

Regulations pertaining to Core Investment Companies (CICs)

WIRC-ICAI

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Introduction

- ◎ CICs were exempted from Prudential Norms, 2007 if all the following criteria were met,
 - 90% of assets in investments in shares for the purpose of holding stake in investee;
 - not trading in these shares except for block sale (to dilute or divest holding);
 - not carrying on any other financial activities; and
 - they were not holding / accepting public deposits.

Introduction...cont....

- ◎ As per **RBI Annual Policy Statement for the Year 2010-11** companies holding assets predominantly as investments in shares for holding stake in group companies but not for trading, and also do not carry on any other financial activity, i.e., **Core Investment Companies (CICs)**, justifiably deserve a differential treatment than regulations pertaining to other NBFCs.
- ◎ As a result of this, the **CIC regulations** were announced by a notification 12th August, 2010 and later on final amended regulations were announced as on 5th January, 2011

Introduction..cont...

Why the Regulations were Needed?

- ⦿ Differential treatment because of Business Structure
- ⦿ Systemic Significance when NBFCs access public funds
- ⦿ The detailed regulatory framework was needed to address the systemic issue when such companies access public funds
- ⦿ Definition of NOF
 - Limitation of Investments in Group Companies
- ⦿ Concentration Limits
 - Limits based on Owned Funds (15%, 25%, 40%)

Meaning and Criteria for Core Investment Company

- NBFC which is carrying on the business of acquisition of shares and securities and satisfies the criteria
 - 90% of Net assets in group companies (Loans+investments)
 - 60% of Net assets in Equity investments (including CCIs within 10years from date of issue)
 - Does not trade in its investments (except block sale for dilution or disinvestments)
 - No other financial activities other than specifically allowed

COMPANIES in the Same Group

- ◎ ‘COMPANIES in the group’
 - “an arrangement involving two or more entities related to each other through any of the following relationships, viz.,
 - Subsidiary – parent (defined in AS 21),
 - Joint venture (defined in AS 27),
 - Associate (defined in AS 23),
 - Promoter-promotee [as provided in the SEBI (Acquisition of Shares and Takeover) Regulations, 2011 for listed companies],
 - a related party (defined in AS 18)
 - COMMON BRAND NAME, and
 - investment in equity shares of 20% and above)
- ◎ Non company entities are excluded – e.g. Trusts, Partnership Firms, LLPs, Etc..

CIC-ND-SI

- Core Investment Company with
- a. Total assets size of Rs. 100 crores or above
- AND**
- b. Accessing “Public Funds”

“Public Funds - includes funds raised either directly or indirectly through

*public deposits,
Commercial Papers,
debentures,
inter-corporate deposits and
bank finance but*

EXCLUDES

funds raised by issue of instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue.”

Regulatory Aspects

- I. On Becoming CIC
- II. Continuing Compliances
- III. Yearly Compliances

Regulatory Aspects..cont..

◎ On becoming CIC-ND-SI

- Apply for registration within three months

Impact of Non-Compliance – regarded as contravening the provisions of Section 45IA of RBI Act, 1934 (which requires compulsory registration of NBFCs)

Penalty u/s 58B of RBI Act, 1934 – Imprisonment of not less than 1 year upto max. five years AND fine of Rs. 1 lac to Rs. 5 lac

Companies not meeting CIC criteria need to be NBFC and comply with relevant NBFC guidelines

Regulatory Aspects..cont..

◎ Continuing Compliances – Non SIs

- Exempted CICs to pass board resolution for not accessing public funds
- Before issuing guarantees on behalf of group entities, it should make sure that the liabilities arising thereon can be met without accessing public funds, Need to approach RBI for registration before accessing public funds (If total asset size increased to Rs. 100 crores or above)

Regulatory Aspects ..cont..

◎ Continuing Compliances – SIs

- **Capital Requirements:** Adjusted Net Worth at all the time at least 30% of its aggregate risk weighted assets (on and off balance sheet items) of last audited balance sheet
- **Leverage Ratio:** The outside liabilities shall at no point of time exceed 2.5 times its Adjusted Net Worth as per last audited balance sheet

◎ Annual Compliances

- **Annual Certificate from Auditor** - compliance with CIC directions - one month from the date of finalization of the balance-sheet
- Applicable compliances based on other NBFC directions and Notifications

Privileges to CICs

○ Exemptions from

- 45IA(1)(b) for CICs (Exemption from Registration as NBFC)
- Maintenance of Net Owned Funds
- Maintenance of CRAR (Para 16 of the Prudential Norms)
- Credit and Investment Concentration Norms (Para 18 of the Prudential Norms)
- Auditor Certificate on Continuity of NBFIs Activities (Para 15)

Note: CICs-ND-SI are not exempted from the NBFC (Non Deposit holding) Prudential Norms Directions 2007. Only exempted from specific clauses.

Issues

◉ Multiples CICs in the group

- If group has more than one CICs & aggregate asset size Rs. 100 crores or above
 - Whether registration required?
 - What, if one company accepts public funds?
- Only direct loan and investments in subsidiaries will be reckoned for the purpose of 90%,60% whether investment in step down subsidiaries be reckoned for the purpose of these calculations?

Issues

- ◎ **What about 10% other assets?**
 - Can it be used for giving Loans to non-group concerns or buying shares of Non-group companies?
- **Remaining 10% of the net assets**
 - **Fixed Assets,**
 - **Real estates held for effective functioning of the business,**
 - **Investment or loans in non-company group entities, like partnership firm, trust, etc.**

Issues

◎ Group Concerns

- Group definition for CIC is wider and not the same is applicable for NBFCs
- Block sale would be a long term or strategic sale/purchase made for purposes of disinvestment or investment and not for short term trading. Unlike a block deal, there is no minimum number/value defined for the purpose.

Other Aspects

◎ Other Important Aspects

- CIC-Non-SIs not needed to provide statutory auditor certificate
- 50% assets and income from financial assets criteria need not be met by a CIC
- Planned CIC-ND-SI in the group can be formed by applying to RBI with business plan
- Currently registered NBFCs can seek voluntary deregistration if fulfills criteria. Audited balance sheet and auditors certificate are required to be submitted for the purpose.

Overseas Investment Regulations

- ◎ **Prior approval of RBI in case of Overseas investments**
- ◎ **Investment in financial or non-financial sectors**
- ◎ **Eligibility criteria**
- ◎ **Opening of branches or representative office**
- ◎ **Quarterly Return**

Questions



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