

## WHITE PAPER - CAPITAL MARKETS

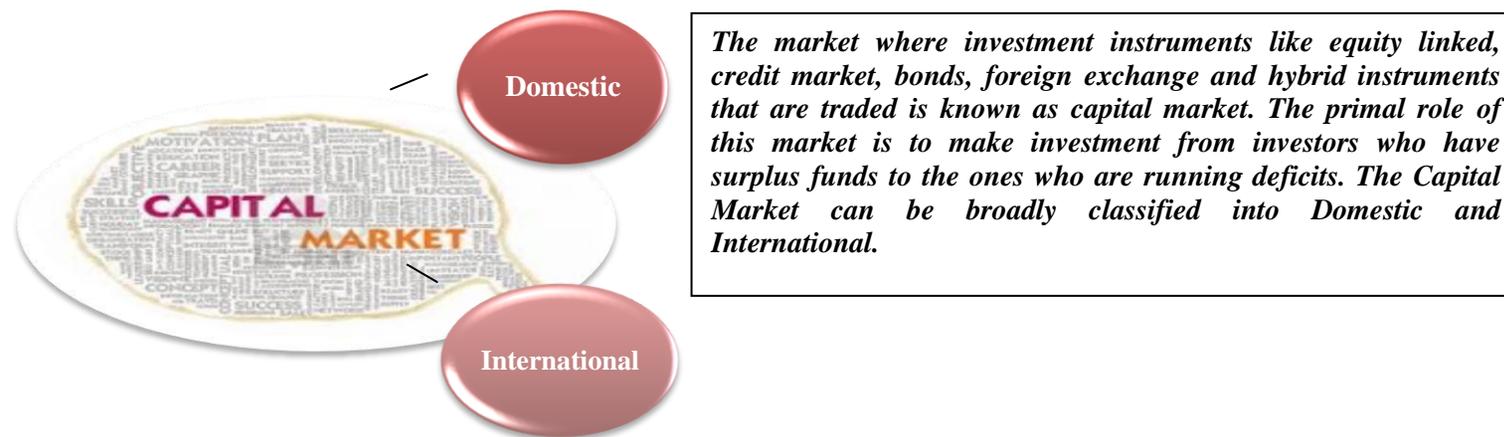
### *Bird's Eye view*

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Deep, liquid and efficient capital markets are critical to the continued development of the Indian Economy which has benefitted from increased openness and a range of reform efforts over the last two decades. However, for real sustainability, capital markets should become more harmonized, transparent, flexible and liquid. National jurisdictions need to ensure genuine cross border flexibility to stimulate investor interest and commitment, while removing restrictions on market access in favor of a more open and innovative environment.

### *Domestic Offerings*

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Domestic Capital market is a marketplace wherein the transactions both of the counter-parties involved are resident as compared to International wherein one of the counter parties involved is foreign. Domestic Capital Market is further bifurcated into Equity and Debts.



**Initial Public Offerings**

Particulars	Corporate Compliance
<p><b><u>Methods</u></b></p> <p><u>Fixed Price Method:</u></p> <ul style="list-style-type: none"> <li>✓ Tangible assets of 3 crore rupees;</li> <li>✓ track record of distributable profits,</li> <li>✓ net worth of one crore rupees,</li> </ul> <p><u>Book building Method:</u></p> <ul style="list-style-type: none"> <li>✓ public issue by offering 75% of the net public issue to Qualified Institutional Buyer (QIB)</li> </ul>	<p><b><u>Eligibility Criteria</u></b></p> <ul style="list-style-type: none"> <li>✓ Minimum paid up capital 10 crores and the capitalisation of the applicant's equity shall not be less than Rs 25 crores;</li> <li>✓ Adherence to conditions precedent to listing as emerging from inter-alia from Securities Contracts (Regulations) Act 1956 &amp; Securities and Exchange Board of India Act 1992.</li> <li>✓ No disciplinary action by other stock exchanges and regulatory authorities in past three year.</li> <li>✓ Shareholding as per regulatory requirements;</li> <li>✓ Track record of Board of Directors, Litigation.</li> </ul> <p><b><u>Process</u></b></p> <ul style="list-style-type: none"> <li>✓ Approval of draft Prospectus</li> <li>✓ Submission of Application</li> <li>✓ Submission of Memorandum and Articles of Association;</li> </ul> <p>The Articles of Association of an Issuer shall contain the following provisions</p> <ul style="list-style-type: none"> <li>• no forfeiture of unclaimed dividends before the claim becomes barred by law;</li> <li>• a common form of transfer shall be used;</li> <li>• that fully paid shares shall be free from all lien and that in the case of partly paid shares the Issuer's lien shall be restricted to moneys called or payable at a fixed time in respect of such shares;</li> <li>• that registration of transfer shall not be refused on the ground of the transferor being either alone or jointly with any other person or persons indebted to the Issuer on any account whatsoever;</li> <li>• any amount paid up in advance of calls on any share may carry interest but shall not in respect thereof confer a right to dividend or to participate in profits;</li> </ul>

	<ul style="list-style-type: none"> <li>• option or right to call of shares shall not be given to any person except with the sanction of the Issuer in general meetings.</li> <li>• permission for Sub-Division/Consolidation of Share Certificate.</li> </ul> <p><b><u>Other Documentation/Certification:</u></b></p> <ul style="list-style-type: none"> <li>✓ Annual Reports of the Company for the last five financial years;</li> <li>✓ Certificate from company stating the following:             <ul style="list-style-type: none"> <li>• The Company has not been referred to the Board for Industrial and Financial Reconstruction (BIFR).</li> <li>• The networth of the Company has not been wiped out by accumulated losses resulting in a negative networth.</li> <li>• The company has not received any winding up petition accepted by a court.</li> </ul> </li> <li>✓ Details regarding compliance with the latest provisions of Clause 49 of the Listing agreement relating to Corporate Governance</li> <li>✓ Copy of letter issued by bank sanctioning loan</li> <li>✓ Merchant Bankers Undertaking in the format prescribed by the Exchange</li> <li>✓ Filing of due diligence certificates with SEBI.</li> </ul> <p><b><u>Other Conditions :</u></b></p> <p>Appointing a lead banker; filing prospectus/red herring prospectus with SEBI and Stock Exchanges; entering into underwriting agreements; agreement with depository for dematerialization of shares; obtaining due diligence certificate and board resolution in the form specified in the Regulations, application to the stock exchanges to list the specified securities of the company.</p>
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**Further Public Offerings**

Particulars	Corporate Compliance
<p><b><u>Criteria</u></b></p> <ul style="list-style-type: none"> <li>✓ issue should not exceed five times its pre-issue net worth; or</li> </ul>	<p><b><u>Documentation/Filings</u></b></p> <ul style="list-style-type: none"> <li>✓ Copies of all advertisements published with the issue;</li> <li>✓ Specimen of allotment advice;</li> </ul>

