

## Company Law

### Rules and Amendment Rules

#### Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) 2<sup>nd</sup> and 3<sup>rd</sup> Amendment Rules, 2021

[Notification dated 9<sup>th</sup> November 2021](#)

[Notification dated 28<sup>th</sup> December 2021](#)

The MCA has amended the Investor Education and Protection Fund Authority (IEPF) (Accounting, Audit, Transfer and Refund) Rules, 2016. *Inter alia*, the amendments include the following –

- Limits in respect of documents to be submitted to the IEPF Authority to register transmission of securities in physical / demat mode changed to Rs.5 Lakhs (*earlier Rs.2 lakhs*)
- Process to be followed by the company and authority for transfer of funds related to purchase of shares and transfer of the same to claimants has been amended

### Circulars

#### Clarification on holding of Annual General

#### Meeting (AGM) through Video Conferencing (VC) or Other Audio-Visual Means (OAVM)

[General Circular No. 19/2021 dated 8<sup>th</sup> December 2021](#) and [General Circular No. 21/2021 dated 14<sup>th</sup> December 2021](#)

The MCA has decided to allow the companies whose AGMs are due in the Year 2021, to conduct their AGMs through VC or OAVM **on or before 30<sup>th</sup> June 2022** (*earlier 31<sup>st</sup> December 2021*)

The MCA has also decided to allow companies who are proposing to organise AGMs in 2022 for the FY ended / ending any time before / on 31<sup>st</sup> March 2022 to conduct AGM through VC or OAVM as per the respective due dates by **30<sup>th</sup> June 2022**

It has also been clarified that this Circular should not be construed as conferring any extension of time for holding of AGMs by the companies under the Act and the companies which have not adhered to the relevant timelines will be liable to legal action under the appropriate provisions of the Act

January 2022

## Clarification on passing of Ordinary and Special resolutions by the companies under the Companies Act, 2013

[General Circular No. 20/2021 dated 8<sup>th</sup> December 2021](#)

The MCA has clarified that it has allowed companies to conduct their EGMs through VC or OAVM or transact items through postal ballot in accordance with the framework provided in the [Circular no 14/2020 dated 8<sup>th</sup> April 2020](#) up to 30<sup>th</sup> June 2022 (earlier 31<sup>st</sup> December 2021).

## Relaxation on levy of additional fees in filing of certain e-forms for the financial year ended on 31<sup>st</sup> March 2021

[General Circular No. 22/2021 dated 29<sup>th</sup> December 2021](#)

The MCA has decided that no additional fees will be levied up to –

- 15<sup>th</sup> February 2022- for the filing of e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 Non- XBRL and
- 28<sup>th</sup> February 2022- for filing e-forms MGT-7/MGT-7A

in respect of the financial year (FY) ended on 31<sup>st</sup> March 2021.

## Securities and Exchange Board of India (SEBI)

### Revised Formats for filing Financial information and Limited Review/ Audit Report for issuers of non-convertible securities

[Circular No.-SEBI/HO/DDHS/CIR/2021/00000006 37 dated 5<sup>th</sup> October 2021](#)

On 7<sup>th</sup> September 2021, SEBI (Listing Obligations and Disclosure Requirements), Regulations 2015 (LODR) was amended. The amendments, *inter-alia*, mandated entities that have listed non-convertible securities to disclose financial results on a quarterly basis, including assets & liabilities and cash flows as well as requiring certain changes in the line items in the financial results. Accordingly, this Circular provides the revised formats for reporting of financial information as follows-

- Standalone financial results on a quarterly basis

and Standalone and consolidated financial results on an annual basis

- Statement of Assets and Liabilities on half yearly basis Statement of Cash Flows on half yearly basis)
- Format for financial results in newspapers

Following clarification has been issued-

- In case the listed entity (LE) does not have corresponding quarterly financial results for the 4 quarters ended September 2020, December 2020, March 2021 and June 2021, the column on corresponding figures for such quarters will not be applicable.
- In case the LE does not have corresponding Statement of Assets and Liabilities or corresponding Cash Flow Statement for the half year ended September 2020, the column on corresponding figures will not be applicable.

