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REGULATORY FRAMEWORK FOR ISSUANCE OF GREEN DEBT SECURITIES IN INDIA

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Background

- Over the last decade, projects which aim to promote sustainable development by adopting alternative means of achieving a goal without hampering the environment (**Green Projects**) have gained a lot of popularity. Renewable power companies using renewable sources such as solar and wind as against fossil fuel to generate power, adopting electronic and low carbon means of transport, building green residential homes, recycling, etc. are few of the many examples for Green Projects.

- It is needless to say that such innovative means require financial aid for conducting research, development of the project or setting up the infrastructure for the same. Therefore, there was a need of devising a financial instrument to encourage investors to invest in Green Projects. This gave birth to the concept of green bonds or green debt securities.

- The first series of green debt securities issued in India was in 2015 by Yes Bank for financing renewable and clean energy projects. Since then, there has been no looking back with issuers like Greenko Group, ReNew Group, JSW Hydro Energy, India Green Power Holdings, Shriram Transport Finance Company Limited and UltraTech Cement Limited issuing green debt securities recently.

Regulatory Framework for Green Debt Securities

- Conceptually green debt securities are just like any other debt instruments issued for the purpose of raising finance. However, the stand-out features of green debt securities are (i) the end utilisation of the funds raised must be allocated entirely towards Green Projects i.e. business activities and product offerings which are environment friendly; and (ii) the process for project evaluation and selection, management of proceeds and reporting.

- In India, the green debt securities can be issued by companies in unlisted and listed forms. While for unlisted green debt securities, there are no specific guidelines over and above the general requirements for issuance of debt securities, issuances of listed green debt securities are required to be in compliance with the additional stipulations under the following regulations:

(i) The SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 (**NCS Regulations**);

(ii) The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (**LODR Regulations**); and

(iii) Chapter IX of the SEBI Operational Circular for Issue and Listing of Non-convertible Securities (**SEBI Operational Circular**),

collectively referred to as "**Green Debt Securities Regulations**".

End Use Requirements

- Under the NCS Regulations, only those debt securities which are issued for raising funds that are to be entirely utilised for projects and/or assets falling under any of the following categories qualify as "**Green Debt Securities**":

  (i) renewable and sustainable energy including wind, solar, bioenergy, other sources of energy which use clean technology;

  (ii) clean transportation including mass/public transportation;

  (iii) sustainable water management including clean and/or drinking water, water recycling;

  (iv) climate change adaptation;

  (v) energy efficiency including efficient and green buildings;

  (vi) sustainable waste management including recycling, waste to energy, efficient disposal of wastage;

  (vii) sustainable land use including sustainable forestry and agriculture, afforestation;

  (viii) biodiversity conservation; or

  (ix) any other category as may be specified by SEBI from time to time.

Disclosures

- The SEBI Operational Circular has consolidated multiple circulars. *inter alia*, on non-convertible securities issued by SEBI over a period of time. It has superseded the 2017 circular on Green Debt Securities. Chapter IX of the SEBI Operational Circular prescribes additional disclosure requirements with respect to the issuance of Green Debt Securities in the offer document issues in relation to the Green Debt Securities over and above disclosure requirements for public or private placement of NCDs under the NCS Regulations and SEBI Operational Circular, including:

  (i) statement of environmental objectives of the issue of Green Debt Securities;

  (ii) brief details to be considered by issuer to determine the eligibility of the project for which the funds are being raised through the issuance of Green Debt Securities. These must include the process followed to determine how the project is fit for any of the categories of green projects which are listed under the definition of 'Green Debt Securities', the criteria for using the proceeds from the proposed issuance to finance the 'eligible green projects' and the environmental sustainability objectives of the green investment;

(iii) details regarding procedures implemented for tracking the deployment of the proceeds;

(iv) details of the projects or assets or areas where the issuer proposes to utilise the proceeds from the proposed issuance of Green Debt Securities. The details should include if the funds are being raised towards refinancing of existing projects or assets;

(v) if appointed, then details of the independent third-party reviewer/certifier appointed by the issuer for reviewing / certifying the processes including project evaluation and selection criteria, project categories eligible for financing by Green Debt Securities, etc. Such appointment is optional but if appointed, necessary disclosures in this regard has to be made under the offer document.

- In addition to such disclosures in the offer document, the issuer of a listed Green Debt Security is also required to provide the following disclosures on a regular basis:

  (i) Financial results on half yearly and annual basis along with the details of utilization of proceeds from issuance of Green Debt Securities and unutilized proceeds, if any. The utilization of proceeds shall be verified by the report of an external auditor;

  (ii) Annual report of the issuer with requisite information which should also contain:

    a) list of projects / assets to which the proceeds of the issuance of Green Debt Securities are injected including descriptions of such projects and amount allocation. However, there is a carve out given for confidential projects, in which case, disclosure with respect to the areas of such projects / assets will suffice;

    b) qualitative as well as quantitative performance indicators of the environmental impact of the projects / assets. In the event the quantitative benefits / impact cannot be ascertained, necessary disclosures in this regard shall be made along with the reasons for non-ascertainment of the benefits/impact on the environment;

    c) methods and the key underlying assumptions used in preparation of the performance indicators and metrics.

- Further, every issuer of a listed debt security is required to provide regular disclosures to the relevant stock exchange and, if required, to SEBI pursuant to the LODR Regulations.

Other Requirements

- In addition to the aforementioned points, the SEBI Operational Circular also puts certain obligations on the issuer of Green Debt Securities. The projects which are financed through proceeds of Green Debt Securities should not only meet the eligibility criteria, but should also maintain such eligibility throughout its life cycle along with its environmental objectives as disclosed in the offer document.

The issuers are required to maintain a decision-making process to ensure such continuity as well as adherence to the utilisation of proceeds.

Observations

- The benefits of raising finance through issuance of Green Debt Securities cannot be overstated. Apart from being a positive step towards sustainable finance, Green Debt Securities are also likely to attract capital from global institutions and investors earmarked towards Green Projects. This will further aid India's ambitious renewable energy and sustainable development goals.

- Creating the regulatory framework in India for issuance of Green Debt Securities is a welcome first step towards sustainable finance. The Government of India and the regulators should take more steps to attract a meaningful growth of Green Debt Securities market, including addressing regulatory uncertainties in allotment of Green Projects, timely execution of Green Projects across sectors, addressing bureaucratic hurdles in obtaining approvals and clarifications, setting up efficient dispute resolution forums, addressing lack of accreditation policies and procedures for Green Projects, etc. Such steps would go a long way in creating confidence within the investor community in India to invest in Green Debt Securities and India can attract more investors beyond the large corporates and giant financial institutions.

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