

## **Concept Paper**

### **Proposed regulatory framework for issuance of debt securities by Municipalities**

#### **1. Background**

A Municipal Corporation is a local government body that administers a city of population 200,000 or more, it is administratively a part of a district in which it is located but interacts directly with the state government. Some of the large Municipal Corporations are Mumbai, Delhi, Kolkata, Bangalore etc.

The Constitution (74th Amendment) Act, 1992 endows the Urban Local Bodies (ULBs) such powers, authority and responsibilities to function as institutions of self-government. The amendment empowers the ULBs to mobilize resources independent of the State Governments for the provision, operation and maintenance of urban services as listed in twelfth schedule.

The major sources of revenue to the ULBs are property tax, profession tax, advertisement, user charges, fees / charges for usage of municipal assets and facilities, assigned revenues like share of entertainment tax, stamp duty etc., and devolution and grants-in-aid.

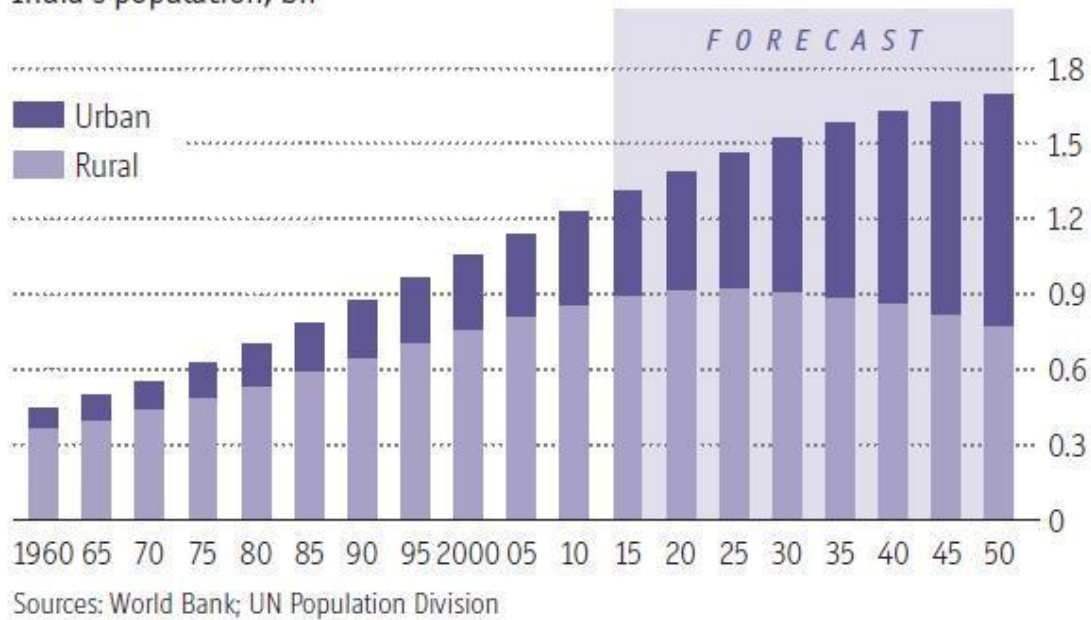
Traditionally, ULBs have relied on the grants and subsidized funds provided by the Central and State Government for providing the basic urban services. In addition, ULBs borrow funds from development financial institutions, multilateral and bilateral funding agencies, through Central and State Government. ULBs are also entitled to borrow through issuance of Municipal Bonds.

#### **2. Need for Developing a Municipal Bond Framework in India**

The UN World Population Prospects – 2012 revision puts the projected population in India to 1620 million by the year 2050. As per the report of committee on India Vision 2020 set up by Planning Commission, the urban population is expected to rise to around 40 percent by 2020. This projected growth will take urban population to approximately 650 million by the year 2050.

## The slow road to the city

India's population, bn



Source: *The Economist, Special Edition, Transforming Cities 2013-14*

The gradual increase in urban population is likely to put strain on urban infrastructure. This will lead to increase in demand for urban services including roads, transportation, water supply, sanitation, health care etc. In order to tackle the situation, urban planners are required to formulate appropriate plans and execution thereof. One of the issues before urban planners is financing of such infrastructure. The Steering Committee on Urban Development for XI th Five Year Plan of India (2007-2012), has estimated that total fund requirement for implementation of the Plan target in respect to urban water supply, sewerage and sanitation, drainage and solid waste management is Rs. 12,702 billion.

While delivering the Union Budget 2014-15, the Hon'ble Finance Minister, inter-alia, took initiatives for establishment of one hundred smart cities in India. The budget provided that:

“As the fruits of development reach an increasingly large number of people, the pace of migration from the rural areas to the cities is increasing. A neo middle class is emerging which has the aspiration of better living standards. Unless, new cities are developed to accommodate the burgeoning number of people, the existing cities

would soon become unlivable. The Prime Minister has a vision of developing 'one hundred Smart Cities', as satellite towns of larger cities and by modernizing the existing mid-sized cities. To provide the necessary focus to this critical activity, I have provided a sum of Rs. 7,060 crore in the current fiscal."

Development of smart cities would entail substantial expenditure for creation of urban infrastructure such as water supply, sanitation, public health, roads transportation etc. One of the principal concerns for such development of smaller towns into smart cities would be the source of financing. During the past, the concerned authorities have used various modes of financing such as Public Private Partnership (PPP), Infrastructure Bonds, budgetary support etc.

As per the World Bank report, expectations related to municipal borrowing in India are high, whereas the actual level of borrowing activity is currently very low. There is a massive need for capital investment in municipal infrastructure, only part of which can be met with flows of grant funds from Jawaharlal Nehru National Urban Renewal Mission (JNNURM) and other programs. Therefore, to meet their financing needs, the municipalities have to seek recourse to other means including issuance of Municipal Bonds.

The constraints in the municipal bond market in India exist both, on the supply and demand side. The constraints on the supply side inhibit ULBs from issuing bonds and those on the demand side limit investors (individual and institutional) from investing in the municipal bond market. ULBs had been given credit ratings under the JNNURM program. As per information available on JNNURM website, around 50% of ULBs had investment grade ratings during November 2012.

Conservative Indian investor mainly invests in fixed deposits, small saving schemes or gold. Bonds issued by Municipalities having good financial track record would be an good alternative investment opportunity for such conservative investors, as it provides reasonable return with less risk, which in turn may accelerate the capital markets. Many philanthropic, religious and socially active investors can choose to invest in Municipal Bonds, depending on their altruistic objective of helping institutions like schools, hospitals, parks etc. being developed by the Municipalities and also earn return on their investments. Further, Municipal Bonds will also be good add-on to the universe of instruments, in which the Provident Funds, Pension Funds and Insurance Companies park their investments.

Many wealthy investors such as HNIs and institutional investors are attracted towards the Municipal bonds due to the tax free status of such bonds.

In India, the guidelines issued by Ministry of Urban Development (MOUD) for issuance of Tax free Bonds by Municipal Bodies provides that only bonds carrying interest rate upto maximum 8% per annum shall be eligible for notification by the CBDT as tax free Bonds. The Corporate Bonds and Securitization Advisory Committee (CoBoSAC) of SEBI was of the view that such fixed rate of 8%, in the prevailing scenario is too less for investors to get attracted to Municipal bonds and therefore it suggested that the rate on such tax free bonds may not be restricted to 8% and there may be a flexibility in setting interest rate cap by linking it to a benchmark market rate.

### **3. Municipal bond issuances in India**

#### **A. An overview of the Municipal bond issues:**

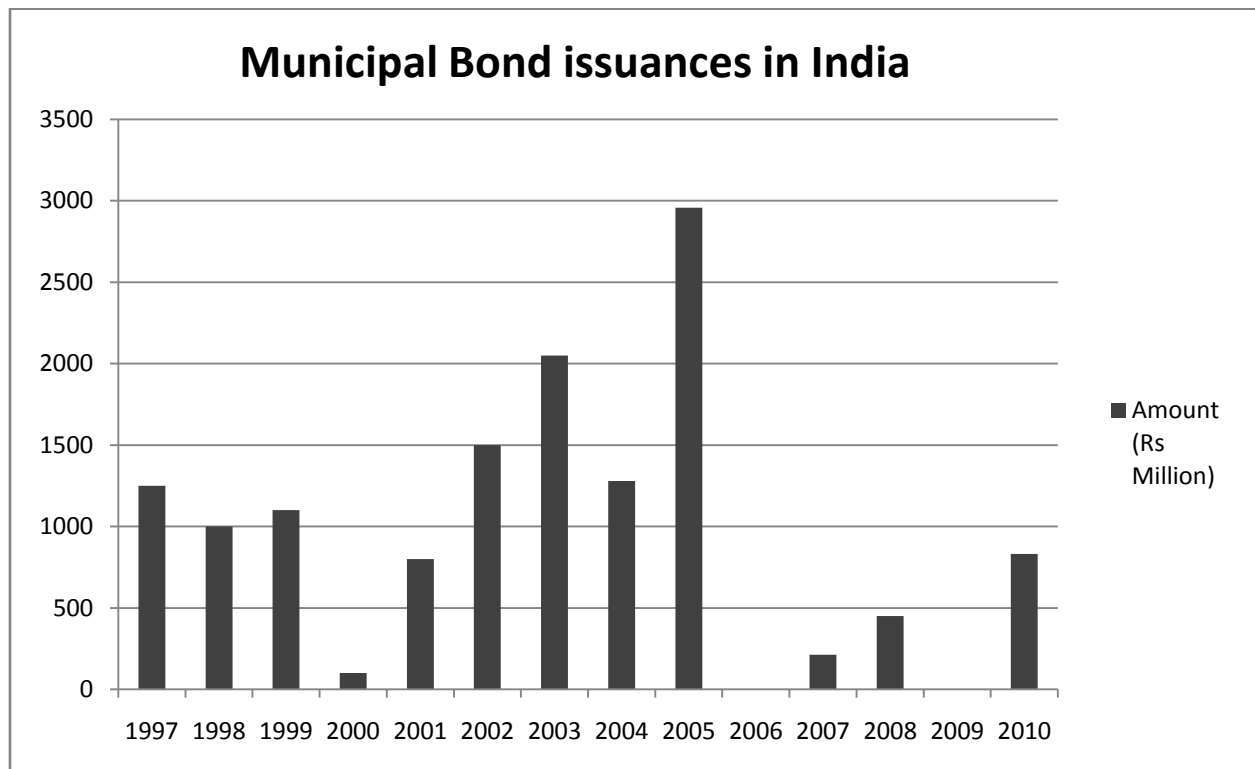
Several ULBs and utility organizations have issued bonds that so far have mobilized over Rs. 13,531 million through taxable bonds, tax-free bonds and pooled financing:

