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IDR'S AND GDR'S: LEGAL NATURE AND REGULATORY REGIME

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INTRODUCTION

The global recognition of Indian capital markets has only increased over the previous few decades. A Depository Receipt can be defined as. "a piece of paper that holds information on equity shares. As a result of which it has many unique advantages. A Depository Receipt holder has the right to corporate gains or benefits connected to the Depository Receipt, the ability to vote under certain situations, and the right to appropriate transparency by the foreign company issuing the Depository Receipt." Indian companies raise their capital by issuing Depositary Receipts (DRs) on foreign exchanges.

When a company goes public, it does so by issuing shares and having them listed on various stock markets. As a result, Indian firms that currently trade on Indian stock markets. In India, the prominent traders are Bombay Stock Exchange (BSE) and the National Stock Exchange (NSE) issue shares on the worldwide market. After fulfilling the legal frameworks provided by foreign regulatory bodies then These businesses can be listed on international stock markets. Due to the complexity majority of firms avoid entering a foreign country's capital market right away.

Depository Receipts allow a firm to have indirect access to the capital market of a foreign jurisdiction. A large portion of the company's stock is held by a bank in another nation. This is usually done in return for the "issuing company's Foreign Currency Convertible Bonds or ordinary shares", the ODB then issues GDR. These receipts are then published on the stock exchange and acquired by international investors.

To get access to foreign markets and investors, ADRs and GDRs are great ways through which local firms can create or increase their investment. ADRs are generally traded on stock markets in the United States, whereas GDRs are traded on worldwide platforms. DRs now account for roughly 4% of all global equity offerings.

Similar to ADR we have Indian Depository Receipt (IDR) which is a transferrable security that is registered as depository receipts on Indian stock exchanges.

LITERATURE REVIEW

The economic liberalisation of India has aroused interest in the specific features and prospects of the country's capital markets. Furthermore, it was discovered in the paper by Jayaraman, Shastri, and Tandon (1993) that the listing of American Depository Receipts (ADRs) resulted in permanently increasing the risk in underlying stocks from developing countries, possibly due to strict disclosure requirements for ADRs, which would impact domestic stock trends as well.

Because IDRs have been present since 2004, a few authors have provided their opinions that may be relevant to the study. Manoj (2006) discovered, for example, that many firms are, "exploring beyond their native financial markets." By releasing DR programmes in international financial markets, the government first enabled Indian businesses to raise equity capital in 1992, and India has a remarkable development in this area compared to other developing markets. According to Ramaswamy (2007), the IDR may be undersubscribed if it is not effectively marketed or fails to pique the interest of investors or purchasers. Palani- Rajan Kadapakkam (January 2009) discovered that ADR premiums are positively connected to retail ADR order imbalance. Furthermore, premiums are inversely connected to the volatility suggested by index option pricing.

As a result, it is the Indian government's challenge to properly sell IDRs by broadly disseminating information. Giridharan (2006) remarked that the requirements imposed for IDRs are still stringent, but when considering market confidence and reality, it is one more step toward global stock market convergence and harmonization. The following objectives for the study have been chosen based on all of these investigations.

GLOBAL DEPOSITORY RECEIPTS

A GDR is, "a negotiable certificate maintained in a bank in one nation that represents a particular number of shares of a stock traded on another country's market. It is a global financing method that allows an issuer to raise funds in two or more markets at the same time through the use of a global offering." GDR certificates are issued by foreign banks and can be traded on capital markets all around the world.

A Global Depositary Receipt is not widely traded on Asian markets but mostly in European markets. The difference between ADR and GDR is the market in which they are traded. GDRs can be exchanged in any country other than USA, whereas ADRs are only traded on the American stock exchange. Wipro is a corporation based in India that has issued both ADRs and GDRs.

INDIAN DEPOSITORY RECEIPTS

According to the Companies (Issue of Indian Depository Receipts) Rules, 2004, an IDR is, "a Depository Receipt issued by an Indian depository in India against the underlying equity shares of the issuing firm." This trading starts with international companies offering shares to an Indian Depository, such as NSDL. After this the international company issues depository receipts to Indian investors under an IDR. This shared will be originally held by the issuer company and authorization is given to the Indian Depository to issue receipts.

In the early 1990s, Indian firms began listing on overseas exchanges by issuing Depository Receipts. To help Indian firms with overseas listing, the Indian government created *"the International Currency Convertible Bonds"* and *"Ordinary Shares"*[1]. This also requires approval from the Department of Economic Affairs, the Ministry of Finance, and the Government of India beforehand. And any person who wishes to do the same needed to raise funds through a foreign listing. To avail such certification the issuing company has to have a three-year track record of Consistently excellent performance.