In case of non-submission/ delayed submission of financial results or incase the decision to delay the results was taken by the LE prior to the due date , the LE should disclose detailed reasons for such non-submission/ delay to the stock exchanges within 1 working day of the due date of submission of the financial results.

[Circular No. SEBI/HO/DDHS/CIR/2021/00000006 38 dated 14<sup>th</sup> October 2021](#)

This Circular provides the revised formats for limited review report / audit report for issuers of non-convertible securities (other than insurance companies). Insurance companies are required to disclose limited review/audit reports as per the formats specified by the Insurance Regulatory and Development Authority of India.

### SEBI (LODR) (6<sup>th</sup> Amendment) Regulations, 2021

[Notification dated SEBI/LAD-NRO/GN/2021/55 dated 9<sup>th</sup> November 2021](#)

The above Regulations amend SEBI LODR, 2015. The amendments will **come into force with effect from (w.e.f.) 1<sup>st</sup> April 2022** unless otherwise specified in the respective provision of the regulation. The amendments mainly pertain to Related Party (RP) Related Party Transactions (RPT). The key highlights are given below-

**January 2022**

- **Definition of RP-As** per the revised definition, the following will be deemed to be a RP-
  - any persons or entities forming part of the promoter or promoter group of the LE; or
  - any person or entity holding equity shares -
    - ◆ of 20% or more; or
    - ◆ of 10% or more, **w.e.f. 1<sup>st</sup> April 2023**
- in the LE, directly or on a beneficial interest basis at any time during the immediately preceding financial year (FY)
- **Definition of RPT-As** per the revised definition of RPT, it will include transactions involving transfer of resources, services or obligations between-
  - LE **and** RP of a LE;
  - subsidiary of LE **and** RP of a LE;
  - LE **and** RP of subsidiary of LE
  - subsidiary **and** RP of subsidiary of LE
  - a LE **and** any other person or entity, the purpose and effect of which is to benefit a RP of the LE or any of its subsidiaries, **w.e.f. 1<sup>st</sup> April 2023**
  - subsidiary of a LE **and** any other person or entity, the purpose and effect of which is to benefit a RP of the LE or any of its subsidiaries, **w.e.f. 1<sup>st</sup> April 2023**

Such transactions will be considered as RPTs regardless of whether a price is charged or whether the transaction is a single transaction or a group of transactions.

- **Transactions exempted from the definition of RPT**
  - Issue of specified securities on a preferential basis under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018;
  - Corporate actions by the LE which are uniformly applicable/offered to all shareholders in proportion to their shareholding like payment of dividend, subdivision or consolidation of securities, issuance of securities by way of a rights issue or a bonus issue and buy-back of securities.
  - acceptance of fixed deposits by banks/Non-Banking Finance Companies at the terms uniformly applicable/offered to all shareholders/public, subject to disclosure of the same along with the disclosure of RPT

every 6 months to the stock exchange.

- **Material RPT**

A transaction (individually or taken together with previous transactions during a FY) with a RP which exceeds Rs. 1,000 crore or 10% of annual consolidated turnover of the LE as per the last audited financial statement (FS) (whichever is lower), will be considered as 'Material' RPT.
- **Prior approval of Audit Committee (AC)**
  - All RPTs and subsequent material modifications (*earlier only RPTs*) will require prior approval of the AC of the LE.
  - The AC should define 'material modifications' and disclose it as part of the policy on materiality of RPTs and on dealing with RPTs.
  - RPTs, to which the subsidiary of a LE is a party, but the LE is not a party, will require prior approval of the AC of the LE if the value of such transaction (individually or taken together with previous transactions) exceeds-
    - ◆ 10% of annual consolidated turnover and
    - ◆ 10% of annual standalone turnover of the subsidiary (**w.e.f. 1<sup>st</sup> April 2023**)
- **Exemption from prior approval of AC and shareholders**
  - Prior approval of AC will not be required for a RPT to which listed subsidiary is a party, but not a party. However, in case of unlisted subsidiaries of a listed subsidiary, prior approval of AC of the listed subsidiary will suffice.
  - All material RPTs requires prior approval of shareholders through a resolution except for the RPT to which the listed subsidiary is a party, but the LE is not a party. However, in case of unlisted subsidiaries of a listed subsidiary, prior approval of shareholders of the listed subsidiary will suffice.
  - Prior approval of AC and shareholders is not required in case of a transaction between two wholly owned subsidiaries of the listed holding company whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