<b>S. No</b>	<b>Type of Bond Issuances</b>	<b>Amount Raised (Rs. Million)</b>
1.	Taxable bonds	4,450
2.	Tax-free bonds	6,495
3.	Pooled finance	2,586
	<b>TOTAL</b>	<b>13,531</b>

*Source: National Institute of Urban Affairs (NIUA); Vaidya, C. and Vaidya, H. (2010), "Market-Based Financing of Urban Infrastructure in India" in Kochar, S. and Ramchandran, M. (Ed.), Building from the Bottom, Academic Foundation, New Delhi, India.*

- The Bangalore Municipal Corporation was the first municipal corporation to issue a municipal bond of Rs.1250 million with a state guarantee in 1997.
- However, the access to capital market commenced in January 1998, when the Ahmedabad Municipal Corporation (AMC) issued the first municipal bonds in the country without state government guarantee for financing infrastructure projects in the city. AMC has raised Rs.1,000 million by the said public issue. It was followed by more issues through private placement.

- The debt market in India for municipal securities has grown considerably since the issuance of Ahmedabad bonds. Since 1998, other cities that have accessed the capital markets through municipal bonds without state government guarantee include Nashik, Nagpur, Ludhiana, and Madurai. In most cases, bond proceeds have been used to fund water and sewerage schemes or road projects. India’s city governments have thus mobilized about Rs.4,450 million from the domestic capital market through taxable municipal bonds.
- The last issuance was done by Greater Vishakhapatnam Municipal Corporation for Rs 30 Crores in 2010.



*Data Source: National Institute of Urban Affairs (NIUA); Vaidya, C. and Vaidya, H. (2010), "Market-Based Financing of Urban Infrastructure in India" in Kochar, S. and Ramchandran, M. (Ed.), Building from the Bottom, Academic Foundation, New Delhi, India*

### **B. Tax Free Municipal Bonds Issuances**

The Government of India, in order to boost the municipal bond market, allowed the municipalities to issuer tax-free municipal bonds. The central government amended

the Income Tax Act (1961 vide the Finance Act 2000), whereby interest income from bonds issued by local authorities was exempted from income tax. The GOI issued guidelines for issue of tax-free municipal bonds in February 2001. These guidelines stipulate eligible issuers, use of funds, essential pre-conditions, maturing period, buy-back, nature of issue and tax benefits, ceiling amount for a project, compulsory credit rating, and external monitoring of the tax-free municipal bond.

The salient features of these guidelines are as follows:

- i. The funds raised from such bonds shall be used only for capital investments in urban infrastructure for providing one or more of specified activities;
- ii. The proceeds of the proposed issue shall be clearly earmarked for a defined project or a set of projects;
- iii. The project(s) shall be financially viable (project(s) should be able to generate a stream of revenue which should be sufficient to finance O&M cost);
- iv. The issuer shall create an escrow account for debt servicing of bond proceeds and for meeting O&M costs of the proposed project with earmarked revenue. Earmarking of revenue through Escrow mechanism will be monitored by an independent Trustee like the DFIs or the nationalised banks.
- v. Can raise fund either through public issue or by private placement.
- vi. Shall provide an additional debt covenant under which the Debt Service Coverage Ratio (DSCR) of at least 1.25 is maintained throughout the tenor of the Tax Free Municipal Bond.
- vii. The maximum amount of such bonds as a percentage of the total project costs (excluding interest during construction) will be 50% per cent or Rs. 300.00 crore whichever is lower
- viii. The debt equity ratio for the project shall not exceed 3:1.

- ix. In case of municipal authorities, the issuers shall at least contribute 20 per cent of the project costs either from internal resources or other grants or a mix of the two.
- x. It will be mandatory for the issuer to obtain an investment grade rating.
- xi. Only bonds carrying interest rate upto maximum 8% per annum shall be eligible for notification by the CBDT
- xii. It should have a minimum maturity of 5 years. The issuers will have option to offer deep discount bonds or other financial innovations especially to enhance the tenor of the bond.

**The following Municipal Corporations have issued Tax Free Municipal Bonds in India**

<b>Name of Municipality/ ULB</b>	<b>Projects</b>	<b>Amount of Tax-free Municipal Bond (Rs. Million)</b>
Ahmedabad Municipal Corporation (2002)	Water supply and sewerage project	1,000
Hyderabad Municipal Corporation (2003)	Road construction and widening	825
Nashik Municipal Corporation (2002)	Underground sewerage scheme and stormwater drainage system	500
Visakhapatnam Municipal Corporation (2004)	Water supply system	500
Hyderabad Metropolitan Water Supply and Sewerage Board (2003)	Drinking water project	500
Ahmedabad Municipal Corporation (2004)	Water supply project, stormwater drainage project, road project, bridges and flyovers	580
Chennai Metropolitan Water Supply & Sewerage Board (2003)	Chennai water supply augmentation project	420
Chennai Metropolitan Water Supply & Sewerage	Chennai water supply project	500

Board (2005)		
Chennai Municipal Corporation (2005)	Roads	458
Ahmedabad Municipal Corporation (2005)	Roads and water supply	1,000
Nagpur (2007)	Nagpur water supply and sewerage project	212
<b>TOTAL</b>		<b>6,495</b>

*Source: National Institute of Urban Affairs (NIUA); Vaidya, C. and Vaidya, H. (2010), "Market-Based Financing of Urban Infrastructure in India" in Kochar, S. and Ramchandran, M. (Ed.), Building from the Bottom, Academic Foundation, New Delhi, India.*

#### **4. World Bank Report on Municipal Borrowing**

The World Bank had conducted a non-lending technical assistance project on the regulation of Municipal Borrowing in India at the request of MOUD and Ministry of Finance (MOF) and submitted its study report in October 2011. The chief focus of the report is on the regulatory and legal conditions that currently hinder, but if altered could encourage, the appropriate expansion of municipal borrowing.

The World Bank report has made various recommendations. One of the recommendations stated that SEBI should publish disclosure guidelines for public issue of municipal bonds in line with the GOI MOF tax-free standards and incorporate current international practice. The report also recommended following EMMA (Electronic Municipal Market Access) in the USA, where Securities and Exchange Commission (SEC) has no specific disclosure requirements and relies instead on the voluntary industry standard, though after suitably adapting to Indian context.

A committee was set-up by MOUD to review the progress of implementation of the recommendations of World Bank Report on regulatory framework for municipal borrowings. In the meeting of the committee held in July 2013, it was, inter-alia, recommended that SEBI will draft new disclosure and regulatory requirements for issuance and listing of Municipal bonds. A copy of the minutes of the said meeting was forwarded to SEBI by MOF in August 2013.

#### **5. Deliberations at CoBoSAC regarding the framework for Municipal Bonds**

SEBI placed an agenda item on formulation of framework for issuance municipal bonds and disclosure norms for the same before the "Corporate Bonds and



Securitization Advisory Committee" (CoBoSAC) Meeting held in October 2013. It was, inter-alia, decided in the said meeting that a sub-committee may be formed to specify disclosure and other requirements of Municipal Bonds.

The sub-committee consisted of stakeholders including representatives of MOUD, MOF and Municipality. The sub-committee deliberated on the issue and inter-alia, proposed four different structures for municipalities which are as follows:

- a) Issuance of securities or Municipal Bonds directly by the ULBs Municipal Body.
- b) Issuance of securities or Bonds through Corporate Municipal Entity (Subsidiary) created by the Municipality.
- c) Creating of a statutory body which can borrow from market through issue of bonds for onward lending to Municipal Bodies.
- d) Under Pool Finance Development Fund Structure, through Issuance of securitized debt instruments by a special purpose distinct entity (Trust) created by one or more municipalities by securitizing the receivables.

