



CIRCULAR

F. No. 87/IFSCA/DRs/2020-21

October 28, 2020

To,
All Stock Exchanges in the International Financial Services Centre

Dear Sir/Madam,

Sub: Depository Receipts in the International Financial Services Centre (IFSC)

1. The guidelines for issue of capital, including depository receipts (DRs), in IFSCs were issued by Securities and Exchange Board of India (SEBI) in the SEBI (International Financial Services Centres) Guidelines, 2015.
2. It has been decided to enact the regulatory framework for listing of DRs in the IFSC (enclosed at **Annexure-1**). Further, additional requirements for listing and trading of DRs in the IFSC may be prescribed by the recognised stock exchange(s).
3. The listing of DRs in the IFSC shall be in compliance with the framework provided in **Annexure-1** and the requirements that may be prescribed by the recognised stock exchange(s).
4. This circular is issued in exercise of powers conferred by section 12 of the International Financial Services Centres Authority Act, 2019 to develop and regulate the financial products, financial services and financial institutions in the International Financial Services Centres.
5. A copy of this circular is available on the website of International Financial Services Centres Authority at www.ifsc.gov.in.

Yours faithfully,

Arjun Prasad
Deputy General Manager
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Annexure-1

Depository Receipts

Chapter I: Definitions

1. The terms defined herein shall bear the meanings assigned to them below, and their cognate expressions shall be construed accordingly, -
 - a. "DR" or "depository receipt" means a negotiable financial instrument representing underlying securities of a company listed in another jurisdiction;
 - b. "foreign jurisdiction" means a country, other than India, whose securities market regulator is a signatory to International Organization of Securities Commission's Multilateral Memorandum of Understanding (IOSCO's MMOU) (Appendix A signatories) or a signatory to bilateral Memorandum of Understanding with the IFSCA, and which is not identified in the public statement of Financial Action Task Force as:
 - i. a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or
 - ii. a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies;
 - c. "IFSC" or "International Financial Services Centre" shall have the same meaning as assigned to it under clause (g) of sub-section (1) of Section 3 of the International Financial Services Centres Authority Act, 2019;
 - d. "IFSCA" means the International Financial Services Centres Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019;
 - e. "listed company" means a company whose depository receipts are listed on a stock exchange(s) in IFSC under chapter III or chapter IV of this annexure;
 - f. "stock exchange" means a recognised stock exchange in IFSC.

Chapter II: Eligibility Criteria

2. A company incorporated in India (outside IFSC) or in a foreign jurisdiction shall be eligible to make an issue of depository receipts only if,-
 - a) the issuer is duly incorporated or established according to the relevant laws of its place of incorporation or establishment;
 - b) the issuer is operating in conformity with its constitution;

- c) the issuer is authorised to issue depository receipts; and
 - d) the issuance of depository receipts by the issuer is in accordance with the laws of its home jurisdiction.
3. An issuer shall not be eligible to list depository receipts if,-
- a) the issuer or any of its promoters, promoter group or directors or selling shareholders is debarred from accessing the capital market by regulatory authority in its home country or any other jurisdiction; or
 - b) the issuer or any of its promoters, promoter group or directors is a wilful defaulter; or
 - c) the issuer or any of its promoters, promoter group or directors is insolvent or undergoing bankruptcy proceedings; or
 - d) any of its promoters, promoter group or directors is a fugitive economic offender.
4. The depository receipts shall be eligible to list only if the underlying securities which the depository receipts represent are:
- (a) freely transferable, in dematerialised form and rank pari passu with the existing securities of the same class;
 - (b) fully paid and free from all liens; and
 - (c) listed or will be listed in the home jurisdiction of the issuer before listing of depository receipts on stock exchange(s).
5. All the depository receipts shall be freely negotiable.
6. The issuer shall ensure that it has entered into an agreement with a depository for dematerialisation of the DRs proposed to be issued.

Chapter III: Initial Public Offer of Depository Receipts

Offer size

7. The issue of depository receipts shall be of size not less than USD 700,000 (or equivalent in foreign currency), or any other amount as may be specified by IFSCA from time to time.

Filing of Offer Document

8. The issuer shall appoint one or more merchant bankers as lead manager(s) to the issue and shall also appoint other intermediaries in consultation with the lead manager(s).
9. The issuer shall file an application with the stock exchange(s) seeking in-principle approval. The stock exchange(s) shall grant an in-principle approval or reject the

application for the in-principle approval within thirty days from the date of receipt of complete information from the issuer.

