



N. A. SHAH ADVISORS LLP

BULLETIN

CAPITAL MARKETS BULLETIN – SEPTEMBER 2023

EXECUTIVE SUMMARY

- ◆ The validity period of approval provided by SEBI to Venture Capital Funds (VCFs) and Alternate Investment Funds (AIFs) for making overseas investments and the time limit for listing of shares in a public issue has been reduced.
- ◆ Foreign Portfolio Investors (FPIs) are now required to undertake at least 10% of their secondary market trades in corporate bonds through the Request for Quote (RFQ) platform and are required to provide additional ownership disclosures that fulfil certain criteria within the timelines specified.
- ◆ Introduction of a new chapter in LODR Regulations providing framework for voluntary delisting of Non-Convertible Debt Securities (NCDS) or Non-Convertible Redeemable Preference Shares (NCRPS) (Securities) from any stock exchange.
- ◆ SEBI has brought various amendments in relation to Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) containing introduction of concept of sponsor group, additional lock-in period for the sponsors, appointment of nominee director and Offer for Sale (OFS) framework for sale of units of private listed InvITs.

REDUCTION IN VALIDITY PERIOD OF APPROVAL GRANTED FOR OVERSEAS INVESTMENT BY AIFs AND VCFs

- ◆ To optimize the utilization of allocated limits for overseas investments, the validity period of approval granted by SEBI for making the allocated investments by AIFs and VCFs in offshore venture capital undertakings has been reduced from 6 months to 4 months from the date of approval.

REDUCTION OF TIMELINE FOR LISTING OF SHARES IN PUBLIC ISSUE

- ◆ With the aim to reduce the time for the investors to receive their shares pursuant to the public issue, SEBI has reduced the timeline for listing of shares on the stock exchanges from T+6 days to T+3 days (where T is the issue closing date).
- ◆ The applicability of the revised timelines is as follows:

Applicability	Public issues opening on or after
Voluntarily	01 st September 2023
Mandatorily	01 st December 2023

- ◆ The detail modalities can be accessed [here](#).

MANDATE FOR FPIs FOR TRANSACTIONS IN CORPORATE BONDS

- ◆ To increase the liquidity and transparency of the secondary market for corporate bonds on the RFQ platform, SEBI has now mandated FPIs to undertake at least 10% of their total secondary market trades by value in corporate bonds through the RFQ platform, on a quarterly basis with effect from 01st October 2023.

ADDITIONAL OWNERSHIP DISCLOSURES TO BE MADE BY FPIs

- ◆ Earlier the percentage criteria for determining the beneficial owners in the FPI has been reduced by SEBI from 25% to the percentage criteria as provided in the prevention of money laundering laws.
- ◆ To further identify the ultimate beneficial owners of the FPIs, SEBI has mandated the FPIs to provide granular details of all entities holding any ownership or control on a full look through basis up to level of all natural persons without any threshold based on the following:

○ **Criteria**

The following FPIs shall be required to provide details of their ownership:

Sr. No.	Criteria for FPIs
1.	FPIs holding more than 50% of their Indian equity Assets Under Management (AUM) in a single Indian corporate group
2.	FPIs that individually, or along with their investor group, hold more than INR 25,000 crore of equity AUM in the Indian markets

○ **Exemptions**

- The following FPIs shall be exempted from making the disclosures:

Sr. No.	Exempted FPIs
1.	Government and their related investors
2.	Public Retail Funds
3.	Exchange traded funds (with less than 50% exposure in Indian equity market) and entities listed on exchanges in specified jurisdictions
4.	Pooled investment vehicles regulated by any Government / regulatory authority, where: <ul style="list-style-type: none"> a) Their holding in an Indian corporate group is below 25% of their overall global AUM at a scheme level, or b) Their equity AUM in the Indian markets is below 50% of their overall global AUM at a scheme level
5.	FPIs that are unable to liquidate their excess investments due to statutory restrictions
6.	Newly registered FPIs for first 90 days from the settlement date of first trade in Indian equity market
7.	FPIs in process of winding down their investment and having intimated their intention to surrender their registration to Designated Depository Participants (DDP)

- In case the constituents of investor group of FPIs meeting the criteria no. 2 consists of any exempted FPIs, such constituents shall be exempt and their AUM shall be reduced to determine the threshold.

○ **Timelines**

Conditions	Timeline
A. For realigning the investments from the date of exceeding thresholds	
FPIs holding more than 50% of their Indian Equity AUM in a single Indian corporate group	10 trading days
FPIs, including their investor group, holding more than INR 25,000 crore of equity AUM in the Indian markets	90 calendar days
FPIs required to make disclosures on applicability of circular	90 calendar days
B. For disclosures to their DDPs	
In case investments are not realigned within the specified timelines	30 trading days from expiry of timelines

- Following are the consequences of non-disclosure:
 - a. FPI registration shall be invalid
 - b. FPI shall not make any further purchase; and
 - c. FPI shall liquidate its securities in Indian securities market within 180 days such invalidation and the investee companies shall restrict the FPI's voting rights within that period.

