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MMJCINSIGHTS

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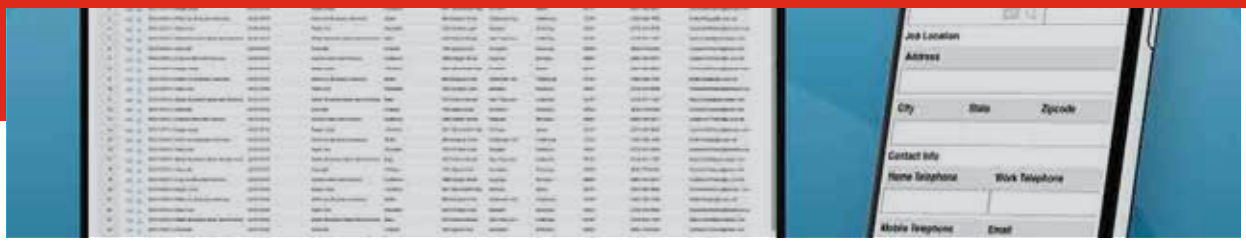

After effects of transit of e-forms from V2 portal of MCA to V3 portal

In furtherance of Ministry of Corporate Affairs (MCA's) object of bringing Ease of Doing Business, it has amended certain set of rules and launched certain E-forms on MCA21-V3 portal. This change has taken **effect from 23rd January 2023.**

Part-I – Changes w.r.t Director related Rules and Forms

Key highlights w.r.t amendments in the Companies (Appointment and Qualification of Directors) Rules 2014 are as follows:

Amendments in Rules

DIR-8

Director to intimate Co. - Disqualification u/s 164(1) - Personal Disqualification + 164(2) Co. related disqualifiation - Non filing of FS/AR or non payment of deposits etc.

DIR-9

Company to intimate ROC - Within 30 days of receipt of DIR-8 in case of disqualification

(Earlier it was format - Now E-form and includes Disqualification u/s 164(1) as well)

DIR-10

Application for removal of Disqualification of Director

(Earlier it was format - Now E-form - Completely revised

Now to be filed with Regional Director)

Key highlights

- Facilitated promoter shareholder to appoint director in situation of disqualification of all director – Earlier it was a cumbersome task as DIR-12 allows only directors (i.e., non-disqualified directors) to affix their DSCs for such appointment
- Consent for appointment as director in Form DIR-2 was required to be separately attached to DIR-12. It is a part of Form DIR-12 now as a declaration and such director can affix his DSC in the form itself (as against physical signing on DIR-2 earlier.
- IRP/RP can sign the form to appoint or remove directors (Provided facility in DIR-12 Form)

- Before appointment / re-appointment, the (proposed) director needs to give intimation about (non) disqualification to company in DIR-8 under sec 164(2). Now, in this declaration, reference of disqualification under sec 164(1) has also been included.
- Earlier companies were mandated to file DIR-9 to intimate disqualification of directors in case of any instance mentioned in sec 164(2). Now, companies have been mandated to file DIR-9 even if they receive intimation of disqualification under sec 164(1) or sec 164(2) from any director in DIR-8 within 30 days of receipt.
- DIN holder is allowed to retain the DIN of his own choice unlike the earlier compulsion of retaining the earliest DIN in case of surrender.
- Director may file Form DIR-11 for resignation but Certification of professional mandatory,

Part II – Incorporation Rules and set of Forms

Key highlights w.r.t amendments in the Companies (Incorporation) Rules, 2014 are as follows:

Incorporation of Company

- **OPC**
  Consent of nominee replaced with declaration in INC-32 (Incorporation) and INC-4 (change of nominee) - added as declaration in form – no separate attachment required
- **Sec. 8 –**
  (a) Declaration by Professionals and all subscribers and director - that the MOA/AOA - in conformity with the provisions of section 8 and rules made thereunder and complied all applicable provisions of act respectively in Form INC-14 and INC-15 - added as declaration in form – no separate attachment required
  (b) Introduction of e-MOA and e-AOA for section 8 companies also
- **All Companies**
  (a) Geographical co-ordinates (mentioning latitude and longitude) are mandatory

Conversion

All types:

- E MOA &E AOA to be filed in place of attaching altered MOA & altered AOA.

Conversion of Private/Public to OPC

- Consent of all creditors (secured +unsecured) is required – Earlier only secured creditors consent was required.
- ROC will verify latest audited financial statements for approving conversion

Shifting of Regd. Office

- Geographical co-ordinates (mentioning latitude and longitude) are mandatory
- **One Photograph of registered office showing external building and another photograph inside office also showing therein at least one director / KMP are introduced, who must be the same director / KMP who has affixed his/her digital signature to this form.**

Part III – Amendments to Other Rules

Key highlights w.r.t, amendments in other rules are as follows:

Rules	Key changes and Impact
The Companies (Prospectus and Allotment of Securities) Rules, 2014	**Return of Allotment (PAS-3)** • A declaration to the effect that no other return of allotment is pending for any such allotment of securities prior to the date of allotment for which form is being filed, is added in PAS-3. Therefore it will be mandatory to file past returns, pending if any w.r.t allotment and it appears that once company declares so, system will not allow company to file PAS-3 for earlier allotment(s). • Key information on valuation report like Name of Valuer, its registration details, Membership No. UDIN etc. and Date of valuation report is additional fields introduced • Details regarding votes of directors casted in favour and against, in board meeting must be disclosed along with mode of passing resolution and date of passing resolution. If such resolution for allotment is passed in Board Meeting (and not by circular resolution or resolution passed by Committee), it is recommended that while providing information w.r.t date of Board meeting and attendance of directors in Annual Return, Director's report or other forms, reconciliation is necessary with the other forms where such information is provided like PAS-3. **PAS-6 – Reconciliation of share capital Audit report** • If any shares are held in physical form, then the reason for such holding, not being in demat form, has to be provided.
The Companies (Share capital and Debentures) Rules, 2014	SH-7 – Notice to registrar for any Alteration of share capital • E-MOA and E-AOA is introduced instead of attaching amended copy to form • The declaration stating that *"In case of*

