

SEBI AND THE REFORM ON SUSTAINABLE FINANCE (Part 3 of 3)



Pradeep Ramakrishnan
General Manager
Department of Debt and Hybrid Securities
Securities and Exchange Board of India, Mumbai
pradeepr@sebi.gov.in



Nikhil Chaudhary
Manager
Securities and Exchange Board of India
Mumbai
Nikhilc@sebi.gov.in



Priyanka Meena
Assistant Manager
Securities and Exchange Board of India
Mumbai
Priyankameena@sebi.gov.in

Disclosure and other requirements:

The third part of the article discusses the initial and continuous disclosure requirements to be complied with by an issuer of green bonds and

Abstract

Disclosure requirements for green bonds were updated by SEBI to facilitate transparency and thereby enable investors to make informed investment decisions. For example, Introduction of appointment of a third party is made applicable on comply-or-explain basis, which is expected to give credibility that international investors look for while investing in green bonds. Similarly, continuous disclosure of utilization of proceeds is expected to help in tracking and ensuring that the proceeds are being utilised towards the purpose they were raised for. Further, granular disclosure requirements are aimed at enabling issuers to inculcate good practices. To address the concerns related to greenwashing, apart from the granular disclosure requirements including impact reporting, disclosure of certain elements of BRSR and verification by a third party etc., SEBI has also prescribed certain dos and don'ts that issuers of green debt securities must follow to avoid instances of occurrence of greenwashing like to not use misleading labels, hide trade-offs or cherry pick data and make untrue claims etc. Further it is issuer's responsibility to adhere to the regulatory framework for the green debt securities.

the issue of greenwashing.

Disclosure requirements:

Let us look at the disclosure requirements for issuers desirous of issuing green debt securities in detail. Disclosures are initial and final.

Initial disclosure requirements for issue and listing of green debt securities

An issuer desirous of issuing green debt securities shall make the following additional disclosures in the offer document for public issues / private placements:

- 1.1 A statement on environmental sustainability objectives of the issue of green debt securities;
- 1.2 Brief details of decision-making process followed/ proposed for determining the eligibility of project(s) and/or asset(s), for which the proceeds are being raised through issuance of green debt securities, such as:
 - a. process followed/ to be followed for determining how the project(s) and/or asset(s) fit within the eligible green projects categories as defined under Regulation 2 (1) (q) of NCS Regulations,
 - b. the criteria making the project(s) and/ or asset(s) eligible for using the green debt securities proceeds; and
 - c. details of taxonomies, green standards or certifications both Indian and global, if any referenced and the alignment of projects with said taxonomies, related eligibility criteria, and exclusion criteria, if applicable.
 - d. Details of the alignment of the objective of the issue with the India's Intended Nationally Determined Contributions in case of the proceeds raised through issuance of transition bonds
- 1.3 Details of the system/procedures to be employed for tracking the deployment of the proceeds of the issue.
- 1.4 Details of the project(s) and/or asset(s) or areas where the issuer, proposes to utilise the proceeds of the issue of green debt securities, including towards refinancing of existing green project(s) and/or asset(s), if any.
- 1.5 Details of an indicative estimate of distribution of proceeds raised through issuance of green debt security between financing and refinancing of project(s) and/ or asset(s); if applicable.
- 1.6 Details of the intended types of temporary placement of the unallocated and unutilised net proceeds from the issue of green debt securities
- 1.7 Details related to the perceived social and environmental risks and proposed mitigation plan associated with the project(s) proposed to be financed/ refinanced through the proceeds from the issue of green debt securities
- 1.8 The issuer shall appoint an independent third party

reviewer/ certifier, for reviewing/certifying the processes including project evaluation and selection criteria, project categories eligible for financing by green debt securities, etc.

The said requirement of appointing a third party reviewer/ certifier is applicable on a 'comply or explain' basis for a period of two years. 'Comply or explain' for the purpose of the above, shall mean that the issuer shall endeavour to comply with the provisions and achieve full compliance by two years from the date of issuance of the circular. In case the entity is not able to achieve full compliance with the provisions till such time, the issuer shall in its annual report, explain the reasons for such non-compliance/ partial compliance and the steps initiated to achieve full compliance.

