



भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

CONSULTATION PAPER

DDHS – POD 1

DELISTING OF NON-CONVERTIBLE DEBT SECURITIES

MAY 12, 2023

How to Respond

We are asking for comments on the Consultation paper by May 26, 2023.

The comments/ suggestions may be provided in the specified format to the following email ids:

- a) Pradeep Ramakrishnan, GM
(pradeepr@sebi.gov.in)
- b) Nikhil Chaudhary, Manager
(nikhilc@sebi.gov.in)
- c) Kiran Dhembre, AM
(kirand@sebi.gov.in)

Or by Post to the following address:

Pradeep Ramakrishnan,
General Manager,
Department of Debt and Hybrid Securities
Securities and Exchange Board of India,
SEBI Bhavan, C4-A, G-Block,
Bandra Kurla Complex, Bandra
(East), Mumbai -400051

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MAY 12, 2023

1. Introduction:

- 1.1. “*Delisting*” means permanent removal of securities of the entity from the trading platform of a recognised Stock Exchange, either voluntarily or compulsorily; once, the securities are delisted, no trading is permitted in such securities on the trading platform of Stock Exchanges.
- 1.2. *Delisting* assumes significance as it is considered as a permanent loss of investment or divestment opportunity for the investors in such securities.

2. Objective:

- 2.1. Presently, the extant regulations, viz. SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 (‘NCS Regulations’) and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (‘Listing Regulations’) do not provide for delisting of non-convertible debt securities¹.
- 2.2. In the absence of any specific provision for delisting of non-convertible debt securities in the extant provisions, a need has been expressed to specify a mechanism for delisting of non-convertible debt securities.
- 2.3. The objective of this consultation paper is to seek comments/ views/ suggestions from the public on the proposal for a mechanism for delisting of non-convertible debt securities.

¹ Regulation 2(1)(t) of Listing Regulations:

‘non-convertible debt securities’ means ‘debt securities’ as defined under the Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021.

Regulation 2(1)(k) of NCS Regulations:

“debt securities” means non-convertible debt securities with a fixed maturity period which create or acknowledge indebtedness and includes debentures, bonds or any other security whether constituting a charge on the assets/properties or not, but excludes security receipts, securitized debt instruments, money market instruments regulated by the Reserve Bank of India, and bonds issued by the Government or such other bodies as may be specified by the Board

3. Background and current regulatory references:

3.1. Existing references regarding delisting:

3.1.1. Regulation 64 under Chapter VI of the Listing Regulations provides for the delisting of securities, which is specified below:

“64. (1) In the event specified securities of the listed entity are delisted from the stock exchange, the listed entity shall comply with all the provisions in Chapter V of these regulations.

(2) In the event that non-convertible debt securities and non-convertible redeemable preference shares’ of the listed entity do not remain listed on the stock exchange, the listed entity shall comply with all the provisions in Chapter IV of these regulations.”

3.1.2. Chapter IV of the Listing Regulations provides for the obligations of listed entity which has listed its specified securities and non-convertible debt securities (regulations 15 to 48), wherein, it mentions only of giving a prior intimation to Stock Exchange about meeting of board of directors, where the proposal for voluntary delisting by the listed entity is considered.

3.1.3. There are, however, no further provisions in respect of delisting of non-convertible debt securities or non-convertible redeemable preference shares.

3.2. Existing mechanism for delisting of specified securities²:

3.2.1. Presently, for delisting of specified securities, there exists a framework in the SEBI (Delisting of Equity Shares) Regulations, 2021.

3.2.2. It provides for voluntary as well as compulsory delisting of specified securities where an exit opportunity is required to be provided through reverse book building process.

² Regulation 2(1)(zl) of Listing Regulations:

‘specified securities’ means ‘equity shares’ and ‘convertible securities’ as defined under clause (eee) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.

3.2.3. It also provides for exemption from the said regulations to certain classes of entities such as, if the entity is delisted pursuant to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016 ('IBC').

3.3. SEBI circular No. CIR/CFD/CMD/6/2015 dated October 13, 2015 provides the format of uniform Listing Agreement. Para 5 of the Listing Agreement deals with the powers of Stock Exchanges with respect to admission and continuation of listing of securities including non-convertible debt securities on Stock Exchanges. It is reproduced as follows:

"The admission and continued admission of the securities to dealings on the Exchange is subject to the discretion of the Exchange and subject to the powers of the Exchange to prohibit, suspend or withdraw the listing of the securities on the Exchange."

