

VINOD KOTHARI & COMPANY

VINOD KOTHARI CONSULTANTS PRIVATE LIMITED

February, 2023

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 January, 2023. 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

Updation of Operational Circular for Credit Rating Agencies

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
Entities with listed non-convertible securities	In order to have access to all the circulars issued for Credit Rating agencies ('CRAs'), SEBI had issued this operational circular on January 6, 2023. The said operational circular is a compilation of all existing circular issued till December 31,2022 along with any consequential changes. The circular has been updated till February 3, 2023.	Not actionable for companies since the said operational circular is a compilation of all existing circulars on the subject.

Additional modes of achieving minimum public shareholding

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
All Equity listed entities	<p>SEBI <i>vide</i> circular dated February 22, 2018 had prescribed the '<i>Manner of achieving minimum public shareholding</i>', wherein SEBI had permitted different methods that may be used by listed entities to achieve compliance with the Minimum Public Shareholding ('MPS') requirements mandated under rule 19(2)(b) and 19A of the Securities Contracts (Regulation) Rules, 1957 ('SCRR') read with regulation 38 of the SEBI LODR Regulations.</p> <p>In order to facilitate listed entities, achieve to MPS compliance, SEBI has reviewed some of the existing methods and introduced two additional methods.</p> <p>Listed entities can adopt any of the following methods in order to achieve compliance with the MPS requirements:</p> <ol style="list-style-type: none"> 1. Issuance of shares to public through prospectus; 2. Offer for sale of shares held by promoter/promoter group to public through prospectus; 3. Offer for sale of shares held by promoter/promoter group through the Stock Exchange mechanism i.e., the secondary market, in terms of circular No. SEBI/HO/MRD/MRD-PoD- 	Companies to take note of the additionally introduced modes of attaining MPS.

[3/P/CIR/2023/10](#) dated January 10, 2023;

4. Rights issue to public shareholders: Promoter/ promoter group shareholders shall forgo their entitlement to equity shares;
5. Bonus Issue to public shareholders: Promoter/ promoter group shareholders shall forgo their entitlement to equity shares that may arise from such issue;
6. Allotment of equity shares under Qualified Institutions Placement in terms of the ICDR regulations;
7. Sale of shares held by promoter/ promoter group in the open market in any one of the following ways, subject to compliance with the conditions specified:
 - i. Promoter/ promoter group can sell upto 2% of the total paid-up equity share capital of the listed entity, subject to five times' average monthly trading volume of the shares of the listed entity, every financial year till the due date for MPS compliance as per the SCRR or
 - ii. Promoter/ Promoter group can sell upto a maximum of 5% of the paid-up capital of the listed entity during a financial year subject to the condition that the public holding in the listed entity shall become 25% after completion of such sale. The sale can be a single tranche or in multiple tranches not exceeding a period of 12 months and the amount of shares to be sold shall not exceed the trading volume of the shares of the listed entity during the preceding 12 months from the date of announcement.
8. Increase in public holding pursuant to exercise of options and allotment of shares under an employee stock option (ESOP) scheme, subject to a maximum of 2% of the paid-up equity share capital of the listed entity.

Debt Securities

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
Debt Listed entities, Issuers of Green Debt Securities	<p>SEBI has, by way of the present regulations, amended the SEBI (Issue and Listing of NCS) Regulations, 2021 ('NCS Regulations') and widened scope of Green Debt Securities, mandated amendment of Debenture Trust Deed ('DTD') & Articles of Association ('AOA') of companies issuing debt to provide for appointment of directors nominated by DTs and has specified offer period for public issue.</p> <p>The highlights of the amendments are as follows:</p> <ol style="list-style-type: none"> 1. Change in definition of 'green debt securities'- to include yellow, blue and transition bonds. 2. DTD and AOA of companies issuing debt to contain a provision mandating the issuer to appoint the person nominated by the DT as a Director on the Board within 1 month from the date of receipt of the nomination. 3. Timeline for the offer period has been amended to align the same with the SEBI (ICDR) Regulations, 2018, providing that the offer shall be kept open for a minimum period of 3 working days and the maximum up to a period of 10 working days. 4. Regulatory fees to be paid to the Designated Stock Exchange ('DSE') at the time of listing of perpetual NCS shall be as per Schedule VI of NCS Regulations. 5. The requirement of advertisement in the newspaper in addition to the intimation to the stock exchange has been waived off. <p>In case of redemption or recall prior to the maturity of the NCS, a copy of the notice shall be sent to the DSE, the notice shall also be served through email and in case of non – availability of email address the same shall be sent in physical form.</p>	<p>Entities having listed debt securities as on the effective date shall be required to amend their DTD to incorporate the above on or before September 30, 2023.</p> <p>Our snippet on the same can be accessed at:</p> <p>https://vinodkothari.com/2023/02/sebi-amends-ncs-regulations-for-greendebt-dtd-offerperiod/</p>

