

VINOD KOTHARI & COMPANY

VINOD KOTHARI CONSULTANTS PRIVATE LIMITED

November, 2022

CORPORATE
AND
SECURITIES
LAWS

FINANCIAL
SERVICES

RESOLUTION
AND
INSOLVENCY
LAWS

SAMAGRATA

COLLECTION OF REGULATORY UPDATES

WHAT'S INSIDE?

We are always on our forefront to apprise our clients, associates as well as those seeking knowledge with recent updates on various laws and regulations. We have consolidated various regulatory announcements and amendments by respective regulators, along with our analysis, for the month of November, 2022. This is supported with reference materials and our write ups on the same.

This issue also covers articles on other contemporary and relevant areas of corporate interest.

We have further added a new section, for all that's recently happening in the real corporate environment and relevant to our readers.

Help us improve!

Feedback/suggestions invited: Feel free to drop a mail to neha.malu@vinodkothari.com

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Section 1: Corporate and Securities Law

Master Circular on issuance of No Objection Certificate ('NOC') for release of 1% of Issue Amount

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
<p>All Companies whose securities are listed on SEBI recognized Stock Exchange</p>	<p>Pursuant to reg. 38 (1) of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 ('ICDR Regulations') before opening of the subscription list, an issuer company is required to deposit 1% of the issue size with the Designated Stock Exchange. The deposited amount will be released to the issuer after obtaining the NOC from SEBI.</p> <p>In this regard SEBI has issued a 'Master Circular on issuance of NOC for release of 1% of Issue Amount' providing procedure for obtaining the NOC:</p> <ol style="list-style-type: none"> 1. For the purpose of obtaining the NOC from SEBI, the issuer is required to submit an application on its letter head in the format specified in Annexure – A of the Master Circular, after the expiry of 2 months from the date of listing on the latest stock exchange which permitted listing. 2. The application for NOC has to be filed by the Post Issue Lead Merchant Banker ('PILMB'), and all issue related complaints must be resolved by the PILMB/ issuer, with the concerned designated office of SEBI under which the registered office of the issuer falls, as specified in Annexure – B of the Master Circular. 3. On the date of application for NOC, the bank guarantees, if any, which form part of the 1% deposit by issuer should have a residual validity of minimum of 2 months. 4. The PILMB must submit a certificate confirming that all the SCSBs involved in ASBA have unblocked ASBA accounts. The application for NOC will be considered incomplete if the same is not accompanied by a confirmation by PILMB that all the accounts in ASBA have been 'unblocked'. 5. SEBI will issue the NOC after satisfying itself that the complaints arising from the issue received on SCORES have been resolved to its satisfaction and 	<p>No immediate actionable. The given Master Circular is a compilation of all existing circulars on the subject.</p>

	<p>that the issuer has been submitting Action Taken Reports on the complaints in the format as specified in Annexure – C. Further, the issuer has paid the fees due to intermediaries associated with the issue, including the ASBA Banks.</p> <p>The said Master Circular is a compilation of the below mentioned circulars dealing with ‘No Objection Certificate for release of 1% of issue amount’ that have now been rescinded:</p> <ol style="list-style-type: none"> 1. Circular no. OIAE/Cir-1/2009 dated November 25, 2009; 2. Circular no. CIR/OIAE/001/2015 dated November 30, 2015; <p>Circular no. SEBI/HO/OIAE/IGRD/CIR/P/2021/588 dated July 05, 2021.</p>	
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Master Circular on the redressal of investor grievances through the SEBI Complaints Redress System (‘SCORES’) platform

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
<p>All Companies whose securities are listed on SEBI recognized Stock Exchange</p>	<p>SEBI has issued a Master Circular on the redressal of investor grievances through the SCORES platform.</p> <p>The Master Circular broadly deals with the following:</p> <ol style="list-style-type: none"> 1. SCORES Authentication for intermediaries and Market Infrastructure Institutions (‘MIIs’) 2. SCORES Authentication for companies intending to list their securities on SEBI recognized stock exchanges 3. Handling of complaints by stock exchanges against certain listed companies. 4. Action for failure to redress investor complaints by such listed companies: 5. Action after redressal of investor grievance by such listed companies: 6. Other general provisions regarding investor grievance redressal 7. Nature of complaints for which the circular is applicable 8. Timelines for handling of complaints and actions in case of non-compliances <p>The said Master Circular is a compilation of the below mentioned circulars dealing with investor grievances redressal mechanism, that have now been rescinded:</p>	<p>No immediate actionable. The given Master Circular is a compilation of all existing circulars on the subject.</p>