3.4. **Existing mechanism for delisting of non-convertible debt securities:**

3.4.1. The NCS Regulations govern the issuance and listing of non-convertible securities including non-convertible debt securities issued by way of public issuance and private placement basis which are proposed to be listed. However, at present, there is no specific provision in the NCS Regulations which deals with delisting of non-convertible debt securities.

3.4.2. Further, Regulation 59 of the Listing Regulations deals with restructuring of non-convertible debt securities, which reads as under:

"Structure of non-convertible debt securities and non-convertible redeemable preference shares."

59.(1) The listed entity shall not make material modification without prior approval of the stock exchange(s) where the non-convertible debt securities or non-convertible redeemable preference shares, as applicable, are listed, to:

(a) the structure of the debenture in terms of coupon, conversion, redemption, or otherwise.

(b) the structure of the non-convertible redeemable preference shares in terms of dividend of non-convertible preference shares payable, conversion, redemption, or otherwise.

(2) The approval of the stock exchange referred to in sub-regulation (1) shall be made only after:

(a) approval of the board of directors and the debenture trustee in case of non-convertible debt securities and

(b) after complying with the provisions of Companies Act, 2013 including approval of the consent of requisite majority of holders of that class of securities.”

3.4.3. It is noted that delisting constitutes a change in the structure of a listed non-convertible debt security mentioned in Regulation 59 of the Listing Regulations. Currently, a few issuers of non-convertible debt securities have used the provisions of Regulation 59 to delist such securities.

4. Reasons for delisting:

4.1. A listed entity may choose to voluntarily delist non-convertible debt securities for various reasons. Some of the reasons could be:

4.1.1. Some of the entities in their representations have submitted that some non-convertible debt securities may have very few holders and majorly with the intention of holding it to maturity. Thus, continuous listing may not provide them with any additional benefits. Thus, they may choose to delist such non-convertible debt securities.

4.1.2. The entity may intend to re-structure non-convertible debt securities due to financial distress or otherwise, and delist such re-structured non-convertible debt securities.

4.1.3. Delisting may be contemplated consequent to a merger where one entity acquires and/ or merges with another entity. If the acquiring entity is also a listed entity, the non-convertible debt securities of the combined entity continue to be traded. If the acquiring entity is not listed, the combined/ merged entity may not desire listing of the non-convertible debt securities.

- 4.2. It is pertinent to note that since an issuer could have issued and listed different types of non-convertible debt securities, multiple ISINs may proliferate when compared to specified securities which usually have only one type of security listed. This requires being taken into consideration when determining whether to establish a mechanism for delisting of non-convertible debt securities, and if so, how it should operate given multiple ISINs.

5. Delisting framework in global jurisdictions

- 5.1. The rule books of the following global exchanges were examined from the public domain information.

- (i) Euronext³;
- (ii) KRX Stock Exchange⁴;
- (iii) Luxembourg Stock Exchange⁵ ;and
- (iv) The Bahrain Bourse⁶.

- 5.2. A snapshot of the mechanism for delisting of securities in the global jurisdictions is given below:

5.2.1. Globally, it has been observed that largely Stock Exchanges are the competent bodies for decisions and operations relating to the admission of securities and their suspension, withdrawal and delisting and for the continuing obligations of Issuers except, if the respective governing Laws, Rules and Regulations prescribes otherwise.

5.2.2. The Common grounds/ situations for delisting of securities observed in the rule books of global jurisdictions are as follows:

- (a) Redemption of debt Securities before their final maturity;
- (b) If the Securities are admitted for listing on any other trading platform;

³ https://www.euronext.com/sites/default/files/2020-02/Euronext%20Access%20Rulebook%20English_v01.pdf

⁴ <https://global.krx.co.kr/contents/GLB/06/0601/0601000000/GLB0601000000.jsp#>

⁵ <https://www.bourse.lu/listing>

⁶ <https://cbben.thomsonreuters.com/rulebook/2-delisting-debt-securities>

- (c) The conversion of all or a large part of the listed debt securities into a different type of security due to the exercise of conversion rights;
- (d) Non-compliance by the issuers with the provisions of relevant Laws, Rules and Regulations such as non-filing of accounts/ financial statements within the specified timeline;
- (e) If it has been confirmed that the material matters on investor protection was falsely stated or omitted from the documents submitted to the Competent Authority for review;
- (f) On account of merger of the issuer into another company, or other companies, which include the redemption of the issued debt securities or the conversion of the whole or large part of the issue into a different type of security;
- (g) If in the opinion of the Competent Authority, certain facts or developments occur or have occurred with regard to a security which prevent the continued listing of that security or which cause it to believe that a fair, orderly and efficient market for a security cannot be maintained or is detrimental to the securities market as a whole or for the sake of public interest/ investor protection; and
- (h) If the entity has been dissolved or liquidated pursuant to operation of law or otherwise.

