

SEBI's Confidential Pre-Filing Mechanism for IPOs: A Net Positive Step for Indian Capital Markets Despite a Modest Uptake



Prashant Gupta
*Partner, National Practice
Head, Capital Markets
Shardul Amarchand
Mangaldas & Co.*



Sayantan Dutta
*Partner, Capital Markets
Shardul Amarchand
Mangaldas & Co.*



Ankur Verma
*Principal Associate, Capital
Markets
Shardul Amarchand
Mangaldas & Co.*

Just like India's economy, India's capital markets have experienced significant growth over the last decade. This growth has been fueled by proactive and innovative steps implemented by the Indian securities regulator, Securities and Exchange Board of India ("SEBI"). However, one of the reforms that has been an extremely useful one, even if not transformational yet, is the introduction of the confidential pre-filing mechanism for offer documents in initial public offerings ("IPOs"). Prior to 2022, an issuer exploring the possibility of an IPO was required to mandatorily file a draft offer document with SEBI for its review, which included various commercially sensitive information about its business operations, financial performance, competitive strategy, risk factors and proposed utilization of proceeds and such draft offer document was hosted on SEBI's public platform which is accessible by anybody and everybody. While the offer document remained subject to the review of the regulators (i.e., SEBI and the stock exchanges), they also remained exposed to the public, peers and rivals of the issuers without any certainty about the IPO from a regulatory or marketing perspective.

The confidential pre-filing mechanism was introduced to solve this real issuer-side problem of premature public disclosure of commercially sensitive information in the draft red herring prospectus ("DRHP") while still preserving eventual public disclosure before launch.

SEBI has been extremely vigilant on the disclosure and compliance hygiene of the issuers in recent times leading to even return or rejection of DRHPs for sub-par disclosures or lack of statutory or regulatory compliance on the part of the issuers or its promoters. This, coupled with volatile market conditions due to geo-political issues, has led to a number of issuers not being able to launch their IPOs despite filing the DRHPs with SEBI.

Set forth below is a list of number of DRHPs filed and their success rates in the three years prior to the introduction of the confidential pre-filing mechanism in 2022.

S.No.	Financial Year	Number of DRHPs filed	Number of issuers who executed their IPO from column 3	Number of issuers who did not proceed with the IPO from column 3
1.	2018-19	65	24 (36.92%)	41 (63.08%)
2.	2019-20	33	23 (69.70%)	10 (30.30%)
3.	2020-21	31	25 (80.65%)	6 (19.35%)
Total		129	72 (55.81%)	57 (44.19%)

It can be seen from the table above that in the three financial years from Fiscal 2019 to Fiscal 2021, out of 129 DRHPs, 57 issuers did not launch their IPOs despite filing the DRHPs with SEBI. Following stakeholder consultations

through the introduction of a consultation paper on May 11, 2022, SEBI introduced a confidential pre-filing mechanism for IPOs through an amendment to the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“**SEBI ICDR Regulations**”) in November 2022.

Since 2022, 48 companies have used the confidential pre-filing mechanism in India, with only one filing in each of 2022 and 2023, followed by a marginal increase to two filings in 2024. However, the momentum increased significantly thereafter, with 20 filings in 2025 and another 24 filings in the first five months of 2026 alone. By May 2026, confidential filings constituted 22.73% of all IPO filings, up from 11.15% in 2025 and a negligible 1.27% in 2024.

In this article, we evaluate the hits and misses of the confidential pre-filing mechanism with a focus on what more can be done to make this a more favorable and a more transformational mechanism which propels the growth of Indian capital markets.

The wins and blessings

Better protection of commercially sensitive information

This has been the core policy rationale for implementing the confidential pre-filing mechanism by SEBI. SEBI noted that, under the conventional public filing route, issuers had to disclose sensitive business information publicly even when there was uncertainty on whether the IPO would proceed; competitors could potentially use that information. The confidential pre-filing mechanism addresses this by allowing the pre-filed draft offer document to remain outside the public domain until after receiving SEBI’s observations and the issuer’s decision to proceed. This is especially helpful for tech, consumer platform, financial services and other data-rich businesses. Growth-stage companies operating in highly competitive sectors where disclosure of business strategies, customer acquisition metrics, technological capabilities or expansion plans can provide competitors with valuable strategic intelligence.

