FAQs on recent amendments under the Listing Regulations

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Contents

Introduction

SEBI, *vide* Notification in the Official Gazette on May 5, 2021 introduced a plethora of changes in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. Further changes relating to the criteria of independence, appointment, re-appointment, removal, etc pertaining to independent directors as well as other provisions relating to disclosure to be made to shareholders for appointment or re-appointment of directors, revision in composition of committees, as proposed at the SEBI Board Meeting held on June 29, 2021 have been made *vide* Notification in the Official Gazette on August 3, 2021. The said changes have been based on Consultation Papers released by SEBI on different dates on different topics. A brief of the chronology of events is reproduced below:

Particulars	Link	Date
Consultation Paper on the format for Business Responsibility and Sustainability Reporting (BRSR)	Click here	August 18, 2020
Consultation Paper on review of Listing Regulations	Click here	September 11, 2020
Consultation Paper on Applicability and Role of RMC	Click here	November 10, 2020
Consultation Paper on Analyst meet	Click here	November 20, 2020
Consultation Paper on Reclassification of Promoter/ Promoter Group	Click here	November 25, 2020
Consultation Paper on review of regulatory provisions related to Independent Directors	Click here	March 01, 2021
SEBI Board meeting approving amendments	Click here	March 25, 2021
Date of Gazette Publication	Click here	May 05, 2021
SEBI Circular on BRSR	Click here	May 10, 2021
SEBI Circular on format of compliance report on CG	Click here	May 31, 2021
NSE FAQ's - LODR amendments dated May 05, 2021 (only for assistance purpose)	Click here	June 28, 2021
BSE Guidance Note on Analyst/ Institutional Investors meet	Click here	June 29, 2021
SEBI Board Meeting approving amendments relating to Independent Directors	Click here	June 29, 2021
Date of Gazette Publication	Click here	August 3, 2021

Glossary

Act	The Companies Act, 2013
Amendment Regulations	SEBI (Listing Regulations and Disclosure Requirements) (Second Amendment) Regulations, 2021
BRSR	Business Responsibility and Sustainability Report
CEO	Chief Executive Officer
CFO	Chief Financial Officer
DDP	Dividend Distribution Policy
FY	Financial Year
ID	Independent Director
KMP	Key Managerial Persons
Listing Regulations	SEBI (Listing Regulations and Disclosure Requirements) Regulations, 2015

MD	Managing Director
NED	Non-Executive Director
NRC	Nomination and Remuneration Committee
RMC	Risk Management Committee
RMP	Risk Management Policy
Third Amendment Regulations	SEBI (Listing Regulations and Disclosure Requirements) (Third Amendment) Regulations, 2021

General Applicability

1. What is the effective date of the Amendments?

The changes introduced in the Listing Regulations *vide* the Amendment Regulations and the Third Amendment Regulations have the following effective dates:

Particulars of Amendments	**Effective Date**
Amendment Regulations introduced *vide* Notification dated May 5, 2021	
Amendment relating to the overriding effect of Listing Regulations with respect to corporate governance related provisions as specified under Reg 15	September 01, 2021
Other amendments specified	May 05, 2021
Third Amendment Regulations introduced *vide* Notification dated August 3, 2021	
Amendments relating to appointment of IDs, composition of NRC, roles of NRC, disclosures in case of resignation, extended applicability of D&O Insurance etc.	January 1, 2022[1]

2. Whether the provisions that are applicable based on market capitalisation will continue to apply even after falling outside the prescribed bracket of the thresholds?

Considering the provisions of Regulation 3 (2) of the Listing Regulations, the provisions based on market capitalisation such as, appointment of woman ID, board of minimum 6 directors, etc, once applicable, shall continue to apply indefinitely. The applicability once triggered will be irrespective of any subsequent fall from the threshold limits in the upcoming years.

3. What shall be the cut-off date for determining applicability of the amended provisions on the basis of market capitalisation?

The cut-off date for considering the applicability of several provisions under the Listing Regulations is 31st March of the preceding financial year. Accordingly, the cut-off date for considering the market capitalisation for existing companies as per the amended provisions shall be March 31, 2021.

4. Which provisions of the Listing Regulations are applicable on a listed entity on the basis of market capitalization?

The following provisions relating to corporate governance are applicable on the basis of market capitalization on listed entities:

Reg. No.	**Particulars of provision**	**Effective threshold**
17 (1) (a)	Appointment of woman ID	Top 1000 listed entities from April 1, 2020
17 (1) (c)	Board to comprise of atleast 6 directors	Top 2000 listed entities from April 1, 2020

[1] https://egazette.nic.in/WriteReadData/2021/228797.pdf

17 (1B)	Separation of Chairperson and MD*	Top 500 listed entities from April 1, 2022
17 (2A)	Quorum of board meetings	Top 2000 listed entities fr om April 1, 2020
21 (5)	Risk Management Committee	Top 1000 listed entities
25 (10)	D&O Insurance for IDs	Top 1000 listed entities from January 01, 2022
34 (2) (f)	Business Responsibility Report	Top 1000 listed entities upto FY 2021-22
34 (2) (f)	Business Responsibility and Sustainability Report	Top 1000 listed entities from FY 2022-23
43A (1)	Dividend Distribution Policy	Top 1000 listed entities
44 (5)	AGM to be held within 5 months of end of financial year	Top 100 listed entities from FY 2019-20
44 (6)	One-way live webcast of AGM proceedings	Top 100 listed entities from FY 2019-20

**Note: SEBI vide notification[2] dated March 22, 2022 has omitted regulation '17 (1B)' and thereafter has added "Clause D. Separate posts of Chairperson and the Managing Director or the Chief Executive Officer" in Schedule II Part E making the said compliance voluntary in nature.*

Applicability of provisions relating to Corporate Governance

5. Which provisions of the Listing Regulations relate to Corporate Governance?

Reg. 17 to 27, clause (b) to (i) and (t) of Reg. 46(2) and Para C, D, E of Schedule V of the Listing Regulations deal with corporate governance. The same are tabled below:

Reg. No.	Deals with
17	Board of Directors
17A	Maximum number of directorships
18	Audit Committee
19	Nomination and Remuneration Committee
20	Stakeholders Relationship Committee
21	Risk Management Committee
22	Vigil Mechanism
23	Related Party Transactions
24	Corporate governance requirements with respect to subsidiary of listed entity

[2] https://egazette.nic.in/WriteReadData/2022/234379.pdf

24A	Secretarial Audit and Secretarial Compliance Report
25	Obligations with respect to independent directors
26	Obligations with respect to employees including senior management, KMP, directors and promoters
27	Other corporate governance requirements
46(2)(b) to (i)	Disclosure on website of the company with respect to - (b) terms and conditions of appointment of independent directors (c) composition of various committees of board of directors (d) code of conduct of board of directors and senior management personnel (e) details of establishment of vigil mechanism/ Whistle Blower policy (f) criteria of making payments to non-executive directors, if the same is not disclosed in annual report (g) policy on dealing with related party transactions (h) policy for determining 'material' subsidiaries (i) details of familiarization programmes imparted to independent directors
46(2)(t)	Secretarial compliance report as per Reg. 24A(2)
Para C of Schedule V	Corporate Governance Report
Para D of Schedule V	Declaration signed by the CEO stating that the members of board of directors and senior management personnel have affirmed compliance with the code of conduct of board of directors and senior management
Para E of Schedule V	Compliance certificate from either the auditors or practicing company secretaries regarding compliance of conditions of corporate governance to be annexed with the directors' report.

6. Which companies are required to comply with Corporate Governance related provisions?

The companies whose specified securities are listed on the recognised stock exchanges (excluding the companies listed on SME exchange) and -

a. whose paid up equity share capital exceeds Rs. 10 crore, or
b. net worth exceeds RSs. 25 crore

as on the last day of the previous financial year, are required to comply with Corporate Governance related provisions.

7. Whether both the conditions provided in Reg. 15 are to be simultaneously satisfied to determine the applicability?

On the prima facie reading of the language given under Regulation 15 (2) (a) of the Listing Regulations, it gives an impression that the both the criteria of having a specified limit of paid-up share capital as well as net worth, needs to be met. However, if we move to the second proviso inserted pursuant to the

Amendment Regulations, the same states that in cases where a listed entity fails to meet either of the thresholds for a consecutive period of three financial years, the applicability of the CG provisions as given above will cease to apply.

