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Regulatory Alert
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SEBI allows FPIs to invest in unlisted bonds

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Background

- Hitherto, investment by Foreign Portfolio Investors (FPIs) in corporate debt securities were restricted to only 'listed' or 'to be listed' securities' except for investments in companies in infrastructure sector. Also, FPIs are presently not permitted to invest in securitized debt instruments.
- The Reserve Bank of India (RBI) through its circular dated 17 November 2016 had permitted FPIs to invest in unlisted corporate bonds and securitized debt instruments. Also, in its Board meeting held on 24 November 2016, the Securities and Exchange Board of India decided FPIs to invest in such securities and issued a press release to this effect.

The amendment

In line with the RBI circular and decision taken in SEBI board meeting discussed above, an amendment has been notified to the SEBI (FPI) Regulations, 2014 to permit FPIs to invest in unlisted debt securities and securitized debt instruments.

The key features and conditions applicable for the above relaxation are:

Unlisted debt securities

- Investments in unlisted debt securities would be in the form of bonds and Non-convertible debentures (NCDs) issued by public as well as private companies
- Investments in unlisted debt securities would also be subject to the minimum 3 year residual maturity condition applicable currently to listed bonds
- Funds raised by Indian companies through unlisted debt securities cannot be used in real estate business, capital markets and purchase of land

FPI investments in securitized debt instruments

- Investments permitted in:
  - any certificate or instrument issued by a special purpose vehicle set up for securitization of asset where banks, Financial Institutions or Non-banking finance companies are originators;
  - Investments permitted in any certificate or instrument issued and listed in terms of the SEBI Regulations on Public Offer and Listing of Securitized Debt Instruments, 2008
- Investments in securitized debt instruments shall not be subject to the minimum 3 year residual maturity requirement.

The total investments by all FPIs taken together in the unlisted debt securities and securitized debt instruments would be subject to a sub-limit of INR 350 billon within the current overall limit of INR 2.44 trillion applicable to corporate debt securities.

Conclusion

In addition to enhancing the eligible investment basket for investment by FPIs, the above amendment would open up an efficient funding alternative to Indian companies without the need of getting the bonds and NCDs listed on stock exchanges. This amendment is another step by the regulators to enhance investor base in debt securities and to further develop the debt capital market in India. It is pertinent to note the end-use restriction introduced by RBI on the unlisted debt securities which prohibits Indian companies to use the funds raised from such securities for use in real estate business, capital market and purchase of land. Further, RBI has mandated custodians to ensure compliance with the end-use restrictions.

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