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* Private Circulation Only

SEPTEMBER 2015

THE SECURITIES AND EXCHANGE BOARD OF INDIA

REVISED DISCLOSURE FORMATS UNDER SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 2015

The Securities and Exchange Board of India (“SEBI”) vide its circular [CIR/ISD/02/2015](#) dated September 16, 2015 provided revised formats for disclosure under Regulation 7 of the SEBI (Prohibition of Insider Trading) Regulations, 2015. The revised formats (Form A to Form D) have been issued vide the said Circular which have been annexed there with.

Further note that all other conditions as issued previously vide the Circular dated May 11, 2015 would remain unchanged.

For further information, please visit the link provided herein



DISCLOSURES TO BE MADE BY NON-BANKING FINANCIAL COMPANIES IN THE OFFER DOCUMENTS FOR PUBLIC ISSUE OF DEBT SECURITIES UNDER THE SEBI (ISSUE AND LISTING OF DEBT SECURITIES) REGULATIONS, 2008.

SEBI vide its [circular CIR/IMD/DF/6/2015 dated September 15, 2015](#) issued guidelines for disclosures to be made by Non-Banking Financial Companies (“NBFCs”) in the Offer Documents for public issue of Debt Securities under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008.

SEBI had, vide its circular no. CIR/IMD/DF/12/2014 dated June 17, 2014, prescribed additional disclosures to be provided for public issue of debt securities by NBFCs. However, based on the feedback received from market participants on disclosures in offer document by NBFCs, SEBI has decided to align the disclosures made in the offer documents to be in line with the stipulations as required by the RBI.

With respect to the same, the following modifications have been made to the additional disclosures to be provided for public issue of debt securities by NBFCs:

- i. Point 4 (I)(d) (iv) of the Circular dated June 17, 2014 shall be modified as follows:
“Aggregated exposure to the top 20 borrowers with respect to the concentration of advances, exposures to be disclosed in the manner as prescribed by RBI in its guidelines on Corporate Governance for NBFCs, from time to time.”
- ii. Point 4 (I)(d) (v) of the Circular shall be modified as follows:
“Details of loans, overdue and classified as non-performing in accordance with RBI guidelines.”



NBFCs being frequent users of debt securities, utilize the issue proceeds for onward lending. In view of the same, SEBI has stated that in case of any of the borrowers of the NBFCs forming part of the “Group” as defined by RBI, then appropriate disclosures shall be made by NBFCs in the format as specified vide the said Circular.

Further, SEBI has issued additional disclosures to be made by NBFCs in their offer documents, namely:

- i. A portfolio summary with regards to industries/ sectors to which borrowings have been made by NBFCs;
- ii. Quantum and percentage of secured vis-à-vis unsecured borrowings made by NBFCs;
- iii. Any change in promoter’s holdings in NBFCs during the last financial year beyond a particular threshold as may be prescribed by RBI from time to time (presently being 26%);

for which a draft template has also been provided vide the said Circular.

The said provisions of this circular shall be applicable for the draft offer document for issuance of debt securities, issued by NBFCs, filed with the designated stock exchange on or after November 01, 2015.

For further information, please visit the link provided herein

RESERVE BANK OF INDIA

EQUITY INVESTMENT BY BANKS – REVIEW

The Reserve Bank of India (“RBI”) vide its [circular RBI/2015-16/176 dated September 16, 2015](#) has issued a notification dealing with terms upon which banks can make investments in equity.

Vide the said circular, RBI has stated that equity investments by a bank in a subsidiary company, or a financial services company, including financial institutions, stock and other exchanges, depositories, etc., which is not a subsidiary should not exceed 10 per cent of the bank’s paid-up share capital and reserves and the total investments made in all subsidiaries and other entities that are engaged in financial services activities together with equity investments in entities engaged in non- financial services activities should not exceed 20 per cent of the bank’s paid-up share capital and reserves.

However, in case of financial services companies if investments are held under ‘Held for Trading’ category, and the time period of 90 days as specified under the Master Circular on ‘Prudential Norms for Classification, Valuation and Operation of Investment Portfolio by Banks’ is abided with, then in such cases, the cap of 20% as well as the prior approval of RBI is not required.