The four structures proposed are given below:

- a) Issuance of securities or Municipal Bonds directly by the ULBs Municipal Body - The Municipal Corporations may issue general bonds or revenue bonds subject to the condition that general bonds shall not be made available for public offering and shall be issued only on private placement basis to institutional investors. It stemmed from the fact that in case of revenue bonds, projects could be identified and the revenue stream can be escrowed, thus providing certain safeguards to the investors. However, in the case of general bonds, the cash flows from the project for which the bonds are issued become part of general revenues of the municipality and thus there are no identifiable resources, which are specifically earmarked to repay such bonds.
- b) Issuance of securities or bonds through Corporate Municipal Entity (CME) (Subsidiary) created by the Municipality- Municipalities may consider establishing a "Corporate Municipal Entity" (CME) which would borrow through issue of Bonds and lend it to the concerned Municipality. The objective is to create a conduit entity, which can access the market and which can lend it to the concerned Municipality based on its requirements. The Corporate Municipal entity may not hold or carry out any projects of its own,

in which cases it would create implementation, enforcement and hierarchical issues. Further, the transfer of projects of Municipalities to Corporate Municipal Entity in lieu of equity may require legislative amendment. The CME would be a going concern and disclosure would be the same as that prescribed under existing SEBI (Issue and Listing of Debt Securities) Regulations, 2008. In addition, however, it would carry additional information on the Municipal Corporation structure and hierarchies

- c) Creation of a statutory body or a 100% Govt owned undertaking, which can borrow from market through issue of bonds for onward lending to ULBs or Municipal bodies

Government may consider establishing a statutory body or a 100% Govt. owned undertaking (in the lines of India Infrastructure Finance Company Limited). The objective of such undertaking may be to borrow from the market or from financial institutions for onward lending to Municipal Bodies. Such an undertaking may be capable of assessing/appraising the viability of each projects of the Municipality and their Governance level, before meeting their financing requirements. Rather than each investor subscribing to Bonds assessing/appraising the risks and viability of various projects proposed to be undertaken by various Municipal Bodies, if such task could be taken care or assigned to an expert body set-up in this regard, it would yield better assessment and funds may flow to the suitable projects. Further, such an undertaking could be central or state government owned and since the body will be engaged in financial intermediation, may have to be registered with RBI as an NBFC. Such a statutory body can make such borrowings under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008.

- d) Issuance of securitized debt instruments by a special purpose distinct entity (Trust) created by one or more municipalities by securitizing the receivables- The guidelines prescribed by the MOUD, under the Pooled Finance Development Scheme (PFDF) Scheme, provides that each State / Union Territory has to designate either an existing state entity or create a new entity as State Pool Finance Entity (SPFE) for execution of the PFDF Scheme. Such a SPFE could be either a Trust or a Special Purpose Entity.

As per section 2(h) of the SCRA 1956, the term securities include "*shares, scrips, stocks, bonds, debentures, debenture stock or other marketable*

*securities of a like nature in or of any incorporated company or other body corporate". Also as per the SEBI Debt Regulations, "debt securities" means a non-convertible debt securities which create or acknowledge indebtedness, and include debenture, bonds and such other securities of a body corporate or any statutory body constituted by virtue of a legislation. The committee observed that trusts are pass through entities and they cannot acknowledge any indebtedness in itself and thus, can issue pass through certificates.*

The committee observed that as PTCs are Securitized Debt Instruments and are specifically included under "Securities" under the SCRA and can be issued by Trust and can also be listed. Such a trust or SPFE can make a public issue or private placement of securitized debt instruments which are proposed to be listed, under the extant PFDF scheme by complying with SEBI (Public Offer and Listing of Securitized Debt Instruments) Regulations, 2008. However, the suitability of the existing SDI framework to the SPFE created by the Government need further examination.

## **6. Main recommendations of CoBoSAC**

The sub-committee submitted its report to CoBoSAC in October 2014 wherein the committee accepted its recommendation and concluded the following.

- I. There should be a separate framework for issuance and listing of debt securities by ULBs or Municipal bodies and SEBI may frame separate regulations in this regard.
- II. The framework should provide for issuance of debt securities by ULBs or Municipal bodies to the public as well as privately placed Municipal bonds that are proposed to be listed on the stock exchanges.

The committee, inter-alia recommended the following requirements, subject to which municipalities may issue debt securities:

- a. The funds raised from issue of Municipal Bonds shall be used only for the projects that are specified under objects in the offer document.
- b. The proceeds of the proposed issue shall be clearly earmarked for a defined project or a set of projects;

- c. It will be mandatory for the issuer to obtain rating from a credit rating agency registered with SEBI before the issuance of Municipal Bonds.
- d. The Municipal Bonds should have a minimum maturity of 3 years. The issuers will have option to offer deep discount bonds or other financial innovations especially to enhance the tenor of the bond.
- e. The issuers may have the option for buy-back arrangements of the face value of the bonds from an investor.
- f. The issuers shall maintain a separate account of the amount raised from the issuance of Municipal Bond, to be utilised only for the project related expenditure;
- g. The issuers shall establish a separate Project Implementation Cell and designate a Project Officer who shall monitor the progress of the project(s) and be responsible for ensuring that the funds raised through Municipal Bonds are utilised only for the project(s) for which the Bonds were issued.
- h. The funds raised by the issuer are utilised in accordance with the timetable for utilization of bond proceeds and only for the project(s) for which permission has been granted by the Central Government.
- i. With respect to audit of accounts of the Municipal bodies, it was suggested that within six months of the close of every financial year, the escrow account and the project account shall be audited by the auditors appointed by the Municipal Corporations, as permissible under their respective constitutions. However, if it is a statutory corporation, then the accounts shall have to be audited by the statutory auditor. Further, the accounts shall have to be audited in a manner, which is friendly with the investor community and also there should be a single point of contact in each ULB/Municipality, with respect to such accounts, with whom the investors can interact and clarify their doubts, if any.

Considering the aforesaid recommendations of CoBoSAC, SEBI proposes to lay down a framework governing the issuance and listing of debt securities by ULBs/ Municipal bodies in India directly or through a Corporate Municipal Entity.

## **7. Information to the Board**

In the SEBI Board Meeting held in November 2014, an information memorandum on developments in the Corporate Bonds Market was presented, wherein the Board was informed about the CoBoSAC recommendation of laying down a separate framework for municipal bonds.

## **8. Consequential Changes**

For effective implementation of the proposed framework, some consequential amendments may be required to be made to the Companies Act, 2013 and the rules made there under to enable raising of funds by Corporate Municipal Entity through issue of debt securities under the proposed framework.

## **9. Public Comments**

- i. In the light of the above, SEBI proposes to frame SEBI (Issue and Listing of Debt Securities by Municipality) Regulations, 2015, draft of which is enclosed. Public comments are invited on the draft regulations. Comments may be forwarded by email to Mr. Sandeep Kriplani, Assistant General Manager (sandeepk@sebi.gov.in) or Ms. Vandana Agarwal, Assistant Manager (vandanaa@sebi.gov.in) latest by January 30, 2015.
- ii. Comments should be given in the following format:

Name of entity/ person/ intermediary:			
S. No.	Pertains to which Regulation /sub regulation	Proposed/ suggested changes	Rationale

**Issued on: December 30, 2014**

**THE GAZETTE OF INDIA**

**EXTRAORDINARY**

**PART - III - SECTION 4**

**PUBLISHED BY AUTHORITY**

**NEW DELHI, JANUARY, 2015**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**NOTIFICATION**

**Mumbai, the**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**(Issue and Listing of Debt Securities by Municipality) Regulations, 2015**

N.-In exercise of the powers conferred by sub-section (1) of Section 30 read with clause (b) of sub-section (2) of Section 11 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India hereby, makes the following regulations, namely, —

## **CHAPTER I**

### **PRELIMINARY**

#### **1. Short title and commencement.**

(1) These regulations may be called the Securities and Exchange Board of India (Issue and Listing of Debt Securities by Municipality) Regulations, 2015

(2) These regulations shall come into force on the \_\_\_\_\_ from the date of their publication in the Official Gazette.

#### **2. Definitions.**

(1) In these regulations, unless the context otherwise requires, the terms defined herein shall bear the meanings assigned to them below, and their cognate expressions shall be construed accordingly,—

(a) “Act” means the Securities and Exchange Board of India Act, 1992 (15 of 1992);

- (b) "advertisement" includes notices, brochures, pamphlets, circulars, show cards, catalogues, hoardings, placards, posters, insertions in newspaper, pictures, films, cover pages of offer documents or any other print medium radio, television programmes through any electronic medium;
- (a) "Board" means the Securities and Exchange Board of India established under section 3 of the Act;
- (b) "Corporate Municipal Entity" is a company, which is a subsidiary of a Municipality and which is set up for the purpose of raising funds for a specific/multiple municipality;
- (c) "Debt securities" means a non-convertible debt securities which create or acknowledge indebtedness, and include debenture, bonds and such other securities of a Municipality, or a Corporate Municipal Entity incorporated as a company, whether constituting a charge on the assets of such body or not;
- (d) "Designated stock exchange" means a stock exchange in which securities of the issuer are listed or proposed to be listed and which is chosen by the issuer for the for the purposes of a particular issue under these regulations;
- (e) "General Obligation Bonds" means debt securities where principal and interest are serviced through taxation power of the Municipality.
- (f) "Issuer" means any Municipality or a Corporate Municipal Entity, which makes or proposes to make an issue of debt securities in accordance with these regulations or which has its securities listed on a recognized stock exchange or which seeks to list its debt securities on a recognized stock exchange;
- (g) "Municipality" means an institution of self-government constituted under Article 243Q of the Constitution (Seventy-fourth Amendment) Act, 1992 and includes a Municipal Corporation, a Municipal Council, and a Nagar Panchayat;
- (h) "National Municipal Accounts Manual" means the Municipal Accounting Manual formulated by the Ministry of Urban Development;
- (i) "Offer document" means prospectus and includes any such document or advertisement whereby the subscription to debt securities are invited by the issuer from public
- (j) "Private placement" means any offer of debt securities or invitation to subscribe to debt securities to a select group of persons by a Municipality through issue of a private placement offer letter, which shall not intend to result in, directly or indirectly, in the debt securities becoming available for subscription or purchase by persons other than those receiving the offer or invitation.