<p>✓ 75% of the proposed issue is offered to Qualified Institutional Buyer</p>	<p>✓ Approval of draft Prospectus; ✓ Submission of Application.</p> <p><b>Other Conditions</b> signing underwriting agreements, appointing merchant bankers, agreement with depository for dematerialization of shares etc</p>
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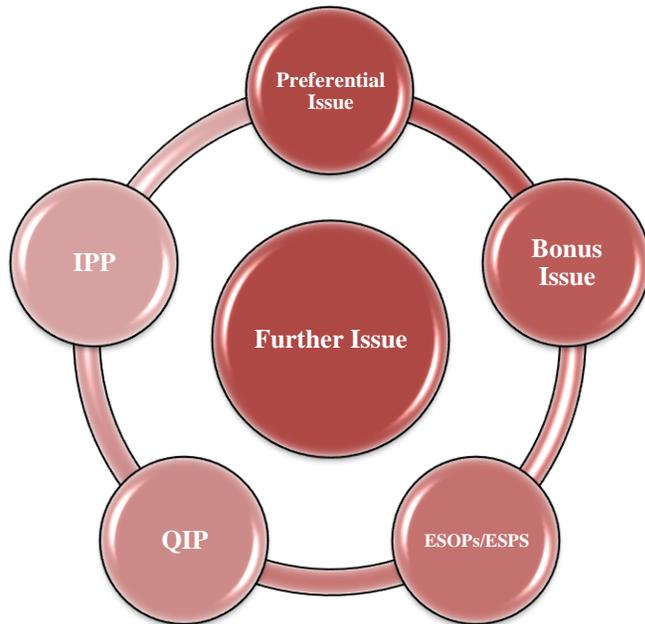


*Board of Directors is empowered to issue shares right basis to existing shareholders in proportion to their existing shareholding.*

**Rights Issue**

Particulars	Corporate Compliance
<p>✓ The Letter of Offer shall be approved and distributed to the existing shareholders.</p> <p>✓ The existing shareholders have the right to renounce the shares in favour of some other persons.</p>	<p>✓ The issue shall remain open for 15 days but not later than 30 days.</p> <p>✓ If the issue is for Rs. 50 lakhs or more then the listed company shall comply with the ICDR regulations, which include :</p> <ul style="list-style-type: none"> <li>• Appointment of merchant banker;</li> <li>• Filing of Letter of Offer with the SEBI, in-principle approval from Stock Exchange;</li> <li>• Reservation to be made in favour of outstanding convertible debt holders</li> <li>• Utilisation of funds only after finalization of right issue.</li> </ul>

**Further Issues**



*Companies issue additional shares to raise new capital to fund existing / new business operations. Companies opt to raise funds through different routes such as by way of Qualified Institutional Placement, Preferential Issue, Issue of American Depository Receipts/Global Depository Receipts/Foreign Currency Convertible Bonds, Scheme of Arrangement, etc. A Company may also issue additional shares to the Employees of the Company by way of Employee Stock Option Plans/Schemes and to its shareholders by way of Bonus.*

Particulars	Corporate Compliance
<p><b>Preferential Issue:</b> Process by which allotment of securities/shares is done on a preferential basis to a select group of investors on particular price as applicable in case of unlisted and listed company.</p> <p><b>Unlisted Companies</b></p> <ul style="list-style-type: none"> <li>✓ Price of shares determined by valuation report issued by</li> </ul>	<p><b>Companies Act Compliances:</b></p> <ul style="list-style-type: none"> <li>✓ Special resolution of shareholders</li> <li>✓ Authority in AoA to issue preference shares.</li> <li>✓ Explanatory Statement must contain following disclosures –                             <ul style="list-style-type: none"> <li>• Object and total no. of securities offered</li> <li>• Class and no. of person to whom the securities are allotted.</li> <li>• Pre preferential and post allotment Lock in</li> </ul> </li> <li>✓ Separate designated account to be opened.</li> </ul>

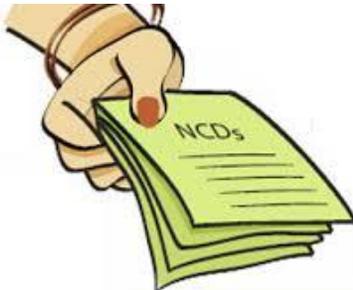
<p>registered valuer.</p> <ul style="list-style-type: none"> <li>✓ allotment of securities must be completed within 12 months of passing of resolution.</li> </ul> <p><b>Process</b></p> <ul style="list-style-type: none"> <li>✓ Issue of Private Placement Offer letter to be issued by the company.</li> <li>✓ Offer to subscribe for private placement shall not be made to more than 200 persons. (offer to QIB and employees under stock option scheme will not be considered for calculating the above limit)</li> <li>✓ Minimum size of investment is 20,000 rupees.</li> </ul>	<ul style="list-style-type: none"> <li>✓ The company must issue offer letter only to persons whose names are recorded prior to the issue and must file with registrar complete information within 30 days of circulation of relevant placement offer.</li> </ul> <p><b>SEBI ICDR Compliances:</b></p> <p><b>Conditions:</b></p> <ul style="list-style-type: none"> <li>✓ all the equity shares, if any, held by the proposed allottees in the issuer are in dematerialised form;</li> <li>✓ the issuer is in compliance with the conditions for continuous listing of equity shares Lock in: In case of Promoters lock in shall be 3 years and in case of non-promoters lock in shall be one year.</li> <li>✓ The issuer shall not make preferential issue of specified securities to any person who has sold any equity shares of the issuer during the six months preceding the relevant date;</li> </ul> <p><b>Pricing:</b> In case of listed company price shall be average of 26 weeks or 2 weeks whichever is higher.</p> <p><b>Timelines:</b> Allotment pursuant to the special resolution shall be completed within a period of fifteen days from the date of passing of such resolution.</p> <p><b>Tenure of convertible securities:</b> Maximum 18 months</p>
<p><b>Bonus Issue :</b> Bonus shares shall be paid out of free reserves, securities premium account, or capital redemption reserve account. Bonus shares not be issued in lieu of dividend.</p>	<ul style="list-style-type: none"> <li>✓ Authority in AoA to issue bonus shares;</li> <li>✓ Ordinary shareholders resolution;</li> <li>✓ No outstanding partly paid up shares;</li> <li>✓ No default in respect of interest or principal amount of fixed deposits, debt securities or statutory dues of employees;</li> <li>✓ Reservation to be made in favour of outstanding compulsorily convertible debt holders.</li> </ul>
<p><b>ESOP/ESPS:</b> Route through which the shares are distributed to the employees of the company and its subsidiaries,</p>	<p><b>Companies Act Compliances:</b></p> <ul style="list-style-type: none"> <li>✓ Shareholders' special resolution.</li> </ul>

