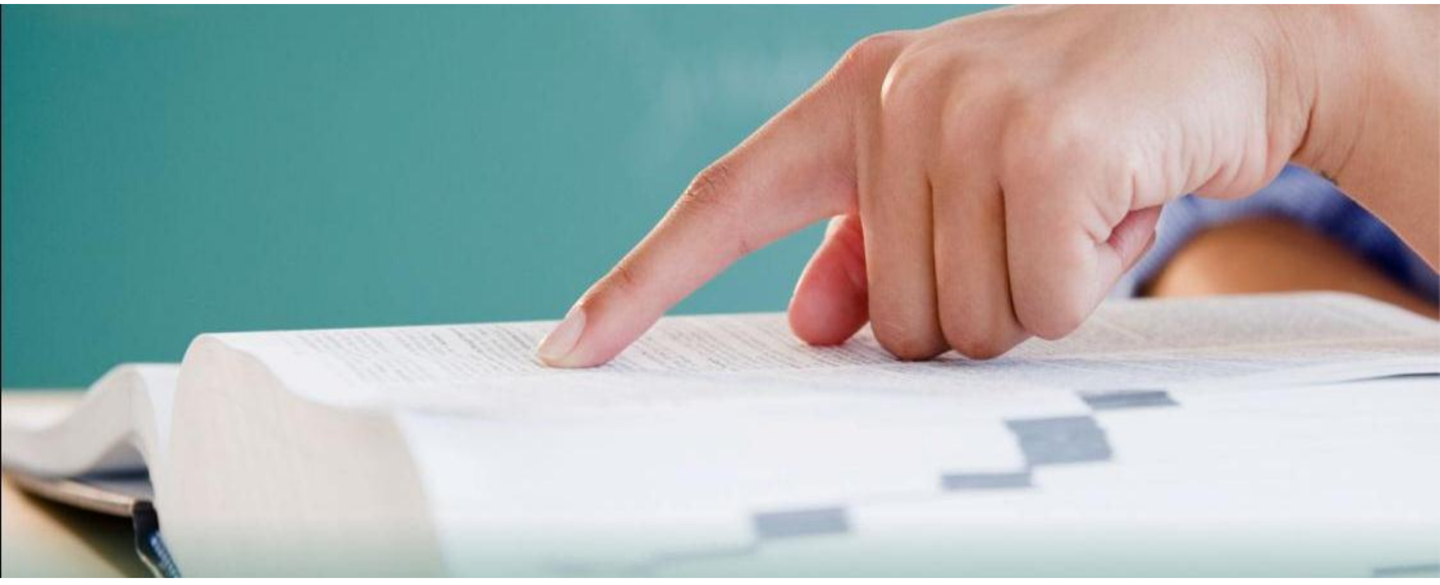
SEBI Regulations on Shelf Prospectus

3 February 2014



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Sector:

All

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Relevant to:

All

Audit committee

CFO

Others

Transition:

Immediately

Within the next 3 months

Post 3 months but within 6 months

Post 6 months

Section 31 of the Companies Act, 2013 which has been notified on 12 September 2013, prescribes that classes of companies as may be prescribed by the Securities and Exchange Board of India (SEBI) may file a shelf prospectus with the Registrar at the stage of the first offer of securities included therein.

The SEBI vide its notification dated 31 January 2014 has amended the SEBI (Issue and Listing of Debt Securities) Regulations, 2008, by issuing the SEBI (Issue and Listing of Debt Securities) (Amendment) Regulations, 2014 ("the regulations").

The regulations prescribe that a shelf prospectus shall have the same meaning as assigned to it in section 31 of the Companies Act 2013.

The SEBI has notified that the following companies or entities may file shelf prospectus for public issuance of their debt securities:

1. Public financial institutions as defined under clause (72) of section 2 of the Companies Act, 2013, and scheduled banks as defined under clause (e) of section 2 of the Reserve Bank of India Act, 1934; or
2. Issuers authorised by the notification of Central Board of Direct Taxes to make public issue of tax free secured bonds, with respect to such tax free bond issuances; or
3. Infrastructure Debt Funds – Non-Banking Financial Companies regulated by Reserve Bank of India; or
4. Non-Banking Financial Companies registered with Reserve Bank of India and Housing Finance Companies registered with National Housing Bank complying certain criteria like net worth of at least INR 500 crore, track record of distributable profits for the last three years, rating of not less than 'AA-' category or equivalent, no pending regulatory action against the company/promoters/directors before the prescribed authorities and no default in repayment of deposits or interest payable thereon, redemption of debentures or preference shares, payment of dividend to any shareholder, or repayment of any term loan or interest payable thereon to any public financial institution or banking company, in the last three financial years.
5. Listed entities complying with the criteria as mentioned in point 4 above, in addition to, the condition that their shares or debt securities be listed for at least three years immediately preceding the issue and compliance with the terms of the listing agreement.

