

CHAPTER 3

Regulatory updates

Consultation paper to facilitate ease of doing business and harmonise ICDR and Listing Regulations

On 26 June 2024, the Securities and Exchange Board of India (SEBI) issued a Consultation Paper (CP) proposing amendments to certain SEBI Regulations. The proposals aim to facilitate ease of doing business and harmonise the provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations) and SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations). The CP is divided in the following three parts:

Part A: Proposals under the Listing Regulations

Part B: Proposals under the ICDR Regulations

Part C: Proposals under the Listing and ICDR Regulations.

Some of the key proposals are as follows:

Part A: Proposals under the Listing Regulations

I. Related Party Transactions (RPTs)

Exemptions to the definition of RPT

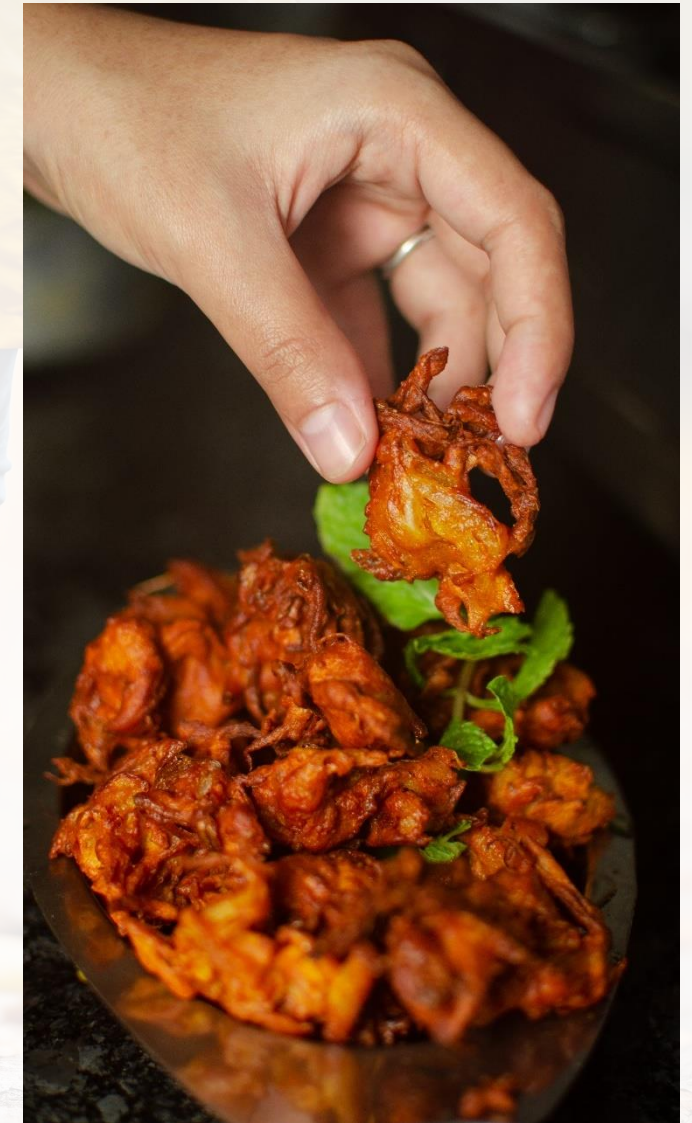
(Regulation 2(1)(zc)): Following items have been proposed to be exempt from the definition of RPTs:

- Corporate actions by the subsidiaries of a listed entity and corporate actions received by the listed entity or its subsidiaries which are uniformly applicable or offered to all shareholders in proportion to their shareholding.
- Acceptance of current account deposits or saving account deposits by banks in compliance with the directions issued by the Reserve Bank of India (RBI).

- Retail purchases from a listed entity or its subsidiary by its directors or its employees, without establishing a business relationship and at the terms which are uniformly applicable or offered to all directors and employees.

Approval of RPTs by the audit committee of the listed entity

(Regulation 23(2)): As per the existing regulation, prior approval of the audit committee of the listed entity is required for all RPTs to which the listed entity is a party. It has been proposed to exclude from the purview of RPTs the remuneration to Directors and Key Managerial Personnel (KMP), except those KMPs who are a part of the promoter/promoter group, and to permit ratification of transactions which exceed the omnibus approval limit, within a specified timeline.