<p>which includes directors of the company excluding independent director. promoters, director directly or indirectly holding 10% of the equity shares.</p> <p><b>Conditions:</b></p> <ul style="list-style-type: none"> <li>✓ Minimum period of one year between granting and vesting of options.</li> <li>✓ Separate resolution to be obtained in case the – <ul style="list-style-type: none"> <li>• option is granted to employees of subsidiary or holding company</li> <li>• option granted to employees exceed 1% of the issued capital.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>✓ Explanatory statement must contain disclosures in relation to <ul style="list-style-type: none"> <li>• Total no. of stocks options to be granted,</li> <li>• Period within which option must be vested and exercised</li> <li>• Lock-in period, if any</li> <li>• Pricing of the shares</li> <li>• Method of valuation</li> </ul> </li> </ul> <p><b>SEBI ICDR Compliances</b></p> <ul style="list-style-type: none"> <li>✓ Filing and approval of ESOP Scheme with Stock Exchange;</li> <li>✓ Certificate from the Merchant Banker regarding compliance of the ESOP/ESPS Guidelines;</li> </ul>
<p><b>Qualified Institutional Placements:</b> Allotment of eligible securities by a listed issuer to Qualified Institutional Buyer (QIB) on a private placement basis.</p> <p><b>Criteria</b></p> <ul style="list-style-type: none"> <li>✓ The issue in a financial year shall not exceed five times the net worth of the company.</li> <li>✓ Number of allottees depend on the issue size, i.e. minimum two allottees if the issue size is upto 250 crore, or minimum 5 allottees if issue size is more than 250 crores.</li> <li>✓ The issue must be completed within</li> </ul>	<p><b>Conditions</b></p> <ul style="list-style-type: none"> <li>✓ Special Resolution of the shareholders'</li> <li>✓ Securities to be offered must be listed on stock exchange for a period of at least one year.</li> <li>✓ Minimum Public shareholding to be maintained.</li> <li>✓ Appointment of Merchant Banker, who will be responsible for, inter-alia, in-principle approval and due diligence.</li> <li>✓ The placement document shall be in the form of Schedule XVIII of ICDR, which includes the following disclosure – <ul style="list-style-type: none"> <li>▪ Purpose of issue;</li> <li>▪ Business description;</li> <li>▪ Risk factors, etc</li> </ul> </li> </ul> <p><b>Pricing:</b> Average of the weekly high and low of the closing prices of the equity shares of the same class quoted on the stock exchange during the two weeks preceding the relevant date.</p> <p><b>Restrictions:</b></p> <ul style="list-style-type: none"> <li>✓ Promoter and person related to promoter group prohibited from participating in this mode</li> </ul>

<p>12 months of passing of the resolution.</p> <ul style="list-style-type: none"> <li>✓ Lock-in period of one year, but can be traded on Stock Exchange.</li> </ul>	<p>of funding.</p> <ul style="list-style-type: none"> <li>✓ Minimum 10 percent to be allotted to mutual funds</li> </ul> <p><b><u>Tenure of convertible securities:</u></b> Maximum 60 months.</p> <ul style="list-style-type: none"> <li>✓ Documentation/Certifications:</li> <li>✓ Filing of Placement Document with the Stock Exchange;</li> <li>✓ Certification of compliance from the Merchant Banker;</li> <li>✓ Certificate from Auditors on Complaineec with ICDR;</li> <li>✓ Filing of final Offer Document with ICDR;</li> <li>✓ Filing of amended Memorandum &amp; Article of Association;</li> <li>✓ Certificate on calculation of floor price.</li> </ul>
<p><b><u>Institutional Placement Programme</u></b></p> <ul style="list-style-type: none"> <li>✓ IPP means FPO of equity shares by the listed company or its promoter or promoter group only to QIB for the purpose of achieving minimum public shareholding.</li> <li>✓ Restrictions on promoter to buy or sell securities during the twelve weeks prior and after the date of programme.</li> <li>✓ 10 minimum no. of allottees, and no single investor can be allotted more than 25% of the issue.</li> </ul> <p>Lock-in period of one year, but can be traded on Stock Exchange.</p>	<ul style="list-style-type: none"> <li>✓ Special resolution of shareholders'</li> <li>✓ Appointment of merchant banker, who will be responsible for due diligence.</li> <li>✓ Filing of offer document with SEBI and Stock exchange, which shall inter alia contain the following disclosures – <ul style="list-style-type: none"> <li>▪ Purpose of issue;</li> <li>▪ Industry description;</li> <li>▪ Risk factors, etc</li> </ul> </li> </ul>
<p><b><u>Offer for Sale</u></b></p> <ul style="list-style-type: none"> <li>✓ Offer for sale is process by which the companies increase their public shareholding in order to meet the</li> </ul>	<p>Some of the conditions on sale through stock exchange are –</p> <ul style="list-style-type: none"> <li>✓ minimum 25 crores, it can be less than 25cr so as to achieve minimum public shareholding in single tranche.</li> <li>✓ Appointment of broker.</li> </ul>

<p>minimum public shareholding requirements, i.e. 25%</p> <ul style="list-style-type: none"> <li>✓ Offer for sale of shares held by promoters to public can be done– <ul style="list-style-type: none"> <li>▪ through prospectus, or</li> <li>▪ through stock exchange mechanism, or</li> <li>▪ through IPP (as discussed above)</li> </ul> </li> <li>✓ Top 100 listed companies by market capitalization are eligible to raise funds through stock exchange route.</li> <li>✓ The OFS through stock exchange is completed in a single trading day.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Notice of offer for sale must inter alia disclose – <ul style="list-style-type: none"> <li>▪ No. of shares offered for sale</li> <li>▪ Allocation methodology, either on price priority or on proportionate basis</li> </ul> </li> <li>✓ Minimum 25% must be reserved for mutual funds and no single bidder, other than mutual fund, can be allotted more than 25% of the OFS size</li> <li>✓ The promoter must inform the floor price before the offer date, all applications below the floor price must be rejected.</li> </ul>
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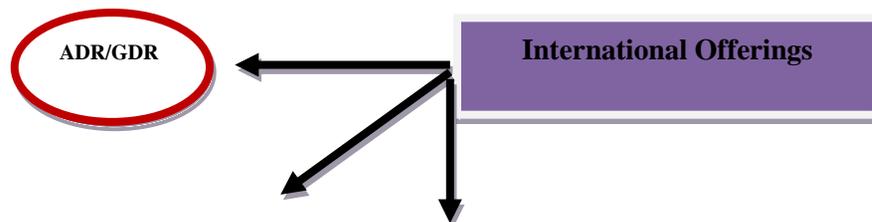
### Non Convertible Debentures

