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# Voices on Reporting

Quarterly updates publication

January 2024

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In this publication, we have summarised important financial reporting, Environment Social and Governance (ESG) and regulatory updates relevant for the quarter ended 31 December 2023 from the Securities and Exchange Board of India (SEBI), the Reserve Bank of India (RBI), the Ministry of Corporate Affairs and the Institute of Chartered Accountants of India (ICAI).



# Proposed revisions related to verification of market rumours

Regulation 30(11) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) require listed entities to verify and confirm, deny or clarify market rumours which are reported in the mainstream media. The rumour verification requirement is applicable to the top 100 listed entities with effect from 1 February 2024 and to top 250 listed entities with effect from 1 August 2024 as specified by SEBI Circular dated 30 September 2023.

With an aim to facilitate capital formation and ease of doing business, the Industry Standards Forum (ISF)<sup>1</sup> focused on rumour verification requirement as one of the pilot projects for formulating standards ensuring its effective implementation, in consultation with SEBI. Subsequently, on 28 December 2023, SEBI issued a consultation paper proposing the

following changes related to the verification of market rumours:

## I. Material price movement criteria

It has been proposed to determine the material price movement based on the price range of securities.

The material price movement in the securities proposed to be determined based on the following parameters:

- *Price range of the securities of the listed entity:* In case of shares falling under the high price range, a lower percentage change would be considered material. Whereas, in case of shares in the lower price range, a higher percentage change would be considered material. The framework for material price movement is placed as Annexure B of the consultation paper.

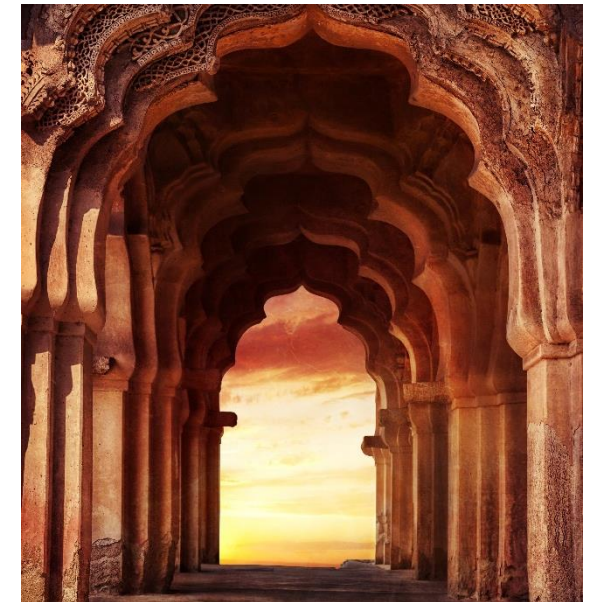
- *Movement in the benchmark index (Nifty50/Sensex):* The price variation in the securities of the listed entity are proposed to be indexed to movement in Nifty50/Sensex (benchmark index).

Further, it has been proposed to amend the timeline for verifying market rumour and it should be within 24 hours of material price movement instead of within 24 hours of reporting in the mainstream media.

## II. Unaffected price mechanism

To determine the transaction price relating to the securities of a listed entity, it has been proposed that the unaffected price be considered when the listed entity confirms the market rumour due to material price movement. Additionally, the unaffected price should be applicable for specified date from the date of confirmation of the market rumour till the 'relevant date' under the

existing regulations. Further the consultation paper has suggested two alternatives for deciding on the unaffected share price.



1. Three industry associations - ASSOCHAM, CII and FICCI, came together to form Industry Standards Forum ("ISF") under the aegis of the Stock Exchanges to set industry standards.



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### III. Obligations of Key Managerial Personnel (KMP), promoters, directors and senior management

If market rumours pertain to promoters/directors/KMP/senior management then the consultation paper proposes to cast an obligation upon the promoters, directors, KMP and senior management to provide adequate, accurate and timely response to queries raised or explanation sought by the listed entity to ensure compliance with Regulation 30 (11) of LODR Regulations.

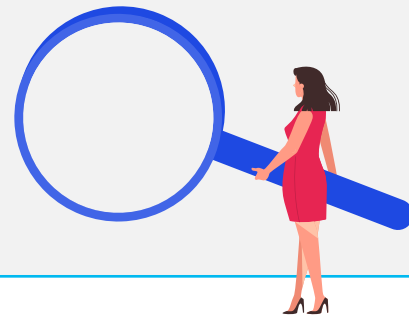
### IV. Treatment of market rumour not verified by listed entities

There could be instances where a rumour pertaining to a listed entity does not result in a material price movement in the scrips of the entity and the entity neither confirms, denies or clarifies market rumour pertaining to such information published in the media. In such cases, it has been proposed that such media reports should not be used at a later date by an insider as a defence that the information was 'generally available'.

The period to provide comments on the above consultation paper ended on 18 January 2024.

### Key takeaways

- Multiple factors such as events, announcements, rumours, etc. have an impact on the security price of a listed entity. The proposed amendment focuses on material price movement caused by a rumour alone.
- Proposed verification of market rumour within 24 hours of material price movement instead of within 24 hours of reporting in the mainstream media, is expected to reduce the compliance burden on companies from responding to all material market rumours.



(Source: SEBI circular no. SEBI/HO/CFD/PoD-1/P/CIR/2023/196 dated 28 December 2023)





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## FAQs on ESG Rating Provider

In July 2023, SEBI introduced a governing framework on ESG<sup>2</sup> Rating Providers (ERPs) by amending SEBI (Credit Rating Agencies) Regulations, 1999 (CRA Regulations). These regulations are applicable to a person engaged in, or proposes to engage in, the business of issuing ESG ratings.

Consequent to issue of provisions relating to ERPs, SEBI issued a master circular laying down the procedural/disclosure requirements and obligations for ERPs and a Frequently Asked Questions (FAQs) on various aspects related to an ERP such as the disclosure and registration requirements for ERPs, shareholding restrictions, sharing of resources, eligibility criteria, applicability of circulars, etc.