II. Filings and disclosures

Single filing system (Regulation 10):

Proposed to introduce a system that automatically disseminates the filing done on one stock exchange to the other stock exchanges using an Application Programming Interface (API)-based integration.

Periodic filings (Regulation 10B):

To minimise the number of periodic filings by a listed entity, it is recommended to merge the periodic filings under the Listing Regulations into the following two broad categories:

- **Integrated filing (Governance)** comprising of corporate governance report and the statement on redressal on investor grievance.
- **Integrated filing (Financial)** comprising of financial results, statement of deviation in use of proceeds, related party transactions, etc.

Below are the proposed timelines for filing by listed entities:

- **Integrated filing (Governance):** Within 30 days from the end of the quarter

- **Integrated Filing (Financial):** Within 45 days (60 days for the last quarter) from the end of the quarter.

System driven disclosures of certain filings (Regulation 31 and Para A of Part A of Schedule III of the Listing Regulations):

It is proposed to introduce automated process of disclosure of shareholding pattern and new or revised credit ratings. Automation for the above-mentioned disclosures would ease the compliance procedures and reduce the burden of disclosures for listed entities.

Website links (Regulation 46(2)): The information/data provided by listed entities is hosted on the website of stock exchanges. It has been proposed to provide curated links to the information/data on their own websites instead of duplicating the whole data again.

Newspaper advertisements

(Regulation 47): The requirement of publishing detailed advertisements in newspapers for financial results is proposed to be made optional for listed entities. Further, it has been proposed to provide a small section with details of QR code and weblink of the page providing detailed financial results of the listed entity for the benefit of investors.

III. Disclosure of material events

Additional timeline for disclosure of events in some cases:

- For the disclosure of outcome of the board meeting that concludes after close of trading hours, an increased timeline of three hours instead of 30 minutes has been proposed under Regulation 30(6) and Para A of Part A of Schedule III of the Listing Regulations.
- In case of litigations or disputes wherein claims are made against the listed entity, an increased timeline for disclosure to 72 hours has been proposed from the existing 24 hours under Para B of Part A of Schedule III of the Listing Regulations.

Acquisitions by listed entities (Para A of Part A of Schedule III of the Listing Regulations):

It is proposed that a listed entity should disclose details of acquisition made by the listed entity, whether directly or indirectly, where such a listed company holds shares or voting rights in a company, whether listed or unlisted, aggregating to 20 per cent (*currently five per cent*) or there has been any subsequent change in

holding in the company exceeding five per cent (*currently two per cent*). However, acquisition of shares or voting rights in an unlisted company, aggregating to five per cent or any subsequent change in holding exceeding two per cent, to be disclosed in the specified format on a quarterly basis as part of the Integrated Filing (Governance) as described in point II above.

Disclosure of tax litigations and disputes (Para B of Part A of Schedule III of the Listing Regulations):

It is proposed that a listed entity should disclose tax litigations/disputes including tax penalties based on application of criteria for materiality. It has been proposed that a listed entity should provide:

- Disclosure of new tax litigations or disputes within 24 hours
- Quarterly updates, as part of the Integrated Filing (Governance), on existing tax litigations or dispute
- Tax litigations or disputes, the outcomes of which are likely to have a high correlation, should be cumulated for determining materiality.



IV. Board of directors and its committees

Vacancies in board committees (Regulation 17(1E)):

The existing regulations provide no specific timeline to fill up vacancies in Board Committees arising because of vacancy in the office of a director. In order to provide adequate time to listed entities, a timeline of three months has been proposed to fill up vacancies in Board Committees.

Timeline for obtaining shareholders' approval for appointment/

re-appointment of director (Regulation 17(1C)): Regulation 17(1C) of the Listing Regulations requires approval of shareholders for any person appointed on the board of a listed entity within a period of three months or the next general meeting, whichever is earlier. It has been proposed to exclude the time taken for regulatory or statutory or government approvals for appointment or reappointment of a person as a director for determining the time limit under regulation 17(1C) of the Listing Regulations.

