

Company Law, Accountancy and Audit

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Company Law

Circulars

Clarification on holding of Annual General Meeting (AGM) and Extra ordinary General meeting (EGM) through Video Conference (VC) or other Audio-Visual Means (OAVM) and passing of Ordinary and Special resolutions by the companies under the Companies Act, 2013 read with Rules made thereunder

[General Circular No. 09/2023 dated 25th September 2023](#)

The MCA has decided to allow companies whose AGMs are due in the Year 2023 or 2024, to conduct their AGMs through VC or OAVM on or before 30th September 2024 in accordance with the requirements laid down in [General Circular No. 20/2020 dated 5th May 2020](#).

It has been clarified that this General Circular should not be construed as conferring any extension of statutory time for holding of AGMs by the companies under the Companies Act, 2013 and the companies which have not adhered to the relevant statutory timelines will be liable to legal action under the appropriate provisions of the Act.

The MCA has also decided to allow companies to conduct their EGMs through VC or OAVM or transact items through postal ballot in accordance with framework provided in [General Circular No.14/2020 dated 8th April 2020](#) up to 30th September 2024 (*earlier 30th September 2023*).

Securities and Exchange Board of India (SEBI)

Business Responsibility and Sustainability Report (BRSR) Core - Framework for assurance and environmental, social and governance (ESG) disclosures for value chain

[Circular No. SEBI/HO/CFD/CFD-SEC-2/P/CIR/2023/122 dated 12th July 2023](#)

SEBI has mandated the top 1,000 listed entities (**LEs**) (by market capitalisation) to make ESG disclosures as per the BRSR from financial year (**FY**) 2021-22 on a voluntary basis and mandatory from FY 2022 -23.

Based on the recommendations of the ESG Advisory Committee and pursuant to public consultation, SEBI has introduced the BRSR Core for assurance by LEs. SEBI further introduced disclosures and assurance for the value chain of LEs, as per the BRSR Core.

BRSR Core and updated BRSR

The BRSR Core is a sub-set of the BRSR, consisting of a set of Key Performance Indicators (**KPIs**) / metrics under ESG attributes. Keeping in view the relevance to the Indian / emerging market context, few new KPIs have been identified for assurance such as job creation in small towns, openness of business, gross wages paid to women etc. Further, for better global comparability intensity ratios based on revenue adjusted for Purchasing Power Parity (PPP) have been included.

Applicability

From FY 2023 –2024, the top 1,000 LEs (by market capitalisation) should make disclosures as per the updated BRSR format, as part of their Annual Reports.

LEs should mandatorily undertake reasonable assurance of the BRSR Core, as per the glide path specified below:

FY	Applicability of BRSR Core to top LEs (as per market capitalisation)
2023-24	Top 150 LEs
2024-25	Top 250 LEs
2025-26	Top 500 LEs
2026-27	Top 1,000 LEs

ESG disclosures for value chain

The LE should make disclosures of value chain as per BRSR Core as part of its Annual Report.

Applicability

ESG disclosures for the value chain will be applicable to the top 250 LEs (by market capitalisation), on a comply-or-explain basis from FY 2024-25.

The limited assurance of the above will be applicable on a comply-or-explain basis from FY 2025-26.

Value chain composition

The value chain should encompass the top upstream and downstream partners of a LE, cumulatively comprising 75% of its purchases / sales (by value) respectively. LEs should report the KPIs in the BRSR Core for their value chain to the extent it is attributable to their business with that value chain partner. Such reporting may be segregated for upstream and downstream partners or can be reported on an aggregate basis. The scope of reporting and any assumptions or estimates, if any, should be clearly disclosed.

Assurance provider

The Board of the LE should ensure that the assurance provider of the BRSR Core has the necessary expertise for undertaking reasonable assurance.