Further, banks which have Capital to Risk Asset Ratio (“CRAR”) of 10% or more and have made net profit as of March 31 of the previous year do not have to approach RBI for prior approval for equity investments in cases as specified precisely under the said circular.

For further information, please visit the link provided herein



HALF YEARLY/QUARTERLY REVIEW OF ACCOUNTS OF PUBLIC SECTOR BANKS

RBI vide its [circular RBI/2015-16/186 dated September 23, 2015](#) released guidelines on conduct of review of accounts of Public Sector Banks.

RBI has specified that Concurrent Auditors shall submit their Non-Performing Assets (“**NPAs**”) review reports to the banks and not to the Statutory Central Auditors undertaking the half yearly/ quarterly review. The Concurrent Auditors will thus give their opinions on NPA figures to the banks and not to the Statutory Central Auditors (“**SCAs**”). However, SCAs shall continue to review top twenty branches for half yearly/ quarterly review and shall cover advances adversely commented upon in the latest inspection report of the RBI special audit/special scrutiny, if any carried out by the bank, RBI or any other agency, for the reason of taking in to account all issues during the half yearly/ quarterly review.

It is stated that the balance portion of 50% advances and NPAs to be covered under this review shall be reviewed by SCAs through Core Banking System of the banks. Further, it is to be noted that the specimen for Review Report to be submitted by SCAs is annexed along with the said Circular.

For further information, please visit the link provided herein

EXTERNAL COMMERCIAL BORROWING (ECB) POLICY— ISSUANCE OF RUPEE DENOMINATED BONDS OVERSEAS

RBI vide [circular A. P. \(DIR Series\) Circular No.25 dated September 29, 2015](#) issued a notification on External Commercial Borrowings (ECB) Policy - Issuance of Rupee denominated bonds overseas. Vide this notification RBI has issued framework for issuance of Rupee denominated bonds from overseas within the overarching RBI policy.

RBI states that in order to facilitate Rupee denominated borrowing from overseas, a framework for issuance of Rupees denominated bonds overseas to be made. The framework shall contain the following:-

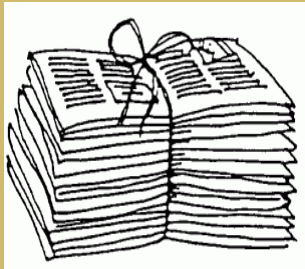
- a. Eligible Borrowers such as corporate body as well as real Estate Investment Trusts
- b. Investor from a financial action task force
- c. Minimum maturity period of 5 years
- d. All cost should commensurate with prevailing market conditions ;
- e. No end-use restrictions except for a negative list.

For further information, please visit the link provided herein



Ministry of Corporate Affairs

Notification regarding sub-section (6) of section 129 of the Companies Act, 2013 (18 of 2013)



The Ministry of Corporate Affairs (“MCA”) vide [notification dated September 04, 2015](#) provided for Notification regarding sub-section (6) of section 129 of the Companies Act, 2013 (18 of 2013).

MCA stated that Central Government directed that paras 5(ii) (a)(1), 5 (ii) (a) (2), 5 (ii) (e), 5 (iii), 5 (viii) (a), 5 (viii) (b), 5 (viii) (c) and 5 (viii) (e) relating to preparation of Statement of Profit and Loss in Schedule III of the Companies Act, 2013 shall not apply to Government Companies producing Defence Equipment including the Space Research subject to the following conditions:-

- a. Consent of Board of Directors with regard to non-disclosure of information relating to paras 5(ii) (a)(1), 5 (ii) (a) (2), 5 (ii) (e), 5 (iii), 5 (viii) (a), 5 (viii) (b), 5 (viii) (c) and 5 (viii) (e)
- b. The Company shall disclose the grant of exemption in Notes forming part of balance sheet and profit and loss account.
- c. The Company shall comply with the accounting standards.
- d. Financial statements shall represent a true and fair state of affairs of its finance in respect of financial year ending on or after March 31, 2016.
- e. The Company to maintain and file information as prescribed by Government of India or RBI

