List
2. Identification of pending litigation of Promoters, Directors, Key Managerial Personnel, Subsidiaries and Associates and update MIS tracker
3. Preparing Promoter Matrix for identification of Promoters and Promoter Group
4. Organization Structure and composition of Board & its Committees

Role of Company Secretary in Public Issue Deliverables

5. Drafting Codes & Policies for Corporate Governance / for Disclosure in DRHP:



Role of Company Secretary in Public Issue Deliverables

6. Ensuring conformity with Corporate Governance
7. Make available supporting documents in the VDR (Virtual Data Room) in co-ordination with other departments of the Issuer Company.
8. Arrange standard Certifications / Undertaking
9. ESOP to be in compliance with SEBI (Share Based Employee Benefits & Sweat Equity) Regulations, 2021
10. Assisting Statutory Auditor for issuing deliverables

Role of Company Secretary in Public Issue Deliverables

11. Review of each Risk Factors (internal and external) and discuss with Board and Management, review DRHP and Circle Ups, review Legal Opinion of Counsel of subsidiaries/ JV
12. Continual disclosure to all Statutory and Regulatory Authorities
13. Application for In Principle Listing with Stock Exchanges along with fees
14. Advising the Issuer Company along with other intermediaries in resolving the comments / observations issued by SEBI on the Draft Red Herring Prospectus (Draft Offer Document)
15. Preparing details for CFD (Corporate Finance Department) and processing fees

Role of Company Secretary in Public Issue Deliverables

16. Issuance of Corporate Governance Certificate under SEBI (Listing Obligations & Disclosure Requirements) Regulations, 2015 w.r.t. compliance of the following:

Composition of Board of Directors	Audit Committee & its Composition	NRC & its composition	Stakeholders Relationship Committee
Risk Management Committee	Meetings of BOD & its Committees	RPTs & Compliance with RPT norms	Material Subsidiaries
Obligations w.r.t. Independent Directors	Obligations w.r.t. Senior Management	Obligations w.r.t. Promoters, Directors & KMPs	Policies & Website Disclosures

Pre Public issue Placement – Marketing & Roadshows

17. Assist for Road shows by Promoter and Management team with PPT, Q & A, meeting Fund Managers and Equity Analysts
18. Filing Red Herring Prospectus with Registrar of Companies
19. List out all Material Documents to be kept ready for inspection as mentioned under DRHP
20. Filing of various Forms with RoC

Pricing of the Public Issue – Fixed Price or Book Building Process

- Floor Price (Minimum) and Cap Price (Highest Price) Range of 20% to be announced
- For the bidding process, the investors have to place their bids as per the company's quoted Lot price, which is the minimum number of shares to be purchased.
- Public Issue will remain open for 3-5 days
- Investors can avail the opportunity of revising their bids within this period.
- After completion of the bidding process, the company will determine the Cut-Off price, which is the final price at which the issue will be sold.

Allotment of Shares

- Finalization of Public Issue price
- Finalization of Basis of Allotment and number of securities to be allotted to each investor
- In case of over-subscription, partial allotments will be made to the investors and excess monies will be refunded.
- In about 7 days' time, the registrar of the issue finishes and confirms allotment to successful bidders
- The securities are usually allotted to the bidders within 10 working days of the last bidding date.
- Public Annoucement

Indicative Timeline for Public Issue

- | | | |
|--|---|-------|
| ➤ Board Meeting to approve Public Issue | - | T |
| ➤ Kick off Meeting with BRLM | - | T+5 |
| ➤ Research Presentation | - | T+10 |
| ➤ Due Diligence & Drafting | - | T+60 |
| ➤ Publication of Research Report | - | T+61 |
| ➤ File DRHP with SEBI & Stock Exchange | - | T+62 |
| ➤ Receipt of In-principle approval from Stock Exchange | - | T+77 |
| ➤ Receipt of SEBI's comments on DRHP | - | T+122 |

Indicative Timeline for Public Issue

- | | | |
|---|---|-------|
| ➤ Incorporation of SEBI comments in RHP | - | T+129 |
| ➤ File RHP with SEBI | - | T+130 |
| ➤ Receive SEBI go-ahead to RHP | - | T+145 |
| ➤ File RHP with ROC | - | T+146 |
| ➤ Marketing & Roadshows | - | T+161 |
| ➤ Issue opens | - | T+163 |
| ➤ Issue closes | - | T+168 |
| ➤ Allotment | - | T+177 |
| ➤ Transfer funds from Public Issue A/c to Company's A/c | - | T+180 |
| ➤ Listing and Trading | | |

Skills require by CS for working for Public Issue

- Expert of subject matter , understanding of accounts/ Ratios/ ESG etc
- Positive attitude with Good communication skill
- Attention to Detail and good in drafting
- Considerate and compassionate
- Patience (prevailing market condition)
- Team Player and Leader
- Active and adaptability
- Openness to feedback
- Active listener



Amita Desai & Co.

Company Secretaries

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