As a result of the *'Joshi Committee's'* recommendations, the Companies Act of 1956 was modified, and Section 605 A[2] was introduced, empowering the Central Government to adopt rules relevant to the issue of IDRs:

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[1] (Through Depository Receipt Mechanism) Scheme (1993).

[2] Section 605A was added to the Companies Act on December 13, 2000. The aforementioned Section allows firms (formed or to be established outside India) to issue Indian Depository Receipts (IDR) in accordance with Central Government rules (DCA).

"Notwithstanding anything contained in any other law for the time being in force, the Central Government may make rules applicable for—

(a) the offer of Indian Depository Receipts;

(b) the requirement of disclosures in prospectus or letter of offer issued in connection with Indian Depository Receipts;

(c) the manner in which the Indian Depository Receipts shall be dealt in a depository mode and by custodian and underwriters;

(d) the manner of sale, transfer or transmission of Indian Depository Receipts,

by a company incorporated, or to be incorporated outside India, whether the company has or has not been established or, will or will not establish any place of business in India."

The primary parties concerned in the issue of IDRs are issuer company, Domestic Depository, Overseas Custodian and Registrar and Transfer Agents. IDRs are issued in the same manner as ADRs and GDRs.

THE LEGAL FRAMEWORK REGARDING IDRs

IDR Regulatory Bodies:

- The Reserve Bank of India (RBI)
- The Ministry of Corporate Affairs
- The Securities and Exchange Board of India (SEBI)

Statutes Governing IDRs:

- SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 - Chapter X
- The Companies Act 2013 - Sections 605A and Section 390
- Companies (Issue of Indian Depository Receipts) Rules 2004
- Companies (Registration of foreign Companies) Rule 2014 - Rule 13

There are a few changes brough to the companies rules with regard to the issue of IDR's. [3]

STRUCTURE AND STATUS OF INDIAN DEPOSITORY RECEIPTS

The basic structure of depository receipt provides some basic mandates like, "Overseas Custodian must be a foreign bank with a presence in India" and "must be approved by the Finance Ministry to operate as a custodian", whereas the Indian Depository must be registered with SEBI. However, the IDR has a poor standing due to the following reasons:

• Only large international corporations would be admitted;

• A dividend of at least 10% each year for the last five years;

• A $500 million average turnover over the preceding three fiscal years;

• Companies would be required to have at least $100 million in "pre-issue paid-up capital and free reserves."

• Profits should have been made by the company for at least the past five years.

According to the findings of the prime database research, none of the companies satisfied even three of the five requirements. The problem is that these entry barriers are set very high, for the same reason many companies have preferred to stay out of India. the efforts of Indian government to make the rules less tight is also appreciable. Which gives up hope.

CONCLUSION

The introduction of the Indian Depository Receipt is a significant move made by authorities. Through this we are taking first steps toward a new era in the Indian capital market. If India is to become an economic giant, it must first integrate into the modern world. For this More international companies should engage in the issuing of IDR.

While the IDRs may be a fantastic effort by the Union government, it looks to be too early for India to attract foreign fund-raising. while India has the most extensive

[3] Amendment in rule 5: "i. The permission required from the SEBI has to now be in a written form.
ii. An application seeking permission from SEBI shall be made to the SEBI along with draft prospectus or draft letter of offer at least 90 days prior to the opening date of the IDRs issue.18
iii. SEBI may within 30 days of receipt of an application call for such further information, and explanations, as it may deem necessary, for disposal of such application and shall dispose the application within 60 days of its receipt.19
iv. The due diligence report which is to be filed with the SEBI can only be done through merchant banker.20
v. The issuing company shall on approval being granted by SEBI to an application under clause (ii), pay to SEBI an issue fee of half a percent of the issue value subject to a minimum of Rs.10 lakhs where the issue is up to Rs.100 crore in Indian rupees."

capital and financial industry rules. There is still unattractiveness of IDR owing to currency risk, a gap in the clarity of taxation rules, and such other limits imposed by the financial authorities in India.

The first exchange-traded ADRs of Indian shares emerged in 1999, with the listing of Infosys on the New York Stock Exchange. The Indian government implemented significant financial sector reforms, including liberalising the processes and environment for depository receipt issuance, resulting in a rising market for ADRs/GDRs. It is also to be noted that Insurance companies, are not authorised to invest in Indian depository receipts which is ironic considering they are among the major investors in most IPOs.

our regulators are certainly working hard to make IDRs a reality, but for their efforts to be valued the concept need to become a reality. Although the authorities have worked hard to simplify the procedures, there are still certain gaps. However, as stated in the Sahoo study, problems can only be properly addressed when they become more practical.

When international corporations join the Indian market, both Indian investors and the Indian market profit. According to the study, once the system is in place, our regulators will be able to comprehend the expectations and requirements of foreign issuers.

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