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

Frequently Asked Questions (FAQs) on the BRSR Core

FAQs dated 8th August 2023

In order to provide further clarifications with respect to the aforesaid Circular dated 12th July 2023, SEBI has issued these FAQs. Key clarifications include the following:

- Assurance of the BRSR Core is profession agnostic and need not necessarily be undertaken by a Chartered Accountant. The Board of the LE should ensure that the assurance provider appointed for assuring the BRSR Core has the necessary expertise for undertaking reasonable assurance in the area of sustainability.
- There should not be any conflict of interest with the assurance provider appointed for assuring the BRSR Core.
- In case an assurance provider sells its products or offers any non-audit or non-assurance services to a LE or its group entities, irrespective of whether the nature of the product / service is financial or non-financial, it will not be eligible to undertake assurance of the BRSR Core.
- Activities that are in the nature of audit / assurance such as providing 3rd party certifications, tax audit, system audit and tax filing etc. can be undertaken by an assurance provider for the BRSR Core for the LE or its group entities, if the LE determines that they do not pose any conflict of interest or compromise the independence of the assurance provider.
- Activities such as risk management, project management, management and consulting services, investment advisory services, investment banking services, design and implementation of information systems, rendering of outsourced financial services, actuarial services, accounting and bookkeeping services cannot be undertaken by an assurance provider for the BRSR Core for the LE or its group entities. This is an indicative and not an exhaustive list.
- Internal auditor of a LE or its group entities, cannot be appointed as the assurance provider for the BRSR Core.
- Statutory auditor of a LE can be appointed as the assurance provider for the BRSR Core.

- The term “group” means the holding company, subsidiaries, associates and joint ventures of the LE.

SEBI (Listing Obligations and Disclosure Requirements) (LODR) Regulations, 2015

Disclosure of material events / information by LEs under Regulations 30 and 30A of SEBI LODR Regulations, 2015

[Circular No. SEBI/HO/CFD/CFD-PoD-1/P/CIR/2023/123 dated 13th July 2023](#)

As per Regulation 30 of SEBI LODR Regulation, 2015 every LE should make disclosures of any events or information which, in the opinion of the Board of Directors (**BoD**) is material in accordance with the provisions of Part A of Schedule III of the SEBI LODR Regulations, 2015.

On 14th June 2023, SEBI issued a notification to amend SEBI LODR Regulations, 2015 through [SEBI LODR 2nd Amendment Regulation 2023](#). *Inter alia*, the amendments pertain to disclosure of material events or information.

SEBI has issued this circular with respect to disclosure requirements under Regulations 30 and 30A of the LODR Regulations which:

- specifies the details that need to be provided while disclosing events given in Part A of Schedule III
- specifies the timeline for disclosing events given in Part A of Schedule III
- provides guidance on when an event / information can be said to have occurred
- provides guidance on the criteria for determination of materiality of events / information.

This circular came **into force on 15th July 2023**.

The LE may be confronted with the question as to when an event/information can be said to have occurred for making disclosures under Regulation 30 read with Schedule III of the LODR Regulations.

In certain instances, it would depend upon:

- the stage of discussion, negotiation or approval: the events/information can be said to have occurred upon receipt of approval of BoD e.g., further issue of capital by rights issuance and in certain

events/information after receipt of approval of both i.e., BoD and Shareholders.

However, considering the price sensitivity involved, for certain events e.g., decision on declaration of dividends etc., disclosure should be made on receipt of approval of the event by the BoD, pending Shareholder's approval.

In case in-principle approval or approval to explore (which is not final approval) is given by the BoD, the same will not require disclosure under regulation 30 of the LODR Regulations.

- where there is no such discussion, negotiation or approval required i.e., in case of natural calamities, disruptions etc., it would depend upon the timing when the LE became aware of the event/information.

The events/information can be said to have occurred when a LE becomes aware of the events/information, or as soon as, an officer[@] of the entity has, or ought to have reasonably come into possession of the information in the course of the performance of his duties.

@ 'Officer' will have the same meaning as defined under the Companies Act, 2013 and will also include promoter of the LE

The criteria for determination of materiality of events / information is specified in Regulation 30(4) of the LODR Regulations. One of the criteria is that the omission of an event or information, whose value or the expected impact in terms of value, exceeds the lower of the following:

Threshold	Basis
2% of turnover	last audited consolidated FSs of the LE
2% of net worth	last audited consolidated FSs of the LE, except in case the arithmetic value of the net worth is negative
5% of the average of absolute value of profit or loss after tax	last 3 audited consolidated FSs of the LE

The average of absolute value of profit or loss is required to be considered by disregarding the 'sign' (positive or negative) that denotes such value as the said value / figure is required only for determining the threshold for 'materiality' of the event and not for any commercial consideration.