	<ol style="list-style-type: none"> 1. Circular no. CIR/OIAE/1/2014 dated December 18, 2014; 2. Circular no. SEBI/HO/OIAE/IGRD/CIR/P/2018/58 dated March 26, 2018; 3. Circular no. SEBI/HO/OIAE/IGRD/CIR/P/2019/86 dated August 02, 2019; 4. Circular no. SEBI/HO/OIAE/IGRD/CIR/P/2020/152 dated August 13, 2020; 5. Circular no. SEBI/HO/OIAE/IGRD/CIR/P/2020/208 dated October 22, 2020; 6. Circular no. SEBI/HO/OIAE/IGRD/CIR/P/2021/542 dated October 14, 2021. 	
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SEBI (Issue and Listing of Non-Convertible Securities) (Second Amendment) Regulations, 2022

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
Issuers who have or propose to have listed their NCS	<p>SEBI has by way of the SEBI (Issue and Listing of Non-Convertible Securities) (Second Amendment) Regulations, 2022 inserted a new Chapter VIA on 'Online Bond Platform Providers' in the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 ('NCS Regulations').</p> <p>A new regulation – reg. 51A has been inserted in the NCS regulations under the new chapter VIA. The regulation deals with registration of online bond platform providers and provides that:</p> <ol style="list-style-type: none"> 1. A person intending to act as an online bond platform provider will be required to first obtain a certificate of registration from SEBI as a stock broker under the SEBI (Stock Brokers) Regulations, 1992 and must comply with the conditions of registration and such other requirements as specified by SEBI from time to time. 2. "Online bond platform" means any electronic system, other than a recognised stock exchange or an electronic book provider platform, on which the debt securities which are listed or proposed to be listed, are offered and transacted. 	No immediate actionable. Debt listed entity to take note of the said amendments.

SEBI (SAST) (Amendment) Regulations, 2022

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
Listed entities	<p>SEBI has by way of the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2022 amended reg. 22 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ('SAST Regulations').</p> <p>Reg. 22(2) of the SAST Regulations, pertaining to 'Completion of acquisition' has been amended to include, in addition to cash consideration, the provision of unconditional and irrevocable bank guarantee issued in favour of the manager to the open offer by any scheduled commercial bank, subject to the approval of the Reserve Bank of India.</p> <p>However, such bank guarantee can only be issued by scheduled commercial banks that have "AAA" rating from a credit rating agency registered SEBI, on any of its long-term debt instrument.</p>	No immediate actionable, Companies to take note of the said amendments.

SEBI (Real Estate Investment Trusts) (Amendment) Regulations, 2022

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
REITs	<p>SEBI vide the aforementioned notification has made amendments in the REIT Regulations, the following are the amendments</p> <ol style="list-style-type: none"> 1. Reduction in minimum collective holding of the sponsor and sponsor group - As per the existing REIT regulations, the Sponsors and sponsor group, while the earlier requirement was that the sponsor(s) and sponsor group(s) shall collectively hold a minimum of twenty five percent. of the total units of the REIT after initial offer on a post-issue basis, however vide this amendment the said requirement has been brought down to a minimum of Fifteen percent on a post-issue basis. 2. Insertion of regulation 11 (4) - Regulation 11 (4) has been inserted which provides that the sponsor and sponsor group shall be liable to the 	REITs to ensure compliance of the said requirements. No other immediate actionables.

	REIT, trustees and unit holders for all acts of commission or omission, representation or covenants related to the formation of the REIT and the sale or transfer of assets or holding company or SPV to the REIT.	
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Applicability of GST on fees remitted to SEBI