Subsequently, on 12 December 2023, SEBI issued revised FAQs covering additional clarifications related to ERPs. Some of the incremental considerations from the revised

FAQs are as follows:

- **Scope of ESG ratings:** The FAQ has clarified that ESG ratings include all types of rating and scoring products that encompass both rule-based and algorithmic scores and are calculated as per the published methodology as well as those that involve some application of judgement or discretion. This is also in accordance with the International Organization of Securities Commissions (IOSCO's) Report on ESG Ratings and Data Products Providers issued in November 2021.
- **Registration requirements for international ERPs in India:** Regulation 28C states that a person could act as an ERP only after obtaining a certificate from SEBI. Further, the Fourth Schedule to the CRA Regulations lays down the applicability criteria of the CRA Regulations depending on the location of the ESG rating user and the rated asset class (Indian/Global) in the

securities market. Determination of the applicability of the regulatory framework to international ERPs should be based on the Fourth Schedule.

The FAQs have clarified that the regulations would not apply to a foreign ERP outsourcing or using back/middle office support in India for providing ESG rating services to users outside India.

However, if an overseas ERP offers ESG rating products covering Indian asset classes to Indian clients, it must obtain a certificate of registration from SEBI by establishing a locally incorporated entity. Further, if an overseas ERP has made an application before 3 January 2024, such an overseas ERP could continue offering its services till the time the registration is granted by SEBI. Once the registration is granted, the overseas ERP would cease such offering and the services should be rendered from the locally incorporated entity.



2. Environmental, Social and Governance (ESG)



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- **Description of 'Indian' and 'Global' asset classes:** The 'Indian' asset classes are the asset classes listed in the Indian securities market while 'Global' asset classes pertain to asset classes in overseas markets.
- **Shareholding restrictions in an ERP:** Regulation 28U of the Regulations details the provisions regarding restrictions on shareholding among ERPs. Any entity holding 10 per cent or more shares or voting rights in an ERP is restricted from holding 10 per cent or more shares or voting rights in any other SEBI registered ERP. The FAQ clarified that such restriction would not apply to international ERPs.
- **Whether ERPs can provide internationally-aligned ratings alongside Indian specific ratings:** It is clarified that ERPs are permitted to offer any ESG rating or scoring products, including ratings/scores based on international frameworks in addition to the ESG rating products that incorporate the ESG aspects of the Indian market. Therefore, it is not necessary to make any adjustment to the existing rating methodologies or to provide comparable sector-specific ratings.
- **Definition of 'Core ESG Rating':** From FY 2023-24 onwards, over a glide path of four years, the top 1000 listed entities in India are mandated to undertake reasonable assurance of the Business Responsibility and Sustainability Report (BRSR) Core. The master circular for ERPs states that the 'Core ESG Rating' must be based on third-party assured data. The details of the same are prescribed in Chapter II to the master circular.
- **Determination of 'Indian ESG rating user':** It is clarified that an 'Indian ESG rating user' is any individual, entity or organisation within India that utilises ESG rating services for decision making, investment analysis, compliance, or research purpose related to ESG investment, performance and practices. Therefore, a foreign ESG rating user that outsources or uses back/ middle office support in India would be considered 'outside India' as per the Fourth Schedule to the CRA Regulations. The CRA Regulations would not apply to ESG rating services provided to such users.
- **Compliance requirements for registered ERPs:** Registered ERPs should comply with the transparency and disclosure requirements, eligibility criteria, conditions for certificate, code of conduct, auditing process and other requirements as laid down the master circular for ERPs.
- **Applicability based on business model:** As per the CRA Regulation, the contractual obligations between the issuer and the ERP are required to be specified and complied with in an 'issuer pays' model. Whereas, in a 'subscriber-pays' model, there are no such contractual obligations. Therefore, requirements/provisions laid down in the regulations/master circular pertaining to or arising out of such contractual obligations would not apply to an ERP following 'subscriber-pays' model. However, it is important to note that, certain requirements are regulatory and are to be complied with by all ERPs, irrespective of the business model.

## Key takeaways

- With increasing focus on ESG and sustainability related issues, regulators are developing regulatory requirements relating to ERPs. The prescribed regulations and clarifications aim to develop a structured environment for the ERPs. ERPs are expected to have strong internal systems in place to ensure compliance with the mandatory certification, disclosure and other requirements.
- SEBI has imposed shareholding restrictions to avoid conflict of interest within the industry. ERPs should follow a mechanism to regularly review and adjust its shareholding structures to ensure compliance with such restrictions.



(Source: SEBI FAQs on 'FAQs on Registration as an ESG Rating Provider (ERP)' dated 12 December 2023)



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## Flexibility in the framework of social stock exchange

In September 2022, SEBI had notified a detailed framework on Social Stock Exchange (SSE) with an aim to provide social enterprises an alternative route to raise funds.

With an aim to ease the process of fund raising by Not-for-Profit Organisations (NPOs), on 28 December 2023, SEBI issued amendments to the aforesaid framework of social stock exchange.

Some of the key amendments are as follows:

**Registration requirements:** The circular provides certain prerequisites for an NPO to register on a SSE. They include:

- Providing a registration certificate under Sections 12A/12AA/12AB/10(23C)/10(46) of the Income-tax Act, 1961 which is valid for the next 12 months
- Having a valid 80G registration in case of entities registered under Sections 12A/12AA/12AB of the Income-tax Act, 1961

- Disclosure of pending notices or scrutiny cases from regulatory or statutory authorities along with fines and penalties paid or appealed.