Directions related to green debt securities to avoid greenwashing

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and
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		timelines, if any
Listed or propose to list Issuers of Green Debt Securities	<p>SEBI vide its circular dated February 02, 2023 (<i>covered above</i>), has amended the NCS Regulations, widening the scope of green debt securities and the allied compliances.</p> <p>SEBI has issued the given circular to address the concerns raised by the issuers of the green debt securities relating to greenwashing. The provisions of this circular have been appended as new Chapter IX-A of the 'Operational Circular for issue and listing of Non-Convertible Securities, Securitized Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper' dated August 10, 2021.</p> <p>Greenwashing refers to 'making false, misleading, unsubstantiated, or otherwise incomplete claims about the sustainability of a product, service, or business operation'. The following requisites have been prescribed:</p> <ol style="list-style-type: none"> 1. Continuous monitoring shall be done with respect to the reduction of the environmental impact and the contribution toward sustainable development at the time of raising funds. 2. Utilization of the Funds raised only for the approved purposes as specified in the offer document, and in case of any deviations, immediate disclosure of the same to the investors and redemption of such securities if required. 3. It shall not submit any misleading information by cherry picking information and concealing unfavorable information. 4. Issuer shall maintain highest standards with regard to the issue. 5. Issuer must quantify the negative externalities associated with utilization of the funds raised through green debt security. 6. Issuer shall not make untrue claims giving false impression of certification by a third-party entity. 	No immediate actionable, companies shall take note of the guidance on greenwashing while making disclosures w.r.t green debt securities

Compliance with appointment of DT nominated director clause in AOA by first-time debt issuers.

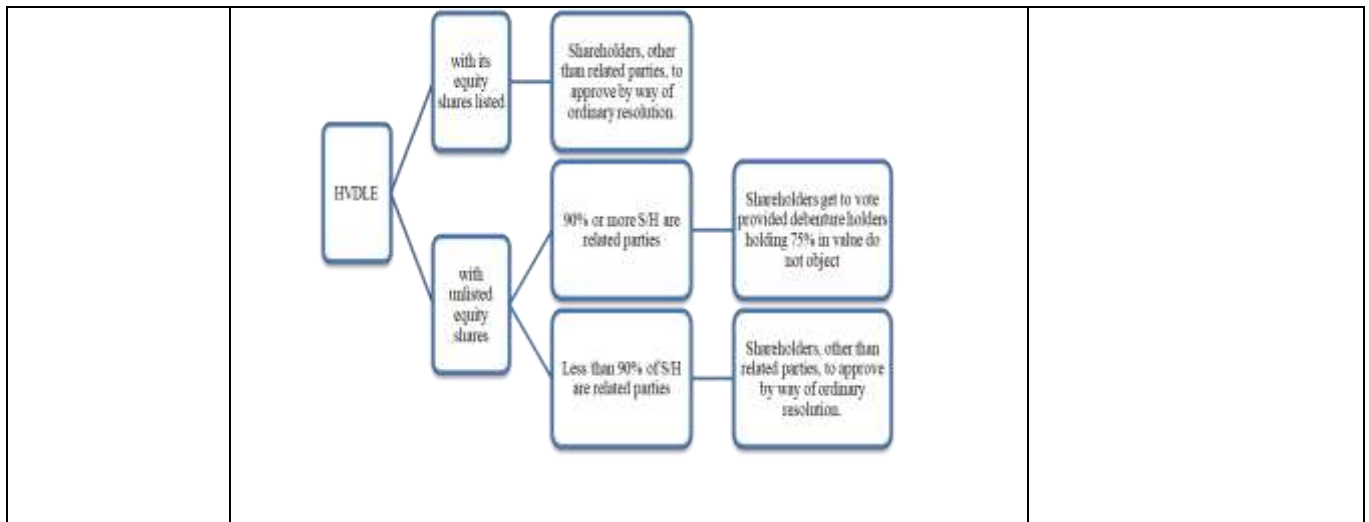
- **Circular can be viewed [here](#)**

Applicability	Amendment	Actionables and timelines, if any
Proposed Issuers of NCS, SDI, SR, Municipal Debt Securities or Commercial Paper	<p>SEBI has on February 02, 2023 amended the NCS Regulations requiring the AOA of an issuer company to include provisions w.r.t appointment of a nominee director by the Debenture Trustee ('DT') on the board of directors of the issuer company in terms of reg.15(1)(e) the SEBI (Debenture Trustees) Regulations, 1993. Debt listed entities have been given time of upto September 30, 2023 to comply with the same.</p> <p>SEBI has, by way of the present circular, provided that for issuers listing the debt securities for the first time will have the time to comply with this requirement within 6 months from the date of listing of the debt securities. This undertaking shall be obtained from the issuer at the time of grant of in principal approval by the Exchange.</p>	<p>Debt listed entities shall take note of the amendment.</p> <p>Our FAQs on the topic can be viewed here</p>

Consultation Paper on review of corporate governance norms for HVDLE

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
High Value Debt Listed Entities	<p>A listed entity which has listed its NCDs and has an o/s value of listed NCDs of INR 500 crores and above is regarded as a High Value Debt Listed Entities ('HVDLE'). The Corporate Governance ('CG') norms are applicable on a 'comply or explain' basis till March 31, 2023 and will become mandatory w.e.f. April 1, 2023. The two major proposals put forth in the consultation paper are:</p> <ol style="list-style-type: none"> Providing criteria for de-classification as HVDLE: CG norms shall continue to remain applicable to HVDLE till such time the outstanding value of its listed NCDs reduces and remains below Rs. 500 crores for a period of 3 consecutive FYs (as on March 31). Approval mechanism in case of Material RPTs: 	<p>No actionable.</p> <p>Read our article on the consultation paper here: https://vinodkothari.com/2023/02/sebi-to-provide-debenture-holders-the-right-to-object-material-related-party-transaction/</p>



