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MCA UPDATES

- Practicing Professionals also serving as Directors of Companies, DO NOT require multiple DSCs
The existing DSC can be registered multiple times on the MCA portal under the appropriate roles being discharged by practicing professionals.

The following information is being displayed on the website of Ministry of Company Affairs in this regard:

**IMPORTANT INFORMATION**

Practicing Professionals also serving as Directors of Companies, DO NOT require multiple DSCs for their different roles. Their existing DSC can be registered multiple times on the MCA Portal under the appropriate roles (Practicing Professional/Director) that they discharge.
• SEBI amends (Disclosure and Investor Protection) Guidelines, 2000 –PR

• Circular on amendments to SEBI(Disclosure and Investor Protection) Guidelines, 2000

• SEBI amends Clause 41 of the Listing Agreement

• SEBI withdraws recognition granted to Saurashtra Kutch Stock Exchange Ltd.

• Views/Suggestions invited on draft Securities and Exchange Board of India (Intermediaries) Regulations, 2007
PRESS RELEASE

PR No.217/2007

SEBI amends (Disclosure and Investor Protection) Guidelines, 2000

Securities and Exchange Board of India (SEBI) vide Circular dated July 10, 2007, issued to Merchant Bankers and Stock Exchanges, has amended certain provisions of SEBI (Disclosure and Investor Protection) Guidelines, 2000 to facilitate government companies / corporations, statutory authorities / corporations or any special purpose vehicle set up by any of them, which are engaged in infrastructure sector, to tap Indian primary market through Initial Public Offerings (IPOs).

The full text of the above Circular is available on the website: www.sebi.gov.in

Mumbai
July 10, 2007
To All Registered Merchant Bankers / Stock Exchanges

Dear Sirs,


1. In order to facilitate government companies/corporations, statutory authorities/corporations or any special purpose vehicle set up by any of them, which are engaged in infrastructure sector, to raise funds in the Indian primary market through IPOs, it has been decided to amend certain provisions of the SEBI (Disclosure and Investor Protection) Guidelines, 2000, in exercise of the powers conferred under sub-section (1) of Section 11 of the Securities and Exchange Board of India Act, 1992. The full text of amendments is given in detail in Annexure I.

2. The amendments made vide this circular shall be applicable to all draft offer documents on which observations are issued by SEBI on or after the date of the circular.

3. This circular is available on SEBI website at www.sebi.gov.in under the category "Legal Framework". The entire text of the SEBI (Disclosure and Investor Protection) (DIP) Guidelines, 2000, including the amendments issued vide this circular, is available on the SEBI website under the categories "Legal Framework" and "Issues and Listing".

Yours faithfully,

Neelam Bhardwaj

Encl.: Annexure I.
ANNEXURE I

AMENDMENTS TO SEBI (DIP) GUIDELINES, 2000

CHAPTER III
PRICING BY COMPANIES ISSUING SECURITIES

1. After sub-clause (i) of clause 3.7.1, the following proviso to sub-clause (i) and Explanation to the proviso shall be inserted, namely:

‘Provided that nothing contained in sub-clause (i) shall apply to initial public offer made by any government company, statutory authority or corporation or any special purpose vehicle set up by any of them, which is engaged in infrastructure sector.

Explanation:

For the purposes of this proviso, the term "Infrastructure sector" shall include the following facilities/services:

(i) Transportation (including inter modal transportation), including the following:
   (a) Roads, national highways, state highways, major district roads, other district roads and village roads, including toll roads, bridges, highways, road transport providers and other road-related services;
   (b) Rail system, rail transport providers, metro rail roads and other railway related services;
   (c) Ports (including minor ports and harbours), inland waterways, coastal shipping including shipping lines and other port related services;
   (d) Aviation, including airports, heliports, airlines and other airport related services;
   (e) Logistics services;
(ii) Agriculture, including the following:
(a) Infrastructure related to storage facilities;
(b) Construction relating to projects involving agro-processing and supply of inputs to agriculture;
(d) Construction for preservation and storage of processed agro-products, perishable goods such as fruits, vegetables and flowers including testing facilities for quality;

(iii) Water management, including the following:
(a) Water supply or distribution;
(b) Irrigation;
(c) Water treatment, etc.

