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Voices on Reporting

Annual updates publication

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In this publication, we have summarised important financial reporting and regulatory updates relevant for the year ended 31 March 2024 from the Securities and Exchange Board of India (SEBI), the Ministry of Corporate Affairs (MCA), the Institute of Chartered Accountants of India (ICAI), the Reserve Bank of India (RBI), the National Financial Reporting Authority (NFRA) and the Insurance Regulatory and Development Authority of India (IRDAI).

BRSR requirements

In recent years, there has been an increase in focus on environmental, social and other non-financial factors that could be critical for an entity's long-term viability and success. Regulators and government around the globe are developing regulatory framework in relation to these non-financial factors.

In this regard, the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) mandatorily require the top 1,000 listed entities[1] in India to file the Business Responsibility and Sustainability Reporting (BRSR) as part of their annual report with SEBI from Financial Year (FY) 2022-23 onwards.

In order to make the reported information comparable and reliable, SEBI through a notification dated 14 June 2023 amended LODR Regulations to introduce the BRSR Core at company level and BRSR Core for a company's value chain.

Subsequently, on 12 July 2023, SEBI issued a circular prescribing the disclosure and assurance requirements under the BRSR Core framework (including value chain).

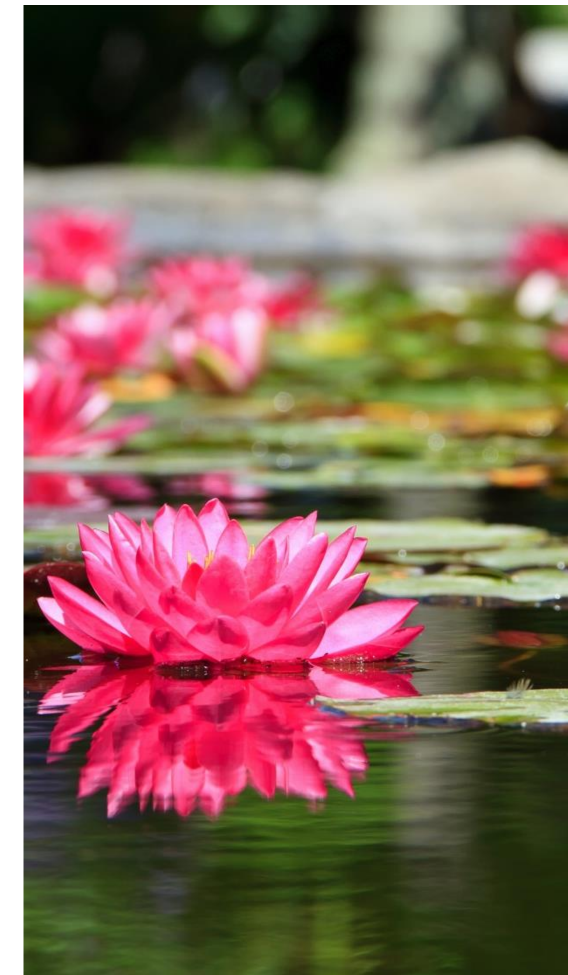
I. **BRSR Core and updated reporting format:** BRSR Core consists of a set of Key Performance Indicators (KPIs)/metrics under the nine ESG attributes. The BRSR Core specifies the data and approach for reporting on certain ESG parameters and assurance. SEBI clarified that the approach specified in BRSR Core is a base methodology. Any changes or industry specific adjustments/estimations should be disclosed.

   The key considerations are as follows:

   KPIs of BRSR Core: The new KPIs of BRSR Core are as follows:

   - Green-House Gas (GHG) footprint
   - Water footprint
   - Energy footprint
   - Embracing circularity – details related to waste management by the entity
   - Enhancing employee wellbeing and safety
   - Enabling gender diversity in business
   - Enabling inclusive development
   - Fairness in engaging with customers and suppliers
   - Open-ness of business.

   Revised format of BRSR (including BRSR Core): The revised format of BRSR incorporates the new KPIs of BRSR Core. Additionally, there are certain leadership indicators (earlier voluntary in 2022-23) which have now been made mandatory in the new format of BRSR Core.



1. As per market capitalisation as on 31 March of every financial year.

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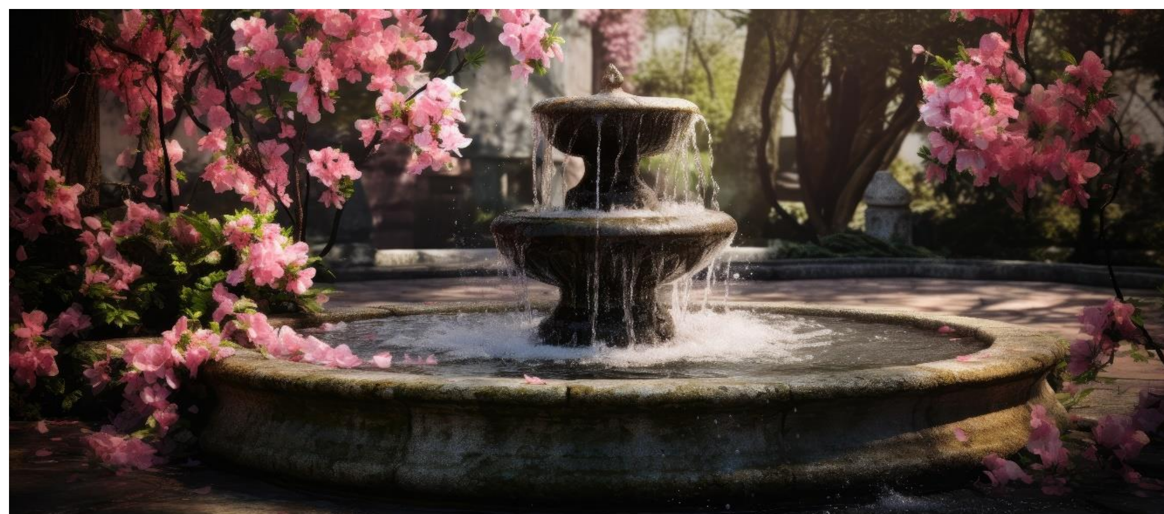
Reasonable assurance: The circular provides that the top 150 listed companies (by market capitalisation) are required to obtain a reasonable assurance from an independent assurance provider on the BRSR Core disclosures from FY 2023-24 and the balance companies are required to follow a glide path approach as below:

Financial Year	Applicability of reasonable assurance requirements on BRSR Core to top listed entities (by market capitalisation)
2023 – 24	Top 150 listed entities
2024 – 25	Top 250 listed entities
2025 – 26	Top 500 listed entities
2026 – 27	Top 1000 listed entities



II. **BRSR Core for value chain:** The circular now requires certain listed entities to provide disclosures of value chain in their BRSR Core disclosures. Certain key considerations are as follows:

a. **Determination of value chain:** The value chain should encompass the top upstream and downstream partners of a listed entity, cumulatively comprising 75 per cent of its purchases/sales (by value) respectively. Such reporting should be segregated for upstream and downstream partners or can be reported on an aggregate basis. Further, the scope of reporting and assumptions or estimates, if any, should be clearly disclosed.

b. **Applicability:** The ESG disclosures for the value chain is applicable to the top 250 listed entities (by market capitalisation), on a comply-or-explain basis from FY 2024-25.

c. **Reporting format:** Disclosures for value chain should be provided by the listed entity as per BRSR Core, as part of its annual report.

d. **Limited assurance:** The above-mentioned companies should obtain limited assurance on a comply or-explain basis from FY 2025-26.

III. **Assurance provider:** The following requirements are to be evaluated by a listed entity while appointing an assurance provider:

a. **Expertise:** The Board of the listed entity should ensure that the assurance provider of the BRSR Core has the necessary expertise, for undertaking reasonable assurance.

b. **Independence:** The listed entity should ensure that there is no conflict of interest with the assurance provider appointed for assuring the BRSR Core disclosures. For instance, it should be ensured that the assurance provider or any of its associates do not sell its products or provide any non-audit/non-assurance related service including consulting services, to the listed entity or its group entities.

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Subsequently, on 8 August 2023, SEBI issued certain Frequently Asked Questions (FAQs) relating to the assurance requirement of BRSR Core. The key clarifications from the FAQs are provided below:

- **Qualification of an assurance provider:** The assurance of the BRSR Core is profession agnostic and need not necessarily be undertaken by a Chartered Accountant. However, the board of the listed entity should ensure that the assurance provider has the necessary expertise for undertaking reasonable assurance in the area of sustainability.
- **Restriction on assurance provider**: The FAQs provides that:
  - The internal auditor of the listed entity or its group entities cannot be appointed as the assurance provider
  - The statutory auditor of the listed entity would be eligible to be appointed as an assurance provider.
- **Permissible activities/services:** Activities that are in the nature of audit/assurance such as providing third-party certifications, tax audit, system audit and tax filing, etc. could be undertaken by an assurance provider for the BRSR Core for the listed entity or its group entities. In such cases, the listed entity should ensure that the prescribed activities do not pose any conflict of interest or compromise the independence of the assurance provider.
- **Non-permissible activities/services:** The assurance provider would be ineligible to provide assurance on BRSR Core if such an assurance provider sells its products or offers any non-audit or non-assurance services to a listed entity or its group entities, irrespective of whether the nature of the product/service is financial or non-financial.

  Further, the FAQs provide an indicative list of activities that cannot be undertaken by the assurance provider for the BRSR Core for the listed entity or its group entities.
- **Meaning of the term 'group':** The term 'group' means the holding company, subsidiaries, associates and joint ventures of the listed entity.
- **Meaning of the term 'associate' of an assurance provider:** If the assurance provider is:
  a. **A firm or a corporate entity:** Associate would include any of its partners, its parent, subsidiaries, associates, and any entity in which the assurance provider, its parent or partner has significant influence or control.
  b. **A Chartered Accountant firm:** Associates would also include all entities in the network firm/network entity of which the assurance provider is a part of.
  c. **An individual:** Associate would include any immediate relative (as defined in the Companies Act, 2013 (2013 Act)) of the person, and any entity in which such individual/s has significant influence or control.

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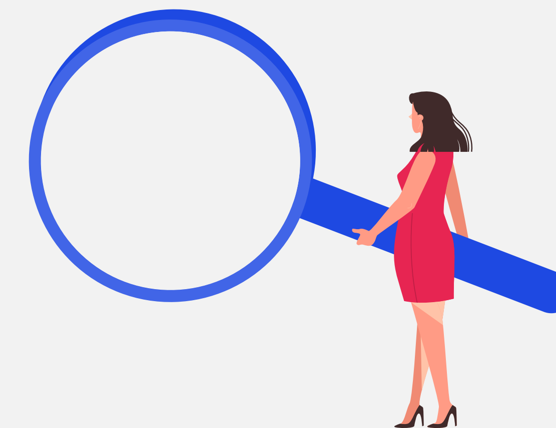
- **Assurance standards:** The circular does not mandate or recommend any specific assurance standard, the assurance provider could use any of the below mentioned assurance standards on sustainability/non-financial reporting such as:
  - International Standard on Assurance Engagements (ISAE) 3000, *Assurance Engagements Other than Audits or Reviews of Historical Financial Information* or
  - Standard on Sustainability Assurance Engagements (SSAE) 3000, *Assurance Engagements on Sustainability Information* or Standard on Assurance Engagements (SAE) 3410, *Assurance Engagements on Greenhouse Gas Statements* issued by the Institute of Chartered Accountants of India (ICAI).

Additionally, the assurance provider should disclose the assurance standard that has been relied upon.

Also refer to KPMG in India's First Notes – SEBI framework on BRSR Core and value chain – disclosures and assurance by listed entities dated 15 July 2023 which provides detailed overview of BRSR Core provisions.

Key takeaways

- As more detailed ESG information is presented through BRSR Core and considering that reporting is applicable for the current year, it is essential that top 1,000 listed companies gear up to provide high quality information that is accurate and robust and is ready for assurance.
- Going forward, companies will need to have an integrated approach towards corporate reporting given that both sustainability and financial reporting will have equal stakeholder and regulatory focus.



(Source: SEBI circular no. SEBI/HO/CFD/CFD-SEC-2/P/CIR/2023/122 dated 12 July 2023, SEBI FAQs 'Frequently Asked Questions (FAQs) on the Business Responsibility and Sustainability Report (BRSR) Core' issued on 8 August 2023)

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Regulatory supervision for ESG Rating Providers (ERPs)

In order to provide a comprehensive regulatory framework for ESG rating agencies in India, on 3 July 2023, SEBI introduced amendments to the SEBI (Credit Rating Agencies) Regulations, 1999 by introducing Chapter IVA on ERPs. These regulations would be applicable to an ERP which is a person engaged in, or proposes to engage in, the business of issuing ESG ratings.

The regulations prescribe, *inter alia,* the eligibility criteria, guidelines for registration, transparency, governance and prevention of conflict of interest, rating process and monitoring, general obligations of ERPs, manner of inspection and code of conduct applicable to ERPs. The regulations are effective from 3 July 2023.

Subsequently on 12 July 2023, SEBI issued a master circular which lays down the procedural/disclosure requirements and obligations for ERPs. The master circular consists of guidance on the following:

- **Registration, approval and surrender requirements**: It provides guidance with respect to registration mechanism for ERPs, approvals for change in control of ERPs, guidelines on suspension, cancellation or surrender of certificate of registration.
- **Rating operations:** This section provides insights with respect to the types of ESG ratings/scores, business model for ERPs, rating process, guidance on monitoring and review of ratings, etc.
- **Reporting and disclosures:** It provides guidance with respect to periodic and continuous disclosures, including disclosures made on the website by REs.
- **Internal audit for ERPs**: It provides guidance on the requirements related to internal audits along with other miscellaneous requirements applicable to ERPs.

Additionally, SEBI issued FAQs in August 2023 and December 2023 providing certain clarifications related to ERPs. Some of the key points covered in the FAQs are as follows:

- **Eligibility criteria**: Regulation 28E of the CRA Regulations prescribe the following eligibility criteria for an applicant desirous of registering as an ERP:
  - Should be a company incorporated under the 2013 Act
  - Should have a net worth as stated in the CRA Regulations
  - Should specify ESG rating activity as the main object in its Memorandum of Association (MOA)
  - Should not be a credit rating agency or any other intermediary registered with SEBI
  - Should have the necessary infrastructure including adequate office space, technology, equipment and manpower, to enable it to provide ESG rating services. Further, the applicant and its promoter(s) should be fit and proper person(s) as per Schedule II of the SEBI (Intermediaries) Regulations, 2008.
  - Should be a subsidiary of an intermediary registered with SEBI or of an ERP incorporated in a Financial Action Task Force (FATF) member jurisdiction and recognised under their respective law having a minimum experience of five years in ESG rating of securities or companies. It should be noted that this requirement is not applicable for a Category II ESG rating provider applicant.
- **Registration requirements:** Any person intending to undertake business as an ERP should make an application to SEBI for grant of a certificate. This provision is also applicable for a person acting as an ERP on the date of the regulations coming into force. The Fourth Schedule to the CRA Regulations lays down the criteria for applicability of the CRA Regulations for an ERP functioning in India.

