



Social Stock Exchange – A detailed framework issued by SEBI

21 October 2022

First Notes on

- Financial reporting
- Corporate law updates
- Regulatory and other information**
- Disclosures

Sector

- All**
- Banking and insurance
- Information, communication, entertainment
- Consumer and industrial markets
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Relevant to

- All**
- Audit committee
- CFO
- Others

Transition

- Immediately
- Within the next three months
- Post three months but within six months
- Post six months

Forthcoming requirement

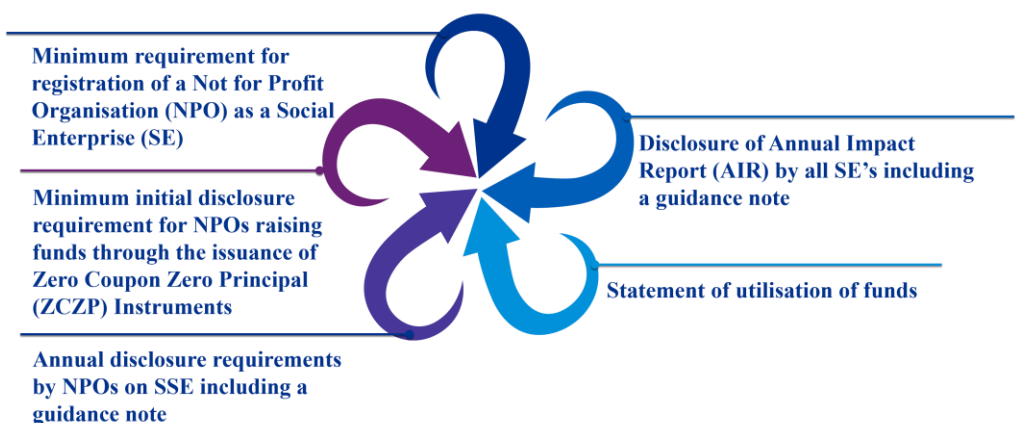
Background

On 25 July 2022, the Securities Exchange Board of India (SEBI) incorporated new chapters relating to the Social Stock Exchange (SSE) by amending the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations), SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) and SEBI (Alternative Investment Funds) Regulations, 2012 (AIF Regulations) ¹.

New Development

On 19 September 2022, SEBI vide a circular No. SEBI/HO/CFD/PoD-1/P/CIR/2022/120 (the Framework), issued a detailed framework prescribing the minimum requirements to be followed by an Not for Profit Organisation (NPO) that desires to be registered/listed on an SSE. The main themes of the Framework are depicted below:

Figure 1: Framework on SSE issued by SEBI



(Source: KPMG in India's analysis, 2022)

¹For further information on these amendments, please refer to KPMG in India's First Note issued on 12 September 2022 on - Social Audit Standards – Exposure Draft. Please click [here](#)



