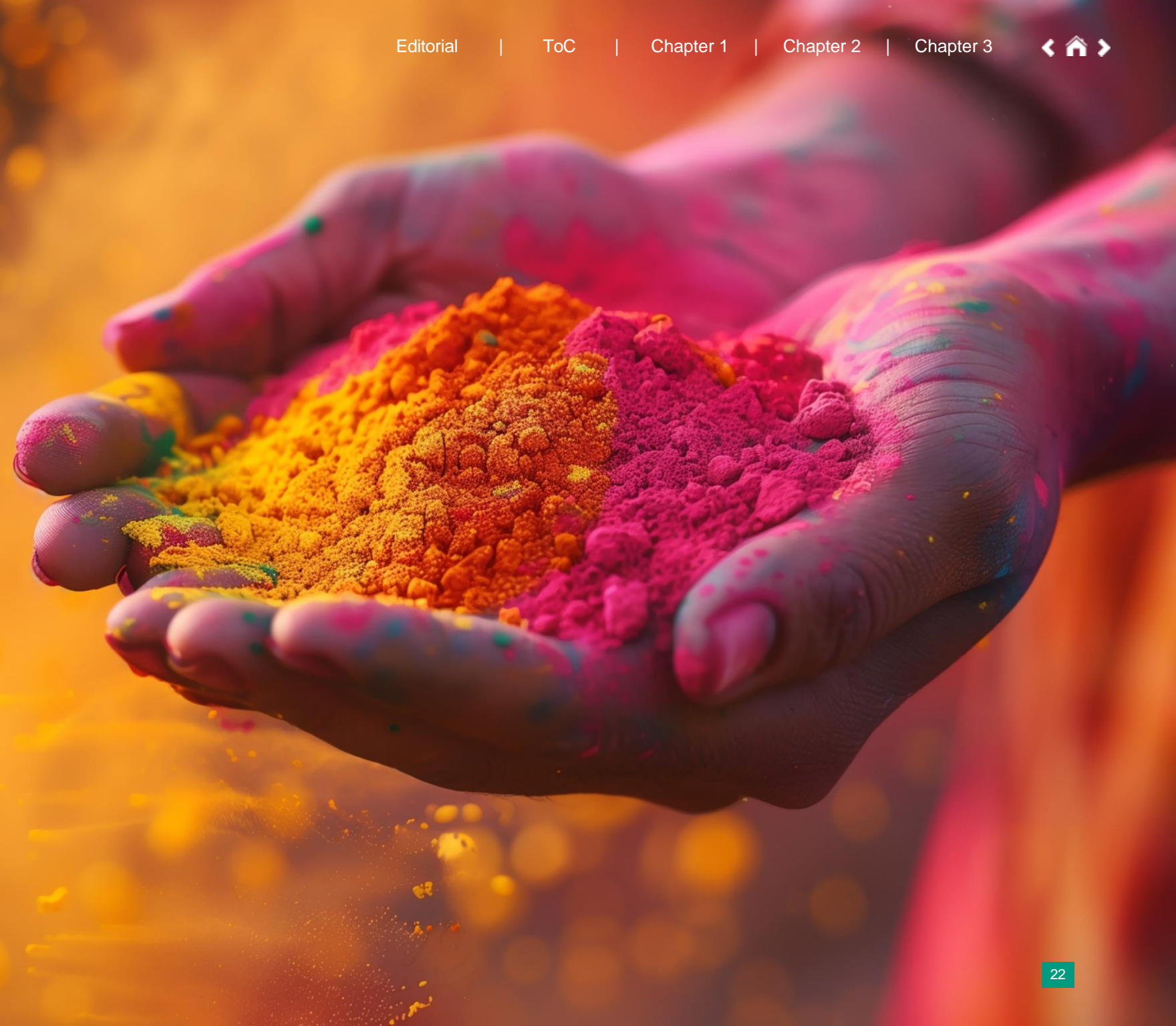


CHAPTER 3

Regulatory updates



SEBI approves certain proposals through its board meeting

On 15 March 2024, the Securities and Exchange Board of India (SEBI) issued a press release summarising the decisions approved in its board meeting with respect to certain significant matters pertaining to the SEBI Regulations. Following are the key decisions from the board meeting:

- **Facilitating ease of doing business for listed companies – on going compliance requirements:** To facilitate ease of doing business for listed entities, SEBI has approved the following amendments in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations):

i. Determination of market capitalisation: Currently for determining the applicability of certain provisions, the market capitalisation for a listed entity is calculated as on 31 March i.e. it is based on a single day's market capitalisation.