V. Promoters and controlling shareholders

Framework for reclassification of promoter/promoter group entities (Regulation 31A):

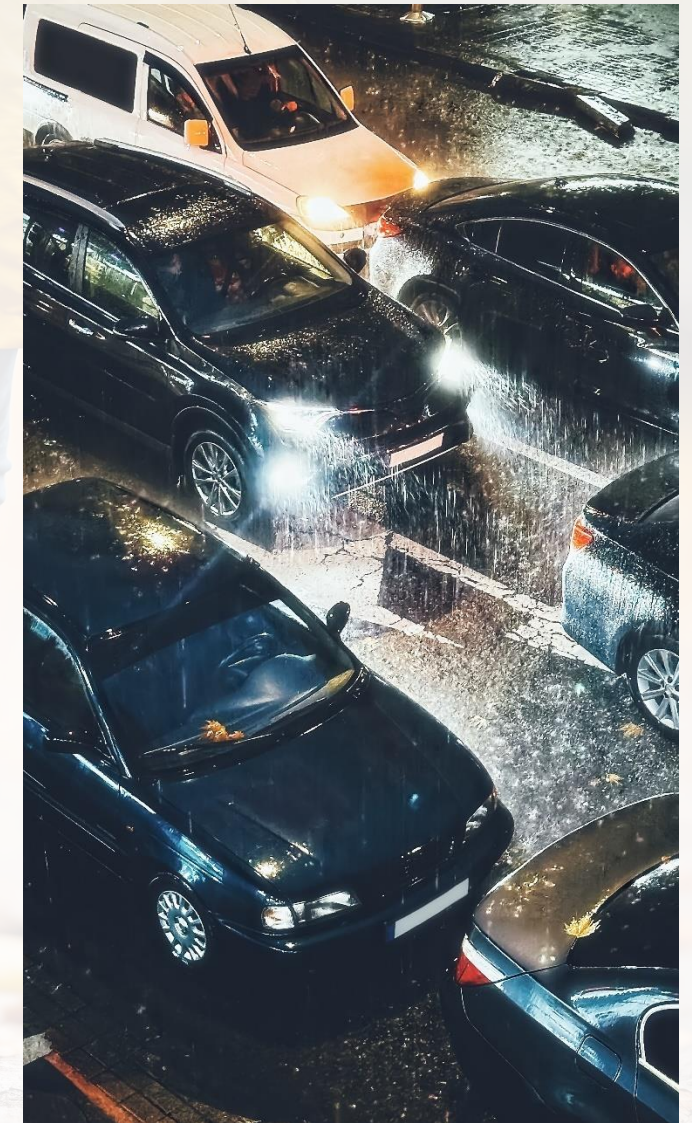
Regulation 31A of the Listing Regulations lays down the procedure to be followed for reclassification of an entity belonging to a promoter or a promoter group as a public shareholder. The consultation paper has proposed changes to the framework for reclassification of promoter or promoter group entities as public under the Listing Regulations. Some of the proposed procedural changes are as follows:

- The board of directors to consider the request for reclassification in the immediate next board meeting or within two months, whichever is earlier.
- Listed entity to make an application to the recognised stock exchanges for their no-objection within five days of obtaining the board's views on the reclassification request.

- The recognised stock exchanges would be required to provide No-Objection Certificate (NOC) within 30 days from the submission of the request. If there are changes in the facts and circumstances after receipt of NOC, the listed entity needs to seek stock exchange approval before effecting reclassification.
- After receipt of NOC from stock exchanges, the listed entity would seek shareholders' approval for reclassification within 60 days.
- Upon receipt of shareholders' approval, the listed entity is required to notify the stock exchanges within five days and effect reclassification of the entity.

Obligation for disclosure of information to the listed (Regulation 5):

Under the existing regulation, there is no specific obligation on promoter(s), directors, KMP to make specified disclosures to the listed entity. The report proposes to cast obligation on the promoter, directors and KMPs to disclose all information that is relevant and necessary for the listed entity to ensure compliance with applicable laws.