For further information, please visit the link provided herein

Notification regarding sub-section (1) of section 467 of the Companies Act, 2013 (18 of 2013)

The Ministry of Corporate Affairs (“MCA”) vide [notification dated September 04, 2015](#) provided for alteration in Schedule III of the Companies Act, 2013 (18 of 2013). The Central Government makes the following alterations:-

In part I of Schedule III dealing with the Balance Sheet the following shall be altered:-

- a. *Under the heading "Equity and Liabilities", in para (4), for, '(b) Trade payables, the following shall be substituted, namely:-*

"(b) Trade Payables:

*(A) total outstanding dues of micro enterprises and small enterprises;
and*

(B) total outstanding dues of creditors other than micro enterprises and small enterprises."

- b. Under the heading “Notes: General Instructions for preparation of Balance Sheet, in para 6, after sub-para F, the following shall be inserted:-

The following details relating to Micro, Small and Medium Enterprises shall be disclosed in the notes:-

(a) the principal amount and the interest due thereon (to be shown remaining unpaid to any supplier at the end of each accounting

(b) the amount of interest paid by the buyer in terms of section 16 of the Micro, Small and Medium Enterprises Development Act, 2006, along with the amount of payment made to the supplier beyond the appointed day during such accounting year;



- c. the amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under the Micro, Small and Medium Enterprises Development Act, 2006;*
- d. the amount of interest accrued and remaining unpaid at the end of each accounting year; and*
- e. the amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues above are actually paid to the small enterprise, for the purpose of disallowance of a deductible expenditure under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006.*

For further information, please visit the link provided herein

ELECTRICITY



HON'BLE APPELLATE TRIBUNAL FOR ELECTRICITY VIDE ORDER DATED SEPTEMBER 28, 2015 IN APPEAL NO. 198, 199, 200 AND 291 OF 2014

The Hon'ble Appellate Tribunal for Electricity vide its Order [dated September 28, 2015](#); the Hon'ble Appellate Tribunal for Electricity ("APTEL/ Tribunal") in Appeal no. 198, 199, 200 and 291 of 2014 in Gujarat Urja Vikas Nigam Limited v/s Gujarat Electricity Regulatory Commission and Another; stated that the question to be considered was whether the wind energy generator's petitions praying for determination of project specific tariff on the ground that they are not availing of the accelerated depreciation benefit.

The Hon'ble APTEL further stated that the contention was not maintainable and was thus rejected. The Hon'ble APTEL was of the view that execution of Power Purchase Agreement ("PPA") subsequent to generic tariff order accepting the tariff fixed therein would not bar wind energy generator from filing a petition for modification of Tariff on the ground that it is not availing of accelerated depreciation benefit, as the Order categorically gives such an option to the wind energy generator; further adding that since the said Order has not been challenged, it has become final; reason of which, the wind energy generators' petitions are maintainable.

The Hon'ble APTEL stated that there was no restraint in law on the power of the appropriate commission to take any required actions, and has the power to reopen PPA and modify the tariff by an order. The Hon'ble APTEL thus dismissed the present Appeal.

Further, the Hon'ble APTEL stated that if the development of Renewable Sector enters into problem, then due to non-availability of actual renewable power, the obligated entities have to purchase renewable energy certificate to fulfil the RPO Obligations and also to meet their actual demand, they have to purchase equivalent power from conventional energy generators. It is therefore necessary to protect and encourage renewable energy generators. The Hon'ble APTEL further stated that due to development of renewable energy power sector, the consumers would be benefitted by green energy and in turn there shall be depletion of existing fossil fuels etc.

The Hon'ble APTEL also quoted Section 86 (1) (e) of the Electricity Act, 2003 which deals with the functions of the State Commission.

The Tribunal further gave instructions to the State Commissions to take necessary steps for the development of Renewable Energy Sector and also directed the State Commission to work in the greater interest of the consumers; for which the State Commission should reopen the PPAs sometimes executed by the renewable energy generators and distribution licensees.

For further information, please visit the link provided herein

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