Consultation Paper on mandatory listing of debt securities of the listed issuers, and introduction of the concept of General Information Document and Key Information Document

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
<p>Issuers of NCS and Commercial Paper</p>	<p>SEBI has issued this consultation paper with a view to promote the ease of doing business and to enhance the transparency in the market transactions. It proposes as follows:</p> <ol style="list-style-type: none"> 1. A common schedule, integrating the present Schedule I and II of the NCS Regulations, to ensure parity in disclosures required to be made in a prospectus for public issuance of debt securities or NCRPS and a placement memorandum for a private placement of NCS is proposed to be listed. 2. For the private placement of non-convertible securities proposed to be listed, a General Information Document ('GID') containing the information and disclosures should be filed with the stock exchanges at the time of the first issuance of NCS. The GID shall be valid for one year, from the date of opening of the first offer of non-convertible securities under that GID. Format of GID provided. 3. For subsequent private placements of NCS and commercial paper within the validity period, only a KID ('Key Information Document') will be required to be filed with the stock exchanges. 4. Mandatory listing of subsequent issue of NCS 	<p>No Actionable since this is a public Consultation paper issued by SEBI.</p>

	<p>by a listed debt issuer. For the past issuances, mandatory listing for unlisted debt having o/s maturity of more than 5 years, within a specified time period (say 6 months).</p> <p>5. Disclosure of the various expenses incurred in the issuance of debt securities and non-convertible redeemable preference shares, whether issued on private placement basis or through a public issue process, in terms of the NCS Regulations and circulars issued thereunder. Such disclosure shall include break up for various categories of expenses, including details of the regulatory fees, in terms of amount as a percentage of total issue expenses and as a percentage of the total issue size, for the specified heads viz.</p> <p>a. Lead manager(s) fees including underwriting commission, if any.</p> <p>b. Brokerage, selling commission and upload fees.</p> <p>c. Registrars to the issue.</p> <p>d. Legal Advisors.</p> <p>e. Advertising and marketing expenses.</p> <p>f. Regulators including stock exchanges.</p> <p>g. Printing and distribution of issue stationery.</p>	
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SEBI notifies amendments to all modes of Buy-back

- SOP can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
All equity listed entities	<p>SEBI vide this has notified the amendments to all the modes of buyback applicable to Listed entities intending to undertake buyback of shares or specified securities. The changes brought about in respect of the modes of buyback are as follows: -</p> <p>1. In respect of Tender offer:</p> <p>a. Requirement of review of draft letter of offer by SEBI has been removed</p> <p>b. Revision in the offer price till one day prior to opening of offer allowed Reduction in the timeline for tender offer (offer opening date,</p>	<p>No immediate actionable.</p> <p>Our write-up on the topic is available here: https://vinodkothari.com/2022/11/ease-of-corporate-slimming-sebi-</p>

	<p>period, payment of consideration)</p> <p>c. Required limits to be calculated on standalone or consolidated basis whichever is lower</p> <p>2. In respect of Stock Exchange method:</p> <p>a. Glide path exit (maximum limit and offer period reduced)</p> <p>b. Restricted to only frequently traded securities</p> <p>c. Separate window is created for such buyback</p> <p>3. Through Book Building:</p> <p>a. Revised mechanism for the same has been notified.</p> <p>4. Other changes applicable to all modes are: -</p> <p>a. Timeline for creation of Escrow Account revised and additional modes of deposit added</p> <p>b. Minimum required validity of Bank Guarantee in light of post buy back compliances extended</p> <p>c. Minimum utilization amount for Buyback increased to 75%</p> <p>d. Days wherever appear have been replaced with working days</p> <p>e. All filings to be done electronically to the SEBI signed by CS or person authorized</p> <p>f. Reference to secretarial auditor in place of statutory auditor for few compliances</p> <p>g. Prior consent of lender in case of default of covenant needed.</p>	<p>proposes-substantial-relaxation-of-buy-back-norms/.</p>
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Enhanced obligations and responsibilities on Qualified Stock Brokers

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
Registered Stock Brokers	<p>SEBI through the above captioned circular has notified enhanced obligations and disclosure requirements in respect of Qualified Stock Brokers ('QSBs').</p> <p>This was done to enhance the compliances and monitoring upon the large stock brokers in order to ensure efficient functioning of the securities market by designating certain large brokers as Qualified stock brokers. The Circular provides on the following matters in relation to the stock brokers:</p> <p>1. Parameters for designating stock brokers as QSBs and the procedure for assigning a score to the</p>	<p>Registered Stock Brokers to take note of the enhanced obligatory requirements and ensure compliance with the same.</p>

	<p>stockbroker.</p> <p>2. The additional parameters to be checked for designating the stock broker as QSB are:</p> <ol style="list-style-type: none"> compliance score of the stock broker grievance redressal score of the stock broker the proprietary trading volume of the stock brokers. <p>3. The obligations and responsibilities have been added in the following respects: -</p> <ol style="list-style-type: none"> Governance structure and processes Risk management policy and processes Surveillance of the client behavior Ensuring integrity of operations Framework of orderly winding down Robust cyber security framework and processes <p>Investor services including online compliant redressal mechanism.</p>	
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Revised Disclosure Requirements for Issuance and Listing of Green Debt Securities