SEBI in its board meeting approved that, market capitalisation-based requirement should be determined on the basis of

average market capitalisation of six months ending 31 December, instead of single day's (i.e. 31 March) market capitalisation. Further, in order to ease the compliance requirements, a sunset clause of three years for cessation of applicability of market capitalisation-based provisions would be introduced.

ii. Vacancies of Key Managerial Personnel (KMP): The timeline for filling up vacancy in the office of an KMP wherein approval of statutory authorities is required, has been extended from three months to six months.

iii. Timeline for prior intimation of board meetings: The timeline for prior intimation of board meetings has been reduced to two working days (*as per existing requirement, timeline for giving prior intimation varies from two working days to a maximum of 11 working days*).

iv. Gap between meetings of the Risk Management Committee (RMC): The maximum permitted time gap between

two consecutive meetings of the RMC has increased from 180 days to 210 days.

- **Uniform approach to verify market rumours by equity listed entities:** Regulation 30(11) of the LODR Regulation requires certain listed companies, to confirm, deny or clarify market rumours. SEBI has approved the following proposals to facilitate a uniform approach for verification of market rumours by equity listed entities:

i. Criteria for verification of market rumors: The regulation would now specify the objective and uniformly assessed criteria for rumour verification in terms of material price movement of equity shares of the listed entity.

ii. Consideration of unaffected price: Unaffected price for transactions should be considered wherever pricing norms have been prescribed under SEBI Regulations, provided that the rumour pertaining to such transaction is

confirmed within 24 hours from the trigger of material price movement.

iii. Obligation on promoters, directors, KMP and senior management: As per the SEBI board meeting, promoters, directors, KMP and senior management should provide timely response to the listed entity for verifying market rumour.

iv. Unverified event or information: For the purpose of market rumor verification, unverified event or information reported in print or electronic media should not be considered as 'generally available information' under SEBI (Prohibition of Insider Trading) Regulations, 2015.



- **Timeline for applicability of LODR Regulations to High Value Debt Listed Entities (HVDLEs):** The timeline for mandatory applicability of certain provisions of the LODR Regulations¹ and compliance thereof, by HVDLEs has been extended till 31 March 2025 (*earlier 31 March 2024*).

- **Facilitating ease of doing business for companies coming for IPOs/fund raising:** Following amendments have been approved in the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations):

i. Security deposit in public/rights

issue: As per the existing provision, an issuer is required to deposit, one per cent of the issue size available for subscription to the public, with the designated stock exchange. Pursuant to the board meeting, it has been decided to remove this requirement.

ii. Non-individual shareholders permitted to contribute towards Minimum Promoters' Contribution (MPC):

At present, for determination of MPC, promoters of a company should

hold at least 20 per cent of the post-offer paid-up equity share capital on a fully-diluted basis. In case of any shortfall, certain class of investors² are permitted to contribute equity shares to meet the shortfall subject to a maximum of 10 per cent, without being identified as a promoter.

SEBI in its board meeting has also permitted promoter group entities and non-individual shareholders holding more than five percent of the post-offer equity share capital to contribute towards MPC without being identified as a promoter.

iii. Compulsorily convertible securities included for computation of MPC:

With respect to determination of MPC, it has been decided to consider equity shares arising pursuant to the conversion of fully paid-up, compulsorily convertible securities that have been held for a period of at least one year prior to the filing of the Draft Red Herring Prospectus (DRHP).

iv. Fresh filing for Offer For Sale (OFS):

With respect to increase or decrease in

OFS, the requirement of fresh filing should be based on one of the criteria i.e. either issue size in INR or number of shares, as disclosed in the draft offer document

v. Extension of the bid/offer closing date:

Currently, in case of force majeure events, issuer companies could extend the bidding period disclosed in the offer document by a minimum period of three working days. SEBI has now decided to reduce the extension period to one working day in case of any force majeure events

(Source: SEBI Press Release No. PR No. 05/2024 dated 15 March 2024)



