

Upgrades to SEBI Listing Regulations:

Optimizing the current disclosure framework for debt listed issuers

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Introduction

On 12 December 2024, the Securities and Exchange Board of India (SEBI) issued the SEBI (Listing Obligations and Disclosure Requirements) (Third Amendment) Regulations, 2024 (Amendment Regulations) which have amended the SEBI (Listing Obligations and Disclosure Requirements), 2015 (SEBI LODR). The Amendment Regulations were framed pursuant to the proposals which were approved by SEBI in its board meeting held on 30 September 2024.

While the Amendment Regulations have brought about a host of amendments through which significant updates have been made to many key aspects of SEBI LODR, this ERGO will specifically focus on those updates which will impact debt financing for (equity and/ or debt) listed entities.

Key Updates

1. Updates in relation to high value debt listed entities

Under the Amendment Regulations, multiple amendments have been made to the regulations which are specifically applicable to 'high value debt listed entities' (HVDLEs). These are entities that have an outstanding value of listed non-convertible debt securities of INR 500 Crore or more (which threshold has been proposed and approved to be increased to INR 1000 crore by SEBI in its board meeting held on 18 December 2024 (SEBI Board Meeting)). These amendments include:

- (i) Updates to the related party transaction regime contained in Regulation 23 has been amended to, *inter alia*:
 - a. include further exemptions from approval by the audit committee in relation to remuneration or sitting fees paid to the directors, key managerial personnel or senior management of the listed entity unless the amount paid is material or paid to the individuals who form part of the promoter or promoter group; and
 - b. enable ratification by the audit committee of related party transactions within a period of three months from the date of the transaction or in the next meeting of the audit committee whichever is earlier, subject to the fulfilment of certain attendant conditions. Further, failure to seek ratification of the audit committee shall render the transaction voidable at the option of the audit committee and if the transaction is with a related party to any director, or is authorised by any other director, the director concerned shall indemnify the listed entity against any loss incurred by it.
- (ii) Regulation 26A, which deals with filing of vacancies in respect of certain key managerial personnel, has now been made applicable to HVDLEs.
- (iii) The definition of senior management as set out in Regulation 16, has been amended to now include *persons identified and designated as key managerial personnel other than the board of directors*.

- (iv) The procedure in relation to appointment / re-appointment of directors or managers, as set out in Regulation 17, has been revamped to bring about specific timelines in relation to filling up of vacancies excluding the time taken by regulatory, government or statutory authorities for approval of appointment. Further, exclusion from these timelines is now available to directors appointed / re-appointed by financial sector regulator, court or tribunal. It has also now been clarified that the board of directors shall meet at least four times in a '**financial** year' (which was earlier mentioned as 'year') and that the maximum gap between 'two **consecutive** meetings' (which was earlier mentioned as 'two meetings') cannot be more than 120 days.

The aforesaid amendments have sought to streamline the regulations applicable to equity listed entities and HVDLEs. This will ensure information parity *vis a vis* the investors of such entities. Further, in the context of related party transactions, the aforesaid amendments enable, *inter alia*, HVDLEs to place greater reliance on the decision making of the audit committee.

In the SEBI Board Meeting, in addition to the aforementioned increase in threshold for identification of HVDLEs, *inter alia*, the following changes were also approved to the corporate governance norms governing high-value debt listed entities: (i) introduction of a sunset clause where disclosure norms will cease to apply once the listed debt falls and remains below the threshold for three consecutive years; (ii) optionality in the constitution of nomination and remuneration committee, risk management committee, and stakeholders' relationship committee, subject to the functions of these committees being discharged by the board or audit committee (as applicable); and (iii) a requirement for HVDLEs undertaking material related party transactions to obtain a no-objection certificate from the debenture trustee who in turn will obtain it from the debenture holders (holding more than 50% debentures in value), prior to seeking shareholder approval under Regulation 23 of SEBI LODR. The notification of these amendments approved at the SEBI Board Meeting is awaited.