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
Listed or proposed Issuers of Green Debt Securities	<p>SEBI has notified the Issue and Listing of Non-Convertible Securities (Amendment) Regulation, 2023 with a view to align the extant framework related to the Green Debt Securities with the Green Bond Principles ('GBP') published by International Capital Market Association ('ICMA') which are also recognized by the International Organization of Securities Commissions ('IOSCO').</p> <p>In line with the same, SEBI has notified the issuers of green bond issuers to provide certain additional disclosures in the offer document along with additional continuous disclosure requirements in the annual report and financial results in order to ensure compliance with the environmental sustainability objectives.</p> <p>In view of the same, the issuers of green bonds are required to provide brief details about the procedure</p>	<p>No Immediate Actionable.</p> <p>Companies to take note of the enhanced regulatory requirements in case of issue and listing of green debt securities.</p>

	<p>employed for the purpose of determining the eligibility of the project for which the issue is being made along with the System/process employed to track the deployment of the funds and the details of the projects where the proceeds are being utilized.</p> <p>The issuer is also required to provide an indicative estimate about the proportion of deployment of funds for financing and refinancing along with the social and environmental risks and proposed mitigation plan associated with the project.</p> <p>It shall also appoint an independent third-party reviewer for the purpose of monitoring the post-issue management, verification of internal tracking and impact reporting, and overall project evaluation, and also provide the details of the placement of the allocated temporary unutilized funds by tracking the ISIN of various debt securities. However, this requirement of appointment of an Independent Third party reviewer shall be on comply and explain basis for a period of two years.</p> <p>In respect of continual disclosures required to be made the details of the allocation and utilization of the proceeds as per the internal tracking procedure as mentioned in the offer document, and the placement of proceeds unutilized as verified by the report of the external auditor shall be provided.</p> <p>The Annual report of the issuer shall also provide the brief details of the projects where the proceeds are utilized as well as the qualitative and quantitative indicators for measuring the impact/benefit and the mitigation plans deployed for the various environmental and social risks faced during the project. Also, project by project environmental impact of the projects financed shall be provided.</p>	
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Clarification w.r.t issue and listing of perpetual debt instruments and perpetual NCPS

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
NCS Listed entities (including proposed to be	Chapter V of the NCS Regulations prescribes the conditions applicable for issue and listing of perpetual debt, perpetual non-cumulative preference shares and other similar instruments.	No immediate actionable. Companies to take note of the provisions of the

listed entities	<p>With a view to clarify the applicability of the provisions of Chapter V, SEBI vide this circular provides that the applicability of such provisions is restricted only to the instruments having the below mentioned characteristics. They are as follows: -</p> <ol style="list-style-type: none"> a. The issuer shall be permitted by RBI to issue such instruments b. Instruments shall form a part of Non-equity regulatory Capital c. Instruments shall be perpetual debt instruments or perpetual non-cumulative preference shares. d. The instruments contain a discretion with the issuer / RBI for events including but not limited to following events: <ul style="list-style-type: none"> • conversion into equity • write off of interest/ principal • skipping/ delaying payment of interest/principal; • making an early recall; • changing any terms of issue of the instrument. 	circular.
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Maintenance of website by stock brokers and depository participants.

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
All companies, Recognized Stock Brokers and Depositories	<p>With a view to ensure better information availability and promoting transparency and investor protection SEBI has vide the present circular has mandated Stock Brokers ('SB') and Depository Participants ('DP') to maintain a functioning website with certain necessary information.</p> <p>In addition to the website disclosures prescribed under various laws, the website of SBs and DPs must contain the following details:</p> <ol style="list-style-type: none"> a. Basic details of the SB/DP such as registration number, registered address of head office and branches, if any. b. Name and contact details such as email ids etc. of all the key managerial personnel including 	<p>Companies, registered SB & DP to intimate the URL of its website to the Stock Exchanges:</p> <ol style="list-style-type: none"> a. within a period of 7 days from the effective date of this circular and, b. in case of any changes the same shall be reported within 3 days.

	<p>compliance officer.</p> <p>c. Step by step procedures for opening of an account, filing of complaint on a designated email id and finding out the status of the complaint.</p> <p>d. Details of Authorized Persons.</p>	
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Introduction of issue summary document for filing IPO papers in XBRL Format