### Procedure for the public issuance of Zero Coupon Zero Principal (ZCZP) instruments:

A detailed procedure has been prescribed for the issuance of ZCZP instruments specifying the following:

- Filing of the draft fund raising document with the SSE seeking an in-principle approval for listing its ZCZP instruments. The draft fund raising document should be made available on the website of SSE and NPO for a minimum of 21 days.
- The SSE should provide observations on the draft document filed. The NPO should incorporate the observations of the SSE and file the final fund raising document with the SSE prior to opening of the issue.

- The draft fund raising document and the final fund raising document should contain specified disclosures. The SSE can mandate additional disclosures in respect of the draft fund raising document and the final fund raising documents.
- ZCZP Instruments should be issued in dematerialised form only
- The minimum issue size should be INR50 lakh.
- The minimum application size should be INR10,000.
- The minimum subscription required to be achieved should be 75 per cent of the funds proposed to be raised through issuance of ZCZP instruments.
- In case of under-subscription, the NPO is required to provide additional disclosures in the fund raising document, as prescribed.

**Details of social impact:** NPOs are required to provide details of past social impact as per the existing practice. The disclosure of past social impact should highlight trends in key metrics/parameters relevant to the NPO (as may be determined by the stock exchanges) for which it seeks to raise funds on SSE, number of beneficiary, cost per beneficiary and administrative overheads.

### Key takeaway

The requirement to provide social impact data may pose a challenge for entities, as analysis of social and environmental outcomes depends on multiple variables which can be difficult to quantify.



(Source: SEBI circular no. SEBI/HO/CFD/PoD-1/P/CIR/2023/196 dated 28 December 2023)



## Fund raising framework for large corporates

The SEBI (Issue and Listing of Non-convertible Securities) Regulations, 2021 (NCS Regulations) read with NCS Master Circular require Large Corporates (LCs) to raise a 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 Financial Year (FY) 2022 onwards.

In order to promote ease of doing business and development of corporate bond markets, on 19 October 2023, SEBI has revised the framework (the Framework) for LCs with respect to raising of funds by issuance of debt securities.

The key considerations of the revised framework are as follows:

- **Identification as a LC:** The Framework is applicable to all listed entities (except for

Scheduled Commercial Banks (SCB)) which fulfil the following criteria as on the last day of the FY (i.e. 31 March or 31 December):

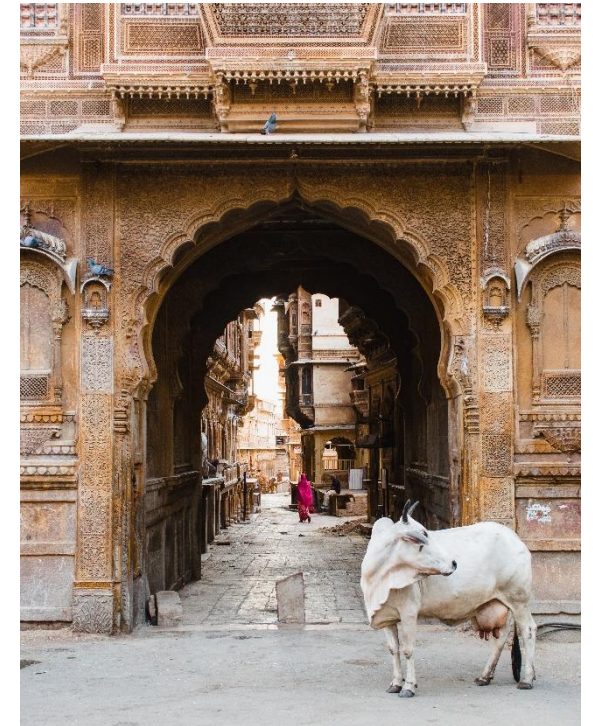
- Have specified securities, debt securities, or non-convertible redeemable preference shares listed on a recognised stock exchange(s), and
- Have outstanding long term borrowings of INR1,000 crore or above (*earlier it was 100 crore or above*), and
- Have a credit rating of 'AA'/'AA+'/'AAA', where the credit rating relates to the unsupported bank borrowing or plain vanilla bonds of an entity, which have no structuring/support built in.

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

However, it would exclude:

- External Commercial Borrowings (ECBs)
- Inter-corporate borrowings involving the holding company and/or subsidiary and/or associate companies
- Grants, deposits or any other funds received as per the guidelines or directions of Government of India
- Borrowings arising on account of interest capitalisation and
- 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.







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- **Criteria for raising debt:** The 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 securities<sup>3</sup> in the financial years subsequent to the financial year in which it is identified as the LC. The term ‘qualified borrowings’ means incremental borrowing between two balance sheet dates having original maturity of more than one year.
- **Incentives in case of surplus in the requisite borrowings<sup>4</sup>:** If at the end of three years, there is a surplus in the requisite borrowings, the following incentives would be available to the 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<sup>5</sup>.

- **Disincentive in case of shortfall in the requisite borrowings:** If at the end of three years, there is a shortfall in the requisite borrowings, then an additional contribution is required to the core SGF in the manner as specified in the Annexure to the Circular.
- **Responsibilities of the stock exchange:** Based on the financial results submitted by the listed entities, 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 defined requirements.

The timeline within which the stock exchanges should determine the LCs are as follows:

Financial year	Timeline
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 as follows:

Financial year	Timeline
For LCs following April-March as their financial year	By 31 May
For LCs following January-December as their financial year	By 28/29 February

3. Debt securities as defined under SEBI (Issue and Listing of Non- Convertible Securities) Regulations, 2021

4. Requisite borrowing – The difference between the actual borrowing through debt securities and 25 per cent of the qualified borrowings for the FY

5. SEBI circular no. SEBI/HO/DDHS/DDHS-RACPOD1/P/CIR/2023/172 dated 19 October 2023



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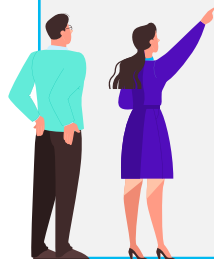


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- **Previously identified LCs:** Listed entities which were earlier identified as LCs based on the erstwhile criteria<sup>6</sup> should comply with the requirement of raising 25 per cent of their incremental borrowings during FY 2022, FY 2023 and FY 2024 respectively by way of issuance of debt securities till 31 March 2024. In case of any failure to comply with the new requirement, such LCs should provide a one-time explanation in their Annual Report for FY 2024. Further the requirement relating to penalties and annual disclosure of details of incremental borrowing and mandatory borrowing have now been removed. Hence, no penalty would be levied on LCs identified based on the erstwhile criteria and the framework would be applicable on comply or explain basis.
- **Effective date:** 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.

