

SECURITIES AND EXCHANGE
COMMISSION OF PAKISTAN



CONCEPT PAPER

ISSUANCE OF
CONVERTIBLE
DEBT SECURITIES
BY WAY OF RIGHT.

THE PURPOSE OF CONCEPT NOTE IS TO TAKE FEEDBACK FROM PUBLIC AND OTHER STAKEHOLDERS ON ISSUANCE BY A LISTED COMPANY OF CONVERTIBLE DEBT SECURITIES THROUGH RIGHT OFFER.



1. What is a Convertible Debt Security (CDS)?

A convertible debt security is a conventional/Islamic debt instrument that yields interest/profit payments and can be converted into a predetermined number of equity shares at future point in time.

2. What is Right Offer of CDS?

Right Offer of CDS involves offering of CDS by company to existing shareholders for subscription. The rights are offered in a particular ratio to the number of shares/shareholdings held as on specific cut-off date.

3. Issuance of CDS in Pakistan

Following two modes are generally used for issuance of CDS:

Public Offering



Private placement



All relevant mechanics for issuance of CDS through aforesaid modes are explained in detail in prior guidance paper accessible at: <https://www.secp.gov.pk/document/guidance-paper-convertible-debt-securities/?wpdmdl=42205&refresh=61ef9f7bed8fe1643093883>. For ease of reference the guidelines are attached as Annexure – A of this concept note.

4. Proposed mechanics for issuance of CDS through Right offer:

Regulatory framework does not prohibit issuance of CDS through right offer. Issuance of CDS through right is a unified mode of raising funds that involves issuance of CDS, as a right to existing shareholders. Under the subject concept, a company that intends to raise funds in the form of debt specifically convertible debt can offer debt instrument to existing shareholders for subscription. Process Flow is shown below:



5. Additional requirements for issuance of CDS through right:

a) Structuring of CDS as per the Structuring of Debt Securities Regulations, 2020. As per the said Regulations, the Issuer can issue the CDS either through execution of Issuance agreement or Trust Deed. Provisions relating to Trust Deed and Issuance agreement are specified at regulation 11 and 15 of the Structuring of Debt Securities Regulations, 2020, respectively.

b) Prior Requisite approval under section 83(1)(b) of the Companies Act, 2017 for further issue of share capital in relation to conversion of CDS to share capital.

c) Appointment of Investment agent or Debt Securities Trustee depending upon the structure opted by the Issuer. (Investment agent is required in case of Issuance agreement and Debt Securities Trustee in case of Trust structure.)

Entity holding a valid Consultant to the Issue license can act as Investment Agent, list of licensed Consultant to the Issue and Debt Securities Trustee is available at SECP's website and can be accessed through:

<https://www.secp.gov.pk/data-and-statistics/capital-markets/>



6. Relevant legal framework and types

a) Relevant regulatory framework for issuance of CDS through right includes:

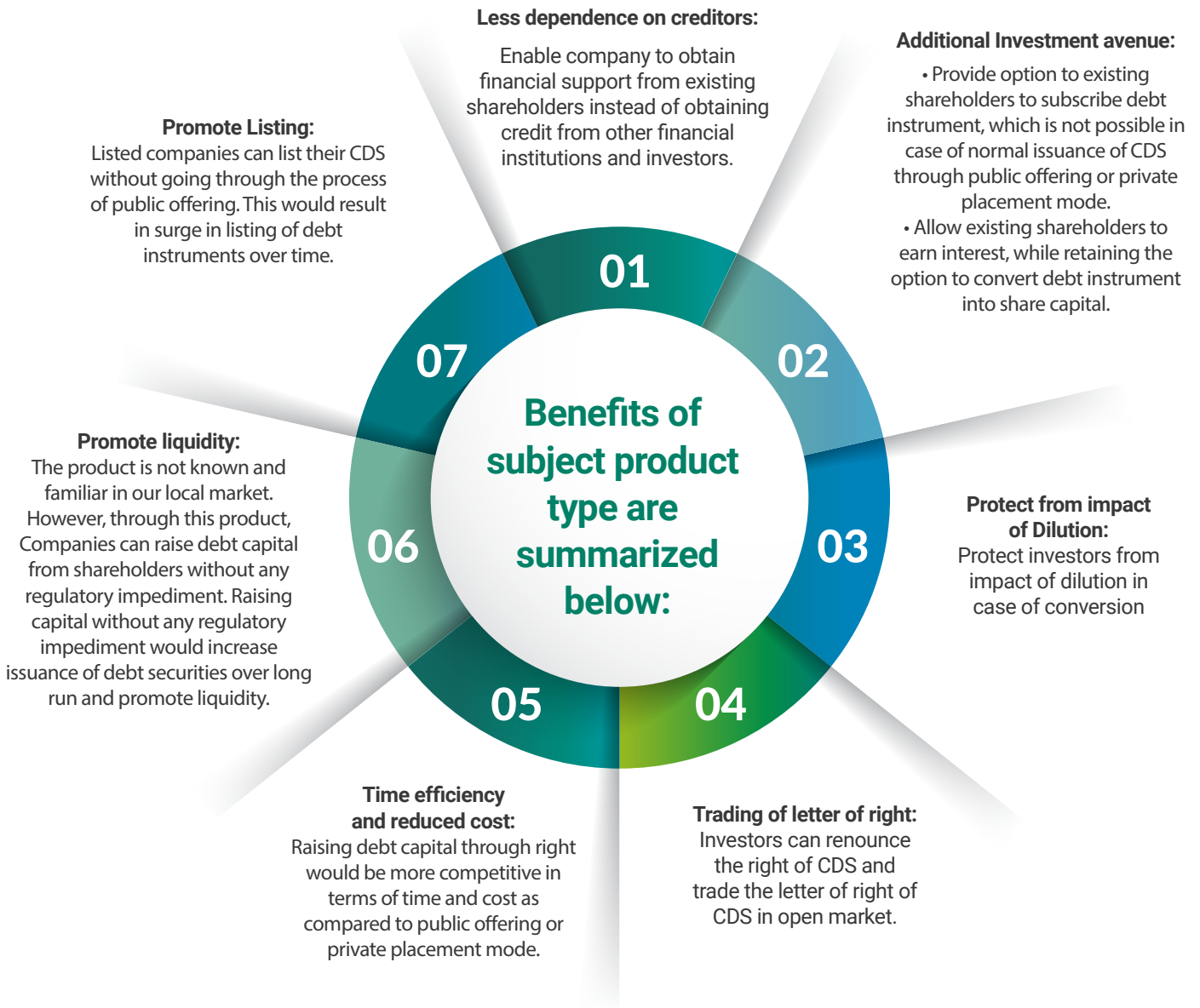
- i. Structuring of Debt Securities Regulations, 2020 (Deals with structuring of debt securities).
- ii. Section 63 and Section 66 of the Companies Act, 2017.

b) Different types of convertible debt securities can be issued. Few types are stipulated below:

- i. Fully convertible debt security – at the discretion of Investor
- ii. Fully convertible debt security – at the discretion of Issuer
- iii. Partially convertible debt security – at the discretion of Investor
- iv. Partially convertible debt security – at the discretion of Issuer
- v. Mandatory convertible debt security

Note: Both secured and unsecured CDS can be issued for any of the structure described above.

7. Benefits of CDS through right offer:



8. Global Overview

As per the research conducted and available information, issuance of CDS through right is prevalent in countries like India and Malaysia. Details are given below:

Malaysia

- i. In Malaysia, Companies are also allowed to issue CDS by the way of right.
- ii. Requirements for issuance of securities including CDS through right are covered under Chapter 6 of Main Listing Rules of Bursa Malaysia. Listing Rules can be accessed through following link:

<https://asklisting.bursamalaysia.com:8443/MainLR/Pages/MainChapter6.aspx>

- iii. Real life example:

In 2021, Air Asia Malaysia issued 1,299,350,959 CDS together with 649,675,479 free detachable warrants on basis of 2 CDS with 1 warrant for every six ordinary shares in AIR ASIA. AirAsia Malaysia raised 974.5 million Malaysian Ringgit (RM) by issuance of seven-year redeemable convertible unsecured Islamic debt securities by the way the right.

Offering document of same can be accessed through below link:

https://ir.airasia.com/newsroom/AAGB_-_Abridged_Prospectus.pdf.



India

- i. In India, primary law i.e. Companies Act, 2013 allows public limited company or private limited company to issue securities including CDS through Right issue or bonus issue.
- ii. CDS through right offer are issued as per the normal right issuance regime being followed for equity securities.
- iii. Conditions for issuance of CDS through right are given at section 63 of the Issue of (Capital and Disclosure Requirements) Regulations, 2018. Issue of (Capital and Disclosure Requirements) Regulations, 2018 can be accessed through following link:
https://www.sebi.gov.in/legal/regulations/sep-2018/securities-and-exchange-board-of-india-issue-of-capital-and-disclosure-requirements-regulations-2018_40328.html
- iv. Real life example: In 2006, Titan Industries Limited issued Partly Convertible Debentures (PCDs) of Rs. 600 each on right basis in the ratio of one PCD for every 20 equity shares held by shareholders.

9. Public Comments:

The concept will be implemented through notification of legal framework. Since, the concept is new to the local market, therefore a concept paper is being issued along with draft legal framework, for soliciting public comments.

Comments may please be e-mailed on or before July 08, 2022 at email id cdsfeedback@secp.gov.pk.