	redemption of preference shares out of profits of the company, amount equal to nominal amount of the shares to be redeemed has been transferred to Capital Redemption Reserve" is added. It can be cross verified in E-scrutiny of records by MCA with details filled in Form AOC-4, therefore it is advisable to reconciled with other forms already filed. . • SRN of MGT-14 made mandatory for all cases except where ordinary resolution is passed
The Companies (Management and Administration) Rules, 2014	Form MGT-14 - Form for filing resolutions and agreement with ROC • Resolutions passed under sections of Companies Act 1956 cannot be filed through this form, as that option has been removed from the form now. • Resolutions passed under Insolvency and Bankruptcy Code, 2016 can also be filed in this form.
The Companies (Accounts) Rules, 2014	Form AOC-5 - Form for changing the address where books of accounts are maintained. • Geo-coordinates (latitude & longitude of office) where books of accounts are maintained is to be provided • Address proof and one photograph of registered office showing external building and another photograph of inside office also showing therein at least one director / KMP, who is the same person who has affixed his/her digital signature to this form, are introduced as additional attachments. It is ambiguous as to why geo-coordinates of registered office are being asked and not the geo-coordinates of the address where books of accounts are maintained. MCA might clarify on this in the days to come.
The Companies (Authorised to Register) Rules, 2014	• In case of registration of LLP/partnership firm/society/trust as company, Consent from charge holder and secured creditors must be attached to form URC-1.
The Companies (Registration and Fees) Rules, 2014	• New rule 8A has been inserted in these Rules to give authority to resolution professional/liquidator to digitally sign all the e-forms wherever applicable.

Impact Analysis

The introduction of Version 3 of MCA was as per Vision 2019-2024 of MCA, if we refer that Vision Document it guides us towards the purpose of introducing MCA Version 3 which ministry wants to achieve by leveraging Artificial Intelligence (AI) and analytics tool.

If we refer that document and examine the changes introduced by amending rules or formats of various e-forms, it led towards two aspects which are as follows:

1. E-Scrutiny of Information:

- To automate identification of non-compliances, some declaration which were in nature of attachment made part of a form as a declaration and some additional fields were also introduced in the form itself. By doing so, such information is captured in machine readable language, which will enable ministry by putting some validation and linkages with other forms automate identification of non-compliances or lapses on the part of company.

- Adding Geo- co-ordinates (i.e. latitudes and longitudes) in Incorporation Forms and forms related to Shifting of Regd. Office, Commencement of Business and Form AOC- 5 (Books of Accounts in place other than Regd. Office of company) will:
  (a) enable ministry to check compliance of provisions of Sec. 12
  (b) If same location is provided by multiple companies, it may lead to physical verification to check compliance of Sec. 12, compliance of related party transactions provisions with regard to cost sharing, etc.
  (c) Currently 400+ orders are already available on the matters related to non-compliance of Sec. 12. In future there will be more matters w.r.t it as scrutiny become easy by help of AI.

2. Ease of doing business:

- By replacing attachments with declaration as a part of the form itself, it will be time- saver as additional time involved in preparing and physically signing and scanning the said attachments will be saved.

- Facility of pulling identity proofs from Digi locker for attaching in incorporation form (SPIC+) and DIN application (DIR-3) has been provided.

- Further duplicate fields have been removed. Further auto pre-filling of common fields across forms, ensuring data consistency and effort reduction is provided and size of attachment is increased which will facilitate users to file legible attachments.

All such changes will facilitate MCA to automate identification and follow-up action on non-compliant companies and automated approvals for compliant companies.

Responsibilities of Auditor & BOD is it in tandem?

I. Background:

Section 129 of the companies Act 2013 (herein after referred to as the Act) requires that the financial statements of each company shall be prepared in accordance with the accounting standards issued by ICAI and as per the format specified in schedule III of the Act.

II. Importance of Disclosures and Duty of Auditor:

The rationale behind this section is to ensure that the financial statements contain adequate disclosures to enable every stakeholder of the company to understand the actual state of affairs of the company. This understanding as to whether the company's financials are exhibiting a true and fair view of the company's state of affairs or not, plays a crucial role in helping such stakeholders in taking prudent business decisions.

Considering the importance of proper disclosure, the responsibility w.r.t commenting on compliance with schedule III and accounting standard is casted upon Auditors of the company as such statutory auditor is appointed by the shareholder with intention that such statutory auditor will crosscheck and certify the correctness of the financial reporting done by the company. Therefore his/her comment on the fact that whether or not the company has complied with schedule III assumes great importance from investor's perspective.

III. Consequences of Non-Compliance:

(a) Officer in Default:

Considering the gravity of responsibility in preparation of Financial statements, if any violation is observed in the compliance of section 129 which is the principal section dealing with preparation of financial statements, then the consequences may include imprisonment for the officers in default although it is a compoundable offence.

It specifically states that the Managing Director, Whole Time Director (In charge of finance), Chief Financial officer or the director specifically charged by the Board with such duty shall be punished with imprisonment of maximum 1 year or with a fine of minimum Rs 50,000/- and maximum Rs 5,00,000/- or with both i.e imprisonment as well as fine. In the absence of such specific designation, it is to be noted that all the directors in the Board shall be liable for such offence.

(b) Auditor

As discussed the role of auditor is also crucial in verifying the financial statements and reporting to stakeholders about it, the same is stated in Section 143(2) which states that it is the duty of the Statutory Auditor to state in his Audit report that the financial statements examined by him are giving a true and fair view in accordance with the provisions of the Act and the Accounting Standards.

Failure to do so on the part of the Statutory Auditor shall invite penal consequences on the Auditor under Section 450 of the Act, as there is no specific section which prescribes penal provision for such violation from the Registrar of Companies via the Adjudication procedure under section 454 of the Act.

IV: Recent adjudication Order:

A recent adjudication order passed by ROC Patna in the matter of M/s Sonasuman Constech Engineers Private Limited highlighted the importance of disclosures in financial statements and its notes to accounts in accordance with schedule III and Accounting standards.

The violations observed in this order was the failure on the part of the Auditor to comment in his audit Report the violations made by the company in the preparation of financial statements affecting the true and fair view of the state of affairs as required by section 129 read with section 133 and Schedule III of the Act.

The following violation was observed by ROC while doing scrutiny of E-Form AOC-4 filed by the Company.