1. Regulation 16 to 27 of SEBI LODR Regulations

2. Alternative investment funds, foreign venture capital investors, scheduled commercial banks, public financial institutions or insurance companies registered with Insurance Regulatory and Development Authority of India (IRDAI) are permitted

RBI's draft framework for disclosure of climate-related financial risks

In 2022, Reserve Bank of India (RBI), issued a 'Discussion Paper on Climate Risk and Sustainable Finance' to highlight the sources of climate risk and also its potential impact on Regulated Entities (REs). Climate-related risks is one of the emerging risks and are expected to significantly impact REs and also have implications on financial stability. Therefore, REs should implement robust climate-related financial risk management policies and processes to effectively counter the impact of climate-related financial risks.

In this regard, on 28 February 2024, RBI has issued draft guidelines on the disclosure framework for REs on climate-related financial risks. This would foster an early assessment of climate-related financial risks and opportunities and facilitate market discipline.

The key considerations from the draft guidelines are as follows:

- **Applicability:** The guidelines would apply

to the following type of RE:

- a. All Scheduled Commercial Banks (SCB) (excluding local area banks, payments banks and regional rural banks)
- b. All Tier-IV Primary (Urban) Co-operative Banks (UCBs)
- c. All All-India Financial Institutions (AIFI) (viz. EXIM Bank, NABARD, NaBFID, NHB and SIDBI)
- d. All top and upper layer Non-Banking Financial Companies (NBFCs).

Further, for REs other than those disclosed above, these guidelines would apply on a voluntary basis.

- **Standalone vs consolidation reporting:** The information to be disclosed as per the framework would be on a standalone basis and not consolidated basis. Further, foreign banks should provide disclosures specific to their operations in India.



- **Thematic pillars of disclosure:** As per the guidelines, a RE should disclose details regarding four thematic pillars viz – governance, strategy, risk management and metrics and targets. Annexure 1 to the draft guidelines prescribe minimum key disclosures requirements under these thematic pillars. Following are some of the essential disclosure requirements:

Thematic Pillar	Disclosure requirements
Governance	<ul style="list-style-type: none"> • Governance processes, controls and procedures used by the RE to identify, assess, manage, mitigate, monitor and oversee climate-related financial risks and opportunities. • The board's oversight of climate-related risks and opportunities. • Senior management's role in assessing and managing climate-related risks and opportunities.
Strategy	<ul style="list-style-type: none"> • RE's strategy for managing climate-related financial risks and opportunities. • The identified climate-related risks and opportunities over short, medium and long term. • The impact of climate-related risks and opportunities on the RE's businesses, strategy and financial planning. • Resilience of the RE's strategy taking into consideration the different climate scenarios.
Risk management	<ul style="list-style-type: none"> • RE's processes to identify, assess, prioritise and monitor climate-related financial risks and opportunities, including whether and how those processes are integrated into and inform the RE's overall risk management process. • Processes and related policies to identify, assess, prioritise and monitor climate related financial risks. • Processes used for managing climate-related risks. • Extent to which, and how, the processes for identifying, assessing, prioritising and monitoring climate-related financial risks and opportunities are integrated into and inform the overall risk management.
Metrics and targets	<ul style="list-style-type: none"> • RE's performance in relation to its climate-related financial risks and opportunities, including progress towards any climate-related targets it has set, and any targets it is required to meet by statute or regulation. • Metrics used to assess the climate-related financial risks and opportunities in line with its strategy and risk management process. • Scope 1, Scope 2 and Scope 3 Greenhouse Gas (GHG) emissions and the related risks. • Targets used to manage climate-related risks and opportunities and performance against targets.

- **Timelines:** The draft guidelines have prescribed the following glide path for disclosure of thematic pillars by REs:

	Governance, strategy, and risk management	Metrics and targets
Scheduled Commercial Banks (SCBs), All India Financial Institutions (AIFIs), Top and Upper layer Non-Banking Financial Companies (NBFCs)	FY 2025-26 onwards	FY 2027-28 onwards
Tier IV Urban Co-operative Banks (UCBs)	FY 2026-27 onwards	FY 2028-29 onwards
Other REs	To be announced in due course.	

REs should also disclose assumptions/proxies and external assurance taken, if any, for the disclosed metrics.

