



Proposals for allowing certain class of companies to file shelf prospectus for public issuance of non-convertible debt securities - Paper seeking public comments

1. Every issuer is required to file a Prospectus with Registrar of Companies before making a public issue. To enable frequent issuers to raise money, without undergoing the procedure for filing Prospectus for every issuance, the concept of Shelf Prospectus was introduced in Companies Act. In FY 2011-12, 7 companies have filed Shelf Prospectus for their debt issuances, while in FY 2012-13, 5 companies have filed Shelf Prospectus.
2. Under Section 60A of the Companies Act, 1956, any public financial institution, public sector bank or scheduled bank, whose main object is financing, was allowed to file a shelf prospectus. As per the said section, company filing a shelf prospectus with the Registrar is not required to file prospectus afresh at every stage of offer of securities, within a period of validity of such shelf prospectus.
3. In this regard, it may be noted that recently Companies Act, 2013 has been enacted and Section 31 of the said Act has been notified. As per the said section, any class or classes of companies, as SEBI may provide by regulations in this behalf, may file a shelf prospectus with the Registrar of Companies. The Shelf Prospectus shall be filed at stage of the first offer of securities. It shall indicate a period of validity, which shall not exceed one year commencing from the date of opening of the first offer of securities under that prospectus. In respect of a second or subsequent offer of such securities issued during the period of validity of that prospectus, no further prospectus is required to be filed.
4. However, a company filing a shelf prospectus is required to file an information memorandum, containing all material facts relating to new charges created, changes in the financial position of the company, and such other changes as may be prescribed by Central Government in this regard, with the Registrar of Companies, prior to subsequent offer of securities under the shelf prospectus. Where an information memorandum is filed, every time an offer of securities is made under such memorandum together with the shelf prospectus shall be deemed to be a prospectus. Ministry of Corporate Affairs has already placed draft disclosure requirements for information memorandum for public comments.



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5. Thus, as per the Section 31 of Companies Act, 2013, SEBI may allow such classes of companies eligible to file a shelf prospectus, by providing the same in its regulations. The matter relating to allowing the frequent issuers to file Shelf Prospectus was taken before the Corporate Bonds & Securitization Advisory Committee (CoBoSAC) of SEBI.

6. Taking into account the recommendations of CoBoSAC, it is proposed to allow following companies/entities to file Shelf Prospectus for public issuance of non-convertible debt securities:
 - i. Public financial institutions and Scheduled Banks (which were allowed under Section 60A of the Companies Act, 1956);
 - ii. Issuers authorized by the notification of CBDT to make public issue tax free secured bonds, with respect to such tax free bond issuances;
 - iii. Infrastructure Debt Funds – Non-Banking Financial Companies (IDF-NBFC) regulated by RBI;
 - iv. Other NBFCs, registered with RBI, complying with the following criteria:
 - a. whose equities and/or debt securities are listed on recognized stock exchange, by making public issuance, for a period of at least three years immediately preceding the issue and have been complying with the continuous listing requirements;
 - b. having a net worth of at-least Rs. 500 crores, as per the audited balance sheet of the preceding financial year;
 - a. having consistent track record of distributable profit for the last three years;
 - b. Securities issued under the Shelf Prospectus shall have a credit rating of not less than "AA" from a recognized credit rating agency;
 - c. having no regulatory action pending against the company or its promoters or directors by RBI, SEBI or any other regulatory body;
 - d. the issuer has not defaulted in the repayment of deposits, interest payment thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or repayment of any term loan or interest payable thereon to any financial institution or banking company in the last three financial years.
 - v. Listed Issuers complying with following criteria:



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- a. whose equities and/or debt securities are listed on recognized stock exchange, by making public issuance, for a period of at least three years immediately preceding the issue and have been complying with the continuous listing requirements
 - b. having a net worth of at-least Rs. 500 crores, as per the audited balance sheet of the preceding financial year
 - c. having consistent track record of distributable profit for last five years;
 - d. Securities issued under the Shelf Prospectus have a credit rating of not less than "AA" from a recognized credit rating agency;
 - e. having no regulatory action is pending against the company or its promoters or directors by RBI, SEBI or any other regulatory body.
 - f. the issuer has not defaulted in the repayment of deposits, interest payment thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or repayment of any term loan or interest payable thereon to any financial institution or banking company in the last three financial years.
7. The information memorandum/tranche prospectus filed in all the aforesaid cases should contain the disclosures prescribed by Companies Act, 2013 and rules made thereunder and shall also contain all material updations including revision in ratings. Further, the information memorandum/ tranche prospectus shall also contain a "summary term sheet", as specified in SEBI (Issue and Listing of Debt Securities) Regulations, 2008.

Public Comments:

Public comments on aforesaid proposals are solicited. Such comments may please be e-mailed on or before December 02, 2013, to anandr@sebi.gov.in or sent, by post, to:-

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