For F.Y.	Violation	Not complied with
2017-2018, 2018-2019, 2019-2020	Failure to disclose name of Related Party and nature of related party relationship where control exists irrespective whether there has been transaction or not – As per AS-18	Accounting Standard (AS)-18 – Related Party Transaction
2017-2018, 2018-2019	As per the financial statements the company had long term Borrowings amounting to Rs 51,80,000/- and Rs 1,13,79,970.50/- for the F.Y 2017-18 and F.Y 2018-19	Schedule III of the Act

	respectively but has failed to sub classify such borrowings as secured or unsecured and also the nature of security of such borrowings has not been disclosed.	
2018-2019	The Company has shown advances to suppliers under the head short-term loans and advances amounting to Rs 40,746.28/- however the company has failed to sub-classify such short-term loans and advances as secured/unsecured. Thus, in this case the **auditor has failed to comment on the classification of the trade payables** in his audit report.	Schedule III of the Act
2018-2019, 2019-2020	Missed to disclose in notes to accounts – Break-up of each type of share capital – issued subscribed, paid-up/not fully paid up, face value, reconciliation of number of shares which are outstanding – at the beginning and at the end of the reporting period	Schedule III of the Act
2018-2019, 2019-2020	Shown advances from relatives and customers under the head long term borrowings in the financial statements amounting to Rs 1,13,79,970.50/- • Such advances are not separately classified as advance from relatives and other; • Nor sub classified as secured/unsecured and nature of security of loans and advances	Schedule III of the Act

2019-2020	The Company has not disclosed for each class of equity share capital, shareholders holding more than 5% shares specifying the number of shares held.	Schedule III of the Act

V. Conclusion:

Imposition of penalty on auditor by ROC for not reporting about the non-compliance with schedule III and accounting standards highlights the responsibility of the statutory auditor. along with the board of directors in accurate financial reporting.

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The new era of Climate Preservation Bonds

I. Introduction:

Securities & Exchange Board of India ('SEBI') has vide its notification dated February 2, 2023 amended the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 ("**SEBI ILNCS**"). One of the various amendments in SEBI ILNCS is with regard to the definition of "green debt securities". SEBI has also issued two circulars with regard to "green debt securities." We will discuss about this amendment and related circulars in this article.

II. Background:

The concept of 'green debt security' was introduced under the erstwhile Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008 (hereinafter referred to as the 'ILDS Regulations'), vide circular dated May 30, 2017 for the purpose achieving preservation of environment. At the time of review of the ILDS Regulations, the provisions of the erstwhile circular were subsumed and the definition of 'green debt security' was incorporated as Regulation 2(1)(q) in the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 ("**SEBI ILNCS**") Regulations, notified on August 9, 2021, and disclosure requirements were prescribed vide Operational Circular for issue and listing of Non-Convertible Securities dated August 10, 2021 ("NCS Operational Circular").

Since 2017, when the framework of green debt securities was laid down, SEBI has received several representations in multiple events in the sustainable finance space around the world, including the Conference of Parties (CoP) where multiple countries have undertaken climate pledges. To boost India's participation in such conferences on climate pledges, a review in the Indian context is necessitated.

Accordingly, an agenda for 'Revising Guidelines on Green Debt Securities (GDS)' was taken up in the Corporate Bonds and Securitisation Advisory Committee (CoBoSAC) in its meeting on February 23, 2022. A sub-committee of CoBoSAC was formed which pursuant to deliberations, inter-alia, recommended aligning the SEBI guidelines with the Green Bond Principles (GBP) published by International Capital Market Association (ICMA) which are also recognized by the International Organization of Securities Commissions (IOSCO).

CoBoSAC was in agreement with the proposal to all the below mentioned categories in the definition of green debt security mainly emphasising on inclusion of three specific sub - categories within the definition of green debt security., viz. 'Blue' bonds, 'Yellow' bonds and 'Transition bonds'.

Blue bonds are modes of sustainable finance raised for sustainable maritime sector including sustainable fishing, sustainable water management etc. Yellow bonds are modes of sustainable finance raised for solar energy generation and the associated upstream and downstream industries.

Transition bonds refers to securities used for raising funds for transitioning to a more sustainable form of operations. On the proposal to include Transition bonds as one of the sub-categories within the definition of green debt security, it was noted by members of CoBoSAC that the said proposal is in line with India's vision to move towards a greener economy by achieving the climate targets determined by India in the Paris Climate Deal in COP 21 in 2015 and again revised at the COP 26 at Glasgow in 2021.

III. Amendment: Regulation 2(1)(q) – Definition of Green Debt Security enlarged to include new areas / projects:-

Addition of new clauses vide SEBI notification dated February 2, 2023:-

For following categories of projects and/or assets, funds can be raised through issue of green debt security as below clauses:

(iii) Climate change adaptation has been elaborated to include efforts to make infrastructure more resilient to impacts of climate change and information support systems such as climate observation and early warning systems

(viii) pollution prevention and control (including reduction of air emissions, greenhouse gas control, soil remediation, waste prevention, waste reduction, waste recycling and energy efficient or emission efficient waste to energy) and sectors mentioned under the India Cooling Action Plan launched by the Ministry of Environment, Forest and Climate Change,

(ix) circular economy adapted products, production technologies and processes (such as the design and introduction of reusable, recyclable and refurbished materials, components and products, circular tools and services) and/or eco efficient products,

(x) blue bonds which comprise of funds raised for sustainable water management including clean water and water recycling, and sustainable maritime sector including sustainable shipping, sustainable fishing, fully traceable sustainable seafood, ocean energy and ocean mapping,

(xi) yellow bonds which comprise of funds raised for solar energy generation and the upstream industries and downstream industries associated with it,

(xii) transition bonds which comprise of funds raised for transitioning to a more sustainable form of operations, in line with India's Intended Nationally Determined Contributions.

Explanation: Intended Nationally Determined Contributions (INDCs) refer to the climate targets determined by India under the Paris Agreement at the Conference of Parties 21 in 2015, and at the Conference of Parties 26 in 2021, as revised from time to time.

IV. Outlook – Change in language:

The language of the definition is modified to the effect that SEBI shall be prescribing conditions for raising of funds by issue of green debt security. The language of the

definition prior to this amendment was suggesting that SEBI may be prescribing conditions for utilization of funds raised for project(s) and / or asset(s) falling under the categories prescribed in the definition.

V. Amendment in NCS Operational Circular with regard to issue and listing of green debt securities:

The disclosure requirements for issue and listing of green debt securities are prescribed in Chapter IX of the above-referred NCS Operational Circular dated August 10, 2021 which is updated upto April 13, 2022. With the amendment in the definition of "green debt securities", this NCS Operational Circular has also been **amended vide another circular dated February 6, 2023,** in order to align the disclosure requirements to the Green Bond Principles (GBP) published by ICMA.

VI. SEBI Circular on Dos and Don'ts relating to green debt securities to avoid occurrences of greenwashing:

As the ambit of green debt security is being expanded, there is a necessity to address the concerns relating to greenwashing. SEBI has in this regard brought out **dos and don'ts relating to green debt securities** to avoid occurrences of greenwashing vide its **circular dt: February 3, 2023**. Vide this circular SEBI has stated that there is no universally accepted 'taxonomy' on greenwashing. 'Greenwashing' generally means making false, misleading, unsubstantiated, or otherwise incomplete claims about the sustainability of a product, service, or business operation. SEBI has further provided guidelines to entities raising funds through green debt securities as to what could be considered as 'Greenwashing'.