6. Proposed mechanism for voluntary delisting:

6.1. Scope and Applicability:

6.1.1. Comments on the proposal for “*introducing provisions necessitating listed issuers to list subsequent issuances of debt*” was sought vide consultation paper dated February 09, 2023. In light of the same, the mechanism for delisting of non-convertible debt securities would provide for voluntary delisting of all listed non-convertible debt securities i.e. an entity shall not be permitted to delist few non-convertible debt securities while the other non-convertible debt securities continue to remain listed.

6.1.2. Accordingly, the proposed mechanism shall be applicable to voluntary delisting of all listed non-convertible debt securities from all or any of the recognised Stock Exchanges where such non-convertible debt securities are listed.

6.1.3. The proposed mechanism shall not be applicable to the delisting of non-convertible debt securities of a listed entity:

6.1.3.1. that have been delisted by the Stock Exchanges as a consequence of any penalty/ action initiated against such entity;

6.1.3.2. that have been delisted by the Stock Exchanges pursuant to redemption of the non-convertible debt securities;

6.1.3.3. that have been delisted pursuant to a resolution plan approved under IBC, if such plan provides for:

- (i) delisting of non-convertible debt securities in compliance with the proposed mechanism; or
- (ii) an exit opportunity to the existing holders of non-convertible debt securities.

The details of delisting of such non-convertible debt securities shall be disclosed to the recognized Stock Exchanges where the non-

convertible debt securities are listed within one day of approval of the resolution plan under IBC.

6.1.4. Notwithstanding the above, a listed entity that has more than 200 non-QIB holders in any ISIN relating to listed non-convertible debt securities, shall not be able to voluntarily delist any of its listed non-convertible debt securities.

Views sought on:

- 1. Whether the scope of the proposed mechanism be extended to Non-Convertible Redeemable Preference Shares/ Non-convertible securities?*
- 2. Any scenarios for which the said mechanism may be or may not be made applicable?*
- 3. Whether the proposal mentioned in para 6.1.4 including the threshold is adequate?*

6.2. In-principle approval from the Stock Exchanges:

6.2.1. The listed entity shall make an application to the relevant recognised Stock Exchange for seeking in-principle approval of the proposed delisting of non-convertible debt securities in the form specified by the recognised Stock Exchange, not later than fifteen working days from the date of passing of the special resolution or receipt of any other statutory or regulatory approval, whichever is later.

6.2.2. Such application seeking in-principle approval for the delisting of the non-convertible debt securities shall be disposed of by the recognised Stock Exchange within a period not exceeding fifteen working days from the date of receipt of such application that is complete in all respects.

6.2.3. The recognised Stock Exchange shall ensure the following while granting the in-principle approval:

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- (a) necessary approvals of the board of directors in respect of the delisting proposal;
- (b) necessary No-Objection Certificate of the debenture trustee/s;
- (c) due resolution of all investor grievances by the listed entity;
- (d) due payment of all listing fees/ fines/ penalties to the recognised Stock Exchange;
- (e) compliance with any provision of the Listing Regulations as amended from time to time, that has a material bearing on the interests of holders of non-convertible debt securities;
- (f) that no litigation or action is pending/ subsisting against the listed entity pertaining to its activities in the securities market or any other matter having a material bearing on the interests of holders of non-convertible debt securities;
- (g) that no penalty/ restrictions/ limitations levied/ specified by SEBI upon the listed entity is pending/ subsisting
- (h) any other relevant matter, as it may deem fit.

Views sought on:

- 4. *Whether the timeline specified above is adequate?*
- 5. *Whether the procedure specified for processing of application for obtaining in-principle approval from the Stock Exchanges is adequate?*

6.3. Obligations of the listed entity:

The listed entity shall ensure that the process of obtaining necessary approval of all holders of non-convertible debt securities commences within three working days of grant of in-principle approval by the Stock Exchanges.

6.4. Disclosure on the website by the listed entity:

6.4.1. All the events pertaining to the proposal of delisting in respect of non-convertible debt securities, starting from the placing of the agenda for delisting, to the board of directors and till the delisting is completed, shall be disclosed as material information to the Stock Exchanges, in line with Regulation 51 of the Listing Regulations.