Therefore, on the combined reading of the said sub-regulation, we are of the view that the expression "and" given under the sub-regulation (2) needs to be read as "or" so as to interpret the applicability of the CG provisions.

8. What is the timeline for implementation of Corporate Governance related provisions once applicable?

   Once the provisions relating to Corporate Governance become applicable, the companies are required to comply with the same within 6 months from such date in terms of the first proviso to Regulation 15 (2) (a).

9. Whether Corporate Governance related provisions will continue to apply once attracted or the same is to be evaluated every year?

   The paid up equity share capital and net worth are required to be evaluated every year. In case, both reduce and remain below the threshold specified in FAQ No. 6 for a period of three consecutive financial years, the corporate governance related provisions shall not apply. The company will enjoy the exemption from corporate governance requirements until the paid up equity share capital or the net worth crosses the limits again as specified above.

10. Whether provisions relating to Corporate Governance under specific law, if any, will override the provisions under Listing Regulations in case of a conflict?

    Earlier, the listed entities which are not incorporated as companies, or which are governed under other statutes were not required to comply with the provisions relating to corporate governance if the same contradicted with their specific governing statutes. However, pursuant to the Amendment Regulations, the overriding power of the governing statutes shall stand ceased w.e.f. September 01, 2021, and in case of any contradiction between the Listing Regulations and the governing statutes, the Listing Regulations shall prevail.

11. Whether any specific penal provisions have been prescribed under Listing Regulations for violation of Corporate Governance related provisions?

    SEBI, vide Circular dated January 22, 2020, has provided for the fines to be imposed in case of non-compliance with the provisions relating to corporate governance. The same is detailed below:

Reg. No.	Non-compliance	Fine to be imposed in case of non-compliance
17(1)	Non-compliance with the requirements pertaining to the composition of the Board including failure to appoint woman director	Rs. 5,000 per day
17(1A)	Non-compliance with the requirements pertaining to appointment or continuation of Non-executive director who has attained the age of seventy five years	Rs. 2,000 per day
17(2)	Non-compliance with the requirements pertaining to the number of Board meetings	Rs. 10,000 per instance
17(2A)	Non-compliance with the requirements pertaining to the quorum of Board meetings.	Rs. 10,000 per instance
18(1)	Non-compliance with the constitution of audit committee	Rs. 2,000 per day

Reg. No.	Non-compliance	Fine to be imposed in case of non-compliance
19(1)/ 19(2)	Non-compliance with the constitution of nomination and remuneration committee	Rs. 2,000 per day
20(2)/ 20(2A)	Non-compliance with the constitution of stakeholders relationship committee	Rs. 2,000 per day
21(2)	Non-compliance with the constitution of risk management committee	Rs. 2,000 per day
23(9)	Non-compliance with disclosure of related party transactions on consolidated basis	Rs. 5,000 per day
24A	Non-compliance with submission of secretarial compliance report	Rs. 2,000 per day
27(2)	Non-submission of the Corporate governance compliance report within the period provided under the Regulations	Rs. 2,000 per day
46	Non-compliance with norms pertaining to functional website	Advisory/ warning letter per instance of non-compliance per item Rs. 10,000 per instance for every additional advisory/ warning letter exceeding the four advisory/ warning letters in a financial year

Appointment of Directors

12. What is the timeline available for a listed entity to seek shareholders' approval in case of appointment of a person on the Board of Directors?

As per Reg. 17(1C), the listed entity will be required to take approval of shareholders at the next general meeting or within 3 months from the date of appointment, whichever is earlier.

12A. Whether the said timeline is applicable for re-appointment of directors?

The term 'appointment' includes 're-appointment' as it means appointing the same person on the Board. Pursuant to the amendment in the Listing Regulations *vide* notification dated January 17, 2023, the requirement of obtaining shareholders' approval within 3 months has been extended to re-appointment of directors.

12B. Whether the said timeline is applicable for change in designation of directors?

The intent of SEBI is to reduce the gap of appointment of director on the board and approval of shareholders as there have been cases where the shareholders rejected the appointment of director in the AGM after serving on the board for few months.

In case of change in designation of directors requiring shareholders' approval, say from NED to ED, or WTD to MD, there will be a change in the powers and responsibilities of a director and it will be akin to appointment to a new position. Therefore, the shareholders' approval will be required to be obtained in case of change in designation.

13. Whether the timeline permitted under Section 161 of the Act for regularisation of an additional director

at ensuing AGM can be followed by listed entities?

An additional director, appointed under Section 161 of the Act, holds office upto the date of the next AGM or the last date on which the annual general meeting should have been held, whichever is earlier. Therefore, it was possible to regularise the additional director at the ensuing AGM.

However, as per the newly inserted sub-regulation (1C), the timeline for approval has been limited to a period of 3 months or the next general meeting, whichever is earlier. Thus, listed entities will be required to obtain shareholder's approval within the said timeline.

Composition of Audit Committee

14. Whether the audit committee is required to be reconstituted?

The amendment in the provision relating to the constitution of the audit committee prescribes for a minimum requirement of 2/3rd of the committee to be comprised of IDs, thus allowing companies to appoint more IDs as members of the committee. The same may not necessitate reconstitution of the committee.

Composition of NRC

15. Whether the NRC is required to be reconstituted?

The composition of NRC under the Listing Regulations now prescribes for 2/3rds of members to be IDs. The same has been increased from the erstwhile requirement of 50% of the members of the committee to be IDs. Therefore, in case the NRC of the company does not meet the prescribed requirement, the committee will be required to be reconstituted.

16. If yes, then what is the timeline for reconstituting the Committee?

The amendment is applicable with effect from January 1, 2022. Given the timeline permitted to ensure compliance, the composition of NRC should be in line with amended provision as on January 1, 2022.

Risk Management Committee (RMC) Composition

17. What is the prescribed composition of RMC?

Composition of RMC shall be as follows:

- Minimum 3 members
- Majority to be members of Board of Directors
- Atleast 1 ID (incase of SR equity atleast 2/3rd members to be IDs)

Further the Chairperson of the committee is required to be a member of the Board of Directors and senior executives of the company may be members of the committee.

18. Which companies are required to constitute RMC?

The provisions relating to RMC as provided under Reg. 21 of the Listing Regulations shall be applicable to top 1000 listed entities on the basis of market capitalisation determined as mentioned in FAQ 3. Accordingly, the listed entities which have listed their specified securities are required to constitute an RMC under Chapter IV of the Listing Regulations.

19. What is the timeline available for constituting RMC for listed entities?

As per NSE Circular dated June 28, 2021, top 500 listed entities on whom the provisions were already applicable will be required to comply with the revised provisions within 3 months from the date of the notification, i.e., by 5th August, 2021.

Whereas companies falling in the bracket of 501 to 1000 listed entities have an additional period of 3 months i.e. they will be required to comply with the revised provisions within 6 months from the date of notification which is by 5th November, 2021.

20. Whether the re-constitution of RMC is required to be intimated to RBI?

No, the re-constitution will not be required to be intimated to RBI.

Meetings

21. How frequently the RMC is required to meet?

The RMC is required to meet twice a year.

22. What should be the maximum gap between two meetings of the RMC?

The maximum time gap between two consecutive RMC meetings is 180 days.

23. Whether the listed entities are required to comply with the meeting requirement in FY 2021- 22?

The listed entities whose financial year ends on or before September 30, 2021 i.e. June 30, 2021 and September 30, 2021 will have to conduct only 1 meeting during FY 2020-21. Thereafter, they will have to conduct atleast 2 meetings in a FY.

The listed entities whose financial year ends after September 30, 2021 i.e. December 31, 2021 and March 31, 2021 will have to conduct 2 meetings during FY 2021-22.

24. What is the quorum prescribed for meetings of RMC?

The quorum for RMC meeting shall be either 2 members or one third of the members of the committee, whichever is higher, including atleast 1 member of the board of directors in attendance.