1. Minimum requirements for an NPO to be registered with an SSE - Regulation 292F of the ICDR Regulations

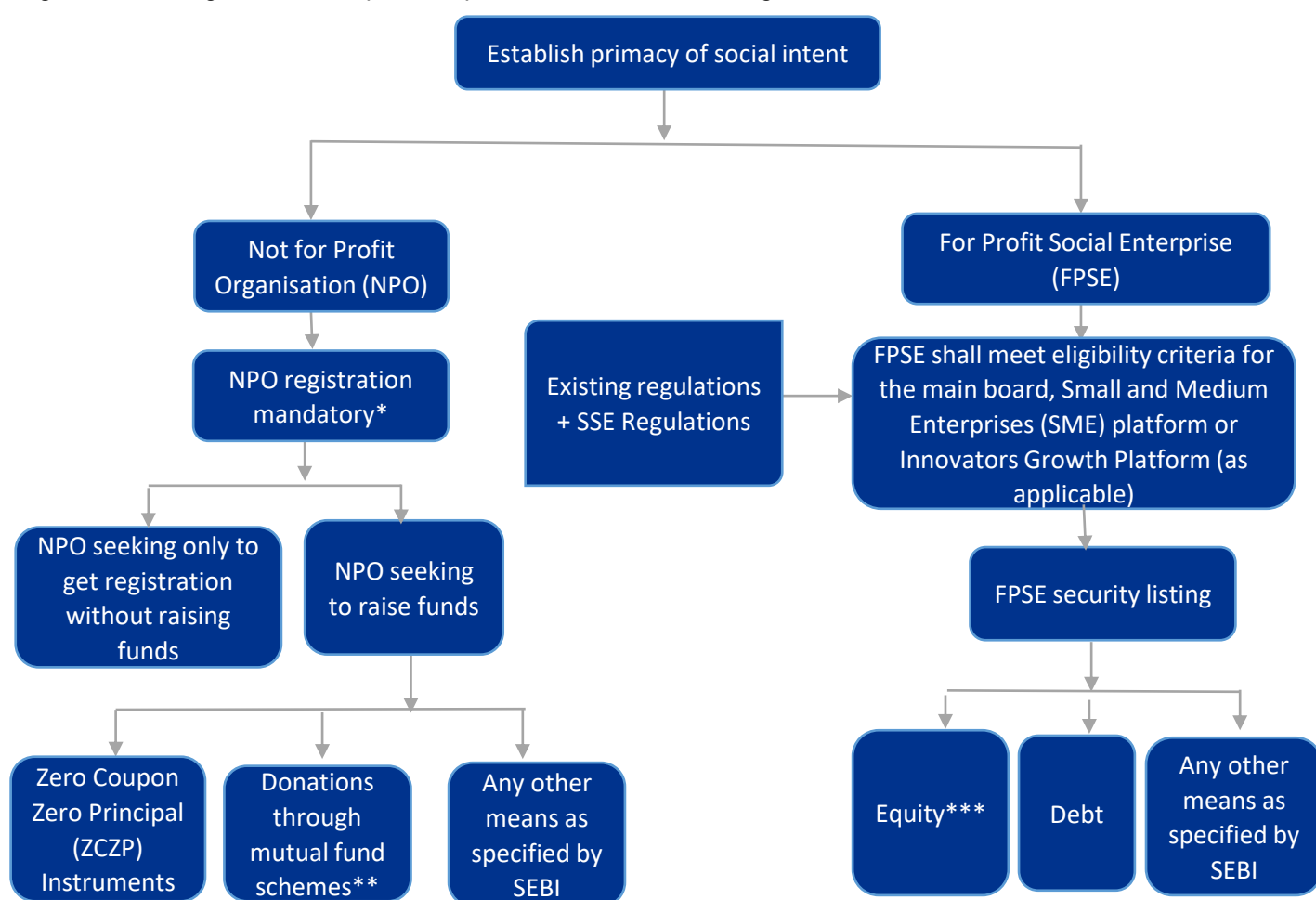
- **Registration as an NPO:** An entity shall be registered as an NPO in India as one of the following entities.
 - a) A charitable trust registered under the Indian Trusts Act, 1882
 - b) A charitable trust registered under the public trust statute of the relevant state
 - c) A charitable trust registered under the Societies Registration Act, 1860
 - d) A company incorporated under section 8 of the Companies Act, 2013.

The registration certificate for such an entity should be valid for at least next 12 months at the time of seeking registration with an SSE.
- **Years in existence to register:** An NPO that desires to be registered with an SSE should have been in existence for a minimum of three years.
- **Eligibility requirements to be an SE:** Requirements of Regulation 292E of the ICDR Regulations² should be met with.
- **Ownership and control:** NPO should disclose the details with respect to its ownership and control and should submit the governing documents such as the Memorandum of Association (MoA) and Articles of Association (AoA), trust deed, bye-laws, constitution, etc.
- **Income tax registration and exemption:** NPO should have a valid Income Tax Permanent Account Number (IT PAN). Further, the registration certificate under section 12A/12AA/12AB³ of the Income Tax Act, 1961 (IT Act) should be valid for at least the next 12 months. Further, the NPO should not have received a notice or an ongoing scrutiny by the Income Tax department. The NPO should also ensure that a tax deduction will be available to the investors.
- **Minimum fund flows:** The annual spending by an NPO as per the audited financial statements for the past financial year should be at least INR50 lakh. Additionally, the annual funding received by such an NPO as per the audited accounts should be at least INR10 lakh.