## Key takeaways

- A higher threshold of the identification criteria as an LC, would lead to less number of companies falling under the revised framework.
- The incentive system would encourage listed entities covered under revised framework to execute their funding needs through the corporate bond market.



(Source: SEBI circular no. SEBI/HO/DDHS/DDHSRACPOD1/P/CIR/2023/172 dated 19 October 2023)



6. 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.



# Compulsory dematerialisation of securities in case of public and private companies

On 27 October 2023, MCA issued certain amendments to Rule 9 of the Companies (Prospectus and Allotment of Securities) Rules, 2014 relating to 'Dematerialisation of securities'. The key amendments pertain to the following:

## I. Share warrants for public companies:

The amendment inserted a new Rule 9(2) which provides that every public company which has issued share warrants prior to commencement of the 2013 Act, and not converted such share warrants into shares, should:

- Inform the ROC about the details of such share warrants in Form PAS-7, within three months of commencement of the amendment rules.

- Place a notice to the bearers of share warrants in Form PAS-8 on the website of the company, requiring them to surrender such warrants to the company and get the shares dematerialised in their account within a period of six months of the commencement of the amendment rules.
- Convert such share warrants into dematerialised form and transfer the same to the Investor Education and Protection Fund (IEPF) in case any bearer of share warrant does not surrender the share warrants within the period referred above.

## II. Dematerialisation for private companies:

New Rule 9B has been inserted which relates to the issuance of securities in

dematerialised form by private companies. The key requirements are as below:

- All private companies (excluding small companies) should issue securities only in dematerialised form and compliance with this provision should be ensured within 18 months commencing from 31 March 2023.
- All private companies (excluding small companies) should ensure that before making any offer for issue of securities or buyback of securities or bonus shares or rights issue, the entire holding of securities of its promoters, directors, key managerial personnel has been dematerialised.

- The provisions of this Rule do not apply in case of a Government company.

### Key takeaway

The process of dematerialisation is a positive step as the amendment will restrict illegal share transfers and help the government in keeping track of shareholders of private companies.



(Source: MCA circular no. G.S.R 802(E) dated 27 October 2023)



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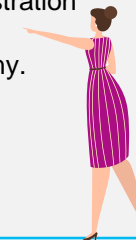
## Disclosure of beneficial interest in shares of a company

On 27 October 2023, MCA issued certain amendments to Rule 9 of the Companies (Management and Administration) Rules, 2014 (Management and Administration Rules) by introducing a new provision relating to a 'designated person' to provide clarity on the declaration of beneficial interest in the shares of a company. The newly inserted Rule 9(4) provides as follows:

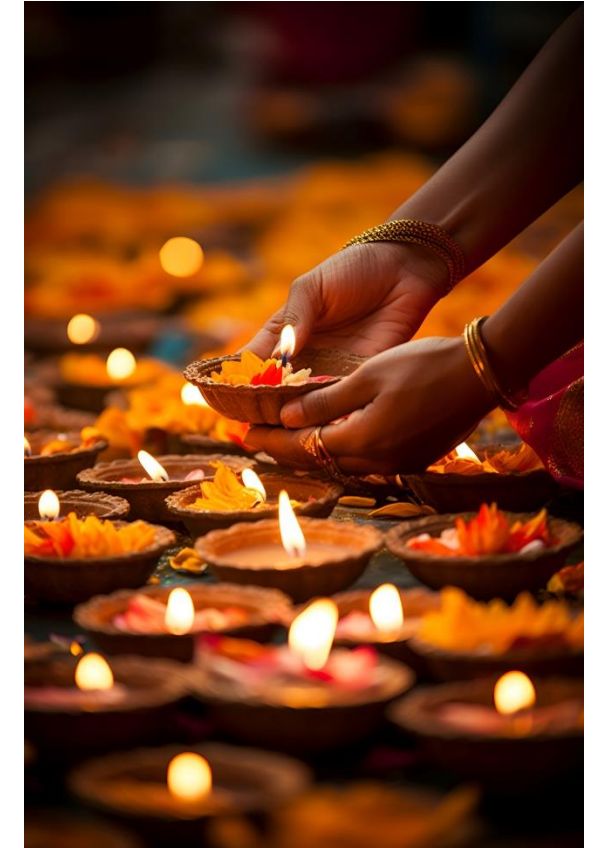
- Requirement of a designated person:** Every company is required to designate a person responsible for providing information to the Registrars of Companies (ROC) or any authorised officer regarding beneficial interests in the company's shares.
- Options for designation:** A company has the option to appoint the company secretary, key managerial personnel (other than the company secretary) or every director.
- Deemed designation:** Until a person is designated as mentioned above, certain individuals are deemed as the designated person. This includes the company secretary, every managing director or manager or every director based on the organisation structure of the company.
- Disclosure in the Annual Return:** The details of the designated person need to be disclosed in the annual return.
- Change in the designated person:** Any change in the designated person should be intimated to ROC in e-form GNL-2 as per the Companies (Registration Offices and Fees) Rules, 2014.

### Key takeaways

- The requirement of having a designated person in companies will ensure one point of contact for regulatory inquiries related to beneficial interest of shares.
- In case of private companies that do not have key managerial personnel or a company secretary, the responsibility of this new compliance under Rule 9 of the (Management and Administration Rules) will be placed on the directors of the private company.



