

Corpsec Hotline

April 03, 2006

INTERNATIONAL LISTINGS GUIDELINES AMENDED - RELAXATION FOR UNLISTED COMPANIES IN THE RED

The Ministry of Finance, Government of India ("MoF"), pursuant to its [notification dated March 31, 2006](#), recently relaxed conditions for unlisted, non-profit making companies, who have issued American Depositary Receipts ("ADRs"), Global Depositary Receipts ("GDRs") or Foreign Currency Convertible Bonds ("FCCBs") in the international market in terms of Euro Issue Guidelines (as defined below) issued on May 22, 1998.

The issuance of ADRs, GDRs and FCCBs by Indian companies is regulated by the Scheme for Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme which was notified by the Government of India on November 12, 1993 (the "**Scheme**") and revisions/ modifications in the operative guidelines of the Scheme have been issued by the MoF from time to time (together with the Scheme, the "**Euro Issue Guidelines**").

The last amendment (prior to the current one) to the Euro Issue Guidelines was made by [notification dated August 31, 2005](#) and certain relaxations were made to the same shortly thereafter (our CorpSec hotlines dated September 1, 2005 [Amendment to Overseas Listing Guidelines](#) and September 16, 2005 [Exemptions Announced to Norms Governing International Listings](#) have analysed the implications of the notification dated August 31, 2005 and the relaxations to the same announced by the MoF on September 14, 2005) in order to ensure that Indian companies are listed on domestic capital markets and to align the pricing of the ADRs, GDRs and FCCBs issues with that of the SEBI guidelines in this regard for domestic capital issues.

The August 31, 2005 notification stipulated that unlisted companies, which had already issued ADRs, GDRs or FCCBs, would compulsorily be required to list their shares in the domestic capital markets either on (i) making profits beginning financial year 2005-06 or (ii) within three years of the issuance of ADRs, GDRs or FCCBs, whichever is earlier.

This stipulation, which necessitated that non-profit making companies which had issued ADRs, GDRs or FCCBs were required to list their shares in the domestic market had raised quite a few concerns amongst the companies in question and the legal and merchant banking communities in India.

After considering the representation made by concerned parties, the MoF has provided some relief to non-profit making unlisted companies.

According to the revised conditions under the notification dated March 31, 2006 amending the Euro Issues Guidelines, all non-profit making unlisted companies, which had issued ADRs, GDRs or FCCBs under the Euro Issue Guidelines of May 22, 1998, are now required to list their shares on the domestic capital markets within three years of turning profitable. However, no fresh issues of ADRs, GDRs or FCCBs, by such companies would be permitted without first listing on the domestic markets. All other conditions contained in the notification dated August 31, 2005 including that for (i) eligibility of issuer and (ii) eligibility of subscriber would continue to be applicable to all companies.

.

- **Reuben Chacko & Ruetveij Pandya**
You can direct your queries or comments to the authors

Source:

- 1) *Business Standard*, dated April 1/ 2, 2006
- 2) *Press Information Bureau*

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Handbook on New Labour Codes

April 29, 2024

Compendium of Research Papers

April 11, 2024

Third-Party Funding for Dispute Resolution in India

April 02, 2024

Research Articles

Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

Emerging Legal Issues with use of Generative AI

October 27, 2023

Audio

Third-Party Funding: India & the World

April 27, 2024

IBC allows automatic release of ED attachments: Bombay HC reaffirms

April 15, 2024

The Midnight Clause

February 29, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

[Click here to view Hotline archives.](#)

Video

Q&A 2024 Protocol to the Mauritius India Tax Treaty

April 22, 2024

Boost to India's Space Potential: India Liberalizes Foreign Direct

