

Mandatory requirement of Permanent Account Number (PAN) –

Issues and clarifications - SEBI CIRCULAR - 9, DATED 20-7-2006

1. This has reference to NSDL Circular No. NSDL/POLICY/2006/0007 dated March 03, 2006 and CDSL Communiqué No. CDSL/OPS/ DP/657 as well as CDSL/OPS/DP/666 dated February 07, 2006 and March 08, 2006, respectively, on the captioned subject.

2. During the course of implementation of the aforesaid requirement, certain operational issues have arisen and accordingly, the market participants have made representations and suggestions and sought clarifications on the various operational issues from SEBI.

3. The representations made and clarifications sought covered the following aspects:

- Ø Exemption to certain categories of entities registered with SEBI and verification of documents for proof of address.
- Ø Exemption to Non-Resident Indians (NRIs)/Persons of Indian Origin (PIOs).
- Ø Exemption to persons having PAN but not the PAN card.
- Ø Exemption to UN entities and multilateral agencies which are exempted from paying taxes/filing tax returns in India.
- Ø Exemption to investors residing in the State of Sikkim.
- Ø Verification of PAN card details in respect of accounts opened for HUF, AoP, Partnership Firm, Minor, etc.
- Ø Verification of PAN card details wherever slight mismatch appears as well as where there is a difference in maiden name and current name of the investors.

4. Upon careful consideration of the representations and discussions with the market participants, the clarifications are as under :

4.1. All entities registered with SEBI under Section 12 of the SEBI Act, 1992 and having some difficulty in producing PAN card for verification at the time of opening the Beneficiary Owner (BO) account may be permitted to open a BO account without producing the PAN card. However, such entities would be required to submit the PAN card to the Depository Participants (DPs) within a period of 30 days from the date of opening of the BO account for verification, failing which the DPs shall freeze such accounts as "Suspended for Debit" till such time the PAN card is produced for verification.

4.2. As regards proof of address of FIIs/sub-accounts, a copy of the Power of Attorney (POA) given by the FIIs/FII sub-accounts to the Custodians (which are duly notarized and/or apostilled or consularised) that gives the registered address of the FIIs/sub-accounts can be accepted as proof of address.

4.3. The NRIs/PIOs would be required to comply with the mandatory requirement of producing PAN Card at the time of opening a BO account. However, such NRIs/PIOs who are not able to obtain PAN for one reason or the other but are holding securities in physical form and desire to sell the same, may be permitted to open a "limited purpose BO account" without PAN. The operation of such BO accounts shall be subject to the following conditions :

- Ø These accounts will be "suspended for credit", which means, only credits arising out of corporate benefits and demat of physical certificates will be permitted.
- Ø These accounts cannot be used for getting credit from IPOs, off-market transactions or any secondary market transactions, etc.
- Ø These accounts can remain operational only for a limited period of 6 months from the date of opening of the account. Meanwhile, the account holders may be permitted to convert the account into a normal BO account subject to complying with the PAN requirements. If the Account holder fails to produce the PAN card within the stipulated period of 6 months, the DPs shall freeze such BO accounts.
- Ø The account holders shall be permitted to sell the securities lying in these accounts only through a registered broker on the stock exchange.

4.4. U.N. entities/multilateral agencies which are exempt from paying taxes/filing tax returns in India are exempted from the mandatory requirement of PAN. The exemption, however, would be subject to the DPs collecting documentary evidence in support of such claim of the investors.

4.5. Any investor who has PAN but not having the PAN card may be permitted to open BO Accounts subject to producing the PAN allotment letter. However, such investors would be required to produce the PAN Card on or before September 30, 2006 failing which the DPs shall freeze such accounts as "Suspended for Debit" till PAN card is produced for verification.

4.6. In case of HUF, Association of Persons (AoP), Partnership Firm, Unregistered Trust, etc. -- though the BO account would be in the name of natural persons, PAN of the respective HUF, AoP, Partnership Firm, Unregistered Trust, etc shall be obtained.

4.7. As regards Registered Trust, Corporate Bodies and minors, PAN of the respective entities shall be obtained when accounts are opened in their respective names.

4.8. In case where there is difference in the maiden name and current name of the investor (predominantly in the case of married women), DPs can collect the PAN card proof as submitted by the account holder. However, this would be subject to the DPs verifying the veracity of the claim of such investors by collecting sufficient documentary evidence in support of the identity of the investors as provided in the SEBI Circular No. MRD/DoP/Dep/Cir-29/2004 dated August 24, 2004.

4.9. In the light of the observations of the Hon'ble High Court of Sikkim in its Order dated March 31, 2006 as forwarded by the Sikkim Chamber of Commerce vide their letter No.See/52/06-07 dated May 11, 2006, the investors residing in the State of Sikkim are exempted from the mandatory requirement of PAN. However, this would be subject to the DPs verifying the veracity of the claim of the investors that they are residents of Sikkim, by collecting sufficient documentary evidence in support of their address as provided in the SEBI Circular No.MRD/DoP/Dep/Cir-29/2004 dated August 24, 2004.

5. The Depositories are advised to:-

- 5.1. Bring the provisions of this circular to the notice of the DPs of the Depositories and also to disseminate the same on the website;
- 5.2. Include the aforesaid clarifications in the advertisement campaigns released by them from time to time for better understanding of the investors;
- 5.3. Put up all such communications which may be useful for investors at large on their websites;
- 5.4. Ensure that proof of address (POA) is collected for all the account holders as is being done in the case of Proof of Identity (POI).
- 5.5. Make amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision immediately, as may be applicable/necessary;
- 5.6. Communicate to SEBI the status of the implementation of the provisions of this circular in the Monthly Development Report for the month of August, 2006.

6. This circular is being issued in exercise of the powers conferred by Section 11 (1) of Securities and Exchange Board of India Act, 1992 to protect the interest of investors in securities and to promote the development of, and to regulate, the securities market.

Yours faithfully

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