

## **GUIDANCE NOTE ON SEBI (ISSUE AND LISTING OF MUNICIPAL DEBT SECURITIES) REGULATIONS, 2015**

**July 29, 2020**

Vide notification dated September 27, 2019, SEBI (Issue and Listing of Municipal Debt Securities) Regulations, 2015 ("**Municipal Regulations**") were amended. Subsequently, SEBI received certain queries from market participants seeking guidance on interpretation of some of the provisions of the amended Regulations. In terms of Regulation 29 of the Municipal Regulations, following guidance is being provided for benefit of Issuers and market participants:

### **Eligibility & Undertakings**

- 1. Under Regulation 4 of the Municipal Regulations, an Eligible issuer has to, *inter alia*, meet the following conditions:**
  - a. no order or direction of restraint, prohibition or debarment by the Board is in force against the issuer or its promoters or its directors from accessing the securities market;**
  - b. an issuer or its promoter, group company or director(s) thereof, should not have been named in the list of the wilful defaulters;**
  - c. any of its promoter or director(s) has not been declared as a fugitive economic offender(s)**

**Non-corporate issuers do not have promoter or Board of Directors. In such a situation how would the above criteria be applied?**

**Guidance:** The above criteria shall be applicable to Issuers who are companies/body corporate incorporated under the Companies Act, 2013. In other cases viz. non-corporate Issuers, the eligibility conditions shall apply on the members of the Bond Issue Committee, which shall comprise of senior executive officers of the Issuer and headed by the Municipal Commissioner or an officer of equivalent rank.

- 2. Para 11 of the Schedule I requires certain undertakings to be given by the Issuer. In case of non-corporate Municipalities, who can sign such undertakings?**

**Guidance:** In case of non-corporate Issuers, the undertakings specified under Para 11 of Schedule I shall be signed by a member of the Bond Issue Committee not below the rank of Additional Commissioner or an officer of

equivalent rank, who is duly authorised by the Bond Issue Committee to sign such undertakings.

### **Due diligence & disclosure requirements**

- 3. Can the Merchant Banker(s) rely on the summarised English translations of the various non-financial documents, legal papers which are in the regional language of the respective Issuers (Municipalities) or language other than English while carrying out due diligence?**

**Guidance:** Yes, Merchant Banker(s) may rely on the summarised English translations of the various non-financial documents, legal papers which are in the regional language of the respective Issuers while carrying out due diligence provided that such summarised English translations are certified by the Bond Issue Committee of the Issuer.

- 4. Para 9 of Schedule I of the Municipal Regulations specifies disclosures to be included in the offer document w.r.t. all pending litigations involving the issuer/its directors/promoters/subsidiaries.**

**Non-corporate Municipalities do not have promoter or Board of Directors. In such a situation how would the above disclosures be made?**

**Guidance:** For non-corporate Issuers, the disclosure of pending litigations under clause (a) of para 9 of Schedule I of Municipal Regulations may be limited to pending litigations involving the Issuer only after taking into account litigations which may have a material adverse impact on the Issuer or the projects to be funded from the proceeds of the issue of municipal bonds. The thresholds so determined shall be disclosed in the Offer Document/ Placement Memorandum.

- 5. Clause (a) Para 9 of Schedule I of the Municipal Regulations specifies the disclosure to be included in the offer document w.r.t. all pending litigations involving the Issuer/its directors/promoters/subsidiaries. Whether all pending litigation needs to be disclosed?**

**Guidance:** The Merchant Banker, Issuer and the Bond Issue Committee (wherever applicable), may determine the materiality thresholds under clause (a) of para 9 of Schedule I of Municipal Regulations after taking into account litigations which may have a material adverse impact on the Issuer or the projects to be funded from the proceeds of the issue of municipal

bonds. The thresholds so determined shall be disclosed in the Offer Document/ Placement Memorandum.

- 6. How will the threshold of materiality for disclosure of outstanding dues of creditors under clause (b) of para 9 of Schedule I of Municipal Regulations and identification of material contract under clause (e) of para 9 of Schedule I of Municipal Regulations be determined for non-corporate Municipalities who do not have a Board of Directors?**

**Guidance:** The Merchant Banker, Issuer and the Bond Issue Committee may determine the materiality thresholds under clause (b) para 9 of Schedule I of Municipal Regulations after taking into account litigations which may have a material adverse impact on the Issuer or the projects to be funded from the proceeds of the issue of municipal bonds. The thresholds so determined shall be disclosed in the offer document/placement memorandum.

- 7. Para 8(V) of Municipal Regulations requires disclosure of details of borrowings viz. secured loan, unsecured loan, NCDs Bonds, commercial paper, rest of borrowings, etc.**

**Municipalities generally have borrowings provided by the government over several years and it would be difficult to provide granular details of such loans.**

**Guidance:** Issuers shall disclose details of all borrowings along with outstanding amount of borrowings during the three years for which the audited financial information is being included in the Offer Document/ Placement Memorandum.

Further, revenue grant received and spent during the last three years along-with separate disclosures of refundable grants shall also be disclosed in the Offer Document / Placement Memorandum.

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