SEBI LODR (3rd and 4th Amendment) Regulations, 2023

[Notification No. SEBI/LAD-NRO/GN/2023/149 dated 23rd August 2023](#)

and

[Notification No. SEBI/LAD-NRO/GN/2023/151 dated 19th September 2023](#)

SEBI LODR Regulations, 2015 has been amended through the notification of the above Regulations which introduces Chapter VIA *Framework for voluntary delisting of Non-Convertible Debt Securities (NCDS) or Non-Convertible Redeemable Preference Shares (NCRPS) and obligations of the LE on such delisting* and Regulation 62A *Listing of subsequent issuances of NCDS*.

Key features of Chapter VI A include the following:

Applicability

The provisions of this Chapter will be applicable to voluntary delisting of all listed NCDS/NCRPS from all or any of the stock exchanges where such NCDS/NCRPS are listed except where:

- a LE that has outstanding listed NCDS/NCRPS issued by way of a public issue; or
- a LE has more than 200 securities holders excluding qualified institutional buyers in any International Securities Identification Number relating to listed NCDS/NCRPS;
- NCDS/NCRPS have been delisted by the stock exchanges as a consequence of any penalty or action initiated against the LE or on any grounds;
- NCDS/NCRPS have been delisted by the stock exchanges pursuant to redemption of such securities or shares;
- NCDS/NCRPS have been delisted pursuant to a resolution plan as per the Insolvency Code.

In-principle approval of the stock exchanges

- The LE should make an application to the relevant stock exchange for seeking in-principle approval for the proposed delisting of NCDS/NCRPS within 15

working days from the date of passing of the board resolution to that effect or of receipt of any other statutory or regulatory approval, whichever is later.

- The stock exchange must dispose of this application within a maximum of 15 working days from the date of receiving a complete application.

Obligations of the LE

- The LE should ensure that the process of obtaining necessary approval from all holders of NCDS/NCRPS commences within 3 working days of the grant of in-principle approval.
- All the events beginning with the placing of the agenda for delisting before the BoD till the delisting is completed, should be disclosed as material information to the stock exchanges.
- Within 2 working days from the date of the receipt of in-principle approval, the LE should disclose the following on its website and to the stock exchange- the objects and reasons for delisting, cut-off date, proposed time table from the cut-off date etc.

Key features of Regulation 62A include the following:

Listing of NCDS

- A LE should list all NCDS, proposed to be issued on or after 1st January 2024, on the stock exchange.
- A LE that has issued unlisted NCDS on or before 31st December 2023 and are outstanding on the said date, may list such securities on the stock exchange.
- A LE that proposes to list the NCDS on the stock exchange on or after 1st January 2024 should list all outstanding unlisted NCDS previously issued on or after 1st January 2024 on the stock exchange within 3 months from the date of the listing of the NCDS proposed to be listed.

Exemptions

A LE is not required to list the following securities:

- Bonds issued under Section 54EC of the Income Tax Act, 1961.
- NCDS issued pursuant to an agreement entered into between the LE of such securities and multilateral institutions.[@]
- NCDS issued pursuant to an order of any court or Tribunal, or regulatory requirement as stipulated by a financial sector regulator namely, SEBI, Reserve Bank of India, Insurance Regulatory and

Development Authority of India or the Pension Fund and Regulatory Development Authority.[@]

[@] *The securities issued by the LE under these categories should be locked in and held till maturity by the investors and should be unencumbered.*

Disclosure

A LE proposing to issue securities under the exempted categories should disclose all the key terms of such securities, including embedded options, security offered, interest rates, charges, commissions, premium, period of maturity and such other details as may be required to be disclosed by SEBI to the stock exchange on which its NCDS are listed.