## ■ Disclosure

- A LE should disclose RPTs to the stock exchanges in the specified format every 6 months within 15 days from the date of publication of its standalone and consolidated financial results. **W.e.f. from 1<sup>st</sup> April 2023**, on the date of publication of its standalone and consolidated financial results. A 'high value debt LE' should submit such disclosures along with its standalone financial results for the half year.
- The LE which has listed its non-convertible securities should make disclosures in compliance with the Accounting Standard on 'Related Party Disclosure'.
- All LE and its subsidiaries (except listed banks) should disclose details of loans and advances in the nature of loans to firms/companies in which directors are interested by name and amount, by the LE and its subsidiaries, in their Corporate Governance Report forming part of Annual Report

## Disclosure obligations of LEs in relation to RPTs

[Circular No. SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated 22<sup>nd</sup> November 2021](#)

The amendment of Regulation 23 of LODR, *inter alia*, mandates LEs that have listed specified securities to submit to the stock exchanges disclosure of RPTs in the format specified by the SEBI from time to time. Vide the above Circular, SEBI has prescribed information to be placed before the AC and the shareholders for consideration of RPTs which includes-

### ■ Information to be reviewed by the AC for approval of RPTs

- The LE should, *inter alia*, provide the following information, for review of the AC committee for approval of a proposed RPT-
- Type, material terms and particulars tenure, value of the proposed transaction;
  - Name of the RP and its relationship with the LE or its subsidiary, including nature of its concern or interest (financial or otherwise);
  - The percentage of the LE's annual consolidated turnover, for the immediately preceding FY, that is represented by the value

of the proposed transaction

- Justification as to why the RPT is in the interest of the LE

The AC should also review the status of long-term (more than 1 year) or recurring RPTs on an annual basis.

### ■ Information to be provided to shareholders for consideration of RPTs

The notice being sent to the shareholders seeking approval for any proposed RPT should, in addition to the requirements under the Companies Act, 2013, *inter alia*, include the following information as a part of the Explanatory Statement-

- A summary of the information provided by the management of the LE entity to the AC;
- Justification for why the proposed transaction is in the interest of the LE;
- Percentage of the counter-party's annual consolidated turnover that is represented by the value of the proposed RPT, on a voluntary basis

### ■ Format for reporting of RPTs to the Stock Exchange

The LE should make RPT disclosures every 6 months in the given format .

This Circular will come into force **w.e.f. 1<sup>st</sup> April 2022**.

## Schemes of Arrangement by Listed Entities

[Circular No. SEBI/HO/CFD/DIL2/CIR/P/2021/000000657 dated 16<sup>th</sup> November 2021](#) and [Circular No.: SEBI/HO/CFD/DIL2/CIR/P/2021/000000659 dated 18<sup>th</sup> November 2021](#)

The above Circular amends certain provisions [SEBI Master Circular dated 22<sup>nd</sup> December 2020](#) which lays down the framework for Schemes of Arrangement by listed entities. This Circular will be **applicable for all the schemes filed with the stock exchanges from the date of the Circular**. *Inter alia*, the amendments state that the LE should submit the following documents to the Stock Exchange-

- Valuation Report which should be accompanied with an undertaking that no material event impacting the valuation has



occurred during the intervening period of filing the scheme documents with the Stock Exchange and period under consideration for valuation.

- Declaration on any past defaults of listed debt obligations of the entities forming part of the scheme.
- A report from its AC and the Independent Directors certifying that the LE has compensated the eligible shareholders. Both the reports should be submitted within 7 days of compensating the shareholders.
- No Objection Certificate (NOC) from the lending scheduled commercial banks/financial institutions/debenture trustees.

