

Corpsec Hotline

September 16, 2005

EXEMPTIONS ANNOUNCED TO NORMS GOVERNING INTERNATIONAL LISTINGS

The Ministry of Finance ("MoF") announced relaxations to the recently-tightened norms governing international listings by Indian companies. Offerings by Indian companies of American Depositary Receipts ("ADRs"), Global Depositary Receipts ("GDRs") and Foreign Currency Convertible Bonds ("FCCBs") are governed by the "Issue of Foreign Currency Convertible Bonds and Ordinary Share (Through Depositary Receipt Mechanism) Scheme, 1993," ("the Depositary Mechanism Scheme"). The Depositary Mechanism Scheme was recently amended by way of a notification dated August 31, 2005 ("the Notification") specifying inter alia eligibility requirements for companies issuing GDRs/ FCCBs and pricing norms governing such issues.

On September 14, 2005, the MoF announced certain relaxations to the Notification pursuant to requests made by the Indian industry on the basis that the the Notification caused hardship to several Indian companies which had taken verifiable effective steps and incurred costs in respect of international offerings to be made by them.

The MoF decided that the companies issuing GDRs/FCCBs that have taken verifiable "effective steps," before August 31, 2005 would be exempt from the requirement of prior or simultaneous listing in case of unlisted companies and of the revised pricing guidelines in case of listed companies provided these companies complete their issues latest by December 31, 2005.

"Effective steps," will mean the following:

- (a) That the company has completed due diligence and filed the offering circular in the overseas exchange(s); or
- (b) That approval of overseas exchange(s) has been obtained; or
- (c) That the payment of listing fees is made; or
- (d) That the approval of the Reserve Bank of India, where applicable, for meeting issue-related expenses has been obtained.

The MoF clarified that private placements of issues, where no offering circular was placed before the overseas exchange(s), would not qualify for "effective steps."

However, all other conditions contained in the Notification including those for (i) eligibility of issuer and (ii) eligibility of subscriber would continue to be applicable to all companies including those that have taken "effective steps" as detailed in preceding paragraphs before August 31, 2005.

-Mini Raman & Siddharth Shah

You can direct your queries or comments to the authors

Source: Ministry of Finance

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