Provided, for a Corporate Municipal Entity, it shall mean an offer or invitation made in terms of section 42 of the Companies Act, 2013 and the rules made thereunder, through issue of a private placement offer letter:

- (k) "public issue" means an offer or invitation by an issuer to public to subscribe to the debt securities, which is not in the nature of a private placement;
- (l) "recognized stock exchange" means any stock exchange which is recognized under section 4 of the Securities Contracts (Regulation) Act, 1956;
- (m) "Revenue bonds" means debt securities serviced by revenues from one or more projects.
- (n) "schedule" means a schedule annexed to these regulations;
- (o) "specified" means specified by a general or special order or circular issued under the Act or these regulations.

(2) All other words and expressions used but not defined in these regulations, shall have the same meanings respectively assigned to them in the Act or the Companies Act, 2013 or Securities Contracts (Regulation) Act, 1956 or the Depositories Act, 1996 or the Rules and the Regulation made there under or any statutory modification or reenactment.

### **3. Applicability**

These regulations shall apply to-

- (a) public issue of debt securities; and
- (b) listing of debt securities issued through public issue or on private placement basis on a recognized stock exchange.

## **CHAPTER II ELIGIBILITY**

### **4. Eligible Municipalities**

- 1) An issuer, whether Municipality or Corporate Municipal Entity shall issue debt securities in accordance with these regulations.

Provided, such Municipality, whether proposing to issue debt securities itself or through Corporate Municipal Entity, should be eligible to raise funds under its constitution.

Provided further, no issuer shall be eligible to issue debt securities to public under these Regulations, unless the following criteria are complied with:

- (a) Accounts of Municipality shall be prepared in accordance with National Municipal Accounts Manual or in accordance with similar Municipal Accounts



Manual adopted by the respective State Government for at least last three preceding financial years.

- (b) Municipality shall not have negative net worth in any of the last three preceding financial years;
- (c) Municipality shall not have defaulted in repayment of debt securities or loans obtained from Banks/Financial Institutions.

Provided, where the issuer is a Corporate Municipal Entity, the requirements at (a), (b) and (c) shall be complied by the Municipality which is being financed.

Explanation:

For this purpose, the term default means where interest and/ or principal amount has remained overdue for a period of more than 90 days.

- (d) The Corporate Municipal Entity or its directors have not been restrained or prohibited or debarred by the Board from accessing the securities market or dealing in securities and such direction or order is in force.

### **CHAPTER III REQUIREMENTS FOR PUBLIC ISSUE**

- 5. An issuer making public issue of Debt Securities shall comply with the provisions of this chapter

**6. General Conditions**

- 1) An issuer making public issue of debt securities shall only issue revenue bonds.
- 2) No issuer shall make a public issue of debt securities unless following conditions are satisfied, as on the date of filing of draft offer document and final offer document as provided in these regulations:
  - a) it has made an application to one or more recognized stock exchanges for listing of such securities therein;

Provided that where the application is made to more than one recognized stock exchanges, the issuer shall choose one of them as the designated stock exchange; Provided further that where any of such stock exchanges have nationwide trading terminals, the issuer shall choose one of them as the designated stock exchange;

Explanation: For any subsequent public issue, the issuer may choose a different stock exchange as a designated stock exchange subject to the requirements of this regulation;

- b) it has obtained in-principle approval for listing of its debt securities on the recognized stock exchanges where the application for listing has been made;
- c) credit rating has been obtained from at least one recognized credit rating agency registered with the Board and is disclosed in the offer document:

Provided that, in case of public issue of securities by the Issuer, the debt securities intended to be issued shall have a minimum rating of "A+ or equivalent.

Provided further that where credit ratings are obtained from more than one credit rating agencies, all the ratings, including the unaccepted ratings, shall be disclosed in the offer document;

- d) it has entered into an arrangement with a depository registered with the Board for dematerialization of the debt securities that are proposed to be issued to the public, in accordance with the Depositories Act, 1996 and regulations made there under.

- 3) The debt securities shall have a minimum tenure of 3 years.
- 4) The issuer shall appoint one or more merchant bankers registered with the Board at least one of whom shall be a lead merchant banker.
- 5) The issuer shall create a separate escrow account for servicing of debt securities with earmarked revenue.
- 6) The issuer shall appoint a monitoring agency such as public financial institution or nationalised banks to monitor the earmarked revenue in the escrow account under sub-regulation (5).

Provided, where the issuer is Corporate Municipal Entity, it shall appoint one or more debenture trustees registered with the Board in accordance with the provisions of the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993, for compliance with this requirement.

## **7. Disclosures in the offer document**

- 1) The offer document shall contain true, fair and material disclosures, which are necessary for the subscribers of the debts securities to take an informed investment decision.
- 2) Without prejudice to the generality of sub-regulation (1), the issuer, which is a Municipality, and the lead merchant banker shall ensure that the offer document contains the following:
  - a) disclosures specified in *Schedule I* of these regulations;

- b) disclosures with respect to compliance with regulation 13;
- c) additional disclosures as may be specified by the Board.

Provided, in case of issuer being a Corporate Municipal Entity, the issuer and the lead merchant banker shall ensure that the offer document contains the following:

- a) disclosures as specified in Companies Act, 2013 and Companies (Prospectus and Allotment of Securities) Rules, 2014;
- b) disclosures specified in *Schedule I* of these regulations;
- c) disclosures with respect to compliance with regulation 13;
- d) additional disclosures as may be specified by the Board.

## **8. Filing of draft offer document**

- 1) No issuer shall make a public issue of debt securities unless a draft offer document has been filed with the designated stock exchange through the lead merchant banker.
- 2) The draft offer document filed with the designated stock exchange shall be made public by posting the same on the website of the designated stock exchange for seeking public comments for a period of seven working days from the date of filing the draft offer document with such exchange.
- 3) The draft offer document may also be displayed on the website of the issuer, merchant bankers and the stock exchanges where the debt securities are proposed to be listed.
- 4) The lead merchant banker shall ensure that the draft offer document clearly specifies the names and contact details of the compliance officer of the lead merchant banker and the officer concerned in the issuer including their postal and email address, telephone and fax numbers.
- 5) The lead merchant banker shall ensure that all comments received on the draft offer document are suitably addressed.

Provided, where the issuer is a Corporate Municipal Entity, the lead merchant banker shall ensure that all comments received on the draft offer document are suitably addressed prior to the filing of the final offer document with the Registrar of Companies.

- 6) A copy of draft and final offer document shall also be forwarded to the Board for its records, simultaneously with filing of these documents with designated stock exchange.

- 7) The lead merchant banker shall, prior to opening of the public issue, furnish to the Board a due diligence certificate as per Schedule II of these regulations.

Provided, where the issuer is a Corporate Municipal Entity, the lead merchant banker shall, prior to filing of the final offer document with the Registrar of Companies, furnish to the Board a due diligence certificate as per Schedule II of these regulations.

- 8) The debenture trustee, wherever appointed under Regulation 6(6) shall, prior to the opening of the public issue, furnish to the Board a due diligence certificates per Schedule III of these regulations.

#### **9. Mode of Disclosure of Offer Document**

- 1) The draft and final offer document shall be displayed on the websites of stock exchanges and shall be available for download in PDF / HTML formats.
- 2) The draft offer document shall be filed with the designated stock exchange, for dissemination on its website prior to the opening of the issue.

Provided, where the issuer is a Corporate Municipal Entity, the final offer document shall be filed with the designated stock exchange, simultaneously with filing thereof with the Registrar of Companies, for dissemination on its website prior to the opening of the issue.

- 3) Where any person makes a request for a physical copy of the offer document, the same shall be provided to him by the issuer or lead merchant banker.

#### **10. Advertisements for Public issues**

- 1) The issuer may make an advertisement in a national daily with wide circulation, on or before the issue opening date and such advertisement shall, amongst other things, contain the disclosures as per Schedule IV.
- 2) No issuer shall issue an advertisement which is misleading material particular or which contain any information in a distorted manner or which is manipulative or deceptive.
- 3) The advertisement shall be truthful, fair and clear and shall not contain a statement, promise or forecast which is untrue or misleading.
- 4) Any advertisement issued by the issuer shall not contain any matters which are extraneous to the contents of the offer document.

- 5) The advertisement shall urge the investors to invest only on the basis of information contained in the offer document.
- 6) Any promotional or educative advertisement issued by the issuer during the subscription period shall not make any reference to the issue of debt securities or be used for solicitation.

#### **11. Abridged Prospectus and application forms**

- 1) The issuer and lead merchant banker shall ensure that:
  - a) every application form issued by the issuer is accompanied by a copy of the abridged prospectus;
  - b) the abridged prospectus shall not contain matters which are extraneous to the contents of the prospectus;
  - c) adequate space shall be provided in the application form to enable the investors to fill in various details like name, address, etc.
- 2) The issuer may provide the facility for subscription of application in electronic mode.

#### **12. Minimum Subscription.**

- 1) The issuer may decide the amount of minimum subscription which it seeks to raise by issue of debt securities and disclose the same in the offer document.  
Provided such minimum subscription limit shall not be less than 75% of the issue size;
- 2) In the event of non-receipt of minimum subscription as specified above, all application moneys received in the public issue shall be refunded forthwith to the applicants, within 12 days from the date of the closure of the issue.
- 3) In the event, there is a delay by the issuer in making the aforesaid refund, then the issuer shall refund the subscription amount along with interest at the rate of 10% per annum for the delayed period.