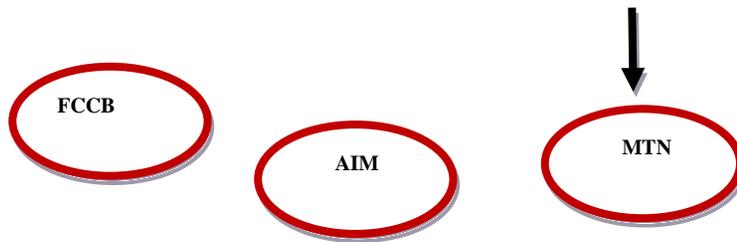


*The Reserve Bank of India, has given the final guidelines to the agencies dealing in securities and money market instruments regarding issuance of Non-Convertible Debentures (NCDs) of original or initial maturity up to one year. Government debt instruments are regulated by the Reserve Bank of India, whereas corporate debt instruments are regulated by the Securities and Exchange Board of India.*

Particulars	Compliances
<p><b><u>Criteria</u></b></p> <ul style="list-style-type: none"> <li>✓ tangible net worth of not less than Rs.4 crore, as per the latest audited balance sheet;</li> <li>✓ sanctioned working capital limit or term loan by bank/s or all-India financial institution/s; and</li> <li>✓ borrowal account of the corporate is classified as a Standard Asset by the financing bank/s or institution/s.</li> </ul>	<p>Private Companies and Public Companies</p> <ul style="list-style-type: none"> <li>✓ Companies Act 2013, Section 71 and Companies (Share Capital and Debentures) Rules 2014.</li> <li>✓ Foreign Direct Investment Policy, 2014.</li> <li>✓ NCD/Foreign Currency Convertible Bonds should confirm External Commercial Borrowing guidelines issued RBI under Foreign Exchange Management (Borrowing or lending in foreign exchange) Regulations, 2000</li> <li>✓ Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000</li> </ul> <p>Public Listed Companies</p> <ul style="list-style-type: none"> <li>➤ SEBI (Issue and Listing of Debt Securities) Regulations, 2008</li> <li>➤ SEBI (Issue of Capital and Disclosure Requirements) Regulations 2009</li> </ul>

**International Offerings**





<p><b>ADR/GDR Issue</b></p>	<ul style="list-style-type: none"> <li>➤ A Global Depositary Receipt (ADR/GDR) is a negotiable instrument issued by a depositary bank in international markets — typically in Europe and generally made available to institutional investors both outside and within the U.S. — that evidences ownership of shares in a non-U.S. company, enabling the company (issuer) to access investors in capital markets outside its home country.</li> <li>➤ Each ADR/GDR represents a specific number of underlying ordinary shares in the international company, on deposit with a custodian in the applicable home market. ADR/GDRs are quoted and traded in U.S. dollars, pay dividends in U.S. dollars and are subject to the trading and settlement procedures of the market in which they are transacted.</li> <li>➤ ADR/GDRs are usually offered to institutional investors through a private offering, in reliance on exemptions from registration under the Securities Act of 1933. These exemptions are Regulation S (Reg. S) for non-U.S. investors, and Rule 144A for U.S. investors that are Qualified Institutional Buyers (QIBs). The availability of these exemptions for ADR/GDR deals makes them an efficient and cost-effective means of implementing a cross-border capital-raising transaction.</li> <li>➤ The predominant listing venues for Reg. S GDRs are the London and Luxembourg Stock Exchanges, with GDRs having also been listed on the Singapore Exchange, Frankfurt Stock Exchange and Nasdaq Dubai. Rule 144A GDRs trade in the U.S. over-the-counter market.</li> <li>➤ When DRs are offered simultaneously in Reg. S and Rule 144A form, but in separate and distinct tranches, they exist inside what is known as a bifurcated GDR program. When the GDRs are offered simultaneously in Reg. S and Rule 144A form, but not in separate and distinct tranches, they exist inside what is known as a unitary GDR program. GDRs can also be offered in Reg. S form only.</li> </ul>	
<p><b>Key Roles and</b></p>	<p><b>Brokers</b></p>	<p>Make ADR/GDRs available to qualifying investors</p>

<b>Responsibilities</b>	<b>Depository</b>	<ul style="list-style-type: none"> <li>➤ Advise on ADR/GDR program structure</li> <li>➤ Appoint local custodian</li> <li>➤ Draft Deposit Agreement and associated ADR/GDR documentation</li> <li>➤ Coordinate with lawyers and investment bankers to ensure that all implementation steps are completed</li> <li>➤ Prepare and issue ADR/GDRs at closing</li> <li>➤ Facilitate ongoing issuance and cancellation of ADR/GDRs</li> <li>➤ Facilitate pre-release process to accommodate trade settlements, where applicable</li> <li>➤ Advise on investor relations strategy</li> </ul>
	<b>Custodian</b>	<ul style="list-style-type: none"> <li>➤ Act as local market agent for the depository</li> <li>➤ Receive and hold deposits of underlying ordinary shares for ADR/GDR issuances</li> </ul>
	<b>Issuer</b>	<ul style="list-style-type: none"> <li>➤ Determine financial objectives</li> <li>➤ Appoint depository bank, lawyers, investment bank and accountants</li> <li>➤ Determine ADR/GDR program structure</li> <li>➤ Provide financial information to accountants and investment bankers</li> <li>➤ Develop investor relations strategy</li> </ul>
	<b>Investment Bankers</b>	<ul style="list-style-type: none"> <li>➤ Lead underwriting process</li> <li>➤ Establish syndicate of participating banks</li> <li>➤ Advise on capital structure</li> <li>➤ Advise on ADR/GDR program structure</li> <li>➤ Obtain securities identification codes</li> <li>➤ Obtain electronic depository eligibility for the ADR/GDRs</li> <li>➤ Coordinate road show</li> <li>➤ Price and launch ADR/GDR offering</li> </ul>
	<b>Lawyers</b>	<ul style="list-style-type: none"> <li>➤ Advise on applicable securities laws and related matters</li> <li>➤ Advise on ADR/GDR program (legal) structure</li> <li>➤ Negotiate Deposit Agreement</li> <li>➤ Prepare closing memorandum and documentation</li> <li>➤ Prepare exchange listing agreements</li> <li>➤ Assist in the drafting of the offering circular</li> <li>➤ Prepare and deliver legal opinions</li> </ul>
	<b>Accountants</b>	<ul style="list-style-type: none"> <li>➤ Prepare financial statements in accordance with relevant international accounting</li> </ul>