Risk Management Policy (RMP)

25. Whether a listed entity is required to formulate RMP?

Yes. As per Reg. 21(4) read with Part D, Para A of Schedule II, a listed entity is required to formulate RMP.

26. What all matters should be covered in RMP?

The RMP shall, *inter alia*, including the following matters:

(a) A framework for identification of internal and external risks specifically faced by the listed entity, including financial, operational, sectoral, sustainability (particularly, ESG related risks), information, cyber security risks or any other risk as may be determined by RMC;
(b) Measures for risk mitigation including systems and processes for internal control of identified risks;
(c) Business continuity plan.

27. What is the timeline to frame or amend RMP?

As per NSE Circular dated June 28, 2021, top 500 listed entities on whom the provisions were already applicable will be required to amend the RMP within 3 months from the date of the notification i.e. before August 05, 2021. Whereas companies falling in the bracket of 501 to 1000 listed entities have an additional period of 3 months i.e. they will be required to frame the RMP within 6 months from the date of notification i.e. before November 05, 2021.

28. What is the frequency within which RMP is required to be reviewed? Who is required to review the same?

The RMP will be required to be reviewed atleast once in every 2 years. The RMC will be required to review the same.

29. What is the difference between RMP and risk management plan?

The risk management plan is a subset of the risk management policy. The risk management policy is a broader concept that entails the framework for identification of various elements of risks applicable to the company, measures for risk mitigation, etc. Further, the risk management policy as per the Amended Regulations, is required to be reviewed atleast once in 2 years. However, the plan may require regular monitoring and oversight.

Matters to be reviewed by RMC and its powers

30. What are the roles and responsibilities of RMC?

The roles and responsibilities of the RMC shall mandatorily include the following as prescribed under Part D of Schedule II:

1. To formulate a detailed risk management policy which shall include:
   (a) A framework for identification of internal and external risks specifically faced by the listed entity, in particular including financial, operational, sectoral, sustainability (particularly, ESG related risks), information, cyber security risks or any other risk as may be determined by the Committee.
   (b) Measures for risk mitigation including systems and processes for internal control of identified risks.
   (c) Business continuity plan.
2. To ensure that appropriate methodology, processes and systems are in place to monitor and evaluate risks associated with the business of the company;
3. To monitor and oversee implementation of the risk management policy, including evaluating the adequacy of risk management systems;
4. To periodically review the risk management policy, at least once in two years, including by considering the changing industry dynamics and evolving complexity;
5. To keep the board of directors informed about the nature and content of its discussions, recommendations and actions to be taken;
6. The appointment, removal and terms of remuneration of the Chief Risk Officer (if any) shall be subject to review by the RMC.

31. Whether the terms of reference of the RMC is required to be amended by listed entities? If yes, then what is the timeline for that?

The terms of reference of the RMC is required to be amended to include the following:

(a) Amend the composition of committee
(b) Frequency and quorum of RMC meetings
(c) Roles and responsibilities of RMC
(d) Powers of the RMC

While the Amendment Regulations are silent about the terms of reference of RMC, the same should be amended along with RMP within the time frame specified in FAQ No. 27.

32. What powers have been conferred upon RMC?

As per the Amendment Regulations, the RMC shall have powers to seek information from any employee and even obtain outside legal or other professional advice and secure attendance of outsiders

with relevant expertise, if it considers necessary.

33. Role of RMC includes review of the appointment, removal and terms of remuneration of Chief Risk Officer (CRO). If the company has not designated CRO, does it still apply for the person who is acting as CRO?

The appointment of CRO is not a mandatory requirement. Therefore, if the company has appointed the person who is acting as a CRO, the RMC will be required to review his/ her appointment, removal and terms of remuneration.

34. Whether the appointment of CRO is to be reviewed by the RMC or NRC?

As per Clause 6 of Part D, Part C of Schedule II, the appointment, removal and terms of remuneration of CRO is required to be reviewed by the RMC.

35. Can the role of RMC and Audit Committee be clubbed together under one board committee? The perspective of both committees are separate and therefore, the composition of both committees are different. Risk management committee is a committee of management with atleast one independent director and the role involves more regular review of risk, which is dynamic. On the contrary, audit committee is a committee of the board with atleast 2/3rd of the members being independent directors.

The purpose of having a separate risk management committee is to ensure that there is a separate body to evaluate the nature and kind of risk a company faces and identify how to mitigate the same along with reviewing the policy from time to time, so as to enable the board to make a statement to that effect. The role of the audit committee on the other hand is limited to evaluation of the risk management systems. The audit committee's accountability for risk management towards the board is to provide assurance regarding the company's risk management process, its activeness, credibility and effectiveness. The audit committee may not have the skills needed to evaluate the policies, accessing and managing the range of operational risks a company generally faces.

The whole purpose of statutory committees is to have areas where focused committees contribute, instead of the larger board which can, at best, give diffused attention. Where the risk committee is applicable, risk management must get its separate focus. No matter what the composition of the risk management committee be, the committee meets to discuss the risk function of the board and its function cannot be commingled with other areas dedicated to the audit committee. While it is true that there may be overlaps, however, the same does not obviate the need for focus.

Therefore, the committees cannot be clubbed under one board committee.

Related Party Transactions (RPTs)

36. Who all can approve RPTs in the Audit Committee?

The newly inserted proviso to Reg. 23(2) of the Listing Regulations, pursuant to the amendments states that only those members of the Audit Committee who are IDs shall approve the RPTs. Thus, members who are not IDs may provide their dissent to the said transaction, however, they cannot approve the transactions.

37. In case the Audit Committee has only 3 members comprising of 2 IDs and 1 non ID, what will be the impact of absence of one of the IDs?

The quorum requirement as stipulated under Reg. 18(2)(b) provides for atleast 2 IDs to be present at the meeting of the committee. Therefore, in case the committee has 2 IDs, absence of one of them shall invalidate the meeting on account of an incomplete quorum.

38. Whether the requirement will have an impact on the transactions already approved by the Audit Committee prior to notification?

No. The requirement of approval by the IDs is applicable prospectively. Accordingly, any new RPT or modification to existing RPT for which approval is sought after the effective date of the amendment, it will be required to be approved by the IDs only.

39. Whether non-IDs in the Audit Committee can vote to disapprove the RPT?

Yes. The amended provisions state that related party transactions can only be approved by IDs. Thus, while non-IDs cannot approve the transactions they may vote to disapprove the transactions.

40. Whether any modification to the existing transactions will require approval of only IDs in the Audit Committee?

There may be transactions which have been approved prior to the amendments. Such transactions shall not be impacted by the changes in the provisions. However, in case of any subsequent modifications in the said transactions, requiring approval of the Audit Committee, the same shall be approved as per the amended provisions i.e. only IDs may approve the transactions.

Independent Directors

Criteria for independence of IDs

41. What are the amendments in the criteria for independence of IDs?

The criteria of independence of IDs has been specified under the Act as well as under Reg. 16(1)(b) of the Listing Regulations. The changes made to the criteria *vide* the Third Amendment Regulations are in the nature of alignment to that under the Act and insertion of few additional criteria, as provided hereunder:

A. Criteria aligned with the Act:

a. A person cannot be appointed as an ID whose relatives are holding securities or interest in the listed entity or its holding/subsidiary/associate companies of an amount exceeding Rs. 50 lakhs or 2% of the paid up capital of the respective entity whose shares are being held by the relative, or a higher sum as may be prescribed, during the immediately preceding 3 financial years or during the current financial year.

Similar provision has been stated under Section 149 (6) (d) (i), however, the period of holding under the Act is prescribed as *2 immediately preceding financial years* or during the current financial year.

b. Further, no relative of the proposed appointee shall be indebted to the listed entity or its holding/subsidiary/associate companies or their promoters or directors exceeding the threshold stated below during the immediately preceding 3 financial years or during the current financial year.

While the said provision is also mentioned under the Act, the period given under the Act is *2 immediately preceding financial years* or during the current financial year.

c. A person whose relatives have given guarantee or provided security in connection with the indebtedness of any third person to the listed entity or its holding/subsidiary/associate companies or their promoters or directors for such amount as determined as per the threshold stated below, during the 3 immediately preceding financial years or during the current financial year will be disbarred from being appointed as an ID.