#### **13. Utilization of Issue Proceeds**

- 1) The funds raised from public issue of debt securities shall be used only for projects that are specified under objects in the offer document.
- 2) The proceeds of the issue shall be clearly earmarked for a defined project or a set of projects for which requisite approvals have been obtained from concerned authorities;

- 3) The issuer shall, before filing of draft offer documents with Board, obtain a “Viability Certificate“ from a Chartered Accountant or a Cost Accountant certifying that the project is financially viable, based on the estimates/assumptions available at that time.
- 4) The issuers shall maintain a bank account in which the amount raised from the issue shall be transferred immediately after the completion of the issue and such amount shall only be utilized for specified project(s);

Provided, where the issuer is a Corporate Municipal Entity, the issue proceeds, net of issue expenses, shall be used only for onward lending to Municipalities, as disclosed in the offer document;

Provided further, where the issuer is a Corporate Municipal Entity, it shall maintain sufficient interest margin while onward lending to the Municipalities, to meet its operating expenses and obligations.

- 5) The issuer Municipality shall establish a Separate Project Implementation Cell and designate a Project Officer who shall not be below the rank of Deputy Commissioner, who shall monitor the progress of the project(s) and shall ensure that the funds raised are utilised only for the project(s) for which the debt securities were issued.

Provided, where the issuer is a Corporate Municipal Entity, such requirement shall be complied by the Municipality which is being financed.

- 6) Issuer’s contribution for each project shall not be less than 20 per cent of the project costs, which shall be contributed from their internal resources or grants;

Provided where the issuer is a Corporate Municipal Entity, contribution of the concerned Municipality, which is being financed by the Corporate Municipal Entity, shall not be less than 20 per cent of the project costs, which shall be contributed from its internal resources or grants;

- 7) The issuer shall disclose the schedule of implementation of the project in the offer documents in a tabular form and the funds raised by the issuer shall be utilized in accordance with the said schedule;

#### **14. Underwriting**

A public issue of debt securities may be underwritten by an underwriter registered with the Board and in such a case adequate disclosures regarding underwriting arrangements shall be disclosed in the offer document.

**CHAPTER IV**  
**LISTING OF DEBT SECURITIES**

**15. Mandatory listing.**

1. An issuer desirous of making an offer of debt securities to the public shall make an application for listing to one or more recognized stock exchanges.

Provided that in case of issuer being Corporate Municipal Entity, such an application shall be made in terms of sub-section (1) of section 40 of the Companies Act, 2013.

**16. Conditions for listing of debt securities issued on private placement basis**

- 1) An issuer may list its debt securities issued on private placement basis on a recognized stock exchange subject to the following conditions:
  - a) An issuer may issue General Obligation Bonds or Revenue bonds
  - b) Accounts of Municipality being the issuer, shall be prepared in accordance with National Municipal Accounts Manual or in accordance with similar Municipal Accounts Manual adopted by the respective State Government for at least last three preceding financial years.
  - c) Where the issuer is Corporate Municipal Entity, the issuer or its directors should not have been restrained or prohibited or debarred by the Board from accessing the securities market or dealing in securities and such direction or order is in force.
  - d) the issuer, being a Corporate Municipal Entity, has issued such debt securities in compliance with the provisions of the Companies Act, 2013 and rules prescribed there under and other applicable laws;
  - e) the issuer shall not solicit or collect funds except by way of private placement
  - f) the minimum subscription amount per investor shall not be less than Rupees twenty five lakhs or such amount as may be specified by Board from time to time;
  - g) credit rating has been obtained in respect of such debt securities from at least one credit rating agency registered with the Board;

- h) the debt securities proposed to be listed are in dematerialized form;
- i) the disclosures as provided in *Schedule I* of these regulations have been made.

## **CHAPTER IV REQUIREMENTS FOR BOTH PUBLIC ISSUES AND PRIVATE PLACEMENT**

### **17. Asset Cover**

An issuer, proposing to issue debt securities shall maintain 100% asset cover sufficient to discharge the principal amount at all times for the debt securities issued.

### **18. Buy Back**

The issuers may provide an option to buy-back the debt-securities at their face value, from the investors;

Provided in such cases, appropriate disclosure shall be made in the offer document

### **19. Prohibitions of mis-statements in the offer document.**

- 1) The offer document shall not omit disclosure of a material fact which may make the statements made therein, in light of the circumstances under which they are made, misleading.
- 2) The offer document or abridged prospectus or any advertisement issued by an issuer in connection with a public issue of debt securities shall not contain any false or misleading statement.

### **20. Creation of security for secured debentures**

- 1) The debentures shall be secured by the creation of a charge, on the properties or assets or the receivables of the issuer, having a value which is sufficient for the due repayment of the amount of debentures and interest thereon.

Provided further, in case unsecured debentures are intended to be listed on stock exchange(s), then such debt securities shall either be backed by guarantee from State Government or Central Government or shall have a structured payment mechanism whereby the issuer shall deposit debt servicing amounts in the designated bank account at least 5 working days before due date of payment.



- 2) The total value of debentures issued shall not exceed the market value of immovable property/other assets or receivables of the Issuer, for which a charge shall be created.
- 3) The issuer shall give an undertaking in the offer document that the assets on which charge is created are free from any encumbrances and if the assets are already charged to secure a debt, the permissions or consent to create second or pari pasu charge on the assets of the issuer have been obtained from the earlier creditor.
- 4) The issue proceeds shall not be utilized until the documents for creation of security are executed.

## **21. Trust Deed**

- 1) A trust deed for securing the issue of debentures shall be executed by the issuer in favour of the independent trustee or debenture trustee, as applicable, within three months of the closure of the issue.
- 2) The trust deed shall contain such clauses as may be prescribed in Schedule IV of the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993.

Provided that in case of private placement by a Corporate Municipal Entity, the trust deed shall, in-addition, contain such clauses as prescribed under Section 71 of the Companies Act, 2013 and Companies (Share Capital and Debentures) Rules 2014;

- 3) The trust deed shall not contain a clause which has the effect of:
  - (i) limiting or extinguishing the obligations and liabilities of the debenture trustees or the issuer in relation to any rights or interests of the investors;
  - (ii) limiting or restricting or waiving the provisions of the Act, these regulations and circulars or guidelines issued by the Board;
  - (iii) indemnifying the debenture trustees or the issuer for loss or damage caused by their act of negligence or commission or omission.

## **22. Redemption and Roll-over**

- 1) The issuer shall redeem the debt securities in terms of the offer document.
- 2) Where the issuer being a Corporate Municipal Entity, desires to roll-over the debt securities issued, it shall do so only upon passing of a special resolution to

that effect and give twenty one days notice of the proposed roll over to the holders of debt securities;

Provided where the issuer is a Municipality, the notice shall be given to the holders of debt securities and stock exchanges where the debt securities are listed, upon the said decision.

Provided further, in case the issuer is a Municipality, if the holders of debt securities do not provide consent for the proposed roll over within the notice period, the issuer shall redeem the debt securities of such holders.

- 3) The notice referred to in sub- regulation (2) shall contain disclosures with regard to credit rating and rationale for roll-over.
- 4) The issuer being a Corporate Municipal Entity shall, prior to sending the notice to holders of debt securities, file a copy of the notice and proposed resolution with the stock exchanges where such securities are listed, for dissemination of the same to public on its website.
- 5) The debt securities issued can be rolled over subject to the following conditions :-
  - a) The roll-over is approved by a special resolution passed by the holders of debt securities through postal ballot having the consent of not less than 75% of the holders by value of such debt securities;  
  
Provided said provision shall not be applicable to the issuer, which is a Municipality;  
Provided further, in case of issuer being a Municipality, a period of 7 days shall be granted to the holders of debt securities
  - b) atleast one rating is obtained from a credit rating agency within a period of six months prior to the due date of redemption and is disclosed in the notice referred to in sub-regulation (2);
  - c) fresh trust deed shall be executed at the time of such roll over or the existing trust deed may be continued if the trust deed provides for such continuation ;
  - d) adequate security shall be created or maintained in respect of such debt securities to be rolled-over

- 6) The issuer shall redeem the debt securities of all the holders, who have not given their positive consent to the roll-over.

### **23. Debenture Redemption Reserve**

For the redemption of the debentures issued by a Corporate Municipal Entity, the issuer shall create debenture redemption reserve in accordance with the provisions of the Companies Act, 2013 and the rules made thereunder.

## **CHAPTER V**

### **CONDITIONS FOR CONTINUOUS LISTING AND TRADING OF DEBT SECURITIES**

#### **24. Continuous Listing Conditions**

- 1) All the issuers making public issues of debt securities or seeking listing of debt securities issued on private placement basis, shall comply with conditions of listing including continuous disclosure and other requirements specified by the Board in general and those specified in Schedule V to these Regulations in specific, till the debt securities are listed on the stock exchange.
- 2) Where the issuer is Corporate Municipal Entity, one-third of its Board shall comprise of independent Directors, as defined in Section 149 of the Companies Act, 2013.
- 3) Every rating obtained by an issuer shall be periodically reviewed by the registered credit rating agency and any revision in the rating shall be promptly disclosed by the issuer to the stock exchange(s) where the debt securities are listed.
- 4) Any change in rating shall be promptly disseminated to investors and prospective investors in such manner as the stock exchange where such securities are listed may determine from time to time.
- 5) The issuer, the respective debenture trustees, wherever appointed, and stock exchanges shall disseminate all information and reports regarding debt securities including compliance reports filed by the issuers and the debenture trustees, if appointed, to the investors and the general public by placing them on their websites.
- 6) Debenture trustee, wherever appointed, shall disclose the information to the investors and the general public by issuing a press release in any of the following events

- a) default by issuer to pay interest on debt securities or redemption amount;
  - b) failure to create a charge on the assets;
  - c) revision of rating assigned to the debt securities.
- 7) The information referred to in sub-regulation (5) shall also be placed on the websites, if any, of the debenture trustee, the issuer and the stock exchanges.