VII. Conclusion:

With all these amendments brought by SEBI with regard to issuance and listing of "green debt securities", the corporates in the country shall be surely starting with a lot of new ventures being undertaken in this area thereby contributing to the overall preservation of environment.

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Clarifications for Issuers of Non-convertible Debt securities w.r.t right to recall or redeem prior to maturity

I. Introduction:

Securities & Exchange Board of India ('SEBI') has vide its notification dated February 2, 2023 amended the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 ("SEBI ILNCS"). One of the various amendments in SEBI ILNCS is with regard to the manner of sending notice to eligible holders of non-convertible debt securities and debenture trustees regarding right to recall or redemption before maturity and doing away with the requirement of newspaper publication.

II. Background:

Regulation 15 of the Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021 ['ILNCS Regulations'], inter alia, provides the issuer of non-convertible security, with an option to include the right to recall or right of investor to redeem a security prior to its maturity, in accordance with the terms of issue and detailed disclosure in this regard having been made in the offer document, including date from which such right is exercisable, period of exercise (which shall not be less than three working days) and redemption amount (including the premium or discount at which such redemption shall take place).

The said Regulation also placed an obligation on the issuer to make an advertisement in an English national daily and regional daily, having wide circulation, at the place where the registered office of the issuer is situated, indicating the details of such rights and eligibility of the holders who are entitled to avail such right.

SEBI has received feedback from the market participants that the said requirement adds to the costs of the issuers without any significant benefit to the investors; especially since the issuer is required to send notice to NCS holders and Debenture Trustee, publish on stock exchange for wider dissemination and maintain a functional website hosting all notices.

Further, the mode of sending notice to the investors was also not specified, so there was ambiguity as to whether it shall be in line with the SEBI LODR Regulations or whether hard copies are to be sent to all the eligible debenture holders?

III. Amendment

SEBI vide its amendment notification dt: February 3, 2023 has stated that manner of sending notice to eligible holders of non-convertible securities and debenture trustees regarding right to recall or redemption before maturity.

SEBI has amended Regulation 15(6) of ILNCS Regulations and stated that the notice needs to be sent to all the eligible holders of such securities and the debenture trustee(s), at least twenty-one days before the date from which such right is exercisable, through:-

(a) soft copy to those who have registered their email id with the listed entity or with depository, and

(b) hard copy to those who have not registered their email id, with the listed entity or with depository.

Further SEBI has also amended Regulation 15(7) of ILNCS Regulations to the effect that the requirement of publishing the notice is English and regional national daily newspapers is done away with. The requirement to simultaneously provide a copy of such notice (which is sent to eligible debenture-holders), to the stock exchange(s) where the non-convertible securities of the issuer are listed, for dissemination on its website, continues after this amendment.

IV. Conclusion

This aspect of the ILNCS amendment is overall aimed at providing clarity to the issuers of non-convertible securities and overall with this, the cost of sending notices and publication in newspapers cost would also be reduced.

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Aligning timeline of bidding (issue) period of public issue of debt securities in line with public issue of equity shares

I. Introduction:

Securities & Exchange Board of India ('SEBI') has vide its notification dated February 2, 2023 amended the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 ("ILNCS Regulations"). One of the various amendments in SEBI ILNCS is with regard to aligning of bidding (issue) period in case of public issue of non-convertible securities, in line with the provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 ("ICDR Regulations").

II. Background:

Earlier, there was no stipulation in the ILNCS Regulations, with respect to the duration for which a public issue of debt securities or Non-convertible Redeemable Preference Shares ('NCRPS'), can be kept open.

As per analysis of data at hand with SEBI for issue opening date and issue closing date for the public issue of debt securities in the last 5 financial years, it was observed that out of approx. 122 issuances, the minimum time for which issues were kept open ranged from 1 day to 64 days, with an average of 20 days.

In the absence of any specifications, public issue of debt securities could be open for just one day or as much as 2 months in some cases. This led to inefficiency in the price discovery process and caused delays in the listing process, which were avoidable.

It is pertinent to mention that for specified securities (equity shares and convertibles), the ICDR Regulations, inter alia, provides that a public offer shall be kept open for at least three working days and not more than ten working days. Similar provisions are stated for revision in price band and force majeure, banking strike or similar circumstances in ICDR Regulations. SEBI felt an alignment of ICDR with ILNCS regulation in this regard would solve the issue at hand.

III. Amendment:

SEBI has now prescribed that in case of **public issue of debt securities** or, non-convertible redeemable preference shares, the offer shall be kept open for a minimum of three working days and a maximum of ten working days.

In case of revision of price band or yield, extension of bidding (issue) period shall be done for minimum of three working days, but the overall bidding (issue) period shall not exceed beyond 10 working days.

In case of force majeure, banking strike or similar circumstances, the issuer may, for reasons to be recorded in writing, extend the bidding (issue) period disclosed in the offer document but not beyond maximum bidding (issue) period of 10 working days.

IV. Effect:

Now SEBI has standardised minimum and maximum offer period timeline for completion of public issue of NCS (debt securities or, non-convertible redeemable preference shares). This will help a lot in standardising the timeline for public issue of debt securities across all corporates.

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Debenture Trustee gets space on Issuer's Board of Directors

I. Introduction:

Securities & Exchange Board of India ('SEBI') has been continuously taking efforts to secure the debenture holders from the ill-will of the companies who happen to be 'Bubble Companies' i.e., vanish with the money of the public shareholders. Keeping this in mind, SEBI has brought in various safeguardsin the framework namely formation of Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021 (hereinafter referred to as "ILNCS Regulations") to safeguard the public holders and obliging the debenture trustee to have a monitoring and compliance mechanism on the issuer. **One such provision in the ILNCS Regulations is the enabling power for nominee director appointment on the Board of Directors of the Issuer** which would result in internal eyes on the affairs of the company for statutory obligation compliance and corporate governance enhancement.

II. Background:

As per the above-mentioned framework, SEBI referring to Rule 18(3)(e) of the Companies (Share Capital and Debentures) Rules, 2014, inter-alia, mentions that - Every Debenture Trustee 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.

SEBI had placed this obligation upon Debenture Trustees in Regulation 15(1)(e) of the SEBI (Debenture Trustees) Regulations, 1993, to enhance the oversight of the Debenture Trustee over the issuer, thereby improving the governance in the issuer company. Similarly, under Regulation 24(1) of the ILNCS Regulations, 2021 also, there is a right vested on debenture trustees to appoint nominee director on the Board of Directors of Issuer in consultation with debenture-holders. But timeline for adherence to this by the Issuers was not been prescribed.

