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FUND RAISING BY ISSUANCE OF DEBT SECURITIES BY LARGE ENTITIES[1]

1. With a view to operationalizing the Union Budget announcement for 2018-19, which, inter-alia, stated "SEBI will also consider mandating, beginning with large entities, to meet about one-fourth of their financing needs from the debt market", SEBI came out with a discussion paper on July 20, 2018. Based on feedback received on the discussion paper and wider consultation with market participants including entities, the detailed guidelines for operationalizing the above budget announcement are given below.

2. Applicability of Framework

2.1. For the entities following April-March as their financial year, the framework shall come into effect from April 01, 2019 and for the entities which follow calendar year as their financial year, the framework shall become applicable from January 01, 2020.

Explanation : The term 'Financial Year' (FY) here would imply April-March or January-December, as may be followed by an entity. Thus, FY 2020 shall mean April 01, 2019 -March 31, 2020 or January 01, 2020 -December 31, 2020, as the case may be.

2.2. The framework shall be applicable for all listed entities (except for Scheduled Commercial Banks), which as on last day of the FY (i.e. March 31 or December 31):

i. have their specified securities or debt securities or non-convertible redeemable preference share, listed on a recognized stock exchange(s) in terms of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015; and

ii. have an outstanding long term borrowing of Rs 100 crores or above, where outstanding long-term borrowings shall mean any outstanding borrowing with original maturity of more than 1 year and shall exclude external commercial borrowings and inter-corporate borrowings between a parent and subsidiary(ies); and

iii. have a credit rating of "AA and above", where credit rating shall be of the unsupported bank borrowing or plain vanilla bonds of an entity, which have no structuring/ support built in; and in case, where an issuer has multiple ratings from multiple rating agencies, highest of such rating shall be considered for the purpose of applicability of this framework.

3. Framework

3.1. A listed entity, fulfilling the criteria as specified at para 2.2 above, shall be considered as a "Large Corporate" (LC) and such a LC shall raise not less than 25% of its incremental borrowings, during the financial year subsequent to the financial year in which it is identified as a LC, by way of issuance of debt securities, as defined under SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (hereinafter "ILDS Regulations").

Explanation : For the purposes of this circular, the expression "incremental borrowings" shall mean any borrowing done during a particular financial year, of original maturity of more than 1 year, irrespective of whether such borrowing is for refinancing/repayment of existing debt or otherwise and shall exclude external commercial borrowings and inter-corporate borrowings between a parent and subsidiary(ies).

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[1] Available at: https://www.sebi.gov.in/legal/circulars/nov-2018/fund-raising-by-issuance-of-debt-securities-by-large-entities_41071.html

3.2. For an entity identified as a LC, the following shall be applicable:

i. For FY 2020 and 2021, the requirement of meeting the incremental borrowing norms shall be applicable on an annual basis. Accordingly, a listed entity identified as a LC on last day of FY 2019 and FY 2020, shall comply with the requirement as laid down under para 3.1, by last day of FY 2020 and FY 2021, respectively.
Provided that in case where a LC is unable to comply with the above requirement, it shall provide an explanation for such shortfall to the Stock Exchanges, in the manner as prescribed at para 4.

ii. From FY 2022,the requirement of mandatory incremental borrowing by a LC in a FY will need to be met over a contiguous block of two years. Accordingly, a listed entity identified as a LC, as on last day of FY"T-1", shall have to fulfil the requirement of incremental borrowing for FY"T", over FY"T" and "T+1".
However, if at the end of two years i.e. last day of FY"T+1", there is a shortfall in the requisite borrowing (i.e. the actual borrowing through debt securities is less than 25% of the incremental borrowings for FY "T"), a monetary penalty/fine of 0.2% of the shortfall in the borrowed amount shall be levied and the same shall be paid to the Stock Exchange(s).

4. Disclosure requirements for large entities

4.1. A listed entity, identified as a LC under the instant framework, shall make the following disclosures to the stock exchanges, where its security (ies) are listed:

i. Within 30 days from the beginning of the FY, disclose the fact that they are identified as a LC, in the format as provided at Annexure A. (Available at **https://www.sebi.gov.in/legal/circulars/nov-2018/fund-raising-by-issuance-of-debt-securities-by-large-entities_41071.html)**

ii. Within 45 days of the end of the FY, the details of the incremental borrowings done during the FY, in the formats as provided at Annexure B1 and B2. (Available at **https://www.sebi.gov.in/legal/circulars/nov-2018/fund-raising-by-issuance-of-debt-securities-by-large-entities_41071.html)**

4.2. The disclosures made in terms of para 4.1 shall be certified both by the Company Secretary and the Chief Financial Officer, of the LC.

4.3. Further, the disclosures made in terms of para 4.1 shall also form part of audited annual financial results of the entity.

4.4. The details of the framework as mentioned under para 3 and disclosure requirements as mentioned under para 4.1, are illustrated in Annexure C. (Available at **https://www.sebi.gov.in/legal/circulars/nov-2018/fund-raising-by-issuance-of-debt-securities-by-large-entities_41071.html)**

5. Responsibilities of Stock Exchanges

5.1. The Stock Exchange(s) shall collate the information about the LC, disclosed on their platform, and shall submit the same to the Board within 14 days of the last date of submission of annual financial results.

5.2. In the event of a short fall in the requisite borrowing, the Stock Exchanges shall collect the fine as mentioned at para 3.2 (ii). The fine so collected shall be remitted by the stock exchanges to SEBI IPEF fund within 10 days from the end of the month in which the fine was collected.

6. This Circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with regulation 101(2) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

7. This Circular is available on SEBI website at www.sebi.gov.inunderthe categories "Legal Framework" and under the drop down "Corp Debt Market".

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Team ICSI