KPMG Knowledge Update

September 2009

KPMG IN INDIA

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Effective/ Issued but not effective

Exchange traded interest rate futures

RBI and SEBI vide notification dated 26 June 2009 had jointly decided to introduce exchange traded interest rate futures (10-year notional coupon-bearing Government of India security futures contract).

In relation to the same, RBI vide press release and notification dated 28 August 2009 has issued Interest Rate Futures (Reserve Bank) Directions, 2009. The Directions have been issued in consultation with SEBI and will come into effect immediately.

Further, SEBI vide notification dated 28 August 2009 has also issued guidelines on exchange traded futures which deal with product design, risk management measures and other issues related to exchange traded 10-year notional coupon bearing Government of India security futures.

RBI press release

RBI circular

SEBI circular

Guidelines for exchange traded interest rate derivatives

RBI had issued a circular dated 13 October 2008 wherein banks (including foreign branches of Indian banks) had been permitted to take trading positions in interest rate derivatives.

In relation to the above, RBI vide circular dated 28 August 2009 has clarified that banks (including foreign branches of Indian banks) are not allowed to undertake transactions in interest rate futures on behalf of clients.

RBI circular

Prudential treatment in respect of floating provisions

RBI vide circular dated 9 April 2009 had stated that with effect from the financial year 2009-10, floating provisions cannot be netted from gross NPAs to arrive at net NPAs, but can be reckoned as part of Tier II capital subject to the overall ceiling of 1.25 percent of total Risk Weighted Assets.

In relation to the above, RBI vide circular dated 27 August 2009 has clarified that banks will continue to have the choice between deducting their existing floating provisions from gross NPAs to arrive at net NPAs or reckoning it as part of Tier II capital subject to the overall ceiling of 1.25 percent of total Risk Weighted Assets.

RBI circular

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Amendment to SEBI (Disclosure and Investor Protection) Guidelines, 2009 – rights issue process / procedure

SEBI vide ciruclar dated 20 August 2009 has amended the SEBI (Disclosure and Investor Protection) Guidelines, 2009 in order to simplify the rights issue process as well as to make it more efficient and effective. The amendment deals with –

(i) Rationalisation of rights issue disclosure requirements. The amendment shall be applicable for all rights issues where draft letters of offer are filed with SEBI on or after the date of this circular;

(ii) Applications supported by blocked amount in rights issues

(iii) Utilisation of issue proceeds after finalisation of the basis of allotment in the issue

The amendments in clause (ii) and (iii) apply to –

- all rights issues where draft letters of offer are filed with SEBI on or after the date of this circular;
- all rights issues where draft letters of offer have been filed with SEBI but no observations has been issued on them by SEBI; and
- all rights issues where SEBI has issued observations but where the letter of offer is yet to be filed with the designated stock exchanges.

SEBI circular

Amendments to the SEBI (Disclosure and Investor Protection) Guidelines, 2000- amendment to Chapter VIA concerning general and disclosure requirements pertaining to Indian Depository Receipts (IDR) issues

SEBI vide circular dated 31 July 2009 has amended chapter VI A of the SEBI (Disclosure and Investor Protection) Guidelines, 2000 regarding general and disclosure requirements pertaining to Indian Depository Receipts (IDR) issues. The amendments relate to the disclosure of financial information pertaining to the company issuing IDRs and the extent of applicability of the guidelines to IDR issues.

The amendments come into force with immediate effect.

SEBI circular

Back

Interpretative circular on SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2008

SEBI vide circular dated 6 August 2009 has issued clarifications with respect to sub-regulation (2) to Regulation 11 of the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2008. The circular states that:

(a)The acquisition, within the limit of five per cent (5 percent) under the second proviso to sub-regulation (2) of regulation 11, may be made by an acquirer who, together with persons acting in concert with him, holds fifty five per cent (55 percent) or more but less than seventy five per cent (75 percent) of the shares or voting rights in the target company;

(b)The acquirer together with persons acting in concert with him, holding shares or voting rights as specified at (a) above, may acquire additional shares or voting rights upto a maximum of five per cent (5 percent) voting rights in the target company in one or more tranches, without any restriction on the time-frame within which the same can be acquired;

(c)The aforesaid acquisition of five per cent (5 percent) shall be calculated by aggregating all purchases, without netting the sales.