VI. Other compliance requirements

Subsidiary related compliance requirements (Regulation 24(6)):

The requirement of shareholders' approval under Regulation 24(6) for sale, disposal or lease of assets of a material subsidiary has been proposed to be removed in case such sale, disposal or lease of assets occurs between two wholly owned subsidiaries of the listed entity.

Corporate governance at listed entities (Part E of Schedule II of the Listing Regulations): SEBI has proposed to extend the applicability of the following provisions to the top 2,000 listed entities:

- Appointment of one-woman independent director on the board
- Constitution of a risk management committee
- Mandating more annual meetings of independent directors.

Currently, the above-mentioned provisions are applicable to the top 1,000 listed entities.

Virtual and hybrid shareholders' meetings (Regulation 44(4)): It is proposed to allow virtual and hybrid general meetings, with the notice period for such meetings reduced from 21 days to seven days. Further, it has been proposed to remove the requirement of proxy forms for general meetings.

Annual reports (Regulation 36(2)):

The requirement of sending physical copies of annual reports to shareholders whose email IDs are not available has been proposed to be removed. Such shareholders should be sent a letter with a link from which the annual report can be downloaded. Annual reports need to be submitted to the stock exchange on or before commencement of its dispatch to the shareholders.

Part B: Proposals under the ICDR Regulations

I. Eligibility conditions of an Initial Public Offer (IPO) (Regulation 5):

The consultation paper provides flexibility under eligibility conditions for an IPO by allowing issuers with outstanding Stock Appreciation Rights (SARs) to file Draft Offer Document (DRHP) where such SARs

are granted to employees only and are fully exercised for equity shares prior to the filing of the Red Herring Prospectus (RHP).

II. Public announcement after filing of draft offer document (Regulation 26):

It has been proposed to change the requirement of issuing advertisement post filing of DRHP from two days to 'two working days'. Further the 21 days comment period should be calculated from the date of advertisement and not the date of filing.

III. Pre-IPO transactions (Regulation 54):

It has been recommended to disclose details of pre-IPO transactions after filing of DRHP to the stock exchanges.

Part C: Proposals under the Listing and ICDR Regulations

I. Definition of material subsidiary thresholds:

The financial line items for identification of a material subsidiary under the ICDR and the Listing Regulations are different. It is proposed that the terminology for identification of a material subsidiary under both the regulations should be aligned and both regulations should refer to consolidated 'turnover' instead of 'income'.

II. Disclosure of material agreements in offer documents: The requirement of disclosure of material agreements in offer documents that are entered into by shareholders, promoters, directors, etc. should be aligned under both the regulations in order to ensure parity in disclosures of material agreements.

(Source: SEBI issued consultation papers on the recommendation of the expert committee for facilitating ease of doing business with respect to provisions of Listing and ICDR regulations dated 26 June 2024)



Trading plan by the insiders of a listed entity

The SEBI (Prohibition of Insider Trading) Regulations (PIT Regulations) provides the regulatory framework related to insider trading. Regulation 2(1)(g) of PIT Regulations states that, an ‘insider’ means any person who is a connected person or in possession of or has access to Unpublished Price-Sensitive Information (UPSI).

Further, Regulation 5 of the PIT regulations, *inter alia*, permits an insider to be entitled to formulate a trading plan and present it to the compliance officer for approval and public disclosure. Trades can be executed on behalf of the insider in accordance with such trading plan.

On 25 June 2024, SEBI issued amendments to Regulation 5 of the PIT Regulations. Some of the key amendments are as follows:

I. Shorter cooling-off period: Under Regulation 5(2), a cool-off period of 120 days is specified for an insider to get the benefit of the trading plan¹. Before the amendment, the Regulation specified the

cool off period of six months. The SEBI considered the specified time long for UPSI that an insider is in possession of when formulating the trading plan, to become generally available. Therefore, the amendment has reduced the time period for commencing trading post presentation of a trading plan by a senior executive having UPSI for approval to the compliance officer from six months to 120 days.

II. Removal of mandatory black out period: The amendments have omitted clause (ii) of Regulation 5(2) of the PIT regulations, which specified the period during which insiders could trade².