(Source: MCA circular no. G.S.R 801(E) dated 27 October 2023)





# Effective date for the listing of securities in foreign jurisdictions

In 2020, the Ministry of Corporate Affairs (MCA) issued Companies (Amendment) Act, 2020 which, *inter alia*, amended Section 23 of the the Companies Act, 2013 (2013 Act). The amendment enabled certain classes of public companies to issue specific class of securities for the purpose of listing on permitted stock exchanges in the prescribed foreign jurisdictions. The amendment further states that the Central Government can exempt any class of companies from the provisions of the amended Section 23, Chapter IV, Section 89, Section 90, or Section 127<sup>7</sup> of the 2013 Act.

In this regard, MCA issued a notification specifying that the effective date for the applicability of the provisions related to listing of securities in foreign jurisdictions under Section 23 of the 2013 Act would be 30 October 2023.



(Source: MCA circular no S.O. 4744(E) dated 30 October 2023)

7. Chapter IV specifies provisions regarding share capital and debentures, Section 89 – Declaration in respect of beneficial interest in any share, Section 90 – Register of significant beneficial owners in a company and Section 127 – Punishment for failure to distribute dividends



## Amendments related to LLPs

### I. Amendment relating to Significant Beneficial Owners Rules

On 9 November 2023, MCA issued the LLP (Significant Beneficial Owners) Rules, 2023 (the SBO Rules 2023). Some of the key provisions of the SBO Rules 2023 include:

- **Applicability:** The SBO Rules 2023 are applicable to an LLP, subject to certain exemptions as prescribed in the notification.
- **Duty of reporting LLP:** It has been specified that every reporting LLP<sup>8</sup> should take the necessary steps to find out if there is any individual who is a SBO<sup>9</sup> in relation to that LLP. If yes, then the LLP should identify him/her and cause such individual to make a declaration in Form No. LLP BEN-1. Further, every

reporting LLP should in all cases, where its partner (other than an individual), holds not less than 10 per cent of its – contribution, or voting rights, or right to receive or participate in the distributable profits or any other distribution payable in a F.Y. should give a notice to such partner in Form No. LLP BEN-4.

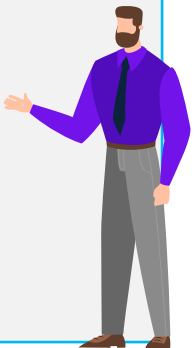
- **Declaration of SBO:** The SBO Rules 2023 specify that every individual, who is a SBO must file a declaration in Form No. LLP BEN-1 within 90 days from the commencement of the SBO Rules 2023. Also, every individual, who subsequently becomes a SBO, or where his/her ownership undergoes any change, should file a declaration in Form No. LLP BEN-1, within 30 days of acquiring such SBO or any change therein.

- **Return of SBO in contribution:** The reporting LLP should file a return in Form No. LLP BEN-2 with the registrar within a period of 30 days from the date of receipt of the aforementioned declaration.
- **Register of SBO:** It has been specified that an LLP should maintain a register of SBO in Form No. LLP BEN-3.
- **Application to the Tribunal:** In case a person fails to provide information as required in the Form No. LLP BEN-3 within the specified time or provides non-satisfactory information, then the LLP should apply to the Tribunal for directing restrictions on the contribution under question.

**Effective date:** The SBO Rules 2023 are applicable from 9 November 2023.

### Key takeaway

The SBO Rules 2023 lay down a structure for identifying beneficial ownership and its reporting criteria within the prescribed timelines. This move will prevent the use of the LLP route for illegal activities such as money laundering and tax evasion.



(Source: MCA notification dated 9 November 2023)

8. Reporting LLP means a LLP which is required to comply with the requirements of Section 90 of the Companies Act, 2013

9. SBO refers to an individual, who acting alone or together or through one or more persons or trust, possesses one or more of the following rights or entitlements:

- Holds indirectly or together with any direct holdings, not less than 10 per cent of the contribution
- Holds indirectly or together with any direct holdings, not less than 10 per cent of the voting rights w.r.t. the management or policy decisions in the LLP
- Has right to receive or participate in not less than 10 per cent of the total distributable profits, or any other distribution, in a F.Y. through indirect holdings alone or together with any direct holdings
- Has right to exercise or actually exercises, significant influence or control, in any manner other than through direct holdings alone.



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## II. Registration of partners and declaration for beneficial interest

On 27 October 2023, MCA issued amendments to LLP Rules, 2009 and introduced two new Rules – Rule 22A and 22B in the LLP Rules. These are discussed below:

- **Rule 22A - Register of Partners:** This rule requires every new LLP to maintain a register of its partners in Form 4A at its registered office, from the date of its incorporation and every existing LLP to comply with this requirement within 30 days from the date of this amendment. The register should contain information such as the name and address details of the partners, date of becoming/ceasing to be a partner, amount and nature of contribution, etc. Further, it specifies the timeline for entries in the register.
- **Rule 22B - Declaration in respect of beneficial interest in any contribution:** The rule provides specific timelines for filing declaration with the LLP in respect of beneficial interest in following scenarios:

- Person whose name is entered in the register of partners, but does not hold any beneficial interest fully or partly in contribution
- Person who holds or acquires a beneficial interest in contribution, but his/her name is not registered in the register of partners.

The LLP must record such declarations received in the register of partners and file it, within a period of 30 days from the date of receipt of declaration, a return in Form 4D to the registrar. Additionally, it should specify a designated partner who would be responsible for furnishing of and extending co-operation for providing information w.r.t. beneficial interest in contribution to the registrar or any other authorised officer and file such information in Form 4. The amendment provides the format of the revised Form 4.