(iv) Telecommunication, including the following:
(a) Basic or cellular, including radio paging;
(b) Domestic satellite service (i.e., satellite owned and operated by an Indian company for providing telecommunication service);
(c) Network of trunking, broadband network and internet services;

(v) Industrial, Commercial and Social development and maintenance, including the following:
(a) Real estate development, including an industrial park or special economic zone;
(b) Tourism, including hotels, convention centres and entertainment centres;
(c) Public markets and buildings, trade fair, convention, exhibition, cultural centres, sports and recreation infrastructure, public gardens and parks;
(d) Construction of educational institutions and hospitals;
(e) Other urban development, including solid waste management systems, sanitation and sewerage systems, etc.;

(vi) Power, including the following:
(a) Generation of power through thermal, hydro, nuclear, fossil fuel, wind and other renewable sources;
- 3 -

(b) Transmission, distribution or trading of power by laying a network of new transmission or distribution lines;

(vii) Petroleum and natural gas, including the following:

(a) Exploration and production;
(b) Import terminals;
(c) Liquefaction and re-gasification;
(d) Storage terminals;
(e) Transmission networks and distribution networks including city gas infrastructure;

(viii) Housing, including the following:

(a) Urban and rural housing including public / mass housing, slum rehabilitation etc;
(b) Other allied activities such as drainage, lighting, laying of roads, sanitation facilities etc.;

(ix) Other miscellaneous facilities/services, including the following:

(a) Mining and related activities;
(b) Technology related infrastructure;
(c) Manufacturing of components and materials or any other utilities or facilities required by the infrastructure sector like energy saving devices and metering devices, etc;
(d) Environment related infrastructure;
(e) Disaster management services;
(f) Preservation of monuments and icons;
(g) Emergency services (including medical, police, fire, and rescue);

(x) Such other facility/service which, in the opinion of the Board, constitutes infrastructure sector.”
CHAPTER IV
PROMOTERS' CONTRIBUTION AND LOCK-IN REQUIREMENTS

PART I – PROMOTERS' CONTRIBUTION

2. After 2\textsuperscript{nd} proviso to clause 4.6.2, the following proviso and Explanation thereto shall be inserted, namely:

"Provided further that nothing contained in clause 4.6.2 shall apply to an unlisted government company, statutory authority or corporation or any special purpose vehicle set up by any of them, which is engaged in infrastructure sector.

Explanation:

For the purposes of 3\textsuperscript{rd} proviso above, the term "Infrastructure sector" shall have the same meaning as assigned to it in Explanation to proviso to sub-clause (i) of clause 3.7.1."

PART II – LOCK-IN REQUIREMENTS

3. After sub-clause (ii) of clause 4.14.2, the following proviso to sub-clause (ii) and Explanation to the proviso shall be inserted, namely:

"Provided that the minimum holding requirement of pre-issue capital shall not apply to an offer for sale of equity shares of an unlisted government company, statutory authority or corporation or any special purpose vehicle set up by any of them, which is engaged in infrastructure sector.

Explanation:

For the purposes of this proviso, the term "Infrastructure sector" shall have the same meaning as assigned to it in Explanation to proviso to sub-clause (i) of clause 3.7.1."
CHAPTER VIII
OTHER ISSUE REQUIREMENTS

4. For clause 8.3.3, the following clause and Explanation thereto shall be substituted, namely:-

"8.3.3 Clauses 8.3.1 and 8.3.2 shall not apply to -

a) an infrastructure company, satisfying the requirements specified in sub-clause (iii) of clause 2.4.1, inviting subscription from public; and

b) a government company, statutory authority or corporation or any special purpose vehicle set up by any of them, which is engaged in infrastructure sector.