III. Omission of minimum period of trading plan: The PIT regulations currently require a trading plan to cover the trading for a minimum period of 12 months. However, this requirement has been removed.

IV. Trading within limited duration: The amendments require an insider to set certain parameters such as, *inter alia*, a

specific date or duration not exceeding five consecutive trading days during which their trades should be executed. This is because the outer limit on the duration of the time period would allow the insiders to split their trades across different dates, however the duration should not be so long that it is prone to misuse.

V. Deviations from trading plan: Regulation 5(4) of PIT regulations currently state that once a trading plan is approved, insiders should implement it without any deviation. The amendment has added exceptions to this regulation allowing insiders to strictly follow their trading plans, except in cases of permanent incapacity, bankruptcy or operation of law.

VI. Price limits for trade: The amendment provides an insider with an option to set an upper price limit for a buy trade and a lower price limit for a sell trade. The range for a buy trade can be up to 20 per cent higher than the closing price and for a sell trade

can be up to 20 per cent lower than the closing price. This is to protect the insider from unexpected price movements.

VII. Time period for approval of trading plan: Currently, Regulation 5 of the PIT regulations does not prescribe a minimum time period within which the trading plan needs to be approved by the compliance officer. The amendment now requires the compliance officer to approve the trading plan within two trading days of receipt of the trading plan and notify the plan to the stock exchanges on the date of approval.

VIII. Removal of contra trade restriction: The amendment has removed the contra trade³ restrictions to trades pursuant to a trading plan submitted by an insider.

The regulations would become applicable on the ninetieth day from the date of publication in the Official Gazette i.e. 25 June 2024.

(Source: SEBI circular no. No. SEBI/LAD-NRO/GN/2024/184 dated 25 June 2024)

1. This means that trading cannot commence earlier than 120 days from the public disclosure of the plan.

2. Regulation 5(2)(ii) prohibited trading by the insider between the twentieth trading day prior to the last day of any financial period for which results are required to be announced by the issuer of the securities and the second trading day after the disclosure of such financial results.

3. Contra trade means a buy cannot be executed if a sell trade has been executed in the last six months.

Sustainable practices mandated in the process of battery production

On 20 June 2024, the Ministry of Environment, Forest and Climate Change issued the Battery Waste Management (Second Amendment) Rules, 2024 (the amendment) thereby amending the Battery Waste Management Rules, 2022.

Producers of batteries are obligated under the existing regulations to use domestically recycled material in the production process. In order to achieve eco-friendly practices across the industry, the amendment lays down the below specified glide path for targets to be achieved for the minimum use of recycled materials in the process of battery production, across the following categories of batteries:

| Serial number | Type of battery | Minimum use of the recycled materials out of total dry weight of a Battery (in percentage) in respect of financial year | | | |
|---------------|------------------|---|--------------|--------------|--------------------------|
| | | Year 2027-28 | Year 2028-29 | Year 2029-30 | Year 2030-31 and onwards |
| 1 | Portable | 5 | 10 | 15 | 20 |
| 2 | Electric vehicle | 5 | 10 | 15 | 20 |
| 3 | Automotive | 35 | 35 | 40 | 40 |
| 4 | Industrial | 35 | 35 | 40 | 40 |

(Source: MOEFCC notification no. S.O. 2374 (E) dated 20 June 2024)

Instances of non-compliances highlighted by QRB

The Quality Review Board (QRB) conducts quality reviews of audit services provided by audit firms to assess the quality of audit and reporting by the statutory auditors and the quality control framework adopted by the audit firms in conducting audit.

In this regard, on 5 July 2024, the Institute of Chartered Accountants of India (ICAI) issued volume 2 of guidance on non-compliances observed by QRB during such quality reviews. Additionally, it contains guidance by the Auditing and Assurance Standards Board of ICAI for the members on these common non-compliances that cover Standards on Quality Control, Standards on Auditing, audit reports, Companies (Auditor's Report) Order, 2020 (CARO) and internal financial controls.

This publication has been issued in the following two parts:

- **Part 1** contains the observations related to Engagement and Quality Control Standards (*classified standard wise*)
- **Part 2** contains the observations related to CARO and internal financial controls (*classified topic wise*).

