



January 01, 2018

# Info Capsule

## SEBI BOARD MEETING

The SEBI Board vide its Press Release No. PR No.: 68/2017 dated December 28, 2017 took the following decisions in its Board Meeting held on December 28, 2017:

### 1. Amendments to the SEBI (Credit Rating Agencies) Regulations, 1999 and SEBI (Listing Obligations and Disclosure Requirements), 2015

In order to augment the governance of Credit Rating Agencies (CRAs) registered with SEBI and mitigate the issues of conflict of interest, SEBI Board has approved certain changes in the SEBI (Credit Rating Agencies) Regulations, 1999, which, inter alia, include the following:

- I. Enhanced eligibility requirement for CRAs:
  - a. Minimum net worth requirement of a CRA shall be increased from existing Rs. 5 Crores to Rs. 25 Crores
  - b. The promoter of a CRA shall maintain a minimum shareholding of 26% in the CRA for a minimum period of three years from the date of grant of registration by the Board.
  - c. The foreign CRA should be incorporated in a Financial Action Task Force (FATF) member jurisdiction and registered under their law only shall be eligible to promote a CRA in India.
- II. Restriction on Crossholdings amongst CRAs:
  - a. No CRA registered with SEBI (CRA) shall:
    - i. directly or indirectly, hold 10% or more of shareholding and/ or voting rights in any other CRA and
    - ii. Have representation on the Board of any other CRA.
  - b. A shareholder holding 10% or more shares and/ or voting rights in a CRA shall not hold 10% or more shares and/ or voting rights, directly or indirectly, in any other CRA. However, this restriction shall not apply to holdings by pension funds, Insurance schemes, and mutual fund schemes.
  - c. Acquisition of shares and/ or voting rights in a CRA by another CRA beyond 10% shall be permitted only if such acquisition results in change in control with prior approval of SEBI.
- III. Withdrawal of ratings by CRAs:
  - a. CRAs shall be permitted to withdraw the ratings subject to the CRA having rated the instrument continuously for a stipulated period and in the manner as may be specified by SEBI from time to time.
- IV. Segregation of activities other than the rating of financial instruments and economic/ financial research from CRA:

CRAs shall segregate their activities other than the rating of financial instruments and economic/ financial research to a separate legal entity.

- V. SEBI (Listing Obligations and Disclosure Requirements), 2015 shall be amended to include
- a. Disclosure of financial results on the Exchange(s) by issuers of listed debt in line with the corresponding requirements for issuers of listed equity.

Issuers of listed debt shall disclose on the Exchange(s) within forty – five days of end of the first three quarters and sixty days of end of the last quarter, the below mentioned financial results in the format as prescribed in Schedule III to the Companies Act, 2013 (excluding notes and detailed sub-classification):

- I) Statement of Profit and Loss on a quarterly and year-to-date basis
  - II) Statement of Assets and Liabilities/ Balance Sheet on a half-yearly basis
- b. Disclosure of annual consolidated financial results to the Exchange(s) in case of issuers having only listed debt.
    - I) Issuers of listed debt shall disclose their audited annual consolidated financial results on the Exchange(s) within sixty days from the end of the financial year.

## **2. Additional methods for listed entities to achieve minimum public shareholding (MPS) requirements**

The Board has decided to introduce two additional methods-Qualified Institutions Placement (QIP) and Sale of shares up to 2% held by promoters/promoter group in open market subject to certain conditions for listed companies to comply with the MPS requirement. The Board has approved necessary amendments to SEBI (ICDR) Regulations, 2009.

QIP offers a quick solution to listed entities enabling them to meet MPS requirements apart from meeting their funding requirements. Also, sale of a certain small percentage of shares through open market will facilitate quicker and cheaper compliance for listed entities where promoters hold shares marginally above the threshold limit.