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Regulation 28C states that a person could act as an ERP only after obtaining a certificate from SEBI. Further, the Fourth Schedule determines the applicability of the regulatory framework to the international ERPs. 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.

It is further clarified that an overseas ERPs offering ESG rating products covering Indian asset classes to Indian clients should obtain a certificate of registration from SEBI by establishing a locally incorporated entity. In case the application is made 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 services should be rendered from the locally incorporated entity.

- **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.
- **Applicability subject to business model used:** As per the CRA Regulations, 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 regulatory requirements are to be complied with by all ERPs, irrespective of the business model.
- **Categories of ERPs:** An application for the grant of a certificate to act as an ERP could be made through Category I or Category II . The regulatory requirements and certain eligibility criteria specified in the CRA Regulations differs on the following points for an ERP under Category I and Category II:
  - Nature of activity
  - Office infrastructure
  - SEBI registration or Financial Action Task Force (FATF) jurisdiction
  - Promoter and net worth requirement
  - Experience.
- **Change in control of ERPs**: In case any change in control of the ERP is proposed, prior approval of SEBI should be obtained for continuing to act as such after the change of control. This prior approval would be valid for a period of six months from the date of such approval within which the applicant should file an application for fresh registration pursuant to change in control. The master circular[2] issued on 12 July 2023 prescribes the requirements for making the application for obtaining a prior approval. The said circular also lays down the requirements for seeking approval for a proposed change in control of an ERP wherein there is a scheme(s) of arrangement which needs to be sanctioned by the National Company Law Tribunal (NCLT) in terms of the provisions of the 2013 Act.
- **Scope of ESG ratings:** Regulation 28B(1)(b) of the CRA Regulations defines 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 Organisation of Securities Commissions (IOSCO's) Report on ESG Ratings and Data Products Providers issued in November 2021.
- **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:** Regulation 28U of the Regulations provide details 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 should not apply to international ERPs.

2. Master circular no. SEBI/HO/DDHS/POD2/P/CIR/2023/121 dated 12 July 2023

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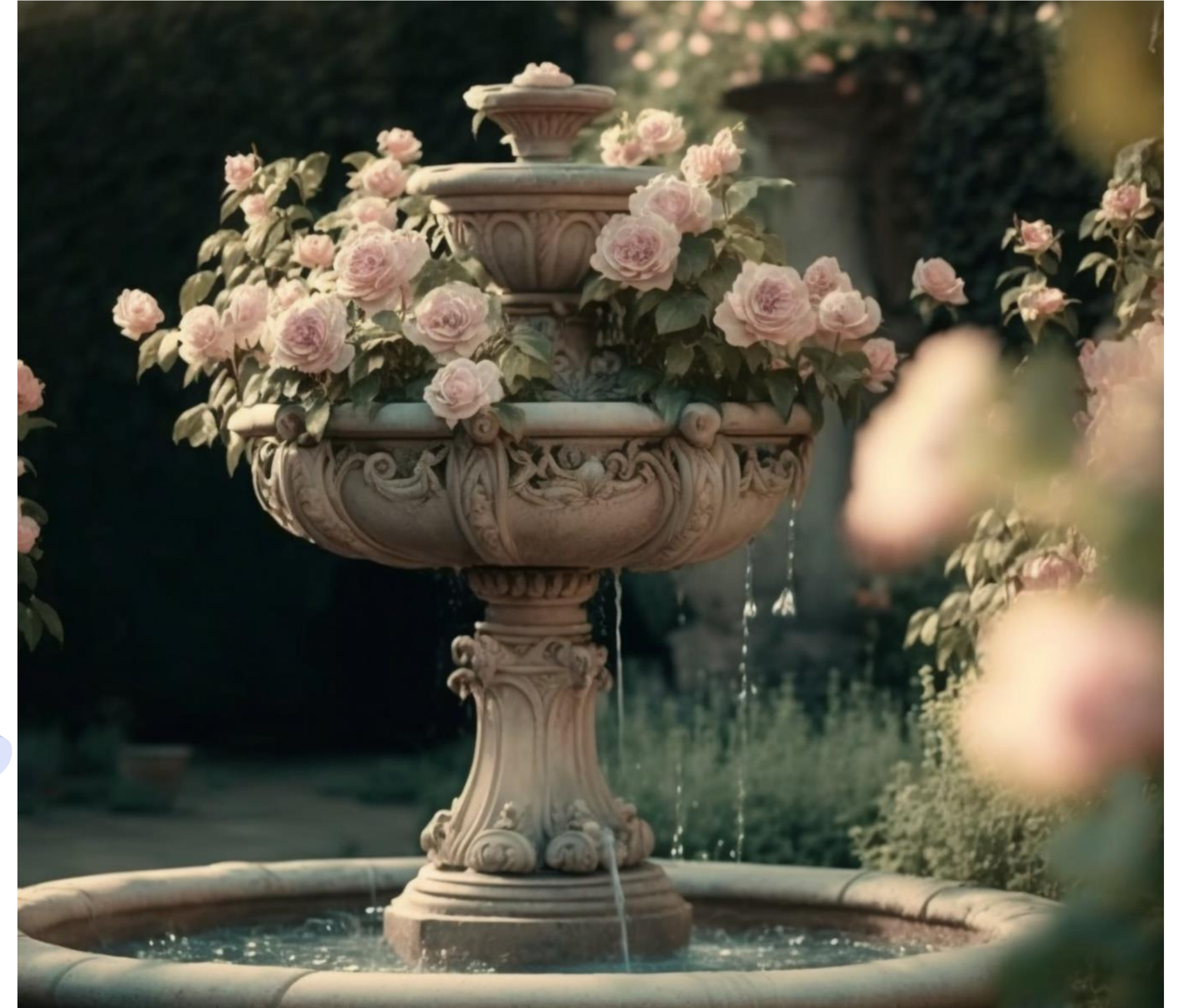
- **Whether ERPs can provide internationally aligned ratings alongside Indian specific ratings:** It is clarified that ERPs are permitted to offer any ESG rating or scoring products, including ratings/ scores based on international frameworks in addition to the ESG rating products that incorporate the 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 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.

Key takeaways

- Considering the growing significance of ESG ratings in the overall sustainability ecosystem and to standardise the procedures around registration and operations of the ERPs, SEBI issued the framework for ERPs . With the notification of the ERP framework, ERPs would need to comply with the mandatory requirements and follow the homogenous procedures as laid down by SEBI. The stipulated requirements would strengthen the function of ERPs and improve the governance and transparency.
- Further, ESG scores as provided by ERPs would measure efforts and investments undertaken by the companies in making the transition to net zero goals or improving ESG risk management. The ratings issued by the ERPs would be reflective of the environment within which the company operates and should also facilitate an effective comparison among the companies operating within the same sector as well as across different sectors.



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ESG investment norms

Considering the growing traction towards ESG investing in India, SEBI, in June 2023, amended the Mutual Fund Regulations, 1996 (MF Regulations) to introduce regulatory requirements relating to ESG schemes. In line with this, on 20 July 2023, SEBI issued a circular introducing a new category of mutual fund schemes for ESG investing and the related disclosure requirements. The new norms aim to facilitate green financing with a thrust on enhanced disclosures and mitigation of risks of mis-selling and greenwashing. Below are the broad categories discussed in the circular related to ESG investing schemes:

I. Multiple strategies under the ESG scheme

Introduced a separate sub-category for ESG investments under the thematic category of equity schemes. Additionally, SEBI has mandated that at least 80 per cent of the total Assets Under Management (AUM) of ESG schemes should be invested in equity and equity related instruments of the chosen strategy. Also, the remaining portion should not contradict the strategy of the scheme.

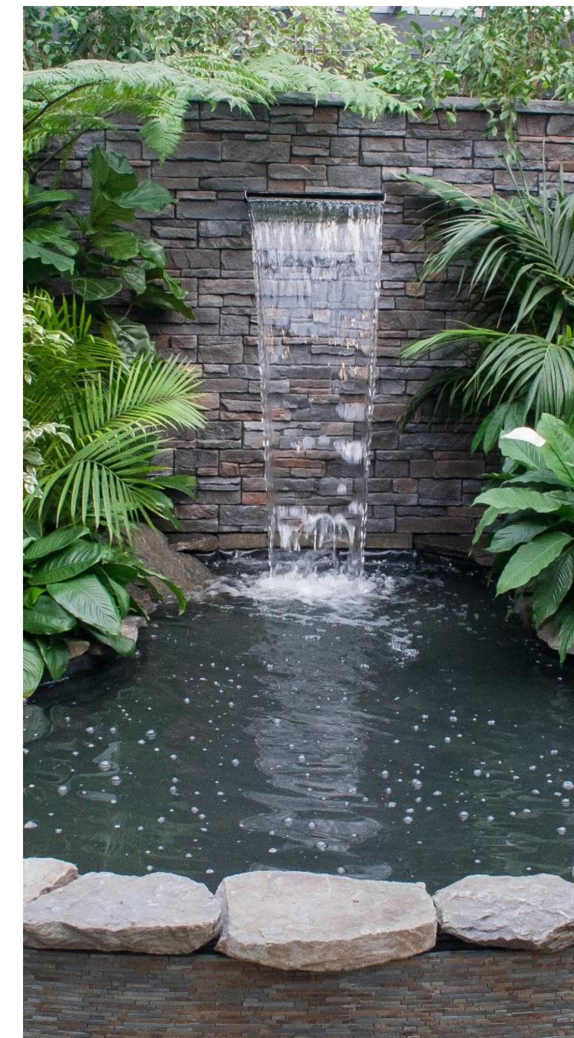
II. Investment criteria

Mandated ESG schemes to invest at least 65 per cent of its AUM in companies which are reporting on comprehensive BRSR and are also providing assurance on BRSR Core disclosures. This requirement will be applicable with effect from 1 October 2024. In case of non-compliance with the aforesaid investment criteria, an extension period till 30 September 2025 has been prescribed. However, during this extended period of one year, ESG schemes cannot undertake any fresh investments in companies that have not obtained assurance on BRSR Core.

III. Disclosure requirements

The SEBI circular has prescribed certain key disclosure requirements relating to ESG mutual funds schemes which include:

- ***Scheme strategy****:* The name of the ESG fund/scheme should clearly disclose the ESG strategy it is based on.
- ***ESG scores of securities***: Disclosure of BRSR and BRSR Core scores provided by ERPs, along with name of ERPs, applicable with an immediate effect.
- ***Voting disclosures***: While disclosing votes cast by AMCs on resolutions of their investee companies, mutual fund should disclose whether vote has been cast in favour or against the proposal on account of any ESG reasons. *(Applicable for annual general meetings held from 1 April 2024 onwards).*
- ***Annual fund manager commentary and disclosure of case studies:*** The requirement of annual fund manager commentary should be applicable from FY 2023-24.



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IV. Assurance

A. Independent assurance
Mandated an independent reasonable assurance on an annual basis for AMCs regarding their ESG scheme's portfolio being in compliance with the strategy and objective of the scheme stated in the Scheme Information Documents (SIDs). Such assurance is applicable on a mandatory basis for FY 2023-24 and onwards. Also, disclosure of assurance should be made in the scheme's annual report.

B. Certification by the board of AMCs
Basis a comprehensive internal ESG audit, the board of directors of AMCs are required to certify compliance of ESG schemes with the regulatory requirements as a part of the annual report of the scheme.

Key takeaway

- Introduction of a separate category of ESG investments with various themes will enable AMCs to launch multiple ESG schemes with diversified strategies and will help in boosting the ESG activities for companies.
- The investment criteria prescribed in the SEBI circular requires ESG schemes to invest 65 per cent of the AUM in companies reporting on comprehensive BRSR and obtaining assurance on BRSR Core. The glide path for mandatory assurance on BRSR Core is applicable to the top 150 companies (by market capitalisation) for FY2023-24. Companies can voluntarily obtain assurance on BRSR Core disclosures from FY2023-24 in order to attract investment funds.
- Further, reasonable assurance is now applicable to AMCs on a mandatory basis for FY 2023-24 and onwards. Additionally, there has been an increased focus on internal ESG audit. AMCs will need to ensure that strong risk management processes and robust internal processes are in place so that AMCs meet all compliances and disclosures on a timely basis.

Also refer to Chapter 2 of KPMG Accounting and Auditing Update Issue no. 86 September 2023 edition – 'ESG investing by mutual funds' which provides detailed overview on this topic.

(Source: SEBI circular SEBI/HO/IMD/IMD-I –PoD1/P/CIR/2023/125 dated 20 July 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 introduce flexibility in the framework on SSE and ease norms related to registration requirements for NPOs, on 28 December 2023, SEBI issued amendments to modify the extant framework.

Some of the key amendments introduced are as follows:

Registration requirements: The circular provides the prerequisites for NPO looking to register on a SSE. It includes:

- 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 registration under Section 80G for 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 by NPOs: A detailed procedure has been prescribed for the issuance of ZCZP instruments. Some of the key points are as follows:

- Filing of the draft fund raising document with the SSE seeking in-principal approval for listing of ZCZP instruments. The draft fund raising document should be made available on the website of SSE and NPO for a minimum period of 21 days.
- 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.

Initial disclosure requirements: 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.

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

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RBI's green deposit framework

The global climate change has shifted the focus of financial systems towards green financing. Green finance means lending to and/or investing in the activities/projects that contribute to climate risk mitigation, climate adaptation and resilience, and other climate-related or environmental objectives - including biodiversity management and nature-based solutions. A key concept of green finance that has gained attention is 'green deposit'.

In order to facilitate the implementation of green deposits and encourage the growth of green finance, on 11 April 2023, the RBI issued a Framework for Acceptance of Green Deposits (the framework). The aim is to allow the Regulated Entities (REs) to enhance their fundraising capabilities and focus on dedicating funds towards sustainable products and activities. The framework has been effective from 1 June 2023 and is applicable to the following REs:

- Scheduled commercial banks including small finance banks (excluding regional rural banks, local area banks and payments banks) and
- All deposit taking Non-Banking Financial Companies (NBFCs) registered with RBI under Section 45IA(5) of the RBI Act, 1934, including Housing Finance Companies (HFCs) registered under Section 29A of the National Housing Bank Act, 1987.

Some of the key takeaways from the framework are as follows:

- **Denomination, interest rates and tenor of green deposits:** The green deposits should be denominated only in INR. The tenor, size, interest rate and other terms and conditions should be as per the prescribed Master Directions[3].
- **Board-approved policy:** The financial institutions raising green deposits should formulate a board approved policy containing all aspects for the issuance and allocation of green deposits. The policy should be made available on the website of the RE.
- **Financing framework for allocation of proceeds:** In order to ensure effective allocation of green deposits, the REs should put in place a board approved financing framework that covers eligibility criteria of green activities/projects, the process of project evaluation and selection along with particulars of allocation of proceeds among others.
- **Use of proceeds:** The proceeds raised from green deposits should be allocated as per the official Indian green taxonomy. As the taxonomy is yet to finalised, as an interim measure, the framework provides a list of green activities/projects adopted from the list in Table 1 of the Government of India's 'Framework for Sovereign Green Bonds' published on 9 November 2022. It is further clarified that the end use of the funds is the ultimate responsibility of the RE.
- **Third-party verification/assurance and impact assessment:** The allocation of funds raised through green deposits by REs during a financial year would be subject to an independent third-party verification/assurance on an annual basis. The third-party verification/assurance report, at minimum, would cover:
  - The use of the proceeds is in accordance with the eligible green activities/projects and
  - Policies and internal controls including, project evaluation and selection, management of proceeds, and validation of the sustainability information provided by the borrower to the REs and reporting and disclosures of the same.