Extension of timeline for verification of market rumours by listed entities

[Circular No. SEBI/HO/CFD/CFD-PoD-1/P/CIR/2023/162 dated 30th September 2023](#)

The proviso to Regulation 30(11) of the SEBI LODR Regulations, 2015 *inter alia* requires that top 100 and top 250 LEs by market capitalisation to mandatorily verify and confirm, deny or clarify market rumours. SEBI has decided to extend the effective date of implementation of this proviso. Revised timelines are as follows:

Type of LEs by market capitalisation	Earlier Timeline w.e.f.	Revised Timeline w.e.f.
Top 100 LEs	1 st October 2023	1 st February 2024
Top 250 LEs	1 st April 2024	1 st August 2024

Limited relaxation from compliance with certain provisions of the SEBI LODR Regulations, 2015

[Circular No. SEBI/HO/DDHS/P/CIR/2023/0164 dated 6th October 2023](#)

Regulation 58(1)(b) of SEBI LODR Regulations, 2015 provides that a LE should send a hard copy of the statement containing the salient features of all the documents, as specified in Section 136 of Companies Act, 2013 and Rules made thereunder to those holders of non-convertible securities who have not registered their email address either with the LE or with any depository.

SEBI has decided to extend the requirements of Regulation 58(1)(b) up to 30th September 2024. (*earlier 30th September 2023*).

[Circular No. SEBI/HO/CFD/CFD-PoD-2/P/CIR/2023/167 dated 7th October 2023](#)

SEBI [Master Circular dated 11th July 2023](#) on compliance with the provisions of the SEBI LODR Regulations, 2015 by LEs *inter alia* relaxed the applicability of Regulation 36(1)(b) for AGMs and Regulation 44(4) for general meetings (in electronic mode) held till 30th September 2023.

SEBI has decided to extend the relaxations mentioned above till 30th September 2024.

Others

Condonation of Delay in filing of Form 3, Form 4 and Form 11 under Section 67 of the Limited Liability Partnership (LLP) Act, 2008 read with the Section 460 of the Companies Act, 2013

[General Circular No. 08/2023 dated 23rd August 2023](#)

Representations have been received that certain LLPs were facing difficulties in filing the following Forms:

- **Form-3:** Pertaining to the LLP Agreement and changes therein.
- **Form-4:** Notice of appointment, cessations, changes in name/address/designation of a designated partner or partner and consent to become a partner/designation partner.
- **Form-11:** Annual Return of the LLP.

The government has granted one-time relaxation in additional fees to those LLPs who couldn't file Form 3, 4 and 11 within the due date.

Key features include the following:

- Forms 3 and 4 will be processed under Straight Through Process (STP) mode for all purposes except for change in business activities.
- Events dated 1st January 2021 and onwards- Forms 3 and 4 can be filed without additional fees.

- Events dated prior to 1st January 2021- Form 3 and 4 can be filed with additional fees which will be 2 times the normal fee for small LLPs and 4 times the normal fee for other than small LLPs.
- FY 2021-22 onwards – Form 11 can be filed without additional fees.
- Prior to FY 2021-22- Form 11 can be filed with additional fees which will be 2 times the normal fee for small LLPs and 4 times the normal fee for other than small LLPs
- These Forms will be available for filing from 1st September 2023 to 30th November 2023.
- The LLPs availing the scheme will not be liable for any action for delayed filing of Forms 3,4 and 11

Accountancy and Audit

Audit Working Paper Templates

[ICAI announcement dated 3rd July 2023](#)

Audit documentation (audit working papers) is considered the backbone of an audit. Standard on Auditing (SA) 230 *Audit Documentation* prescribes the basic principles of audit documentation. These principles need to be followed by auditors while complying with the requirements of SA 230 and specific documentation requirements of other SAs.

The ICAI has published a publication on Audit Working Paper Templates. The publication contains templates of various audit working papers which are required to be prepared by auditors during the course of their audit assignment from acceptance to execution in accordance with the requirements of SAs. The publication also contains templates of other important audit working papers e.g., Schedule III of Companies Act 2013 checklist, CARO 2020 checklist.

Further deferment of 2nd phase of Peer Review Mandate

[ICAI announcement dated 19th July 2023](#)

The ICAI had decided to mandate the Peer Review process for coverage of more firms under Peer Review process at its meeting held in January 2022. (Announcement [dated 12th February 2022](#)).

In [November 2022](#), the ICAI notified applicability of Phase II of the Peer Review Mandate from 1st April 2023.

