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THE SEBI EXPERT COMMITTEE FOR LISTING OF EQUITY SHARES OF COMPANIES INCORPORATED IN INDIA ON FOREIGN STOCK EXCHANGES AND OF COMPANIES INCORPORATED OUTSIDE INDIA ON INDIAN STOCK EXCHANGES

INTRODUCTION

- The Committee constituted by SEBI has laid out a ground breaking proposal and regulatory initiative to spur direct access to foreign capital for Indian companies, boost the “India” brand globally, develop finance as an export for India and increase diversification of portfolio for Indian investors.

BACKGROUND AND RATIONALE

- The current legal and regulatory framework in India does not permit the direct listing of equity shares of companies incorporated in India on foreign stock exchanges and vice versa.
- Existing routes for Indian companies to list overseas and for foreign companies to list on Indian stock exchanges is only through depository receipts and these are thinly traded. Direct listing will provide an additional route for Indian companies to list overseas. Further, given the inherent inflation and relatively smaller domestic institutional and non-institutional pools of capital, the cost of capital in India is still higher vis-à-vis that for a foreign corporate thereby putting the Indian company at a disadvantage in the marketplace. Thus, a simple and principle based international listing regime which enables Indian companies to raise capital in the market which optimizes cost and provides the greatest benefits in terms of value, quantum, quality and branding is the need of the hour.
- Overseas listings broaden and diversify the pool of investors that are able to acquire and trade the company’s shares, which increases the demand pool for the company's shares and helps to decrease the cost of capital. This direct listing will also be available for unlisted Indian companies who may prefer listing only on overseas stock exchanges.
- Listings on foreign stock exchange can also increase analyst coverage for the listed shares and facilitate clearer comparisons against other peer companies that are listed overseas, each of which contribute towards more accurate benchmarking and valuations.
- Foreign companies participating in the Indian economy may also be allowed to access the Indian capital markets by directly listing on Indian stock exchanges and also providing Indian investors a way to further diversify their investment portfolio.

BENEFITS TO INDIAN ECONOMY

- *Increased competitiveness for Indian companies.*
- *Competitive pressures to stimulate efficiency and growth.*
- *Development of finance as a high-value added export.*

- *Increased attractiveness to growing technology sector.*
- *Boost the “India” brand globally.*
- *Improve economic relations with other countries*

BENEFITS TO INDIAN COMPANIES

- *Alternate source of capital.*
- *Broader investor base.*
- *Better valuation.*
- *Other strategic benefits.*

BENEFITS TO FOREIGN COMPANIES.

- India’s capital markets and stock exchanges are likely to be most attractive to certain categories of foreign companies

BENEFITS TO INDIAN INVESTORS

- *Increased diversification of portfolios.*
- *Participation in wealth created by global companies.*

PRIMARY ISSUES UNDER CERTAIN INDIAN LAWS AND REGULATIONS

The Committee has identified and discussed in the Report the changes that will be required to be made to give effect to the recommendations by the Committee:

- Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004;
- Foreign Exchange Management (Deposit) Regulations, 2016;
- Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017;
- Companies Act, 2013;
- SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018;
- SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015;
- Other related SEBI Regulations, viz. SEBI (Prohibition of Insider Trading) Regulations, 2015; SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011; SEBI (Buy-Back of Securities) Regulations, 2018; and SEBI (Delisting of Equity Shares) Regulations, 2009.

The Report also discusses the investor KYC and anti-money laundering requirements, tax related considerations and certain accounting principles for presentation of financial information.

JURISDICTIONS

The Committee has recommended the framework for allowing listing of Indian companies on stock exchanges outside India in permissible jurisdictions. The Report also sets out the principles for identifying the permissible jurisdictions from which companies may be allowed to list on Indian stock exchanges.

Permissible Jurisdiction is defined to mean a jurisdiction:

- i. that is a member of the Board of International Organization of Securities Commissions (“*IOSCO*”), and whose securities market regulator is either a signatory to the *IOSCO*’s multilateral memorandum of understanding or is a signatory to a bilateral memorandum of understanding with SEBI for information sharing arrangements;
- ii. that is a member of the Financial Action Task Force (“*FATF*”);
- iii. that is not identified in the public statement of the *FATF* as:
 - a. a jurisdiction having strategic anti-money laundering or combating the financing of terrorism deficiencies to which countermeasures apply; or
 - b. a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the *FATF* to address the deficiencies;
- iv. any other jurisdiction notified by Central Government in consultation with SEBI/ other regulatory authorities, following an overall review and evaluation of such jurisdiction’s capital markets regulations.

The principle set out is similar to the criteria for determining jurisdictions where listing of masala bonds under the relevant RBI circular can take place. To begin with, the Committee has recommended those jurisdictions that have deep capital markets, high liquidity and strong listing conditions. Accordingly, the initial list of recommended Permissible Jurisdictions along with the specified stock exchanges is placed as *Annexure-A* to the Report.

CONCLUSION

The Committee recommendations represent a significant stepping stone on the path to mainstream the listing of equity shares of Indian companies offshore and for foreign companies to list their equity shares on the Indian stock exchanges. This Report is expected to lead to further deliberations among various regulators and will also kick start the streamlining of operational parameters among securities regulators, stock exchanges and capital market intermediaries in India and permissible jurisdictions. This Report will further pave the way for dual listings in the future.

The Report is available on SEBI website and open for public comments till December 24, 2018.

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