Further, on an annual basis, REs would be required to assess the impact with respect to the funds lent for or invested in green finance activities/projects and report the same in an impact assessment report. The impact assessment report is to be provided on a voluntary basis for the financial year 2023-24 and mandatorily from the financial year 2024-25 onwards.

3. Master Directions -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 and Master Direction -Non-Banking Financial Company –Housing Finance Company (Reserve Bank) Directions, 2021 dated 17 February 2021.

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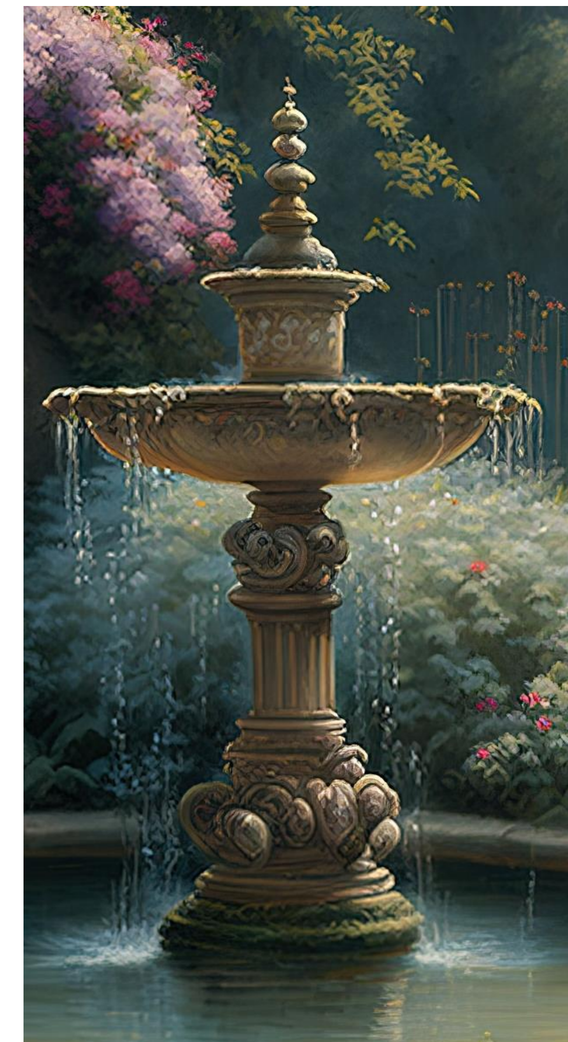
- **Reporting and disclosures:** The RE should present a review report before its board of directors within three months of the end of the financial year containing the details as specified in the framework. Further, appropriate disclosures should be made in the RE's annual financial statements on portfolio-level information with respect to the use of the green deposit funds as per the format specified in the Framework.

Subsequently, in December 2023, RBI issued a Frequently Asked Questions (FAQs) on the framework. Following are the key points from the FAQ:

- **Nature of compliance:** 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[4] 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.
- **Investment allocation:** As per the framework, the REs can temporarily park unallocated proceeds of green deposits in liquid instruments[5] 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[6].
- **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 notification no. RBI/2023-24/14 DOR.SFG.REC.10/30.01.021/2023-24 dated 11 April 2023 and RBI FAQ on Framework for Acceptance of Green Deposits issued in December 2023)



4. 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
5. The liquid instruments are Level 1 High Quality Liquid Assets as per the extant guidelines.
6. Consolidated circular on opening current accounts and CC/OD accounts by banks dated 19 April 2022.

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Disclosure requirements for transition bonds

As per the SEBI (Issue and Listing of Non-Convertible Securities) Regulations (NCS Regulations), transition bonds comprise of funds raised for transitioning to a more sustainable form of operations, in line with India's Intended Nationally Determined Contributions. In February 2023, the definition of green debt security was expanded to include transition bonds as one of the sub-categories of green debt security. Additionally, SEBI issued the revised disclosure requirements for such issuances.

On 4 May 2023, with an aim to facilitate transparency and informed decision-making among the investors and address risk of greenwashing , SEBI prescribed the below mentioned additional disclosure requirements for issuance and listing of transition bonds:

- For differentiating transition bonds from other categories of green debt security, an issuer should disclose the denotation GB-T in the offer documents on the cover page and in type of instrument field in the term sheet. The same denotation should also be disclosed in the centralised database for corporate bonds/debentures.
- Details of transition plans such as interim targets, project implementation strategy, usage of technology and overseeing mechanism should be disclosed in the offer document.
- Revised transition plan accompanied by an explanation for each revision should be disclosed to the stock exchanges.
- Details of transition plans along with a brief on the progress of its implementation should be disclosed in the annual report.

(Source: SEBI circular no. SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/105 dated 27 June 2023)

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Green credit rules and methodologies for calculation of green credit

The Ministry of Environment, Forest and Climate Change (MoEFCC) notified the Green Credit Rules (the rules) in October 2023. These rules have a wider focus that go beyond greenhouse gas emissions reduction or removal. These rules define 'green credit' as a single unit of an incentive provided for a specified activity, delivering a positive impact on the environment.

The rules collate activities for preservation and protection of the environment. It expands the scope of climate action by introducing a voluntary market that is independent of the obligatory framework of the Carbon Credit Trading Scheme (CCTS). The governance framework under these rules is supported by inter-ministerial Steering Committee and the Indian Council of Forestry Research and Education (ICFRE) as the administrator, who are responsible for program implementation, management, monitoring and operation.

The rules, provide the following list of eight activities that are eligible for green credit:

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

Subsequently, the MoEFCC notified the methodology for calculation of green credit in respect of tree plantation. Some of the key points covered in the notified methodology are as follows:

- The Forest Department of every State and Union territory is responsible to identify degraded land parcels, including open forest and scrub land, wasteland and catchment areas, under their administrative control and management, which should be made available for tree plantation and for the purposes of generation of Green Credit under the said Rules. The land parcels identified above should be sized five hectares or above and free from all encumbrances.
- Any person or entity desirous of undertaking tree plantation is required to apply to the Administrator who will assign a land parcel to the applicant.
- The applicant is required to submit a proposal for undertaking tree plantation for generation of Green Credit to the Administrator
- The Green Credit should 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 1100 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 concerned.

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 takeaways

- Entities should watch out for further notification of methodologies for other activities that are eligible for green credit. Further, government should bring 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: MoEFCC notification no. S.O.884(E) dated 22 February 2024)

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Plastic Waste Management (Amendment) Rules

On 14 March 2024, the Ministry of Environment, Forest and Climate Change (MOEFCC) notified the Plastic Waste Management (Amendment) Rules, 2024 by amending the Plastic Waste Management Rules, 2016. Some of the key amendments to the rules are as follows:

- Revised definition of biodegradable plastics, importer, manufacturer, producer and seller.
- Revision in the conditions and provisions related to selling of raw material.
- Guidelines for manufacturers of compostable plastic materials have been specified.
- Responsibility of the local bodies with respect to plastic waste management have been inserted.
- Registration process for manufacturer and importer of plastic raw material has been revised.
- Requirements of preparation and submission of annual reports have been amended.
- Extended Producer Responsibilities (EPR) guidelines pertaining to commodities made from compostable plastics or biodegradable plastics have been inserted in Schedule II.

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

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SEBI LODR amendments during the year

The Securities and Exchange Board of India (SEBI) Listing Obligations and Disclosure Requirements, Regulation 2015 (LODR Regulations) lay down the provisions for effective corporate governance and fair disclosures by Indian listed companies. Summarising below are some key amendments issued to the LODR Regulations during the financial year 2023-24:

I. Disclosure of material events or information

Regulation 30 of the LODR Regulations requires every listed entity to provide disclosures of events or information which, in the opinion of the Board of Directors of the listed entity, are material in accordance with the provisions of Part A of Schedule III of the LODR Regulations.

The following amendments pertain to Regulation 30 of LODR Regulations:

i. **Revised materiality policy (Regulation 30(4)(ii)):** The amendment has inserted the following requirements with respect to the materiality policy of listed entities:

- It should not dilute any of the LODR requirements
- It should assist the relevant employees of the listed entity in identifying any potential material event or information and reporting the same to the authorised Key Managerial Personnel (KMP) for determining the materiality of the said event or information and for making the necessary disclosures to the stock exchange(s).

ii. **Introduced quantitative threshold (Regulation 30(4)(i)):** In addition to the existing requirements stipulated in Regulation 30(4)(i), the amendment has introduced a quantitative threshold for disclosure of events specified under Para B of Part A of Schedule III of the LODR Regulations (Para B). Para B provides a list of events that are required to be disclosed[7] as per the materiality policy framed by the listed entities.

The amended regulation provides that events may be considered material if, *inter alia,* their value or the expected impact in terms of value, exceeds the lower of the following:

i. Two per cent of turnover, as per the last audited consolidated financial statements of the listed entity

ii. Two per cent of net worth, as per the last audited consolidated financial statements of the listed company, except in case the arithmetic value of the net worth is negative

iii. Five per cent of the average of absolute value of profit or loss after tax, as per the last three audited consolidated financial statements of the listed company.

iii. **Addition and modification of events in Para A and Para B:** The events specified in Para A are deemed to be material events which are required to be disclosed by the listed entities whereas the events enumerated in Para B are required to be disclosed based on the materiality policy of the listed entity. The amendment has added and modified certain events/information under Para A and Para B.

Subsequently, on 13 July 2023, SEBI issued a circular which specifies the details which a listed entity is required to disclose and the timelines for disclosure with respect to the events specified under Part A of Schedule III. It also provides guidance on when an event/information can be said to have occurred and on determination of materiality.

7. Regulation 30(8) provides that the listed entity should disclose on its website all such events or information which has been disclosed to stock exchange(s) under Regulation 30, and such disclosures shall be hosted on the website of the listed entity for a minimum period of five years and thereafter as per the archival policy of the listed entity, as disclosed on its website.

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iv. **Revised timelines for disclosure (Regulation 30(6)):** The amendment has revised the timelines for disclosure of material events or information to the stock exchange. It stipulates that the disclosure should be made as soon as reasonably possible and, in any case, not later than the following:

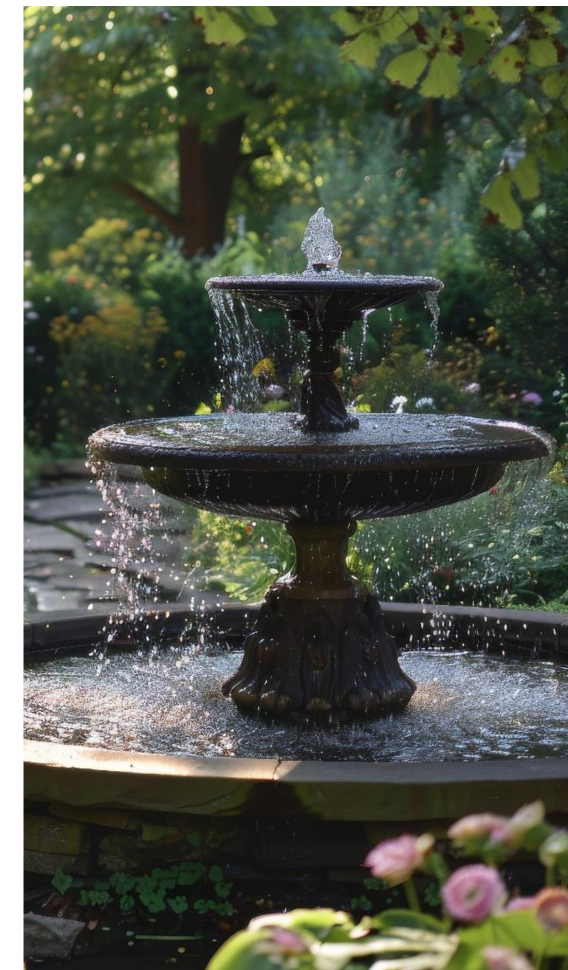
Event or information emanating from…	Timeline for disclosure to the stock exchange*
Outcome of a meeting of the board of directors	Within 30 minutes from closure of meeting in which the decision was taken
Within the listed entity	Within 12 hours *(earlier 24 hours)* from occurrence of event
Externally (i.e. not emanating from within the listed entity)	Within 24 hours from the occurrence of the event
Events specified in Part A of Schedule III of the LODR Regulations	Timelines specified within Part A of Schedule III of the LODR Regulations

*In case the disclosure is made after the abovementioned timelines, then the listed entity should also provide an explanation for the delay in disclosure.

v. **Mandatory verification of market rumours (Regulation 30(11)):** Every listed entity should on its own initiative, confirm or deny any reported event or information to stock exchange(s).

In addition to the above-mentioned general provision, the amendment requires certain listed companies to confirm, deny or clarify any reported event or information in the mainstream media[8] which is not general in nature and which indicates that rumours of an impending specific material event or information in terms of the provisions of this regulation are circulating amongst the investing public. The provisions are applicable to following listed entities:

Top 100 listed entities[9]	With effect from 1 June 2024
Top 250 listed entities	With effect from 1 December 2024



8. The amendment defines the term 'mainstream'. Accordingly, 'mainstream media' includes print or electronic mode of the following:
   i. Newspapers registered with the Registrar of Newspapers for India
   ii. News channels permitted by Ministry of Information and Broadcasting under Government of India
   iii. Content published by the publisher of news and current affairs content as defined under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and
   iv. Newspapers or news channels or news and current affairs content similarly registered or permitted or regulated, as the case may be, in jurisdictions outside India.
9. 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.

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The confirmation by the listed companies should be made within 24 hours from the reporting of the event or information. Further, the listed company should also provide the current stage of such event or information.

Further, SEBI in its board meeting held on 15 March 2024, approved following framework related to verification of market rumours:

- Specify objective and uniformly assessed criteria for rumour verification in terms of material price movement.
- Promoters, directors, KMP and senior management to provide timely response to the listed entity for verifying market rumour.
- Upon confirmation of market rumour, unaffected price to be considered for transactions wherever pricing norms have been prescribed under SEBI Regulations.
- Unverified event or information reported in print or electronic media not to be considered as 'generally available information' under SEBI (Prohibition of Insider Trading) Regulations, 2015.