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any								
Equity listed entities and issuers	<p>With a view to improve the data maintenance with the Stock Exchanges and depositories in a structured manner and availability of the same with the various interested parties SEBI via the above captioned circular has introduced the requirement of Issue of Summary Document('ISD') for filing papers pertaining to IPO and for further issue of securities in XBRL format.</p> <p>As per the circular, the Issue of Summary document shall be filed in two stages the first being the pre issue or the offer details and the subsequent filing shall be of the post issue details after the allotment / offer is completed. The format and the timeline of the same has been annexed with the circular. The implementation of the same will be in the following manner:</p> <table border="1" data-bbox="459 1413 1035 2029"> <thead> <tr> <th>Phase number</th> <th>Effective Date</th> </tr> </thead> <tbody> <tr> <td>First phase: For public issues of specified securities</td> <td>On or after March 01, 2023</td> </tr> <tr> <td>Second phase: For further issue of securities (preferential issue, QIP, rights issue, ADR, GDR, FCCBs)</td> <td>From April 03, 2023</td> </tr> <tr> <td>Third phase: For open-offer, buy-back and voluntary delisting</td> <td>From May 02, 2023</td> </tr> </tbody> </table>	Phase number	Effective Date	First phase: For public issues of specified securities	On or after March 01, 2023	Second phase: For further issue of securities (preferential issue, QIP, rights issue, ADR, GDR, FCCBs)	From April 03, 2023	Third phase: For open-offer, buy-back and voluntary delisting	From May 02, 2023	<p>No Immediate Actionable.</p> <p>In case of any issue made on or after the given timeline the ISD shall be filed as per the prescribed format and the timelines</p>
Phase number	Effective Date									
First phase: For public issues of specified securities	On or after March 01, 2023									
Second phase: For further issue of securities (preferential issue, QIP, rights issue, ADR, GDR, FCCBs)	From April 03, 2023									
Third phase: For open-offer, buy-back and voluntary delisting	From May 02, 2023									

Advisory on Cybersecurity Best Practices

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and timelines if any
<p>All Mutual Funds, AMCs, Trustee Companies, Stock Brokers, KRAs, RTAs, Depository Participants</p>	<p>SEBI by way of the present circular has released an advisory as recommended by Financial Computer Security Incident Response Team ('CSIRT - Fin') for SEBI Regulated entities ('RE') for cybersecurity best practices to limit the cyber and phishing attacks.</p> <p>This was introduced with the consideration that the operations of the financial entities and their interconnectedness have expanded resulting in financial risk faced by any one of the entities being spilled over to other entities.</p> <p>The following are the highlights of the guidelines issued by SEBI:</p> <ol style="list-style-type: none"> 1. The REs should define roles and responsibilities of the Chief Information Security Officer ('CISO') and other senior personnel. 2. The entities shall proactively monitor the cyberspace to identify phishing websites, as the majority of the cyber-attacks are primarily introduced via phishing emails. 3. Entities are required to carry out campaigns to create security awareness about the need to avoid opening links and attachments in email. 4. The operating systems of the entity shall be updated with latest security patches and the entity must carry out security audit or Vulnerability Assessment and Penetration Testing ('VAPT') at regular intervals. 5. Entity is advised to follow these five steps as measures for data protection: <ol style="list-style-type: none"> a. Prepare detailed incident response plan b. Enforce effective data protection, backup, and recovery measures. c. Encryption of the data at rest should be implemented to prevent the attacker from accessing the unencrypted data d. Identify and classify sensitive and Personally Identifiable Information ('PII') data and apply measures for encrypting such data in transit and at rest. e. Deploy data leakage prevention (DLP) 	<p>Companies being SEBI regulated entities to ensure compliance with the guidelines issued by SEBI and submit the report of compliance along with the cybersecurity audit report once in a financial year.</p>

	<p>solutions / processes.</p> <p>6. The regulated entities have also been directed to maintain a strong log retention policy and password policy in all digital assets and also enable multi factor authentication (MFA) for all users.</p> <p>7. The advisories issued by CERT-In should be implemented in letter and spirit by the regulated entities.</p> <p>The REs are also advised to go for ISO certification and due diligence with respect to audit process and tools used for such audit needs to be undertaken</p>	
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Consultation Paper on strengthening Corporate Governance under SEBI (LODR) Regulations, 2015

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

Applicability	Amendment	Actionables and timelines if any
Equity Listed Entities and HVDLEs	<p>SEBI vide the present Consultation Paper has proposed to insert certain Corporate Governance norms in the SEBI (LODR) Regulations, 2015 ('Listing Regulations') by way of the following proposals:</p> <p>A. Agreements binding on Listed Entities ('LE') subject to Stock Exchange ('SE') disclosure and shareholder approval:</p> <p>The present provision provides that entering into agreements binding on LEs, not in ordinary course of business are to be disclosed under clause 5 of para of part A of schedule III of the Listing Regulations.</p> <p>The following proposals have been laid down:</p> <ol style="list-style-type: none"> Insertion of clause 5A mandating disclosure of any agreements that directly or whose purpose and effect is to impact: <ul style="list-style-type: none"> management of LE; control of LE; impose any restriction on LE; create a liability on LE. Disclosure also to be made in the annual report of FY 23-24. Parties to such agreement to inform LEs, where not informed earlier; <ul style="list-style-type: none"> In case of existing one: on or before March 31, 2023. In case of new ones: within 2 working days 	<p>No actionable since this is a public consultation paper issued by SEBI.</p> <p>Our snippet on the same can be accessed here</p>

- of execution.
- iv. Board to provide its opinion with rationale, justifying the economic interest of the LE
 - v. Shareholders' approval is mandatory through SR and 'majority of minority' - until which it will remain ineffective

B. Sale, disposal of assets outside scheme of arrangement:

At present the requirement is to seeking approval under Section 180 (1)(a) by way of a SR. SEBI circular dated November 23, 2021 not applicable.