- ² – An NPO or a FPSE, in order to be identified as an SE, must establish primacy of its social intent. In order to establish primacy of its social intent, such an SE should undertake at least one of the 16 thematic areas prescribed by SEBI under Section 292E(2)(a) of the ICDR Regulations.
- Additionally, an SE should have at least 67 per cent of its activities, qualifying as eligible activities to the target population, to be established through one or more of the following:
 - i) at least 67 per cent of the immediately preceding three-year average of revenues should be from providing eligible activities to members of the target population,
 - ii) at least 67 per cent of the immediately preceding three-year average of expenditure was incurred for providing eligible activities to members of the target population, and
 - iii) members of the target population to whom the eligible activities have been provided constitute at least 67 per cent of the immediately preceding three-year average of the total customer base and/or total number of beneficiaries.
 - The SE shall target underserved or less privileged population segments or regions recording lower performance in the development priorities of central or state governments.
 - Corporate foundations, political or religious organisations or activities, professional or trade associations, infrastructure and housing companies, except affordable housing, shall not be eligible to be identified as an SE.
- ³ Section 12A of the Income Tax Act, 1961 (IT Act) prescribes the conditions for availing the benefits under Section 11 and 12 of the IT Act which pertains to income of a trust or institution
- i) Section 12AA of the IT Act provides the procedure for registration for trusts and institutions
 - ii) Section 12AB of the IT Act deals with the procedure for a fresh registration by trusts and institutions

Figure 2: The diagram below depicts the process flow for on boarding SE's on a SSE



(Source: KPMG in India's analysis, 2022)

2. Minimum initial disclosure requirement for NPOs raising funds through the issuance of ZCZP Instruments Regulation 292K(1) of the ICDR Regulations

As per Regulation 292G(a) of the ICDR Regulations, an eligible NPO may raise funds through following means:

- issue of Zero Coupon Zero Principal (ZCZP) bonds,
- donations through Mutual Funds schemes, or
- other means, as specified by SEBI.

Regulation 292I of the ICDR Regulations provides that, ZCZP instruments shall be issued without any coupon and no principal amount shall be payable on its maturity. Further, Regulation 292K of the ICDR Regulations states that, in order to raise funds through issue of ZCZP instruments, the NPO should file a draft fund-raising document along with the fees and an application seeking in-principle approval for listing of ZCZP instruments with an SSE. The draft fund-raising document shall be made available on the website of the SSE and the NPO for 21 days for public comments. On the basis of the observations received from the SSE within 30 days from the date of filing of the draft fund-raising document or the clarifications received, whichever is earlier, the NPO should incorporate such observations and file the final fund-raising document with the SSE. The draft and final fund-raising document should contain all material disclosures which are true and adequate to enable the applicants to take informed decisions.

* An NPO registered with the SSE is required to comply with the SSE regulations as laid down by SEBI

** A registered NPO may raise funds from donations through mutual fund schemes as specified by SEBI

*** A FPSE may raise funds through issuance of equity shares on the main board, SME platform or innovators growth platform or equity shares issued to an Alternative Investment Fund (AIF) including a social impact fund;

In accordance with the SEBI framework on SSE dated 19 September 2022, an NPO that desires to raise funds by issue of ZCZP instruments should disclose in the draft and final fund-raising document the following:

- **Vision:** Consisting of details of the organisation's activities, interventions and programmes which are in line with aims and objects stated in its constitution
- **Target segment:** The target segment (i.e.those affected by the problem and how are they affected) and the approach to be followed to accomplish its planned activities should be disclosed. The NPO must disclose how its approach intends to improve inclusion of its customers/recipients.
- **Strategy:** The strategy formulation to accomplish vision including the capabilities and learnings from challenges should be disclosed.
- **Governance:** Details of its governing body, composition and dates of board meetings held should be disclosed.
- **Management:** Details of key managerial staff such as those in charge of programmes, fundraising, marketing, communication, finance, human resource and details as to whether the organisation provides letters to staff and volunteers defining roles and responsibilities, periodic performance appraisal process, etc.
- **Address:** The address of the organisation to verify the physical existence.
- **Financial statements:** Disclosure of the financial statements for last three financial years prepared in accordance with guidelines for NPOs issued by Institute of Chartered Accountants of India (ICAI).
- **Compliance:** The duly audited annual accounts for the latest three financial years should be made available. It should be noted that, there should not be material qualifications or material irregularities reported by the auditor. Additionally, the organisation should also be in compliance with the income tax regulations.
- **Credibility:** Documents such as registration certificate, trust deed/MoA and AoA, address proof, IT PAN, 12A/12AA/12AB Certificate, certificate and returns filed under Foreign Contribution (Regulation) Act 2010 (FCRA), remuneration to governing members should be disclosed and submitted.
- **Social impact:** Details of past social impact in terms of parameters specified under the minimum disclosures of the Annual Impact Report (AIR) should be disclosed.
- **Risks:** Disclosure of the risks which the NPO perceived in its operations and the unintended consequences from its activities and how the NPO proposes to mitigate the same should be disclosed.

3. Annual disclosure requirements for NPOs⁴ registered on an SSE – Regulation 91C of the LODR

As per the LODR Regulations, an NPO registered on an SSE is required to provide annual disclosures to the SSE on matters specified by the SEBI within 60 days from the end of the financial year or within such period as may be specified by the SEBI.

The SEBI circular prescribes the following disclosures to be made on an annual basis:

General aspects	Governance aspects	Financial aspects
<ul style="list-style-type: none"> • Name of the organisation (legal and popular name) • Location of its headquarters and of its operations • Vision/mission/purpose • Organisational goals, activities, products and services • Outreach of organisation (Type and number of direct, indirect and institutional beneficiaries' stakeholders reached) 	<ul style="list-style-type: none"> • Ownership and legal form • Governance structure (outline of the board and management committee structures, mandates, membership, charters, policies and internal controls) • Details of governing body including names of the members of the governing body • Executives with key responsibilities 	<ul style="list-style-type: none"> • Financial Statements consisting of: <ol style="list-style-type: none"> a) Balance sheet b) Income statement c) Cash statement d) Programme wise fund utilisation certificate for the year e) Percentage of organisational budget f) Breakup of organisational budget and expenditure

⁴The SEBI circular dated 19 September 2022 contains the guidance note with respect to each of the above categories of disclosures

General aspects	Governance aspects	Financial aspects
<ul style="list-style-type: none"> Scale of operations (including 'employee and volunteer strength'). The scale of the operations shall be explained by net turn-over/annual budget/annual spend in last three years, number of beneficiaries, number of locations of operations and number of employees and volunteers Details of top five donors or investors determined budget wise and presented as per the format prescribed in the guidance note of the circular Details of top five programmes in disclosure period determined budget wise and presented as per the format prescribed in the guidance note of the circular. 	<ul style="list-style-type: none"> Number of meetings by governing body and other committees formed by them along with attendance and the process of performance review Organisational level potential risks and mitigation plan. Reporting of all related party transactions entered along with the reasons Mechanisms for advice and concerns about ethics, along with conflict of interest and communicating other critical concerns Remuneration policies for the governing body and senior executives. This include all kinds of fixed pay, variable pay, performance linked payments, termination payments and claw backs. Details of how the performance of the organisation is linked to remuneration shall also be disclosed Stakeholder grievance, process of grievance redressal and number of grievances received and resolved Compliance management process and statement of compliance from senior decision maker Organisation registration certificate and other licenses and certifications (12A, 80G, FCRA, GST, etc.). 	<p>g) Split of the budget across partners of the project/initiative is being jointly executed</p> <ul style="list-style-type: none"> Auditor's report and details of the auditor.

4. Disclosures in the Annual Impact Report (AIR) – Regulation 91E of the LODR

As per the LODR Regulations, an SE, which is either registered with or has raised funds through an SSE, should submit the AIR to the SSE in the format specified by SEBI. The AIR must be audited by a social audit firm employing social auditor(s) ⁵.

The SEBI circular dated 19 September 2022 provides general requirements as well as minimum disclosures to be made in an AIR by all SEs registered with or have raised funds using SSE. These requirements are listed below:

General requirements

- Time period for submission:** The audited AIR should be submitted within 90 days from the end of the financial year.