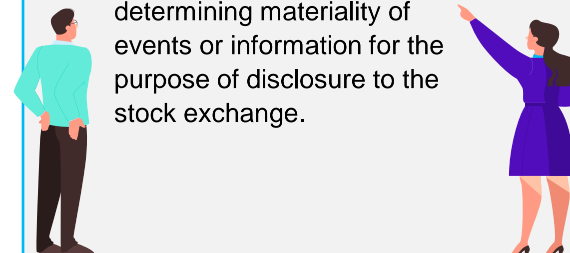
SEBI has issued amendments to SEBI LODR Regulations related to above mentioned points with effect from 17 May 2024.

vi. **Disclosure of communication from any regulatory, statutory, enforcement or judicial authority (Regulation 30(13)):** Every listed entity should disclose communication received from any regulatory, statutory, enforcement or judicial authority with respect to an event or information which is required to be disclosed in terms of the provisions of this regulation. However, the disclosure of such communication should not be made if the listed company is prohibited to do so by the concerned authority.

vii. **Disclosure of cyber security incidents or breaches and loss of data/documents (Regulation 27):** Details of cyber security incidents, breaches, loss of data, or documents along with the quarterly corporate governance report required to be submitted to the recognised stock exchange(s) within 21 days from the end of each quarter, in the prescribed format.

Key takeaways

- The provision relating to materiality determination and material events aims to remove ambiguity and enhance transparency with respect to the disclosures.
- The amendment to the definition of materiality reduces the scope of use of a 'generic materiality policy' and the discretion of non-disclosure of material events (specified under Para B) on the ground that they were not considered material by a company as per its materiality policy. A quantitative approach will bring uniformity and reduce diversity in determining materiality of events or information for the purpose of disclosure to the stock exchange.



(Source: SEBI circular no. SEBI/HO/ DDHS/DDHSRACPOD1/P/CIR/2023/172 dated 19 October 2023 SEBI notification no. SEBI/LAD-NRO/GN/2024/177 dated 17 May 2024)

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II. Disclosure requirements for certain types of agreements binding listed entities (Regulation 30A)

Listed entities are required to disclose agreements (including rescission, amendment, or alteration), which directly, indirectly or potentially impacts the management, or control of a listed entity, or imposes any restriction, or creates any liability on a listed entity, whether or not the listed entity is a party to such agreements. Such agreements can be entered into by the shareholders, promoters, promoter group entities, related parties, directors, Key Managerial Personnel (KMP) and employees of a listed entity or of its holding, subsidiary and associate company. These parties should inform the listed entity about any such agreement within two working days of entering into these agreements or signing an agreement to enter into such agreements.

The listed entity should disclose these types of agreements under Para A of Part A of Schedule III of the LODR Regulations (Para A). Further, it should disclose the following in the Annual Report for the financial year 2023-24:

- The number of agreements that subsist as on 14 June 2023 under Para A.
- Salient features of agreements.
- Link to the webpage where the complete details of such agreements are available.

III. Amendments related to Key Managerial Personnel (KMPs) and other stakeholders:

i. Board permanency at listed companies (Regulation 17(1D))

With effect from 1 April 2024, continuation of directors on the board of a listed entity will be subject to shareholders' approval in a general meeting. The approval should be obtained at least once in every five years from the date of such director's appointment or reappointment, as the case may be.

Additionally, every director serving on the board of a listed entity as on 31 March 2024, and for whom a shareholders' approval has not been obtained in the last five years, the approval of shareholders should be obtained in the first general meeting to be held after 31 March 2024.

ii. Prescribed timeline for filling the vacancy of directors and key managerial personnel (Regulation 6(1A), 17(1E) and 26A)

Role	Timeline to fill vacancy
Directors	• Any vacancy of directors to be filled at the earliest but not later than three months from the date such vacancy. • In case of non-compliance of Regulation 17(1)[10] due to expiration of the term of office of any director, the resulting vacancy so created shall be filled-up on the same day it arose. However, this is not applicable if the listed entity complies with Regulation 17(1) without filling up the vacancy created.
• **Compliance Officer** • **CFO** • **CEO/Managing Director (MD)/ Whole Time Director (WTD)/ Manager**	• Any vacancy created should be filled-up at the earliest but not later than three months from the date of such vacancy. • However, the listed entity should not fill such a vacancy by appointing a person in an interim capacity, unless such appointment is made in accordance with the laws applicable in case of a fresh appointment to such office and the obligations under such laws are made applicable to such person.

10. Regulation 17(1) of LODR Regulations specifies the composition of board of directors for the listed entities including minimum number of directors, independent directors, non-executive directors, woman director and independent woman director

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iii. **Special rights to shareholders (Regulation 31B)**
Any special right granted to the shareholders must be subject to the approval by shareholders in a general meeting through a special resolution once in every five years, beginning from the date of grant of such special right.

IV. Sale, lease or disposal of an undertaking outside scheme of arrangement (Regulation 37A)

Where an entity carries out the sale, lease or disposal of the whole or substantially the whole of one or more than one undertaking (where it owns more than one undertaking), it should:

- Obtain prior approval of the shareholders by way of a special resolution, and
- Disclose the object of and commercial rationale for conducting such sale, lease or disposal and the use of proceeds arising therefrom, in the statement annexed to the notice to be sent to the shareholders.

Such a special resolution should be acted upon, only if the votes cast by the public shareholders in favour of the resolution exceed the votes cast against the resolution.

Applicability: The above-mentioned requirements would not be applicable to transactions involving sale, lease or disposal of the whole or substantially the whole of the undertaking by a listed entity to its wholly owned subsidiary, whose accounts are consolidated with the entity. However, such a listed entity should ensure compliance with the above-mentioned requirements prior to the wholly owned subsidiary selling, leasing or disposing off the whole or substantially the whole of the undertaking received, whether in whole or in part, to any other entity. Additionally, the provisions of this regulation would not be applicable in cases where the sale, lease or disposal is by virtue of a covenant covered under an agreement with a financial institution regulated by or registered with the RBI or with a debenture trustee registered with SEBI, in this regard.

V. New or revised timelines under various LODR Regulations:

i. Submission of financial results by newly listed entities (Regulation 33(3))

First financial results post its listing, for the period (quarter or financial year) immediately succeeding to the periods for which financial results were disclosed in the offer documents for an initial public offer.	Within 21 days from the date of listing or as per the applicable timeline under the LODR Regulations, whichever is later.

ii. Information on the listed entity's website (Regulation 46(2)(o)):

Disclosure of schedule of the analysts or institutional investors' meet and presentations should be made on the entity's website	At least two working days in advance (excluding the date of the intimation and the date of the meet).

iii. Intimation to stock exchanges (Regulation 57):

Submission of a certificate to the stock exchange regarding status of payment of interest, dividend, repayment, or redemption of principal of non-convertible securities,	Within one working day of it becoming due, in the specified format.

(Source: SEBI notification no. No. SEBI/LAD-NRO/GN/2023/131 dated 14 June 2023, SEBI circular no. SEBI/HO/CFD/PoD-1/P/CIR/2023/196 dated 28 December 2023, SEBI circular no. SEBI/HO/CFD/CFD-PoD-2/P/CIR/2024/7 dated 25 January 2024)

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Subsequent issuances of non-convertible debt securities

SEBI, through its notification dated 19 September 2023, has amended the LODR Regulations by inserting Regulation 62A: *Listing of subsequent issuances of Non-Convertible Debt Securities (NCDS).*

- **Compulsory listing of NCDS**: A listed entity whose NCDS are listed, should list all NCDS, proposed to be issued on or after 1 January 2024 on the stock exchange(s)
- **Voluntary listing of unlisted NCDs:** A listed entity whose subsequent issues of unlisted NCDS made on or before 31 December 2023 are outstanding on the said date, have the option to list such securities on the stock exchange(s)
- **Listing of outstanding unlisted NCDS**: A listed entity that proposes to list its NCDS on the stock exchange(s) on or after 1 January 2024, should list all outstanding unlisted NCDS, previously issued on or after 1 January 2024 on the stock exchange(s), within three months from the date of listing of the NCDS proposed to be listed.
- **Exemptions from compulsory listing**: Certain categories of NCDS are exempt from this requirement, including bonds issued under Section 54EC of the Income Tax Act, 1961, NCDs issued pursuant to an agreement with multilateral institutions, and those issued basis an order of the court or Tribunal or regulatory requirement from financial sector regulators such as SEBI, RBI, IRDAI, or PFRDA.
- **Lock-in period for exempted NCDs:** The exempted NCDs should be unencumbered, locked in and held till maturity by the investors.
- **Disclosure requirements**: Listed entity that proposes to issue securities under sub-regulation 4 should disclose key details of such securities to the stock exchanges.

Effective date: The amendments are effective from 19 September 2023.

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

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SEBI board meeting approvals

SEBI in its board meeting held on 15 March 2024, approved certain proposals that relaxed some SEBI Regulations applicable to various categories of entities. The approved proposals aim to facilitate ease of doing business for entities and harmonise the provisions of LODR and ICDR Regulations. Following are the key decisions from the board meeting:

I. **Relaxation related to listed companies :** In order to facilitate ease of doing business for listed entities, the Board has approved amendments to LODR Regulations in respect of the following:

- **Average market capitalisation:** The existing provisions require listed entities to determine market capitalisation for the applicability of certain provisions of LODR Regulations based on a single day's market capitalisation i.e. 31 March.

  SEBI, in its board meeting approved that the market capitalisation for compliance requirements of listed entities 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 has been introduced.

- **Extension of timeline for Key Managerial Personnel (KMP) vacancy:** The timeline for filling up the vacancy in the office of a KMP has been extended from three months to six months basis statutory authority approval.

- **Prior intimation for board meetings:** The timeline for prior intimation of board meetings has been reduced to two working days *(earlier timeline was two to eleven working days).*

- **Duration between meetings of the Risk Management Committee (RMC)**: The maximum permitted time gap between two consecutive meetings of the RMC has been increased to 210 days (*earlier 180 days*).

II. **Timeline for applicability of LODR Regulations to High Value Debt Listed Entities (HVDLEs):** The timeline for mandatory applicability of certain provisions of the LODR Regulations[11] and compliance thereof, by HVDLEs has been extended till 31 March 2025 (*earlier 31 March 2024*).

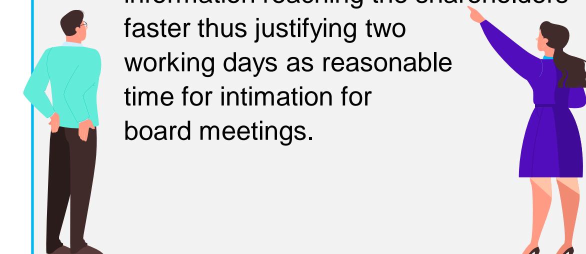
New development – On 17 May 2024, SEBI notified the above-mentioned decisions pertaining to LODR Regulations with different dates of applicability for specified provisions.

(Source: SEBI Press Release No. PR No. 05/2024 dated 15 March 2024 and SEBI notification no. SEBI/LAD-NRO/GN/2024/177 dated 17 May 2024)

11. Regulation 16 to 27 of SEBI LODR Regulations

Key takeaways

- The market capitalisation of a listed entity keeps fluctuating on a daily basis based on market dynamics and therefore, an average of market capitalisation figures over a reasonable period of six months would more accurately reflect the market size of the listed entity and consequently the ranking as compared to its peers.
- The prior intimation for board meeting would help to ensure that shareholders are aware about impending material events, especially relating to rights/privileges of shareholders and to provide sufficient time to the markets to absorb such information. Technological advancement has resulted in information reaching the shareholders faster thus justifying two working days as reasonable time for intimation for board meetings.



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Updates relating to Non-convertible Securities (NCS) Regulation

I. Revised framework for Large Corporates

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

The key takeaways of the revised framework 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 the 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), and
  b) Have outstanding long term borrowings of INR1,000 crore or above (*earlier it was 100 crore or above*), and
  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.

  The term 'outstanding long-term borrowings' means outstanding borrowings with an original maturity of more than one year, subject to certain exclusions.[12]

  Further, the qualified borrowings for a FY should be determined as per the audited accounts for the year filed with the stock exchanges.
- **Requisite borrowing criteria**: 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[13] 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:**[14] 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.[15]

12. Outstanding long term borrowings would exclude:
    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.
13. Debt securities as defined under SEBI (Issue and Listing of Non- Convertible Securities) Regulations, 2021
14. Requisite borrowing – The difference between the actual borrowing through debt securities and 25 per cent of the qualified borrowings for the FY
15. SEBI circular no. SEBI/HO/DDHS/DDHS-RACPOD1/P/CIR/2023/172 dated 19 October 2023

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- **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.[16]
- **Identification of LC by 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

- **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.
- **Transition relief:** Listed entities which were earlier identified as LCs based on the erstwhile[17] criteria 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 as per erstwhile circular relating to penalties and annual disclosure regarding the details of incremental borrowing and mandatory borrowing have been removed now. 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.

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

16. SEBI circular no. SEBI/HO/DDHS/DDHS-RACPOD1/P/CIR/2023/172 dated 19 October 2023ular no. SEBI/HO/DDHS/DDHS-RACPOD1/P/CIR/2023/172 dated 19 October 2023
17. All listed entities (except for Scheduled Commercial Banks), which as on last day of the FY(i.e. 31 March or 31 December):
    a) have their specified securities or debt securities or non-convertible redeemable preference shares, listed on a recognised stock exchange(s) in terms of LODR Regulations; and
    b) 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
    c) 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.

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II. Director nomination by debenture trustees for non-company issuers

The NCS Regulations obligate an issuer which is a company under the Companies Act, 2013 (2013 Act) to ensure that its Articles of Association (AoA) requires its Board of Directors to appoint a director which is nominated by the debenture trustee(s) in accordance with Regulation 15(1)(e) of the SEBI (Debenture Trustees) Regulations, 1993 (DT Regulations).

The above-mentioned obligation did not exist in case of an issuer which is not a company. In order to fill the gap, on 4 July 2023, SEBI issued a circular for issuers that are not companies. As per the circular, such issuers that are not companies, are required to submit an undertaking to their debenture trustees stating that a non-executive/independent director/trustee/member of its governing body should be designated as a nominee director in consultation with the debenture trustees in case of events mentioned in Regulation 15(1)(e)[18] of the DT Regulations.

Additionally, debenture trustees should ensure compliance with the provisions of this circular by the issuer and themselves.

The provisions of this circular are applicable from 4 July 2023.

(Source: SEBI circular no. SEBI/HO/DDHS/POD1/P/CIR/2023/112 dated 4 July 2023)

18. Regulation 15(1)(e) of DT Regulations requires the debenture trustees to appoint a nominee director on the board of the company in the event of:
    i. Two consecutive defaults in payment of interest to the debenture holders; or
    ii. Default in creation of security for debentures; or
    iii. Default in redemption of debentures.

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Updates relating to ICDR Regulations

I. Revised underwriting framework for public issues

Regulation 40 and 136 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations 2018 (ICDR Regulations) stipulates the procedure of underwriting to be followed by the issuer making an initial public offer.

On 23 May 2023, SEBI issued amendments to the underwriting framework applicable to public offerings under the ICDR Regulations. The amendment states the following:

- An issuer should enter into an underwriting agreement, prior to the filing of the prospectus, with the merchant bankers or stockbrokers that are registered with the Board to act as underwriters.
- The underwriting agreement should include the maximum number of specified securities that the underwriters will subscribe to, either by themselves or by procuring subscription, at a predetermined price which should not be less than the issue price.
- A disclosure of the underwriting agreement entered into is required to be made in the prospectus.
- The amended norms state that if an extract of any industry report is disclosed in the offer document, then the complete industry report should be provided as part of the material documents under Schedule VI of the ICDR Regulations.

