



## ICAI lays down framework for disclosure of KPIs in IPO Offer Documents

### Background

In November 2022, the Securities and Exchange Board of India (“SEBI”) amended the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“SEBI ICDR Regulations”) to mandate disclosure by an issuer company of: (i) all key performance indicators (“KPIs”) disclosed to investors during the three preceding years; and (ii) any other KPIs relevant and material to its business as deemed to have bearing on the basis for the issue price, in the ‘Basis for Issue Price’ section in offer documents for initial public offerings (“IPOs”).

Such KPIs are required to be approved by the Audit Committee and certified by “statutory auditor(s) or Chartered Accountants or firm of Chartered Accountants, holding a valid certificate issued by the Peer Review Board of the Institute of Chartered Accountants of India or by Cost Accountants, holding a valid certificate issued by the Peer Review Board of the Institute of Cost Accountants of India”.

The Institute of Chartered Accountants of India (“ICAI”) in April 2023 has published its “Technical Guide on Disclosure and Reporting of Key Performance Indicators (KPIs) in Offer Documents” (“ICAI Guide”), which sets out a detailed framework for the disclosure and reporting of such KPIs.

### Applicability

The ICAI Guide applies to reporting by statutory auditors and independent chartered accountants (together, referred to as “Accountants”) of KPIs disclosed in the ‘Basis of Issue Price’ section in offer documents in case of IPOs under the SEBI ICDR Regulations. While the ICAI Guide specifically highlights IPOs, Accountants may adopt similar approach in case of other offer documents as well.

Accountants typically provide certification/tick-and-tie comfort on other figures (ranging from number of/amount involved in outstanding litigation proceedings to details of indebtedness and stock options to managerial remuneration) disclosed in offer documents as well. While the ICAI Guide specifies that it relates only to those KPIs as are disclosed in the ‘Basis for Issue Price’ section, it is unclear whether the Accountants’ ability to provide comfort/certify/perform agreed upon procedures on such other figures will be impacted. For instance, Accountants may cite inability to report on certain figures citing lack of specialized knowledge/expertise. This may result in other professionals being required to be engaged to confirm such other non-KPI figures.

### Categories of KPIs

The ICAI Guide categorizes KPIs under four heads, prescribing different treatment of each, along with additional compliances, as set out below.

Category of KPI	Description	Approach on Reporting	Key Additional Requirements
GAAP financial measures/ KPIs	Measures generally disclosed in the financial statements  Numerical measures disclosed in accordance with Generally Accepted Accounting Principles (“GAAP”), i.e., Indian Accounting Standards notified under Section 133 of the Companies Act, 2013.  <b>Examples: Revenue from Operations, PAT, Cash Flows from Operating Activities</b>	Can ordinarily be reported on by the Accountants	<ul style="list-style-type: none"> <li>Subject to compliance with the requirements of the ICAI Guide</li> </ul>



Category of KPI	Description	Approach on Reporting	Key Additional Requirements
Non-GAAP financial measures/ KPIs	<p>Items not defined under applicable accounting standards, but based on audited line items included in the financial statements</p> <p>Numerical measures of historical financial performance, financial position or cash flows that: (i) exclude amounts or are subject to adjustments that have the effect of excluding amounts, that are included in the most directly comparable GAAP financial measures presented in the financial statements; or (ii) include amounts or are subject to adjustments that have the effect of including amounts that are excluded from the most directly comparable measures so calculated and presented.</p> <p><b>Examples: EBITDA, Gross Margin, PAT Margin, Net Worth</b></p>	Can ordinarily be reported on by the Accountants	<ul style="list-style-type: none"> <li>• Subject to compliance with the requirements of the ICAI Guide</li> <li>• Should be based on such audited line items only as are included in the financial statements</li> <li>• Guidance Note on Division I/II, Schedule III to the Companies Act, 2013 to also be adhered to in relation to accounting ratios required under Schedule III to the Companies Act, 2013 (including debt equity ratio, RoE, RoCE and RoI).</li> </ul>
Non-financial measures/ KPIs (part of financial reporting)	<p>Quantitative information obtained from accounting records and subjected to the same controls over financial reporting as the amounts reported in the financial statements</p> <p>Non-financial KPIs could be based on GAAP measures with a relationship to such non-financial measures, which are part of financial reporting.</p> <p><b>Examples: Number of Employees/Paid Subscribers, Average Invoice/Purchase Value, Average Selling Price</b></p>	To be evaluated on case-to-case basis, based on facts and circumstances, whether or not the Accountants can report on non-financial KPIs.	<ul style="list-style-type: none"> <li>• Subject to compliance with the requirements of the ICAI Guide</li> </ul>
Operational measures/ KPIs (not part of financial reporting)	<p>Measures not required to be part of financial reporting process</p> <p>Generally, operational KPIs are obtained from the issuer company's records, and since they are not part of financial reporting, have typically not been subjected to the same controls as over financial reporting but are related to business and operations of the issuer company.</p> <p><b>Examples: Social media followers, website traffic, store footfalls</b></p>	Cannot be reported on by Accountants – note that while the ICAI Guide indicates that “most” operational KPIs would require specialized knowledge preventing Accountants from reporting on them, it goes on to say that Accountants should refrain from reporting on operational KPIs that are not part of financial reporting.	<ul style="list-style-type: none"> <li>• If any operational KPI is relevant to the ‘Basis for Issue Price’ section, professionals (other than Accountants), i.e., cost accountants will need to be engaged to report on them</li> <li>• Details of other professionals like their name, qualifications and KPIs for which such other professionals have reported to be disclosed</li> <li>• Reports of other professionals to be included as material documents for inspection</li> </ul>