⁵For further information on these amendments, please refer to KPMG in India's First Note issued on 12 September 2022 on - Social Audit Standards – Exposure Draft. Please click [here](#)



- **Utilisation of funds:** The AIR should contain the qualitative and quantitative aspects of the social impact generated by an entity/project or solution for which funds have been raised on SSE. In case of an NPO registered as an SE without listing any security, the AIR must include details regarding the significant activities, intervention, programmes or projects during the year and the methodology for determination of significance must be explained. Additionally, if there is an activity, intervention, programme or projects covered under a listed security, it will qualify as a significant activity, intervention, programme or project.
- **Social impact fund:** A social impact fund must disclose an overall AIR of the fund disclosing details of all investee/grantee organisations where the fund is deployed, if the underlying recipients of the social impact fund are SEs which are registered or raised funds using SSE.

Disclosure requirements:

While the below list is not exhaustive, the AIR should at least cover the below aspects:

Strategic intent and planning	Approach	Impact score card
<ul style="list-style-type: none"> • The social or environmental challenge addressed by the organisation and/or the instrument listed and the change, if any, from the last year • The approach adopted/to be adopted to cater to the challenge and the change is resulting for the targeted beneficiary and proportion of the target group experiencing the change • Details of the target beneficiaries / stakeholders (i.e. target segment) and the change from the last year • The outcomes of the activities, intervention, programmes or project. Disclosure should include positive and potential unintended negative outcomes. 	<ul style="list-style-type: none"> • The baseline status/situation analysis/context description at the start of the activity/intervention/ programme or project and at the end of the last reporting period • Key past performance trends • The solution implementation plan and the measures taken for sustainability of activity/intervention/ programme or project outcomes. Details of any material change in the implementation model in the last one year • Explain the alignment of solution to Sustainable Development Goals (SDGs)/national priorities/state priorities/ developmental priorities. • Disclose the list of stakeholders engaged, their feedback and how the organisation used the feedback • Key potential risks that could hamper/hinder the achievements of desired intended outcomes in last year and the steps or strategies taken to mitigate the same. 	<ul style="list-style-type: none"> • Disclose details of the metrics monitored and its trend. The trend in performance shall be explained through the trend of the data across the output, outcome and impact metrics that are established by the organisation. The metrics monitored should cover the reach, depth and inclusion of the activity, intervention, programme or project. • Disclosure of the key highlights, achievements, challenges and/or disappointments faced during the reporting period • Beneficiary/stakeholder validation through surveys and other feedback mechanisms.



5. Due date for submission of statement of utilisation of funds

The LODR Regulations states that a listed NPO should submit to the SSE(s) a statement in respect of utilisation of the funds raised, on a quarterly basis in the following manner:

- i) Category-wise amount of monies raised
- ii) Category-wise amount of monies utilised
- iii) Balance amount remaining unutilised.

The SEBI circular prescribes that the statement should be submitted within 45 days from the end of the quarter.

Our comments

Social Stock Exchange (SSE) is a path breaking concept in India. SEBI's recent circular detailing a framework for NPOs in India to get listed on an SSE will require a paradigm shift in the way NPOs operate, their governance structure and compliances with laws and regulations. The SSE platform allows Social Enterprises (SEs) to access public capital by raising funds through institutional investors and non-institutional investors (SEBI may permit other class(es) of investors, as it deems fit, for the purpose of accessing SSE) ⁶.

Access to public markets comes with its own set of responsibilities such as increased transparency, enhanced disclosure requirements, independent assurance on impact assessments and accountability to the investors of the ultimate usage of funds in line with the stated objectives. SEBI has therefore, put in place adequate safeguards in the SSE framework such as NPOs having a minimum track record of three years can only get registered on an SSE to improve investor confidence. These requirements are in the right direction and provide a new avenue for SEs to access capital.