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any															
Issuers who have listed and/ or propose to list Non-convertible Securities, Securitised Debt Instrument, Security Receipts or Commercial Paper	<p>SEBI vide circular no. SEBI/HO/GSD/TAD/CIR/P/2022/0097 dated July 18, 2022 had informed all registered intermediaries and listed entities that w.e.f the said dated all fees and other charges payable to SEBI shall be subject to GST at the rate of 18%.</p> <p>Further to the said circular, SEBI has now amended Chapter XX its operational circular no. SEBI/HO/DDHS/P/CIR/2021/613 dated August 10, 2021 on 'Issue and listing of non-convertible securities, securitised debt instruments, security receipts, municipal debt securities and commercial paper' ('Operational Circular').</p> <p>Chapter XX of the Operational Circular that deals with 'Bank account details for payment of fees' provides a format in which the particulars of remittance have to be sent to SEBI <i>via</i> email immediately after the remittance is made.</p> <p>Pursuant to the requirement to levy of GST on fees and other charges payable, SEBI has by way of the present circular amended the format in which the particulars of remittance have to be sent to SEBI via email.</p> <p>The revised format is as under:</p> <table border="1"> <thead> <tr> <th>Sl. No</th> <th>Particulars</th> <th>Remarks</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Date of remittance</td> <td></td> </tr> <tr> <td>2.</td> <td>Amount remitted (break up of fee and GST thereof)</td> <td></td> </tr> <tr> <td>3.</td> <td>Remitter a/c no</td> <td></td> </tr> <tr> <td>4.</td> <td>Name of the origin bank</td> <td></td> </tr> </tbody> </table>	Sl. No	Particulars	Remarks	1.	Date of remittance		2.	Amount remitted (break up of fee and GST thereof)		3.	Remitter a/c no		4.	Name of the origin bank		<p>Companies to take note of the revised format and ensure that at the time of payment of any fees and other charges to SEBI, the particulars of remittance are sent to SEBI immediately after the remittance is made <i>via</i> email in the revised format prescribed.</p> <p>The email has to be sent to: od-ddhs@sebi.gov.in</p>
Sl. No	Particulars	Remarks															
1.	Date of remittance																
2.	Amount remitted (break up of fee and GST thereof)																
3.	Remitter a/c no																
4.	Name of the origin bank																

5.	Remitter IFSC code	
6.	UTR No./Transaction Ref No	
7.	Payment product code (NEFT, RTGS etc)	
8.	Registered name of the remitter	
9.	Registered office address of remitter including the State and UT	
10.	E mail address	
11.	Complete address from where the money is being remitted including State/UT	
12.	GST registration number of the remitter	
13.	Purpose for which remittance is made	

Consultation Paper on Review of disclosure requirements for material events or information under SEBI (LODR) Regulations, 2015

- Consultation Paper can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
-	<p>Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('Listing Regulations') requires listed entities to disclose material events or information to the stock exchanges.</p> <p>SEBI has issued the present Consultation Paper for public review in order to streamline the disclosure requirements for material events or information required under regulation 30 of the Listing Regulations. The Consultation Paper proposes amendments in regulation 30 and para A and para B of Part A of Schedule III of the Listing Regulations, SEBI circular no. CIR/CFD/CMD/4/2015 dated September 09, 2015 on 'Continuous Disclosure Requirements for Listed Entities' ('the Circular') and quarterly compliance report on corporate governance required to be submitted by listed entities under regulation 27 of the Listing Regulations ('CG Report').</p>	<p>Read our write-up on the same here https://vinodkothari.com/2022/11/proposed-amendments-to-materiality-of-events-and-information/</p>

Registration and regulatory framework for Online Bond Platform Providers ('OBPPs')

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
<p>Issuers who have listed and/ or propose to list debt Securities</p>	<p>During the past few years, there has been an increase in the number of Online Bond Platforms ('OBPs'), offering debt securities (obtained through subscriptions to public issues/private placements and through secondary market), to non-institutional investors. However, their operations were outside SEBI's regulatory purview.</p> <p>For this reason, SEBI has by way of the SEBI (Issue and Listing of Non-Convertible Securities) (Second Amendment) Regulations, 2022 inserted a new Chapter VIA on 'Online Bond Platform Providers' in the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 ('NCS Regulations'). Reg. 51A dealing with the registration of OBPPs has been inserted in the NCS Regulations.</p> <p>SEBI has by way of the present circular issued the following operational guidelines for OBPs in the matter:</p> <ol style="list-style-type: none"> 1. Roles and obligations: OBPs to appoint a Company Secretary as a compliance officer, have least two qualified KMPs with experience of at least 3 years in the securities market and a SCORES authentication. 2. Technology: OBPs to own, operate and maintain robust technology infrastructure with a high degree of reliability, availability, scalability and security in respect of its systems, data and network, appropriate to support its operations and manage the associated risks. 3. Operating Framework: This includes the following <ol style="list-style-type: none"> 3.1 Access and Participation; 3.2 Agreement with sellers of debt securities; 3.3 KYC for on-boarding investors and sellers; 3.4 Execution of orders; 3.5 Risk Profiling; 3.6 Issue of order receipt, deal sheet and quote receipt; 3.7 Issuance of alerts to investors and sellers. 4. Minimum disclosure requirements: OBPs to ensure compliance with the minimum disclosure requirements as specified in Annex –B of the circular. 	<p>In case of SEBI registered Stock Broker, companies will be permitted to operate as OBP and hence, it may take note of the operational guidelines laid down in the circular.</p>

