

**Guidance on Recovery Expenses Fund (REF)**

In terms of SEBI Circular No SEBI/HO/MIRSD/CRADT/CIR/P/2020/207 dated October 22, 2020, the issuer proposing to list debt securities shall deposit an amount equal to 0.01% of the issue size subject to maximum of Rs. 25 lakhs per issuer towards REF with the Designated Stock Exchange, as identified and disclosed in its Offer Document/ Information Memorandum.

The above shall come into force w.e.f. January 01, 2021 and all the applications for listing of debt securities made on or after January 01, 2021 shall comply with the condition of creation of REF. The existing issuers whose debt securities are already listed on Stock Exchange(s) shall have additional time period of 90 days to comply with this condition.

In this regard, as concluded in the joint Meeting of SEBI and the Exchanges, Issuers are requested to take note of the below and comply with the same:

1. REF is applicable cumulatively for both private placement and public issues as listed under SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (SEBI ILDS), SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares), Regulations, 2013 (SEBI NCRPS), SEBI (Public Offer and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008 (SEBI SDI) and SEBI (Issue and Listing of Municipal Debt Securities) Regulations, 2015 (SEBI ILDM), subject to maximum limit of Rs. 25 lakhs per issuer.
2. REF is required to be deposited for both secured and unsecured debt instruments.
3. For existing listed issuers, REF is applicable at the prescribed percent of the total outstanding issuances of the issuer or Rs. 25 lakhs, whichever is lower. The existing listed issuers have been given an additional time period of 90 days (i.e. upto March 31, 2021) to comply with this condition. However, in the interim, if the existing listed issuer approaches the Exchange/s for listing of any of its debt securities, REF shall become payable on the entire outstanding amount immediately at the time of listing of such debt securities.
4. Issue size for the purpose of calculation of 0.01% would be Number of Bonds \* Face Value.
5. In case of transfer of securities due to scheme of arrangement or otherwise, REF shall be required to be deposited by the transferee company before or at the time of final listing, subject to the limit of Rs. 25 lakhs per issuer.
6. The amount deposited towards REF alongwith the interest thereon would be refunded/released in terms of the Circular only after the last security of the Issuer has been repaid to the investors and a 'No Objection Certificate (NOC)' is received from the Debenture Trustee(s). In other words, if any of the securities of the Issuer are outstanding, no refund/release can be made.
7. The following shall be accepted by the Exchange towards REF presently:
  - a. Cash – To be paid by the Issuer in IDBI Bank unique virtual account number created based on PAN No of the Issuer; and/or
  - b. Bank Guarantee in favour of "National Stock Exchange of India Limited- A/C Issuer name"

## **Bank Guarantee**

- i. The bank guarantee should be strictly as per the prescribed format.
- ii. A bank guarantee for REF should be issued for a minimum period of 12 months with a specific claim period of at least 3 months. However, where an issuing bank does not provide for a specific claim period beyond the expiry date in the bank guarantee, the issuers shall submit a bank guarantee for a minimum period of 15 months.
- iii. The issuer shall ensure that the Bank Guarantee remains valid for a period of 6 months post the maturity date of the listed debt security.
- iv. NSE shall not accept bank guarantee from issuers, which are issued by the issuer themselves.
- v. While filling the details in a bank guarantee, issuers shall ensure that:
  - a) No relevant portion is left blank
  - b) All handwritten corrections and blanks are attested by the bank by affixing the bank seal / stamp duly authorised.
  - c) All irrelevant portions struck off on the printed format should also be authenticated by the bank by affixing the bank seal / stamp duly authorised.
  - d) Each page of the bank guarantee should bear the bank guarantee number, issue date, stamp of the bank and should be signed by at least two authorised signatories.
  - e) The issuer should also ensure that the bank guarantee is free from any discrepancy before the same is submitted to NSE.
  - f) The stamp paper should be issued in the name of NSE or the bank, no third party stamp papers are permissible
  - g) The stamp paper should not be older than 6 months from the executed date of the bank guarantee/ renewal.

## **FORMAT OF THE BANK GUARANTEE**

### **Bank Guarantee**

Bank Guarantee No.