- **Validation/scrutiny of the disclosures:** The disclosures made by REs would be subject to appropriate internal control assessments and should be reviewed by the board of directors or a committee of the board. Further, the disclosures must be included and disclosed as a part of the RE's financial results/statements on its website.

The comment period on the above draft guidelines ends on 30 April 2024.

(Source: RBI press release no. RBI/2023-24/DOR.SFG.REC./30.01.021/2023-24 dated 28 February 2024)



Appointment/re-appointment of director, MD or CEO in ARCs

As per the existing provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002³, Asset Reconstruction Companies (ARCs) are required to obtain prior approval of RBI for appointment/re-appointment of any director, Managing Director (MD) or Chief Executive Officer (CEO).

To bring uniformity in the information submitted by ARCs for obtaining such approvals, on 27 February 2024, RBI issued a form for furnishing requisite information about the candidate and an indicative list of documents required to be submitted along with the application. Such information should be submitted at least 90 days before the vacancy arises or the proposed date of appointment or re-appointment.

(Source: RBI notification no. RBI/2023-24/127 DOR.GOV.REC.79/18.10.006/2023-24 dated 27 February 2024)



3. Section 3(6) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the guidelines contained in Para 5(i) of the Annex to circular No. DoR.SIG.FIN.REC.75/26.03.001/2022-23 dated 11 October 2022 on 'Review of Regulatory Framework for Asset Reconstruction Companies (ARCs)'

MOEFCC notified the methodology for calculation of green credit from tree plantation

In October 2023, the Ministry of Environment, Forest and Climate Change (MOEFCC) notified the Green Credit Rules, 2023 with the objective to incentivise environmental positive actions through market-based mechanism and generate green credit, which would be tradable and made available for trading on a domestic market platform. Green credit would arise by undertaking specified environmental activities which includes following eight activities:

- Tree plantation
- Water management
- Sustainable agriculture
- Waste management
- Air pollution reduction
- Mangrove conservation and restoration
- Eco-mark labelling
- Sustainable building and infrastructure.

As per the rules, tree plantation has been considered as one of the environmental activities that would generate green credit. On 22 February 2024, MOEFCC has notified the methodology for calculation of green credit in respect of tree plantation. The key takeaways are as follows:

- **Identification of land parcels:** The forest department of every state and union territory should identify degraded land parcels, including open forest and scrub land, wasteland and catchment areas, under their administrative control and management. Further, such land parcels should be free from encumbrances and should be of five hectares or above.

- **Application to administrator:** A person or entity desirous of undertaking tree plantation for the purposes of generation of green credit should apply to the administrator and should submit a proposal for the same.
- **Demand note:** Basis the proposal received, the administrator will prepare and issue a demand note to the applicant which would include the cost of tree plantation and administrative expenses along with the timeline for payment of the same.
- **Tree plantation activity:** On the payment of the amount by the applicant, the administrator should direct the forest department to carry out tree plantation in line with the management plan or working plan. This activity should be completed within a period of two years from the date of payment.
- **Issue of green credit:** On completion of tree plantation, the forest department to submit a report to the administrator. After evaluation and verification of the tree plantation activity, the administrator may generate and issue Green Credit to the applicant based on the total number of

trees planted in assigned land parcel and on the report and certification of completion of tree plantation activity.

- **Calculation of green credit:** The green credit will be calculated at the rate of one Green Credit per tree grown through the tree plantation on such land parcel, subject to minimum density of 1,100 trees per hectare, based on the local silvi-climatic and soil conditions, on the certification of completion of tree plantation provided by the forest department.
- **Exchangeability:** This Green Credit can be exchanged for meeting the compliance of the compensatory afforestation in case of diversion of forest land for non-forestry purposes under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.
- **Fulfilment of other reporting obligations:** The Green Credit generated under these rules could be used for reporting under environmental, social and governance leadership indicator or under corporate social responsibility under the applicable rules.

(Source: MOEFCC notification no. S.O. 884(E) dated 22 February 2024 issued on 26 February 2024)

Amendment to Plastic Waste Management Rules

The Plastics Waste Management Rules, 2016 (Plastic Waste Management Rules) lays down the regulatory requirements, for collection, segregation, processing, treatment, disposal of the plastic waste in an environmentally sound manner, Extended Producer Responsibility (EPR), marking and labelling requirement, registration of manufacturer, producer, importer, brand owner and plastic waste processor, etc.