	<p>5. Advertisements: OBPs to ensure that its advertisements are be in conformity with the Advertisement Code specified in Annex –C of the Circular.</p> <p>6. Investor grievance redress mechanism: OBPs to take steps to redress of grievances of the investors within 30 days from the date of the receipt of the complaint.</p> <p>7. Risk Management: OBPs to ensure that they have a comprehensive risk management framework covering all aspects of its operations.</p> <p>8. Handling exigencies: OBPs to establish appropriate safeguards and procedures to deal with exigencies like suspension or cessation of trading in debt securities, cancellation of orders or transactions by the investors and sellers, malfunctions or erroneous use of its systems by investors and sellers, or other unforeseen situations.</p> <p>9. Disclosure of conflict of interest: OBPs to identify and disclose on all instances of conflict of interest, if any, arising from its transactions or dealings with related parties.</p> <p>10. Data integrity: OBPs to maintain all data relating to its activities in an easily retrievable media and ensure confidentiality and security of the same.</p> <p>Reporting and disclosure requirements: Stock Exchange(s) may require OBPPs to disclose information / reports periodically.</p>	
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SEBI (Listing Obligations and Disclosure Requirement) (Sixth Amendment) Regulations, 2022

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
All Companies whose securities are listed on SEBI recognized Stock Exchange	SEBI has by way of the SEBI (Listing Obligations and Disclosure Requirement) (Sixth Amendment) Regulations, 2022 introduced the following amendments in the SEBI (Listing Obligations and Disclosure Requirement) Regulation, 2015 ('LODR Regulations'): 1. <u>Rationalisation of appointment, reappointment, and removal process of Independent Directors:</u> SEBI had <i>vide</i> the SEBI (LODR) (Third Amendment) Regulations, 2021 amended reg. 25 of LODR Regulations and mandated the requirement of special resolution for appointment, re-appointment	Companies to ensure that: 1. In case of any appointment of Independent Directors on or after November 14, 2022, the appointment is in line with the amended provisions. 2. Companies to ensure that the financials for

	<p>and removal of independent directors w.e.f. January 01, 2022.</p> <p>a. Appointment of Independent Directors: SEBI has introduced an alternate process of appointment of independent directors in case of failure to appoint the director by the way of special resolution. The same will be applicable only for first time appointment.</p> <p>In case the resolution has not been passed by special majority, it will be considered as passed if the following conditions are satisfied:</p> <ol style="list-style-type: none"> i. The resolution is passed with an ordinary majority of all the shareholders including promoters and promoter group. ii. It is passed with an ordinary majority of the public shareholders. <p>b. Removal of Independent Director</p> <ol style="list-style-type: none"> i. If appointed by SR - removal by SR ii. If appointed by ordinary majority of all shareholders and public shareholders - removal to be approved in same manner. iii. ID re-appointed can be removed only by passing SR <p>2. <u>Clarification for submission of financial results by an entity that has listed in Non-Convertible Securities ('NCS Listed Entity')</u></p> <ol style="list-style-type: none"> a. Financial results of the last quarter should be submitted within 60 days from the end of last quarter to the stock exchange. b. The statement of utilization of proceeds and statement of material deviation if any should be submitted along with the financial statements in the format specified by SEBI. c. NCS listed entities will be required to publish consolidated financial statements only in the newspaper. d. The line items mentioned in the Reg 52 (4), in case any ratio is not applicable, then the entities shall submit other ratio/equivalent financial information as required under the Applicable Law. e. Cash flow statement and statement of assets and liabilities to be submitted for the half year by the way of a note to the financial statements at the end of half year. <p>3. <u>Changes in scheme of arrangement by only NCS</u></p>	<p>the last quarter of the financial year, when submitted, shall be as per the revised timeline along with the requisite documents.</p> <p>Our detailed write-up on the LODR sixth amendment can be accessed on: https://vinodkothari.com/2022/11/sebi-lodr-amendments/</p> <p>Our snippets on the LODR sixth amendment can be accessed here: https://vinodkothari.com/2022/11/sebi-rationalizes-id-appointment-and-removal-process-for-first-term-re-appointment-process-to-be-rationalized-post-amendment-in-ca-2013/ https://vinodkothari.com/2022/11/sebi-notifies-amendments-in-lodr-for-ncs-entities-scheme-of-arrangement-submission-of-financial-results/</p>
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	<p><u>listed entities</u></p> <ol style="list-style-type: none"> Every NCS listed entity filing the scheme of arrangement under section 230-234 of the Companies Act, 2013 with the NCLT shall file the scheme of arrangement with the Stock Exchange for obtaining the NOC before filing with the NCLT. The validity of the NOC shall be for a period of 6 Months. On receiving the sanction from the stock exchanges the listed entity shall submit such documents, to the stock exchange(s), as may be specified by the Board and/ or stock exchange(s) from time to time. The said requirement shall not be applicable to restructuring proposals approved by NCLT as a part of a Resolution Plan under section 31 of IBC, 2016. <p>The fees payable to stock exchange shall be as per amended Schedule XI.</p>	
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SEBI (Alternative Investment Funds) (Fourth Amendment) Regulations, 2022