## **25.Accounting and Audit**

- 1) An Issuer, being a Municipality, shall prepare its accounts in accordance with the National Municipal Accounts Manual or in accordance with similar Municipal Accounts Manual adopted by the respective State Government.

Provided that in case of the Issuer being a Corporate Municipal Entity, the accounts shall be prepared in accordance with section 129 and 134 of the Companies Act, 2013 and the rules made thereunder.

- 2) In case of the Issuer being a Municipality, the accounts of the issuer shall be audited by the persons appointed by the Municipal Corporations, as permissible under its constitution/state legislation governing the Municipality.

Provided further that in case of an issuer being a Corporate Municipal Entity, the accounts of the issuer shall be audited by an auditor, in terms of section 139 of the Companies Act, 2013 and the rules made thereunder.

Provided further that within six months of the close of every financial year, the bank account for issue proceeds and separate escrow account with earmarked revenues, shall be audited by the person mentioned above

## **26.Trading and Reporting of Debt securities**

- 1) The debt securities issued to the public or on a private placement basis, which are listed in recognized stock exchanges, shall be traded and such trades shall be cleared and settled in recognized stock exchanges subject to conditions specified by the Board.
- 2) The trading lot for privately placed debt securities shall be Rs 1 lakhs or such amount as may be specified by the Board.

- 3) In case of trades of debt securities which have been made over the counter, such trades shall be reported on a recognized stock exchange having a nationwide trading terminal or such other platform as may be specified by the Board.
- 4) The information in respect of issues such as issuer details, instrument details, ratings, rating migration shall be required to be reported to a common database with depositories or any other platform as may be specified by the Board.

## **CHAPTER VI OBLIGATIONS OF INTERMEDIARIES AND ISSUERS**

### **27. Obligations of Monitoring Agency and Trustee**

- 1) The monitoring agency appointed under Regulation 6(6) shall be vested with the requisite powers for protecting the interest of holders of debt securities.
- 2) The monitoring agency shall inspect on half yearly basis, the utilization of issue proceeds in accordance with objects of the issue as specified in offer document and report, material deviation, if any, to the concerned stock exchange for public dissemination.
- 3) The monitoring agency shall monitor earmarked revenue in the separate escrow account.
- 4) The debenture trustee, wherever appointed, shall be vested with the requisite powers for protecting the interest of holders of debt securities

Provided that such powers shall include a right to appoint a nominee director on the Board of the issuer in consultation with institutional holders of such securities.

- 5) The debenture trustee, wherever, shall carry out its duties and perform its functions under these regulations, the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993, the trust deed and offer document, with due care, diligence and loyalty.
- 6) The debenture trustee, wherever appointed, shall ensure disclosure of all material events on an ongoing basis.
- 7) The debenture trustees, wherever appointed, shall supervise the implementation of the conditions regarding creation of security for the debt securities and debenture redemption reserve.

## **28. Obligations of the Issuer and Merchant Bankers**

- 1) The issuer shall disclose all the material facts in the offer documents issued or distributed to the public and shall ensure that all the disclosures made in the offer document are true, fair and adequate and there is no mis-leading or untrue statements or mis-statement in the offer document.
- 2) The Merchant Bankers shall verify and confirm that the disclosures made in the offer documents are true, fair and adequate and ensure that the issuer is in compliance with these regulations.
- 3) The Merchant Bankers shall ensure that all transaction specific disclosures required in Schedule I of these regulations, Companies Act, 2013 and Rules made thereunder are complied with.

Provided where the issuer is a Corporate Municipal Entity, Merchant Bankers shall also ensure that the disclosures under Companies Act, 2013 and Rules made thereunder are complied with

- 4) The issuer shall treat the applicants in a public issue of debt securities in a fair and equitable manner as per the procedures as may be specified by the Board.
- 5) The issuer and Merchant Bankers shall be responsible for the due diligence in respect of assignments undertaken by them in respect of issue, offer and distribution of securities to the public.
- 6) No person shall employ any device, scheme or artifice to defraud in connection with issue or subscription or distribution of debt securities which are listed or proposed to be listed on a recognized stock exchange.
- 7) The issuer and the merchant bankers shall ensure that the security created to secure the debt securities is adequate to ensure 100% asset cover for the debt securities.

## **CHAPTER VII**

### **PROCEDURE FOR ACTION IN CASE OF VIOLATION OF REGULATIONS**

## **29. Inspection by the Board**

- 1) Without prejudice to the provisions of sections 11 and 11C of the Act, in case of a Corporate Municipal Entity, the Board may suo-motu or upon information received by it, appoint one or more persons to undertake the inspection of the books of account, records and documents of the issuer or merchant banker or any other

intermediary associated with the public issue, disclosure or listing of debt securities, as governed under these regulations, for any of the purposes specified in sub-regulation (2).

- 2) The purposes referred to in sub-regulation (1) may be as follows, namely:-
  - a) to verify whether the provisions of the Act, Securities Contracts (Regulation) Act,1956, Depositories Act,1996, the rules and regulations made thereunder in respect of issue of securities have been complied with;
  - b) to verify whether the requirement in respect of issue of securities as specified in these regulations has been complied with;
  - c) to verify whether the requirements of listing conditions and continuous disclosure requirement have been complied with
  - d) to inquire into the complaints received from investors, other market participants or any other persons on any matter of issue and transfer of securities governed under these regulations;
  - e) to inquire into affairs of the issuer in the interest of investor protection or the integrity of the market governed under these regulations;
  - f) to inquire whether any direction issued by the Board has been complied with
- 3) While undertaking an inspection under these regulations, the inspecting authority or the Board, as the case may be, shall follow the procedure specified by the Board for inspection of the intermediaries.

### **30.Directions by the Board**

- 1) Without prejudice to the action under section 11, 11A, 11 B, 11D, sub- section (3) of section 12, Chapter VIA and section 24 of the Act or section 439 of the Companies Act, 2013, where the issuer is Corporate Municipal Entity, the Board may suo-motu or on receipt of information or on completion or pendency of inspection or investigation, in the interests of the securities market, issue or pass such directions as it deems fit including any or all of the following:
  - a) direct the issuer to refund of the application monies to the applicants in a public issue;
  - b) direct the persons concerned not to further deal in securities in any particular manner;

- c) direct the persons concerned not to access the securities market for a particular period;
- d) restraining the issuer or its promoters or directors from making further issues of securities;
- e) direct the person concerned to sell or divest the securities;
- f) direct the issuer or the depository not to give effect transfer or directing further freeze of transfer of securities;
- g) any other direction which Board may deem fit and proper in the circumstances of the case:

Provided that the Board shall, either before or after issuing such directions, give an opportunity of being heard to the persons against whom the directions are issued or proposed to be issued:

Provided further that if any ex-parte direction is required to be issued, the Board may give post decisional hearing to affected person

Provided further, that where the issuer is a Municipality, the Board may communicate instances of violation, non-compliance etc. if any, to Ministry of Urban Development and the concerned State Government.

### **31. Appeal**

Any person aggrieved by an order of the Board or Adjudicating Officer under the Act or these regulations, may prefer an appeal to the Securities Appellate Tribunal in accordance with section 15T of the Act read with the Securities Appellate Tribunal (Procedure) Rules, 2000

## **CHAPTER VIII MISCELLANEOUS**

### **32. Power to remove difficulty**

- 1) In order to remove any difficulties in the application or interpretation of these regulations, the Board may issue clarifications or grant relaxations from application requirement or conditions of these regulations, after recording reasons therefore.
- 2) The Board may, on an application made by any issuer, relax any of the procedural requirements or conditions or strict enforcement of these regulations, if the Board is satisfied that :



- a) requirement is procedural or technical in nature; or
- b) requirement causes undue hardship to a particular class of industry or issuers from accessing the securities market; or
- c) relaxation is in the interest of substantial number of investors; or such relaxation will be in the interest of securities market.

**SCHEDULE I**  
**(Regulation 7)**

**Disclosures**

1. Where the issuer is a Corporate Municipal Entity, it shall make disclosures in accordance with Schedule I to SEBI (issue and Listing of Debt Securities) Regulations, 2008 and shall also make below mentioned disclosures, whichever is relevant, pertaining the Municipalities proposed to be financed by the issue;
2. Where the issuer is a Municipality, it shall make below mentioned disclosures:

**A. General Information**

1. The relevant Act under which the issuer of such securities is incorporated and governed
2. Copy of the Committee Resolution/Municipal Corporation authorizing the borrowing and list of authorized signatories.
3. Copy of the necessary Resolution(s) for the allotment of debt securities
4. Copy of budget documents for last 5 years containing actual financial performance and revised estimates along with the details of related party transactions
5. An undertaking from the issuer stating that the necessary documents for the creation of the charge, where applicable, including the Trust Deed would be executed within the time frame prescribed in the relevant regulations/act/rules etc and the same would be uploaded on the website of the recognised Stock exchange where the debt securities have been listed, within five working days of execution of the same.
6. Any other particulars or documents that the recognized stock exchange, where the debt security have been listed, may call for as it deems fit.
7. An undertaking that permission / consent from the prior creditor or a second or pari passu charge being created, where applicable, in favor of the trustees to the proposed issue has been obtained.
8. Name and contact details of the monitoring agency.
9. Details of the separate escrow account opened for servicing of debt securities with earmarked revenue, wherever applicable.

Issuer shall submit the following disclosures to the Debenture Trustee in electronic form (soft copy) at the time of allotment of the debt securities:

1. The relevant Act under which the issuer of such securities is incorporated and governed.
2. Copy of the Resolution authorizing the borrowing and list of authorized signatories.