			<p>standards</p> <ul style="list-style-type: none"> <li>➤ Review and audit offering circular financial disclosure</li> </ul>
	<p><b>Broad Steps in a ADR/GDR Offering</b></p>	<ul style="list-style-type: none"> <li>➤ Convene a Board Meeting to approve the proposed ADR/GDR Issue</li> <li>➤ Convene the EGM for the approval of the shareholders for the proposed ADR/GDR Issue.</li> <li>➤ Identify the Agencies</li> <li>➤ Convene a Board Meeting to approve the Agencies.</li> <li>➤ Appoint the Agencies and sign the Engagement Letters.</li> <li>➤ The Indian Legal Counsel to undertake the Due Diligence.</li> <li>➤ Prepare the first draft of the IM in consultation with the Indian Legal Counsel and submit the same to various Agencies for their comments thereon.</li> <li>➤ Prepare the 2<sup>nd</sup>/3<sup>rd</sup> draft of IM incorporating the comments.</li> <li>➤ The Listing Agent to submit the IM with the overseas Stock Exchange for their comments and In principle Listing Approval.</li> <li>➤ Simultaneously submit draft IM to the Indian Stock Exchanges where the Issuing Company's shares are listed for In principle approval for listing of the underlying shares.</li> <li>➤ Hold Board Meeting to approve the Deposit Agreement, Subscription Agreement and the Escrow Agreement.</li> <li>➤ On receipt of the comments on the IM from the Overseas and Indian Stock Exchanges incorporate the same and file the final IM with Overseas Stock Exchange and obtain Final Listing.</li> <li>➤ The Issuing Company can open the Issue for the ADR/GDR on receipt of the In principle Listing Approval from the Overseas and the Indian Stock Exchanges.</li> <li>➤ Open the Escrow Account with the Escrow Agent and execute the Escrow Agreement.</li> <li>➤ In consultation with the Lead Manager to finalize <ul style="list-style-type: none"> <li>✓ whether the ADR/GDR will be through public or a private placement,</li> <li>✓ the number of ADR/GDRs to be issued.</li> <li>✓ the issue price. (the Issue price is normally 5-10 % discounted prevalent market price of the shares of the Issuing Company one day prior to the opening of the ADR/GDR Issue.</li> <li>✓ number of underlying shares to be issued against each ADR/GDR.</li> </ul> </li> <li>➤ On the day of the opening of the Issue execute the Deposit and Subscription Agreements.</li> <li>➤ The Issue should be kept open for a minimum period of 3 working days.</li> <li>➤ Immediately on closing of the Issue convene a Board/ Committee Meeting for allotment of the</li> </ul>	

		<p>underlying shares against the Issue of the ADR/GDRs.</p> <ul style="list-style-type: none"> <li>➤ Then Deliver the share certificate to the Domestic Custodian Bank who will in terms of the Agreement instruct the Overseas Depository Bank to Issue the ADR/GDR to Non Resident Investor against the shares held by the Domestic Custodian Bank.</li> <li>➤ On receipt of Listing Approval from Overseas Stock Exchange submit the required documents for Final In principle Listing approval from Indian Stock Exchange.</li> <li>➤ After ADR/GDRs are listed the Lead Manager to instruct the Escrow Agent to transfer the Funds to the Company's Account.</li> <li>➤ The Company can either remit the entire funds or in part as per its discretion.</li> <li>➤ On obtaining the Final Approval from Indian Stock Exchanges admit the underlying shares to the depository i.e., NSDL and CDSL.</li> <li>➤ Obtain Trading approval.</li> <li>➤ Intimate the Custodian for converting the physical shares into Demat</li> <li>➤ Within 30 days of the closing of the ADR/GDR issue, details of the ADR/GDR Issue along with the IM should be submitted to <ul style="list-style-type: none"> <li>✓ the Ministry of Finance.</li> <li>✓ the Registrar of Companies</li> <li>✓ SEBI</li> </ul> </li> <li>➤ Return of Allotment in Form 2 is to be filed with ROC within 30 days of Allotment.</li> <li>➤ Annexure C is to be filed with RBI, Central office within 30 days of closure of the ADR/GDR Issue.</li> <li>➤ The Company should furnish quarterly return in Annexure D to the RBI, Central office for every calendar quarter.</li> <li>➤ The Issue related expenses (covering both fixed expenses like underwriting commissions, lead managers charges, legal expenses and other reimbursable expenses) shall be subject to a ceiling of 4% in the case of ADR/GDR.</li> <li>➤ The ADR/GDR holders shall not have any voting rights.</li> </ul>
<p><b>FCCB</b></p>	<p>✚</p>	<p>FCCB is a bond issued by an Indian company expressed in foreign currency, and the principal and interest in respect of which is payable in foreign currency. Further, the bonds are required to be issued in accordance with the scheme viz., "Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993", and subscribed by a non-resident in foreign currency and convertible into ordinary shares of the issuing company in any manner, either in whole, or in part, on the basis of any equity related warrants attached to debt instruments.</p>