The concern of the Debenture Trustees is corroborated by data analyzed with respect to appointment of nominee directors, in the event of default by issuer companies, **in the last five Financial Years**, for certain Debenture Trustees. The data shows that **out of Forty-Seven instances of nomination** by Debenture Trustees for nominee director's appointment, there are **only three instances in which the Nominee director was successfully appointed** on the Board of Directors of the issuer companies.

The reasons slated out by Debenture Trustees which were submitted to SEBI which caused difficulty in appointing nominee director on the Board of the issuer company, are as follows:

- in the absence of any regulatory mandate with regard to timeline, the issuer company delays the appointment of a director nominated by the Debenture Trustee on its Board of Directors; and
- eligible candidates express reservations in being appointed as nominee director, citing Section 164(2)(b) of the Companies Act, 2013, as it does not distinguish between executive directors and nominee directors when it comes to disqualification rules under Companies Act, 2013.

The said provision of the Companies Act, 2013, disqualifies a person to become a director in any other company, if the company in which he/ she is a director is in default of redemption of debentures or pay interest due thereon, and such failure continues for one year or more. Hence, there is a disincentive for any person to accept directorship in a defaulted company, on nomination by a Debenture Trustee.

III. Amendment: Insertion of Regulation 18(6A) of ILNCS Regulations – Trust Deed

Timeline prescribed for appointment of Director nominated by Debenture Trustee – Amendment to Debenture Trust deed mandated in all cases:

As per existing Regulation 24 of ILNCS Regulations, the debenture trustee shall have powers to appoint nominee director on the board of directors of the issuer to protect the interest of debenture holders.

SEBI has now mandated issuers to ensure that debenture trust deed shall contain a provision, mandating the issuer to appoint the person nominated by the debenture trustee(s) **as a director on its Board of Directors at the earliest and not later than one month from the date of receipt of nomination from the debenture trustee(s).**

Actionable: Further **Issuers whose debt securities are already listed have been mandated to amend the trust deed** to incorporate the above provision on or before **September 30, 2023.**

IV. Amendment: Insertion of Regulation 23(6) and (7) of ILNCS Regulations – Obligation of the issuer

Review of Articles of Association by issuer companies by September 30, 2023:

If an issuer is a company, it shall ensure that its Articles of Association has a provision that requires its Board of Directors to appoint the person nominated by the debenture trustee(s) as a director on its Board of Directors.

Actionable: For existing issuers whose debt securities are outstanding and listed as on date of this amendment have been **mandated to amend its Articles of Association, if necessary to comply with this provision, on or before September 30, 2023**

Defaulters in payment of interest or principal: The issuer, which is in default of payment of interest or repayment of principal amount in respect of listed debt securities, shall appoint the person nominated by the debenture trustee(s) as a director on its Board of Directors, within one month from date of receipt of nomination from the debenture trustee or February 3, 2023 (i.e. date of publication of amendment in official gazette), whichever is later.

V. Conclusion:

SEBI has already applied to Ministry of Corporate Affairs ('MCA') to carve out a provision under Section 164 of Companies Act to pave way for the appointment of nominee director. MCA under the Company Law Committee report has provided assent to the said provision which would be effect on approval of the said report.

This SEBI amendment would increase the chances of nominee director appointment on the Board of Directors of the Issuers and incentivize professionals to take up the posts of nominee director in the concerned entities, and ensure better governance for the debenture-holders and stakeholders, at large.

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SEBI enhances disclosure requirements and streamlines certain definitions under SEBI LODR Regulations

SEBI vide its amendment notification dt: January 17, 2023 has amended SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ['SEBI LODR']

The details of amendment are as follows:

1. **Enhanced Disclosure requirements:**

   Background:

   SEBI had witnessed few companies were not complying with requirements and compliances of 'material subsidiary' as per Regulation 24 of SEBI LODR and circulars issued by SEBI therewith. More specifically SEBI Circular dated October 18, 2019 titled *"Resignation of statutory auditors from listed entities and their material subsidiaries"* that obliges listed entities to bring their material subsidiaries under a framework slated out in the circular in case of resignation of statutory auditor in the material subsidiary. The said circular also mandates that the terms of appointment of the statutory auditor, i.e., the statutory auditor's appointment letter must have this circular's reference and compliance to be done under this circular. SEBI observed the lack of compliance with this circular in one of the cases where the material subsidiary was incorporated in India and it was a material subsidiary but still had not complied with relevant SEBI circulars. Keeping this in mind, SEBI has brought some additional disclosures to be given in annual report by listed entities which have been prescribed by SEBI in Schedule V of SEBI LODR. SEBI has now Vide amendment notification dt: January 17, 2023 has amended Schedule V of SEBI LODR. Vide this amendment SEBI has prescribed additional disclosure under Section C: 'Corporate Governance Report'.

   Amendment:

   SEBI has now stated that, *"Details of material subsidiaries of the listed entity; **including** the date and place of incorporation and the name and date of appointment of the statutory auditors of such subsidiaries"* will now be required to be disclosed as a part of Corporate Governance Report. This disclosure is required to be given by listed entities in their annual report that will be published for FY 2022-23.

   Actionable:

   Listed entities need to reconcile the list material subsidiaries (both Indian and Foreign) for FY 2022-23 in or before their board meetings that will be held for approval of financial statement for FY 2022-23. Further material subsidiaries need to make addendum to the appointment letters of teir statutory auditors (if details as per the above referred circular were not included earlier) and disclose the details of auditors of material subsidiaries along with date of appointment name them in the annual reports of listed entities as per the requirements given above.

A question also arises whether a newly incorporated company, say in the month of May 2022 or so will be considered as material subsidiary for the FY 2022-23? If that subsidiary meets the criteria of material subsidiary as per the financials of FY 2022-23, then it would also need to be included in this disclosure.

2. Change in definition of Senior Management:

Background

In one of the instances observed by SEBI, that a co-founder and Head of Supply of an Issuer, was identified as Key Managerial Personnel ("KMP") in the offer documents under SEBI (Issue of Capital & Disclosure Requirement) Regulations, 2018 [SEBI ICDR]. However, his resignation post listing of shares of the Issuer was not disclosed to the stock exchanges under the pretext that he is not a KMP in terms of SEBI LODR Regulations.