On 14 March 2024, through a notification, MOEFCC issued Plastic Waste Management (Amendment) Rules, 2024 (Plastic Waste Amendment Rules). The key amendments are with respect to:

- Revised the definition for biodegradable plastics, importer, manufacturer, producer and seller.
- Amendment to the conditions laid down for manufacture, import, stocking, distribution, sale and use of carry bags, etc.



- The manufacture of carry bags and commodities are permitted to be made from compostable plastics or biodegradable plastics
- Manufacturers and importers of plastic raw material are required to apply for registration with the State Pollution Control Board (SPCB).
- New category for biodegradable plastics (Category V) has been introduced, with specific labelling requirements and separate markings to be designated
- Preparation of mandatory annual report by a person engaged in recycling or processing of plastic waste
- Manufacturers/importers required to meet minimum recycling levels for plastic packaging waste as specified in the Extended Producer Responsibility (EPR) targets.
- The deadline for filing annual returns for the financial year 2022-2023 has been extended until 31 March 2024.

(Source: MOEFCC notification no. G.S.R.. 201(E) dated 14 March 2024)



Revised implantation guide on audit trail issued by ICAI

Effective from 1 April 2023, Rule 11(g) of the Companies (Audit and Auditors) Rules, 2014 requires an auditor to express his/her views/comments as to whether the company has used an accounting software for maintaining its books of account which has a feature of recording an audit trail facility.

In March 2023, the Auditing and Assurance Standards Board (AASB) of the Institute of Chartered Accountants of India (ICAI) issued an Implementation Guide (the Guide) on Reporting under Rule 11(g) Audit Rules. The Guide provides a detailed guidance on the auditor's responsibility for reporting on the use of accounting software by a company for maintaining its books of accounts which has a feature of recording audit trail etc.

Recently, on 12 February 2024, ICAI issued a revised implementation guide which includes a section of Frequently Asked Questions (FAQs) that covers various scenarios relating to reporting under Rule 11(g). Some of the key issues or scenarios discussed are with respect to:

- Definition of books of account and what should be considered as 'books of account' maintained in an accounting software

- Applicability requirements i.e. audit trail requirements are applicable to all companies and no exemptions from audit trail requirements is available for the small and medium companies or for banks and Non-Banking Finance Companies (NBFCs).
- Use of specialist/expert or reliance on information system audit report by the auditor.
- Implication of audit trail feature not operational throughout the year
- Failure of General IT Controls (GITC) and whether it would impact the audit trail reporting requirements.
- No materiality concept for reporting on audit trail.
- Reporting on accounting software maintained outside India.
- Requirement of audit trail to remain accessible in India at all times.

(Source: ICAI announcement dated 12 February 2024)

SEC issues climate-related disclosure rules

On 6 March 2024, the Securities and Exchange Commission (SEC) issued 'The Enhancement and Standardisation of Climate-Related Disclosures for Investors' (climate-related rules) that will require registrants to provide certain climate-related information in their registration statements and annual reports. Some of the key takeaways from the rules are as follows:

- **Applicability:** Registrants with the Securities Exchange Act, 1934 (Exchange Act) reporting obligations pursuant to Section 13(a) or Section 15(d) of the Exchange Act, and companies filing the Securities Act, 1933 or Exchange Act registration statement; including foreign private issuers; excluding Canadian issuers reporting under the multi-jurisdictional disclosure system and asset-backed issuers.
- **Components of disclosure:** The rules prescribe the following two distinct components of disclosures:
 - **Financial statement disclosures (Reg S-X):** These disclosures will be part of

the audited financial statements and therefore, in the scope of the registrant's internal control over financial reporting. They relate to severe weather events and other natural conditions, which are not defined terms and carbon offsets or Renewable Energy Credits or Certificates (RECs).

- **Climate-related disclosures (Reg S-K):**

These disclosures can be included in a separately captioned 'Climate-Related Disclosure' section of the annual report or registration statement, or incorporated by reference from another section. The disclosures can also be incorporated by reference from another filing, subject to certain conditions.

