

one stock exchange with nationwide trading terminals

- b) Equity shares considered eligible for offer for sale
- c) Introduction of concept of Anchor Investor in public issues through book building route

The amended guidelines would be applicable to,

- i) all cases where draft red herring prospectuses are filed with SEBI on or after the date of the circular
- ii) all cases where draft red herring prospectuses have been filed with SEBI but SEBI has not yet issued its observations
- iii) all cases where SEBI has issued observations but where the red herring prospectus is yet to be filed with the Registrar of Companies

One may refer to the above website for further details.

2. SEBI Mutual Fund regulations amendment

www.sebi.gov.in

The SEBI has issued Circular No. SEBI/IMD/CIR No. 5/169030/2009 dated 08.07.2009 amending the SEBI (Mutual Funds) Regulations 1996 and other regulations revising the filing fees payable by mutual funds and clarifying that the revised filing fee would be applicable to those scheme(s) whose scheme information document(s) has been filed with SEBI on or after July 1, 2009. The fees are revised in most cases by downward reduction by half of the existing fees in cases of regulations relating to custodian of securities, foreign institutional investors, foreign venture capital investors and mutual funds. One may refer to the above website for further details.

3. Firm commitment for registration of foreign venture capital investors

www.sebi.gov.in

The SEBI has issued Circular No. IMD/DOF-1/FVCI/CIR. No. 1/2009 dated 03.07.2009 amending the SEBI (Foreign Venture Capital Investors) Regulations, 2000 by laying down requirement for Foreign Venture Capital Investors (FVCIs) desirous of registering with SEBI as the FVCIs shall obtain firm commitment from their investors for contribution of an amount of at least USD 1 million at the time of submission of applications seeking registration as FVCIs. This requirement was not part of the regulations earlier and is now made at par with the SEBI (Venture Capital Funds) Regulations, 1996 which contains a similar requirement for each

scheme launched or fund set up by a venture capital fund to have a firm commitment from its investors for contribution of an amount of at least rupees five crores before the start of operations by the venture capital fund. One may refer to the above website for further details.

4. Guidelines on commercial real estate exposures by banks

www.rbi.gov.in

The RBI has issued Circular No. DBOD.BP.No. 502 / 08.12.015/ 2008-09 dated 07.07.2009 giving guidelines relating to commercial real estate (CRE) exposure by banks where it has detailed its guidelines and has defined what is CRE exposure which is something like an income producing real estate, approach followed by RBI for the purpose, defining infrastructure lending, giving examples / illustrations relating to what would be classified as a CRE, guidelines on loans extended against the security of future rent receivables generated by CRE exposure, loans for multiple houses intended to be rented out, exposures towards purchase of land for setting up SEZs and development thereof, loans for integrated township projects, exposures to real estate companies, exposures to MFs/VCFs/PEFs investing primarily in the real estate companies and general purpose loans where repayment is dependent on real estate prices. Also the guidelines detailed information in relation to exposures which may not be classified as CRE. One may refer to the above website for further details.

5. Guidelines regarding transactions of SEZs and Stamp Act

www.sez.gov.in

The Department of Revenue has issued Instruction No. 18-Office Memorandum, dated 02-07-2009 in relation to guidelines regarding transactions related to SEZs consequent upon amendment to Section 3 of the Indian Stamp Act, 1899 through Section 57 of the SEZ Act, 2005. Relating to SEZs, the Indian Stamp Act, 1899 was amended and provided that no duty shall be chargeable in respect of any instrument executed by or on behalf of or in favour of the Developer or Unit or in connection with the carrying out of purposes of the SEZ. Hence, clarifications were sought by States regarding treatment of certain transactions related to SEZ for the purpose of application of Stamp duty. This instruction clarifies in detail in a question-answer manner in which the amendment to the Indian Stamp Act

would be applicable. One may refer to the above website for further details.

6. Transparency on commission payment in mutual funds

www.sebi.gov.in

The SEBI has issued Circular No. SEBI/IMD/CIR No. 4/168230/09 dated 30.06.2009 whereby hitherto the guidelines empowered investors in mutual funds by way of more transparency in the loads borne by the investor so that the investor can take informed investment decisions for which purpose the SEBI had earlier abolished initial issue expenses and mutual fund schemes were allowed to recover expenses connected with sales and distribution through entry load only and that investors making direct applications to the mutual funds were exempted from entry load. Now, in order to empower the investors in deciding the commission paid to distributors in accordance with the level of service received and to bring about more transparency in payment of commissions and to incentivise long-term investment, it has been decided that:

- a) There shall be no entry load for all mutual fund schemes.
- b) The scheme application forms shall carry a suitable disclosure to the effect that the upfront commission to distributors will be paid by the investor directly to the distributor, based on his assessment of various factors including the service rendered by the distributor.
- c) Of the exit load or CDSC (Contingent Deferred Sales Charge) charged to the investor, a maximum of 1% of the redemption proceeds shall be maintained in a separate account which can be used by the AMC to pay commissions to the distributor and to take care of other marketing and selling expenses. Any balance shall be credited to the scheme immediately.
- d) The distributors should disclose all the commissions (in the form of trail commission or any other mode) payable to them for the different competing schemes of various mutual funds from amongst which the scheme is being recommended to the investor

This Circular will be effective from 1st August 2009. One may refer to the above website for further details.

(Matter on Corporate Laws has been contributed by CA. Jayesh Thakur)