

MAHESHWARI & CO.

ADVOCATES AND LEGAL CONSULTANTS

Monthly Newsletter

October 2008

◆ DSE set to go live again by next year

THE stage is set for Delhi Stock Exchange (DSE) to go live again. The DSE board has given its nod to an agreement with Financial Technologies to provide technology. A formal announcement is expected to soon. The exchange is likely to begin trading by early next year. Financial Technologies runs Multi Commodity Exchange in Mumbai, Dubai Gold and Indian Energy Exchange and has in excess of 2, 80,000 software terminals. The company also has a 5% stake in DSE but no representative on the board.

DSE, which is one of the country's oldest stock exchanges, hopes to emerge the third option for investors after Bombay Stock Exchange and National Stock Exchange. The DSE board on Wednesday had approved the agreement with Financial Technologies. "The board has given its nod to the technology agreement with Financial Technologies. We are hopeful of emerging as the third option, especially for small and medium enterprises," former president and present director of DSE Bharat Bhushan Sahny told ET.

- ◆ *Delhi Stock Exchange (DSE) to go live again.*
- ◆ *Market regulator Sebi had asked 10 stock exchanges, including DSE, to complete their demutualization process by August 28, 2008.*
- ◆ *DSE would position itself as an alternative to NSE and BSE*

The stock exchange had also managed to attract foreign investors after the government allowed foreign direct investment in stock exchanges in 2006. Wilmette Holdings Limited, Passport Capital and New Vernon Capital have already picked up stake in the exchange while Deutsche Bank is awaiting the RBI nod. Market regulator Sebi had asked 10 stock exchanges, including DSE, to complete their demutualization process by August 28, 2008. The other stock exchanges included Calcutta Stock Exchange, Madras Stock Exchange, Pune Stock Exchange, Cochin Stock Exchange and Guwahati Stock Exchange. After corporatization and demutualization all trading members enjoy similar rights and privileges. Sources said DSE would position itself as an alternative to NSE and BSE in contrast with Calcutta, which has tied up with BSE and Madras, which has tied up with NSE. It already has 3,000 companies listed on it.

◆ CDTAC Reconstituted

- ◆ *CDTAC is reconstituted for 2008-2010.*
- ◆ *The committee will have three official members and sixteen non-official members*
- ◆ *The committee will meet twice in every year for the first time between October and December and for the second time between April and June, an official release.*

THE government has reconstituted the Central Direct Taxes Advisory Committee (CDTAC) for 2008-2010. The main function of the committee is to advise the government on measures for developing and encouraging mutual understanding and co-operation between tax payers and the income-tax department and removing administrative and procedural difficulties of a general nature. While finance minister be the chairman and the minister of state (revenue) will be the vice-chairman of the committee. The committee will have three official members and sixteen non-official members. The official members will be secretary, department of revenue and chairman and member (revenue), Central Board of Direct Taxes.

The non-official members include four members of Parliament (two from the Rajya Sabha and two from the Lok Sabha) and twelve representatives — advocates, chartered accountants, economists,

management experts and representatives of trade, commerce and industry from four zones of India. The term of office of non-official members shall be two years. The committee will meet twice in every year for the first time between October and December and for the second time between April and June, an official release.

◆ FII norms likely to be reviewed

INDIA will soon undertake a comprehensive review of the regulatory regime for foreign institutional investors (FIIs). Market regulator Sebi is finalizing a detailed approach paper on the proposed framework, which is expected to be taken at its board meeting on October 6.

Sources in the finance ministry said the approach paper, which would include a review of the participatory note (PN) regime, would be placed in public domain after the board clears it. PNs are derivative instruments that have Indian securities as the underlying asset and are issued to foreign investors who have no direct access to the local stock market.

The Sebi board, which had decided to restrict investments through PNs at its meeting on October 25, 2007, had also asked the regulator to prepare the future blueprint for the foreign portfolio regime in the country. The regulator had subsequently eased the registration norms for FIIs after these restrictions were imposed on issuance of PNs to unregulated entities.

However, this paper essentially carries out a detailed review of the current regime, besides outlining the contours of future policy, sources said. It would lay down the norms for foreign investors keen to invest in Indian stocks and also give a broad direction to new products and know-your-customer (KYC) norms.

The paper would also examine the issue of 'who can enter the Indian stock market and how they can enter' in detail. KYC norms, which the regulator wants to put in place to stop money laundering, would be a part of the paper. The Financial Action Task Force guidelines on anti-money laundering could form the basis for a disciplinary regime for foreign investors.

The paper was also a part of the agenda at the regulator's last board meeting. But it was decided to finetune the paper and holds a comprehensive discussion at the board's next meeting.

FIIs have pulled out \$8.8 billion from Indian equities in 2008 so far, but have been net investor to the tune of \$2.1 billion in the debt market. In September, FIIs have pulled out \$1.8 billion from equities and invested about \$800 million in debt. There are 1,510 registered FIIs and 4,584 sub-accounts, according to Sebi data.

◆ *The Sebi board had also asked the regulator to prepare the future blueprint for the foreign portfolio regime in the country.*

◆ *FIIs have pulled out \$8.8 billion from Indian equities in 2008 so far, but have been net investor to the tune of \$2.1 billion in the debt market.*

◆ *There are 1,510 registered FIIs and 4,584 sub-accounts, according to Sebi data.*

◆ Stamp duty cut on debentures, P-notes

IN A move that'll enable companies to raise debt at a lower cost and help deepen the country's bond market, the government has slashed stamp duty on key financial instruments — debentures and promissory notes. As per the notification, the new rate for issuance of debenture is 0.25% per annum. The rate would depend on tenure; however, there would be a cap of 0.25% per year or Rs 25 lakh, whichever is lower. This tenure based rate will lower the cost of raising debt for companies to a large extent.