(Source: SEBI circular no. SEBI/LAD-NRO/GN/2023/130 dated 23 May 2023)

II. Timeline for listing of specified securities in public issue

SEBI, through a circular issued on 9 August 2023, has revised the timeline for listing of specified securities in a public issue. As per the circular, the time taken for listing of specified securities has been reduced to three working days ***(T+3 days)***[19] as against the existing requirement of six working days *(T+6 days)*. Additionally, the timelines for various activities involved in the public issue process have also been revised and stipulated in the annexure to the circular.

The provisions of this circular are mandatory for public issues opening on or after 1 December 2023.

(Sources: SEBI circular no. SEBI/HO/CFD/TPD1/CIR/P/2023/140 dated 9 August 2023)

19. 'T' being issue closing date

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Listing of securities in foreign jurisdictions

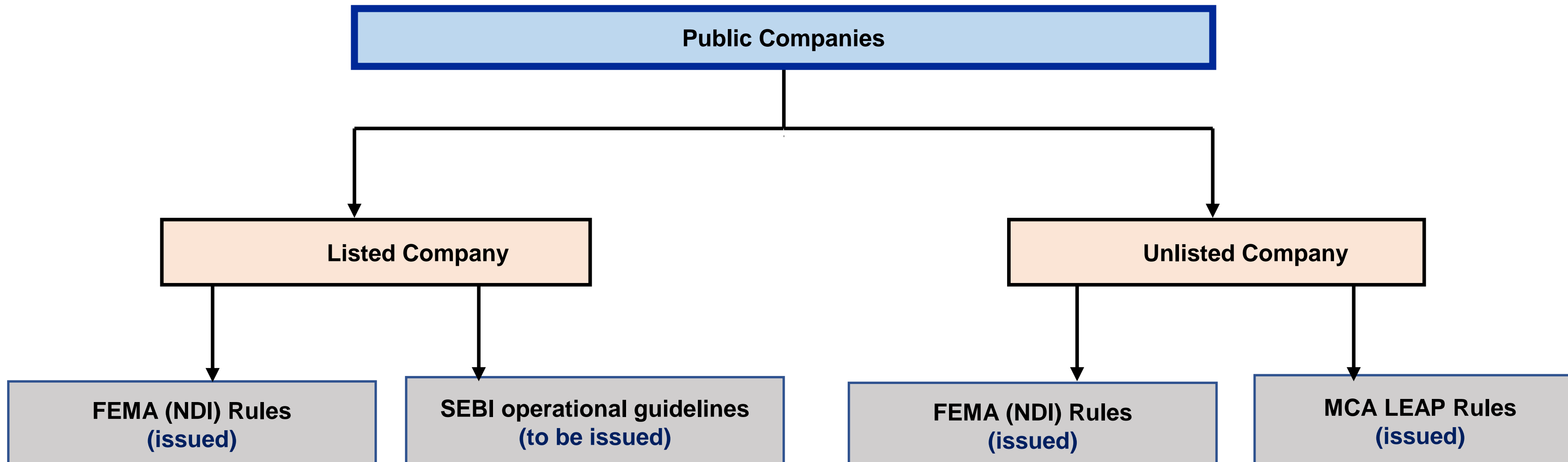
In 2020, the Ministry of Corporate Affairs (MCA) amended Section 23 of the 2013 Act. The amendment enabled certain classes of public companies to issue specific class of securities for the purpose of listing on permitted stock exchanges in the prescribed foreign jurisdiction. In October 2023, MCA notified Section 23, thereby stipulating 30 October 2023 as the effective date for the applicability of this section.

Overview of recent developments

In this regard, in January 2023, the Central Government notified the following rules:

- MCA rules - Companies (Listing of Equity Shares in Permissible Jurisdictions) Rules, 2024 (LEAP Rules)
- Ministry of Finance (MoF) notified the FEMA (Non-Debt Instruments) Amendment Rules, 2024 (NDI Rules)

The figure below discusses applicable regulatory framework (Section 23)



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I. Companies (Listing of equity shares in permissible jurisdictions) Rules, 2024

On 24 January 2024, the MCA issued the Companies (Listing of equity shares in permissible jurisdictions) Rules, 2024 (the rules). The aim is to provide Indian companies with access to both global and domestic markets for raising capital. An overview of the Rules is provided below:

Applicability

The rules would apply to listed and unlisted public companies which issue their securities for the purposes of listing on permitted stock exchanges[20] in permissible jurisdiction[21].

Eligibility

As per the rules, the following companies are not eligible for issuing equity shares for listing:

- Section 8 companies or a Nidhi company
- Companies limited by guarantee and also having share capital
- Companies having negative net worth
- Companies that have accepted deposits[22] from the public
- Companies that have defaulted[23] in payment of dues to any bank, public financial institution, non-convertible debenture holder, or any other secured creditor
- In case the company has made an application to wind-up or has any pending proceeding against it for winding-up under the Insolvency and Bankruptcy Code, 2016
- Companies that have not filed their annual return under Section 92 or financial statements under Section 137 of the 2013 Act, within the specified period.

Listing procedure

An unlisted public company which is eligible and does not have partly paid-up shares can issue equity shares, including, offer for sale of equity shares by existing shareholders, for the purposes of listing on a stock exchange in a permissible jurisdiction. It is required to file the prospectus with the Registrar of Companies (ROC) in e-form LEAP-1 along with the fees within a period of seven days after the same has been finalised and filed in the permitted stock exchange.

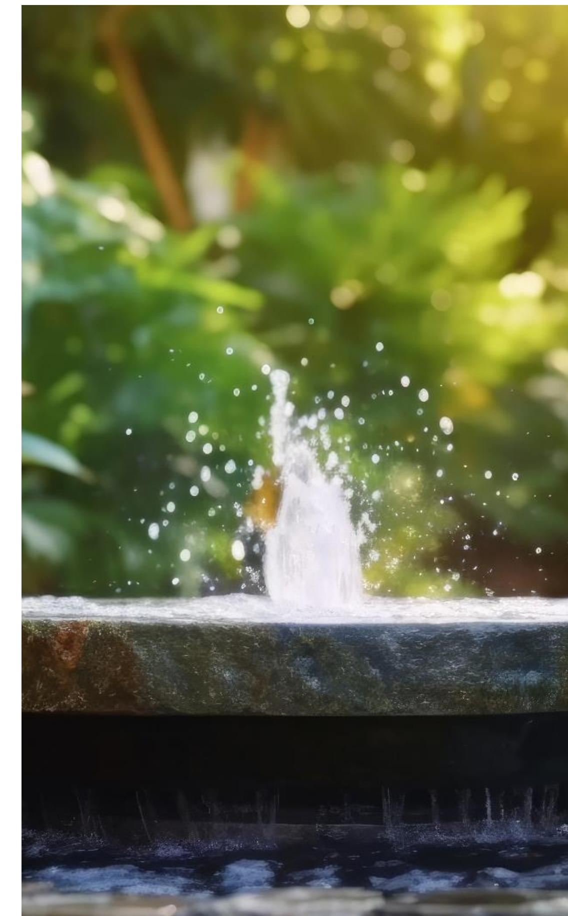
It is mandatory for companies to comply with the requirements of the scheme and conditions specified by SEBI.

Accounting standard compliance

Post listing, companies are required to comply with the Indian Accounting Standards in addition to any other applicable accounting standard, in preparation of their financial statements. These financial statements would be filed before the concerned securities regulator or with the relevant stock exchange.

FAQs on Direct Listing Scheme

The government has also issued Frequently Asked Questions (FAQs) on the scheme, to provide certain clarifications relating to the scheme. The FAQ has provided clarification on 28 topics such as eligible companies, scope of companies covered, prohibited companies, permissible stock exchange and jurisdiction, Indian residents and Non-Resident Indians (NRIs) etc.



20. India International Exchange, NSE International Exchange
21. International Financial Services Centre in India
22. As per Chapter V of the 2013 Act and rules made thereunder
23. Provided that this clause shall not apply if the company had made good the default and a period of two years had lapsed since the date of making good the default

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II. FEMA (Non-Debt Instruments) Amendment Rules, 2024

On 24 January 2024, the Ministry of Finance (MoF) amended the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 by issuing the Exchange Management (Non-debt Instruments) Amendment Rules, 2024 (NDI rules).

Some of the key amendments made to the rules are as follows:

- Definitions of 'international exchange'[24], 'listed Indian company'[25] and 'permissible jurisdiction'[26] have been inserted in Section 2 of NDI Rules.
- Chapter X has been introduced to provide provisions allowing a permissible holder to purchase or sell equity shares of a public Indian company which is listed or to be listed on an international exchange under the Direct Listing of Equity Shares of Companies Incorporated in India on International Exchanges Scheme (the scheme).
- Schedule XI has been inserted to provide specific provisions for Direct Listing of Equity Shares of Companies Incorporated in India on International Exchanges Scheme.

Below are some of the key points from the notification:

a) Eligibility: A public Indian company or the existing shareholders can offer equity shares on an international exchange subject to compliance with the conditions and other requirements laid down in the scheme.

The conditions and other requirements laid down in the scheme are as follows:

i. A public Indian company shall be eligible to issue equity shares in permissible jurisdiction, if-

a) the public Indian company, any of its promoters, promoter group or directors or selling shareholders are not debarred from accessing the capital market by the appropriate regulator

b) none of the promoters or directors of the public Indian company is a promoter or director of any other Indian company which is debarred from accessing the capital market by the appropriate regulator

c) the public Indian company or any of its promoters or directors is not a wilful defaulter

d) the public Indian company is not under inspection or investigation under the provisions of the 2013 Act

e) none of its promoters or directors is a fugitive economic offender.

24. 'International Exchange' shall mean permitted stock exchange in permissible jurisdictions which are listed at Schedule XI annexed to these rules
25. 'Listed Indian company' means an Indian company which has any of its equity instruments or debt instruments listed on a recognised stock exchange in India and on an International Exchange and the expression 'unlisted Indian company' shall be construed accordingly
26. 'Permissible jurisdiction' means such jurisdiction as notified by the Central Government under Rule 9(3)(f) of Prevention of Money-laundering (Maintenance of Records) Rules, 2005

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ii. Existing holders of the public Indian company shall be eligible to offer shares, if:

a) The public Indian company or the holder offering equity shares are not debarred from accessing the capital market by the appropriate regulator

b) None of the promoters or directors of the public Indian company is a promoter or director of any other Indian company, listed or otherwise, which is debarred from accessing the capital market by the appropriate regulator

c) The public Indian company or the holder offering equity shares is not a wilful defaulter

d) The public Indian company is not under inspection or investigation under the provisions of 2013 Act

e) None of the promoters or directors of the public Indian company or the holder offering equity shares is a fugitive economic offender.

b) **Listing on international exchanges**: A public Indian company can issue equity shares or offer equity shares of existing shareholders on an International Exchange in dematerialised form and they should rank *pari passu* with equity shares listed on a recognised stock exchange in India, subject to the specified conditions. It is mandatory to obtain prior government approval, wherever applicable.

c) **Obligations of companies**: The public Indian company is required to ensure compliance with the extant laws[27] relating to issuance of equity shares, including requirements prescribed in the scheme. Further, Indian company should ensure that the aggregate of equity shares which may be issued or offered in a permissible jurisdiction, along with equity shares already held in India by persons resident outside India, should not exceed the sectoral or statutory limit on foreign holding specified under the Schedule I to these rules.

d) **Voting rights**: In case of public Indian companies having their equity shares listed on international exchange, the voting rights should be exercised directly by the permissible holder or through their custodian in accordance with the voting instructions provided from such permissible holder.

e) **Pricing:** In case of equity shares issued by a listed company or offered by the existing shareholders of equity shares listed on a recognised stock exchange in India, the same should be issued at a price, not less than the price applicable to a corresponding mode of issuance of such equity shares to domestic investors under the applicable laws.

In case of initial listing of equity shares by a public unlisted Indian company on the international exchange, the price of issue or transfer of equity shares is required to be determined by a book- building process as permitted by the said international exchange and should not be less than the fair market value under applicable rules or regulations under the Foreign Exchange Management Act, 1999.

(Source: MCA notification no. G.S.R. 61(E) dated 24 January 2024, Ministry of Finance notification no. S.O. 332(E) dated 24 January 2024 and FAQs on Direct Listing Scheme)

27. the Securities Contracts (Regulation) Act,1956 (42 of 1956), the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Depositories Act, 1996 (22 of 1996), the Foreign Exchange Management Act,1999(42 of 1999), the Prevention of Money-laundering Act, 2002 (15 of 2003) or the Companies Act, 2013 (18 of 2013) and rules and regulations made thereunder

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Stricter norms for companies to disclose beneficial interests

Rule 9 of the Companies (Management and Administration) Rules, 2014 (Management and Administration Rules) relates to declaration of beneficial interest in the shares of a company.

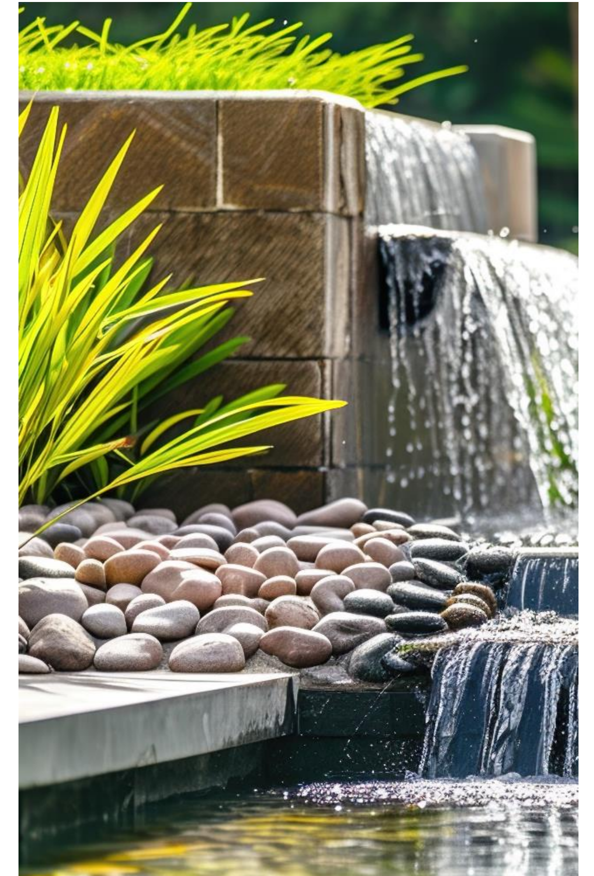
On 27 October 2023, MCA issued certain amendments to Management and Administration Rules by introducing a new provision relating to a 'designated person'. The newly inserted Rule 9(4) provides as follows:

- **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.

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

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.