3. Copy of the necessary Resolution(s) for the allotment of debt securities
4. Copy of budget documents for last 5 years containing actual financial performance and revised estimates.

B. An undertaking to the effect that the Issuer would, till the redemption of the debt securities, submit the details relating to the financials of the issuer to the Trustee within the timelines prescribed by SEBI for furnishing /publishing its half yearly/ annual result. Further, the Issuer shall within 180 days from the end of the financial year, submit a copy of the latest annual report to the Trustee and the Trustee shall be obliged to share the details submitted under this clause to debenture-holders within two working days of their specific request. The following disclosures shall be made in the offer document where relevant:

- I. Name and address of the following:-
  - a. Head office/quarters of the Issuer
  - b. Compliance officer of the Issuer
  - c. Complete Details of the Official In-charge of dealing with investor Grievances related to the Municipal Bonds, his/her address, phone number, email ID, etc.
  - d. Chief Accounts and Finance Office or equivalent of the Issuer
  - e. Arrangers, if any, of the instrument
  - f. Trustee of the issue
  - g. Registrar of the issue
  - h. Credit Rating Agency (-ies) of the issue and
  - i. Auditors of the Issuer
  - j. The relevant Act under which the issuer is incorporated and governed
  
- II. Comprehensive Disclosure regarding the Risk Factors, including project risks, operational risks, credit risks, liquidity risks, etc.

C. Organization details:

1. Details of Mayor / Deputy Mayor including date of appointment, etc:
2. Details of Commissioner/ Deputy Commissioner including date of appointment, etc
3. Details of any Reorganization or Reconstruction in the last 1 year:-

Type of Event	Date of	Date of	Details
---------------	---------	---------	---------

	Announcement	Completion	

4. Details of the members of the Committee approving the project/ various Standing Committees relating to Taxation / Finance /Accounts/ Audit/ Infrastructure

Name and Designation	Date of Appointment/ Resignation	of Member of the Committee since (in case of resignation)	Remarks

5. Details of the Auditors

Name	Address	Auditor since

6. Details of trustee

Name	Address	Contact person

D. A brief summary of the business/ activities of the Issuer and its project for which funds are to be raised containing atleast following information

1. Overview of the issuer
2. Management Structure of the issuer and the relevant department issuing the bond
3. Details of all the project undertaken or proposed in terms of cost and means of financing for the relevant department
4. Complete details of the project/s for which finance is raised
  - i. An investment plan for the project components indicating phasing as well as financing plan approved by the local authority or the Board of the Agency as the case may be
  - ii. Schedule of implementation of the project
  - iii. Capital structure relating to projects for which funds are proposed to be mobilized
  - iv. Capital grant for the proposed project and the amount received in this regard

- v. Details of State Finance Commission Grant on annual basis
- vi. Benchmarks for commencement and completion of the project including milestone dates for all components of the project
- vii. Details and status of the regulatory approval (if required)
- viii. Financial viability of the project showing the stage wise cost and revenue flows for the project.
- ix. Revenue generation/resources and sufficiency for timely servicing and redemption
- x. Details of the independent trustee of the escrow account
- xi. Latest Audit report of the escrow and project account by a firm of chartered accountants appointed by the concerned State Urban Development Departments from a panel CA's approved by the CA&G.

5. Performance with respect to key financial and operational parameters for the last 5 years
- I. Abridged Balance Sheet, Income and Expenditure and Receipts and Payments Accounts for the last five years with major heads;
  - II. Link to the web page where the entire financials of the Municipal Body can be accessed should be given.
  - III. Financial Parameters:

Key Financial Figures	Actual	Actual	Actual	RE	BE
	FY	FY	FY	FY	FY
Revenue Income					
Revenue expenditure (Excl. Interest)					
Operating revenue Surplus					
Interest expense					
Principal repayment (outside sink. Fund)					
Contribution to Sinking fund					
Revenue Surplus					
Capital Income					
Capital Expense					
Capital Surplus					

Overall Surplus					
Deposits and Advances (net)					
Initial Cash / Bank balance					
Change in Cash / Bank balance					
Final Cash / Bank balance					
Loan repayment from sinking fund					
Initial Sinking fund balance					
Change in sinking fund					
Final sinking fund balance					
Total Debt					
Ratio of Total Expenditure /Total Revenue					
Cash Surplus / Total Revenue					
Ratio of Debt Service / Total Revenue					

IV. Operational Parameters:

Details of top 5 revenue sources for last 5 years

Revenue Receipt type	Actual	Actual	Actual	RE	BE
	FY	FY	FY	FY	FY
XYZ 1					
XYZ 2					
XYZ 3					
XYZ 4					
XYZ 5					

V. Details of property tax collection efficiency

Particulars	Demand Raised		Collections		Overall Collection	Current Collection
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	Arrear s	Current	Total	Current	Arrear	Total		
FY								
FY								
FY								

VI. Status of reforms with respect to e-governance, cost recovery on water supply & Solid Waste Management (SWM), property tax, double entry accounting and others, as specified by MoUD and authorities concerned

E. Details of Issuer's outstanding borrowing

- I. Details of borrowings of the Issuer, as on the latest quarter end:-
- II. Details of Secured Loan Facilities:-

Lender's Name	Type of Facility	Amt Sanctioned	Principal Amt outstanding	Repayment Date / Schedule	Security

III. Details of Unsecured Loan Facilities:-

Lender's Name	Type of Facility	Amt Sanctioned	Principal Amt outstanding	Repayment Date / Schedule

IV. Details of NCDs/Bonds: -

Debtenture/ Bond Series	Tenor / Period of Maturity	Coupon	Amount	Date of Allotment	Redemption Date/ Schedule	Credit Rating	Secured / Unsecured	Security

V. List of Top 10 Debtenture Holders (as on .....)

Sr. No.	Name of Debtenture Holders	Amount

Note: Top 10 holders' (in value terms, on cumulative basis for all outstanding debtentures issues) details should be provided.

- VI. The amount of charge created Cash Flows of the Issuer along with name of the counterparty (like name of the project etc.)
- VII. Details of Commercial Paper:- The total Face Value of Commercial Papers Outstanding as on the latest quarter end to be provided and its breakup in following table:-

Maturity Date	Amount Outstanding

- VIII. Details of Rest of Borrowings
- IX. Estimated Scenarios of Asset Liability Mis-matches, efforts intended to resolve the same
- X. Details of all default/s and/or delay in payments of interest and principal of any kind of term loans, debt securities and other financial instrument issued by the Issuer, in the past 5 years .
- XI. Details of change in terms and conditions of debt securities issued in past 5 years ( i.e. change in coupon, maturity, call/put option etc.)
- XII. An undertaking should be disclosed in the offer document that the issue has obtained Lenders consent for creating charge on assets (if the issue is of secured Bonds)
- XIII. Details of any outstanding borrowings taken/ debt securities issued for consideration other than cash, whether in whole or part, at a premium or discount, or in pursuance of an option;
- XIV. Any material event/ development or change having implications on the financials/credit quality (e.g. any material regulatory proceedings against the



Issuer, resulting in material liabilities, restructuring event etc) at the time of the issue which may affect the issue or the investor's decision to invest/continue to invest in the debt securities.

- XV. The detailed rating rationale (s) adopted (not older than one year on the date of opening of the issue)/ credit rating letter issued (not older than one month on the date of opening of the issue) by the rating agencies shall be disclosed.
- XVI. Credit Enhancement Mechanisms if any, with complete details, if any.
- XVII. The security is backed by a guarantee or letter of comfort or any other document / letter with similar intent, a copy of the same shall be disclosed. In case such document does not contain detailed payment structure (procedure of invocation of guarantee and receipt of payment by the investor along with timelines), the same shall be disclosed in the offer document.
- XVIII. In case there is an escrow mechanism for the repayment of the interest/principal, details of the same should be given.
- XIX. The names of the debenture trustee(s) shall be mentioned with statement to the effect that debenture trustee(s) has given his consent to the Issuer for his appointment. This also needs to be mentioned in all subsequent communications sent to the holders of debt securities.
- XX. Names of all the recognized stock exchanges where the debt securities are proposed to be listed clearly indicating the designated stock exchange.
- XXI. Penal interest payable by the Municipal Corporation in case of delay in execution of Trust Deed and Charge documents
- XXII. Additional interest to be paid, above the Coupon Rate, in case of default in payment of Interest and/or principal redemption on the due dates
- XXIII. Penal interest payable by the Municipal Corporation in case of delay in listing if debt securities from the deemed date of allotment
- XXIV. Other details
- XXV. DRR/such other reserve creation - relevant regulations and applicability.
- XXVI. Issue/instrument specific regulations - relevant details (Relevant Act, RBI guidelines, etc).
- XXVII. Application process
- XXVIII. Procedure for deciding and adjusting payment dates (in response to days when payment can't be made due to any reason like sudden bank holiday.
- XXIX. List of documents which have been executed/ will be executed in relation to the issue
- XXX. Investor grievances mechanisms
- XXXI. Such other details necessary for the investors to make a well informed decision making regarding their investment in the proposed issue
- XXXII. Declaration signed by the Mayor and Commissioner of the concerned Municipal Body stating that offer document contains true, fair and adequate information

to enable investors to make a well informed decision making regarding their investment in the proposed issue.