## Analysis

Our analysis below is limited to certain key potential issues that we foresee arising from additional compliance and disclosure requirements relevant to issuer companies and book running lead managers and is not intended to be an exhaustive summary of the

ICAI Guide. You are advised to refer to the ICAI Guide in entirety for a comprehensive list of compliance and disclosure requirements prescribed therein.





## Additional Disclosures

### Relevant Provisions of the ICAI Guide

- The relevant source of each KPI should be disclosed in offer documents, including, as applicable: (i) report from industry or other experts for KPIs applicable for such industries; (ii) KPIs used in regular internal management information system reporting; and (iii) KPIs used by investors, analysts, and others in past investment decisions in the issuer company.
- Reconciliation of non-GAAP financial KPIs to the most directly comparable GAAP financial measure reported in the financial statements to be disclosed in the offer document.

### Potential Impact and Concerns

- While many of the extensive disclosure requirements under the ICAI Guide would be covered under the SEBI ICDR Regulations, Accountants may request additional disclosures, such as the above, to be included – note that the ICAI Guide also specifies additional disclosures in relation to certain commonly used industry-specific KPIs, such as gross merchandise value for e-commerce and total customer base for telecommunications. Disclosures in Indian offer documents already tend to be voluminous and extensive compared to other jurisdictions.
- Since the 'Basis for Issue Price' section forms part of the price band advertisement, print size constraints may present challenges in the incorporation of such additional disclosures as well.
- The SEBI's outlook on disclosure of KPIs is still evolving, and it remains untested whether such additional disclosures would be acceptable to the SEBI. For instance, the SEBI may not view favorably any categorization of KPIs being disclosed in the offer documents if it expects all KPIs to be uniformly presented. Disclosing that KPIs have "been used by investors, analysts, and others in past investment decisions in the issuer company" would also be difficult to verify and may even be perceived as misleading.

## Other Professionals

### Relevant Provisions of the ICAI Guide

- Accountants should report only on financial information where they have professional expertise and should refrain from reporting on operational KPIs (not part of financial reporting). Other professionals with specialized knowledge should be appointed for reporting on operational KPIs.

### Potential Impact and Concerns

- Accountants may not report on operational (or any other) KPIs that are required to be disclosed under the SEBI ICDR Regulations. One approach that may be evaluated in this regard is for agreed-upon procedures to continue be performed in

relation to such operational KPIs (in line with the existing practice of independent chartered accountant certification), failing which, peer-reviewed cost accountants will need to be engaged to report on such KPIs.

## Internal Controls

### Relevant Provisions of the ICAI Guide

- Issuer companies are required to, among other things: (i) institute disclosure controls and procedures (with the approval of the Audit Committee) regarding, among other things, compliance, review and monitoring of KPIs, including by the Audit Committee; and (ii) test the design, implementation and operative effectiveness of disclosure controls and procedures for all the periods for which KPIs are disclosed in the offer documents. The report of such test may be approved by Audit Committee and adopted by the Board of Directors.
- Only KPIs subjected to adequate internal controls over financial reporting operating effectively during the relevant period and tested by the Accountants based on the guidance provided in Guidance Note on Audit of Internal Financial Controls Over Financial Reporting issued by ICAI, should be disclosed in offer documents. Accountants should evaluate performing appropriate additional procedures or controls, if necessary, to be able to report on such KPIs.
- All KPIs disclosed in offer documents should be approved by the Board of Directors, in addition to the Audit Committee.

