

## ERGO

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### SEBI ALLOWS LISTING OF COMMERCIAL PAPERS

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Commercial Papers (CPs) in India are regulated by Reserve Bank of India (RBI) and governed by the RBI directions (RBI CP Directions) which lays down the eligibility requirements, disclosure norms, rating and documentation procedures. Further, the Fixed Income Money Market and Derivatives Association of India (FIMMDA) prescribes standard procedures and documentation for issuance of CPs in compliance with guidelines issued by FIMMDA on 5 October 2017 (FIMMDA Operational Guidelines).

With an intention of broadening investor participation in CPs, the Securities and Exchange Board of India (SEBI) has allowed listing of CPs by releasing a new framework for listing of CPs dated 22 October 2019 (SEBI CP Circular). The SEBI CP Circular provides for disclosure norms for listing of CPs as well as the continuous disclosure obligations. The disclosure framework has been based on the recommendations of Corporate Bonds & Securitization Advisory Committee, chaired by Shri H.R. Khan.

Issuers issuing listed CPs shall be required to comply with the SEBI CP Circular in addition to the RBI CP Directions and the FIMMDA Operational Guidelines. In accordance with the SEBI Circular dated 1 October 2019 issued to mutual funds (October Circular), mutual fund schemes are only permitted to make fresh investments in listed CPs. This requirement for mutual funds has been made effective from the later of one month of the date of the operational framework or 1 January 2020.

#### **Key Features of the SEBI CP Circular**

**Prior Listing Approval from Stock Exchanges:** Issuers seeking to list their CPs are required to obtain approval of the stock exchanges where they seek to list the CPs by submitting a disclosure document covering disclosures set out therein along with a listing application. The disclosures, along with the listing application are required to be put up on the website of the concerned stock exchanges. SEBI has also advised stock exchanges to monitor the disclosures made by the issuers and establish necessary systems for imposition of fines in case of non-compliance or inappropriate disclosures being made by issuers.

#### **Disclosures to be provided to stock exchanges along with the listing Application:**

The issuer of CPs is required to provide *inter alia* the following disclosures in a disclosure document while seeking listing approval:

- details of the issuer, its directors and any change in directors in the past 3 years;

- details of the statutory auditor and changes in statutory auditors in the past 3 years;
- details of borrowings and corporate guarantees or contingent liability;
- issue information, including, *inter alia*, credit ratings, CP borrowing limit, end-use of funds and details of any credit enhancement provided;
- financial information of the issuer for the last three years; and
- material information in respect of the issuer including, *inter alia*, details of all defaults and/or delays in payments of any debt, any ongoing material litigation and regulatory proceedings; any other material development which may affect the issue;
- audited / limited review half yearly consolidated (if available) and standalone financial information along with auditor qualifications, if any, for the last three years along with latest available financial results. Further, the latest audited financials should not be older than six months from the date of application for listing. However, issuers that have listed specified securities or non-convertible debentures/ preference shares have been permitted to file unaudited financials with limited review stub period in the current financial year, subject to making necessary disclosures, including the addition of risk factors in this regard.
- non-banking financial companies (NBFCs) and housing finance companies (HFCs) are also required to make disclosures pertaining to their ALM including their lending policy, details of top 10 borrowers and classification of loans based on the type of loan, sectoral exposure, denomination and maturity profile.

## **Continuous disclosure with respect to listed CPs:**

Once listed, the issuers of listed CPs are required to comply with the provisions of SEBI (Listing Obligations and Disclosure Requirements), 2015 (SEBI LODR) and make ongoing disclosures during the tenure of the CP, including *inter alia*, the following disclosures:

- Issuers of listed specified securities, that are required to comply with the provisions of Chapter IV of SEBI LODR and also have outstanding listed CPs are required to prepare and submit financial results in terms of Regulation 33 of SEBI LODR and additional line items as required under Regulation 52(4) of SEBI LODR.
- Issuers of listed non-convertible debentures/redeemable preference shares, that are required to comply with provisions of Chapter V of SEBI LODR and also have outstanding listed CPs or who only have outstanding listed CPs shall prepare and submit financial results in terms of Regulation 52 of SEBI LODR.
- A certificate from the CEO/CFO of the issuer is required to be submitted to the stock exchange(s) on quarterly basis certifying the end use of the CP proceeds and adherence to other listing conditions.
- Issuers of listed CPs are also required to disclosure material information/events to the stock exchanges (within 24 hours) such as *inter alia*, expected default / delay in its payment obligations for debt instruments, any revision in the credit rating.

- NBFCs and HFCs issuers of listed CPs are required to submit their latest ALM statements to the stock exchanges as and when they are disclosed to their respective regulators.

## Observations

The introduction of the SEBI CP Circular will now allow listing of CPs and broadening the investor base for CPs. The bar for disclosure standards for listed CPs has been raised and has been made akin to disclosure standards for listed debt instruments to provide robust information to aide investors in their investment decision making. In light of the recent restriction on mutual funds investing in unlisted commercial papers under the October Circular, the listing of CPs may bolster the demand for such instruments.

It will be interesting to see the development of offer documents for CP issuances, in compliance with the SEBI CP Circular, RBI CP Directions and the FIMMDA Operational Guidelines. Under the FIMMDA Operational Guidelines, issuers are required to upload the offer letter in electronic form on the website of the depositories and under the SEBI CP Circular they are required to uploaded on the website of stock exchanges. The operational framework from the stock exchanges for listing of CPs is awaited and it remains to be seen whether the listing fees and operational procedures issued by stock exchanges are not too onerous so that liquidity affected corporates have a real avenue of fund raising through listed CPs.

While SEBI has attempted to address the transparency concerns regarding the regulation of CPs in India, it imposes additional compliance and disclosures obligations for the issuers of listed CPs. Listed CP issuers will become a "listed entity" for the duration of the CPs and will be subject to monitoring by the stock exchanges and penalties under the SEBI regime for non-compliances. For, HFCs and NBFCs, disclosures on ALM typically made in public issue of debt have been applied for listed CPs.

The Circular mandates disclosure of the latest audited financials, that are no older than six months from the date of application for listing and only provides an exemption to issuers who have pre-existing listed securities. It does not address the needs of private companies that do not prepare quarterly or half yearly financials and may seek to list their CPs and would now need to prepare them and obtain a limited review of the same.

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