

CIRCULAR

SEBI/HO/DDHS/DDHS-RACPOD1/P/CIR/2023/027

February 08, 2023

To,

**Issuers who have listed and/ or propose to list Non-convertible Securities;
Recognized Stock Exchanges;
Registered Depositories;
Registered Credit Rating Agencies, Debenture Trustees and Merchant Bankers**

Madam/ Sir,

Sub: Clarification w.r.t. issuance and listing of perpetual debt instruments, perpetual non-cumulative preference shares and similar instruments under Chapter V of the SEBI (Issue and Listing of Non-convertible Securities) Regulations, 2021

1. SEBI (Issue and Listing of Non-convertible Securities) Regulations, 2021 (hereinafter referred to as the 'NCS Regulations') and circulars issued thereunder, provide the framework for issuance and listing of non-convertible securities.
2. In particular, Chapter V of the NCS Regulations, prescribes the conditions for issuance and listing of perpetual debt instruments, perpetual non-cumulative preference shares and similar instruments.

"Perpetual debt instrument", is defined under Regulation 2(1)(y) of the NCS Regulations, as, perpetual debt instrument issued in accordance with the guidelines framed by the Reserve Bank of India.

"Perpetual non-cumulative preference share", is defined under Regulation 2(1)(z) of the NCS Regulations, as, "a perpetual non-cumulative preference share issued in accordance with the guidelines framed by the Reserve Bank of India".

3. SEBI is in receipt of references from market participants, including issuers and merchant bankers, seeking clarity on the applicability of the provisions of Chapter V of the NCS Regulations, wherein the security is proposed to be issued for a fixed maturity and which shall not have features viz. option of conversion to equity, write-off, etc.
4. It is clarified that only securities which have characteristics as stated below, shall necessarily be required to comply with the provisions for issuance and listing as specified under Chapter V of the NCS Regulations and circulars issued thereunder:
 - a. The issuer is permitted by RBI to issue such instruments,
 - b. The instruments form part of non-equity regulatory capital,

- c. The instruments are perpetual debt instruments, perpetual non-cumulative preference shares or instruments of similar nature and
 - d. The instruments contain a discretion with the issuer/ RBI for events including but not restricted to all or any of the below events:
 - conversion into equity;
 - write off of interest/ principal;
 - skipping/ delaying payment of interest/principal;
 - making an early recall;
 - changing any terms of issue of the instrument.
5. The Stock Exchanges and Depositories are advised to:
- a. make amendments to the relevant bye-laws, rules and regulations for the implementation of the provisions of this circular;
 - b. disseminate the provisions of this circular on their website;
 - c. communicate and create awareness amongst stakeholders; and
 - d. monitor the compliance of such issuances in terms of relevant provisions of the NCS Regulations including circulars issued thereunder.
6. This circular shall come into force with immediate effect.
7. The Circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulation 55 of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021, to protect the interest of investors in securities and to promote the development of, and to regulate the securities market.
8. This Circular is available at www.sebi.gov.in under the link “Legal→Circulars”.

Yours faithfully,

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