

Insights and Commentary from Dentons

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CORPORATE LEGAL DEVELOPMENTS

NEWSLETTER AUGUST 2022

Weekly Insights & Updates

5 August 2022

MCA

1. MCA clarifies on spending of CSR funds for “Har Ghar Tiranga” campaign

July 26, 2022: The MCA *vide* general circular no. 08/2022 dated July 26, 2022, clarified that spending of corporate social responsibility (“CSR”) funds for the activities related to the Har Ghar Tiranga campaign under the aegis of Azadi ka Amrit Mahotsav, such as:

- (a) mass scale production and supply of the National Flag;
- (b) outreach and amplification efforts; and
- (c) other related activities;

are eligible CSR activities under item no. (ii) of Schedule VII of the Companies Act, 2013, which pertains to ‘promotion of education relating to culture’. It was further clarified that the companies may undertake the aforesaid CSR activities, subject to fulfillment of the Companies (CSR Policy) Rules, 2014 and related circulars/ clarifications issued by the MCA thereof, from time to time.

Link [here](#).

SEBI

1. SEBI proposes regulatory framework for online bond trading platforms

July 21, 2022: The Securities and Exchange Board of India (“SEBI”) has issued a proposal for a regulatory framework for the online bond platforms selling listed debt securities. The proposal includes registration of bond platforms as stockbrokers (debt segment) with the SEBI or being run by SEBI registered brokers, as well as extending the applicability of the stock-broker regulations to these entities, which would govern their code of conduct and other aspects related to their operations and risk management.

SEBI has also proposed that only listed debt securities should be offered for buy/ sale by the online bond platforms. Listed debt securities issued on a private placement basis and offered for sale on bond platforms shall be locked in for a period of 6 (Six) months from the date of allotment of such debt securities by the issuer.

The proposal also states that transactions executed on online bond platforms should be routed through the trading platform of the debt segment of exchanges. This is broadly to mitigate settlement risk. Alternatively, the transactions can be routed through the Request for Quote, a

platform of the stock exchanges where the transactions will be cleared and settled on a Delivery Versus Payment (DVP-1) basis.

The public comments on the above consultation paper are required to be sent by no later than **August 12, 2022**.

Link [here](#).

2. SEBI notifies framework for Social Stock Exchange

July 25, 2022: To give effect to the framework governing Social Stock Exchange (“SSE”), SEBI, *vide* its notifications dated July 25, 2022, has made amendments to the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“SEBI (ICDR)”), and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“SEBI (LODR)”).

The idea of SSE was first floated by Finance Minister Nirmala Sitharaman in her 2019 – 2020 Budget Speech and has been developed to provide Social Enterprises (“SEs”) with an additional avenue to raise funds. The amendments under the SEBI (ICDR) and SEBI (LODR) provide for the framework for SSE which majorly stipulates eligibility criteria for organizations to raise funds through SSE and for entities to be classified as “Not for Profit Organization” (“NPOs”) and as “For Profit Social Enterprise” (“FPSE”) as well as obligations of SEs and means of fund-raising.

NPOs and FPSEs having social intent as their primary goal will be eligible to participate in the SSE. Entities engaged in a social activity out of 16 broad activities listed by SEBI will be considered SEs at this stage. The eligible activities, *inter alia*, include eradicating hunger, poverty, malnutrition and inequality; promoting healthcare, supporting education, employability and livelihoods; gender equality empowerment of women and LGBTQIA+ communities; and supporting incubators of SEs.

With respect to fund raising, eligible NPOs can raise funds through Zero Coupon Zero Principal Instruments and Mutual Funds, while For-Profit Social Enterprises can mobilise capital through the issuance of equity shares (on the main board, SME platform or equity shares issued to an Alternative Investment Fund, including Social Impact Fund) and issuance of debt securities.

Link for SEBI (ICDR) [here](#) and Link for SEBI (LODR) [here](#).

Link to our newsletter covering Zero Coupon Zero Principal bonds [here](#).

3. SEBI defers applicability of provisions in its circular on development of Passive Funds

July 28, 2022: Amidst the growing popularity of passive funds i.e., Exchange Traded Funds (“ETFs”) and Index Funds, SEBI, *vide* [circular](#) dated May 23, 2022 (“Circular”), had put in place a framework for managing such funds which would be effective from July 01, 2022. The Circular also, *inter alia*, set out norms with respect to direct transaction in ETFs through Asset Management Companies (“AMCs”) and provided that direct transaction with AMCs shall be facilitated for investors only for transactions above INR 25 Crores. This was aimed towards enhancing liquidity in units of ETFs on stock exchange platforms.

Pursuant to the feedback received from stakeholders, SEBI has now decided that the above provisions governing direct transaction in ETFs through AMCs shall come into force on *November 01, 2022*.

Link [here](#).

4. SEBI issues a consolidated circular for listing obligations and disclosure requirements for non-convertible securities, securitized debt instruments and commercial papers

July 29, 2022: SEBI issued a consolidated operational circular in relation to non-convertible securities, securitized debt instruments and commercial papers to ease operational efficiency in relation to listing and compliance obligations in relation to these instruments. This operational circular collates in one place all relevant existing circular and their consequential changes, and also lists the format for submission of statements indicating utilisation of issue proceeds for non-convertible securities to stock exchanges.

Link [here](#).

RBI

1. RBI issues FAQs under the Master Direction – Reserve Bank of India (Regulatory Framework for Microfinance Loans) Directions, 2022

July 25, 2022: The Reserve Bank of India ("RBI") has updated the [Master Directions - Reserve Bank of India \(Regulatory Framework for Microfinance Loans\) Directions, 2022](#), issued earlier on March 14, 2022, to include a set of Frequently Asked Questions (FAQs). The said FAQs can be accessed *via* the link below.

Link [here](#).

2. RBI amends Foreign Exchange Management (Borrowing and Lending) Regulations, 2018

July 28, 2022: RBI *vide* gazette notification no. No. FEMA.3(R)(3)/2022-RB has amended the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 ("Principal Regulations"). RBI inserted a new Para 8A under Schedule I (*Borrowings from outside India by a person resident in India*) to the Principal Regulations, *vide* which it temporarily increased the limit of borrowing for eligible borrowers from USD 750 million to USD 1,500 million; and such dispensation will be available for ECBs raised till December 31, 2021.

Link [here](#).

3. RBI issues Liberalization Measures under the External Commercial Borrowings Policy; subsequently amends Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations

August 1, 2022: RBI *vide* its Circular No. RBI/2022-23/98 A.P. (DIR Series) Circular No. 11 has issued certain liberalization measures under its External Commercial Borrowings (ECB) Policy, pursuant to Para 5 of the [press release on "Liberalisation of Forex Flows" dated July 06, 2022](#).

RBI has decided to:

- increase the automatic route limit from USD 750 million or equivalent to USD 1.5 billion or equivalent.
- increase the all-in-cost ceiling for ECBs, by 100 bps. The enhanced all-in-cost ceiling shall be available only to eligible borrowers of investment grade rating from Indian Credit Rating Agencies (CRAs). Other eligible borrowers may raise ECB within the existing all-in-cost ceiling, as hitherto.

The above relaxations would be available for ECBs to be raised till December 31, 2022. In furtherance to the aforesaid decision, RBI has subsequently amended the [Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations](#) accordingly.

Link [here](#).

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