F. Issue details

Summary term sheet shall be provided which shall include at least following information (where relevant) pertaining to the Secured / Unsecured Non Convertible debt securities (or a series thereof):-

Security Name	Name of the bond which includes (Issuer Name, Coupon and maturity year) e.g. 8.70% XXX 2015.
Issuer	
Type of Instrument	Secured or Unsecured
Seniority	Senior or Subordinated.
Mode of Issue	Private placement/Public issue
Eligible Investors	
Listing ( including name of stock Exchange(s) where it will be listed and timeline for listing)	
Rating of the Instrument	_____ by ____ Ltd.
Issue Size	
Option to retain oversubscription (Amount)	
Objects of the Issue	(The proceeds of the proposed issue shall be clearly earmarked for a defined project or a set of projects;  The project(s) shall be financially viable (project(s) should be able to generate a stream of revenue which should be sufficient to finance Operational & Maintenance cost
Details of the utilization of the Proceeds	
Coupon Rate	
Taxable/Tax free	
Step Up/Step Down Coupon Rate1	

Coupon Payment Frequency	
Coupon payment dates	Dates on which coupon will be paid
Coupon Type	Fixed, floating or other coupon structure
Coupon Reset Process (including rates, spread, effective date, interest rate cap and floor etc).	
Day Count Basis	Actual/ Actual
Interest on Application Money	
Default Interest Rate	
Tenor	_ Months from the Deemed from the date of Allotment
Redemption Date	Dates on which Principal will be paid
Redemption Amount	
Redemption Premium /Discount	
Issue Price	The price at which bond is issued
Discount at which security is issued and the effective yield as a result of such discount.	
Put option Date	
Put option Price	
Call Option Date	
Call Option Price	
Put Notification Time	Timelines by which the investor need to intimate Issuer before exercising the put option.
Call Notification Time	Timelines by which the Issuer need to intimate investor before exercising the call option.
Face Value	
Minimum Application and in multiples of _Debt Securities thereafter	

<p>Issue Timing</p> <p>1. Issue Opening Date</p> <p>2. Issue Closing date</p> <p>3. Pay-in Date</p> <p>4. Deemed Date of Allotment</p>	
<p>Issuance mode of the Instrument</p>	<p>Rs 10 lakhs per instrument for Demat only (for private placement)</p>
<p>Trading mode of the Instrument</p>	<p>Demat only (for private placement)</p>
<p>Settlement mode of the Instrument</p>	<p>Insert Procedure</p>
<p>Depository</p>	
<p>Business Day Convention<sup>2</sup></p>	
<p>Record Date</p>	<p>15 days prior to each Coupon Payment / Put Option Date / Call Option Date / Redemption date.</p>
<p>Security (where applicable) (Including description, type of security, type of charge, likely date of creation of security, minimum security cover, revaluation, replacement of security).</p>	
<p>Transaction Documents <sup>3</sup></p>	
<p>Conditions Precedent to Disbursement</p>	

Condition Subsequent to Disbursement	
Events of Default	
Provisions related to Cross Default Clause	N/A (Not Applicable) in case clause is not there else full description of the clause to be provided
Role and Responsibilities of Debenture Trustee	
Governing Law and Jurisdiction	

Notes:

Any change in Coupon Rate, along with events which lead to the change if there is any change in Coupon Rate pursuant to any event including elapse of certain time period or downgrade in rating, then such new Coupon Rate and events which lead to such change should be disclosed.

**Schedule II**  
**(Regulation 8)**

**FORMAT FOR DUE DILIGENCE CERTIFICATE AT THE TIME OF FILING THE OFFER DOCUMENT BY AN ISSUER OR A CORPORATE MUNICIPAL ENTITY WITH REGISTRAR OF COMPANIES AND PRIOR TO THE OPENING OF THE ISSUE**

To,  
SECURITIES AND EXCHANGE BOARD OF INDIA

Dear Sir / Madam,

**SUB.: ISSUE OF \_\_\_\_\_ BY \_\_\_\_\_**

1. We confirm that neither the issuer - in case of Municipality, the issuer nor its promoters or directors - in case of Corporate Municipal Entity, have been prohibited from accessing the capital market under any order or direction passed by the Board. We also confirm that none of the intermediaries named in the offer document have been debarred from functioning by any regulatory authority.

2. We confirm that all the material disclosures in respect of the issuer have been made in the offer document and certify that any material development in the issue or relating to the issue up to the commencement of listing and trading of the shares offered through this

issue shall be informed through public notices/ advertisements in all those newspapers in which pre-issue advertisement and advertisement for opening or closure of the issue have been given.

3. We confirm that the offer document contains all disclosures as specified in the Securities and Exchange Board of India (Issue and Listing of Debt Securities by Municipalities) Regulations, 20XX.

4. We also confirm that all relevant provisions of the Companies Act, 2013, if applicable, Securities Contracts, (Regulation) Act, 1956, Securities and Exchange Board of India Act, 1992 and the Rules, Regulations, Guidelines, Circulars issued thereunder are complied with.

We confirm that all comments/ complaints received on the draft offer document filed on the website of \_\_\_\_\_ (designated stock exchange) have been suitably addressed.

**PLACE**

**DATE:**

**LEAD MERCHANT BANKER (S)**

### **SCHEDULE III**

#### **(Regulation 8)**

#### **FORMAT OF DUE DILIGENCE CERTIFICATE TO BE GIVEN BY THE DEBENTURE TRUSTEE BEFORE OPENING OF THE ISSUE**

To,  
SECURITIES AND EXCHANGE BOARD OF INDIA  
Dear Sir / Madam,

**SUB.: ISSUE OF \_\_\_\_\_ BY \_\_\_\_\_ Ltd (Corporate Municipal Entity)**

We, the Debenture Trustee (s) to the above mentioned forthcoming issue state as follows:

(1) We have examined documents pertaining to the said issue and other such relevant documents.

(2) On the basis of such examination and of the discussions with the issuer, its Mayor/Deputy Mayor /Directors and other officers, other agencies and of independent verification of the various relevant documents,

WE CONFIRM that:

(a) The issuer has made adequate provisions for and/or has taken steps to provide for adequate security for the debt securities to be issued.

(b) The issuer has obtained the permissions / consents necessary for creating security on the said property (ies) / receivables.

(c) The issuer has made all the relevant disclosures about the security and also its continued obligations towards the holders of debt securities.

(d) All disclosures made in the offer document with respect to the debt securities are true, fair and adequate to enable the investors to make a well informed decision as to the investment in the proposed issue.

We have satisfied ourselves about the ability of the issuer to service the debt securities.

**PLACE**

**DATE:                      DEBENTURE TRUSTEE TO THE ISSUE WITH HIS SEAL**



**SCHEDULE IV  
(Regulation 10)**

**FORMAT OF ISSUE ADVERTISEMENTS FOR PUBLIC ISSUES**

This is an advertisement for information purposes

\_\_\_\_\_ **Municipal Corporation or** \_\_\_\_\_ **Ltd (or Corporate Municipal  
Entity)**

(Incorporated on \_\_\_\_\_ under the Relevant State Act or the Companies Act as

\_\_\_\_\_ and subsequently renamed \_\_\_\_\_ on \_\_\_\_\_)

Registered Office: \_\_\_\_\_ Tel: \_\_\_\_\_ Fax \_\_\_\_\_

Corporate Office: \_\_\_\_\_ Tel: \_\_\_\_\_ Fax \_\_\_\_\_

e-mail: \_\_\_\_\_ Website: \_\_\_\_\_

**THE ISSUE**

Public issue of \_\_\_\_\_ debt securities of Rs. \_\_\_\_ each at a price of Rs. \_\_\_\_\_

(Summary Details of Coupon, Redemption, etc shall be disclosed)

**MAYOR/ DEPUTY MAYOR /COMMISSIONER/PROMOTERS**

XXXX

**PROPOSED LISTING**

Names of Stock Exchanges

**MERCHANT BANKERS**

(Names)

**COMPLIANCE OFFICER OF THE ISSUER**

Name, address, telephone and fax numbers, email ID, website address

**CREDIT RATING**

(The Rating Obtained shall be disclosed prominently along with the meaning of the same)

**DEBENTURE TRUSTEES**

( Names)

**AVAILABILITY OF APPLICATION FORMS**

Names of Issuer, Lead Managers, etc. (Addresses optional)

**AVAILABILITY OF OFFER DOCUMENT**

Investors are advised to refer to the offer document, and the risk factors contained therein, before applying in the issue. Full copy of the offer document is available on websites of issuer / lead manager(s) / Stock Exchange(s) on [www.\\_\\_\\_\\_\\_](http://www._____)

**ISSUE OPENS ON:**  
**ISSUE CLOSES ON:**

Issued by  
**Directors of Issuer**

**SCHEDULE V**  
**(Regulation 25)**

**Periodic Disclosures to be made by Municipalities:**

1. The issuer shall file its Annual Audited financial results with the stock exchange
2. Further, following periodic disclosures shall be made by the Issuer on half yearly basis:
  - i. Utilization of funds for the projects – Half yearly certification of Chartered Accountant on Utilizations of the issue proceeds for execution of the projects stated in the offer document.
  - ii. Project development - Details with respect to the development of the Project along with certifications from the Project Engineer should be furnished to the bond trustee, Rating Agencies and stock exchanges on Half Yearly Basis and should be publicly disseminated.
  - iii. Material adverse changes affecting ability to service and / or repay bonds
  - iv. Proposal for pre-pay, value of bond in case of sale/purchase before maturity etc.
  - v. Important ratios like Debt Equity Ratio, Debt Service Coverage Ratio, Interest Service Coverage Ratio etc.
  - vi. Half Yearly return on payment of Bond service, maintenance of Asset Cover, Credit enhancement facilities and Investors Grievances & Redressal
  - vii. A CA/Bank certificate for timely payment of Bond Service.

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