

CHAPTER 3

Regulatory updates



Extension of timeline for verification of market rumours

In June 2023, the Securities and Exchange Board of India (SEBI) amended Regulation 30(11) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulation) which requires certain listed companies, to confirm, deny or clarify market rumours. This requirement is applicable to the top 100 listed entities¹ by market capitalisation from 1 October 2023 and the top 250 listed entities with effect from 1 April 2024.

However, on 30 September 2023, SEBI issued a circular to extend the timeline for compliance. Thus, the revised timelines for compliance are as follows:

Top 100 listed entities	From 1 February 2024 (earlier 1 October 2023)
Top 250 listed entities ¹	From 1 August 2024 (earlier 1 April 2024)

(Source: SEBI circular no. SEBI/HO/CFD/CFD-PoD-1/P/CIR/2023/162 dated 30 September 2023)



1. The top 100 and 250 listed entities shall be determined on the basis of market capitalisation, as at the end of the immediately preceding financial year
2. Chapter XII of the Master Circular for issue and listing of NCS, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper dated 10 August 2021 as amended from time to time.
3. Debt securities as defined under SEBI (Issue and Listing of Non- Convertible Securities) Regulations, 2021

Revised framework for borrowings by Large Corporates (LCs)

As per the SEBI (Issue and Listing of Non-convertible Securities) Regulations, 2021 (NCS Regulations) read with NCS Master Circular², LCs are required to raise minimum of 25 per cent of their incremental borrowing during a Financial Year (FY) by issuing debt securities. This requirement has to be met over a contiguous block of three years from FY 2022 onwards. However, in order to facilitate ease in doing business and development of corporate bond markets, SEBI issued a circular on 19 October 2023 to revise the framework for LCs with respect to raising funds by issuance of debt securities.

The key takeaways from the circular are as follows:

- **Applicability:** The framework is applicable to all listed entities (except for Scheduled Commercial Banks (SCB)) which fulfil the following criteria as on last day of the FY (i.e. 31 March or 31 December):
 - a. Have specified securities or debt securities or non-convertible redeemable preference shares listed on a recognised stock exchange(s)
 - b. have **outstanding long term borrowings of INR1,000 crore or above** (earlier it was 100 crore or above).
 - c. have a credit rating of 'AA'/'AA+'/'AAA', where the credit rating relates to the unsupported bank borrowing or plain vanilla bonds of an entity, which have no structuring/support built in.
- **Requisite borrowing criteria:** An LC (determined as per the above applicability criteria) should raise at least 25 per cent of its **qualified borrowings** (earlier termed as *incremental borrowings*) by issuing debt securities³ in the financial years subsequent to the financial year in which it is identified as an LC.

The term 'outstanding long term borrowings' means outstanding borrowings with an original maturity of more than one year.

The term ‘qualified borrowings’ means incremental borrowing between two balance sheet dates having original maturity of more than one year. However, outstanding long-term borrowings and qualified borrowings should exclude the following:

- i. External Commercial Borrowings (ECBs)
- ii. Inter-corporate borrowings involving the holding company and/or subsidiary and/or associate companies
- iii. Grants, deposits or any other funds received as per the guidelines or directions of Government of India
- iv. Borrowings arising on account of interest capitalisation and
- v. Borrowings for the purpose of schemes of arrangement involving mergers, acquisitions and takeovers.

Further, it is clarified that the qualified borrowings for a FY should be determined as per the audited accounts for the year filed with the stock exchanges.

- **Incentives in case of surplus in the requisite borrowings:** If at the end of three years, there is a surplus in the requisite borrowings, the following incentives would be available to an LC:
 - i. Reduction in the annual listing fees pertaining to debt securities or non-convertible redeemable preference shares, and
 - ii. Credit in the form of reduction in contribution to the Core Settlement Guarantee Fund (SGF) of Limited Purpose Clearing Corporations (LPCC).

The basis of computation of the incentive is specified in the annexure to the circular.

