

## Corpsec Hotline

May 15, 2009

### ONE MORE STEP FORWARD! - DEBT LISTING SIMPLIFIED

#### Brief snapshot of the SEBI Circular on simplified debt listing agreement

- Issued in furtherance to Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008 ("Debt Issue Regulations").
- Applicable only to listed non convertible debt instruments issued by companies.
- Introduction of two forms of compliances under the listing agreement - A simplified one for debt issuance by listed companies and a more detailed one for listed debt securities of companies whose equity shares are not listed.
- This new listing agreement to come into force with immediate effect.

#### INTRODUCTION

As a positive step towards further rationalizing the listing of Debt Securities<sup>1</sup>, Indian capital markets regulator, Securities and Exchange Board of India ("SEBI") has vide circular SEBI/IMD/BOND/1/2009/11/05 dated May 11, 2009 (this "**Circular**") put in a place a simplified listing agreement for listing of corporate Debt Securities ("**Debt Listing Agreement**" / "**Listing Agreement**").

This Circular follows major reformative measures in corporate debt market initiated by SEBI last year with the introduction of Debt Issuance Regulations. Please refer to our earlier hotlines '*Indian Debt Market - Ready to fly high!!!*' dated June 23, 2008<sup>2</sup> and '*Indian Corporate Debt Market – All set for a revamp*' dated January 5, 2008<sup>3</sup> for related analysis.

#### HOW IS IT DIFFERENT FROM THE ERSTWHILE DEBT LISTING AGREEMENT?

While the compliances under the erstwhile debt listing agreement were dependent on the modes of issuance of debt securities viz. private placement or public / rights issue, the new Listing Agreement provides for disclosure and other compliances depending on the nature of entity issuing Debt Securities viz. listed company vis a vis an unlisted company, irrespective of the mode of issuance.

Further, a number of compliances under the erstwhile debt listing agreement, which also figured in the equity listing agreement and resulted in possible duplications, have been done away with in the revised Listing Agreement. Rationalized disclosure norms and simplified listing seems to be the main idea behind introduction of the new Debt Listing Agreement.

#### KEY HIGHLIGHTS OF THIS CIRCULAR

This Debt Listing Agreement comprises of two parts - Part A prescribes additional disclosures relevant to Debt Securities and is applicable to companies whose equity shares are already listed on Indian stock exchanges and Part B which contains relatively detailed disclosures is applicable to companies whose equity shares are not listed.

The rationale behind the bifurcation of Debt Listing Agreement seems to be to avoid duplication. In case of a listed company vast amount of information about the company and its operations would already be available to the public pursuant to the equity listing agreement and therefore minimal disclosures as prescribed in Part A should suffice.

#### Key compliances under Part A and Part B of the Debt Listing Agreement.

| Particulars                                                                                                                       | PART A <sup>4</sup>      | PART B                   | Timelines                                      |
|-----------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------------------------|
|                                                                                                                                   | Listed Companies         | Unlisted Companies       |                                                |
| Furnish the following to the debenture trustees:                                                                                  |                          |                          |                                                |
| - Annual reports                                                                                                                  | <input type="checkbox"/> | <input type="checkbox"/> | At the same time as it is sent to shareholders |
| - Notices and resolutions relating to issuance of new Debt Securities and copies of all notices, proceedings, etc. of meetings of | <input type="checkbox"/> | <input type="checkbox"/> | At the same time as it is sent to shareholders |