Greater execution flexibility

One of the primary reasons issuers choose the confidential pre-filing mechanism is to preserve flexibility in uncertain market conditions. This mechanism allows issuers to test regulatory comments, market conditions and institutional appetite before committing to full public disclosure. This is particularly relevant in periods of geopolitical uncertainty and volatile capital markets. SEBI’s own data showed that, from Fiscal 2019 to Fiscal 2021, 57 out of 129 issuers that filed DRHPs with SEBI did not proceed with IPOs. That was a strong empirical basis for giving issuers a less publicly exposed preparatory route. *Companies can therefore pursue an IPO opportunistically without creating expectations that a listing is inevitable which reduces reputational risk associated with IPO withdrawal.*

Limited “testing the waters” is a practical addition

SEBI’s framework for confidential pre-filing mechanism incorporates a “testing the waters” construct that enables issuers to engage with certain potential investors (typically qualified institutional buyers) to explore interest of such investors in the intended IPO, before formally launching the IPO. This helps issuers and bankers gauge institutional demand and valuation sensitivity before taking the reputational and commercial step of public DRHP disclosure. Such interactions may facilitate more efficient price discovery and better alignment between issuer expectations and investor demand.

More aligned with international practice

Jurisdictions such as the USA, the UK and Singapore permit confidential or pre-filing review processes. The Indian framework therefore brought the main board IPO process closer to global market practice, which is useful for companies with sophisticated financial sponsors or cross-border investor bases. While confidential filing as a mechanism has accelerated significantly since 2012, the architecture of these regimes varies substantially across jurisdictions.

Particulars	United States of America	India	Singapore	United Kingdom
Initial Filing	Issuer confidentially submits a draft registration statement (typically Form S-1) with the Securities and Exchange Commission (“ SEC ”). The document is not publicly available initially.	Issuer submits a pre-filed draft red herring prospectus (“ PDRHP ”) to SEBI and stock exchanges. The document is not publicly available initially.	Confidential review of draft prospectus documents may be available in certain circumstances, but Singapore does not have a dedicated IPO confidential filing regime equivalent to India’s confidential filing framework.	Draft prospectus is submitted confidentially to the Financial Conduct Authority (“ FCA ”) for review.

Regulatory Review	SEC reviews the draft registration statement and issues comments confidentially.	SEBI and the stock exchanges review the PDRHP and issue observations/comments confidentially.	Monetary Authority of Singapore reviews prospectus disclosure requirements, while Singapore Exchange reviews listing eligibility and compliance.	FCA reviews and issues comments confidentially.
Public Disclosure Trigger	Registration statement and SEC comment letters must become public before the roadshow presentations.	PDRHP must subsequently be made public (after addressing comments of the SEBI and stock exchanges) for their review for a period of at least 21 days.	Draft prospectus review can occur before public launch, but the final prospectus must be publicly registered and available before the offering.	Draft prospectus remains confidential until publication closer to the IPO.
Withdrawal Flexibility	Issuer may withdraw after confidential review with significantly reduced public visibility.	Issuer may abandon the IPO after confidential review without extensive public disclosure of the draft prospectus.	The framework provides some confidentiality during preparatory stages but does not offer the same formalized protection associated with a confidential review process in India.	Issuer may similarly withdraw like India, prior to publication with minimal public scrutiny.

The misses

The confidential pre-filing mechanism adds additional process steps which have impact on timeline and costs. Perhaps, that's why uptake has been visible but not overwhelming. The confidential pre-filing mechanism has been used by notable issuers, and SEBI's processing-status disclosures show several pre-filing matters in the pipeline. But the same SEBI disclosure also shows that ordinary IPO filings continue to dominate the pipeline. The confidential pre-filing mechanism is not simply a confidential version of the ordinary DRHP process. It adds stages – pre-filed DRHP, SEBI observations, Updated Draft Red Herring Prospectus – I (“**UDRHP-I**”) for public comments, Updated Draft Red Herring Prospectus – II (“**UDRHP-II**”) after public comments, and then Red Herring Prospectus and Prospectus. SEBI's consultation process had recorded concerns from some merchant bankers that the confidential pre-filing mechanism could have negative implications for timelines, costs and process perspective, although all things considered - those concerns are outweighed by issuer benefits.