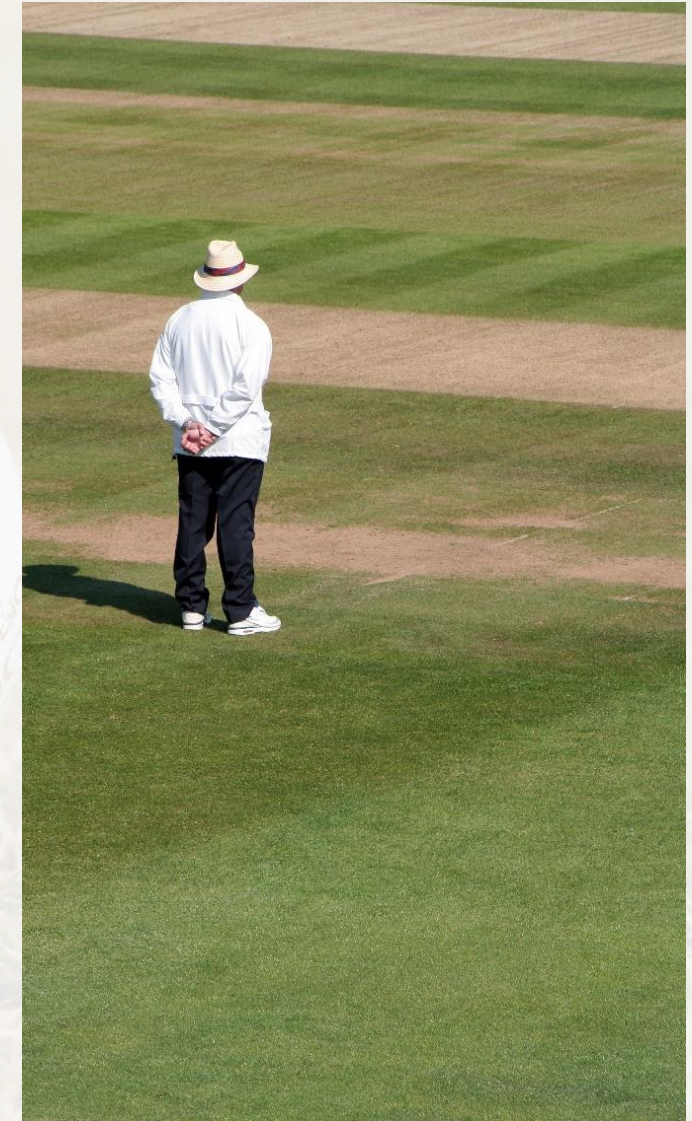
- **Disincentive in case of shortfall in the requisite borrowings:** If at the end of three years, there is a shortfall in the requisite borrowings, as a disincentive, additional contribution is required to the core SGF in the manner as specified in the annexure to the circular.
- **Identification of LC by the stock exchange:** Based on the financial results submitted by the listed entities⁴, the stock

exchanges would determine the LCs for the financial year and release a uniform list which would be placed on their websites. The stock exchanges are also required to notify the listed entities identified as LCs, by email to enable them to comply with the requirements. The timeline within which the stock exchanges should determine the LCs are as follows:

For LCs following April-March as their financial year	By 30 June
For LCs following January-December as their financial year	By 31 March

Further, the stock exchange would also calculate the incentive and disincentive and would intimate the same to the LCs.

- **Effective date:** This revision to the framework is applicable with effect from 1 April 2024 for LCs following April-March as their financial year. For LCs following January-December as their financial year, the framework is effective from 1 January 2024.



4. As per Regulation 33 of the Listing Regulation, for a listed entity that has listed its specified securities and non-convertible debt securities and as per Regulation 52 of the Listed Regulation for a listed entity that has listed its non-convertible securities.

- **Requirements for LCs identified based on the erstwhile criteria:** Listed entities already identified as LCs based on the erstwhile criteria⁵ for FY 2020-21, FY 2021-22 and FY 2022-23, should comply with the requirement of raising 25 percent of their incremental borrowings by way of issuance of debt securities till 31 March 2024. In case of any failure to comply with the requirement, such LCs should provide a

one-time explanation in their Annual Report for FY 2024. Further the requirement as per erstwhile circular relating to penalties and annual disclosure regarding the details of incremental borrowing and mandatory borrowing have been removed. Hence, under the revised framework penalties would not be levied on the listed entities.

(Source: SEBI circular no. SEBI/HO/DDHS/DDHS-RACPOD1/P/CIR/2023/172 dated 19 October 2023)



5. All listed entities (except for Scheduled Commercial Banks), which as on last day of the FY(i.e. 31 March or 31 December):

- have their specified securities or debt securities or non-convertible redeemable preference shares, listed on a recognised stock exchange(s) in terms of Listing Regulations; and
- have an outstanding long term borrowing of Rs. 100 crore or above, where outstanding long-term borrowings shall mean any outstanding borrowing with original maturity of more than one year and shall exclude external commercial borrowings and inter-corporate borrowings between a parent and subsidiary(ies);and
- have a credit rating of "AA and above", where credit rating shall be of the unsupported bank borrowing or plain vanilla bonds of an entity, which have no structuring/ support built in; and in case, where an issuer has multiple ratings from multiple rating agencies, the highest of such ratings shall be considered for the purpose of applicability of this framework.

Mandatory listing of NCDs

On 19 September 2023, SEBI amended the Listing Regulations to introduce a new regulation (Regulation 62A) for listing subsequent issuances of Non-Convertible Debt Securities (NCDs). Regulation 62A provides following provision relating to listing of NCDs:

- If existing NCDs are listed, then list all NCDs proposed to be issued on or after 1 January 2024.
- If subsequent issues of unlisted NCDs are made on or before 31 December 2023 and are outstanding on the said date, then such NCDs may be listed
- If NCDs are proposed to be listed on or after 1 January 2024, then all outstanding unlisted NCDs previously issued on or after 1 January 2024 should also be listed on the stock exchange(s) within three

months from the date of the listing of the NCDs proposed to be listed.