SEBI proposes that shareholder approval will be required in addition to SR under CA, 2013 for sale or disposal or lease of whole or substantially whole of the undertaking. Also, Mandatory disclosure of object & commercial rationale.

C. Board permanency to be done away.

- a. The present provision provides that the tenure of MD/WTD is 5 years. Tenure of NEDs, other than IDs, is based on Section 152(6).

Sec 152(6) of CA, 2013, requires of at least 2/3rd of directors be liable by rotation; out of which 1/3rd retire every AGM and balance 1/3rd of directors can be non-retiring. Therefore, the office will never come before shareholders post appointment.

- b. The proposed change is as follows:

From April 01, 2024, the LEs are required to ensure that directorships of all directors on the board are subjected to shareholder approval once in 5 years. These provisions shall not be applicable for directors appointed by court or tribunal.

D. Special rights pursuant to SHA to require S/H approval in every 5 years:

The present provision provides that post listing; LEs shall seek one time shareholder approval (majority of minority) for retaining special rights in AOA.

The consultation paper proposes that grant of special right (existing/proposed) to shareholder shall be subject to shareholder approval once in every 5 years. Also, existing rights to be renewed within 5 years from amendment notification from shareholders by way of

	special resolution and majority of minority votes.	
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Consultation Paper on amendments to SEBI (ICDR) Regulations, 2018

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

Applicability	Amendment	Actionables and timelines if any
<p>All Issuers falling within the ambit of SEBI (ICDR) Regulations 2018.</p>	<p>SEBI has proposed the following changes to the SEBI (Issue of Capital and Disclosure Requirement) Regulations, 2018 ('ICDR Regulations').</p> <p>A. Underwriting in Public Issue: At present scenario issuers enter into the underwriting agreement after finalization of price and the Red Herring Prospectus ('RHP') contains a disclosure to this effect. The consultation paper classifies underwriting into 2 types:</p> <ul style="list-style-type: none"> • Hard underwriting which means underwriting in case of under-subscription the of issue and • Soft underwriting which means underwriting in case of under-subscription on account of technical rejections. <p>In case of Hard underwriting, agreement to be entered into prior to filing RHP, and in case of soft underwriting the underwriting agreement to be entered into prior to filing the prospectus with SEs. Additionally the agreement must indicate the maximum number of securities that the underwriters will subscribe.</p> <p>B. Bonus Issue</p> <p>a. Precondition for bonus issue:</p> <ul style="list-style-type: none"> • LEs will be eligible to announce a bonus issue only upon receipt of in-principle approval from the SEs for listing of all securities issued prior to the bonus issue. • Not applicable to listing of ESOPs and convertible shares/ warrants <p>b. Bonus issue to be conducted in demat form only:</p> <ul style="list-style-type: none"> • even to shareholders holding physical shares • where the investor does not have demat account, LEs to open a separate demat account for dealing with such unclaimed 	<p>No actionable since this is a public consultation paper issued by SEBI.</p> <p>Our Snippet on the same can be accessed here</p>

	<p>securities</p> <p>C. Proposals w.r.t Anchor investors</p> <p>a. At present, lead managers and their associates cannot act as Anchor Investors in a public issue.</p> <p>b. Exceptions to rule include mutual funds, insurance companies, AIFs, FPIs sponsored by the entities that are associate of the lead manager.</p> <p>c. It is proposed that Pension Funds ('PFs') sponsored by entities that are associates of lead managers be allowed to act as Anchor Investors.</p> <ul style="list-style-type: none"> • PFs are registered intermediaries under PFRDA and are duly regulated. • PFs with minimum corpus of 25 crore rupees are defined as QIBs • In case of public issue of REITS, Pension Funds sponsored by entities that are associate of lead managers are allowed to participate as Anchor Investors • The same is proposed to be extended to public issue under ICDR. <p>D. Disclosure of complete industry report</p> <p>Presently, the 'Industry Overview' section of the offer document must contain extracts of 'Industry Report'.</p> <p>The Consultation paper proposes disclosure of the entire Industry Report in the offer document.</p> <p>E. Hosting offer document on the website</p> <p>Presently, the draft offer document & offer document is required to be hosted on the websites of SEBI, SEs, BRLMs associated with the issue. Consultation paper proposes that these documents also be hosted on the website of the issuer company.</p>	
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Consultation Paper on streamlining disclosures by listed entities and strengthening compliance with SEBI (LODR) Regulations, 2015