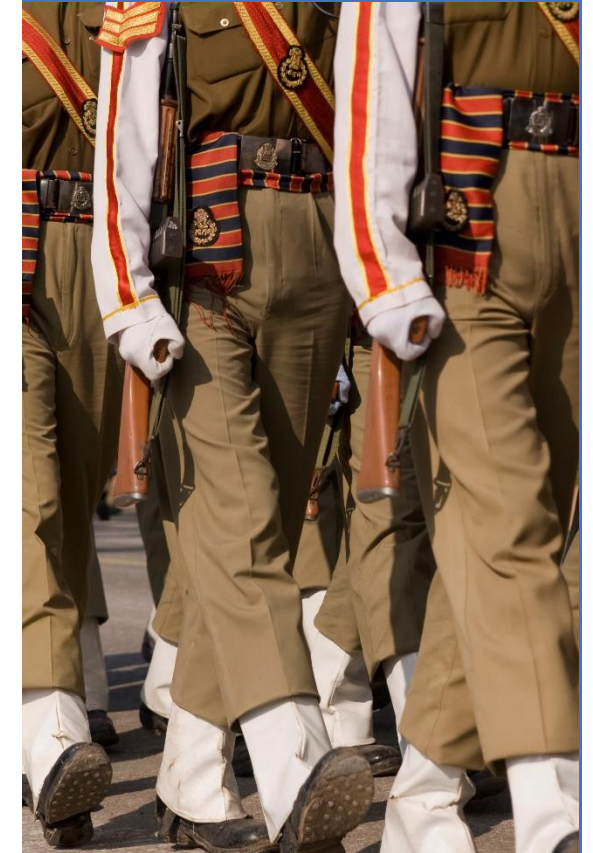
**Effective date:** The amendment is effective from 27 October 2023.

### Key takeaway

The requirement to declare details of beneficial interest from LLPs would bring transparency relating to beneficial owners under LLP mode. Further, LLPs should take proactive measures for maintenance of the prescribed registers in order to comply with the enhanced corporate governance norms.



(Source: MCA notification no. G.S.R. 803(E) dated 27 October 2023).





# Mandatory appointment of whole-time directors by banks

In the past, the Reserve Bank of India (RBI) had issued regulatory stipulations with respect to the governance in commercial banks covering, *inter alia*, tenure and upper age limit for Managing Director (MD) and Chief Executive Officer (CEO) positions.

On 25 October 2023, RBI issued further instructions to establish an effective senior management team in the banks to manage the challenges and implement a smooth succession plan.

The circular requires banks to ensure the following:

- The board should have the presence of at least two Whole Time Directors (WTDs), including the MD and CEO.

- The number of WTDs should be decided by the board based on factors such as the size of operations, business complexity, and other relevant aspects.
- Banks that do not currently meet the minimum requirement are advised to submit their proposals for the appointment of WTD(s) within a period of four months from the date of issuance of the notification to the RBI.
- Existence of enabling provisions regarding appointment of WTDs in its Articles of Association.

(Source: RBI circular no RBI/2023-24/70 dated 25 October 2023)







# Consistency in the presentation of unclaimed liabilities by commercial and cooperative banks

In order to ensure consistency in the presentation of financial statements of co-operative banks with commercial banks, RBI issued a notification on 25 October 2023 to update the RBI (Financial Statements - Presentation and Disclosures) Directions, 2021 (Master Direction).

The current guidelines require commercial banks to present all unclaimed liabilities, where the amount due has been transferred to the Depositor Education and Awareness Fund (DEA) Fund of RBI, under 'Schedule II – Contingent Liabilities – Other items for which the bank is contingently liable'.

As per the notification, all co-operative banks are advised to present all unclaimed liabilities

(where the amount due has been transferred to DEA Fund) under 'Contingent Liabilities – Others'.

This is applicable for preparation of financial statements for the financial year ending 31 March 2024 and onwards.

Further, all banks should specify in the disclosures<sup>10</sup> to the financial statements that balances of the amount transferred to DEA Fund are included under 'Schedule 12 - Contingent Liabilities - Other items for which the bank is contingently liable' or 'Contingent Liabilities - Others,' as the case may be.

(Source: RBI notification no. RBI/2023-24/71 DOR.ACC.47/21.04.018/2023-24 dated 25 October 2023)



10. Clause C.10 of Annex III to the Maser Direction ibid on 'Transfers to DEA Fund'



# Revision in the norms for consumer credit and bank credit to NBFCs

On 16 November 2023, RBI issued stringent regulatory measures pertaining to consumer credit and bank credit to Non-Banking Financial Companies (NBFCs).

The regulatory measures issued by RBI are explained below:

## I. Consumer credit exposure

- **Consumer credit exposure of commercial banks and NBFCs:** The RBI has assigned a higher risk weight for retail loans and personal loans and increased it to 125 per cent (*earlier 100 per cent*). This increase will not be applicable to housing loans, education loans, vehicle loans and loans secured by gold and gold jewellery and microfinance/SHG loans.

- **Credit card receivables:** In case of credit card receivables, a higher risk weight of 150 per cent (*earlier 125 per cent*) in case of Scheduled Commercial Banks (SCBs) and 125 per cent (*earlier 100 per cent*) in case of NBFCs has been assigned.