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Stringent norms for Limited Liability Partnerships (LLPs)

I. Amendment relating to registration of Partners and declaration in respect of beneficial interest

On 27 October 2023, MCA notified the LLP (Third Amendment) Rules, 2023 (the amendment). The amendment introduced two new Rules – Rule 22A and 22B in the LLP Rules, 2009 (the LLP Rules 2009). These are discussed below:

- **Rule 22A, Register of Partners**: Under this rule, every LLP is required to maintain a register of its partners in Form 4A at its registered office, from the date of its incorporation. 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, the amendment specifies that entries in the register should be made within seven days pursuant to any change made in the contribution amount, or in the name and details of the partners in the LLP agreement, or in cases of cessation of partnership interest.

  In case any rectification is made in the register pursuant to any order passed by the competent authority under any law, then the necessary reference of such order should be provided in the register.

- **Rule 22B, Declaration in respect of beneficial interest in any contribution:** The amendment specifies that a person whose name is entered in the register of partners but does not hold any beneficial interest fully or partly in contribution, then such person must file with the LLP, a declaration to that effect in Form 4B, within a period of 30 days from the date on which his/her name is entered in the register of partners.
  Further, every person who holds or acquires a beneficial interest in contribution, but his/her name is not registered in the register of partners, should file with the LLP, a declaration disclosing such interest in Form 4C, within a period of 30 days after acquiring such beneficial interest.
  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 with respect to beneficial interest in contribution to the registrar or any other authorised officer and file such information in Form 4.

The amendment also introduced a revised format of Form 4.

Effective date: The amendment are effective from 27 October 2023.

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Stringent norms for Limited Liability Partnerships (LLPs)

II. 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[28] should take the necessary steps to find out if there is any individual who is a SBO[29] 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 a 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 takeaways

- 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.
- 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 no. G.S.R. 803(E) dated 27 October 2023 and MCA notification dated 9 November 2023)

28. Reporting LLP means a LLP which is required to comply with the requirements of Section 90 of the Companies Act, 2013
29. 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 with respect to 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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Timelines specified to accelerate the process of merger and amalgamation of companies

Rule 25 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 deals with the approval procedure of merger and amalgamation of certain companies. However, it did not specify any timelines for obtaining approvals from the Registrar of Companies (ROC). In order to expedite the process for mergers and amalgamations, on 15 May 2023, MCA notified certain amendments to Rule 25 of the Compromises, Arrangements and Amalgamations Rules.

The amendment specifies the following procedure through which companies would be able to receive approval or deemed approvals within 15 days or maximum of 60 days, in case of mergers and acquisitions.

i. **No objection received (Rule 25(5)):** In case if no objection/suggestion is received within a period of 30 days from RoC/official liquidator by the Central Government (CG), and if the CG is of the opinion that the scheme is in the public interest or in the interest of creditors, then CG can issue a confirmation order of such scheme of merger or amalgamation within a period of 15 days after the expiry of the said 30 days. However, if the CG does not issue a confirmation order within 60 days, it will be deemed that there is no objection, and a confirmation order will be issued by the CG.

ii. **Objections received from RoC (Rule 25(6)):** The amended rule provides that if objections or suggestions are received within the 30 days window from the RoC or official liquidator, then the CG should undertake the following action:

- Issue a confirmation order within 30 days, if the CG is of the opinion that the objections/suggestions are unsustainable, and the scheme is in the public interest or the interest of creditors.
- If CG is of the opinion that the scheme is not in the public interest or the interest of creditors, CG can file an application before the Tribunal within 60 days, stating the objections/opinion and requesting the Tribunal to consider the scheme under Section 232 of the 2013 Act.

Further, if the CG does not issue a confirmation order or file an application within a period of 60 days of the receipt of the scheme under Section 233 of the 2013 Act, it would be deemed that it has no objection to the scheme and a confirmation order would be issued accordingly.

(Source: MCA notification no G.S.R. 367(E) dated 15 May 2023)

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Extension to the time period for conducting AGMs and EGMs through video conference

In September 2023, MCA notified that the companies whose Annual General Meetings (AGMs) are due in 2023 or 2024, can conduct its AGM through Video Conference (VC) or Other Audio-Visual Means (OAVM) on or before 30 September 2024. Additionally, companies are required to comply with all the requirements laid down in General Circulars[30] previously issued by MCA, such as relaxation from dispatching of physical copies of the financial statements (including Board's report, Auditor's report or other documents required to be attached therewith), etc.

However, the circular clarifies that this would not imply conferring any extension of the time for holding the AGMs by the companies and accordingly, the companies which do not adhere to the relevant statutory timelines, would be liable to legal consequences under the relevant provisions of the 2013 Act.

The extension would also apply in case of Extraordinary General Meetings (EGMs).

Additionally, SEBI through its circulars dated 6 October 2023 and 7 October 2023 extended the applicability of certain provisions of the LODR Regulations[30] pertaining to dispatch of physical copies of the financial statements (including Board's report, Auditor's report or other documents required to be attached therewith) and holding virtual meetings till 30 September 2024 (*earlier 30 September 2023*).

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

30. General Circular No. 20/2020 dated 5 May 2020
General Circular No. 14/2020 dated 8 April 2020
General Circular No. 03/2022 dated 5 May 2022
General Circular No. 11/2022 dated 28 Dec 2022
31. Regulation 36(1)(b) of the LODR Regulation applicable to listed entities that have issued specified securities and Regulation 58(1)(b) of the LODR Regulation applicable to issuers of listed Non-Convertible Securities

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Guidelines related to the framework for default loss guarantee in digital lending

In September 2022, RBI issued guidelines on digital lending that are applicable to all REs.[32] However, these guidelines did not stipulate the regulation for Default Loss Guarantee (DLG). In this regard, on 8 June 2023, RBI issued guidelines on DLG related to digital lending. DLG arrangements that fall under the ambit of these guidelines should not be treated as synthetic securitisation[33] and will not attract provisions of loan participation.[34]

Some of the key aspects of the DLG guidelines are as follows:

- **Existence of DLG arrangement:** There should be a contractual arrangement between the RE and a DLG provider where the latter guarantees to compensate the RE, loss due to default up to a certain percentage of the loan portfolio of the RE, specified upfront.

  Any other implicit guarantee of similar nature linked to the performance of the loan portfolio of the RE and specified upfront, should also be covered under the definition of DLG.
- **Eligibility for a DLG Provider:** Lending Service Provider (LSP) or other REs with whom an outsourcing (LSP) arrangement has been entered into are eligible to be treated as a DLG provider. Further, the LSP providing DLG should be incorporated as a company under the 2013 Act.
- **Approval by Board of Directors:** REs shall put in place policies approved by the Board of Directors before entering into any DLG arrangement. At the minimum, the policy should include:
  - The eligibility criteria for DLG provider
  - Nature and extent of DLG cover
  - Process of monitoring and reviewing the DLG arrangement, and
  - The details of the fees, if any, payable to the DLG provider.
- **Forms of DLG:** RE should accept DLG only in one or more of the following forms:
  - Cash deposited with the RE
  - Fixed deposits maintained with a scheduled commercial bank with a lien marked in favour of the RE
  - Bank guarantee in favour of the RE.

32. The guidelines on digital lending issued on 2 September 2022 are applicable to REs which are:
    a. All Commercial Banks (including Small Finance Banks),
    b. Primary (Urban) Co-operative Banks, State Co-operative Banks, Central Co-operative Banks; and
    c. Non-Banking Financial Companies (including Housing Finance Companies)
33. Synthetic securitisation means “a structure where credit risk of an underlying pool of exposures is transferred, in whole or in part, through the use of credit derivatives or credit guarantees that serve to hedge the credit risk of the portfolio which remains on the balance sheet of the lender”, as defined under Para 5(y) of the RBI (Securitisation of Standard Assets) Directions, 2021 dated 24 September 2021.
34. Loan participation means “a transaction through which the transferor transfers all or part of its economic interest in a loan exposure to transferee(s) without the actual transfer of the loan contract, and the transferee(s) fund the transferor to the extent of the economic interest transferred which may be equal to the principal, interest, fees and other payments, if any, under the transfer agreement”, as defined under Para 9(e) of the RBI (Transfer of Loan Exposures) Directions, 2021 dated 24 September 2021.

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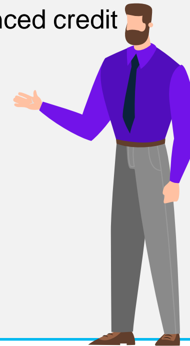
- **Recognition of Non-Performing Asset (NPA):** The RE is responsible to comply with the asset classification and provisioning norms while categorizing a loan asset as an NPA and its consequent provisioning, irrespective of any DLG cover available at the portfolio level. The amount of DLG invoked should not be set off against the underlying individual loans. In cases where DLG has been invoked and realised, the details of recovery by the RE can be shared with the DLG provider as per the contractual arrangement.
- **Disclosure Requirements:** The RE should have a mechanism to ensure that LSPs with whom they have a DLG arrangement should publish on their website the total number of portfolios and the respective amount of each portfolio on which DLG has been offered.

Key takeaway

The guidelines aim to result in stronger partnership between REs and DLG providers, and a transparent and reasonable amount of risks and rewards sharing between them. Consequently, REs are encouraged to introduce technology enabled lending products and thereby contributing to enhanced credit penetration in India.



Also refer to KPMG in India's First Notes 'RBI issues guidelines on Default Loss Guarantee' dated 27 June 2023.

(Source: RBI notification no. RBI/2023-24/41 dated 8 June 2023)

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Regulatory measures for consumer credit and bank credit to NBFCs

Growth of consumer credit components has increased the dependency of NBFCs on bank borrowings. In this regard, on 16 November 2023, RBI issued stringent regulatory measures pertaining to consumer credit and bank credit to NBFCs.

The regulatory measures issued by RBI are as follows:

I. Consumer credit exposure

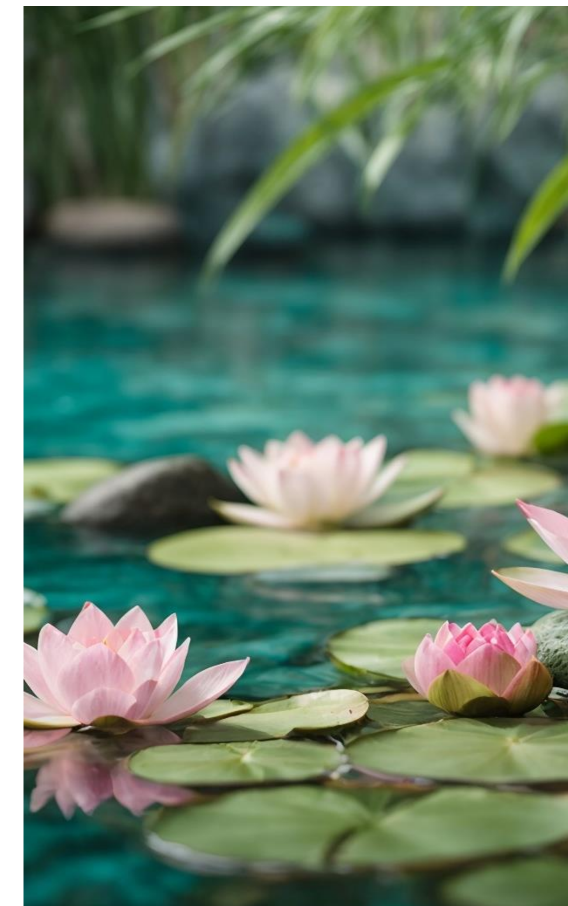
- **Consumer credit exposure of commercial banks and NBFCs:** The RBI has assigned a higher risk weight for retail loans and personal loans and increased it to 125 per cent *(earlier 100 per cent).* This increase will not be applicable to housing loans, education loans, vehicle loans and loans secured 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[35] 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

REs have been directed to review their extant sectoral exposure limits for consumer credit and put in place 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)

35. 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

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Revised remuneration of non-executive directors

In 2021, RBI issued a circular on corporate governance in banks specifying the fixed remuneration granted to Non-Executive Directors (NEDs) of banks. The ceiling of INR20 lakh per annum was specified in respect of remuneration of Non-Executive Directors (NEDs), other than the Chair of the Board.

Considering the crucial role of NEDs in efficient functioning of bank boards and its various committees and to further enable the banks to sufficiently attract qualified competent individuals, RBI through its circular dated 9 February 2024, revised the aforementioned ceiling to INR30 lakh per annum.

Further, banks are required to make disclosure regarding the remuneration paid to the directors in their annual financial statements.

The instructions in this circular are effective from 9 February 2024.

(Source: RBI circular no. RBI/2023-24/121 dated 9 February 2024)

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Revised guidelines for classification and valuation of investment by banks

Considering the significant development in global financial reporting standards, the linkages with the capital adequacy framework as well as progress in the domestic financial markets, RBI issued the (Classification, Valuation and Operation of Investment Portfolio of Commercial Banks) Directions, 2023 that lay down a regulatory framework for the investment portfolio of commercial banks.

The revised directions include principle-based classification of investment portfolio, tightening of regulations around transfers to/from Held To Maturity (HTM) category and sales out of HTM, inclusion of non-SLR (Statutory Liquidity Ratio) securities in HTM subject to fulfilment of certain conditions and symmetric recognition of gains and losses.

Some of the key points of the revised directions are as follows:

Categorisation of investments: The revised directions require banks to classify their investment portfolios into three main categories:

- **Held to Maturity (HTM):** Investments under this category are acquired with the intention and objective of holding it to maturity and these securities should provide regular principal and interest payments.
- **Available for Sale (AFS):** Investments under this category are acquired with an objective of collecting contractual cash flows and having the option of selling securities.
- **Fair Value through Profit and Loss (FVTPL)**: This is a new category introduced by RBI and includes securities that do not qualify for HTM or AFS. Securities in this category are valued at fair market value, and any gains or losses are directly reflected in the bank's profit and loss account.

Initial recognition: All investments should be measured at fair value on initial recognition. As per the revised directions, it should be presumed that the acquisition cost is the fair value, unless facts and circumstances suggest that the fair value is materially different from the acquisition cost.

Subsequent measurement: The subsequent treatment of securities varies depending on their categorisation, such as the following:

- **Held to Maturity (HTM):** Securities under this category should be carried at cost and will not be marked to market after initial recognition. Any discounts or premiums on securities under HTM category should be amortised over the remaining life of the instrument.
- **Available for Sale (AFS):** The AFS securities should be fair valued at least quarterly. Amortisation of discounts or premiums on debt securities under this category should be applied over the remaining life of the instrument.
- **Fair Value through Profit and Loss (FVTPL):** Securities in the FVTPL category should be fair-valued, and any gains or losses arising on such valuation should be directly credited or debited to the profit and loss account.

Impairment evaluation: Banks are required to assess the impairment of investments in subsidiaries, associates, and joint ventures at least every quarter. Various indicators, such as defaults in debt repayments, credit rating downgrades, delisting of outstanding securities, significant declines in fair value etc. will trigger the need for impairment evaluation. In such cases, banks must obtain an independent valuation and make provisions for impairment if required.

Effective date - The revised regulatory framework is applicable from 1 April 2024 to all commercial banks excluding regional rural banks.

