Article

Final Go ahead by SEBI for FPIs to invest in unlisted corporate bonds and SDIs

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Article

The holistic approval for Foreign Portfolio Investors ('FPIs') to make investments in unlisted Non-Convertible Debentures ('NCDs') and Securitised Debt Instruments ('SDIs') is finally now in place.

Earlier, on 24 October 2016 Reserve Bank of India (RBI) had notified the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Twelfth Amendment) Regulations, 2016[1] allowing FPIs to invest in unlisted NCDs and SDIs, thereby facilitating foreign investment in the Indian bond market[2]. However, no amendment was made by Securities and Exchange Board of India (SEBI) in its SEBI (Foreign Portfolio Investors) Regulations, 2014, ('FPI Regulation') wherein FPIs were still not permitted to invest in unlisted debt securities, except in case of companies in the infrastructure sector, and SDIs.

The amendment made by RBI was indeed a stimulator to the present reforms taking place in the Indian bond market, however, in the absence of any similar amendment by SEBI, there was ambiguity on the stance of FPIs to make such investments. In other words, even though RBI had legitimized the investment made by FPIs in unlisted NCDs and SDIs, such investments could be viewed as unlawful since it was not an allowable investment under the FPI regulation. Therefore, to clear the mist, a final clearance from SEBI was much desired.

Finally on 23rd October, SEBI at its board meeting held, 2016,[3] among other important matters, gave a green signal to the FPIs to make investments in unlisted NCDs and SDIs. The text of the board meeting wherein such permission has been granted has been reproduced below:

> *"The Board decided that in order to enhance the investor base in unlisted debt securities and securitised debt instruments, FPIs shall be permitted to invest in the following:*
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> *i) Unlisted corporate debt securities in the form of non-convertible debentures/bonds issued by an Indian public or private company subject to the guidelines issued by the Ministry of Corporate Affairs from time to time. Investments in the unlisted corporate debt securities shall be subject to minimum residual maturity of three years and end use-restriction on investment in real estate business, capital market and purchase of land. The expression 'Real Estate Business' shall have the same meaning as assigned to it in Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 Notification No.FEMA.362/2016-RB dated February 15, 2016.*

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[1] http://egazette.nic.in/WriteReadData/2016/172326.pdf
[2] To read our article on the topic, please click here
[3] http://www.sebi.gov.in/sebiweb/home/detail/35234/yes/PR-SEBI-Board-Meeting

ii) Securitised debt instruments, including (i) any certificate or instrument issued by a special purpose vehicle (SPV) set up for securitisation of asset/s with banks, FIs or NBFCs as originators; and/or (ii) any certificate or instrument issued and listed in terms of the SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008.

Investment by FPIs in the unlisted corporate debt securities and securitised debt instruments shall not exceed INR 35,000 cr within the extant investment limits prescribed for corporate bond from time to time which currently is INR 2,44,323 cr. Further, investment by FPIs in securitised debt instruments shall not be subject to the minimum 3-year residual maturity requirement.''

The decision taken at the board meeting shall be implemented by way of amendments to the FPI regulation. With this comprehensive approval in place, the Indian bond market is all set to experience an unhindered enhancement in its investor base, which will be nothing but favorable for the unprecedented growth of the Indian economy.

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