6.4.2. In addition to the information disclosed to the Stock Exchanges in terms of Regulation 51 of the Listing Regulations, the following information shall be disclosed by the listed entity on its website as well as to the Stock Exchanges, within one working day from the date of receipt of in-principle approval from the recognised Stock Exchanges for delisting of non-convertible debt securities:

- (a) The name of the Stock Exchanges from which the non-convertible debt securities are sought to be delisted together with the details of all the non-convertible securities that are sought to be delisted;
- (b) The date specified for determining the list of holders of non-convertible debt securities to whom notice for approving the delisting proposal shall be sent;
- (c) Objects/ reasons for delisting of non-convertible debt securities;
- (d) The proposed time table from the date specified as fixed above, till the date of making final application to the Stock Exchanges for delisting of non-convertible debt securities;
- (e) A disclaimer specifying the following:

“Once the said securities are delisted:

- i. the delisted non-convertible debt securities shall cease to be under the purview of SEBI Act and the rules and regulations prescribed thereunder.*
- ii. the holders of such non-convertible debt securities shall not have any recourse to the investor protection mechanisms for any reasons including change/ removal of the debenture trustee or in case of default, such as dispute resolution mechanism, grievance redress mechanism (SCORES), etc. under the SEBI Act and the rules and regulations prescribed thereunder.”*

- (f) A statement by the board of directors of the listed entity confirming that all material information which is required to be disclosed under the provisions of continuous listing requirement have been disclosed to the Stock Exchange;
- (g) A statement by the board of directors of the listed entity certifying that: -
 - (i) the entity is in compliance with the applicable provisions of securities laws;
 - (ii) the delisting, in their opinion, is in the interest of the holders of non-convertible debt securities; and
 - (iii) Name and details of compliance officer of the listed entity.

Views sought on:

- 6. *Whether the above information regarding the disclosure of the details of delisting of non-convertible debt securities on the website of the listed entity is sufficient?*
- 7. *If no, please suggest what additional information may be provided.*

6.5. Notice of delisting:

6.5.1. The listed entity shall send the notice of delisting to the holders of non-convertible debt securities, not later than three working days from the date of receipt of in-principle approval from the Stock Exchanges.

6.5.2. A copy of the notice of delisting shall also be made available on the website of the listed entity.

6.5.3. The notice of delisting shall contain all the disclosures specified in para 6.4.2 and such other disclosures as may be necessary for the holders of non-convertible debt securities to take an informed decision. The notice shall also contain the No-Objection Certificate obtained from the debenture trustee.

Views sought on:

8. Whether the information sought in the notice of delisting is adequate?

9. If not, what additional information can be specified in the notice of delisting?

6.6. Approval from the holders of non-convertible debt securities:

6.6.1. The listed entity shall obtain approval from all holders of non-convertible debt securities within fifteen working days from the date of the notice of delisting.

6.6.2. Presently, in case of any change in the structure of the non-convertible debt securities and non-convertible redeemable preference shares, the threshold for the approval as per Regulation 59 of Listing Regulations is *inter-alia* specified as three-fourth by value of holders of such securities. However, delisting of non-convertible debt securities will take away the benefits of listed securities from the investors such as transparency, efficient discovery of prices of such securities, opportunity of investing and exiting through the Stock Exchange mechanism, recourse to the investor protection mechanisms for any reasons including change/ removal of the debenture trustee or in case of

default, under SEBI such as dispute resolution mechanism, grievance redress mechanism (SCORES), etc. Thus, the approval of all the holders of non-convertible debt securities is necessitated.

Views sought on:

10. Whether the approval mechanism specified above is adequate?

6.7. Failure of delisting proposal:

6.7.1. The delisting proposal shall be considered to have failed under the following circumstances:

- (a) non-receipt of in-principle approval from the Stock Exchange;
- (b) non-receipt of No-Objection Certificate from the debenture trustee;
- (c) non-receipt of approval from all the holders of non-convertible debt securities.

6.7.2. In case of failure of the delisting proposal, the listed entity shall intimate the same to the Stock Exchange, within one working day from the date of such event of failure.

Views sought on:

11. Whether any other scenarios for the failure of delisting proposal can be included?

6.8. Final application to the recognised Stock Exchange:

6.8.1. Within five working days from the date of obtaining approval from all the holders of non-convertible debt securities in terms of para 6.6 above, the listed entity shall make the final application for delisting to the relevant recognised Stock Exchange in the form specified by the Stock Exchange.