Amendment:

To avoid further similar situations SEBI has amended definition of 'Senior Management' under SEBI LODR which is specified under Explanation (d) to Reg. 16 (1)(b). Definition of 'Senior Management' is now brought in line with the definition of 'Senior Management' as per Explanation to Section 178(8) of Companies Act, 2013) and "Key Managerial Personnel" as per Regulation 2(1)(bb) of SEBI ICDR. With the amendment, insertion of term 'Functional heads' under the head of 'Senior management' w.e.f. January 17, 2023 has been made in SEBI LODR which would tantamount to alignment of the definition of SEBI ICDR, Companies Act with SEBI LODR. Now 'Senior Management' under SEBI LODR would comprise of following:-

- members of core management team,
- members of management one level below CEO or MD or WTD or Manager,
- CFO, CS, CEO/manager in case they are not part of the board of directors and
- all functional heads.

'Senior Management' would continue to exclude Board of Directors

Actionable:

Code of conduct that is required to be affirmed by senior management personnel as per SEBI LODR by giving confirmations on annual basis under Regulation 26(3) of SEBI LODR will now be required to be given by 'functional heads' of the organisation. Since this definition is effective from January 17, 2023, the affirmations from new personnel getting covered under this definition will need to be taken at the immediate next instance.

Food for thought:

- What all compliances would now be required to be done by senior management? [viz. Remuneration of such individuals classified under Senior Management will need to be routed through Nomination & Remuneration Committee.]
- These compliances will be effective from which Financial Year?

- What shall be mentioned in this regard in 'corporate governance report' that will be required to be submitted for FY March 2023?

3. INVIT/REITs out of scope of Corporate Governance (CG) under SEBI LODR:

SEBI has vide its amendment notification dt: January 17, 2023 exempted corporate governance requirement to INVIT and REIT that have listed their Non-Convertible Debentures (NCDs) of Rs 500 crore or more ['HVD Entities' in the form of INVITs and REITs]. In Regulation 15 of SEBI LODR, Applicability of CG Provisions i.e. Regulation 16 to Regulation 27 of SEBI LODR has been mentioned from which INVIT/ REIT have been excluded and proposed CG provisions would be in place under respective regulations.

SEBI had vide its amendment dt: September 2021 had made corporate governance provisions of SEBI LODR to INVIT and REIT that have listed their NCDs exceeding outstanding value of 500 crores or more [High Value Debt Listed Entities]. Now SEBI has stated that these provisions will be exempted for High Value Debt Listed Entities in the nature of INVITs and REITs with effect from April 1, 2023. Till April 1, 2023 these provisions were on comply or explain basis for such INVIT / REIT High Value Debt Listed Entities and w.e.f April 1, 2023 they were going to become compulsory.

These provisions are exempted for INVIT / REIT HVD entities from April 1, 2023 because SEBI is probably going to make changes pertaining to Corporate Governance norms for REITs and INVITs in their respective regulations.

However, all other High Value Debt Listed Entities, other than INVIT / REIT (for eg: companies, bodies corporate etc) need to comply with SEBI LODR Corporate Governance Norms mandatorily w.e.f April 1, 2023. As per Explanation (3) to Regulation 15(1A) of SEBI LODR, such other HVD entities need to achieve full compliance of Regulation 16 to 27 by March 31, 2023.

4. Exemption from provisions of Regulation 17(1C) of SEBI LODR:

Background: Regulation 17(1C) of SEBI LODR provides that when appointment of an individual on the board of directors of an entity or as a manager is done by the board of directors, then the approval of shareholders shall be taken within a period of three months or at the next general meeting whichever is earlier. From this it was not clear whether the above referred provision will also be applicable for re-appointment of a director to the Board of directors or re-appointment as a Manager?

Amendment: Now SEBI has clarified this by adding the words 're-appointment' in Regulation 17(1C) of SEBI LODR. As per the revised provision now re-appointment of a director on the board of directors or as a manager shall also be approved by shareholders within a period of three months or at next general meeting whichever is earlier.

It needs to be highlighted here that already BSE and NSE had issued clarification that Regulation 17(1C) of SEBI LODR would be applicable to re-

appointment of directors too. This clarification was released by BSE and NSE on April 8, 2022 by way of a circular. Now this has been included in SEBI LODR itself.

SEBI has further added a new proviso to Regulation 17(1C) whereby the minimum time period of three months for approval of shareholders is exempted for public sector companies. So, Public Sector Company can take approval of shareholders for appointment of director to board of directors or as a manager at the next general meeting. **This amendment is effective from January 17, 2023.**

Anamolies:
As per Section 196(4) of Companies Act, 2013 appointment of Managing Director / Whole Time director / Manager shall be subject to approval of members at the general meeting of the company. Now if this provision is read with Reg. 17(1C) of SEBI LODR it can be inferred that Managing Director / Whole Time director / Manager appointed or re-appointed by the Board of Directors as Additional Director, shall be appointed as Director within three months or at the next annual general meeting whichever is earlier. So it is clear that appointment or re-appointment of Managing Director / Whole Time director / Manager cannot be kept for members approval at the annual general meeting if annual general meeting would be held three months later.

However, in case of independent director prior approval is required in case of re-appointment of independent directors pursuant to Section 149(10) of Companies Act, 2013. Now on reading Reg. 17(1C) of SEBI LODR, can it be inferred that in case of re-appointment of Independent Directors approval of shareholders can be taken within a period of three months or at the next annual general meeting (instead of prior approval of members envisaged under Section 149(10) of Companies Act 2013)?

On harmonious reading of section 149(10) of Companies Act 2013 along with Reg. 17(1C) of SEBI LODR, a view can be taken that the provision under Companies Act is more stringent and hence prior approval of shareholders must be taken in case of re-appointment of independent director for second term, and Reg. 17(1C) of SEBI LODR might not have any role in case of appointment of independent director for second term.

Generating Awareness on availability of Disputes Resolution Mechanism at Stock Exchanges against Listed Companies / Registrar to an Issue and Share Transfer Agent

A. Advisory from SEBI:-

Securities and Exchange Board of India vide its letter dt: January27, 2023 has directed the stock exchanges to inform all listed entities to make their investors, holding securities in physical form, aware about the arbitration mechanism available to these investors.

BSE has vide its circular dated January 30, 2023 has advised all listed entities and their RTAs to comply with the same.