10. The issuer, through the lead manager(s), shall file a draft offer document along with fee amounting to 0.05% of the offer size with the IFSCA. The lead manager(s) shall submit a due diligence certificate along with the draft offer document.
11. The draft offer document shall be made public, for comments, if any, by hosting it on the websites of the IFSCA, stock exchange(s) and lead manager(s) for a period of not less than fourteen days. The lead manager(s) shall file with the IFSCA, details of the comments received by them or the issuer from the public, on the draft offer document, during that period and the consequential changes, if any, that are required to be made in the draft offer document.
12. The IFSCA may issue observations, if any, on the draft offer document within thirty working days from the later of the following dates:
 - a) the date of receipt of the draft offer document; or
 - b) the date of receipt of satisfactory reply from the issuer where IFSCA has sought any clarification or additional information from them; or
 - c) the date of receipt of clarification or information from any regulator or agency, where IFSCA has sought any clarification or information from such regulator or agency; or
 - d) the date of receipt of a copy of in-principle approval letter issued by the stock exchange(s).
13. The issuer shall carry out changes specified by IFSCA, if any, in the offer document.
14. The issuer shall, through the lead manager(s), file the offer document with the IFSCA and the stock exchange(s).
15. The offer shall be made by the issuer within a period of not more than one year from the date of issuance of observations by the IFSCA:

Provided that if the offer is not made within the specified time period, a fresh draft offer document shall be filed.

Initial disclosures in the Offer Document

16. The offer document shall contain all material disclosures which are true, correct and adequate to enable the applicants to take an informed investment decision. The lead manager(s) shall exercise due diligence and satisfy themselves about all aspects of the issue including the veracity and adequacy of disclosures in the offer document.

17. The offer document shall contain disclosures relating to the public offer, including the following:

A. Issuer Disclosure

- General information
- Statutory auditor
- Risk factors
- Information about the issuer
- Business overview
- Organisational structure
- Management
- Remuneration and benefits
- Capital structure
- Major shareholders
- Related party transactions
- Financial information
- Material contracts
- Material outstanding litigations and defaults
- Approvals of the government/regulatory authorities, if applicable
- Foreign investment and exchange controls of the jurisdiction of incorporation/ where the underlying securities are listed

B. Securities Disclosures

- Information about the underlying securities
- Information about the DRs
- Rights of the DR holders including dividend rights, voting rights etc.
- Information relating to the depository

C. Issue related Disclosures

- Objects of the issue
- Interim use of proceeds
- Pricing
- Plan of distribution and allotment
- Placing and Underwriting
- Taxation

Explanation: Since the underlying securities of the issuer are listed on its home exchange, the issuer may incorporate the information required in this clause by providing references to a recent prospectus or other disclosures made on the home exchange or regulatory body.

18. The audited financial information of the issuer in the offer document shall be for at least three financial years:

Provided that the financial information may be provided for a lesser period if the issuer has not completed 3 years since incorporation:

Provided further that the latest financial statements provided in the offer document shall not be more than 12 months old.

19. The issuer shall prepare their statement of accounts in accordance with IFRS or US GAAP or Ind AS or accounting standards as applicable in its home jurisdiction.

Pricing

20. The issuer may determine the price of the DRs in consultation with the lead manager(s) or through the book building process.

Offer period

21. The initial public offer of DRs shall be kept open for at least three working days and not more than ten working days.

Minimum subscription

22. The listing of DRs shall be permitted only if the subscription in the offer is not less than USD 700,000 (or equivalent in foreign currency) or any other amount as may be specified by IFSCA from time to time.

Allotment

23. The issuer and lead manager(s) shall ensure that the DRs are allotted and the payments and refunds are completed within 5 working days from the date of closing of the issue.

Listing

24. The DRs shall list on the stock exchange(s) within the period, as specified by the stock exchange(s).

Chapter IV: Listing and Trading (without public offer)

25. Any company which is having its securities or depository receipts listed in India (outside IFSC) or in a foreign jurisdiction may list their depository receipts on a stock exchange, subject to the following conditions:

- a) The company shall file listing application, in the manner prescribed by the stock exchange(s); and
- b) The company shall comply with the listing requirements of the stock exchange(s).

Chapter V: Continuous obligations and disclosure requirements

Financial Statements

26. The listed company shall disclose to the stock exchange(s) the financial statements for the full financial year immediately after the figures are available, but in any event not later than 60 days after the relevant financial period.