<ul style="list-style-type: none"> <li>✚ Norms applicable to ECBs are applicable to FCCBs as well.</li> <li>✚ Borrowers can raise ECB from internationally recognized sources, such as (a) international banks, (b) international capital markets, (c) multilateral financial institutions (such as IFC, ADB, CDC, etc.) / regional financial institutions and Government owned development financial institutions, (d) export credit agencies, (e) suppliers of equipments, (f) foreign collaborators and (g) foreign equity holders.</li> </ul>																			
<b>Main Agencies involved</b>	<ul style="list-style-type: none"> <li>➤ Merchant Banker/Arranger</li> <li>➤ Trustee</li> <li>➤ Conversion Agent</li> <li>➤ Process Agent</li> <li>➤ Domestic/International Lawyers</li> </ul>																		
<b>Principal Documentation</b>	<ul style="list-style-type: none"> <li>➤ Offering Circular/Information Memorandum</li> <li>➤ Trust Deed</li> <li>➤ Paying and Conversion Agency Agreement</li> <li>➤ Subscription Agreement</li> </ul>																		
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;"><b>Initial Conversion Price</b></td> <td>Minimum Conversion Price + Conversion Premium Conversion Premium normally ranges between 20% - 30%</td> </tr> <tr> <td><b>Maturity Date</b></td> <td>The date fixed to meet the ECB guidelines of average maturity depending on the amount raised.</td> </tr> <tr> <td><b>Coupon</b></td> <td>Normally ranges between 0% - 5%</td> </tr> <tr> <td><b>Yield to Maturity</b></td> <td>Normally ranges between 6% - 8%</td> </tr> <tr> <td><b>Redemption Price</b></td> <td>In case the Bonds are not previously converted, they are redeemed on the Maturity Date at principal plus YTM which is reckoned as the Redemption Price of the bonds.</td> </tr> <tr> <td><b>Fixed Exchange Rate</b></td> <td>Exchange Rate fixed at the time of issuance of Bonds.</td> </tr> <tr> <td><b>Conversion Rights</b></td> <td>The right of the Bondholders to exercise the option of conversion of bonds into Equity Share anytime before the Redemption Date</td> </tr> <tr> <td><b>Conversion Price Reset</b></td> <td>Normally linked to the market price of the Equity Shares or on every defined period; – Cannot go below the Minimum Conversion Price</td> </tr> <tr> <td><b>Accreted Principal</b></td> <td>Is in respect of each Bond, the principal amount determined which, together with accrued interest from the immediately preceding Interest Payment Date</td> </tr> </table>	<b>Initial Conversion Price</b>	Minimum Conversion Price + Conversion Premium Conversion Premium normally ranges between 20% - 30%	<b>Maturity Date</b>	The date fixed to meet the ECB guidelines of average maturity depending on the amount raised.	<b>Coupon</b>	Normally ranges between 0% - 5%	<b>Yield to Maturity</b>	Normally ranges between 6% - 8%	<b>Redemption Price</b>	In case the Bonds are not previously converted, they are redeemed on the Maturity Date at principal plus YTM which is reckoned as the Redemption Price of the bonds.	<b>Fixed Exchange Rate</b>	Exchange Rate fixed at the time of issuance of Bonds.	<b>Conversion Rights</b>	The right of the Bondholders to exercise the option of conversion of bonds into Equity Share anytime before the Redemption Date	<b>Conversion Price Reset</b>	Normally linked to the market price of the Equity Shares or on every defined period; – Cannot go below the Minimum Conversion Price	<b>Accreted Principal</b>	Is in respect of each Bond, the principal amount determined which, together with accrued interest from the immediately preceding Interest Payment Date
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		<b>Amount</b>	
		<b>Issuer Mandatory Conversion</b>	Issuer may redeem the Bonds at Accreted Principal Amount, together with accrued interest, in case the Aggregate Value is above a certain defined % (generally around 125% – 135%) of the Accreted Principal Amount – In this case, the Bond holder has the option to exercise the option of converting the Bonds into Shares before the date of redemption
		<b>Tax Gross Up</b>	All payments made are generally Grossed Up
		<b>Adjustment to Conversion Price</b>	The Conversion Price is subject to adjustment in certain circumstances: <ul style="list-style-type: none"> <li>➤ Capitalization issue, division, consolidation and reclassification of Shares</li> <li>➤ Dividend in Shares</li> <li>➤ Capital Distribution and Extraordinary Dividends – Rights Issue to Shareholders</li> <li>➤ Warrants issued to Shareholders</li> <li>➤ Issues of rights or warrants for equity-related securities to Shareholders – Other Distribution to Shareholders</li> <li>➤ Issue of Convertible or exchangeable securities other than to Shareholders or on exercise of warrants</li> <li>➤ Other issues of Shares – Issue of equity-related securities</li> <li>➤ Tender or Exchange Offer</li> </ul>
		<b>Negative Pledge</b>	Issuer not to create or permit any mortgage on assets and revenue generally in favor of unsecured Lenders
	<b>Overview of the FCCB Issuance Process</b>		<ul style="list-style-type: none"> <li>➤ Kick off Meeting</li> <li>➤ Board and Shareholder’s Approval for the FCCB Issue.</li> <li>➤ Intimation to Stock Exchanges on outcome of the board and Shareholder’s approval.</li> <li>➤ Arranging of NoC’s from existing lenders.</li> <li>➤ Appointment of agencies like the Lead Manager, International Counsel, Trustee etc.</li> <li>➤ Commercial and Legal Due Diligence</li> <li>➤ Preparation of Draft Offering Circular.</li> <li>➤ Submission of the draft Offering Circular to the overseas stock exchange</li> <li>➤ Finalization of the Offering Circular and holding board meeting for finalization of the Offering Circular.</li> <li>➤ Application to the domestic stock exchanges for in-principle approval of the FCCB Issue.</li> <li>➤ Discussion and finalization of the Trust Deed, Subscription Agreement and the Paying and Conversion Agency Agreement</li> </ul>

		<ul style="list-style-type: none"> <li>➤ Holding board meeting for approval of the Offering Circular, Trust Deed, Subscription Agreement and the Paying and Conversion Agency Agreement.</li> <li>➤ Final discussion with the overseas stock exchange and seeking its in-principle approval for listing.</li> <li>➤ Receipt of BSE/NSE in-principle approval before the issuance of FCCBs.</li> <li>➤ Management Presentation to Lead Managers and Counsels</li> <li>➤ Compliance with Publicity Guidelines to be ensured (from kick-off date)</li> <li>➤ Commencement of Pre-marketing exercise – Presentations to analysts and prospective investors.</li> <li>➤ Opening of a separate bank account overseas</li> <li>➤ Arranging for financial statements and auditors report thereon in compliance with the requirements of the overseas stock exchange.</li> <li>➤ Arranging for Legal Opinions from the counsels (As on opening and closing date)</li> <li>➤ Finalization of Road Show Presentations</li> <li>➤ Conducting of Road Show Presentation, Analysts Meetings with prospective investors.</li> <li>➤ Opening of the Issue</li> <li>➤ Lead Manager to assess the demand and finalize the quantum of FCCBs to be issued.</li> <li>➤ Signing of the Subscription Agreement</li> <li>➤ Intimation to Stock Exchanges and issue of press release regarding opening and closing of the Issue.</li> <li>➤ Lead Manager to coordinate receipt of funds from the investors.</li> <li>➤ Offering Circular to be filed with SEBI, RoC and the Indian Stock Exchanges.</li> <li>➤ Board Resolution for allotment of FCCBs</li> <li>➤ Issuance of Global Certificates</li> <li>➤ Signing of the Trust Deed, Subscription Agreement and the Paying and Conversion Agency Agreement</li> <li>➤ Exchange Control Filings with RBI</li> <li>➤ Submission of relevant documents and undertakings to Listing Agent for filing with the overseas stock exchanges</li> <li>➤ Intimation to RBI regarding receipt of funds and details of investors.</li> <li>➤ Filing of monthly return in Form ECB-2 with RBI.</li> <li>➤ Arranging for payment of interest on FCCBs through Authorized Dealer</li> <li>➤ Ongoing compliance with the listing requirements of the overseas exchange.</li> </ul>
<b>AIM Listing</b>	<b>Background</b>	<ul style="list-style-type: none"> <li>✓ AIM – London Stock Exchange’s market for innovative growing companies from the UK and around the world.</li> <li>✓ No minimum market capitalization requirement</li> </ul>