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

Applicability	Amendment	Actionables and timelines, if any
All Equity Listed Entities,	In order to streamline and address certain issues under the SEBI (LODR) Regulations, 2015 ('Listing Regulations') SEBI has issued the given consultation	No actionable since this is a public consultation

and HVDLE	<p>paper. The following are the proposals laid down in the consultation paper:</p> <p>A. Timeline to fill up vacancy of directors:</p> <ul style="list-style-type: none"> vi. Reg. 25(6) provides for appointment of ID within 3 months in case of resignation/ removal. No timeline has been prescribed in other cases or for non-IDs. vii. It is proposed that, in case of vacancy due to the following situations, the same to be filled on the same day: <ul style="list-style-type: none"> ● appointment of non-ID ● change in designation of director ● cessation due to completion of tenure. viii. In other cases, vacancy to be filled within 3 months from such vacancy. ix. LEs that complies with the board composition requirements under reg. 17(1) need not fill up the vacancy. <p>B. Timeline to fill up vacancy of KMPs:</p> <ul style="list-style-type: none"> i. No current provisions w.r.t. filling casual vacancy of Compliance Officer, CFO, CEO/ MD/ WTD/ Manager ii. Existing requirement under Sec. 203 of CA, 2013: Casual vacancy to be filled within 6 months from such vacancy. iii. The consultation proposes that casual vacancy to be within 3 months from the date of such vacancy. iv. The intent behind the proposal: need for specific timelines for filling casual vacancy of KMPs considering the gravity of responsibilities entrusted on them. <p>C. Freezing of demat a/c of CEO/ MD/ WTD:</p> <ul style="list-style-type: none"> i. Applicability: In the event of continuing default under certain LODR Regs. by the LE or any other person thereof. ii. At present reg. 98 empowers SEs to freeze promoters/ promoter group holding of designated securities iii. SEBI proposes freezing of the demat a/c of the MD/WTD/CEO in case of continuing default iv. At the time of resignation, the demat a/c will be unfrozen upon earlier of the following: <ul style="list-style-type: none"> ● after the LE complies with the Regs, or ● payment of the o/s dues, or ● 90th day from the date of resignation <p>D. Submission of financial results by newly-listed entities</p> <ul style="list-style-type: none"> i. Currently, timeline for filing financial results in 	<p>paper issued by SEBI.</p> <p>Our snippet on the same can be accessed here</p>
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	<p>case of newly listed entities is at par with other LEs.</p> <p>ii. Consultation paper proposes that newly listed entities to file their first financials as per the prescribed timeline for submission of quarterly/ annual financial results or within 15 days from listing whichever is later.</p> <p>Financial results of immediately succeeding quarter of period disclosed in offer document for IPO.</p>	
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Consultation Paper on Regulatory framework of ESG Disclosures

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

Applicability	Amendment	Actionables and timelines, if any
ESG Rating Provider Entities	<p>Pursuant to growing recognition of the significant economic and financial impact of climate change and Environmental, Social and Governance ('ESG'), risks SEBI has <i>vide</i> the given consultation paper proposed a regulatory framework on ESG disclosures by listed entities, ESG ratings in the securities market and ESG investing by mutual funds. The following are highlights of the proposal:</p> <ol style="list-style-type: none"> 1. BRSR Core: Mandatory Key Performance Indicators <ol style="list-style-type: none"> a. It consists of set of selected quantifiable KPIs in relation to BRSR disclosures along with mandatory reasonable assurance for reporting entities through a glide path b. Also extends BRSR to supply chain and reporting on such KPIs for the supply chain of top 250 listed entities (LEs) on a "comply or explain" basis 2. Parameterisation of ESG Ratings <ol style="list-style-type: none"> a. ESG parameters, relevant to Indian context, in at least one of the ESG ratings for an Indian company. b. ERPs to also provide a core ESG rating, based on information/reports that are assured/ verified/ audited. 3. Investing by ESG funds <ol style="list-style-type: none"> a. Voting disclosures providing clarity whether such decision is influenced by ESG reasons w.e.f. FY 23-24. b. Mandatory investment of at least 65% of its AUM in BRSR Core assured companies, remaining in BRSR reporting companies c. Enhanced disclosures and certifications. d. Entity may launch multiple ESG schemes under each sub-category 	<p>No actionable since this is a public consultation paper issued by SEBI.</p> <p>Our snippet on the same can be viewed here</p>

4. Enhanced disclosures & certifications

- a. Security-wise BRSR Core ratings with name of ERP
- b. Third-party reasonable assurance on scheme portfolio
- c. Certificate from Mutual Funds based on internal ESG audit
- d. Fund Manager's commentary annually

5. Proposed KPIs in BRSR Core:

- a. GHG emission intensity
- b. Volume of water consumption
- c. Capex for sustainable technology
- d. Waste in kg/ MT
- e. Wages to female as of % of total wages

6. Proposed ESG parameters in Indian context

Sr. No.	Environmental	Social	Governance
1.	Energy	CSR	Compliance
2.	Water	Bio-diversity	Royalty
3.	Waste Management	Inclusive Development	RPTs
4.	Land use and Biodiversity		

7. Timelines for compliance

BRSR Core by LEs		BRSR Core of supply chain	
Year	Entity	Year	Compliance
22-23	NA	24-25	Disclosure on BRSR Core
23-24	Top 250	25-26	Assurance on BRSR Core.
24-25	Top 500		
25-26	Top 1000		

Extension of Time for filing of PAS – 3 and other company e-Forms in MCA 21 Version 3 without additional fee -reg.