(d)Consequent to such acquisition, the percentage of shareholding / voting rights of the acquirer, together with persons acting in concert with him, in the target company, shall not increase beyond seventy five per cent (75 percent). This limit is applicable irrespective of the level of minimum public shareholding required to be maintained by the target company in terms of clause 40A of the Listing Agreement.

SEBI circular

Reporting of inter-scheme transfers of corporate bonds by mutual funds on SEBI authorized trade reporting platforms at NSE/ BSE/ FIMMDA

SEBI vide circular dated 31 July 2009 has stated that the mutual funds, while reporting their trades in corporate bonds shall also report their inter-scheme transfers on the platforms used to capture information related to trading in corporate bonds. The mutual funds, or the brokers/ intermediaries acting on their behalf shall ensure that inter-scheme transfers are indicated separately while reporting the trading in corporate bonds. The dissemination of trade information shall display segregated information on:

(a) OTC Trades

(b) Trades on Exchanges

(c) Inter-scheme transfers by Mutual Funds.

The circular comes into force with effect from 10 August 2009.

SEBI circular

Back

Exit load – parity among all classes of unit holders

SEBI vide circular dated 7 August 2009 has clarified that while charging exit load, mutual funds shall make no distinction among unit holders based on the amount of subscription.

In relation to the above, SEBI vide circular dated 17 August 2009 has stated that the above circular regarding charging of exit load needs to be complied with on or before 24 August 2009. The circular also states that –

- Any imposition or enhancement in the load shall be applicable on prospective investments only.
- The parity among all classes of unit holders in terms of charging exit load shall be made applicable at the portfolio level.

SEBI circular – dated 7 August 2009

SEBI circular - dated 17 August 2009

SEBI (Aid for Legal Proceedings) Guidelines, 2009

SEBI has issued SEBI (Aid for Legal Proceedings) Guidelines, 2009 which state that aid under clause (d) of sub-regulation (2) of the regulation 5 of SEBI (Investor Protection and Education Fund) Regulations, 2009 shall be provided in accordance with these guidelines.

These guidelines shall come into force on the date of notification of the SEBI (Investor Protection and Education Fund) Regulations, 2009.

SEBI circular

Guidance on clause 17A in Form 3CD

Central Board of Direct Taxes (CBDT) vide notification dated 13 April 2009 had inserted a new clause (clause 17A) in Form 3CD with respect to reporting of the amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006.

ICAI vide announcement dated 25 August 2009 has provided the steps to be taken by a tax auditor while reporting in respect of clause 17A.

ICAI announcement

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Standards on Auditing issued by ICAI

ICAI has issued the following revised Standards on Auditing:

- SA 320 (Revised), Materiality in Planning and Performing an Audit
- SA 402 (Revised), Audit Considerations Relating to an Entity Using a Service Organisation
- SA 450, Evaluation of Misstatements Identified During the Audit
- SA 610 (Revised), Using the Work of Internal Auditors

New publication issued by ICAI

Committee on Insurance and Pension has issued a publication 'Micro Insurance'.

Exposure draft issued by ICAI

ICAI has issued the exposure drafts of the following for comments:

- Accounting Standard (AS) 1 (Revised) Presentation of Financial Statements
- SA 200 (Revised), Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing
- SA 710 (Revised), Comparative Information – Corresponding Figures and Comparative Financial Statements
- SA 800, Special Considerations – Audit of Financial Statements Prepared in Accordance with Special Purpose Frameworks
- SA 805, Special Considerations – Audit of Single Financial Statements and Specific Elements, Accounts or Items of a Financial Statement
- SA 810, Engagements to Report on Summary Financial Statements

"The update includes significant relevant development relating only to accounting and auditing. The text of these notifications, pronouncements, articles, etc., has been sourced from various websites/published materials. The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although, the firm attempts to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future."

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