		<ul style="list-style-type: none"> <li>✓ No trading record requirement</li> <li>✓ No minimum public shareholding requirement</li> <li>✓ No prior shareholders requirement unless the transaction is a reverse takeover or fundamental change in business.</li> <li>✓ Admission documents not pre-vetted by the Exchange or by the UKLA in most circumstances. The UKLA will only vet an AIM admission document where it is also a Prospectus under the Prospectus Directive.</li> </ul>
	<p><b>Overview of the AIM Listing Process</b></p>	<p><b>Step 1 Appointment of Nominated Advisor (“Nomad”).</b></p> <p><i>The Nomad shall guide the issuer company through the admission process and advise it as a public company quoted on the AIM Market. The Nomad might be an investment bank, a corporate finance firm or an accountancy firm and must be approved to act in such capacity by the Exchange. To obtain approval as a Nomad, a firm must first meet the relevant criteria set out in the AIM Rules for Nominated Advisers</i></p> <p><b>Role of Nomad</b></p> <ul style="list-style-type: none"> <li>✚ Undertake due diligence to ensure your company is suitable for AIM</li> <li>✚ Ensure the directors are appropriate and capable of acting as a board for a company trading on a UK public market</li> <li>✚ Provide guidance to the company throughout the flotation process</li> <li>✚ Co-ordinate and oversee the preparation of the AIM admission document</li> <li>✚ Confirm to the Exchange that the company is appropriate for AIM</li> <li>✚ Prepare the company for life on a public market</li> <li>✚ Act as the primary regulator throughout a company’s time on AIM by keeping abreast of developments at the company, and ensuring the company continues to understand its obligations under the AIM Rules.</li> </ul>
		<p><b>Step 2 Appointment of other Advisors</b></p> <p><i>These will usually include a broker, a reporting accountant, and legal, public relations and investor relations firms. Depending on your business, you may also need other specialist advisers in areas such as real estate, intellectual property and technology to conduct due</i></p>

			<i>diligence relevant to your business.</i>
		<b>Step 3</b>	<p><b>The Admission Process<sup>1</sup></b></p> <p>Illustrative steps of the admission process are as under:</p> <ul style="list-style-type: none"> <li>+ Review of the corporate structure with key advisers</li> <li>+ Long form report<sup>2</sup> produced by the Accountants</li> <li>+ Working Capital Review<sup>3</sup></li> <li>+ Drafting of AIM Admission Document</li> <li>+ Senior executive employment arrangements and terms of appointment of non-executive directors</li> <li>+ Negotiation of the Placing Agreement</li> <li>+ Production of Legal Due Diligence Report.</li> <li>+ Completion of Pathfinder Meeting.</li> <li>+ Marketing</li> <li>+ Finalization of Placing List</li> <li>+ Placing Proof received by Broker</li> <li>+ Completion Meeting</li> <li>+ Admission to AIM</li> <li>+ Commencement of dealings</li> <li>+ Proceeds of Placing paid to the Company</li> </ul>
<b>MTN Issue</b>	<b>Background</b>	✓	Typically established by Banks with ongoing need of capital.

<sup>1</sup> The admission process typically takes three to six months from the time an initial all-parties meeting takes place until publication of a pathfinder AIM admission document. This will be delayed if there are major structural issues that have to be dealt with. It is important, therefore, that any potential issues are raised at an early stage to avoid any negative impact on timing.

<sup>2</sup> As part of the IPO process, the company's reporting accountants are typically commissioned to prepare a financial due diligence report on the company. This report is referred to as a 'long form' report and its primary purpose is to assist the Nomad in its assessment of the suitability of the company to be admitted to AIM. The long form report is a detailed report on the company's business, focusing mainly on the company's financials and business operations. Sometimes a separate commercial due diligence report is commissioned, focusing on the company's business and market. The long form report excludes forecasts (which are covered in a separate report). The long form report is a private document, usually addressed only to the Nomad and the company itself. It is not made available to the wider public, or to potential investors.

<sup>3</sup> In accordance with the AIM Rules, the admission document is required to contain a statement from the company's directors as to the adequacy of working capital. This statement, which must be clear and unambiguous, requires the directors to confirm that the company has sufficient working capital to last at least 12 months from the date that it is admitted to AIM.

		<ul style="list-style-type: none"> <li>✓ Most MTN programs are designed to comply with the exemption from registration provided by Regulation S under the U.S. Securities Act of 1933. Debt securities of a non-U.S. issuer or a non-U.S. foreign government are offered under Category 1 of Regulation S (where there is no “substantial U.S. market interest” in its debt securities)</li> <li>✓ Because MTN securities are offered outside of the U.S. (and sometimes in the U.S. only under Rule 144A), they are not subject to any filing or review requirements with Financial Industry Regulatory Authority.</li> <li>✓ Like a shelf registration statement, an MTN program enables a company to sell a wide range of debt securities without having to complete the SEC’s registration or review process for each issuance. In addition, an MTN program uses a master set of disclosure documents, agreements with selling agents or dealers, and issuing and paying agency agreements to help minimize the new documentation that is needed for each offering.</li> </ul>
	<p><b>What types of issuers establish MTN programs?</b></p>	<p>MTN programs typically are used by large companies that have an ongoing need for capital and that are eligible to file shelf registration statements for delayed and continuous offerings. Most large financial institutions, and many “industrial companies,” have an MTN program.</p>
	<p><b>Are debt securities in an MTN Issue guaranteed?</b></p>	<ul style="list-style-type: none"> <li>✓ Typically, among financial institution issuers, it is common for an operating subsidiary (such as a bank subsidiary of a bank holding company) to have a higher credit rating on its indebtedness than the parent corporation (such as a bank holding company). Accordingly, many MTN programs are structured so that: (i) the operating subsidiary is the actual issuer of the securities, and the parent holding company is the guarantor; or (ii) the parent holding company is the issuer of the securities, and one or more operating subsidiaries are guarantors.</li> </ul>
	<p><b>Types of offering contemplated using MTN Programmes</b></p>	<ul style="list-style-type: none"> <li>✓ <b>Small and medium-sized offerings of debt securities</b> to investors that seek specific terms (known as “reverse inquiry” trades);</li> <li>✓ <b>Syndicated offerings</b> of debt securities that might, in the absence of an MTN program, be offered through a <b>shelf takedown</b>;</li> <li>✓ <b>Structured notes</b>, such as equity-linked, currency-linked, and commodity-linked securities; and</li> <li>✓ <b>Retail Note Program</b>, in which an issuer offers debt securities with small minimum denominations to “retail” investors.</li> </ul>