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
AIFs	<p>SEBI vide the notification has notified certain amendments in the AIF regulations, the same are covered in brief here:</p> <ol style="list-style-type: none"> For computing the investible funds, the tenure for which the expense shall be considered has been changed from the launch of the scheme till the last day of its term to from the date of first close till the last date of the term of the scheme; Now, this first close of the scheme shall be declared by the AIF in the manner as may be specified by the Board from time to time and in case it fails to declare the first close of the scheme in the specified manner, it shall be required to file a fresh application for launch of the scheme by paying the requisite scheme fee; In case of change of sponsor or manager or control of the AIF, prior approval of the Board to be obtained subject to levy of fees and any other conditions as may be specified by the Board; <p>It is to be ensured that the assets and liabilities of each scheme of an AIF along with bank accounts and</p>	In case the Company has any SEBI registered AIFs within the group, then the Company may take note of the said amendments.

	securities are segregated from other schemes of the AIF.	
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Consultation paper on Review of SEBI (Buyback of Securities) Regulations, 2018

- Consultation Paper can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
-	<p>SEBI has issued a Consultation Paper for review of SEBI (Buyback of Securities) Regulations, 2018 ('Buyback Regulations') in order to:</p> <ol style="list-style-type: none"> streamlining the process of buy-backs from the open market, i.e., through the book-building process and through stock exchanges, with a view to making such process robust, efficient, transparent and shareholder friendly; refining the process of buy-backs through tender offers; review of timelines for buy-backs; and aligning the Buyback Regulations with the Companies Act, 2013. 	<p>Our write up on the same can be accessed at:</p> <p>https://vinodkothari.com/2022/11/ease-of-corporate-slimming-sebi-proposes-substantial-relaxation-of-buy-back-norms/</p>

Scheme of Arrangement by entities who have listed their Non-convertible Debt securities/ Non-convertible Redeemable Preference shares

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
All entities who have listed their Non-convertible Debt securities/ Non-convertible Redeemable Preference Shares.	<p>The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR Regulations') have been amended by the SEBI (Listing Obligations and Disclosure Requirement) (Sixth Amendment) Regulations, 2022 dated November 14, 2022. The said amendments have inserted of reg. 59A and 94A with respect to 'Scheme of Arrangement by entities who have listed their NCDs/ NCRPS'.</p> <p>Further to the said amendment, SEBI has by way of the present circulars laid down operational aspects with respect to the scheme of arrangement by entities who have listed their NCDs/ NCRPS. The highlights of the circular are listed below:</p> <ol style="list-style-type: none"> <u>Mandatory disclosures in the Draft Scheme of Arrangement:</u> 	<p>No actionable. Companies to take note of the present circular.</p> <p>The provisions of the LODR Regulations w.r.t Scheme of Arrangement and the operational circular are applicable to entities that have listed their non-convertible debt securities/ non-convertible redeemable preference shares.</p> <p>Our snippets on the same can be accessed at:</p>

