



“There has been a lot of regulatory focus on the role of the issuer and the merchant banks when it comes to providing industry data in DRHPs... they shouldn’t blindly rely on these data points”

MANSHOOR NAZKI
PARTNER, INDUSLAW



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PRANAV HALDEA
MD, PRIME DATABASE

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MAHAVIR LUNAWAT
MD, PANTOMATH CAPITAL ADVISORS



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J.N. GUPTA, MD, STAKEHOLDERS EMPOWERMENT SERVICES

data points without specific reference or backups can mislead investors.

“Each disclosure in the DRHP must be accorded due seriousness. Casual statements and factually inaccurate data points potentially mislead investors... Data presented as part of third-party industry reports and analysis must be checked and proper diligence must be exercised,” says Lunawat. “Statements like ‘the company is best in the industry’ or ‘the company ensures that its products are of topmost quality’ or ‘the company is the No. 1 brand’ cannot and must not be made, unless those statements can be backed by facts.”

THE WAY AHEAD

There is a clear conflict-of-interest scenario, according to experts, as the company itself is paying for such industry studies and one cannot presume that the firm making the reports would present adverse remarks against the company. Sebi’s move of putting the onus on the merchant bankers and the company is a good point to start with. “There is an inherent conflict of interest but that challenge will always be there,” says J.N. Gupta, MD of Stakeholders Empowerment Services, a proxy advisory firm. “There is a set of people including the board of directors and the merchant bankers who sign the prospectus, and the onus lies on them as far as the veracity of the content is concerned,” adds Gupta, a former executive director of Sebi.

The regulator has taken care of the onus part through an advisory, communiqué or a gentle warning—one may choose what to call it—but there has to be a solution as well, because this revolves around the issue of ‘spirit of the law’ that Sebi Chairperson Madhabi Puri Buch had highlighted recently. Pranav Haldea, MD of Prime Database, a primary markets tracker, points out: “Sebi may take a call that since these entities are providing industry outlook for IPOs, they need to register with the regulator as well akin perhaps to the Research Analyst framework that is applicable to those which provide stock-specific advice.”

One may argue that the issue of conflict of interest is applicable for auditors or independent directors as well since they also get paid by the company. But these entities are answerable to the regulator as the past has proved many times.

Perhaps, Sebi will need to look at ways to bring such so-called independent agencies under its ambit as far as their research functions for IPO-bound companies are concerned. **BT**

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