Explanation:

For the purpose of sub-clause (b) above, the term "Infrastructure sector" shall have the same meaning as assigned to it in Explanation to proviso to sub-clause (i) of clause 3.7.1."
PRESS RELEASE

SEBI amends Clause 41 of the Listing Agreement

Securities and Exchange Board of India (SEBI) vide Circular dated July 10, 2007, has directed all stock exchanges to replace the existing Clause 41 of the Equity Listing Agreement with a revised clause which aims to rationalize and modify the process and formats for submission of financial results to the stock exchanges. The revised clause also contains other modifications aimed at improving the presentation of the sub-clauses.

Among the modifications, the revised clause requires listed companies to furnish either unaudited or audited quarterly and year to date financial results to the Stock Exchange within one month from the end of each quarter. Where unaudited results are furnished, the same are required to be followed with a Limited Review Report. This is with a view to enable investors to know the performance of listed companies as early as possible.

The revised clause has also simplified provision for explanation in variation between items of unaudited and audited quarterly/ year to date / annual results. The revised clause requires that explanation for variation be furnished in respect of Net Profit or Loss After Tax and for exceptional / extraordinary items. The percentage of variation for the purpose is revised from “20% or more” to “10% or Rs.10 Lakhs, whichever is higher”.

As regards the publication of financial results, companies having subsidiaries who file both stand-alone and consolidated results to the stock exchange will now have an option to publish stand-alone or consolidated results, subject to the condition that a choice once exercised cannot be changed during the year. In case the company changes its option in any subsequent financial year, it would be required to furnish comparative figures for the previous financial year in accordance with the option exercised for the current year.

The full text of the above Circular is available on the website: www.sebi.gov.in at the following link


Mumbai
July 10, 2007
PRESS RELEASE

PR No.215/2007

SEBI withdraws recognition granted to Saurashtra Kutch Stock Exchange Ltd.

Dr. T C Nair, Whole Time Member, SEBI has passed an Order under section 5(1) of the Securities Contracts (Regulation) Act, 1956 on July 6, 2007 withdrawing the recognition of Saurashtra Kutch Stock Exchange Ltd. (SKSE).

The Order inter-alia directs that funds in the Investor Protection Fund and Investor Services Fund of SKSE shall be transferred to SEBI Investor Protection and Education Fund; the exchange shall set aside sufficient funds to provide for settlement of any claims; companies exclusively listed on the exchange may consider seeking listing at other stock exchanges or provide for exit option to the shareholders; certificate of registration of trading members granted by SEBI shall stand automatically cancelled. The Order further restrains SKSE from transferring or alienating any movable or immovable property of the exchange including Bank Accounts in any manner till further directions by SEBI in this regard.

SEBI had conducted inspection of SKSE in June 2006 and later advised SKSE to rectify all the deficiencies pointed out in the inspection report. Further, SKSE was also advised to submit a weekly report regarding the same. On perusal of the compliance report, it was noted that there were deficiencies that were yet to be rectified by SKSE including failure to set up the Settlement Guarantee Fund, failure to appoint the Executive Director for its exchange, inadequate infrastructure, non recovery of dues from members and listed companies, failure to appoint the Chief Executive Officer for its subsidiary, wilful violation of SEBI’s directives, allowing broker directors to exercise financial powers, not providing adequate financial powers to the Executive Director and convening a press conference and discussing SEBI inspection report, etc.

The Whole Time Member, in his aforesaid Order, observed that SKSE has time and again acted contrary to and in defiance of SEBI directives/guidelines issued from time to time. “There is prolonged vacuum at the top management, the failure of the exchange to appoint a suitable candidate for the post of Executive Director for the exchange and CEO for the subsidiary company, broker’s interference in the day-to-day functioning of the Exchange. SKSE is virtually defunct for several years and did not serve any economic purpose. Further it provides neither a trading platform nor serves any public interest and has ceased to perform the basic economic function for which it was set up.” the Order said.