	<p>The listed entity will be required to disclose the following information in the draft scheme of arrangement including but not limited to:</p> <ol style="list-style-type: none"> i. Face Value; The terms of payment of dividends/ coupon including frequency, etc.; Tenure/ Maturity; ii. Credit Rating; iii. Redemption: terms of redemption, amount, date, redemption premium/discount, & early redemption scenarios, if any. iv. Safeguards for the protection of holders of NCDs/ NCRPS, exit offer to the dissenting holders of NCDs/ NCRPS, if any v. Other embedded features (put option, call option, dates, notification times, etc. vi. Latest audited financials along with notes to accounts and any audit qualifications. (Financial statements should not be later than six months prior to the date of listing). vii. An auditors' certificate certifying the payment/ repayment capability of the resultant entity. viii. Additional requirements in case of conditions for schemes of arrangement involving unlisted entities: <ol style="list-style-type: none"> i. Listed entity to include information pertaining to the unlisted entity involved in the scheme in the format specified for abridged prospectus as provided in Part B of Schedule I of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021. ii. Unlisted entities can merge with only those Listed entity which are listed only who are listed on exchanges having nation wide trading terminal. <p>2. <u>List of documents to be submitted to Stock Exchanges ('SEs') (prior to filing of application with NCLT):</u></p> <ol style="list-style-type: none"> a. Draft scheme of arrangement/ amalgamation/ merger/ reconstruction, etc.; b. Valuation Report (including an undertaking that no material event impacting the valuation has occurred during intervening period); c. Fairness opinion on the valuation of assets from SEBI registered Merchant Banker; d. Report from the BOD of the listed entity, recommending the draft scheme along with the valuation report, while ensuring it is not 	<p>https://vinodkothari.com/2022/11/sebi-circular-operational-guideline-on-scheme-of-arrangement-for-entities-having-listed-debt-securities/</p> <p>https://vinodkothari.com/2022/11/schemes-of-arrangements-by-debt-listed-entities-to-undergo-stock-exchange-pre-scrutiny/</p>
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detrimental to the securities holders. The report to contain the following points

- i. Impact of the scheme on the holders of NCDs/ NCRPS.
- ii. Safeguards for the protection of holders of NCDs/ NCRPS.
- iii. Exit offer to the dissenting holders of NCDs/ NCRPS, if any.
- e. Audited Financials (not older than 6 months) for the last 3 years;
- f. Auditors certificate certifying that the resultant entity is capable of payment of interest/ repayment of principal;
- g. Accounting treatment proposed in the scheme is in conformity with the applicable accounting standards. [Format of the certificate provided vide Annexure II to the Circular].
- h. Detailed Compliance Report - certified by CS, CFO and MD confirming compliance with regulatory requirements provided in the scheme and accounting standards.
- i. Declaration on past defaults of obligations out of listed debt obligations (entities forming part of the scheme) if any.
- j. Declaration stating whether the listed entity or any of its promoters or directors is a wilful defaulter.
- k. NOC from DT (to be submitted to SE before the receipt of NOC from SEs)

3. Post approval compliance by Listed Entity: Within 60 days of approval of Scheme by the NCLT, Listed Entities to:

- a. make newspaper advertisements an English national daily and a regional daily having wide circulation at the place where the registered office of the transferee entity is situated, disclosing the following:
 - i. Name, address, capital structure (pre-post), debt structure (Pre-post);
 - ii. Details of promoters, education qualification, experience, address)
 - iii. Details of Board of Directors.
 - iv. Business Overview
 - v. Latest restated audited financials - should not be older than 6 months
 - vi. Outstanding material litigation and defaults of the transferee entity, promoters, directors or any of the group companies.
 - vii. Regulatory Action, if any - disciplinary action taken by SEBI or Stock Exchange(s) against the

	<p>Promoters in last five financial years.</p> <p>viii. Brief details of outstanding criminal proceedings against the Promoters.</p> <p>ix. Any material development after the date of the balance sheet.</p> <p>ensure that NCDs/NCRPS issued pursuant to approval of scheme get listed and trading commences.</p>	
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SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2022