However, some key points to be kept in mind by SEs desirous of getting listed on the SSE are as follows:

1. Key considerations for an entity planning to list on the SSE

- **Registration requirements for an NPO:** As per the SEBI framework, an NPO is required to satisfy certain conditions such as the income tax registration, minimum number of years of existence, criteria of minimum fund flow and so on. As a result, a newly setup NPO or NPOs may be unable to meet the funding criteria (i.e mid and small size NPOs) which are actively working towards achieving the social objective would be ineligible to raise funds through the SSE.
- **Detailed compliances and disclosures in the offer/final document:** The SEBI framework lays down that an NPO desirous of being listed on any SSE should file a draft and final fund-raising document. Such documents must contain detailed disclosures about the operations of the NPO, its vision, mission, ownership, governance structure, credibility, etc. NPOs that wish to raise funds by way of issue of ZCZP need to put in place processes and systems and internal controls to ensure compliance with the SEBI framework. This may involve significant time and effort by the management, investment of money, hiring of advisors, other specialists to ensure compliance with the new framework.
- **Annual disclosure filing by NPOs:** A listed NPO is required to provide annual disclosures to the SSE within 60 days from the end of the financial year. The disclosure requirements are elaborate and will require significant judgement and tracking mechanisms to be developed by NPOs to track each project, initiative, its budget vs actual funding, stakeholder grievances, compliance management system. Some of the disclosures such as reporting on all related party transactions may involve more clarification from SEBI as to what would constitute a related party in the context of an NPO. While Regulation 23 of the LODR lays down the framework for listed entities, the ownership and legal structure of NPOs is likely to be different.



⁶ As per Regulation 292C of the SEBI (ICDR) Regulations, an SSE shall be accessible only to institutional investors and non-institutional investors. However, SEBI may permit other class(es) of investors, as it deems fit, for the purpose of accessing the SSE.

Our comments

- **Audited Annual Impact Report (AIR):** The framework requires a listed NPO to submit within 90 days of the end of the financial year an audited AIR. Such an audit is required to be conducted by a social auditor. The AIR should contain detailed disclosures and metrics including an impact score card to report on trends and data across various significant projects/programmes and the impact on the stakeholder/beneficiary. The process of preparation of the AIR by an NPO will require significant time, cost and effort and internal checks and balances. Further, since the outcome of the metrics may be subjective, there may be challenges in quantifying the reach, depth and impact of such activities both by the preparer as well as an auditor.

The Institute of Chartered Accountants in India is developing the Social Audit Standards in India. One will need to assess the requirements of the SAS and how will these integrate with the disclosure requirements in the AIR.

Additionally, for an NPO is registered without listing any security, the AIR must cover the NPO's significant programmes or projects during the year, and the methodology for determination of significance must be explained. What may be considered 'significant' or 'material' in order to be reported in the AIR may involve significant judgement and estimate. Since the underlying subject matter is subjective, SEBI should consider providing practical examples with benchmark criteria for identification/determination of significant programmes/projects to be covered in an AIR which need to be audited.

- **Eligibility criteria for For Profit Social Enterprises (FPSEs):** Currently, a For Profit Entity (FPE) is permitted to list its securities on main board, on SME, or IGP, depending on what fits best. Such an FPE may be identified clearly as FPSE (if it meets the social intent criteria) by the stock exchange as a company distinct from conventional commercial enterprises. Once the FPSE decides to list its security, then, as per Clause 91B of the LODR, it needs to comply with the disclosure requirements contained in these regulations with respect to issuers whose specified securities are listed on the main board, or the SME Exchange, or the Innovators Growth Platform, as the case may be.

2. Areas requiring further legislative actions/clarifications

- **Tax exemptions and benefits:** Under the IT Act, an NPO enjoys several tax incentives such as tax benefits available to donors relating to exemption under section 80G, etc. With the formation of the SSE as a platform to raise funds from institutional investors and non-institutional investors, the Government should look at providing tax reliefs to investors and investees. There were many recommendations on tax relief made by the Working Group Report on SSE. Some the recommendations included exempting investors from paying Securities Transaction Tax for trades on SSE, exempting investors from paying capital gains tax on long term capital gains accruing on sale of securities, allowing 100 per cent tax exemption to philanthropic donors for donations made to NPOs that benefit from SSE, enable ease of getting certificates for NPOs under 12A, 12AA and 80G for all NPOs benefiting from the SSE to qualify for these certifications, increase the limits under the IT Act on charitable institutions raising funds from commercial or semi-commercial activities to 50 per cent from the current 20 per cent, etc.