The Order will come into force with immediate effect.

The full text of the Order is available on our website www.sebi.gov.in

Place: Mumbai

Date: July 9, 2007
Views/Suggestions invited on draft Securities and Exchange Board of India (Intermediaries) Regulations, 2007

SEBI has placed Consultative Paper on Draft Securities and Exchange Board of India (Intermediaries) Regulations, 2007 and Draft Regulation on its website.

The Institute seeks your views and suggestions on the draft regulations and would appreciate to receive the same by August 07, 2007 so as to finalise the views of the Institute for sending to SEBI.

The consultative paper is available at the link

The draft regulations are available at the link
FEMA UPDATES

- Master Circular on Non-Resident Ordinary Rupee (NRO) Account
RBI/2007-08/19

Master Circular No. 03 /2007-08

July 2, 2007

To,
All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

Master Circular on Non-Resident Ordinary Rupee (NRO) Account

The acceptance of deposits by an authorised dealer / authorised bank from persons resident outside India are regulated by the provisions of subsections (1) and (2) of section 6 of the Foreign Exchange Management Act, 1999 read with FEMA Notification No.5/2000 RB dated May 3, 2000 as amended from time to time.

2. This Master Circular consolidates the existing instructions on the subject of “Non-Resident Ordinary Rupee (NRO) Account” at one place. The list of underlying circulars/notifications consolidated in this Master Circular is furnished in the Appendix.

3. This Master Circular is being issued with a sunset clause of one year. This circular will stand withdrawn on July 1, 2008 and be replaced by an updated Master Circular on the subject.

Yours faithfully,

(Salim Gangadharan)
Chief General Manager
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# Master Circular on Non-Resident Ordinary Rupee (NRO) Account Scheme

## 1. Definitions

Non-Resident Indian (NRI): NRI for this purpose is defined in Regulation 2 of FEMA Notification No.5 dated May 3, 2000. In terms of this Notification, an NRI is a person resident outside India who is a citizen of India or is a person of Indian origin.

Person of Indian Origin (PIO): PIO for this purpose is defined in Regulation 2 of FEMA ibid as a citizen of any country other than Bangladesh or Pakistan, if (a) he at any time held Indian passport; or (b) he or either of his parents or any of his grand-parents was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955); or (c) the person is a spouse of an Indian citizen or a person referred to in sub-clause (a) or (b).

## 2. Eligibility

(a) Any person resident outside India (as per Regulation 2 of FEMA), may open NRO account with an authorised dealer or an authorised bank for the purpose of putting through bonafide transactions denominated in Rupees, not involving any violation of the provisions of FEMA, rules, Regulations made thereunder.

(b) Opening of accounts by individuals/entities of Bangladesh / Pakistan nationality / ownership requires prior approval of Reserve Bank.