### Potential Impact and Concerns

- Since many issuer companies are private limited companies until (and consequently reconstitute their Board of Directors/constitute Audit Committee) shortly prior to filing the draft offer document, auditors may consider their internal controls during the periods for which KPIs are to be disclosed as inadequate, and require additional procedures and controls to be performed on KPIs, which may impact transaction timelines.
- The additional approval of the Board of Directors for KPIs to be disclosed is superfluous in the face of approval of the Board of Directors of the entire offer documents as well as signatures of each individual director thereon.

## Peer Group Information

### Relevant Provisions of the ICAI Guide

- Accountants should not report on any KPIs of peer group companies presented in the offer documents.

### Potential Impact and Concerns

- Peer group information will need to be sought from and certified by the industry expert for the IPO. Certain industry



experts may not always agree to provide such information, especially if such information is to be derived from the audited financial statements of the relevant peers. In any event, the Accountants would arguably be best qualified to confirm on KPIs derived from the audited financial statements of the relevant peers.

## Persons to whom report to be addressed

### Relevant Provisions of the ICAI Guide

- The illustrative format of the report on KPIs to be issued by the Accountants provided under the ICAI Guide includes a disclaimer that such report “*should not be relied upon by existing or prospective investors for their investment purposes and by the bankers/book running lead managers involved in the Offer for their due diligence purposes*”.

### Potential Impact and Concerns

- The report of the Accountants will need to be relied on by book running lead managers and their counsels.

## Scope of Reporting

### Relevant Provisions of the ICAI Guide

- The illustrative format of the report on KPIs to be issued by the Accountants provided under the ICAI Guide provides for limited assurance as to whether KPIs are in agreement with the audited financial statements or restated financial information (as applicable).

### Potential Impact and Concerns

- Book running lead managers may require a different/higher standard of assurance, including for operational KPIs that do not form part of financial reporting and are accordingly not covered under the current language of the illustrative format.

## Concluding Remarks

Issuer companies and book running lead managers will need to be mindful of the considerations prescribed under the ICAI Guide in their identification of KPIs to be disclosed in the ‘Basis of Issue Price’ section. It remains to be seen how Accountants balance the ICAI Guide with the requirements of the SEBI ICDR Regulations, including how they treat KPIs that do not align with the requirements prescribed under the ICAI Guide, but are required to be disclosed under the SEBI ICDR Regulations. Accordingly, it would be advisable to consult with legal counsel and other transaction advisors as early as possible, to avoid/pre-empt any bottlenecks in this respect.

Operational KPIs in particular will likely pose challenges, since their usage and periodic reporting to institutional investors is prevalent in many industries, such as SAAS, fintech and new-age technology companies. Since reporting by relevant professional experts instead of the Accountants is not permitted under the SEBI ICDR Regulations, the ICAI Guide effectively limits avenues for reporting on KPIs to only cost accountants. Cost accountants have not typically been engaged for similar assignments in IPOs (since it has been market practice for the Accountants to report on KPIs and other metrics). This may create challenges, since it is unlikely that cost accountants would have specialized knowledge that is not available to the Accountants.

Please feel free to address any further questions or request for advice to:

#### Prashant Gupta

National Practice Head – Capital Markets  
prashant.gupta@AMSShardul.com

#### Nikhil Naredi

Partner – Capital Markets  
nikhil.naredi@AMSShardul.com

#### Sayantana Dutta

Partner – Capital Markets  
sayantan.dutta@AMSShardul.com

#### Monal Mukherjee

Partner – Capital Markets  
monal.mukherjee@AMSShardul.com

#### Manjari Tyagi

Partner – Capital Markets  
manjari.tyagi@AMSShardul.com

#### Shubhangi Garg

Partner – Capital Markets  
shubhangi.garg@AMSShardul.com

#### Abhinav Maker

Partner – Capital Markets  
abhinav.maker@AMSShardul.com

#### Abhiroop A. Datta

Partner – Capital Markets  
abhiroop.datta@AMSShardul.com

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