(Source: ICAI announcement dated 2 July 2024)

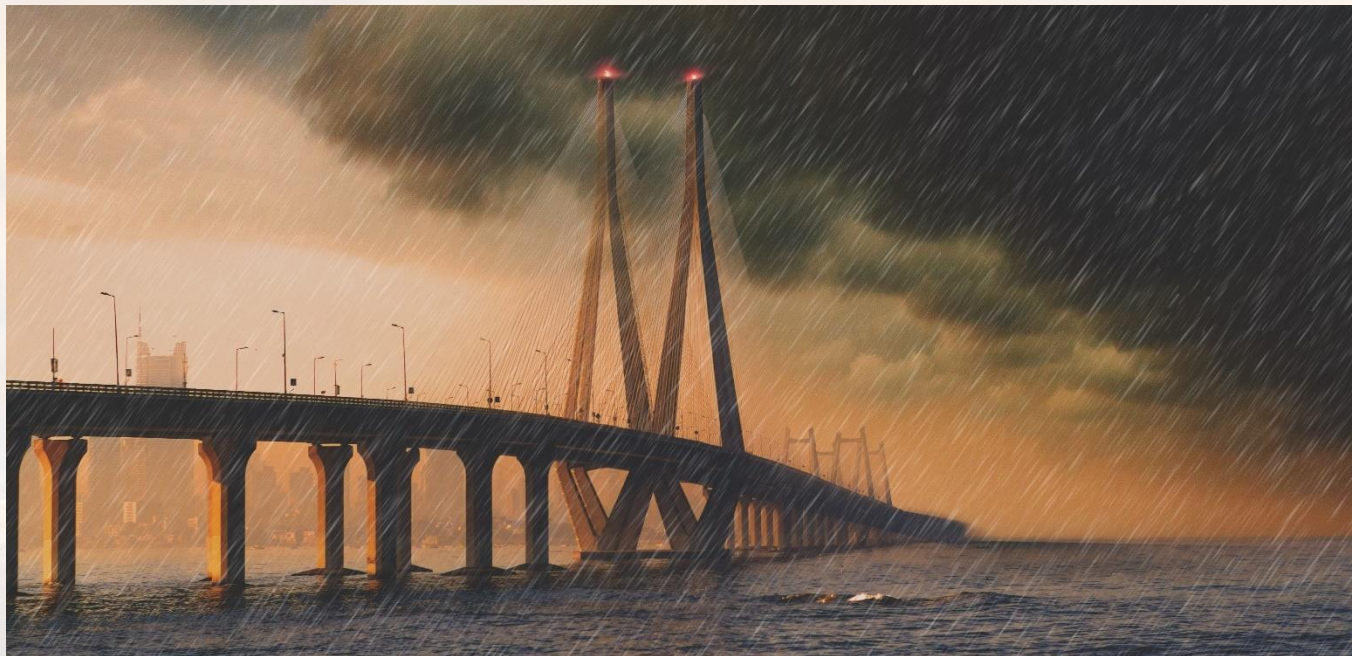


Restriction on investments of mutual fund schemes

On 2 July 2024, the SEBI notified the SEBI (Mutual Funds) (Amendment) Regulations, 2024 (Amendment Regulations) to amend Regulation 9(c) of the Seventh Schedule of the SEBI (Mutual Funds) Regulations, 1996. The amendment pertains to restriction on the investments made by mutual fund schemes.

Regulation 9(c) restricted mutual fund schemes from investing in the listed securities of group companies of the sponsor which is in excess of 25 per cent of the net assets. The amendment regulations have allowed investments by equity oriented exchange traded funds and index funds, subject to such conditions as specified by SEBI, as an exception to the above mentioned restriction.

(Source: SEBI notification no. SEBI/LAD-NRO/GN/2024/188 dated 2 July 2024)



Draft framework for passively managed mutual fund schemes

The SEBI (Mutual Funds) Regulations, 1996 (MF Regulations) and the current regulatory framework for MFs *inter-alia* provide for regulation of MFs and the schemes managed thereunder. A passively managed mutual fund seeks to mirror the performance of an index such as ETFs and index funds where portfolios of index funds can be easily tracked. Even though both active and passive MF schemes are covered under the purview of the extant MF Regulations, the provisions thereunder have been envisaged, primarily keeping in mind the actively managed schemes and the risks and complexities associated therewith. It does not differentiate regarding applicability of provisions relating to entry barriers and other compliance requirements for entities who may be desirous of launching only passive funds.