- ◆ *The new rate for issuance of debenture is 0.25% per annum*
- ◆ *Duties on promissory notes have been cut by one-fifth*
- ◆ *While debentures attract stamp duty at an average rate of 0.375%, promissory notes attract a duty of 0.05%.*

Duties on promissory notes have been cut by one-fifth. The prevailing rates are 10 paise for amounts less than Rs 250, 15 paise for amounts more than Rs 250 but less than Rs 1,000 and 25 paise for amounts more than Rs 1,000. While debentures attract stamp duty at an average rate of 0.375% ad valorem (as a percentage of the value of issue), promissory notes attract a duty of 0.05%. The new tenure based system replaces the slab system that was in prevalence until now. Incidentally, states have started e-payment system for stamp duties which will make it easier for them to administer the new rates.

The Stamp Duty Act empowers the Centre to raise or reduce duty on debentures and promissory notes. However, the onus of reducing the stamp duty on security receipts (SRs) rests with the states, which are yet to take a final view on the issue. The empowered committee of state finance ministers has been asked to look into the matter with a view to create a pan-India market for financial instruments.

◆ **Govt. norms likely to compulsorily secure WiFi links**

IN THE wake of the terror emails being sent from unsecured wireless fidelity (WiFi) networks, the government is examining the possibility of issuing new norms that will make it illegal to leave such internet connections open. The new norms may also put the onus on telcos and internet service providers (ISPs) who sell WiFi connections to educate their customers of keeping them secure.

The department of telecom will work with the home ministry and intelligence agencies to put in place steps to secure WiFi internet connections, which are increasingly being used in homes and offices across the country. WiFi networking companies may also be asked to limit WiFi signal right down to a defined radius by installing access points around the signal.

However, internet service providers (ISPs) say that it is customer who is to blame. "Internet service providers are taking steps on their own to secure WiFi connections. All ISPs are installing AAA servers and firewalls. But, if you look at the terror mails, they were sent from hacked or open WiFi accounts – there is nothing we can do about this. When people take a broadband connection, then take routers and make their homes and offices WiFi enabled, and then leave it open, there is nothing ISPs can do about it," explained the president of the Internet Service Providers Association of India's president Rajesh Chharia.

- ◆ *All ISPs are installing AAA servers and firewalls.*
- ◆ *The new norms may also put the onus on telcos and internet service providers (ISPs) who sell WiFi connections to educate their customers of keeping them secure.*
- ◆ *Even WiFi can be hacked, even though its password protected.*

Industry experts say that regulations will not help much since most home and corporate users use minimal security to lock their WiFi networks making them an easy target to hack into.

Security experts suggest that WiFi users should never broadcast their SSIDs (service set identifiers) and change their access passwords. "Most routers which come in the market have a password 1234 and login id – as admin. One should immediately change it after installing. Also one should block the router's SSIDs from broadcasting the WiFi networks and allow only particular machines to access it," says Aujas Network Founder and COO Sameer Shelke.

Generally a WiFi router is configured to advertise its SSID to all neighboring WiFi devices. One can block the SSID from advertising so that only by typing the name, the particular WiFi network appears.

The Wireless Fidelity (WiFi) connection of a Mumbai based power company was hacked into by suspects in Chembur, who sent the e-mail to news organizations while the serial blast continued in the capital

which killed about 25 people and left about 100 injured on Saturday. Experts say that digital forensics still holds the key to catch suspects who have even challenged security agencies to catch them.

Accessing the WiFi router or the wireless access point's log files (present in Mumbai's Kamran Power Company in this case), one can find out the MAC (Media Access Control) address of the WiFi card which accessed the WiFi point of that company. Each WiFi adaptor card manufactured in the world has a unique MAC address. Identifying that MAC address would mean identifying the manufacturer of that particular network card. The manufacturers are generally based in Malaysia, Taiwan and China, global hubs of electronic manufacturing.

A high level protocol with Chinese or Taiwanese government can help the investigating agencies get hold of which factory that particular card was shipped to and when. It can also identify the bar code number of that card. Each PC or laptop maker like Dell, HP, Lenovo or Acer tags the barcode numbers of the card before assembling them into the machines. This information can be used to find out which dealer sold that particular laptop in which part of the world and to which buyer, which in this case can be the suspect. Identifying the digital footprint can thus help trace the culprits.

US-based Meru Networks' India head Giridhar Java says: "We can also configure a network to operate only in a particular radius. All signals going outside a particular periphery can be blocked. Another way is to throw junk to an outside receiver trying to connect. We can easily jam his or her WiFi card but that's not legally allowed in most parts of the world."

The easiest way to secure is to provide a password for accessing WiFi but y experts say that too is penetrable. "Basically WiFi operates in the 2.5 GHz frequency and one can still access your WiFi network by special frequency scanners."

Feed Back:

Your suggestions and contributions are of great importance to us. Please give us your FEEDBACK, so that this Bulletin may be made of real use to you. Please write to us with your views and contributions at: info@maheshwariandco.com

Disclaimer

The information contained in this newsletter has been obtained from sources considered to be authentic and reliable. However, Maheshwari &Co. shall not responsible for any error or inaccuracy or for any losses suffered on account of information and analysis contained in this newsletter. The data and information provided in this newsletter is not advice, professional or otherwise, and should not be relied upon as such. Readers are advised to obtain professional advice before acting on any information contained in it.

*The editors of this report can be reached at **MAHESHWARI & CO., Advocates and Legal Consultants, B – 7/1, Safdarjung Enclave Extension, New Delhi –110 029, Tel: 91-11-26101906,91-11-41354615 Fax: 91-11-26171201. - E.mail: info@maheshwariandco.com***