Also refer to KPMG in India's First Notes 'The Reserve Bank of India amends the classification and valuation norms for investments held by banks' dated 4 October 2023.

Key takeaway

The Revised Directions are largely aligned with the principles of Ind AS regarding the classification, reclassification, initial recognition and disclosure requirements of investments.

(Sources: RBI Master Direction - Classification, Valuation and Operation of Investment Portfolio of Commercial Banks (Directions), 2023 dated 12 September 2023)

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Framework for compromise settlements and technical write offs

In the past, RBI had issued various instructions to REs[37] regarding compromise settlements of stressed accounts, including the Prudential Framework for Resolution of Stressed Assets (PFRSA), dated 7 June 2019. In order to further encourage resolution of stressed assets, on 8 June 2023, the RBI issued a comprehensive regulatory framework (the framework) governing compromise settlements[38] and technical write-offs.[39] It is important to note that the framework is independent of the PFRSA.

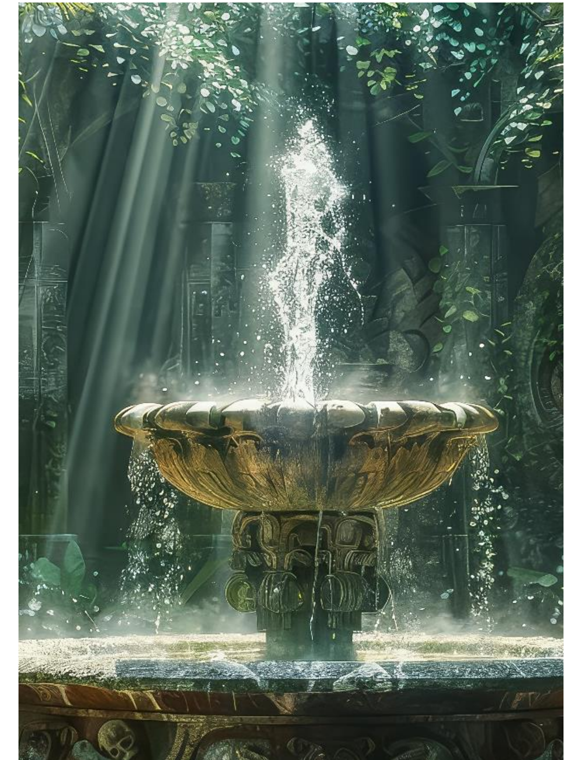
Some of the key aspects of the framework are as follows:

- **Description of compromise settlement and technical write off:**

  Compromise settlement refers to any negotiated arrangement with the borrower to fully settle the claims of the RE against the borrower in cash. It may entail some sacrifice of the amount due from the borrower on the part of the REs with corresponding waiver of claims of the RE against the borrower to that extent.

  Technical write-off refers to cases where the non-performing assets remain outstanding at borrowers' loan account level but are written-off (fully or partially) by the RE only for accounting purposes, without involving any waiver of claims against the borrower, and without prejudice to the recovery of the same.

- **Board approved policy:** All REs are required to put in place board approved policies for executing compromise settlements with borrowers and technical write-offs. It should provide a comprehensive process to be followed for all such arrangements. The policies should put in place a graded framework for examination of staff accountability in such cases with reasonable thresholds and timelines as may be decided by the board.
- **Delegation of power:** The policy should cover the delegation of powers with respect to approval/sanction of compromise settlements and technical write-offs. This power should rest with an authority that is one level higher than the authority vested with power to sanction the credit/investment exposure. All proposals for compromise settlements in case of fraudulent debtors or wilful defaulter need to be approved by the board.
- **Reporting mechanism:** The framework requires a reporting mechanism to the next higher authority at least on a quarterly basis, with respect to compromise settlements and technical write offs approved by a particular authority. The compromise settlements and technical write-offs approved by the Managing Director (MD) and Chief Executive Officer (CEO)/Board Level Committee should be reported to the Board.



37. The framework for compromise settlement and technical write offs are applicable to the following REs:
a) Commercial Banks (including Small Finance Banks, Local Area Banks and Regional Rural Banks)
b) Primary (Urban) Co-operative Banks/State Co-operative Banks/ Central Co-operative Banks All-India Financial Institutions
Non-Banking Financial Companies (including Housing Finance Companies)

38. "Compromise settlement" refers to any negotiated arrangement with the borrower to fully settle the claims of the RE against the borrower in cash. It may entail some sacrifice of the amount due from the borrower on the part of the REs with corresponding waiver of claims of the RE against the borrower to that extent.

39. "Technical write-off" refers to cases where the non-performing assets remain outstanding at borrowers' loan account level but are written-off (fully or partially) by the RE only for accounting purposes, without involving any waiver of claims against the borrower, and without prejudice to the recovery of the same

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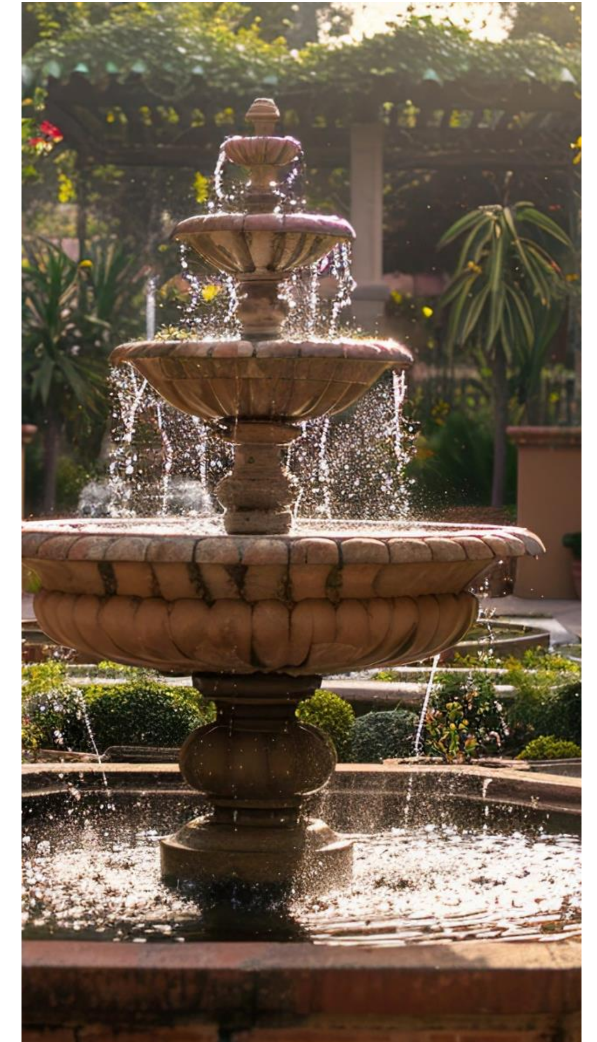
- **Prudential treatment:** In case the time-period, for payment of agreed settlement amount in such transactions, exceeds three months, such arrangement should be treated as restructuring as defined in terms of the Prudential Framework. In case of partial technical write-offs, the prudential requirements in respect of residual exposure, including provisioning and asset classification, should be with reference to the original exposure subject to certain conditions.
- **Board oversight:** The board should implement a suitable reporting format ensuring coverage of the following aspects:
  - The trend in number of accounts and the amounts subjected to compromise settlement and/or technical write-off
  - Separate breakup of accounts under various categories such as fraud, red-flagged, wilful default and quick mortality accounts
  - Grouping of such accounts amount-wise, sanctioning authority-wise, business segment-wise
  - Extent of recovery in technically written-off accounts.
- **Cooling period:** The framework requires a cooling period to be determined as per the board approved policies, in case of borrowers that are subject to compromise settlements. Additionally, the framework also states the provisions for cooling period pertaining to farm and non-farm credit exposures.
- **Treatment of accounts categorised as fraud and wilful defaulter:** REs can undertake compromise settlements or technical write-offs in respect of accounts categorised as wilful defaulters or fraud without prejudice to the criminal proceeding underway against such debtors.

Key takeaway

- REs should put in place a comprehensive policy covering such settlements arrangements to ensure greater transparency.
- The Prudential Framework for Resolution of Stressed Assets did not cover settlements with accounts classified as 'wilful defaulter' or 'fraud'. The new regulatory framework allows REs to undertake such settlements in case of accounts categorised as wilful defaulters or fraud without prejudice to the criminal proceeding underway against such debtors. The enhanced coverage of the framework provides an additional mechanism to reduce stress on the banking sector.

(Source: RBI notification no. RBI/2023-24/40 DOR.STR.REC.20/21.04.048/2023-24 dated 8 June 2023)



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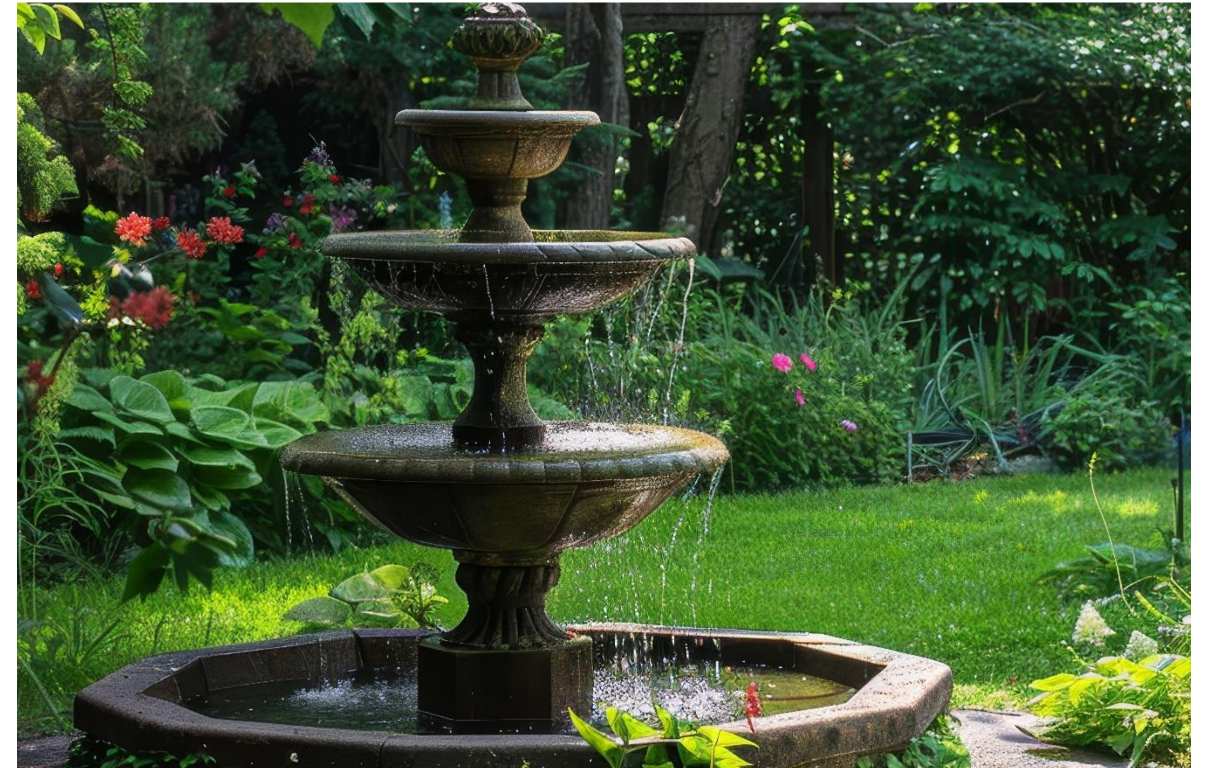
Establishment of effective senior management by banks

On account of the increasing complexity in the banking sector, RBI issued a circular on 25 October 2023 to notify provisions relating to establishment of an effective senior management team. The key considerations from the circular are as follows:

- Banks are advised to ensure the presence of at least two Whole-time Directors (WTDs), including the Managing Director and Chief Executive Officer (MD and CEO), on their Boards.
- The number of WTDs should be decided by the Board considering factors such as the size of operations, business complexity, and other relevant aspects.
- Banks that currently do not meet the above mentioned minimum requirement, are advised to submit their proposals to the RBI for the appointment of WTD(s) as per Section 35B(1)(b)[40] of the Banking Regulation Act, 1949 (Banking Regulation Act) within a period of four months from the date of issuance of this notification.
- In case banks do not have enabling provisions regarding appointment of WTDs in their Articles of Association (AOA), then necessary approvals should be sought under Section 35B(1)(a)[41] under the Banking Regulation Act, expeditiously.

The provisions of the above notification are applicable to all private sector banks and wholly owned subsidiaries of foreign banks (excluding payment banks and local area banks).

(Source: RBI notification no. RBI/2023-24/70 DOR.HGG.GOV.REC.46/29.67.001/2023-24 dated 25 October 2023)



40. Section 35(1)(b) of the Banking Regulation Act states that no appointment or re-appointment or termination of appointment of a chairman, a managing or whole-time director, manager or chief executive officer by whatever name called, shall have effect unless such appointment, re- appointment or termination of appointment is made with the previous approval of the Reserve Bank.
41. Section 35(1)(a) of the Banking Regulation Act states that no amendment of any provision relating to [the maximum permissible number of directors or] the [appointment or re-appointment or termination of appointment or remuneration of a chairman, [managing director or any other director, whole-time or otherwise] or of a manager or a chief executive officer by whatever name called, whether that provision be contained in the company's memorandum or articles of association, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or by its Board of directors shall have effect unless approved by the Reserve Bank.

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Presentation of unclaimed liabilities by commercial and cooperative banks

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

As per the notification, the extant Master Direction requires commercial banks to present all unclaimed liabilities (where the amount due has been transferred to Depositor Education and Awareness (DEA) Fund) under "*Contingent Liabilities - Other items for which the bank is contingently liable*".

The updated Master Direction requires all co-operative banks to present all unclaimed liabilities (where the amount due has been transferred to DEA Fund) under *"Contingent Liabilities – Others".*

These instructions are applicable to all commercial and co-operative banks for preparation of financial statements for the financial year ending 31 March 2024 and onwards.

It is further stated that banks should specify in the disclosures[42] 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)

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

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Auditor responsibility related to fraud

The National Financial Reporting Authority (NFRA) on 26 June 2023 issued a circular reiterating the mandatory obligations of auditors to report fraud/suspected fraud to the Central Government and the Board/Audit Committee.

The circular provides the following:

- Statutory auditors are under a mandatory obligation to report fraud or suspected fraud if they observe suspicious activities, transactions or operating circumstances in a company that indicate reasons to believe that an offence of fraud is being or has been committed against the company by its officers or employees. In such an event, the statutory auditor shall initiate the steps prescribed under Rule 13 of Companies (Audit and Auditors) Rules 2014 which begins with reporting the matter to the Board/Audit Committee within **two** days of his/her knowledge of the fraud
- In the case of reporting of a fraud involving or expected to involve individually an amount of INR1 crore or above, the statutory auditor fails to get any reply/observations from the Board/Audit Committee within 45 days, the auditor shall forward a report in the specified form viz., ADT-4 to Secretary, Ministry of Corporate Affairs, Government of India.
- The statutory auditor is duty bound to submit Form ADT-4 to the Central Government under Section 143 (12) even in cases where the statutory auditor is not the first person to identify the fraud/suspected fraud.
- Resignation does not absolve the auditor of his/her responsibility to report suspected fraud or fraud as mandated by the law.
- The statutory auditor shall exercise his/her own professional skepticism while evaluating fraud, and need not be influenced by legal opinion provided by the company or its management.