- 6.8.2. The final application for delisting shall be accompanied with necessary details/ information, as the recognised Stock Exchange may require.
- 6.8.3. The final application for delisting shall be disposed of by the recognised Stock Exchange within fifteen working days from the date of receipt of such application that is complete in all respects.
- 6.8.4. Upon disposal of the final application for delisting by the Stock Exchange, the non-convertible debt securities of the entity shall be permanently delisted from the Stock Exchange.
- 6.9. A summary of the timeline for the aforesaid mechanism for voluntary delisting of non-convertible debt securities is given in Annex-I for easy of reference.

Views sought on:

12. Whether the above provisions and procedure specified in para 6.8 are adequate?

6.10. Delisting from some of the recognised Stock Exchanges:

- 6.10.1. Regulation 6 of the NCS Regulations *inter-alia* provides that the issuer shall make an application to one or more stock exchange(s) and obtain an in-principle approval for listing of its non-convertible securities from the stock exchange(s) where such securities are proposed to be listed. Thus, under extant provisions, the issuer has a choice to opt for listing of its non-convertible debt securities on one or more Stock Exchanges. Similarly, the option to delist such non-convertible debt securities from one or more Stock Exchanges is provided to the Issuers under the proposed mechanism.
- 6.10.2. Where a listed entity's non-convertible debt securities are listed on more than one recognised stock exchanges, the listed entity may choose to delist non-

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convertible debt securities from all but one such recognised Stock Exchange having nationwide trading terminals.

6.10.3. In such cases, the aforesaid procedure specified in para 6.2 to 6.8 shall not apply and the listed entity shall:

- (a) obtain the prior approval of its board of directors;
- (b) make an application to the relevant recognised Stock Exchange for delisting its non-convertible debt securities;
- (c) disclose the fact of delisting from the relevant Stock Exchange on its website;
- (d) obtain No-Objection Certificate from the Debenture Trustee;
- (e) disclose the fact of delisting, the reasons for such delisting and the fact of continuation of listing of non-convertible debt securities on the recognised Stock Exchange having nationwide trading terminals, on its website.

6.10.4. Such application for delisting shall be disposed of by the recognised Stock Exchange within a period not exceeding thirty working days from the date of receipt of such application that is complete in all respects.

Views sought on:

13. Whether the above mechanism specified in case of delisting from all but one of the recognised stock exchanges is adequate?

6.11. Monitoring of compliance by Stock Exchanges

The respective recognised Stock Exchange shall adhere and monitor compliance by the listed entity with the provisions of the proposed framework and shall report to the Board any non-compliance, which comes to their notice.

7. Benefits of the proposed Regulatory framework:

7.1. The proposed framework will benefit the listed entities as:

7.1.1. It will specify a well-defined framework for delisting of non-convertible debt securities by listed entities.

7.1.2. It will augment ease of doing business for listed entities proposing to delist their non-convertible debt securities

7.2. The proposed framework will benefit the holders of non-convertible debt securities as:

7.2.1. It will bring clarity to them in terms of their roles and responsibilities as well as the rights owed to them.

7.2.2. It shall bring parity in terms of information availability to all the stakeholders.

8. Public Comments:

The comments/ suggestions on the queries sought may be provided by **May 26, 2023** in the format given below:

Name of the person/ entity proposing comments:				
Name of the organization (if applicable):				
Contact details:				
Category: whether market intermediary/ participant (mention type/ category) or public (investor, academician etc.)				
Sr. No.	Particulars of Question	Issues	Proposals/ Suggestions	Rationale

Issued on: May 12, 2023

Annex-I

Timeline for the proposed mechanism for voluntary delisting of non-convertible debt securities

Sr. No.	Nature of event	Timeline (in working days) latest by
1.	Approval of proposal for delisting of non-convertible securities by board of directors of listed entity	X
2.	Application for seeking in-principle approval from the Stock Exchange	X+15
3.	Grant of In-principle approval by the Stock Exchange	(X+15) + 15
4.	Disclosure of the information on the website of the listed entity as well as to the Stock Exchanges	[(X+15)+15] + 1
5.	Notice of delisting to be sent to holders of non-convertible debt securities	[(X+15)+15] +3
6.	Receipt of approval from all holders of non-convertible debt securities	{[(X+15)+15] +3} +15
7.	Final application to the Stock Exchange for delisting	([(X+15)+15] +3) +15 + 5
8.	Disposal of final application by the Stock Exchange	([(X+15)+15] +3) +15 +5 + 15
9.	Intimation to the Stock Exchange in the event of failure of delisting proposal	1 day from the date of event of failure