SEBI, vide this letter, has advised all listed companies to issue the following intimation as is prescribed by SEBI in its circular to all its investors holding securities in physical form:

"If you have any dispute against the listed company and or its Registrar and Share Transfer Agent (RTA) on delay or default in processing your request, as per SEBI circular dt: May 30, 2022, you can file for arbitration with stock exchanges. For more details please see weblink of stock exchanges as follows: BSE – http://tiny.cc/m1/2vz ; NSE - http://tiny.cc/s1/2vz"

B. Earlier advisories from SEBI on similar lines:-

It needs to be highlighted here that SEBI had vide its circular dt: April 8, 2022 read with SEBI circular dt: May 31, 2022 had put in place a Standard Operating Procedure (SOP) for operationalizing the resolution of all disputes pertaining to or emanating from investor services such as transfer/ transmission of shares, demat/remat, issue of duplicate shares, transposition of holders, etc. and investor entitlements like corporate benefits, dividend, bonus shares, rights entitlements, credit of securities in public issue, interest /coupon payments on securities, etc. SEBI had also stated vide these circulars that Arbitration Mechanism shall be initiated post exhausting all actions for resolution of complaints including those received through SCORES Portal. SEBI had asked listed companies to bring these circulars to the notice of investors by posting it on their own websites.

C. Manner of intimation about these mechanisms to investors holding shares in physical form:-

SEBI has asked listed entities to send the above referred message either as an email to the registered mail id of investors or by way of SMSes. SEBI has also stated that listed companies can either spread the message through digital modes available at the disposal of companies, including website, mobile application, social media handle(s) etc.

SEBI has asked listed companies to coordinate with RTAs and shall send this communication to all investors holding securities in physical form by February 20, 2023.

D. Actionable on the part of RTAs:-

SEBI has further asked **RTAs to communicate compliance with this circular** i.e. whether message given by SEBI was sent to investors holding securities in physical form or not and by what means it was sent i.e. by email or SMSes needs **to be communicated to SEBI by February 27, 2023 in specified format**. It is not necessary that listed companies shall only send the message. It is fine even if RTA sends this message.

E. Some ways of sending this communication:-

It can be seen that there are various communications which listed companies keep sending to investors shares/securities in both demat and physical form. So question would arise whether it would be fine if we send this message as a part of that communication? As discussed above SEBI allowed companies to send this message in any convenient method. So, it appears that it would be absolutely fine if message is sent by mentioning it in postal ballot or any other notice being sent to investors.

SEBI has given helpline nos and email id vide this circular for any further assistance in this regard. Email id is ia_ho@sebi.gov.in and 022 4045 9964
Copy of this BSE circular can be accessed at below link:
https://www.bseindia.com/markets/MarketInfo/DispNewNoticesCirculars.aspx?page=20230130-18

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Additional methods prescribed by SEBI for achieving Minimum Public Shareholding

Every listed entity is mandated to maintain Minimum Public Shareholding ("MPS") under Rule 19(2)(b) and 19A of the Securities Contracts (Regulation) Rules, 1957 read with Regulation 38 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations"). In case of listed entities whose MPS falls below the prescribed threshold, SEBI has prescribed various methods, through its circulars from time to time, to achieve the MPS.

Recently **on February 03, 2023,** SEBI issued another circular to provide **additional methods for achieving minimum public shareholding**. The methods along with conditions for it to be considered as a manner of achieving minimum public shareholding are tabled below:

Method	Specific conditions
Increase in public holding pursuant to exercise of options and allotment of shares under an employee stock option (ESOP) scheme, subject to a maximum of 2% of the paid-up equity share capital of the listed entity.	The ESOP scheme shall comply with the Securities and Exchange Board of India (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 and the promoter(s) / promoter group shall not be allotted any shares
Transfer of shares held by promoter(s) / promoter group to an Exchange Traded Fund (ETF) managed by a SEBI registered mutual fund, subject to a maximum of 5% of the paid-up equity share capital of the listed entity.	The listed entity shall, at least one trading day prior to such proposed transfer, announce the following details to the stock exchange(s) where its shares are listed: i. the intention of the promoter(s) /promoter group to transfer shares and the purpose of such transfer; ii. the details of promoter(s)/promoter group who propose to transfer their shares in the listed entity; iii. total number of shares and percentage of shareholding proposed to be transferred; and iv. Details of the ETF to which shares are proposed to be transferred by the promoter / promoter group.

	The listed entity shall also give an undertaking to the recognized stock exchange(s) obtained from the persons belonging to the promoter and promoter group that they shall not subscribe to the units of such ETF to which shares have been transferred by promoter(s) / promoter group entities for the purpose of MPS compliance.

Considering all amendments and circulars, SEBI has kept a residual clause of any other method as may be approved by SEBI on a case-to-case basis on application by Listed Entity, for achieving minimum public shareholding by listed entity.

Buybacks made more investor friendly

Securities and Exchange Board of India ('SEBI') vide its notification dt: February 7, 2023 has brought in SEBI (Buyback of Securities) (Amendment) Regulations, 2023. This is effective from thirtieth day of notification of amendment in official gazette i.e. effective of amendment is March 9, 2023.

1. **Calculating maximum limit of buyback:** For calculating maximum limit of buyback, standalone or consolidated financial statements, whichever sets out lower amount would be used. This methodology of determining quantum of buyback is brought in by SEBI throughout buyback regulations.
2. **Methods of buyback:**
   a. Method of **buyback through odd lot is withdrawn**. All consequent provisions relating to that are also withdrawn by SEBI.
   b. SEBI has approved **systematic phasing out of open market buybacks**. Open market buybacks will be completely phased out from April 1, 2025. Till then open market through stock exchanges, based on the standalone or consolidated financial statements of the company, whichever sets out a lower amount, shall be less than:—
      - fifteen per cent of the paid up capital and free reserves of the company till March 31, 2023;
      - ten per cent of the paid up capital and free reserves of the company till March 31, 2024;
      - five per cent of the paid up capital and free reserves of the company till March 31, 2025

      Other amendments – Open market buy backs:-

      (i) SEBI has now prescribed that at least 40% of amount earmarked for buyback be utilized within initial half of financial year. Also, it has stated that min. 75% of amount earmarked for open market buyback shall be utilized as against 50% earlier.

      (ii) SEBI has also stated that a separate window shall be created by concerned stock exchange for open market buyback. SEBI has further tried to streamline buyback through stock exchanges by putting restrictions on placement of bids, price and volume of trade.

      (iii) SEBI has also curtailed timelines for period of tendering for open market buybacks: The buy-back offer shall open not

later than four working days from the record date and shall close:-

(a) within six months, if the buy-back offer is opened on or before March 31, 2023;

(b) within 66 working days, if the buy-back offer is opened on or after April 1, 2023 and till March 31, 2024; and

(c) within 22 working days, if the buy-back offer is opened on or after April 1, 2024 and till March 31, 2025:

Provided that with effect from April 1, 2025, the option of open market buy-back through the stock exchange shall not be available to any company except in cases where the buyback offer has opened on or before Mach 31, 2025.