Rule 19A of the SCRR stipulates that every listed company shall maintain a public shareholding of atleast 25%. Listed public sector companies have been provided additional time till August 21, 2018 to comply with the requirements. Accordingly, listed entities that have a public shareholding of less than 25% are required to adopt any of the certain methods to comply with the MPS requirements, such as Issuance of shares to public through prospectus; Offer for Sale to public through prospectus; Sale of shares held by promoters through secondary market in terms of SEBI circular CIR/MRD/DP/05/2012 dated February 01, 2012; Institutional Placement Programme; Rights issue to public shareholders; Bonus shares to public shareholders; and any other method as may be approved by SEBI under case to case basis.

## **3. Issuance of refund orders/allotment letters/share certificates through electronic mode under SEBI (Issue of Capital and Disclosure Requirements Regulations), 2009**

As per present requirements, refund orders, allotment letters and share certificates are dispatched by way of registered post or certificate of posting, as may be applicable.

As a green initiative, the Board approved the proposal of inclusion of electronic mode as a valid method of communicating the allotment advice/credit of shares/unblocking of funds in addition to the present methods. This would be in tune with the digital initiatives of the Government and would reduce printing costs for the issuer company leading to faster communication and ease of doing business.

#### **4. Norms for Shareholding and Governance in Mutual Funds**

The Board after deliberation on the issue of potential conflict in case of sponsor and its associates or any shareholder of a Mutual Fund having stake or Board representation in Asset Management Company (AMC) and Trustee Companies of another Mutual Fund, decided the following:

- I. A sponsor of a mutual fund, its associate and/or its group company, and its AMC through the schemes, or otherwise collectively, may not be allowed to:
  - a. have 10% or more stake in AMCs / Trustee Companies of any other mutual funds.
  - b. have representation on the board of the AMC / Trustee Company of any other mutual funds.
- II. Any shareholder holding 10% or more stake in an AMC / Trustee Company of a mutual fund, may not be allowed to:
  - a. on the board of the AMC / Trustee Company of any other mutual funds.
- III. Any existing non-conformity with the aforesaid requirements may be aligned within a reasonable time.

#### **5. Proposed framework for listing of Security Receipts issued by ARCs under SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008**

- i. Hon'ble Union Finance Minister in his budget speech of 2017-18 announced that :
  - a. "Listing and trading of Security Receipts issued by a securitization company or a reconstruction company under the SARFAESI Act will be permitted in SEBI registered stock exchanges. This will enhance capital flows into the securitization industry and will particularly be helpful to deal with bank NPAs."
  - ii. With respect to the above, SEBI Board approved the framework for listing of Security Receipts (SR's), issued by Asset Reconstruction Companies (ARCs), under SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 (SDI Regulations).
  - iii. A separate chapter detailing the framework for listing of SR's will be added to the SDI Regulations.

#### **6. Amendments to the SEBI (Infrastructure Investment Trusts) Regulations, 2014 and SEBI (Real Estate Investment Trusts) Regulations, 2014**

In order to facilitate growth of Infrastructure Investment Trusts (InvITs) and Real Estate Investment Trust (REITs), SEBI Board, has approved certain changes in the captioned regulations, which, inter alia, include the following:

- i. Allowing REITs to invest at least 50% stake in Holdcos/SPVs and similarly allowing Holdco to invest at least 50% stake in SPVs, subject to certain safeguards including the following:
  - The existing requirement of REITs to have ultimate holding interest of not less than 26% in the underlying SPV(s), shall remain unchanged.
  - REIT manager in consultation with the trustee, shall appoint at least such number of directors on the Board of Holdco/SPVs, in proportion to the shareholding/interest in the Holdco and/or SPV.
  - In case of any inconsistencies between any shareholder/partnership agreement and the obligations cast upon REIT in the Regulations, the provisions of the REIT Regulations shall prevail.

- ii. Rationalizing the definition of Sponsor group in case of REITs.
- iii. Enabling investments by REITs in unlisted shares under the 20% investment category.
- iv. Minor amendments to the REIT and InvIT Regulations for harmonization of the terms and definitions in the Regulations.