	<p><b>Principal Documentation</b></p>	<ul style="list-style-type: none"> <li>✓ Base Disclosure Document</li> <li>✓ Distribution Agreement (or Program Agreement) between Issuer and Dealer(s)/Selling Agents</li> <li>✓ Procedures Memorandum setting out procedures for issue and settlement of notes</li> <li>✓ Pro forma final terms</li> <li>✓ Agency Agreement – appointment of agents, detailing payment mechanics, issuer covenants, rights of noteholders</li> <li>✓ Administrative procedures memorandum – describing the exchange of information, settlement procedures, and responsibility for preparing documents among the issuer, the selling agents, the trustee or paying agent, and the applicable clearing system in order to offer, issue and close each series of securities under the MTN program.</li> <li>✓ Master Global Note – to be held by depository banks on behalf of clearing systems.</li> <li>✓ Legal opinions, auditor’s comfort letter, Issuer’s board resolutions,</li> <li>✓ Process agent appointment letter and powers of attorney.</li> <li>✓ <u>Calculation Agency agreement</u> - <i>Under this agreement, the calculation agent, which often is the trustee or the paying agent, agrees to calculate the rate of interest due on floating rate notes. This type of agreement also may be used in connection with structured notes to calculate the returns payable on the note. In the case of structured notes, a brokerdealer (usually, the arranger or one of its affiliates) is more likely to serve as calculation agent.</i></li> <li>✓ <u>Currency Exchange Rate Agency Agreement</u>: under this agreement, an exchange rate agent (again, often the trustee or the paying agent) converts the payments made by the issuer on foreign currency denominated MTN notes into U.S. dollars for the benefit of U.S. investors.</li> <li>✓ Free Writing Prospectuses: <i>Brochures, pamphlets, websites and other types of documents to market potential offerings from an MTN program.</i></li> <li>✓ Product Supplements: <i>issuers of structured products from MTN programs often use a “product supplement” to describe the detailed terms, risk factors and tax consequences of a particular type of product to potential investors.</i></li> <li>✓ Press Releases: <i>particularly in the case of a large syndicated offering, the issuer may issue a press release after pricing to describe the transaction.</i></li> <li>✓ One or more indentures with the indenture trustee (in the case of an SEC-registered program), or paying agency agreements with the paying agent (in the case of an unregistered program)</li> </ul>
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<p><b>Documents at drawdown stage</b></p>	<ul style="list-style-type: none"> <li>✓ Term Sheet/Final Terms<sup>4</sup></li> <li>✓ Subscription Agreement/ Dealer conformation</li> <li>✓ Global Note</li> <li>✓ Prospectus Supplement, if required</li> <li>✓ Issuer’s certificate of No Material Adverse Change</li> <li>✓ Legal Opinions</li> <li>✓ Auditor’s Comfort Letter</li> <li>✓ Power of Attorney</li> </ul> <p><i>The specific documentation in respect of drawdown may vary depending on variety of factors including without limitation: (a) whether the offering is syndicated or non-syndicated; (b) specific requirements of applicable dealers; (iii) specific terms and complexity of the transaction.</i></p>
<p><b>Types of Securities sold through MTN Programme</b></p>	<p>Historically, the most common type of security issued under an MTN program is a fixed-rate, non-redeemable senior debt security. However, MTN programs typically include other types of debt securities, including floating rate, zero coupon, non-U.S. denominated, amortizing, multi-currency, subordinated, or indexed securities.</p> <p>Common reference rates for floating rate securities issued under MTN programs include LIBOR, EuRIBOR, the prime rate, the Treasury rate, the federal funds rate and the CMs rate. Most MTN programs are rated “investment-grade” by one or more nationally recognized rating agencies.</p>
<p><b>Potential Buyers</b></p>	<p>MTN buyers include the institutional buyers of underwritten corporate debt securities. In the case of structured products and retail notes sold from an MTN program, individual investors also may be purchasers.</p>
<p><b>Who sets the terms of the Issue?</b></p>	<p>MTN Market is investor driven</p> <p>Dealers continuously offer MTNs within a specific maturity range, and an investor can negotiate to have the dealer meet its particular investment needs at a specific maturity level.</p>
<p><b>Firm Commitment/Best</b></p>	<p>The dealer’s traditional obligation is to sell the MTN securities on a “best efforts” basis. However, on occasion, competitive pressures result in a dealer purchasing MTN securities as principal. In addition,</p>

<sup>4</sup> Final terms can include only trade-specific information (such as Fixed and floating rate note provisions, restrictive covenants on the issuer, notice requirements, events of default etc.) and complete the prospectus once they are filed with the competent authority of the home member state and communicated to the competent authority of the host member state in which the offer of securities is being made. The final terms must be read alongside the “base” terms and conditions contained in the base prospectus (which are incorporated by reference into the final terms), and the two together provide the specific terms for an individual takedown. They set out the specific commercial terms (for example, currency, interest rate, maturity) of a particular drawdown. They identify the conditions in the base terms and conditions that apply to the issue, without the need to reproduce the entire set of terms and conditions. The final terms usually take the form of a template that is included in the base prospectus, with the specific terms of the particular issue filled in at the time of the takedown.

<b>Efforts Selling</b>	large syndicated MTN offerings often are effected on a firm commitment basis. In both cases, the MTN dealer is usually regarded as an “underwriter” for section 11 of the Securities Act, 1933 purposes.
<b>Reverse Enquiry</b>	Investors often play an active role in the MTN market through the “reverse inquiry” process. An investor may seek an investment in a specified principal amount, with a specified credit rating, and a specified maturity. If a security with the desired terms is not available in the corporate bond market, the investor may be able to obtain it in the MTN market through reverse inquiry. In this case, the investor will communicate the terms of the investment it is seeking to an issuer of MTN through the issuer’s selling agent. If the issuer finds the terms of the reverse inquiry acceptable, it may agree to the transaction even if it was not posting rates at the desired maturity.
<b>Role of an Arranger</b>	<ul style="list-style-type: none"> <li>✓ Serving as principal selling agent for the MTN securities.</li> <li>✓ Advising the issuer as to potential financing opportunities in the MTN market;</li> <li>✓ Communicating to the issuer any offers from potential investors to buy MTN;</li> <li>✓ Advising the issuer as to the form and content of the offering documents, including the types of securities to be included;</li> <li>✓ Helping the issuer draft the offering documents and related program agreements;</li> <li>✓ Negotiating the terms of the agreements on its own behalf and on behalf of the other selling agents;</li> <li>✓ Coordinating settlement of the MTN securities with the issuer, the trustee and the paying agent; and</li> <li>✓ Making a market in the issued and outstanding securities issued under the program.</li> </ul>
<b>Role of Trustee/Paying Agent</b>	<ul style="list-style-type: none"> <li>✓ Processing payments of interest, principal and other amounts on the securities from the issuer to the investors;</li> <li>✓ Communicating notices from the issuer to the investors;</li> <li>✓ Coordinating settlement of the MTN securities with the issuer and the selling agent;</li> <li>✓ Assigning security identification codes to the MTN securities (in the case of U.S. programs, the trustee typically obtains a block of CusIP numbers for the relevant issuer’s program and assigns them on an issue-by-issue basis);</li> <li>✓ Processing certain tax forms that may be required under the program; and</li> <li>✓ In the case of a trustee of a series of U.S.-registered notes, acting as representative of the investors in the event of any claim for payment if a default occurs.</li> </ul>

## HOW CAN WE ASSIST

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ARA LAW's expertise in capital markets advisory covers IPOs, QIPs, NASDAQ Listings, FCCBs, ADR/GDRs and various regulatory issues pertaining to the area. The firm has advised on complex transactions and has a deep understanding of the regulatory issues involved. The firm regularly interacts with the SEBI and other financial intermediaries and offers practical advice on the client requirements. Our capital markets practice is headed by Mr. Rajesh N. Begur who is assisted by a team of lawyers based out of Mumbai and Bengaluru.

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