Similar to the above provisions, while the Act stipulated the similar condition under Section 149 (6) (d) (iii), the period mentioned under the Act is *2 immediately preceding financial years* or during the current financial year.

d. The relative of the proposed appointee shall not have any other pecuniary relationship with the listed entity or its holding/subsidiary/associate companies of an amount exceeding 2% of its gross total turnover or income.

The provision under the Act states the similar condition to be fulfilled and also mentions the threshold shall be applicable to single transactions as mentioned before as well as their combinations.

For determining the threshold amount of the aforementioned transactions from points (a) to (d) under the Listing Regulations, the lower of the following is to be considered:

i. 2% of gross turnover or total income or;
ii. Rs. 50 lakhs or;
iii. such other higher amount as may be prescribed.

e. The person proposed to be appointed as an ID, will not have any material pecuniary relationship with the company or its holding/subsidiary/associate companies or their promoters or directors during the the 3 (*earlier 2*) immediately preceding financial years or during the current financial year.

While the Act provides for a similar condition under Section 149 (6) (c), the period determining pecuniary relationship is stated as *2 immediately preceding financial years* or during the current financial year.

B. Additional criteria inserted in Listing Regulations

a. The amended Regulation 16 (1) (b) (vi) states that a person cannot be appointed as an ID if he/she or his/her relatives hold the position of a key managerial personnel or are or have been employees of any company belonging to *the promoter group* of the listed entity, in any of the 3 financial years immediately preceding the financial year in which the incumbent is proposed to be appointed. However, the said restriction of cooling off period will not apply to relatives in employment of the stated entities, provided they do not hold the position of a KMP.

The extension of the restriction of being in employment of the promoter group entities does not reflect under Section 149 (6) (e) (i) of the Act.

42. Whether the criteria is similar to that provided in Section 149(6) of the Act?

The amendment in the criteria of independence has been made with a view to align the same with the Act. However, in case of certain conditions, the Listing Regulations provide for stricter provisions.

The period for determining pecuniary relationship under Section 149(6)(d) has been specified as 2 immediately preceding financial years, whereas, under the newly inserted provisions under sub-clause (v) provide for a reach-back period of 3 immediately preceding financial years.

Additionally, under the amended provisions of the Listing Regulations, the disqualification from being appointed as an ID has been extended to holding the position of a KMP or employee by the person proposed to be appointed as well as his/ her relative in any company of the promoter group.

The only carve out has been provided in case of relatives, who are not holding KMP position but are merely employees, in the listed entity or its holding, subsidiary or associate company or any company belonging to the promoter group of the listed entity. Accordingly, relatives holding non-KMP positions will not result in disqualification for the person proposed to be appointed.

43. Whether the listed entity is required to seek revised declaration of independence from the IDs?

As per Reg. 25(8) of the Listing Regulations, whenever there is change in the circumstances which may affect the status of an independent director, he is required to give a declaration that he meets the criteria of independence as provided in Reg. 16(1)(b).

Pursuant to recent amendments, there is a need for IDs to ascertain if they continue to meet criteria of independence. Thus, the listed entity will be required to seek revised declaration from the existing IDs confirming their independence.

Further, in terms of Reg. 25 (9), the board of directors of the listed entity is required to take on record the declaration and confirmation submitted by the independent director under sub-regulation (8) after undertaking due assessment of the veracity of the same.

44. Within what time the listed entity is required to seek a revised declaration of independence?

As the amendments will be effective from January 1, 2022, IDs of the company should meet the revised criteria of independence on the effective date i.e. January 1, 2022. Therefore, the revised declaration of independence should be obtained prior to the said date and to be noted by the Board in the following BM.

Further, the report on Corporate Governance required to be submitted by a listed entity on a quarterly basis, mandates affirmation on composition of the Board in accordance with Listing Regulations. To be able to affirm the same, the confirmation from the IDs, that they continue to meet the amended criteria of independence, is a prerequisite. The confirmation of compliance with the revised criteria will reflect in the report on Corporate Governance filed for the quarter ended March 31, 2022.

Appointment/ Re-appointment of IDs

45. What is the revised role of NRC for recommending appointment of IDs?

In order to appoint the ID, the NRC will be required to do the following:

a. **Carry out Gap analysis**: The NRC will be required to evaluate the balance of skills, knowledge and experience on the Board. Basis evaluation, it will be required to identify the capabilities required in the Board.

b. **Prepare description**: Once the missing skillset/ capability is identified, NRC will prepare a description of role and capabilities required of an ID and identity the candidate who has the said capabilities.In case, the NRC is looking to replace another ID completing his/her tenure, then accordingly, the description will capture the skillset and expertise of the outgoing ID.

c. **Identification of candidate**: For the purpose of identifying the candidate, the NRC may take assistance from external agencies, consider candidates from the wide range of backgrounds giving due regard to diversity and time which can be committed by the candidate. Various sources could be ID databank, IDs on the board of other company where directors of listed entities also hold directorship (ensuring compliance with Board interlock restriction) etc.

d. **Recommendation to the Board**: Once the candidate for the position of ID is identified, it will approve such appointment and recommend to the Board of Directors along with confirmation that they possess the capabilities provided in the description.

46. What all sources can be used by NRC for identification of a suitable candidate?

The revised role of NRC provides for additional processes to be carried out by it in case of appointment of an ID. As per the amendment in Schedule II, Part D, Para A, the NRC will be required to consider candidates from a wide range of backgrounds. The same refers to various sources that may be used by the NRC for selection of the candidate. These sources may include the databank of IDs, external agencies as specified under the provisions, Chambers, IDs on the board of other company where directors of listed entities also hold directorship etc.

47. What is the Board of Directors required to consider while recommending appointment of IDs to the shareholders?

As per the revised procedure for appointment of IDs, the NRC shall recommend to the Board an appropriate candidate selected in accordance with the procedure prescribed under the revised role of the committee. The Board will consider the same and recommend appointment to the shareholders and ensure requisite disclosure in the notice of general meeting.

48. What is the timeline within which shareholders' approval should be sought?

In terms of the newly inserted provision Reg. 17 (1C), approval of shareholders for appointment of a person on the Board is required to be obtained at the next general meeting or within a time period of three months from the date of appointment, whichever is earlier. This is stricter than the provisions of the Act.

The timeline will also apply in case of re-appointment and filling of casual vacancy.

49. Whether the aforesaid timeline is in addition to the time prescribed for filling the casual vacancy to the office of ID?

Yes. In case of a casual vacancy caused due to removal or resignation of the ID, the same is required to be filled within a period of 3 months from the date of vacancy.

Once the person is appointed to the Board, in terms of Reg. 17 (1C) approval of shareholders will be required to be obtained at the next general meeting or within a time period of three months from the date of appointment, whichever is earlier.

50. What is the nature of shareholders' approval required?

The newly inserted provision Reg. 25 (2A) mandates passing of a special resolution in case of appointment, re-appointment or removal of an ID.

51. What additional information is required to be furnished to the shareholders while approving appointment?

In terms of Reg. 36 (3) following information was required to be originally furnished:

a. a brief resume of the director;
b. nature of expertise in specific functional areas;
c. disclosure of relationships between directors inter-se;
d. names of listed entities in which the person also holds the directorship and membership of Committees of the Board;
e. shareholding of non-executive directors in the listed entity, including shareholding as a beneficial owner.

Additionally, following disclosures are required to be made:

f. details of listed entities from which the person has resigned in the past 3 years
g. disclosure of skills and capabilities required for the role and the manner in which the proposed person meets such requirements.

While the information relating to skills and capabilities will be given by the Company basis the description and discussion by NRC and Board, details of listed entities from which person resigned in the past 3 years will be required to be obtained from the ID.

52. Whether the amendment will have any impact on the appointments approved by shareholders prior to January 1, 2022?

The amendment will not have any impact on the appointments made prior to January 1, 2022. However, as mentioned in FAQ No. 43, a revised declaration of independence will be required to be furnished by the IDs appointed prior to January 1, 2022, which will be noted at the following board meeting.

53. What will be the actionable for companies that have approved the AGM notice prior to August 03, 2021 and the AGM is scheduled to be held?