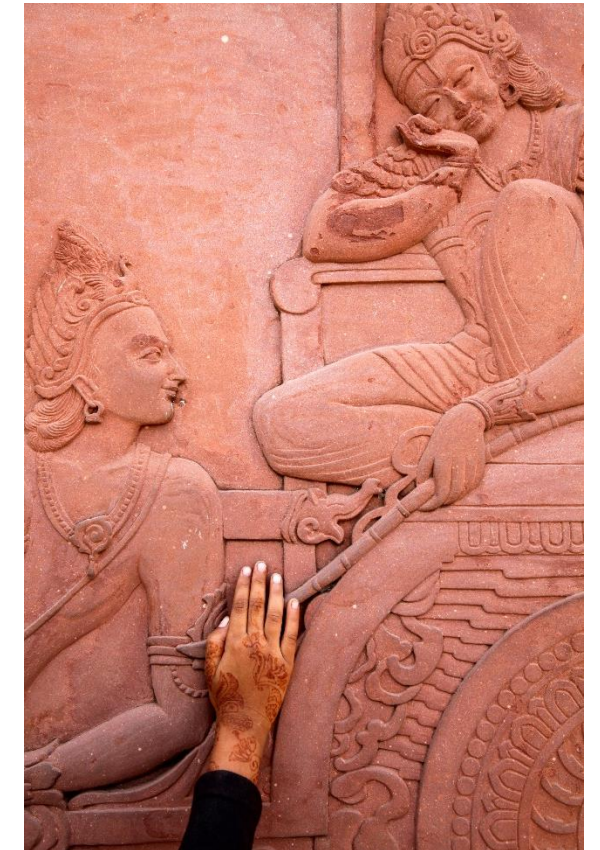
## II. Bank credit to NBFCs

The risk weights of exposures of SCBs to NBFCs has been increased by 25 per cent in all cases where the extant risk weight<sup>11</sup> as per external rating of NBFCs is below 100 per cent. This increase does not apply to loans to HFCs, and loans to NBFCs which are eligible for classification as priority sector in terms of the extant instructions.

## III. Strengthening credit cards

Regulated Entities have been directed to review their extant sectoral exposure limits for consumer credit and Board approved limits in respect of various sub-segments under consumer credit. Further, all top up loans extended by regulated entities against movable assets which are inherently depreciating in nature, such as vehicles, shall be treated as unsecured loans for credit appraisal, prudential limits and exposure purposes.

(Source: RBI circular no RBI/2023-24/85 dated 16 November 2023)



11. Para 5.8.1 of the ['Master Circular – Basel III Capital Regulations'](#) dated May 12, 2023, read with the circular ['Risk Weights for exposures to NBFCs'](#) dated February 22, 2019



## Guidelines related to investments in AIFs

Recently, RBI noticed some transactions through investments in units of AIFs that raise regulatory concern related to possible evergreening by Regulated Entities (REs).

In this regard, on 19 December 2023, RBI issued a notification providing a set of instructions for investment in AIFs by REs. The key points are as follows:

- REs should not make investments in any scheme of AIFs which has downstream investments either directly or indirectly in a debtor company of the RE.
- In case an AIF scheme, in which RE is already an investor, makes a downstream investment in any such debtor company, then the RE is required to liquidate its investment in the scheme within 30 days

from the date of such downstream investment by the AIF. In cases where REs have already invested into such schemes, having downstream investment in their debtor companies as on date, the 30 day period for liquidation will be counted from date of issuance of this circular.

- In circumstances where REs fail to liquidate their investments within the above-prescribed time limit, they should make 100 per cent provision on such investments.
- Investment by REs in the subordinated units of any AIF scheme with a 'priority distribution model' should be subject to full deduction from RE's capital funds.

(Source: RBI notification no. RBI/2023-24/90 dated 19 December 2023)





SEBI updates



MCA updates



RBI updates



Other updates

## FAQs on the framework for acceptance of green deposits

In April 2023, the Reserve Bank of India (RBI) issued the Framework for Acceptance of Green Deposits (the framework) to encourage REs to offer green deposits to customers. In this regard, in December 2023, RBI issued a Frequently Asked Questions (FAQs) on the framework. Following are the key points from the FAQ:

**Nature of requirement:** REs are not mandated to raise green deposits from their customers. However, they are mandated to follow the prescribed framework in case they issue green deposits.

**Differential interest rates:** REs are required to pay interest on green deposits to their customers as per agreed terms and conditions and aforesaid directions irrespective of allocation/utilisation of proceeds. The extant guidelines<sup>12</sup> do not permit REs to offer differential rate of interest on green deposits.

**Restriction on withdrawal of green deposits:** There is no restriction on premature withdrawal of green deposits, however, the REs should adhere to the extant guidelines referred above. Additionally, premature withdrawal would not have any bearing on the activities/projects undertaken using the proceeds of green deposits.

**Allocation of proceeds:** As per the framework, the REs can temporarily park unallocated proceeds of green deposits in liquid instruments<sup>13</sup> with maximum maturity up to one year. The framework does not stipulate any penalty for non-allocation of proceeds towards green activities/projects. However, it should be subject to supervisory review.

**External review of the framework:** REs can engage with any appropriate and reputed domestic/international agency for external review of the framework, third-party

verification/assurance and impact assessment of the green activities/projects.

**Overdraft facility against green deposits:** Banks are allowed to offer overdraft facility to customers against green deposits subject to the prescribed instructions<sup>14</sup>.

**Denomination of green deposits:** The current framework permits green deposits to be denominated in INR only and not any other foreign currency.

**Global policy of foreign banks:** Foreign banks can have a common global policy on green deposits, without prejudice to the provisions of the framework for green deposits raised in India after 1 June 2023.

(Source: RBI FAQ on Framework for Acceptance of Green Deposits issued in December 2023)



12. Master Direction – Reserve Bank of India (Interest Rate on Deposits) Directions, 2016 dated 3 March 2016  
 Master Direction – Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 2016 dated 25 August 2016  
 Master Direction – Non-Banking Financial Company – Housing Finance Company (Reserve Bank) Directions, 2021 dated 17 February 2021  
 13. The liquid instruments are Level 1 High Quality Liquid Assets as per the extant guidelines.  
 14. Consolidated circular on opening current accounts and CC/OD accounts by banks dated 19 April 2022.



## Green Credit Rules

The Central Government, on 12 October 2023, notified the Green Credit Rules, 2023 (the Rules) as a new voluntary option to generate green credit. The rules lay down a market based mechanism that aim to encourage consumer and community actions that promote a sustainable lifestyle. The green credit generated is tradable at a domestic level.