2. Updates in relation to equity listed entities

Disclosures in relation to outcome of board meetings

Under Regulation 30(6)(i) of SEBI LODR, a time period of 30 minutes from the closure of the meeting of the board of directors was provided to disclose to the stock exchanges the outcome of such meetings. Keeping in mind operational aspects and the fact that the board meetings may spill over to beyond trading hours or even the next day, under the Amendment Regulations, a relaxation has been provided such that in case the board meeting closes after the normal trading hours (time period for which the recognized stock exchanges are open for trading for all investors) but more than 3 hours before the beginning of the next normal trading hours, the disclosure shall be made within 3 hours from the closure of the board meeting.

This relaxation will benefit equity listed entities which are desirous of raising debt, as the existing 30 minutes timeline has always been considered to be onerous from a timing perspective and listed entities can now time their board meetings to take advantage of this relaxation. Further, especially in cases of fund raising by way of issuance of foreign bonds, this relaxation comes as a much needed respite as the board meetings in relation pricing of the bonds and subsequently their allotment are generally conducted post close of normal trading hours as the pricing and allotment / listing is generally aligned with US / Europe trading hours.

Further, the Amendment Regulations also clarify that the outcome of board meetings in relation to fund raising will not apply to fund raising by way of issuance of security receipts, securitised debt instruments or money market instruments insofar as the timeline of 30 minutes or 3 hours, as the case may be will not be applicable to these cases of fund raising.

Disclosure on Website

Under the earlier regulations, schedule of analysts or institutional investors meet was required to be disclosed at least two working days in advance (excluding the date of the intimation and the date of the meet) and presentations made by the listed entity to analysts or institutional investors were also required to be disclosed. However, a clarification has now been provided under Regulation 46 of the SEBI LODR that the presentations prepared by the listed entity for analysts or institutional investors meet shall be disclosed to the recognized stock exchanges prior to the beginning of such events.

This is a welcome move especially for listed entities which issue foreign bonds as preparation of investor presentations for these meets of institutional investors is generally a requirement for such listed entities at the time of pricing of the foreign bonds. This will ensure that there is no information asymmetry between different sets of investors.

3. Updates in relation to debt listed entities

Format for Intimation to Stock Exchange

Regulation 50 of SEBI LODR has been amended to stipulate that all the intimations to the stock exchange shall be made in uniform format i.e., XBRL format. Earlier debt listed entities were filing disclosures under both XBRL as well as PDF format. Thus, in order to ensure parity between provisions under SEBI LODR for equity and debt listed entities, the aforesaid amendment has been made to ensure that a similar provision regarding disclosures to be filed in XBRL format is specified for debt listed entities as specified for equity listed entities.

Approval of Financial Results

According to the Regulation 52(2) of the SEBI LODR, the quarterly financial results for disclosure were required to be taken on record in the meeting of board of directors and signed by either the managing director or executive director. The Amendment Regulations have revised this position to bring it in line with the similar requirement applicable to equity listed entities and now the quarterly results shall be approved by the board of directors and must be signed by either the chairperson or managing director or whole time director or if no one is available, then a director duly authorised by the board of directors to sign the financial results must do so.

Reduction in timeline for intimation of record date to stock exchange

Under the earlier Regulation 60 of the SEBI LODR, a debt listed entity was required to give an advance notice of 7 days for intimation of record date to the stock exchanges. Considering that the record date is already standardised to 15 days prior to the due date of payment obligation and the requirement of 3 day intimation of record date excluding the date of intimation and record date already in place under Regulation 42(2) of SEBI LODR for rights issue, under the Amendment Regulation, the timeline has been reduced from 7 days to 3 days (excluding date of intimation and record date) for intimation of record date to stock exchange.

The Amendment Regulation states that the record date shall also be fixed as per SEBI (Issue and Listing of Non-Convertible Securities) Regulation, 2021. This ensures homogeneity across the major regulations applicable to listed entity.

Comments

The Amendment Regulation focuses on corporate governance changes and aligning the regulations applicable to debt issuance of securities with that of equity. They have considerably clarified the disclosure requirements, minimised duplicity and provided a leeway to debt listed entity to ensure better compliance.

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