(iv) **Buyback through stock exchange route** would now be **restricted only to** companies whose **shares are frequently traded**. Also, SEBI has **introduced the definition of frequently traded** shares.

3. **General compliance and filing requirements for buy-back:** Consent of lenders necessary for buyback in case there is breach of any covenant with such lender(s). Also, specific mention of consent of lender is mandatorily required to be given in letter of offer.
4. **Time limit for filing of copy of resolution with SEBI and Exchanges:** Seven working days provided as against seven days earlier for filing of copy of resolution passed at general meeting under section 68(2) of Companies Act, 2013 with SEBI and Stock exchanges. SEBI has accepted terminology of 'working days' in buyback regulations as against 'days' used earlier. So listed entities would effectively get more time for compliance or disclosure related provisions.
5. **Buyback through tender offer route –**
   a. **Change in buyback price:** SEBI allows listed entities doing buyback through tender offer route to increase the maximum buyback price and decrease the number of securities proposed to be bought back till one working day prior to record date such that there is no change in aggregate size of buyback. Also, SEBI has stated that all filings pertaining to buybacks with SEBI shall be in electronic mode under digital signature of Company Secretary or any person authorized by Board of Directors of the Company.
   b. **Filing of public announcement with SEBI:** Listed entity shall, simultaneously with publishing public announcement as

per Regulation 7(i) of SEBI (Buyback of Securities) Regulations, 2018 [i.e. publishing of public announcement in newspapers] file a copy of the public announcement in electronic mode, with the Board and the stock exchanges on which its shares or other specified securities are listed**.**

c. Requirement of filing a draft letter of offer with SEBI and subsequent requirement of SEBI providing its comments on the same is done away with.

d. Merchant Bankers, who are not associates of the company, to certify compliance with the Buy-back Regulations in the letter of offer.

e. Letter of offer to be dispatched through electronic mode in accordance with the provisions of the Companies Act, within 2 working days from the record date and on receipt of a request from any shareholder to receive a copy of the letter of offer in physical form, the same shall be required to be provided. Disclosures of the same (i.e. letter of offer is sent through electronic mode) have to be mandatorily made in the public announcement.

f. The date of opening of the offer shall not be later than four working days from the record date.

6. **Other Matters (relevant for all the routes of buyback) –**
   a. **Escrow Account:** Company shall be required to open an escrow account, within two working days of the public announcement.
   b. The escrow account shall consist of
      - cash including bank deposits, deposited with any scheduled commercial bank, or;
      - government securities, or;
      - units of mutual funds invested in gilt funds and overnight schemes, or;
      - bank guarantee issued in favour of the merchant banker by any scheduled commercial bank, or;
      - deposit of frequently traded and freely transferable equity shares or other freely transferable securities, or;
      - a combination of above.

      The securities mentioned above shall be subject to appropriate margin as specified by SEBI.
7. **Post buyback compliance:** Companies will undertake extinguishment of share certificates and make other closure compliances through the secretarial auditor.
8. Dispensing with the need of submitting physical documents and instead permitting submission of soft-copies to SEBI- To promote ease of doing business and leverage the advancement in

technology, it is proposed that the listed entities shall submit to SEBI, all the relevant documents as specified in the Regulations, digitally signed by the company secretary of the company or the person authorized by the board of the company, undertaking buy-back.

9. **Rationalizing certain requirements in case of an escrow account across all routes of Buy-back-** Where part of an escrow account is in the form other than cash, making the requirement of depositing cash of at least 2.5% of the total amount earmarked for buy-back uniform across all applicable routes of buy-back, viz: through open market and through the tender offer, and also extending the validity of bank guarantee till all the obligations are completed or 30 days from expiry of buy-back period, whichever is later.
10. **SEBI has now harmonized the requirement of payment of fees** to SEBI on the date of public announcement across all available routes under buy-back as requirement of filing of draft letter of offer in case of buyback through tender offer route and in case of open market buyback at the time of filing copy of public announcement is dispensed with.
11. **Revised mechanism for open market buybacks through book building process is notified.**
12. **Payment of consideration to the shareholders-** The payment of consideration shall be completed within five working days after the closure of the tendering period.

Website – A strong focal for investor awareness

I. Background:

Securities and Exchange Board of India ('SEBI') and Stock Exchanges have been penalizing and warning Listed Entities to **maintain a functional website** and contents in accordance with Regulation 46 and Regulation 62 of SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015 ('SEBI (LODR) Regulations) for Equity Listed and Non-Convertible Securities Listed Entities respectively.

Information hosted on the websites of Listed Companies that have listed their Equity as well as Debt, was generally incomprehensible for investors and stock exchange due to the information overload.

Additionally, it was cumbersome to locate disclosures necessitated under respective regulations of SEBI (LODR) Regulations as the same may not be located in one place along with proper indexing. It was also observed by SEBI and stock exchanges that the listed entities might not disclose the last amended date of policies uploaded on the website in all cases.

II. Steps taken By NSE earlier:

To tackle this issue, the National Stock Exchange ('NSE') has vide its circular dated July 01, 2022, and July 04, 2022, titled 'Advisory under Regulation 46 and 62 of SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015' had asked listed entities to create separate sections for each website disclosure as is required under Regulation 46 and Regulation 62. It also mandated disclosure of last amended date of policies uploaded on the website with the updated policies.

In furtherance to above, NSE had released another circular dated July 11, 2022, titled 'Release of new module for filing of information required under Regulation 46 and 62 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 on NEAPS (NSE Electronic Application Processing System).' which mandated separate and exact disclosure of URLs against each line item mentioned under Regulation 46 and Regulation 62 of SEBI (LODR) Regulations by July 18,2022. This deadline was extended to August 31,2022 due to representation made by Listed Entities on account of time constraints and technological lacunas.

III. Steps taken BSE now:

Now in furtherance to the above Bombay Stock Exchange **('BSE') has vide its circular dt: February 09, 2023, has released a similar module**. **BSE also now wants** listed entities (who have listed either their equity shares or any non-convertible securities on BSE) to **upload exact links for website disclosure as are already been provided to NSE**. Path for uploading same is as follows:

The path for uploading the modules is mentioned below:

- Equity listed Companies
  - Submission of information / disclosure: Listing Center > Listing Compliance > Corporate Announcement> compliances> Reg.46 website Link

- Debt/CP listed Companies
  - Submission of information / disclosure: Listing Center > Listing Compliance > Corporate Announcement> compliances> Reg. 62 website Link

The deadline for filing of the information required Regulation 46 & 62 of SEBI (LODR) Regulations **is February 20, 2023.**

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