These regulations require a copy of the information memorandum containing the disclosures as specified in the Companies Act, 196 or Companies Act, 2013, as applicable, to be filed with the stock exchanges and the SEBI, immediately on filing the same with the Registrar.

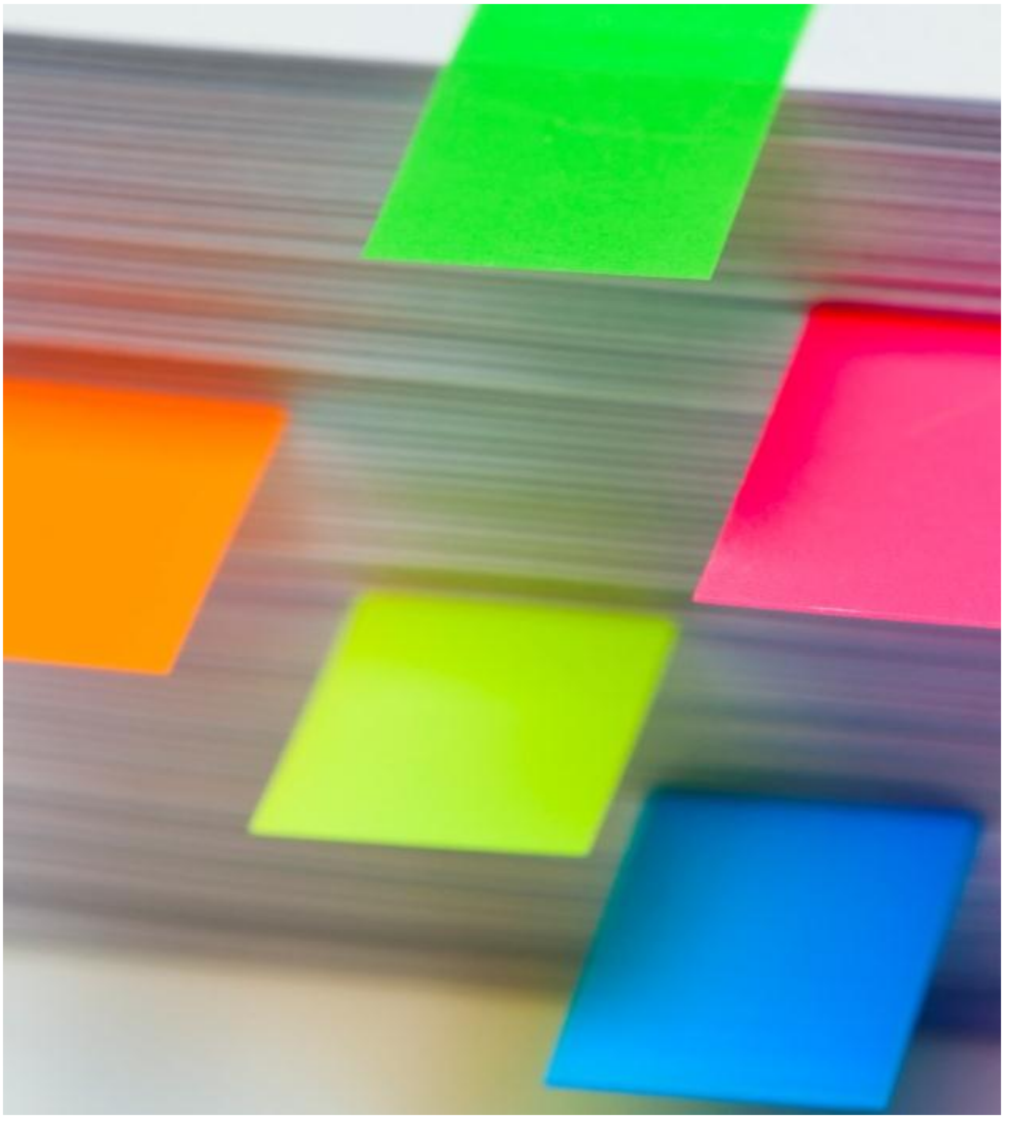
The regulations also prescribe that not more than four issuances can be made through a single shelf prospectus, which can be valid for a period not exceeding one year as prescribed under the Companies Act, 2013.

Our comments

The regulations released by the SEBI enable different classes of companies/entities, in addition to those already listed, to take benefit of the shelf prospectus route which would save time and costs for these companies/entities and at the same time protect the interests of the investors by allowing only companies/entities with a certain level of standing to avail the route of shelf prospectus.

The Bottom Line

Companies intending to launch a public issue of debt securities and their listing should evaluate the shelf prospectus route as prescribed by the SEBI.



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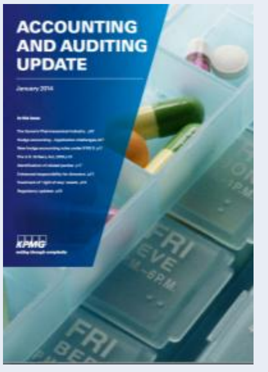

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