It is important that tax laws in India on social sector should be aligned and integrated in order to make them attractive both to investors as well as investees. SEs and investors should watch this space for more developments and tax reforms from the government.

- **Foreign Contribution (Regulation) Act:** In September 2020, the Government had brought a host of changes to the Foreign Contribution (Regulation) Act. The amendments restricted transfer (sub-granting) of foreign contributions to other organisations, lowered the cap on administrative expenses from 50 per cent to 20 per cent and increased administrative requirements, including the need for a separate bank account with the State Bank of India, Parliament Street Branch, New Delhi to receive any foreign contribution. Given that foreign contributions may play an important role in the success of the SSE in India, the Government should provide clarity on the extent of their participation, roles, responsibilities and related compliances for foreign donors.



Our comments (continued)

- **Alignment with CSR Rules:** Currently, Section 135 of the Companies Act, 2013 requires the Board of Directors of every company (that falls within the ambit of the specified threshold⁷) to ensure that in every Financial Year (FY), the company spends at least two per cent of the average net profits of the company made during the three immediately preceding FYs, as per its CSR policy. Policy changes to the Corporate Social Responsibility (CSR) Rules should be looked at in order to allow funds disbursed to NGOs through the SSE to be counted as a CSR spent.

3. Other matter

- **Capacity building fund:** The Technical Group (TG) report of the SSE suggested that in order for an SSE to be successful, all stakeholders should be well-versed with the aims and objectives of an SSE, its functioning, and the opportunities for funding that it offers. Stakeholders participating in the SSE should understand their own roles and responsibilities to enable efficient working of the SSE environment. There is also a need to support the NPOs and FPSEs to equip them to accurately report on outputs, outcomes and impact. Therefore, the TG recommended for a capacity building corpus of INR100 crore to be set up at the start of the SSE framework. Stock Exchanges, Government agencies such as NABARD⁸, SIDBI⁹, other financial Institutions and CSR donors may contribute towards this corpus. In order to facilitate set up of the SSEs, SEBI should speed up the capacity building efforts. It is important that training programmes are run for the SSEs, merchant bankers, NPOs, NPSEs and other investors so that the information is accurately and timely disseminated to all stakeholders in the social ecosystem.



⁷ An A company which meets any of the given threshold in the immediately preceding FY is required to comply with the CSR norms:

- Net worth of INR500 crore or more
- Turnover of INR1,000 crore or more or
- Net profit of INR5 crore or more

⁸ NABARD – National Bank for Agriculture and Rural Development

⁹ SIDBI – Small Industries Development Bank of India

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Issue no. 74 – September 2022

The topics covered in this issue are:

- Greenhouse Gas Statements
- Assessment of material misstatement in the financial statements
- Regulatory updates

To access the publication, please click [here](#)



MCA amends certain Rules relating to Corporate Social Responsibility 20 October 2022

Section 135 of the Companies Act, 2013 mandates certain class of companies meeting the prescribed threshold to spend at least two per cent of the average net profits of the company on the Corporate Social Responsibility (CSR) activities.

In this regard, the Ministry of Corporate Affairs (MCA), vide a notification dated 20 September 2022 issued the Companies (CSR Policy) Amendment Rules, 2022 (CSR Policy Amendment Rules). These amendments are effective from the date of their publication in the official gazette i.e. 20 September 2022.

In this issue of the First Notes, we aim to provide an overview of amendments to the CSR Policy Rules.

To access the First Notes, please click [here](#).

Voices on Reporting



KPMG in India is pleased to present Voices on Reporting – a monthly series of knowledge sharing calls to discuss current and emerging issues relating to financial reporting.

On 21 October 2022, KPMG in India released its VOR – Quarterly updates publication. The publication provides a summary of key updates from the Ministry of Corporate Affairs (MCA), the Securities and Exchange Board of India (SEBI), the Reserve Bank of India (RBI), the Insurance Regulatory and Development Authority of India (IRDAI) and the Institute of Chartered Accountants of India (ICAI) for the quarter ended 30 September 2022.

To access the publication, please click [here](#).

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