Continuous disclosure requirements for listed green debt securities:

2. An issuer who has listed green debt securities, shall provide following additional disclosures along with its annual report and financial results:
 - 2.1 Utilisation of the proceeds of the issue, as per the tracking done by the issuer using the internal process as disclosed in offer document. Utilisation of the proceeds shall be verified by the report of an external auditor, to verify the internal tracking method and the allocation of funds towards the project(s) and/or asset(s), from the proceeds of green debt securities.
 - 2.2 Details of unutilized proceeds including the temporary placement/utilization of unallocated and unutilized proceeds from each ISIN of green debt security issued by the issuer.
 - 2.3 The following additional disclosures shall be made in the Annual Report:
 - a. List of project(s) and/or asset(s) to which proceeds of the Green Debt Securities have been allocated/invested including a brief description of such project(s) and/or asset(s) and the amounts disbursed.
 - b. Qualitative performance indicators and, where feasible, quantitative performance measures of the environmental impact of the project(s) and/or asset(s). If the quantitative benefits/impact cannot be ascertained, then the said fact may be appropriately disclosed along with the reasons for non-ascertainment of the benefits/impact on the environment
 - c. Methods and the key underlying assumptions used in preparation of the performance indicators and metrics;

- d. Details of the deployment of the mitigation plan (as disclosed in the offer documents) for the perceived social and environmental risks
3. An issuer shall appoint a third party reviewer/certifier for a green debt security for the following:
 - 3.1 Post-issue management of the use of proceeds from the green debt security,
 - 3.2 verification of the internal tracking and impact reporting.

The said requirement of appointing a third party reviewer/ certifier is applicable on a ‘comply or explain’ basis for a period of two years. ‘Comply or explain’ for the purpose of the above, shall mean that the issuer shall endeavour to comply with the provisions and achieve full compliance by two years from the date of issuance of the circular. In case the entity is not able to achieve full compliance with the provisions till such time, the issuer shall in its annual report, explain the reasons for such non-compliance/ partial compliance and the steps initiated to achieve full compliance

Responsibilities of the issuer

4. An issuer of green debt securities shall:
 - 4.1 maintain a decision-making process which it uses to determine the continuing eligibility of the project(s) and/or asset(s). This includes, without limitation statement on the environmental objectives of the green debt securities and a process to determine whether the project(s) and/or asset(s) meet the eligibility requirements;
 - 4.2 ensure that all project(s) and/or asset(s) funded by the proceeds of green debt securities, meet the documented objectives of green debt securities;
 - 4.3 utilise the proceeds only for the stated purpose, as disclosed in the offer document; and
 - 4.4 ensure compliance with the SEBI circular dated February 03, 2023 on “Dos and don’ts relating to green debt securities to avoid occurrences of greenwashing”

SEBI efforts to curb greenwashing:

SEBI has said in its circular that to address the concerns of market participants, regarding greenwashing, an issuer of green debt securities shall ensure the following to avoid its occurrence:

- i. While raising funds for transition towards a greener pathway, **it shall continuously monitor** to check whether the path undertaken towards more sustainable form of operations is resulting

in reduction of the adverse environmental impact and contributing towards sustainable economy, as envisaged in the offer document.

- ii. **It shall not utilize funds raised through green bonds for purposes that would not fall under the definition of ‘green debt security’** under the NCS Regulations.
- iii. In case any such instances mentioned in (ii) above come to light regarding the green debt securities already issued, **it shall disclose the same to the investors** and, if required, by majority of debenture holders, **undertake early redemption** of such debt securities.
- iv. **It shall not use misleading labels, hide trade-offs or cherry pick data** from research to highlight green practices while obscuring others that are unfavourable in this behalf.
- v. It shall maintain **highest standards** associated with issue of green debt security while adhering to the rating assigned to it.
- vi. It shall **quantify the negative externalities associated with utilization of the funds** raised through green debt security.
- vii. **It shall not make untrue claims** giving false impression of certification by a third-party entity.

Conclusion:

In the backdrop of increasing interest in sustainable finance in India as well as around the globe, and with a view to align the extant framework for green debt securities with the updated Green Bond Principles (GBP), SEBI has undertaken a review of the regulatory framework for green debt securities. This is in line with the changing market landscape domestically as well as globally and part of the regular exercise SEBI undertakes – which is, in consultation with market participants, reviewing its regulatory framework from time to time

The enhanced scope of green debt securities is expected to not only enable issuers to raise funds for broader categories of projects/Asset class but also allow investors to invest in various avenues of sustainable investment; the strengthened disclosure requirements by the issuers provides granular information to the investors which will enable them to make an informed investment decision. Further, the enhanced disclosures and guidelines on greenwashing will enable the issuers to avoid the instances of greenwashing. **MA**

Reference:

1. www.sebi.gov.in