27. The listed company shall disclose to the stock exchange(s) the financial statements for each of the first three quarters of its financial year immediately after the figures are available, but in any event not later than 45 days after the quarter end if,-

- a) its auditor has issued an adverse opinion, a qualified opinion or a disclaimer of opinion on the company's latest financial statements; or
- b) its auditor has stated that a material uncertainty relating to going concern exists in the company's latest financial statements; or
- c) if directed by the stock exchange(s) or IFSCA.

Disclosure of material or price sensitive events

28. The listed company shall promptly, but not later than 24 hours, disclose to the stock exchange(s) all events which are material or price sensitive.

Shareholding pattern

29. The listed company shall submit to the stock exchange(s) shareholding pattern of the company, in the format specified by the IFSCA or the stock exchange(s) on a quarterly basis, within twenty one days from the end of each quarter.

Corporate Governance

30. The listed company shall describe its corporate governance practices in its annual report, in the manner prescribed by the laws in its home jurisdiction.

Change of depository

31. Any change of depository by the listed company shall be with the prior approval of the stock exchange(s). The listed company shall disclose the change of depository within 24 hours.

Corporate actions

32. The listed company shall inform the stock exchange(s) in advance of any proposed corporate action pertaining to the depository receipts or the underlying securities.

33. The listed company shall give notice of the record date to the stock exchange(s), wherever applicable, in advance of at least three working days specifying the purpose of the record date.

Other compliances

34. The listed company shall comply with the following requirements:

- a) maintain the listing of the underlying equity securities on its home exchange and abide by the listing (or other) rules of that exchange / regulator;
- b) release all disclosures in English to the stock exchange(s) at the same time as they are released to its home exchange / regulator where it has a primary listing; and
- c) comply with such other requirements as may be prescribed by IFSCA or stock exchange(s) from time to time.

Dissemination by stock exchanges

35. The stock exchanges shall ensure that the disclosures made by the listed companies are immediately disseminated on their websites.

Chapter VI: Miscellaneous

Listing agreement

36. The company desirous of listing its depository receipts on a stock exchange(s) shall execute a listing agreement with such stock exchange(s), in the manner provided by the stock exchange(s).

Voting

37. The voting rights of the DR holders shall be exercised in accordance with the depository agreement.

Refusal of admission to list

38. The stock exchange(s), in its discretion, may reject an application for admission to list depository receipts if it considers that-

- a) listing of depository receipts would be detrimental to investors' interests; or
- b) the company does not comply or will not comply with any requirement prescribed by IFSCA or the stock exchange.

Suspension

39. The stock exchange(s) may suspend the trading of depository receipts where it appears that:

- a) the company is in non-compliance with the regulatory provisions prescribed by IFSCA or the stock exchange(s); or
- b) the company is suspended for trading of its securities or depository receipts by any other exchange;
- c) the suspension is required for ensuring orderly operation of its market.

40. The stock exchange(s) may restore trading of depository receipts that have been suspended if it considers that the suspension is no longer required.

Voluntary Delisting

41. The stock exchange(s) may delist DRs, based on request received from the company, in the manner prescribed by the stock exchange(s).

Compulsory Delisting

42. The stock exchange(s) may compulsorily delist depository receipts of the company on the following conditions:

- a) The depository receipts have remained suspended for a period of more than six months; or

- b) the depository receipts have been compulsorily delisted from another exchange; or
- c) if the exchange is satisfied that there are special circumstances that require delisting of the depository receipts; or
- d) it is directed to do so by the IFSCA or any other relevant authority or any court order of applicable jurisdiction.

Submission of information

43. The listed company shall provide any information sought by the IFSCA or the stock exchange(s) relating to securities market.

Chapter VII: Permitted to Trade (without listing)

44. The stock exchange(s) may permit trading of depository receipts listed on an exchange in India or in a foreign jurisdiction, subject to the following conditions:

- a) Such trading of depository receipts, without listing on the stock exchange(s), is in accordance with the laws of the jurisdictions in which the depository receipts and the underlying securities are listed; and
- b) The stock exchange(s) shall ensure clearing and settlement of the depository receipts.

45. Such depository receipts that are permitted to trade by the stock exchange(s), without listing by the company, shall not be considered as listed on the stock exchange(s) in IFSC and accordingly the provisions of chapters II, III, IV, V and VI shall not apply.

46. The "Permitted to Trade" framework is available to the stock exchange(s) initially till December 31, 2023.