FRAMEWORK FOR VOLUNTARY DELISTING OF NCDS AND NCRPS

- ◆ SEBI has introduced a new chapter in LODR Regulations containing framework and obligations on listed entities in case of voluntary delisting of NCDS or NCRPS from any stock exchange, the brief procedure of which is as below:

Steps	Particulars
1.	Passing of board resolution for approval of the delisting of Securities
2.	Application to stock exchanges within 15 days from date of board meeting for seeking in-principle approval
3.	Stock exchange shall grant in-principle approval within 15 days from receipt of application
4.	Post grant of in-principle approval, the listed entity shall: <ol style="list-style-type: none"> a) Within 2 working days - disseminate specified information on its website and to the stock exchanges b) Within 3 working days – send notices to the Securities holders and debenture trustee for seeking their approval / no-objection letter

5.	Listed entity shall seek approval from all the securities holders and debenture trustee (if any) within 15 working days of sending notices
6.	Listed entity shall within 5 working days of receiving approval submit the final application to stock exchange
7.	Stock exchange shall approve the application within 15 days of receipt
8.	On account of non-receipt of any approval, the delisting process shall fail and the listed entity shall intimate to stock exchange within 1 working day of such failure

◆ **Non-applicability**

The above procedure shall not apply in case the Securities of the listed entity are:

- Outstanding by way of public issue
- Held by more than 200 security holders excluding QIBs
- Delisted pursuant to any penalty or other action initiated, redemption of Securities or any resolution plan under Insolvency Bankruptcy Code

AMENDMENTS IN RELATION TO REITs AND INVITs (INVESTMENT FUNDS)

◆ **Sponsors**

- In line with the REITs, the concept of sponsor group has been introduced for InvITs which shall include:
 - a. Sponsors
 - b. Entities / persons which are controlled by sponsor
 - c. Entities / persons who control the sponsor
 - d. Entities / persons which are controlled by entities / persons specified in point c above.
- Sponsor group
 - Each sponsor group shall be represented by atleast one person as a sponsor.
 - The following entities shall be considered under the sponsor group:
 - a. A person / entity who is directly or indirectly holding interest in any assets or SPVs or holdcos proposed to be transferred to the InvIT;
 - b. A person / entity directly or indirectly holding units of the InvIT on post-issue basis;
 - c. A person / entity whose experience is being utilized by sponsor for meeting the eligibility conditions

o Declassification of status of sponsors

The following three pre-requisites for declassification of Sponsors of Investment Funds have been removed:

- Investment Funds shall be listed for atleast 3 years
- Sponsor to hold not more than 10% of the outstanding units
- Investment Manager (IM) not to be an entity controlled by the sponsors
- Unitholders approval where votes cast in favour shall exceed the votes cast against

o Lock-in period in Investment Funds

The amended position of lock-in period for the sponsors and sponsor groups is as follows:

Time period (From listing date)	Percentage or maximum value of units held by sponsor
First 3 years	15% of total units
From start of 4 th year - end of 5 th year	Lower of: 5% of total units or INR 500 crores
From start of 6 th year - end of 10 th year	Lower of: 3% of total units or INR 500 crores
From start of 11 th year - end of 20 th year	Lower of: 2% of total units or INR 500 crores
After completion of 20 years	Lower of: 1% of total units or INR 500 crores

◆ **Nominee director on the board of IM**

Unitholders holding atleast 10% of the total outstanding units of the Investment Funds shall be entitled to nominate a director on the board of IM.

Such nominee director shall recuse from voting on any transaction in which such nominee director or the unit holder who nominated such director or their associates are a party.

Every unitholder holding atleast 10% of the total outstanding units of the Investment Funds shall comply with the Stewardship Code.

◆ **OFS framework for private listed InvITs**


- SEBI has permitted OFS for units of private listed InvITs and in absence of retail investors, such OFS shall remain open only for 1 day (i.e., T Day).

◆ **Self-sponsored Investment Manager (SSIM)**

SEBI has introduced a new concept of SSIM which shall mean the IM of the Investment Funds who has dual responsibilities of both the IM as well as the sponsor.

Sponsor of the Investment Fund can disassociate itself and convert the IM to a SSIM subject to the following conditions:

Sr. No.	Conditions
1.	For atleast 5 years: <ul style="list-style-type: none"> • Investment Fund has been listed • Sponsor proposing to disassociate shall have been a sponsor
2.	In the immediately preceding 5 years: <ul style="list-style-type: none"> • Investment Fund has undertaken atleast 12 distributions on a continuous basis and has complied with the distribution norms • Investment Fund is rated AAA by a registered credit rating agency for a continuous period • Investment Fund has not breached the maximum leverage thresholds
3.	IM is meeting the minimum net worth criteria
4.	Minimum unitholding requirement shall be complied by the SSIM after conversion
5.	Sponsor or associate of the Investment Fund shall not own or control the SSIM after conversion
6.	Sponsor or associate of InvITs are not Project Manager and do not own or control it after conversion to SSIM
7.	Approval from unitholders and consent from trustee has been obtained
8.	Sponsor has not sold any assets to Investment Fund in last 3 years and no assets have been acquired by Investment Fund from the outgoing sponsor within 1 year of conversion
9.	Investment Fund shall not have any under-construction properties acquired from the sponsor that have not commenced commercial operations



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