The climate risk disclosures are outside of the financial statements and are arranged under the broad categories of governance, strategy and risk management, which is consistent with the structure in the SEC's recent rule on cybersecurity reporting and disclosures. The above two sets of disclosures are connected because the Reg S-K



disclosures require quantitative and qualitative disclosure of any material expenditures incurred and material impacts on financial estimates and assumptions that directly result from certain items.

- **Phased transition:** The disclosure requirements would be applicable as follows:

For fiscal years beginning in calendar year:	LAFs*	AFs**	NAFs***, SRCs, EGCs
Financial statement disclosures	2025	2026	2027
Climate related disclosures			
Climate risk disclosures, except those below	2025	2026	2027
Disclosures in the Specific quantitative disclosures section	2026	2027	2028
GHG emissions			
Scopes 1 and/or 2 disclosures	2026	2028	NA
Limited assurance	2029	2031	NA
Reasonable assurance	2033	NA	NA
Inline XBRL (i.e. electronic tagging. Submission in this format is intended to help investors and market participants more easily identify, locate, extract and analyse disclosures)	2026	2026	2027

Notes:

* Large accelerated filers

** Accelerated filers (except Smaller Reporting Companies (SRCs) and Emerging Growth Companies (EGCs))

*** Non-accelerated filers

(Source: SEC press release no. 33-11275; 34-99678 dated 6 March 2024. Also read KPMG LLP's article on 'SEC mandates climate reporting and assurance' issued on 7 March 2024)

IASB issues consultation paper to improve reporting of acquisitions

On 14 March 2024, the International Accounting Standards Board (IASB) issued an exposure draft on 'Business Combinations – Disclosures, Goodwill and Impairment'.

The key proposals are as follows:

- **Disclosures for business combinations:**

The proposed disclosure requirements under IFRS 3, *Business Combinations* is as follows:

i. Expected synergies: In the year of acquisition, a company is required to disclose both quantitative and qualitative information about expected synergies. This includes a breakdown of the estimated amounts of expected synergies by category – e.g. total revenue synergies or total cost synergies – as well as information on the benefits' expected start date and their duration.

ii. Key objectives and subsequent performance against them: This disclosure is required only for strategic business combinations. A 'strategic' business combination is one where not meeting the specific acquisition-date key

objectives would put the acquiring company at serious risk of not achieving its overall business strategy.

To identify such business combinations, IASB has proposed using a closed list of primarily quantitative tests e.g. if the acquiree represents more than 10 per cent of the company's operating profit, revenues or assets together with qualitative tests.

For each strategic business combination, companies would be required to disclose certain information that is monitored by Key Managerial Personnel.

- **In the acquisition year:** The acquisition-date key objectives and related targets for the business combination.
- **In the acquisition year and each subsequent period:** The progress towards meeting those acquisition-date objectives and targets, including actual performance and a statement on whether the objectives and targets are being met.

Disclosures in subsequent periods would generally be required for as long as a KMP continues to review progress against the acquisition-date objectives and targets of the business combination.

iii. Exemptions: The proposal also includes an exemption from some of the new disclosure requirements in specific limited circumstances. This exemption applies if disclosure could seriously affect a company's ability to meet the key objectives of the business combination.

- **Impairment test:** The proposal aims to retain the impairment only approach for goodwill rather than reintroduce amortisation. It also proposes the following key changes to the value-in-use testing requirements in IAS 36, *Impairment of Assets* to simplify and clarify the impairment test.

- i. To retain the requirement to estimate future cash flows from an asset or cash-generating unit (CGU) in its current condition, but to remove constraints on

reflecting any estimated future cash flows expected to arise from:

- Future uncommitted restructuring; and
- Improvement or enhancement of an asset or CGU's performance.

ii. To remove the requirement to use pre-tax cash flows and discount rates. Instead, a company would be required to disclose the discount rate(s) used and whether it (they) is (are) pre-tax or post-tax.

iii. To clarify the guidance on how to allocate goodwill to CGUs or a group of CGUs for impairment testing.

- **Prospective application:** The above proposed amendments would apply prospectively

The comments period on the above proposal ends on 15 July 2024.

(Source: IASB news dated 14 March 2024. Also read KPMG IFRG Limited's article on 'Business Combinations and impairment' issued on 14 March 2024)