The following securities are exempted from the above mandatory listing provision:

- Bonds issued under Section 54EC of the Income-tax Act, 1961
- NCDs issued pursuant to an agreement between the listed entity and multilateral institutions
- NCDs issued pursuant to an order of any court or Tribunal or on account of a regulatory requirement stipulated by a financial sector regulator.

The above amendment is effective from 19 September 2023.

(Source: SEBI notification no. No. SEBI/LAD-NRO/GN/2023/151 dated 19 September 2023)

Relaxations for AGMs and EGM through VC

On 25 September 2023, the Ministry of Corporate Affairs (MCA) issued a circular to allow companies to hold their Annual General Meeting (AGM) which are due in years 2023 and 2024, and EGM through Video Conference (VC) or Other Audio Visual Means (OVAM) till 30 September 2024 (*earlier till 30 September 2023*). Additionally, copies of the financial statements (including Board's report, Auditor's report or other such documents required to be attached), are to be sent only by email to the members, trustees for the debenture-holder of any debentures issued by the company, and to all other entitled persons. However, statutory timelines and other provisions provided in the Companies Act, 2013 are required to be complied.

Considering the relaxations provided by the MCA, SEBI also provided the similar relaxation.

As per the provisions of the Listing Regulations, listed entities⁶ are required to dispatch hard copy of the statement

containing the salient features of all the documents prescribed in Section 136 of the Companies Act, 2013 (2013 Act) or rules made thereunder (i.e. financial statements, board's report, auditor's report etc.) to the shareholder(s) who have not registered their email address.

Recently, SEBI has issued a circular to exempt such listed entities from sending the hard copies of the statement of salient features till 30 September 2024 (*earlier 30 September 2023*). Further, listed entities that have listed their specified securities, the requirement of sending proxy forms under Regulation 44(4) of the Listing Regulations is dispensed with till 30 September 2024 (*earlier 30 September 2023*) for AGMs held only through electronic mode.

(Source: SEBI circular no SEBI/HO/CFD/CFD-PoD-2/P/CIR/2023/167 dated 7 October 2023, SEBI circular no. SEBI/HO/DDHS/P/CIR/2023/0164 dated 6 October 2023 and MCA general circular no. 09/2023 dated 25 September 2023)

Disclosure of secured assets by banks and financial institutions

With an aim to enhance transparency in disclosure of information, RBI issued a notification on 25 September 2023 requiring Regulated Entities⁷ (REs) to display information of secured assets under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

As per the notification, the REs which are secured creditors as per SARFAESI Act are

required to display information, in the prescribed format, with respect to the borrowers whose secured assets are taken into possession. REs should display the first list on their website within six months from the date of mentioned circular (i.e. 25 March 2024) and the same should be updated on monthly basis.

(Source: RBI notification RBI/2023-24/63 DoR.FIN.REC.41/20.16.003/2023-24 dated 25 September 2023)



6. Regulation 36(1)(b) of Listing Regulation applicable to listed entities that have issued specified securities and Regulation 58(1)(b) of Listing Regulation applicable to issuers of listed Non-Convertible Securities.

7. REs include all commercial banks including small finance banks, local area banks and regional rural banks and excluding payment banks, primary (urban) co-operative banks/state co-operative banks/ central co-operative banks, All India Financial Institutions (Exim Bank, NABARD, NHB, SIDBI and NaBFID), Non-Banking Financial Companies (NBFCs) including housing finance companies, Asset Reconstruction Companies (ARCs).

Technical guide on internal audit of pharmaceutical industry

On 11 October 2023, the Board on Internal Audit and Management Accounting of the Institute of Chartered Accountants of India (ICAI) issued a technical guide on internal audit of pharmaceutical industry to provide guidance to internal auditors operating in the pharmaceutical industry.

The guide provides guidance on structure, history, regulatory framework, key drivers of

this industry. It, *inter alia*, provides guidance on aspects involved in various stages of pharmaceutical industry and regulatory framework. This guide also describes risks associated with pharmaceutical industry and internal controls checklist for various processes. It also contains illustrative checklist for internal audit of major areas of the pharmaceutical industry.

(Source: ICAI announcement dated 11 October 2023)



IAASB requires auditors to disclose their independence

The International Ethics Standards Board for Accountants (IESBA) amended the International Code of Ethics for Professional Accountants (the Code) in April 2022. It requires firms to publicly disclose when the firm has applied the independence requirements for public interest entities in an audit of the financial statements of an entity.

In this regard, on 12 October 2023, the International Auditing and Assurance Standards Board (IAASB) issued narrow scope amendments to International Standard on Auditing (ISA) 700 (Revised), *Forming an Opinion and Reporting on Financial Statements* and ISA 260 (Revised), *Communication with Those Charged with Governance*. These amendments aim to provide a clear and practical framework for implementing IESBA's requirement through appropriate communication in the auditor's report and with those charged with governance. The amendment is effective for audits of financial statements for periods beginning on or after 15 December 2024.

(Source: IAASB news dated 12 October 2023)