Considering that some Practice Units which require to get themselves Peer Reviewed under the 2nd phase of the Peer Review mandate were not ready for the same, the ICAI had decided to defer the applicability of the 2nd phase of the mandate by 3 months to be made effective from 1st July 2023 as a onetime measure.

However, requests were being received from the Practice Units that they were not aware of the Peer Review mandate and therefore requested for some additional time to get themselves Peer Reviewed. Considering the same, the ICAI decided to further defer the applicability of the 2nd phase of the Peer Review mandate. Accordingly, the 2nd phase of the mandate will now be **applicable from 1st April 2024** for the following Practice Units:

- Practice Units which propose to undertake Statutory Audit of unlisted public companies having paid-up capital of not less than Rs. 500 crores or having an annual turnover of not less than Rs. 1,000 crores or having, in aggregate, outstanding loans, debentures and deposits of not less than Rs. 500 crores as on 31st March of immediately preceding FY:

For these Practice Units, there is a pre-requisite of having Peer Review Certificate.

OR

- Practice Units rendering attestation services and having 5 or more partners:
For these Practice Units, there is a pre-requisite of having Peer Review Certificate before accepting any Statutory audit.

Practice Units which accept Statutory audits on or before 31st March 2024 should ensure that they have a Peer Review Certificate at the time of signing.

Forensic Accounting and Investigation Standards (FAIS)

[ICAI announcement dated 27th July 2023](#)

The ICAI has released a [compendium of revised Forensic Accounting and Investigation Standards](#)

(FAIS). These Standards are mandatory for all the engagements conducted on or after 1st July 2023.

The FAIS, at a broad level, seek to provide:

- the professionals, with the minimum standards for undertaking Forensic Accounting and Investigation **(FAI)** engagements;
- the users of FAI services, with an indication of the quality of service that can be expected from such engagements;
- the regulators and agencies, with an appreciation of what can be expected from FAI services; and
- in general, guidance on matters of implementation and related practical issues.

The Standards are principle-based, thereby providing adequate scope for professional judgment when applying such principles to unique situations and under specific circumstances. The unique nature of forensic assignments necessitates that the application of FAI skills and the use of technical tools and techniques may vary depending on the nature of each specific engagement.

Implementation Guide (IG)

To assist users in understanding and implementing these standards effectively, ICAI has also published an [IG on FAIS](#)

The IG outlines in detail the various procedures which the professionals may find relevant and suitable to complete the engagement and fulfil the requirements of FAIS. It should be read in conjunction with all the Standards relevant to the topic. The contents of this IG are recommendatory in nature.

Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (Revised 2023)

[ICAI announcement dated 4th September 2023](#)

Section 44AB of the Income Tax Act requires an assessee to get the accounts of his business/profession audited if the total sales, turnover or gross receipts exceed the prescribed limits.

In order to guide the members of ICAI with respect to the recent changes in the provisions of Tax Audit as also to provide clarity on various aspects, the Direct

Taxes Committee of ICAI has published the revised Guidance Note **(GN)** on Tax Audit. This publication has been specifically revised keeping in view the amendments made up to Finance Act, 2023 and Tax Audit forms applicable as on date (Form No. 3CA/3CB/3CD). This GN aims to address the situations faced by the Chartered Accountants while conducting audit by offering clear explanations that will help in streamlining the Tax Audit process. Additionally, it emphasizes the importance of maintaining accurate records and the significance of a proactive approach in meeting statutory obligations.

Technical Guide on Audit of Non-Banking Financial Companies (NBFCs) (Revised 2023 Edition)

[ICAI announcement dated 6th September 2023](#)

This Technical Guide **(TG)** deals with various aspects of audit of NBFCs such as introduction of NBFCs, points for consideration in audit of NBFCs, financial reporting framework, auditing framework, areas of audit concern, operations of NBFCs, governance etc. The Appendices to the TG contain illustrative templates of audit report / certificate, illustrative audit checklist, illustrative list of master directions, circulars, RBI notifications, illustrative disclosure norms for NBFCs, illustrative list of returns to be submitted by NBFCs etc.

Ind AS

There are no relevant updates in this quarter.



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