#### **7. Easing of Access Norms for Investment by Foreign Portfolio Investors (FPIs)**

SEBI had issued a consultation paper titled 'Easing of Access Norms for Investment by FPIs with a view to solicit comments from public at large. SEBI has received various comments on the proposals contained in the aforesaid consultation paper. After taking into consideration the comments received, SEBI has approved the following changes:

- a. Rationalization of fit and proper criteria for FPIs.
- b. Modification in encumbrance obligation to enable statutory payments.
- c. Simplification of broad based requirement for FPIs.
- d. Discontinuance of requirements for seeking prior approval from SEBI in case of change in local custodian/ Designated Depository Participant (DDP) of FPI.
- e. Rationalization of procedure for submission of Protected Cell Company (PCC)/ Multi-Class Vehicle (MCV) Declarations and Undertakings and investor grouping requirement at the time of continuance of registration of FPIs.
- f. Permitting reliance on due diligence carried out by erstwhile DDP at the time of change of custodian/ DDP of FPIs.
- g. Exemption to FPIs having Multiple Investment Managers (MIM) structure from seeking prior approval from SEBI in case of Free of Cost transfer of assets.
- h. Simplification of process for addition of share class by FPIs.
- i. Permitting FPIs operating under the MIM structure to appoint multiple custodians.
- j. Permitting appropriately regulated Private Banks/ Merchant Bank to invest on their own behalf and also on behalf of their clients.
- k. Expansion of entities considered as "appropriately regulated persons" in terms of Regulation 5(b)(ii) of SEBI (Foreign Portfolio Investors) Regulations, 2014.
- l. Permitting broad based funds to regain the status in three months.
- m. Permitting conditional registration to existing India dedicated funds.
- n. Accordingly, SEBI shall carry out necessary amendments to SEBI (Foreign Portfolio Investors) Regulations, 2014 and issue necessary circular/guidelines to implement the aforesaid changes, in due course.

#### **8. Consultation Paper for "Amendments to the SEBI (Investment Advisers) Regulations, 2013"**

1. In order to specify uniform standards and to address the gaps or overlaps in legal or regulatory standards governing all the intermediaries/persons engaged in providing investment advisory services, SEBI had issued two consultation papers on October 07, 2016 and June 22, 2017 seeking public comments on the clarifications/amendments to SEBI (Investment Advisers) Regulations, 2013.
2. Based on the feedback received from the consultation process and the meetings with various stakeholders, it was felt that there is a need to prevent the conflict of interest between advising for investing in financial products and selling of financial products. Considering the same, SEBI Board has approved the consultation paper to seek public comments on following proposals:

- i) There should be clear segregation between the two activities of the entity i.e. providing investment advice and distribution of the investment products/ execution of investment transactions.
- ii) Mutual Fund Distributors (MFDs), while distributing their mutual fund products can explain the features of products to client, and shall ensure the principle of 'appropriateness' of products to the client.

3. The consultation paper will be placed on SEBI website for seeking public comments.

#### **9. Fees Payable by Stock Brokers Trading in "Options" in Commodity Derivatives**

On introduction of Options contract in Commodity Derivatives, SEBI Board has decided to amend the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992, such that the manner of calculation of turnover fees for Options contracts in Commodity Derivatives shall be computed the same way as computed for Options contract in Equity Derivatives.

#### **10. Integration of trading in commodity derivatives market with other segments of securities market at exchange level**

Hon'ble Union Finance Minister, while presenting the Union budget for the FY 2017-2018, proposed that the commodities and securities derivative markets will be further integrated by integrating the participants, brokers, and operational frameworks.

For the sake of smoother implementation of the above budget announcement regarding integration between commodity derivatives and rest of the securities markets, it was decided that the integration would be achieved in two phases. In Phase-I, it was proposed to have integration at Intermediary level. In Phase-II, necessary steps would be taken to enable a single exchange to operate various segments such as equity, equity derivatives, commodity derivatives, currency derivatives, interest rate futures & debt etc.

With regards to Phase-I, all necessary steps required to enable integration of commodity derivatives market with rest of the securities markets at intermediary's level have been taken by SEBI.

In order to implement phase II i.e. to permit trading of commodity derivatives and other segments of securities market on single exchange, the Board approved the proposal to remove the restrictions by making suitable amendments to Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporation) Regulations, 2012 ("SECC Regulations"). The amendments to the SECC Regulations would be effective from October 1, 2018.

**Team ICSI**

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