

# What's New

## News Flash

**pwc**

May 2017

### ***SEBI releases consultation paper to streamline the process of monitoring of Offshore Derivative Instruments***

The Indian market regulator, the Securities and Exchange Board of India (SEBI) has been frequently expressing concerns over possible misuse of investments through Offshore Derivative Instruments (ODIs or commonly known as P-notes) for round tripping and tax evasion.

In the recent past, SEBI has taken several steps for streamlining and tightening the conditions for issuance and reporting of ODIs by Foreign Portfolio Investors (FPIs). Some of the key measures include extending the FPI eligibility criteria to ODI issuances, placing certain restrictions on transfer of ODIs, compliance with KYC norms, reporting of suspicious transactions, periodic review of systems, modifying the ODI reporting format, etc.

As a result of the aforementioned steps, there has been a significant reduction in the notional value of outstanding ODIs. Recent data indicates that notional value of ODIs as on April 2017 is 6% of the overall FPI AUC as compared to 10.5% in January 2016.

In order to further enhance transparency in the process of issuance and monitoring of ODIs, SEBI has issued a consultation paper<sup>1</sup> for public comments yesterday outlining the following steps:-

#### **Levy of regulatory fees on FPIs issuing ODIs**

In order to encourage ODI subscribers to register themselves as FPI, SEBI proposes to levy a regulatory fee of US\$ 1,000 on each FPI issuing ODI for each and every ODI subscriber coming through such FPI. This fees would be levied for a period of every three years, beginning April 01, 2017.

#### **Prohibit ODIs from being issued against derivatives except for those used for hedging**

Presently, ODIs are being issued against derivatives along with equity and debt. SEBI proposes to prohibit ODIs from being issued against derivatives for speculative purpose. Further, the ODI issuers shall be given time till December 31, 2020 to wind up the ODIs issued against derivatives which are not for hedging purpose. It will be incumbent on ODI issuing FPI to ensure that ODI is issued against those derivatives which are purely for hedging purpose and not for naked speculation. The ODI issuing FPI shall put in place necessary system to ensure the same.

The last date for submitting comments on the above proposals is June 12, 2017.

Do let us know if you have any comments or suggestions.

<sup>1</sup> <http://www.sebi.gov.in/reports/reports/may-2017/consultation-paper-on-streamlining-the-process-of-monitoring-of-offshore-derivative-instruments-odis-participatory-notes-pns-34977.html>

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PwC TRS Team

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