In view of extension of due date for applicability of amended provisions, there is no mandatory actionable for companies in the ensuing AGM.

However, where the listed entities are yet to approve AGM notice, it could consider following the revised process. In that case, following will be the actionable:

1. Obtain revised declaration of independence from the proposed appointee;
2. Obtain information about listed entities from which the person resigned in the past 3 years;
3. NRC will have to confirm the manner in which the person meets the skills and capabilities required for the role and recommend to the Board. This may be done by way of circular resolution;
4. The AGM notice to be approved by the Board should provide for: a. Nature of approval as special resolution and b. inclusion of additional disclosure in the statement annexed to the notice in terms of Section 102 of the Act providing details of skills and capabilities required for the role and the manner in which the proposed person meets such requirements and details of listed entities from which the person has resigned in the past 3 years.

54. What is the procedure to be followed for appointment of IDs between August 3, 2021 and January 1, 2022?

The revised provisions shall be effective prospectively from January 1, 2022, therefore, the additional

disclosures and confirmation of compliance with the revised process will not be mandatory upto January 1, 2022. However, since, the revised process for selection and appointment of IDs has already been specified *vide* the Third Amendment Regulations, the appointment of IDs between August 3, 2021 and January 1, 2022 should be in line with the revised process and compliance with the revised role of the NRC.

55. What will be timeline and course of action to be followed by the company if a person has been appointed by the Board as an Additional Director (NED, ID), however shareholder approval for the appointment is pending on January 1, 2022?

Since the Third Amendment Regulations will be effective from January 1, 2022, NSE *vide* circular dated December 22, 2021 clarified that the appointments made till December 31, 2021 will be regularised in terms of the existing provisions i.e. the companies have an option to regularize the directorship till the ensuing AGM. The appointments to be made on or after January 1, 2022 will be regularised in accordance with the newly inserted sub-regulation 17(1C) i.e. in the next general meeting or within 3 months from the date of appointment, whichever is earlier.

Thus, if a person is appointed by the Board as an Additional Director (NED, ID) and the shareholders' approval is pending on January 1, 2022, the same may be taken till the next AGM. However, the nature of the resolution will be special resolution as per the amended provisions, which will be prevailing w.e.f. January 1, 2022.

Resignation/ removal of IDs

56. What information is required to be disclosed to the stock exchanges in case of resignation by an ID?

Detailed reasons for the resignation as said by the said director along with a confirmation that there is no other material reasons other than those provided, was required to be originally provided in the stock exchange disclosure.

Pursuant to the amendment in Schedule III, Part A, Para A, clause (7B), in case of resignation of an ID, following additional disclosures will be required to be given:

i. Letter of resignation given by the ID;
ii. Names of listed entities in which the resigning director holds directorships, indicating the category of directorship and membership of board committees, if any.

The ID will be required to furnish each of the aforesaid to the issuer and issuer will submit the same to the stock exchange.

57. What is the timeline to fill the vacancy on account of resignation by / removal of an ID?

As previously mentioned in FAQ No. 49, in case of a casual vacancy caused on account of resignation or removal of an ID, as per the amended Reg. 25(6), the company will be required to obtain requisite shareholders' approval to fill the casual vacancy within a period of 3 months.

58. What is the cooling off period for appointment of a person who has tendered resignation as an ID to become an executive director?

An ID who has resigned from the company may be appointed as an executive director in the company or its holding/subsidiary/associate company after a cooling off period of 1 year.

59. Whether the above restriction will apply in case of completion of tenure of ID?

Since the regulation prescribes for the cooling off period only in case of resignation, the same shall not apply in case of an ID who has completed his/her term.

60. What is the cooling off period for appointment of a person who has tendered resignation as an ID to become a non-executive director?

There is no requirement for maintaining the cooling off period in case of an ID tendering resignation where the said person is to be appointed as a non-executive director, non-independent director.

Directors and Officers (D&O) insurance

61. Which class of companies are required to undertake D & O insurance for all their IDs?

As per the amended Regulation 25(10), top 1000 listed entities will be required to undertake D&O insurance for all their IDs.

62. What is the timeline within which the same is to be undertaken?

The amendment becomes effective from January 01, 2022. Listed entities ranking 501 to 1000 as on March 31, 2021 will have to undertake D&O insurance for all their IDs prior to January 01, 2022.

Business Responsibility and Sustainability Report (BRSR)

63. Which companies are required to file BRSR?

The top 1000 listed entities on the basis of market capitalisation will be required to submit BRSR from FY 2022-23 onwards.

64. From when is the BRSR effective?

As mentioned in FAQ No. 61, BRSR shall be applicable to top 1000 listed companies from FY 2022-23 onwards.

65. What is the difference between Business Responsibility Report (BRR) and BRSR?

The format of the BRSR is substantially different from the existing BRR. It lays considerable emphasis on quantifiable metrics, which will enable better measurement and comparability. Disclosures on climate and social factors like employees, consumers and communities related issues have been enhanced and made more detailed in BRSR in comparison to the disclosure requirements under BRR.

66. Whether BRR/BRSR is applicable to top 1000 listed entities with effect from FY 2021-22?

The submission of BRR is an existing requirement applicable to top 1000 listed entities for the period upto FY 2021-22. Thereafter, the top 1000 listed entities will be required to submit BRSR as per the prescribed format from FY 2022-23 onwards.

Scheme of Arrangement (SoA)

67. Whether listed entities can proceed with SoA in case of stock exchanges granting observation letter?

No. As per SEBI Circular dated November 03, 2020, the stock exchanges can grant No-objection letter only upon being fully convinced that the listed entity is in compliance with SEBI Act, Rules, Regulations and circulars issued thereunder. Thus, if the listed entity has not complied with any of the provisions of the SEBI Act or the Rules, Regulations and circulars, the stock exchange will not issue No-objection letter without which the listed entity cannot proceed with the SoA.

68. What additional requirement has been laid upon the Audit Committee in relation to merger, demerger, amalgamation, scheme of arrangement etc?

The Audit committee will be required to consider and comment on the following:

(a) Need for the merger/ demerger/ amalgamation/ arrangement

(b) rationale of the scheme

(c) Synergies of business of the entities involved in the scheme

(d) Impact of the scheme on the shareholders

(e) cost benefit analysis of the scheme

69. Whether the aforesaid information is required to be placed even where the listed entity is not a party to the SoA?

As per clause 22 of Part C, Para a of Schedule II, the role of the audit committee shall include:
"consider and comment on rationale, cost-benefits and impact of schemes involving merger, demerger, amalgamation etc., on the listed entity and its shareholders."

Accordingly, following will be required to be placed before the audit committee:

(a) schemes wherein the listed company itself is a party to the Application (Transferor / Transferee);

(b) schemes where the listed company is not a party itself to the Application, but its downstream entities are - the audit committee will be required to discuss the impact of such schemes on the listed entity. Accordingly, it will be decided whether the listed company should vote in favour of the scheme or not along with appropriate rationale;

(c) likewise point 2, if the listed company is a significant shareholders / creditor whose approval is required to be sought for approving the scheme;

This will not only involve a scheme of merger / demerger but all kinds of restructuring schemes like buy-back, capital reduction, conversion of debt into equity etc.

Financial Results and Statements

70. Whether the listed entity is required to host on its website separate audited financial statements in respect of an overseas subsidiary?

Yes. As per the amendment in Reg. 46(2)(s) of the Listing Regulations, the listed entity will be required to host separate audited financial statements of its subsidiaries including an overseas subsidiary on its website except in the following cases:

(a) where such subsidiary is statutorily required to prepare consolidated financial statements in accordance with the law of the land, the listed entity may place such consolidated financial statement on its website;

(b) where such subsidiary is not required to get its financial statement audited under the law of the land, the listed entity may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website of the listed entity.

71. Whether the listed entity is required to give a newspaper advertisement of the notice of the board meeting in which the financial results will be discussed?

Pursuant to the Amendment Regulations, the requirement of newspaper advertisement of the notice of the board meeting in which the financial results will be discussed has been done away with. Therefore, the listed entity need not comply with the same.

72. Whether Statement on Impact of Audit Qualifications is required to be reviewed by stock exchanges?

Pursuant to the Amendment Regulations, the requirement of review of Statement on Impact of Audit Qualifications by the stock exchanges has been done away with.