## 3. Types of Accounts

NRO accounts may be opened / maintained in the form of current, savings, recurring or fixed deposit accounts. Rate of interest applicable to these accounts and guidelines for opening, operating and maintenance of such accounts shall be in accordance with directives/instructions issued by Reserve Bank from time to time.
<table>
<thead>
<tr>
<th><strong>4. Joint Accounts with Residents / Non-Residents</strong></th>
<th>The accounts may be held jointly with residents and / or with non-residents.</th>
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</thead>
<tbody>
<tr>
<td><strong>5. Permissible Credits / Debits</strong></td>
<td></td>
</tr>
<tr>
<td><strong>A. Credits</strong></td>
<td>(i) Proceeds of remittances from outside India through normal banking channels received in foreign currency which is freely convertible.</td>
</tr>
<tr>
<td></td>
<td>(ii) Any foreign currency which is freely convertible tendered by the account holder during his temporary visit to India. Foreign currency exceeding USD 5000/- or its equivalent in form of cash should be supported by Currency Declaration Form. Rupee funds should be supported by Encashment Certificate, if they represent funds brought from outside India.</td>
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<td></td>
<td>(iii) Transfers from rupee accounts of non-resident banks.</td>
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<tr>
<td></td>
<td>(iv) Legitimate dues in India of the account holder. This includes current income like rent, dividend, pension, interest, etc. as also sale proceeds of assets including immovable property acquired out of rupee/foreign currency funds or by way of legacy/inheritance.</td>
</tr>
<tr>
<td><strong>B. Debits</strong></td>
<td>(i) All local payments in rupees including payments for investments in India subject to compliance with the relevant regulations made by the Reserve Bank.</td>
</tr>
<tr>
<td></td>
<td>(ii) Remittance outside India of current income like rent, dividend, pension, interest, etc. in India of the account holder.</td>
</tr>
<tr>
<td></td>
<td>(iii) Remittance up to USD One million, per financial year (April-March), for all bonafide purposes, to the satisfaction of the authorised dealer bank.</td>
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<tr>
<td><strong>6. Remittance of assets</strong></td>
<td></td>
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<tr>
<td><strong>6.1 Remittance of</strong></td>
<td>A citizen of foreign state, not being a citizen of Nepal.</td>
</tr>
</tbody>
</table>
assets by a foreign national of non-Indian origin

or Bhutan or a Person of Indian Origin (PIO), who has retired from an employment in India, or has inherited the assets from a person referred to in sub-section (5) of section 6 of the FEMA; or is a widow resident outside India and has inherited assets of her deceased husband who was an Indian citizen resident in India, may remit an amount, not exceeding USD 1,000,000 (US Dollar One million only) per financial year on production of, documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter and an undertaking by the remitter and certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes vide their Circular No.10/2002 dated October 9, 2002.

6.2 Remittance of assets by an NRI/PIO

<p>| | |</p>
<table>
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</tr>
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<tbody>
<tr>
<td>(a)</td>
<td>NRI/PIO may remit an amount, not exceeding USD 1,000,000 per financial year, out of the balances held in NRO accounts / sale proceeds of assets / the assets in India acquired by him by way of inheritance / legacy, on production of documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter, and an undertaking by the remitter and certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes vide their Circular No.10/2002 dated October 9, 2002.</td>
</tr>
<tr>
<td>(b)</td>
<td>NRI/PIO may, within the overall limit of USD 1 mio. as stated above, remit sale proceeds of assets acquired under a deed of settlement made by either of his parents or a close relative (as defined in Section 6 of the Companies Act, 1956) and the settlement taking effect on the death of the settler, on production of the original deed of settlement and an undertaking by the remitter and certificate by a Chartered Accountant in the formats prescribed by</td>
</tr>
</tbody>
</table>
the Central Board of Direct Taxes vide their Circular No.10/2002 dated October 9, 2002.

<table>
<thead>
<tr>
<th>6.3 Assets acquired in India out of rupee funds</th>
<th>NRI/PIO may remit sale proceeds of immovable property purchased by him as a resident or out of Rupee funds as NRI/PIO, without any lock-in-period, subject to the above limit of USD 1 mio. per financial year.</th>
</tr>
</thead>
</table>
| 6.4 Restrictions                                 | (a) The remittance facility in respect of sale proceeds of immovable property is not available to citizens of Pakistan, Bangladesh, Sri Lanka, China, Afghanistan, Iran, Nepal and Bhutan.  
(b) The facility of remittance of sale proceeds of other financial assets is not available to citizens of Pakistan, Bangladesh, Nepal and Bhutan. |
| 7. Foreign Nationals of non-Indian origin on a visit to India | NRO account (current/savings) can be opened by a foreign national of non-Indian origin visiting India, with funds remitted from outside India through banking channel or by sale of foreign exchange brought by him to India. The balance in the NRO account may be converted by the authorised dealer / bank into foreign currency for payment to the account holder at the time of his departure from India provided the account has been maintained for a period not exceeding six months and the account has not been credited with any local funds, other than interest accrued thereon. |
8. Grant of Loans/overdrafts by authorised dealer / bank to account holders and third parties