(Source: NFRA circular no. NF-25013/2/2023 dated 26 June 2023)

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Remuneration guidelines of directors and Key Managerial Personnel (KMP) of insurers

On 30 June 2023, the IRDAI issued remuneration guidelines which are applicable to directors and KMPs of private insurers from Financial Year 2023-24. The guidelines require the insurer to complete the process of framing/reviewing the remuneration policy within three months of the issuance of these guidelines. It further provides the disclosure requirements for insurers in their notes to accounts forming part of the annual financial statements. The key takeaways are as follows:

Directors: A comprehensive remuneration policy that complies with the provisions of the Companies Act 2013 (2013 Act) should be put in place by the Board of Directors along with the nomination remuneration committee. The guidelines also provide limits for payments to non-executive director, permit payment of sitting fees and reimbursement of expenses, subject to the prescribed conditions.

KMPs: The remuneration policy should be approved by the board and should cover all the KMP. Further, the policy should not encourage KMPs to take inappropriate or excessive risks for their performance based variable remuneration. The policy should cover all aspects of remuneration structure including fixed pay, allowances, perquisites, retirement benefits, variable pay including incentives, bonus, share linked instruments, joining/sign on bonus, etc.

(Source: IRDAI circular reference no. IRDAI/F&A/GDL/MISC/141/6/2023 dated 30 June 2023)

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Updates related to Alternative Investment Funds (AIFs)

Restrictions on investment in AIFs

In order to address the issue of camouflaged evergreening of loans and rise in Non-Performing Assets (NPAs) through complex AIF structures, RBI on 19 December 2023 issue a notification providing a set of instructions for investment in AIFs by REs. Subsequently, on 27 March 2024, to ensure uniformity in implementation among the REs, RBI has issued certain other clarifications related to the instructions issued in December 2023. The key points are as follows:

I. **Downstream investments**: REs were instructed to not make investments in any scheme of AIFs which has downstream investments either directly or indirectly in a debtor company of the RE. It has been clarified that downstream investments should exclude investments in equity shares of the debtor company of the RE but include all other investments, including investment in hybrid instruments.

II. **Provision requirement**: In case of a downstream investment by the AIF, the RE is required to liquidate its investment in the scheme within 30 days from the date of such investment. If the REs fail to liquidate the investment within the prescribed timeline, they should make 100 per cent provision on such investments.

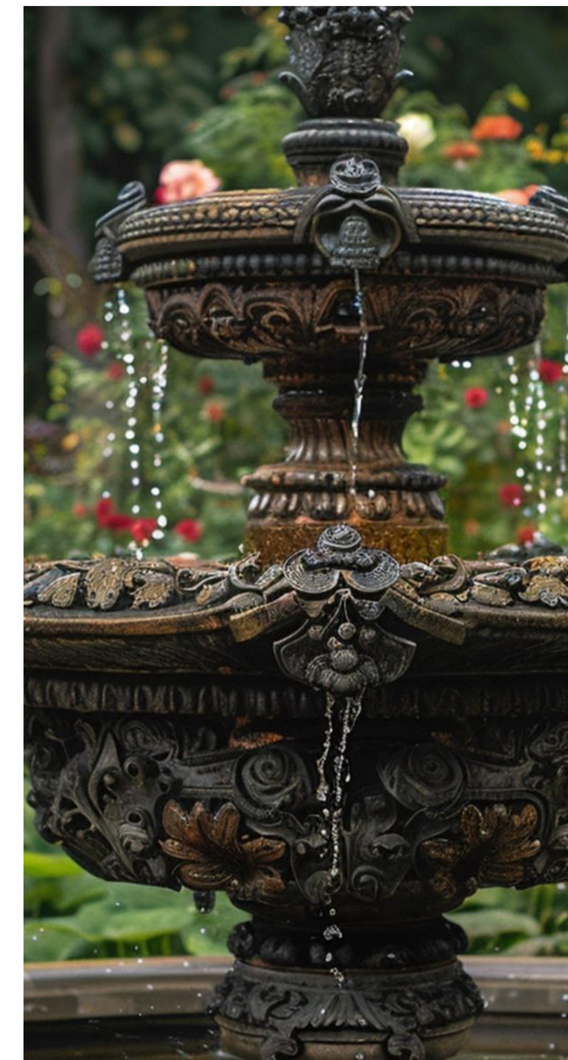
It has been clarified that provisioning is required only to the extent of investment by the RE in the AIF scheme which is further invested by the AIF in the debtor company, and not on the entire investment of the RE in the AIF scheme.

III. **Investment in subordinated units of AIF scheme**: 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. In this regard, it has been clarified that:

- The deduction should take place equally from both Tier-1 and Tier-2 capital.
- Investment in subordinated units of AIF Scheme includes all forms of subordinated exposures, including investment in the nature of sponsor units.
- RE should comply with paragraph 2 of the December 2023 circular if it has investment in subordinated units of an AIF scheme, which also has downstream exposure to the debtor company.

IV. **Exclusion:** Investments by REs in AIFs through intermediaries such as fund of funds or mutual funds are not included in the scope of the December 2023 circular.

(Source: RBI notification no. RBI/2023-24/90 dated 19 December 2023 and RBI circular no. RBI/2023-24/140 dated 27 March 2024)



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Clarification related to documents issued by ICAI

The ICAI has issued various Guidance Notes on various accounting and auditing matters. On 19 August 2023, ICAI issued a clarification stating that the accounting and auditing standards issued by ICAI have to be mandatorily complied with to ensure that financial statements are prepared in accordance with generally accepted accounting standards and that auditors carry out their audits in accordance with the generally accepted auditing practices.

However, the guidance notes issued by ICAI are recommendatory in nature and are issued to assist professional accountants in implementing the Engagement Standards and the Standards on Quality Control issued under the authority of the Council. A professional accountant who does not consider and apply the guidance included in a relevant Guidance Note should perform alternate procedures. Additionally, the professional accountant is required to document the rationale in performing the alternate procedures. Similarly, auditors need to consider providing a disclosure in the audit report in cases where the guidance note has not been followed.

(Source: Clarification issued by ICAI on 19 August 2023)

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ICAI publications

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

Publications	Particulars
Implementation guide	
Implementation guide on audit trail under Rule 11(g) of the Companies (Audit and Auditors) Rules, 2014 (Revised 2024)	The Implementation 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. The revised edition include a new section Frequently Asked Questions (FAQs) on certain practical aspects relating to reporting requirements under Rule 11(g).
Technical guide	
Technical guide on audit of NBFCs (2023 version)	The Technical Guide deals with various aspects of audit of NBFCs such as introduction of NBFCs, points for consideration in audit of NBFCs, financial reporting framework, auditing framework, areas of audit concern, operations of NBFCs, governance etc. It contains illustrative templates of audit report/certificate, illustrative audit checklist, illustrative list of master directions, circulars, RBI notifications, illustrative disclosure norms for NBFCs, illustrative list of returns to be submitted by NBFCs etc.
Technical guide on disclosure and reporting of KPIs in offer documents	The Technical Guide provides comprehensive guidance on various aspects of disclosing KPIs in offer documents, including: i) KPIs that can be disclosed based on different industries ii) The roles and responsibilities of bankers, issuer companies, and practitioners and iii) Reporting requirements related to KPIs, including illustrative formats of KPI reports. It is applicable to both practitioners and issuer companies for disclosing KPIs in offer documents as per the requirements of the ICDR Regulations.

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Publications	Particulars
Technical Guide on Internal Audit of Pharmaceutical Industry (2023 edition)	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. It also contains illustrative checklist for internal audit of major areas of the pharmaceutical industry
Guidance note	
Guidance note on tax audit (revised in 2023)	The Guidance Note has been specifically revised keeping in view the amendments made to the Finance Act, 2023 and tax audit forms applicable as on date (Form No. 3CA/3CB/3CD).
Guidance note on financial statements of LLPs and non-corporate entities	The guidance note on financial statements of Limited Liability Partnerships (LLPs) and non-corporate entities aims to provide guidance for enhancing the quality, comparability and comprehensiveness of financial reporting by such entities and also includes the relevant authoritative guidance. Further, ICAI has also upgraded the technical guides issued earlier in June 2022, into the mentioned guidance note.
Guidance note on audit of banks (Revised 2024)	The Guidance Note is divided into two sections i.e. Section A –Statutory Central Audit and Section B – Bank Branch Audit. It also contains various appendices like illustrative formats of engagement letter, auditor's report both in case of nationalised banks and banking companies, management representation letter and the text of master directions, master circulars and other relevant circulars issued by the RBI.
Others	
Indian Accounting Standards (Ind AS): An overview (Revised 2023)	The publication contains an overview of the various aspects related to Ind AS, including: • Summary of all the Ind AS • Carve-outs from IFRS/IAS • Changes in financial reporting under Ind AS, compared to financial reporting under Accounting Standards (AS), etc. The publication incorporates all the amendments made to Ind AS till June 2023.

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Publications	Particulars
QRB report on audit quality review	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. These findings have been categorised under the following sections: i) Standards on auditing ii) Accounting standards and Other relevant laws and regulations.
Revised Standards on Auditing	ICAI issued the following revised Standards on Auditing (SAs): • SA 800(Revised): 'Special Considerations: Audits of Financial Statements Prepared in Accordance with Special Purpose Frameworks' • SA 805(Revised): 'Special Considerations: Audits of Single Financial Statements and Specific Elements, Accounts or Items of a Financial Statement' • SA 810(Revised): 'Engagements to Report on Summary Financial Statements' The revised standards will be applicable to audits/engagements for financial years beginning on or after 1 April 2024.
Education material on Ind AS 12, *Income Taxes*	The education material addresses all relevant aspects of the standard by way of a brief summary of the standard. It helps to navigate the complexities of income taxes, from elucidating fundamental concepts to exploring the nuances of deferred tax assets and liabilities. Additionally, it includes Frequently Asked Questions (FAQs) to address certain practical issues.
Case studies on excellency in financial reporting	The case studies would aid in providing the stakeholders with cases of contextual issues, events and conditions, citing several practices and theories and enhance the overall understanding and knowledge of implementing Ind AS.

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Publications	Particulars
Audit working paper templates	Audit work papers are a crucial component of the statutory audit. SA 230, Audit Documentation emphasises the importance of audit documentation as evidence that the audit was planned and performed in accordance with Standards on Auditing (SAs) and applicable legal and regulatory requirements. The publication consists of templates of various audit working papers which are required to be prepared by auditors during the course of their audit assignment. These templates are prepared in accordance with the requirements of SAs, Schedule III of the 2013 Act, CARO 2020 etc.
Checklist on standards on auditing	The publication covers checklist on all the 38 Standards on Auditing issued by ICAI and covers various audit requirements given in Standards on Auditing.
Compendium of Forensic Accounting and Investigation Standards	ICAI issued Forensic Accounting and Investigation Standards (FAIS) which are effective from 1 July 2023. Considering this, ICAI issued a revised compendium of FAIS (the compendium). The compendium encompasses the latest best practices, methodologies and guidance to ensure that the practitioners are equipped with the latest tools and knowledge in the domain of forensic accounting.
Frequently Asked Questions (FAQs) on Unique Document Identification Number (UDIN)	The updated version of FAQs on UDIN consider the recent developments at the e-filing portal for UDIN updation. Additionally, new and a few commonly asked queries have been included in this edition of the FAQs for guiding the members.

(Source: ICAI issued technical guide on disclosure and reporting of key performance indicators in offer documents dated 6 April 2023 and checklist on standards on auditing dated June 2023, Technical guide on audit of NBFCs (2023 version), Guidance note on tax audit (revised in 2023) issued by ICAI, Audit working paper templates issued on 3 July 2023, Case studies on excellency in financial reporting July 2023 edition, Compendium of Forensic Accounting and Investigation Standards July 2023 edition, Guidance note on financial statements of LLPs and Non-Corporate entities August 2023 edition, Ind AS (Revised 2023) July 2023 edition, FAQ on UDIN September 2023 edition, Technical Guide on Internal Audit of Pharmaceutical Industry (2023 edition), QRB report on audit quality review (October 2023) issued by ICAI)

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EAC opinions issued by ICAI during the year ended 31 March 2024

Topic	Month
Classification of rail corridor asset in the books of account of the company as tangible/intangible asset and its depreciation/amortisation under Ind AS	April 2023
Preparation of statement of profit and loss in a non-revenue generating organisation	May 2023
Timing of capitalisation of irrigation assets under Ind AS 16, *Property, Plant and Equipment*	June 2023
Accounting treatment of export incentives	August 2023
Recognition of interest on mobilization advance against project contracts under Ind AS Framework	September 2023
Accounting treatment of subsequent expenditure as per Ind AS 16, *Property, Plant and Equipment*	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
Accounting treatment of other income (Bank interest on funds invested out of advance received from Ministry of Railways (MoR) termed as External Aided Project under Ind AS framework	January 2024
Accounting treatment of similar leasehold assets held by parent and subsidiary company with different functional currencies and consolidation thereof under Ind AS framework	February 2024
Accounting treatment of pre-project expenses for which fund approval is pending under Ind AS framework	March 2024

(Source: The Chartered Accountant –ICAI Journal for the month of April 2023 to March 2024)

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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. 93 – April 2024

The International Accounting Standards Board (IASB) issued IFRS 18, Presentation and Disclosure in Financial Statements in April 2024. IFRS 18 supersedes IAS 1, Presentation of Financial Statements with effect from accounting periods beginning on or after 1 January 2027. Under current IFRS Accounting Standards, companies use different formats to present their results, making it difficult for investors to compare financial performance across companies. IFRS 18 promotes a more structured income statement and introduces a newly defined 'operating profit' subtotal and a requirement for all income and expenses to be allocated between three new distinct categories based on a company's main business activities. IFRS 18 will affect companies across all industries that prepare financial statements under IFRS Accounting Standards. This edition of Accounting and Auditing Update (AAU) discusses the new standard IFRS 18 and aims to provide an overview of the key requirements of IFRS 18.

Governments around the globe have made commitments to limit global warming and reach net zero carbon emissions by 2050 (or earlier). Carbon markets are crucial in meeting these commitments as they allow governments and organisations to efficiently regulate emissions and emission reduction limits. Under the Paris Agreement, India has set ambitious targets to reduce the intensity of carbon emissions by 45 per cent. Considering these commitments, Carbon Credit Trading Scheme, 2023 (CCTS 2023) was notified by the Government of India in June 2023 under the Energy Conservation Act, 2001. Additionally, in October 2023, the Green Credit Rules, 2023 were notified, by the Ministry of Environment, Forest and Climate Change (MoEFCC).The second article provides an overview of the recent developments around the carbon credit and green credit markets.

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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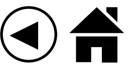

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