Dividend Distribution Policy (DDP)

73. Which listed entities are required to frame DDP?

Top 1000 listed entities based on market capitalisation are required to frame DDP.

74. Both NSE and BSE provide individual list of market capitalisation and there is a possibility of variation in number. In such a case which list is required to be considered?

It may so happen that there is a variation in the ranking as per market capitalisation provided by NSE and BSE. In such a case, where the shares of the company have been listed on both the stock exchanges, the provisions will be attracted even if the company falls under the relevant category of market capitalisation only as per one of the stock exchanges.

75. Whether companies not having any profits are also required to frame DDP?

Yes. The DDP *inter-alia* provides circumstances in which the shareholders may or may not expect dividend and other factors that impact dividend declaration decisions of the listed entity. Framing of the policy is not linked with availabilty of profits in the listed entity.

76. Whether profit making companies that have not paid any dividend in the past years and are not intending to pay any dividend in the near future are also required to frame a dividend distribution policy?

As discussed in the FAQ No. 73 above, framing of DDP is not dependent on actual declaration of dividend by the company. Thus, a profit-making company which has not declared any dividend and is not intending to declare any dividend will also be required to frame the DDP and disclose the same in the manner specified under the relevant provisions.

77. What are the disclosure requirements pertaining to DDP?

The requirement of publishing of DDP in the annual report has been done away with. As per the Amendment Regulations, the listed entities are required to place the policy on the website of the company and weblink of the same is required to be provided in the annual report.

In case of any changes, the said changes are required to be disclosed in the annual report and the website, along with rationale.

Submission of Periodic Returns/Certificates

78. What are the amendments relating to submission of returns/certificates to the stock exchange? The Amendment Regulations have brought several changes in the timelines to submit returns and certificates. The gist of the same is captured in the table below:

Reg. No.	Dealing with	Erstwhile timeline	Revised timeline
7(3)	Compliance certificate in respect of share transfer facility maintained with RTA to be submitted to stock exchange	within 1 month from the end of half year	within 30 days from the end of financial year
27(2)(a)	Report on compliance of corporate governance requirements to be submitted to stock exchange	within 15 days from the end of each quarter	within 21 days from the end of each quarter

32(6)	Comments/ report received from the monitoring agency, appointed to monitor utilization of proceeds of a public or rights issue, to be submitted to stock exchange	-	within 45 days from the end of each quarter
40(9) r.w. 40(10)	PCS certificate certifying that all certificates have been issued within 30 days of the date of lodgement for transfer, sub-division, consolidation, renewal, exchange or endorsement of calls/allotment monies to be submitted to stock exchange	within 1 month from the end of half year	within 30 days from thee end of financial year
44(3)	Submission of voting results of the general meeting to be made to stock exchange	within 48 hours of conclusion of meeting	within 2 working days of conclusion of meeting

79. Whether amendment in timeline for submission of voting results will impact intimation under Schedule III?

As per the amended provisions, the listed entities are required to submit voting results of the general meeting within 2 working days from the conclusion of the meeting. There is no change in the timeline for submission of the proceedings of the meeting as per Clause 13 of Para A of Schedule III i.e. 24 hours from the occurrence of the event (conclusion of the general meeting).

While the proceedings of the general meeting mainly require disclosure of voting results, in case the same is not available within 24 hours of conclusion, the listed entity should disclose the proceedings except the same and state that the voting results will be released shortly within the time permitted under Regulation 44.

Analyst Meet

80. What is the meaning of "meet" for the purpose of an analyst meet?

Explanation to clause (o) of Reg. 46(2) and explanation to clause 15 of Part A, Para A of Schedule III defines 'meet' as following:
'meet' shall mean group meetings or group conference calls conducted physically or through digital means.

Therefore, the term 'meet' means meeting with the group of investors and excludes one-to-one investor meet.

81. What is the meaning of group meet?

Group meet means the meeting of the listed entity with a group of investors. Here, the meeting is conducted with more than one investor and not more than one representative of the same investor.

For e.g., ABC Ltd conducts a group meet of investors. The investors shall be more than one i.e. XYZ Ltd, PQR Ltd. If the meeting is held with only Mr. X and Mr. Y of XYZ Ltd, then it will be regarded as a one-on-one investor meet.

82. Whether disclosure with respect to "one-to-one" meet is also required to be given? What if the meeting is regarding financial performance?

The requirement to intimate schedule to and upload presentation on the stock exchange and on the website, in terms of Clause 15(a) of Para A, Part A of Schedule III and Reg. 46 (2) (o) is in relation to a 'meet,' defined to mean group meetings or group conference calls conducted physically or through digital means. Further, BSE vide Circular dated June 29, 2021 issued a Guidance Note on Analyst/ Institutional Investors meet wherein it clarified that the analyst meet disclosure is mandatory only for group meets and not for one-on-one meets.

However, Reg. 46(2)(oa) and Clause 15(b) of Para A, Part A of Schedule III that mandates submission of audit or video recordings and transcripts of post earnings/ quarterly calls, by whatever name called. It does not refer to the term 'meet'. Accordingly, if a listed entity holds one-on-one meets of post earnings/ quarterly calls, details of the same will be required to be furnished to the stock exchange.

83. Whether disclosure has to be made only for the analyst meet organised by the listed entity?

The disclosure has to be made for the analyst meet, irrespective of the fact whether it was organised by the listed entity or any other entity in which the listed entity participated. The same was clarified by BSE in its Guidance Note mentioned above.

84. What would the word "investor" mean for analyst meets? If the equity shares are listed, and debt is not, and the company does an investor meet to sense potential interest in debt issuance, does it still count as an investor meet?

The provisions relating to analyst meet under Reg. 46 and Schedule III are applicable only to the listed entity whose specified securities are listed on the recognised stock exchanges. Further, it is a common practice of the companies to interact with the potential investors especially for the purpose of private placement of debt securities to determine the terms of issue.

Where the listed entity whose equity shares are listed, meets the investors to sense the potential interest of the investors in the issuance of debt securities, such meet would not count as investor meet for the purpose of disclosure requirements.

85. What are the steps to be taken by the listed entity in case of disclosure of UPSI in such meets? Firstly, the listed entity should avoid disclosure of UPSI in the analyst/ investors meet. However, if the same is inadvertently shared then pursuant to the Code of Fair Disclosure of UPSI, the listed entity should promptly disclose the same to the stock exchange and on its website. Further, the audio/ video recordings or the transcripts of the meeting in which UPSI was shared should also be uploaded, to avoid information asymmetry.

86. What kind of disclosures are required to be given with respect to analyst meet and within what timelines?

Following disclosures are required to be made with respect to analyst meets:

Sr. No.	Cases	Disclose what?	By When?	Other Points to be ensured
1.	Post earning calls/ Quarterly calls, by whatever name called (after disclosure of quarterly	Schedule of such meeting	As soon as the same is fixed but not later than 24 hours.	• Mandatory only for group meets.
2.		Presentation and the audio/ video recordings of	Before the next trading day or within 24 hours	• Mandatory for both group meets and one-on-one meets. • To be disclosed whether

Sr. No.	Cases	Disclose what?	By When?	Other Points to be ensured
	financial results)	such meeting	from the conclusion of the meet, whichever is earlier.	conducted by a listed entity or any other entity in which the listed entity participates (other than as an investor). • To be hosted on the website of the company for minimum 5 years and thereafter as per the archival policy of the company. • To be disclosed simultaneously to the stock exchange.
3.		Transcripts of such meeting	Within 5 working days of the conclusion of the meet.	• Mandatory for both group meets and one-on-one meets. • To be disclosed whether conducted by a listed entity or any other entity in which the listed entity participates (other than as an investor). • To be hosted on the website of the company and preserved permanently. • To be disclosed simultaneously to the stock exchange.
4.	Other Analysts/ Investors meets	Schedule of such meeting	As soon as the same is fixed but not later than 24 hours.	• Mandatory only for group meets.
5.		Presentation made in such meeting	As soon as the same is concluded but not later than 24 hours.	• Mandatory only for group meets. • To be disclosed on the website of the company, whether conducted by listed entity or any other entity • To be disclosed simultaneously to the stock exchange.
6.	In case any UPSI is shared in the meeting	Audio/video recordings or transcripts of such meeting	Promptly	• Applicable to both group as well as one-on-one meets. • To be disclosed on the website of the company, whether conducted by listed entity or any other entity. • To be disclosed

Sr. No.	Cases	Disclose what?	By When?	Other Points to be ensured
				simultaneously to the stock exchange.