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
Mutual Funds; AMCs and Fiduciaries / Intermediaries	<p>SEBI has notified the SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2022. The said amendment regulations have inserted a separate chapter in the SEBI (Prohibition of Insider Trading) Regulations, 2015 ('PIT Regulations') to specifically bring within the purview of the PIT regulations transactions in the units of Mutual Fund schemes, both close ended and open ended. Several existing provisions of the PIT regulations have also undergone changes.</p> <p>The amendments provide that, an organisation that in the course of its business operations, handles UPSI relating to a mutual fund scheme or its units will be required to formulate a code of conduct to regulate, monitor and report trading by their Designated Persons ('DPs') and their immediate relatives by adopting the minimum standards set out in Schedule C of the PIT Regulations.</p> <p>Further Schedule C has been amended to include the following:</p> <p>In case of an intermediary or fiduciary dealing in the units of mutual funds, the code of conduct must specify:</p> <ol style="list-style-type: none"> the period within which a DP who is a connected person of the mutual fund/asset management company/trustees and is permitted to trade in the units of such mutual fund, shall not execute a contra trade. The said period should not be less than two months. <p>in case a violation of the PIT Regulations has been observed, the intermediary or fiduciary must promptly inform the same to the stock exchange in the form and manner as may be specified by SEBI.</p>	<p>If a Company has access to UPSI of mutual funds/asset management companies/ trustees, upon notification of the amendment regulations, it will be required to amend its Code of Conduct under Schedule C of the PIT Regulations to incorporate the amendments specified herein.</p> <p>Our write up on the same can be accessed at:</p> <p>https://vinodkothari.com/2022/11/mutual-fund-units-now-under-the-net-of-insider-trading-regulations/</p> <p>Our FAQs on Insider Trading Framework for Mutual Funds can be accessed at:</p> <p>https://vinodkothari.com/2022/11/faqs-on-insider-trading-framework-for-mutual-funds/</p>

Our articles of corporate interest

[Guide to Compliance Certificate for Structured Digital Database under PIT Regulations](#)

- **By Vinod Kothari, Managing Partner**

The requirement of maintaining a structured digital database (SDD) arises from Reg 3(5) of the PIT Regulations, 2015. The PIT Regulations itself does not talk about any compliance certificate as to maintenance of the SDD. However, the requirement of such a certificate emanates from the mails sent by national stock exchanges dated 4th August, 2022. The requirement of the certificate was made effective from Q1 of 2022-23; however, no format of the certificate was provided so far. Vide the BSE's notice no. 20221028-15 and 20221028-16 dated 28th October, 2022, issued for equity and debt listed entities respectively, the stock exchange has provided the format of the certificate. The said letter also states that the compliance certificate may be given either by the compliance officer of the company, or by a practising company secretary. In this write up, the Author has tried providing a basic guidance on the compliance certificate. While the article is primarily focused on certification by a practising professional, the approach may, with appropriate modifications, apply to certification by the compliance officer too.

[Secondment contract as 'services': Supreme Court held under Indian taxation regime](#)

- **By Neha Sinha, Assistant Legal Advisor**

Secondment of employees have become increasingly popular amongst corporate entities which enter into secondment arrangements to leverage the expert knowledge and specific skill sets. The seconded employees work on a deputation basis in the seconded companies they are seconded to which require their technical expertise on certain matters. Since the seconded employee works for the seconded company during the secondment period, a pertinent question arises on whether the seconded employee becomes an employee of the seconded company. If yes, then what are the likely implications in the context of service tax. In this write up, the Author has analyzed the above concern in light of the judgement of the Supreme Court in the recent case of CC, CE & ST v. M/S Northern Operating Systems Pvt. Ltd.

Section 2: Financial Sector Updates

Exceptions, modifications and adaptations for financial products, financial services or financial institutions in an International Financial Services Centre

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
Companies operating in IFSC	<p>The provisions of Companies Act, 2013 are applicable to companies operating in IFSC except in case there is a specific exemption to that effect.</p> <p>However, in case of provisions of Companies Act, 2013 w.r.t. fund raising, reduction of capital, buy-back, mergers and amalgamations, non-cognizable offences, etc., the reference was made to SEBI.</p> <p>Since SEBI is not the regulator of companies operating in IFSC, the Ministry of Finance vide the aforementioned circular has made amendments to the relevant sections, provisions by changing the reference from SEBI to International Financial Services Centres Authority ('IFSCA') for such companies. This brings a clarity that IFSCA shall exercise the powers of the regulator for the companies operating from IFSC.</p>	<p>No immediate actionables, companies operating from IFSC to take note of the said changes made.</p> <p>Read our article on Financial entities in IFSC: A primer</p>

Our articles of financial interest

Introduction of the Digital Rupee (e₹)

- By Shubhojit Shome, Senior Executive

On 7th October, 2022 the RBI published a Concept Note on Central Bank Digital Currency (CBDC) that intended to “create awareness about CBDCs in general and the planned features of the digital Rupee, in particular”. Chapter 8 (“Way Forward”) of the Concept Note provided for a phased approach towards implementation that involved building a prototype and running large scale pilots before actual launch of the ‘Digital Rupee’. The guiding principle being that the introduction of Digital Rupee should cause only a minimal or no disruption to the financial system. In this write-up, the Author has discussed the primary design choices that the Note examined.