However, to streamline and rationalize the process further and to make the confidential pre-filing mechanism a transformational step in the Indian securities markets, the following steps could be considered by SEBI:

Proposed flexibility to amend objects until public filing – The current framework under the SEBI ICDR Regulations permits a fresh issue component of the IPO to increase or decrease by up to 50% after the issuance of SEBI observations, which is more than the ordinary threshold applicable in the public filing route. The commercial rationale supporting flexibility in the quantum of the fresh issue should also apply to the underlying objects of the IPO, until the public filing of the offer document. While the confidential IPO mechanism recognizes that the issuer's financing requirements may change materially before public disclosure, if the issuer is not correspondingly permitted to amend or delete an object of the IPO before the public filing, the substantive deployment plan explaining and justifying the revised size of the IPO would remain incomplete. A calibrated safeguard could be that amendments or deletions of objects until the public filing should be permitted without requiring a fresh confidential filing, provided the revised objects are incorporated in the public filing and SEBI is given an opportunity to review the updated disclosure before the document is made public or before the issuer proceeds further in the IPO process. For example, in the first instance, an issuer should be permitted to have five objects in the confidentially pre-filed document while they can reserve the right to drop a few of the objects based on regulatory review, business requirements and marketing feedback. In the second instance, an issuer who has identified repayment of loans as its object, should be allowed to replace the loans identified in the pre-filed DRHP with new loans availed at the public filing stage.

Compliance of certain corporate governance requirements – In relation to corporate governance, some requirements that are inefficient to be complied with at a confidential exploration stage (particularly where the issuer may not ultimately proceed with the IPO) can be addressed during the confidential review period and crystallized by the time the offer document is made public. SEBI expressly recognized timing flexibility for compliance of certain regulations in relation to the confidential pre-filing mechanism in its 2022 board memorandum on introduction of pre-filing of offer documents. That principle supports a practical approach on relaxation of certain corporate governance requirements such as appointment of all the independent directors in the confidential pre-filing stage. While an issuer should not assume that all governance requirements can be deferred without consequence, the company may generally use the confidential period to identify a few independent directors, as that does take additional time.

Undertake strategic material acquisition during the confidential review period – The current framework permits issuers to undertake material acquisitions during the confidential filing period along with submission of pro forma financial statements, while the acquisition may still be under negotiation, subject to closing conditions or other commercially sensitive details. Material acquisitions often involve complex negotiations, regulatory approvals, financing arrangements and integration planning, all of which may remain ongoing during the confidential review process. Requiring issuers to prepare pro forma financial statements, before the acquisition has been completed may create practical difficulties, particularly where access to the target’s financial information is limited or where the transaction structure remains subject to change. Accordingly, where a material acquisition is under negotiation during the confidential review phase, only upon completion of the acquisition, the issuer should submit the pro forma financial statements and related disclosures confidentially to SEBI during the review process, with comprehensive disclosures in the public filing. This approach would ensure that public investors receive complete and accurate information regarding the post-acquisition business and financial profile of the issuer, while preserving the flexibility and confidentiality that the pre-filing mechanism is intended to provide.

Allowing pending schemes of arrangement during the confidential review period - One of the most significant advantages of a confidential filing regime is its ability to accommodate corporate evolution during the regulatory review process. In furtherance of this objective, issuers should be permitted to maintain a proposed scheme of arrangement as pending during the confidential filing phase, without being required to complete the scheme prior to the confidential submission of the draft offer document. The experience of Tata Capital Limited (“**Tata Capital**”) provides a useful illustration of why issuers should be permitted to pursue a confidential filing even while a material scheme of arrangement remains pending. As part of its pre-IPO reorganization, Tata Capital undertook a merger of Tata Motors Finance Limited into Tata Capital. At the time Tata Capital initiated its confidential IPO filing process, the scheme of arrangement had not yet become effective and remained subject to completion of the applicable regulatory and judicial approval process. Despite the pendency of the scheme, Tata Capital was able to proceed with the confidential filing process and engage with the regulator while the scheme continued to progress towards completion. The amalgamation was subsequently approved by the National Company Law Tribunal, Mumbai Bench and became effective before the IPO process moved to the public filing stage. SEBI should specifically make it a codified regulation by providing for it in the SEBI ICDR Regulations for confidential pre-filing mechanism. This can become an exception available only to issuers opting for the confidential pre-filing mechanism and additional conditions (e.g., the scheme should have been filed, approvals of shareholders and lenders should have been obtained etc.) can be included to ensure that this mechanism is not exploited by issuers.

Conclusion

The confidential pre-filing mechanism is a net positive step for Indian capital markets. It reduces the “all or nothing” disclosure burden at the exploratory IPO stage and gives issuers a more sophisticated regulatory pathway. Since its introduction, the confidential filing route has gained increasing acceptance among Indian issuers, particularly technology companies, fintech platforms, consumer internet businesses and private equity-backed enterprises. Recent market practice indicates that confidential filing is gradually evolving from an exception to a mainstream alternative even for large and complex IPO transactions. As adoption increases, regulators may continue to refine disclosure timelines and investor engagement mechanisms. However, it is not a complete substitute for the standard public filing route. Its practical value is highest where confidentiality, timing optionality and institutional price discovery matter enough to justify the extra procedural steps.