87. What is the effective date of such disclosure requirements?

The disclosure requirements are voluntary with effect from April 01, 2021 and mandatory with effect from April 01, 2022.

88. Whether disclosures are required to be made even in case of unscheduled meets?

In case the analyst meet is unscheduled, the disclosure of schedule will not be possible. However, the listed entity will be required to make disclosures of analyst meets and post earning calls as provided in FAQ No. 84 above.

89. Can the company submit the web link of the audio/ video recordings of the analyst meet uploaded on the website to the stock exchange? Will it be sufficient compliance?

Yes, the company may provide the web link of the audio/ video recording of the analyst meet uploaded on the website to the stock exchange. The same will be in due compliance with the disclosure requirements.

90. Until when the disclosures are required to be hosted on the website of the company?

(a) The audio/ video recordings are to be hosted on the website for a minimum period of 5 years and thereafter as per the Archival Policy of the Company.
(b) The transcripts are required to be hosted on the website and preserved permanently.

91. What precautions should the company take during analyst meet including one-on-one meet?

(a) **Avoid unscheduled one-on-one meets:** While the Listing Regulations do not prohibit scheduling of one-on-one analyst meets, the company should discourage it as it is not regulated by the Listing Regulations and there could be a possibility of leak of UPSI.
(b) Avoid disclosure of UPSI in analysts/ investors meet: The PIT Regulations prohibit selective disclosure of UPSI. Clause 6 of Schedule A of the PIT Regulations specifically states that the companies should not share UPSI with analysts and research personnels. Therefore, the company should ensure compliance with the same.

92. Is there any legal restriction/ bar on holding one-on-one meets with the analysts during the trading window closure period?

While there is no prohibition in the regulations, the listed entity should ascertain if there are any provisions in the Code of Fair Disclosure regarding the silent period. Typically, during a silent period, the company does not participate in any investor meet.

Promoter/ Promoter group re-classification

93. What is the time frame for placing the proposal before the board of directors?

Where the promoters seeking reclassification have made the request for reclassification, the same shall be placed before the board of directors for consideration in the immediately next board meeting or within 3 months from the date of receipt of request, whichever is earlier.

The erstwhile provisions under Reg. 31A did not provide for any definitive timeline to place such matter before the Board.

94. What is the time frame for placing the proposal before the shareholders?

Once the Board of Directors approves the proposal of reclassification, the same shall be placed before the shareholders for approval. The gap between the Board meeting and the shareholders' meetings should be atleast 1 month but should not exceed 3 months.

Earlier, the time gap between the Board meeting and shareholders' meeting was minimum 3 months and maximum 6 months.

95. Whether approval of shareholders is required in all cases?

No. The Amendment Regulations provide an exemption from the approval of shareholders in the following cases:

(a) where the promoters seeking reclassification and persons related to them, together, do not hold more than 1% of the total voting rights in the listed entity;
(b) where reclassification is pursuant to a divorce.

In such cases, as per the FAQs released by NSE on June 28, 2021 the application for reclassification is required to be made to the stock exchange within 30 days of the Board meeting in which the request was approved.

96. What will be the impact of the amendment on pending proposals of re-classification submitted to the listed entity?

As per the FAQs released by NSE on June 28, 2021 in case the process of reclassification has already been initiated before the amendment and the notice is already sent to the shareholders for approval of reclassification, then the erstwhile provisions of Re. 31A shall apply.

Where the matter is yet to be placed before the Board or where the notice is not yet sent to the shareholders for approval, the listed entity will be required to comply with the amended provisions of Reg. 31A.

97. What are the exemptions provided from the procedures prescribed under Reg. 31A? Are there any conditions to be fulfilled by the promoters?

Following exemptions are provided under Reg. 31A:

Cases	**Exemption**	**Conditions to be fulfilled**
Where the reclassification is pursuant to a resolution plan under section 31 of Insolvency Code	• Reg. 31A(3) - approval of Board of Directors and shareholders and conditions to be fulfilled by the	The promoters seeking reclassification should not be in control of the listed entity

Where the reclassification is pursuant to any order of the Regulator under any law	promoters and the listed entity before reclassification ● Reg. 31A(4) - conditions to be fulfilled by the promoters after reclassification ● Reg. 31A(8)(a) and (b) - disclosures to be made to the stock exchange.	
Where the reclassification is pursuant to an open offer Where the reclassification is pursuant to any scheme of arrangement	● Reg. 31A(3)(a) - approval of Board of Directors and shareholders ● Reg. 31A(3)(c)(i) - listed entity to comply with minimum public shareholding (*only in case of open offer*) ● Reg. 31A(8)(a) and (b) - disclosures to be made to the stock exchange	The intent of the erstwhile promoters to reclassify should be disclosed in the letter of offer or scheme of arrangement

Change in Name

98. Whether approval of stock exchange is required in case of change in name by the listed company?

No, the requirement of obtaining stock exchange approval for change in name has been done away with. The certificate from a practicing chartered accountant stating compliance with conditions prescribed under Reg. 45 (1), will be included in the explanatory statement of the notice seeking approval of shareholders for change in name.

Website Disclosures

99. What are the additional disclosures required to be made on the website?

The disclosures required to be placed on the website are not newly inserted, but are more of a compilation of existing disclosures to be made on the website. Additional disclosures to be made on website are as follows:

a. Schedule of analyst/institutional investors meet & the presentations to be placed on the website

b. Audio or video recording of post earnings/quarterly calls, by whatever name called, conducted physically or through digital means, shall be promptly made available on the website and in any case, before the next trading day or within twenty-four hours from the conclusion of such calls,

whichever is earlier. The same will be retained for a minimum period of five years and thereafter as per the archival policy of the listed entity.

c. Further, the transcripts of such calls mentioned in (b) above, shall be made available on the website within five working days of the conclusion of such calls. The said transcripts will be preserved permanently.

d. The provisions prior to amendment required the listed entity to place separate audited financials of each of its subsidiary companies. The Amendment Regulations have inserted a proviso stating that the separate audited financials of foreign subsidiary will not be required in case the said subsidiary is required to prepare consolidated financials as per the law of the country of its incorporation. Further, in case the foreign subsidiary is not required to get its financial statement audited, such unaudited financial statements may be placed on the website of its Indian parent company. In case the said financial statements are in a language other than English, a translated copy of the same in English language will be required to be placed.

e. Compilation of existing disclosures under various other regulations undertaken:
   i. Secretarial compliance report;
   ii. Policy for determination of materiality of events/information;
   iii. Details of KMP authorized to determine materiality of events;
   iv. Disclosures required under 30(8);
   v. statements of deviation(s) or variation(s);
   vi. Dividend distribution policy;
   vii. Annual return provided under sec. 92 of CA, 2013.

100. What will be the effect of contravention of disclosure requirements?

SEBI vide Circular dated January 22, 2020, has prescribed action in case of non-compliance with certain provisions of the Listing Regulations. The same includes issuance of an advisory/warning letter per instance of non-compliance per item and fine of Rs. 10, 000 for every additional advisory/warning letter issued exceeding 4 warning letters in a financial year, for non-compliance of Reg. 46. Thus, on account of the new additions in the said Regulation, non-disclosure of the same on the website of the company, will attract the afore-mentioned action by the market regulator.

Disclosure of Material Information

101. What is the timeline for disclosure of the outcome of a board meeting in case of financial results?

The outcome of the board meeting where financial results have been approved, has to be submitted as per the timelines specified in clause 4 of Para A of Part A of Schedule III, which stipulates that the same will be required to be submitted within 30 minutes from the end of the board meeting. According to the newly inserted proviso in the said provision, in case the board meeting is held for more than one day, the financial results will be required to be disclosed within 30 minutes of end of the meeting on the day on which they were considered.