As per the rules, entities can undertake the following voluntary environmental measures for the purpose of protecting the environment:

- i. Tree plantation
- ii. Water management
- iii. Sustainable agriculture
- iv. Waste management
- v. Air pollution reduction
- vi. Mangrove conservation and restoration
- vii. Ecomark label development
- viii. Sustainable building and infrastructure.

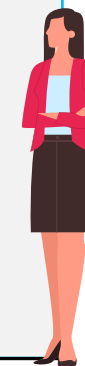
Entities are required to register the activity undertaken by them with the administrator<sup>15</sup> for grant of green credit. Additionally, the Central Government would constitute a steering committee for monitoring the implementation and a technical committee for each activity under the Rules.

Consequent to notification of the Rules, the Ministry of Environment, Forest and Climate Change has issued draft methodologies for water harvesting and tree plantation giving description of the eligible project proponents, site selection process, registration process, green credit calculation process, verification and issuance of green credit, etc.

The methodology and procedure for calculation of generating green credit for each of the balance environment activities mentioned above and the trading platform are yet to be developed and pending notification.

### Key takeaway

Entities should watch out for further clarifications on the inter-relationship of green credit as well as carbon credit under the Carbon Credit Trading Scheme (CCTS) notified by the government in June 2023 relating to calculation of benefit, fixation of tenure of both the forms of credit, etc.



(Source: MCA notification no. S.O. 4458 (E) dated 12 October 2023)



15. The Indian Council of Forestry Research and Education, a Society registered under the Societies Registration Act, 1860 (21 of 1860) vide Registration No.596/1990-91, dated the 12th March, 1991 and an autonomous body as declared by the then Ministry of Environment and Forests, Government of India vide Resolution No.1-8/89-RT, dated the 22nd June, 1990, shall be the Administrator under these rules



SEBI updates



MCA updates



RBI updates



Other updates

## ICAI publications

The table below provides an overview of some important publications released by ICAI during the quarter:

Publications	Particulars
Technical Guide on Internal Audit of Pharmaceutical Industry (2023 edition)	<p>The Technical Guide provides guidance to effectively assess and evaluate the risk management and internal control systems, management processes and compliance frameworks specific to the pharmaceutical sector. Additionally, it provides guidance on the structure, history, regulatory framework, key drivers of the industry.</p> <p>It also contains illustrative checklist for internal audit of major areas of the pharmaceutical industry</p>
QRB report on audit quality review	<p>The report highlights overall trends, key findings, analysis of reviewed audit files in terms of technical standards, analysis of observations in audit files under major industries, findings in major focus areas for reviews, summary of observations in other areas, matters of general guidance for audit firms etc.</p> <p>These findings have been categorised under the following sections:</p> <ol style="list-style-type: none"> <li>i. Standards on auditing</li> <li>ii. Accounting standards and</li> <li>iii. Other relevant laws and regulations.</li> </ol>

(Source: Technical Guide on Internal Audit of Pharmaceutical Industry (2023 edition), QRB report on audit quality review (October 2023) issued by ICAI )

## EAC opinions issued by ICAI during the quarter ended 31 December 2023

Topic	Month
Accounting treatment of subsequent expenditure as per Ind AS 16, <i>Property, Plant and Equipment</i>	October 2023
Recognition of miscellaneous scrap items generated in the plant and scrapped assets awaiting disposal under Ind AS framework	November 2023
Residual value of gas transmission pipeline under Ind AS framework	December 2023

(Source: The Chartered Accountant – ICAI Journal for the month of October 2023, November 2023 and December 2023)





SEBI updates



MCA updates



RBI updates



Other updates



## First Notes

### The Reserve Bank of India amends the classification and valuation norms for investments held by banks

Banks are currently required to follow the Master Direction - Classification, Valuation and Operation of Investment Portfolio of Commercial Banks (Directions), 2021 (2021 regulations) for the classification and valuation of their investment portfolio. With significant developments in the global standards on classification, measurement and valuation of investments (i.e., the International Financial Reporting Standards (IFRS)), the linkages with the capital adequacy framework as well as progress in the domestic financial markets, there was a need to review and update the 2021 regulations.

Accordingly, in September 2023, the Reserve Bank of India (RBI) issued revised regulatory guidelines on investment classification and valuation - the Master Directions – Classification, Valuation and Operations of Investment Portfolio of Commercial Banks (Directions), 2023 (2023 guidelines).

This issue of the First Notes provides an overview of the of the key changes in the 2023 guidelines and how these changes conform with the Indian Accounting Standards (Ind AS) (which are largely aligned with IFRS).

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



## Accounting and Auditing Update

### Issue No. 89 – December 2023

Channel financing is a financing arrangement wherein working capital loan is provided to channel partners such as distributors, dealers or buyers who enter into a contract of purchase of goods or services with a corporate entity. The arrangement typically allows the company (supplier) to be paid by the financial institution at a date earlier than when the channel partner pays to the financial institution. Recently, the Expert Advisory Committee (EAC) of the Institute of Chartered Accountants of India (ICAI) deliberated on the classification and presentation of the amounts received by an entity under the channel financing arrangement. This edition of our Accounting and Auditing Update (AAU) carries an article on the topic of channel financing arrangement to highlight the key factors to be considered while accounting and presenting funds received by a supplier in a channel financing arrangement.

In certain cases, the provision may not be significant in amount, however, the circumstances to which it relates can be of great significance to investors owing to the levels of estimation uncertainty, judgements involved, or the forward-looking information could provide information about a company's exposures. The second article provides an overview of some of the key areas that regulators have highlighted and provided improvement points in the area of provisions, contingent liabilities and contingent assets.

As is the case each month, we have also included a regular round-up of some recent regulatory updates in India and internationally.

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



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