

SEBI amends the regulations for the issuance and listing of non-convertible securities

Introduction

As a measure of ease of doing business for the issuers seeking to list their non-convertible securities and non-convertible redeemable preference shares, either through public issue or private placement, the Securities and Exchange Board of India ('SEBI') has inserted a new chapter VA in the SEBI (Issue and listing of non-convertible securities) Regulations, 2021 ('Regulations').

The amendment aims to reduce the repetitive filings and streamline the disclosure requirements for issuers of both, public issues and private placements. The revised regulations also specify certain compliances for 'large corporates' through a newly inserted Chapter VB.

The regulations become effective from 3 July 2023.

Major amendments

- **Consolidation of the Schedules:** The amended regulation consolidates the reporting requirements by revising the contents of Schedule I (Disclosures for issue of securities) instead of earlier bifurcation under Schedule I (public disclosures of debt securities and non-convertible preference shares) and Schedule II (Private placements of non-convertible securities). Thus all the entities will now adhere to the disclosure requirements under Schedule I.
- **Term 'Key managerial personnel' and 'senior management' introduced:** These terms were used in the schedules to the erstwhile regulations, however, the same were not defined. The definition clarifies the persons who would be classified as KMP and the senior management.
- **Filing of General Information Document ('GID') and Key Information Document ('KID')**
 - First-time issuance of private placement of NCS:** Issuer is required to file GID.
 - Subsequent issue of private placement of NCS:** If the private placement is made within the validity period of the shelf placement memorandum (i.e. before these regulations were notified), then only KID needs to be filed. If a subsequent offer for NCS falls within the validity period of the GID, then no further GID needs to be filed for such subsequent offer.
 - Public issue followed by a private placement of NCS:** If the private placement is made within the validity period of the shelf prospectus, then only KID needs to be filed.
 - The provisions of these regulations shall be applicable on a 'comply or explain' basis till 31 March 2024 and mandatory thereafter.
 - GID shall be valid for 1 year from the date of opening of the first offer of NCS made under that GID.
- **Audited financial statements and other requirements:**
 - The audited financial statements of an issuer should not be older than 6 months from the date of filing the draft placement memorandum/opening date of the issue, as applicable.

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ii. Issuers,

- whose NCS or specified securities are listed on a recognised stock exchange(s), who are in compliance with the listing regulations, or
- who are subsidiaries of entities who have listed their specified securities, and are in compliance with the listing regulations

can file unaudited financial statements for the interim period along with a limited review report subject to the necessary disclosures and risk factors.

- **Large corporates:** SEBI will specify certain listed entities fulfilling the specified criteria as 'Large Corporates'. Large corporates shall comply with conditions or requirements to be specified by SEBI from time to time.

Issuers issuing Commercial Paper ('CP') and intending to list the CP:

- If a KID is already filed under these regulations which is still under its validity period, then filing a KID as mentioned in these regulations is sufficient.
- If a shelf prospectus is already filed in case of an earlier public issue which is still under its validity period, then filing a KID as mentioned in these regulations is sufficient.

Thus, for issuance and listing of CP by a large corporate, KID filing is sufficient given that a KID/shelf prospectus was filed and is valid.

- **Other important disclosures:** The regulation specifies some crucial disclosures for the information of stakeholders in the case of public offer and private placements:

- Details of the promoters of the issuer
- Details of the credit rating agency and the declaration from such agency about the validity of the rating.
- Expenses of the issue (under each specified head) mentioned as a percentage of the total issue expenses and the issue size.
- Last 3 years' audited financial statements (i.e. on a consolidated and standalone basis), not older than 6 months from the issue opening date.

Weblink <https://egazette.gov.in/WriteReadData/2023/247098.pdf>

Therefore

The merging of the disclosure requirements is a welcome step that aligns the requirements for any type of issue, i.e., public issue/private placement. Filing of KID and KID will be the important compliances going forward with a natural phasing out of the hitherto shelf prospectus and shelf placement memorandum. Defining the KMP and senior management will result in transparency in reporting as well as making these positions/roles more accountable towards the stakeholders.