Illustration provided in FAQs by NSE dated June 28, 2021:

a. Board meeting start date is May 01, 2021 (9 p.m.) and end date is May 02, 2021 (4 a.m.), maximum time to submit financial results will be upto May 02, 2021 (4.30 a.m.).
b. In case board meeting continues for 2 days wherein, the start date is May 01, 2021 (9 a.m.) and there is a break on day 1 i.e. May 01, 2021 (6 p.m.), on day 2 the meeting starts at (9 a.m.) and end date is May 02, 2021 (4 p.m.). If financial results are discussed on day 1 – to be disclosed on May 01, 2021 (6.30 p.m.). Whereas, if financial results are discussed on day 2 – to be disclosed on May 02, 2021 (4.30 p.m.).

102. What disclosures are required to be given in relation to the resolution plan/ corporate debt restructuring and within what timeline?

The following disclosure will be required to be given in accordance with Clause 9 of Para A of Part A of Schedule III within 24 hours of the happening of the event:

- Decision to initiate resolution of loans/borrowings;
- Signing of Inter-Creditors Agreement by lenders;
- Finalization of resolution plan;
- Implementation of resolution plan;
- Salient features of the resolution/restructuring plan (not including commercial secrets).

Corporate Governance (CG) report forming part of Annual Report

103. What are the additional disclosures required to be given in the CG Report?

As per the Amendment Regulations, the following disclosure w.r.t. Risk Management Committee will be required to be made in the CG Report that forms part of the annual report:

(a) brief description of terms of reference;
(b) composition, name of members and chairperson;
(c) meetings and attendance during the year;

Rest, there has been re-arrangement of sequence of clauses relating to committees of the Board.

Revised CG report required to be submitted to stock exchange

In order to bring about transparency and to strengthen the disclosures around loans/ guarantees/comfort letters/ security provided by the listed entity, directly or indirectly to promoter/ promoter group entities or any other entity controlled by them or directors or their relatives or the KMPs, SEBI, *vide* Circular dated May 31, 2021, provided the enhanced disclosure format for compliance report on corporate governance to be submitted to the stock exchange under Reg. 27(2)(a) of the Listing Regulations by adding Annexure IV to the existing formats. Such annexure is to be submitted to the stock exchange on a half yearly basis.

The said circular supersedes the previous circulars dated September 24, 2015 and July 16, 2019.

The revised format of compliance report on corporate governance is as follows:

- Annex-I: on quarterly basis;
- Annex-II: at the end of a financial year
- Annex-III: at the end of 6 months from the close of financial year;
- Annex-IV: on a half yearly basis (w.e.f. first half of the FY 21-22)

104. From when is the disclosure under Annexure IV under report on Corporate Governance effective?

The revised format prescribed under the above-mentioned SEBI Circular will be effective from the first half of FY 2021-22 on a half-yearly basis. Accordingly, the listed entities which fall under Chapter IV of the Listing Regulations will have to submit the disclosure under Annexure IV within 21 days of 30th September, 2021 and thereafter on completion of every half year.

105. Whether the scope of the SEBI Circular as provided under Annex IV is different from Section 185 of Companies Act, 2013?

The newly added annexure covers similar transactions as mentioned under Section 185 of the Companies Act, 2013 (Act, 2013) including provision of loan, guarantee/letter of comfort and security in connection with the loan, whether directly or indirectly. However under the provision of the Act, 2013, a company is prohibited to enter into the aforementioned transactions with any director of the company, or its holding company or any partner or relative of such director. or any firm in which any such director or relative is a partner. Further it may enter into the said financial transactions with certain entities where the director is interested subject to the approval obtained by shareholders. The same has been presented in the table below:

Basis of comparison	**Section 185**	**Annex IV of SEBI Circular dated 31st May, 2021**
Services covered	Provision of loan, provision of guarantee or Letter of Comfort and providing security in connection with the loan	Similar
Mode	Direct as well as indirect	Similar
Entities covered	a. director of company, or its holding company or any partner or relative of such director; b. any firm in which any such director or relative is a partner; The aforesaid are completely prohibited. a. any private company of which any such director is a director or member; b. any body corporate at a general	a. promoter b. promoter group c. directors (including relatives) d. KMPs e. any other entity controlled by any of the above mentioned person

	meeting of which not less than twenty-five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; c. any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company	
Exclusion	a. giving of any loan to MD or WTD b. as a part of conditions of service extended by company to all its employees; or c. pursuant to any scheme approved by members by SR d. granting loan, giving guarantee or providing of security in the ordinary course of business where interest charged not less than prevailing rate of G sec of 1,3,5 or 10 years. e. granting of loan, giving guarantee or providing of security by Holding Co. to WOS for its principal business activities. f. giving guarantee or providing security in respect of loan made by bank or FIs	Reporting of transactions with the following entities is excluded: a. by a government company to/for the Government/ government company b. by the listed entity to/for its subsidiary and JV company whose accounts are consolidated with the listed entity c. by a banking company or an insurance company d. by the listed entity to its employees or directors as a part of the service conditions

106. What additional details are required to be given under the new format to disclose lending related details?

The new format of the disclosure under the report on Corporate Governance will include the disclosure of the aggregate amount of loan advanced/ guarantee issued/ security provided to the promoters, promoter group, directors (including relatives), KMPs or any entity controlled by them during the six months and balance outstanding at the end of six months.

107. Which entities and transactions are covered under Annex IV?

The entities covered under the revised formats are:

(a) Promoter or any other entity controlled by them,

(b) Promoter group or any other entity controlled by them,

(c) Directors (including relatives) or any other entity controlled by them

(d) KMPs or any other entity controlled by them

The transactions include loans (or any other form of debt), guarantees, comfort letters (by whatever name called), securities in connection with any loans (or any other form of debt) given to the above mentioned entities.

108. What is "economic interest"? How can a company satisfy itself regarding "economic interest" behind a transaction?

The circular states that an affirmation is to be provided that the transactions are in the economic interest of the company. Therefore, it is important to determine what constitutes economic interest. The circular has not specifically defined the same, however, it shall be construed to include any activity which the company is generally engaged in and which maximises the wealth of shareholders. For example, in case of an NBFC, earning interest on the financial transaction can be considered as being in the economic interest of the company, however the same shall not apply to a manufacturing entity which is not generally engaged in earning interest on account of loans or securities provided.

The details of the loans and other financial accommodations as mentioned under Annex IV will have to carry an affirmation that they are being undertaken to serve the economic interest of the company. The said affirmation is required to be given by the CFO or CEO of the listed entity. As mentioned above, the reason or manner of stating that the particular lending is serving the interest of the company will have to be seen from a holistic view and not merely from the point of view of earning interest thereon. The probable manner of coming to a conclusion on the required affirmation may be as follows:

- the management to prepare the background and rationale for entering into the specified transactions as is required to be disclosed in Annex IV of the said disclosure;
- the said presentation to be placed before the audit committee (being inter-corporate scrutiny of loans and investments one of the terms of reference for said committee);
- the audit committee may satisfy itself on the same; and
- accordingly, the CEO/ CFO to provide an affirmation.

109. Whether the report is required to be placed before the Audit Committee? If yes, then when should the same be placed?

Yes. Reg. 18 of the Listing Regulations read with Part C of Schedule II requires that the audit committee needs to scrutinize the inter-corporate loans and investments. While the same covers loans, there does not seem to be any reason to exclude provision of security or extending guarantee since it is given in connection with loan. The management should show the audit committee how the transactions covered for the purpose of the said disclosure are in the economic interest of the Company.

The same should be placed before the Audit Committee on quarterly basis.

110. Which legislation is to be referred for "any entity controlled" by promoter(s), promoter group, director(s) (including their relatives), key managerial personnel?

For the purpose of the term 'entity controlled', SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ('SAST Regulations') is to be referred to. The term 'control' is defined under SAST Regulations as the right to appoint majority of the directors or to control the management or policy

decisions exercisable by a person or PAC, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner.

Thus, to identify the entities controlled by the promoters, promoter group, directors (including relatives) and KMP, the listed entity will have to check in which entity do they have a right to appoint the majority of directors and or control the management and policy decisions.