Comparison between NBFC-ICC, CIC and AIF

- By Team Finserv

Classification of NBFCs has been revised with effect from 1st October, 2022, as per the RBI Scale-Based Regulatory Framework. Further, RBI has merged three categories of NBFCs viz. Asset Finance Companies (AFC), Loan Companies (LCs) and Investment Companies (ICs) into a NBFC - Investment and Credit Company (NBFC-ICC). This post presents a tabular difference between NBFC-ICC, CIC and AIF.

Reintroduction of the Data Protection Bill: Analysing the Implications for FinTech

- By Team Finserv

The Ministry of Electronics and Information Technology (MeitY) introduced the revised draft of the Digital Personal Data Protection Bill, 2022 (‘Bill’) on November 18, 2022 for public comments. The Bill is intended to be technology and sector-agnostic and hence, shall serve as a broad guide for digital data protection across all sectors. It is expected that sector-specific regulators shall develop regulations based on the legislation passed based on the said Bill. In this write-up, we intend to cover the broad prescriptions of the said draft Bill and their impact on the fintech industry.

Recent changes in the regulatory framework for the long-term bond market

- By Team Finserv

The HR Khan Committee recommended the Electronic Book Mechanism (‘EBM’) for private placement of debt securities, which was at the time, mandatory for issuances over Rs. 500 crore, to be extended to all primary market issuances. Revised framework for EBM rolled out in January, 2018 had reduced the limit to Rs. 200 crore and subsequently to Rs. 100 crore or more via the Operational Circular dated August 10, 2021. SEBI has now, vide its circular dated October 10, 2022, introduced various changes to the EBP Framework, including further reduction of the limit. In this write-up, we have tried to discuss in detail the implication of the recent changes in the regulatory framework for the long term bond market from issuer and investor’s perspective.

Finance Companies / Units in International Financial Services Centre (IFSC)

- By Anirudh Grover, Executive

International Finance Service Centre (IFSC) is a designated zone physically situated in India but is not considered a part of India. As the name suggests, it is a designated centre set up for the purpose of enabling international financial services, the key word here being international. The purpose is not only to bring global funds into the country but also facilitate such transactions through this zone which otherwise would have been carried out by foreign branches of domestic entities. This purpose is intended to be achieved through establishment of various businesses such as banking units, fund management entities, finance companies etc. In this write-up, the Author has tried to picture a comprehensive image of all the aspects of finance entities starting from what is meant by finance companies to all the regulatory exposure it has to bear while undertaking any kind of activities.

Section 4: Special Mentions



Mr. Vinod Kothari
Managing Partner

- Session in MSOP on the topic 'Recent Amendments in Corporate Laws' on 4th November, 2022.
- Round table discussion on 'SEBI Consultation Paper: Framework for protection of interest of public equity shareholders in case of listed companies undergoing CIRP under IBC' on 23rd November, 2022. It was organized by ICSI IIP.



Ms. Vinita Nair
Senior Partner

- Article on 'Mutual Fund units now under the net of insider trading regulations' published in Taxmann magazine and can be read [here](#).



Ms. Pammy Jaiswal
Partner

- Session on the topic 'Recent amendments under LODR and maintenance of SDD' on 26th November, 2022. It was organized by ICSI EIRC.
- Session in MSOP on the topic 'Recent Amendments in Corporate Laws' on 4th November, 2022.
- Article on 'Evaluating the Impact of Recent SEBI LODR Amendments' published by the Law Street India and can be viewed [here](#)



Ms. Barsha Dikshit
Partner

- Session on the topic 'Liquidation Process' on 5th November, 2022. It was organized by ICSI-IIP.



Ms. Neha Sinha
Assistant Legal Advisor

- Article on 'Secondment contract as 'services': Supreme Court held under Indian taxation regime' published in the Taxmann magazine and can be read [here](#).

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Our Credo

“Focus on capabilities, opportunities follow”