In this regard, SEBI has proposed a relaxed framework (MF Lite Regulations) for passive MF schemes. The proposed framework consists of the following sections:

- Ease of entry and relaxed provisions for MFs intending to launch only passive schemes under MF Lite registration. **(Section I)**
- Ease of compliance, relaxed disclosures and other regulatory requirements for passive schemes under existing MFs as well as schemes that may be launched under the MF Lite registration. **(Section II)**

The comment period for this proposal ended on 22 July 2024.

(Source: SEBI consultation paper for introduction of Mutual Funds Lite Regulations (MF Lite) for passively managed mutual fund schemes.)



Return of outstanding payments to MSMEs

On 15 July 2024, the Ministry of Company Affairs (MCA) amended the Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019 (Specified companies order) by issuing the Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Amendment Order, 2024 (Amendment order).

The specified companies order requires every specified company to file details of all outstanding dues to Micro or small enterprises suppliers in MSME Form 1. The amendment order states that only those specified companies which are having payments pending to any micro or small enterprises for more than 45 days from the date of acceptance or the date of deemed acceptance of the goods or services under Section 9 of the Micro, Small and Medium Enterprises Development Act, 2006 should furnish the information in MSME Form-1.

The amendment order has further provided a revised format of MSME Form-1 which contains details to be filed by specified companies relating to delay in payments to MSME. As per the existing requirements, buyers need to disclose information relating to **amount due, date from which the amount is due** along with the **reason for delay**. The revised information requirements as specified in the Amendment Order 2024 are more comprehensive and require disclosure of the **ageing of dues** as well. The amendments are effective from 15 July 2024.

(Source: MCA notification no. S.O. 2751(E) dated 15 July 2024)

ICAI has issued implementation guide on revision in form 3CD

In March 2024, the Central Bureau of Direct Taxes (CBDT) had notified changes to the Form 3CD and 3CEB Income-tax Act, 1961. Some of the key changes introduced in Form 3CD (tax audit) are as follows:

- To report expenditure incurred to compound an offence and expenditure incurred to provide any benefit or perquisite which is in violation of any law or rule or regulation or guideline under Slause 21(a) of Form 3CD.
- To report sums payable to micro or small enterprises which are not paid within the time allowed under Section 15 of MSMED Act, 2006, under clause 26 of Form 3CD.
- Minor changes to include all the applicable sections introduced through the Finance Act 2023, in reporting under respective clauses of Form 3CD.

In this regard, the ICAI has issued an implementation guide on revision in Forms 3CD and 3CEB. These amendments in the guide pertain to various clauses⁴ of Form 3CD, as well as Part C (Specified domestic transactions) in the Annexure to Form No. 3CEB. The guidance in the implementation guide relating to Form No.3CD has to be read along with the Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (Revised 2023). Similarly, guidance relating to Form No.3CEB has to be read along with the Guidance Note on Report under Section 92E of the Income-tax Act, 1961 (Revised 2022).

(Source: ICAI issued implementation guide on revision in form 3CD and 3CEB issued by ICAI – June 2024 edition)



FASB published a new chapter under the conceptual framework related to measurement of items in financial statements

On 12 July 2024, the Financial Accounting Standards Board (FASB) issued a new chapter of its conceptual framework related to choosing a measurement system for an asset or a liability recognised in general-purpose financial statements. It describes:

- Two relevant and representationally faithful measurement systems: the entry price system and the exit price system; and
- Considerations when selecting a measurement system.

The chapter provides a framework for developing standards that meet the objective of financial reporting and enhance the understandability of information for existing and potential investors, lenders, donors, and other resource providers of a reporting entity.

(Source: FASB media advisory dated 12 July 2024)



4. Clauses 8A, 12, 18(ca), 19, 21(a), 22, and 32(a) of Form 3CD