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| Particulars                                                                                                                                                                                                                                                                                                                  | PART A <sup>4</sup>      | PART B                   | Timelines                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|----------------------------------------------------------------------------------------|
| - Half yearly certificate confirming maintenance of 100% security (not applicable for banks and Non banking financial companies ("NBFCs"))                                                                                                                                                                                   | Listed Companies         | Unlisted Companies       | Within 1 month from end of half year                                                   |
| Creation of 100% security for Debt Securities                                                                                                                                                                                                                                                                                | <input type="checkbox"/> | <input type="checkbox"/> | Continuous requirement                                                                 |
| Half yearly disclosures to stock exchanges on credit rating, asset coverage, debt-equity, etc.                                                                                                                                                                                                                               | <input type="checkbox"/> | <input type="checkbox"/> | Within 1 month from the end of half year                                               |
| Disclosures regarding debt and interest service coverage ratio in the financials (Not applicable to banks and NBFCs)                                                                                                                                                                                                         | <input type="checkbox"/> | <input type="checkbox"/> |                                                                                        |
| Notification to the stock exchanges of expected defaults in interest or redemption payments                                                                                                                                                                                                                                  | <input type="checkbox"/> | <input type="checkbox"/> |                                                                                        |
| Electronic payment of interest and repayment of debts                                                                                                                                                                                                                                                                        | <input type="checkbox"/> | <input type="checkbox"/> |                                                                                        |
| Issuance of Debt Securities only in demat form                                                                                                                                                                                                                                                                               | <input type="checkbox"/> | <input type="checkbox"/> | Credit to demat account to happen within 2 working days from the date of allotment     |
| Notify the stock exchange of material events affecting the Debt Securities including restriction on its transferability, change in nature of Debt Securities, changes that affect the rights & obligations of debenture holders and any price sensitive information that would have material bearing on operations of issuer | ✖                        | <input type="checkbox"/> | Notification to be given promptly after happening of the event                         |
| Notify stock exchange of the date of board meeting for considering issuance of Debt Securities                                                                                                                                                                                                                               | ✖                        | <input type="checkbox"/> | At least 2 days prior to the date of the board meeting                                 |
| Book closure / record date for payment of interest and redemption of Debt Securities                                                                                                                                                                                                                                         | ✖                        | <input type="checkbox"/> | Notice to stock exchange to be given at least 7 working days before such book closure  |
| Inform stock exchange before issuance of further Debt Securities which are proposed to be listed                                                                                                                                                                                                                             | ✖                        | <input type="checkbox"/> | Prior notification to stock exchanges                                                  |
| No material changes to the terms of the debentures like coupon, redemption, etc without prior approval of stock exchanges                                                                                                                                                                                                    | ✖                        | <input type="checkbox"/> | Application to be made to stock exchanges after board and debenture trustee's approval |
| Nomination of compliance officer                                                                                                                                                                                                                                                                                             | ✖                        | <input type="checkbox"/> |                                                                                        |
| Additional disclosures relating to related party transactions on Debt Securities in the financial statements and publication of unaudited half yearly financial statements as per prescribed formats                                                                                                                         | ✖                        | <input type="checkbox"/> | Publication to happen within 48 hours from the conclusion of the board meeting         |

While it is too premature to identify whether the new Listing Agreement would achieve its objective of simplifying the listing compliances without compromising on the quality and adequacy of disclosures, it is definitely a welcome move. With the investments into equity turning out to be more volatile and the global economy taking a downturn, such positive steps are expected to generate an increased interest by companies and investors around the debt segment.

1. As per Regulation 2(1) (e) of the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008, debt securities means a non-convertible debt securities which create or acknowledge indebtedness, and include debenture, bonds and such other securities of a body corporate or any statutory body constituted by virtue of a legislation, whether constituting a charge on the assets of the body corporate or not, but excludes bonds issued by Government or such other bodies as may be specified by the Board, security receipts and

securitized debt instruments;

2. <http://www.nishithdesai.com/corporate-update/2008/CorpSec-Hotline-Jun-23-2008.html>

3. <http://www.nishithdesai.com/corporate-update/2008/CorpSec-Hotline-Jan-5-2008.html>

4. The compliances and disclosures under this Part A is over and above the compliances under equity listing agreement

Sources: [SEBI circular dated May 11, 2009](#)

- **Ruchi Biyani, Vaidhyanadhan Iyer & Amrita Singh**

You can direct your queries or comments to the authors

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