## Frequently Asked Questions (FAQs) on SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021

[Dated 16<sup>th</sup> November 2021](#)

SEBI has issued FAQs which offer simplistic explanation/clarification of terms/concepts related to the SEBI (Share Based Employee Benefits (SBEB) and Sweat Equity (SE)) Regulations, 2021. *Inter alia*, these include the following-

- The provisions of these Regulations will be applicable to all schemes under the SBEB and SE Regulations, 2021 and all such schemes that fulfil the criteria set out in Regulation 1(4) which will include Restrictive Stock Units.
- The provisions of these Regulations will not be applicable to 'Phantom Stock Options' as they do not involve any actual purchase or sale of the equity shares of a LE.
- With respect to definition of an employee, the phrase 'exclusively working in India or outside India' means any employee who is exclusively working with such company, irrespective of whether such person is employed either in India or outside India.
- Contractual employees are also eligible to receive benefits under the SBEB schemes provided they are designated as employees by their employers and are exclusively working with such company or its group company including subsidiary or its associate company

or its holding company.

- Employees of joint ventures are also eligible to receive benefits under SBEB subject to shareholders' approval.
- In case of cessation of directorship due to retirement, all grants, Stock Appreciation Right (SAR) Scheme or other benefits will continue to vest in accordance with the respective vesting schedules subject to the terms of the company's policies.

## Extension of facility for conducting annual meeting and other meetings of unitholders of REITs and InvITs through VC or through OAVM

[SEBI/HO/DDHS/DDHS\\_Div2/P/CIR/2021/697 dated 22<sup>nd</sup> December 2021](#)

SEBI has decided to extend the facility to conduct annual meetings of unit holders in terms of Regulation 22(3) of SEBI (Real Estate Investment Trusts) (REIT) Regulations, 2014 and Regulation 22(3)(a) of SEBI (Infrastructure Investment Trusts) (InvIT) Regulations, 2014 and meetings other than annual meeting, through VC or OAVM till 30<sup>th</sup> June 2022 (*earlier 31<sup>st</sup> December 2021*).

## SEBI Board Meeting

[PR No.: 38/2021 dated 28<sup>th</sup> December 2021](#)

In the SEBI Board Meeting held on 28<sup>th</sup> December 2021, *inter alia*, following decisions were made –

- **Rules for utilisation of IPO proceeds tightened.**  
Key amendments include -
  - Shares offered for sale by selling shareholders, individually or with persons acting in concert, holding more than 20% of pre-issue shareholding of the issuer, will not exceed more than 50% of their pre-issue shareholding.
  - Shares offered for sale by selling shareholders, individually or with persons acting in concert, holding less than 20% of pre-issue shareholding of the issuer, will not exceed more than 10% of pre-issue shareholding of the issuer

- In case of book-built issues, a minimum price band of be at least 105% of the floor price will be applicable for all issues opening on or after notification in the official gazette.
- The existing lock in of 30 days will continue for 50% of the portion allocated to anchor investor and for the remaining portion, lock in of 90 days from the date of allotment shall be applicable for all issues opening on or after 1<sup>st</sup> April 2022
- **SEBI LODR**  
Appointment or a re-appointment of any person, including as a managing director or a whole-time director or a manager, who was earlier rejected by the shareholders at a general meeting, will be done only with the prior approval of the shareholders.
- **Amendments to SEBI (Mutual Funds) Regulations, 1996 (MF Regulations)**  
SEBI approved amendment to MF Regulations to mandate Mutual Funds schemes to follow Indian Accounting Standard (Ind AS) from FY 2023-24 onwards. Further, SEBI approved amendments to MF Regulations with respect to accounting related regulatory provisions to remove redundant provisions and to bring more clarity.

# KEY TAKE AWAY

- By widening the ambit of RP and RPT, all the transactions whether direct or indirect with the RP has been brought under the scanner by SEBI. The companies will have to bear the burden of added governance and compliance commitment.
- By tightening the Rules for utilisation of IPO proceeds, SEBI has no intention to control the prices of IPOs. This has come amidst a outbreak of IPOs hitting the market this year.



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