Bank Guarantee Date

This guarantee is issued by \_\_\_\_\_ (name of Scheduled Commercial bank) a body corporate constituted under the \_\_\_\_\_ Act \_\_\_\_\_, having its Head Office at \_\_\_\_\_ (hereinafter referred to as the "Bank" which term shall wherever the context so permits, includes its successors and assigns) in favour of National Stock Exchange of India Limited, a company established under the Companies Act, 1956 and having its registered office at Exchange Plaza, Bandra-Kurla Complex, Bandra (E), Mumbai -400051(hereinafter referred to as "NSE" which expression shall include its successors and assigns);

### **WHEREAS**

1. SEBI vide its Circular dated October 22, 2020 bearing reference number SEBI/HO/MIRSD/CRADT/CIR/P/2020/207 (hereinafter referred to as "SEBI Circular") has directed for the creation of 'Recovery Expenses Fund' by Issuers of listed or proposed to be listed debt securities and to maintain the same with the Designated Stock Exchange in Cash or Cash Equivalent including a Bank Guarantee;
2. \_\_\_\_\_ (name of the issuer) having its registered office at \_\_\_\_\_ (hereinafter referred to as "the Issuer") has requested the Bank to furnish to NSE a bank guarantee for Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) towards meeting the aforesaid requirements of the SEBI Circular;

### **NOW IN CONSIDERATION OF THE FOREGOING,**

1. We, the \_\_\_\_\_ (Name of Scheduled Commercial Bank) having a branch at \_\_\_\_\_ (Complete Address of Branch) at the request and desire of the Issuer do hereby irrevocably and unconditionally guarantee NSE a sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) on the occurrence of an event of default in any of the listed debt securities and such other obligations as referred to in the SEBI Circular and in case of failure on the part of the Issuer to pay the aforesaid amount.
2. The Bank agrees and confirms that the said guarantee shall be available for fulfilling all or any of the aforesaid obligations as may be directed and decided by NSE/ SEBI.

3. The Bank undertakes that it shall, on first demand of NSE, without any demur, protest or contestation and without any reference to the Issuer and notwithstanding any contestation by the Issuer, pay to NSE such sums not exceeding Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) as may be demanded by NSE. The decision of NSE as to the obligations of the Issuer and the amount claimed shall be final and binding on the Bank, and any demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee.
4. The guarantee shall be a continuing guarantee and remain operative in respect of each of the obligations of the Issuer and may be enforced as such at the discretion of NSE, as if each of the obligations, liabilities or commitments had been separately guaranteed by the Bank. The guarantee shall not be considered as cancelled or in any way affected on any demand being raised by NSE but shall continue and remain in operation in respect of all subsequent obligations, liabilities or commitments of the Issuer. However, the maximum aggregate liability of the Bank during the validity of the guarantee shall be restricted to an aggregate sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only).
5. This guarantee shall not be affected by any change to the constitution of NSE, the Issuer or the Bank and it shall remain in force notwithstanding any forbearance or indulgence that may be shown by NSE to the Issuer.
6. The Bank undertakes to pay to NSE, the amount hereby guaranteed within 2 working days of being served with a written notice by NSE requiring the payment of the amount either by Mail or hand delivery or by Registered Post or by Speed Post.
7. The Bank undertakes not to revoke this guarantee during its currency except with the prior consent of NSE in writing and this guarantee shall be a continuous and irrevocable guarantee upto a sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only).
8. The Bank further agrees that NSE may raise multiple claims under this guarantee for an amount not exceeding the total amount i.e. <bg value> for which this guarantee is issued and a part claim shall neither close this guarantee nor restrict NSE's right to raise any subsequent claims for the remaining amount of the guarantee. Issuer and /or the bank shall not claim any such right or understanding which is not consistent with the aforesaid.
9. The Bank also agrees that this guarantee shall be governed and construed in accordance with Indian Laws and subject to the exclusive jurisdiction of the Courts in Mumbai.
10. Notwithstanding anything mentioned herein above,
  - a) the liability of the Bank under this guarantee shall not exceed Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only).
  - b) This guarantee shall be valid upto \_\_\_\_\_. Provided further that the Bank may at its option extend the period of this guarantee upon such request from the Issuer.

- c) The bank is liable to pay the guaranteed amount only if NSE serves upon the Bank a written claim or demand on or before \_\_\_\_\_ [i.e. within three months after the date of expiry of the bank guarantee as mentioned in clause 10(b)above].

Executed this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_  
(place).

FOR \_\_\_\_\_ (BANK)  
\_\_\_\_\_ (BRANCH).

AUTHORISED SIGNATORIES  
SEAL OF THE BANK

**Notes:**

1. The guarantee is to be typed on stamp paper or franked from a stamp office.
2. The value of stamp duty is to be determined according to stamp laws prevailing in the state where the stock exchange to which this guarantee is proposed to be given, is located.
3. The Bank offering the guarantee should confirm the authority of the person who is executing the guarantee either by :
  - a) Power of Attorney:
  - b) a Resolution passed by the Board of Directors of the Bank, or
  - c) Gazette notification (as in the case of State Bank of India and subsidiaries).
4. It should be noted that sometimes monetary limits are placed on the authority of the bank officer(s) executing the bank guarantee