(a) Loans to non-resident account holders and to third parties may be granted in Rupees by authorised dealer / bank against the security of fixed deposits subject to the following terms and conditions:

(i) The loans shall be utilised only for meeting borrower's personal requirements and/or business purpose and not for carrying on agricultural/plantation activities or real estate business or for re-lending.
(ii) Regulations relating to margin and rate of interest as stipulated by Reserve Bank from time to time shall be complied with.
(iii) The usual norms and considerations as applicable in the case of advances to trade/industry shall be applicable for such loans/facilities granted to third parties.

(b) Authorised dealer / bank may permit overdraft in the account of the account holder subject to his commercial judgement and compliance with the interest rate etc. directives.

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<tr>
<th>9. Change of Resident Status of Account holder (a) From Resident to Non-resident</th>
</tr>
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<tbody>
<tr>
<td>When a person resident in India leaves India for a country (other than Nepal or Bhutan) for taking up employment or for carrying on business or vocation outside India or for any other purpose indicating his intention to stay outside India for an uncertain period, his existing account should be designated as a Non-Resident (Ordinary) Account. When a person resident in India leaves for Nepal or Bhutan for taking up employment or for carrying on business or vocation or for any other purposes indicating his intention to stay in Nepal or Bhutan for an uncertain period, his existing account will continue as a resident account. Such account should not be designated as Non-Resident (Ordinary) Account (NRO).</td>
</tr>
</tbody>
</table>
### (b) From Non-Resident to Resident

NRO accounts may be re-designated as resident rupee accounts on the return of the account holder to India for taking up employment, or for carrying on business or vocation or for any other purpose indicating his intention to stay in India for an uncertain period. Where the account holder is only on a temporary visit to India, the account should continue to be treated as non-resident during such visit.

### 10. Treatment of loans/overdrafts in the event of change in the resident status of the borrower

In case of person who had availed of loan or overdraft facilities while resident in India and who subsequently becomes a person resident outside India, the authorised dealer / bank may at their discretion and commercial judgement allow continuance of the loan/overdraft facilities. In such cases, payment of interest and repayment of loan may be made by inward remittance or out of legitimate resources in India of the person concerned.

### 11. Payment of funds to Non-resident/Resident Nominee

The amount due/payable to non-resident nominee from the NRO account of a deceased account holder shall be credited to NRO account of the nominee with an authorised dealer / bank in India. The amount payable to resident nominee from the NRO account of a deceased account holder shall be credited to resident account of the nominee with a bank in India.

Powers have been delegated to the authorized dealers/banks to allow operations on an NRO account by Power of Attorney granted in favour of a resident by the non-resident individual account holder provided such operations are restricted to (i) all local payments in rupees including payments for eligible investments subject to compliance with relevant regulations made by the Reserve Bank; and (ii) remittance outside India of current income in India of the non-resident individual account holder, net of applicable taxes.

The resident Power of Attorney holder is not permitted to repatriate outside India funds held in the account other than to the non-resident individual account holder nor to make payment by way of gift to a resident on behalf of the non-resident account holder or transfer funds from the account to another NRO account.

13. Facilities to a person going abroad for studies

Persons going abroad for studies are treated as Non-Resident Indians (NRIs) and are eligible for all the facilities available to NRIs. Educational and other loans availed of by them as residents in India will continue to be available to them as per FEMA regulations.

14. International Credit Cards

Authorised dealer banks have been permitted to issue International Credit Cards to NRIs/PIO, without prior approval of Reserve Bank. Such transactions may be settled by inward remittance or out of balances held in the cardholder’s FCNR/NRE/NRO Accounts.

15. Income-Tax

The remittances (net of applicable taxes) will be allowed to be made by the authorised dealer banks on production of an undertaking by the remitter and a Certificate from a Chartered Accountant in the formats prescribed by the Central Board of Direct