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines if any
All companies	MCA has, by way of the present circular extended the timeline for filing the 45 e-forms, including form PAS-3 that were launched in the V3 portal of MCA w.e.f. January 23,	Companies to take note of the extension in time granted by

	<p>2023.</p> <ol style="list-style-type: none"> 1. Form PAS-3 that was closed for filing in Version-2 on January 20, 2023 and launched in Version-3 on January 23, 2023, and whose due dates for filing fall between January 20, 2023 and February 06, 2023, can be filed without payment of additional fees for a period of 15 days. <p>The other forms launched in V3 portal a further additional time of 15 days for filing of these forms, without additional fees has been granted.</p>	MCA.
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Extension of time limit for filing forms with MCA

- Circular can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
All companies	<p>Due to difficulties faced while filing forms on the V3 portal, MCA has provided the following relaxation in due dates of filing forms:</p> <ol style="list-style-type: none"> 1. The 45 forms introduced as on January 23, 2023 and that are falling due to be filed during February 7, 2023 and February 28, 2023 shall be allowed to be filed without any additional fees up to March 31, 2023 2. Form PAS 3 which was closed for filing in V2 and reopened for filing on V3 by January 23, 2023 which falls due between 20th February to 28th February will also be allowed to be filed up to March 31, 2023 without any additional fee. <p>The reservation of name (SPICe PART A) of the company has been extended by 20 days and; Resubmission period under rule 9 of Companies (Incorporation) Rules, 2014 falling between 23rd to 28th February is extended by 15 days.</p>	Companies to take note of the extension provided and fill the necessary forms as required by the company up to March 31, 2023 in order to avoid any additional fee.

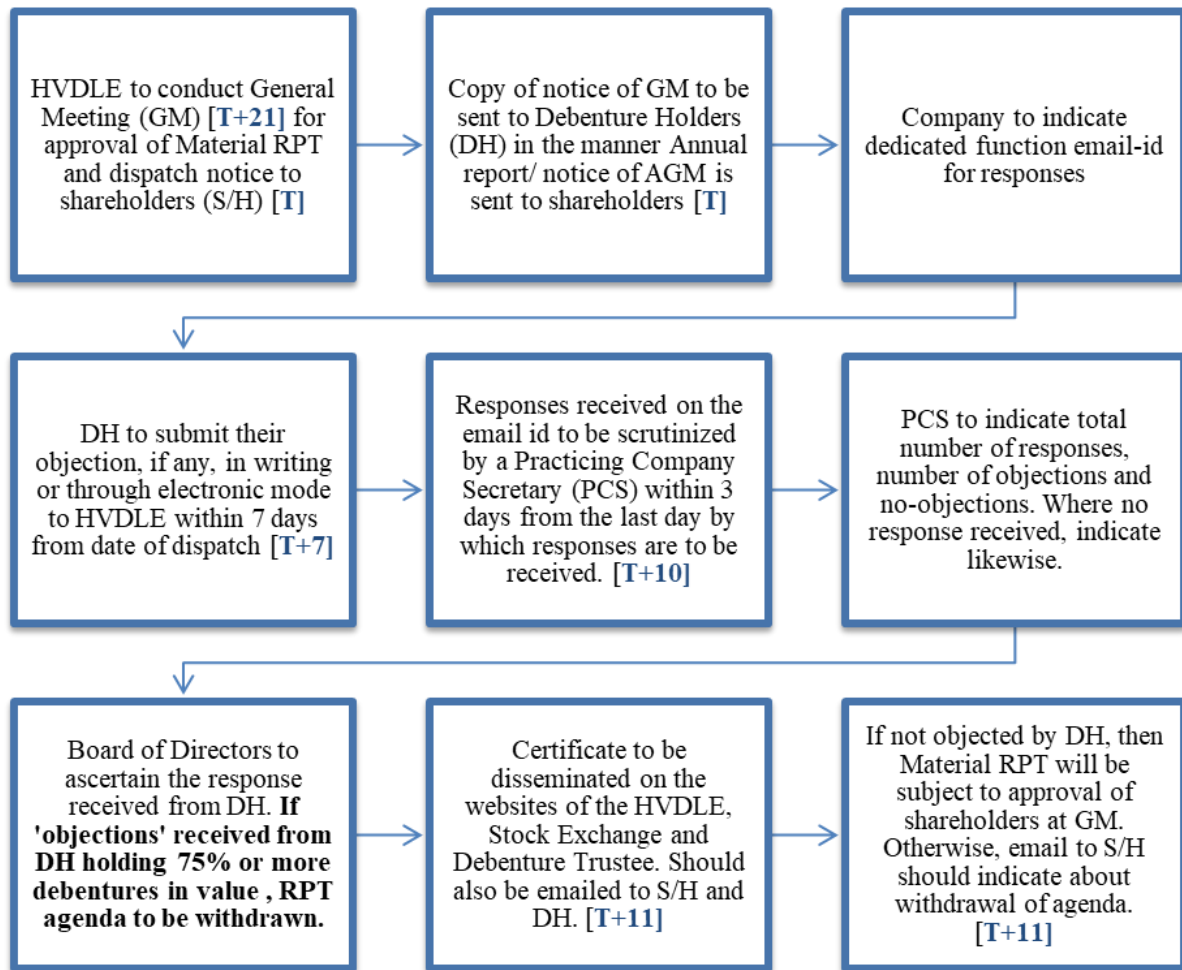
Clarification on filing of certain forms in physical mode

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
All companies	MCA has clarified that due to the instability of filing forms on the V3 portal companies intending to file the forms as mentioned below between February 22, 2023 to March 31, 2023 can file the same in physically with the necessary enclosures and signatures as required, and shall also file	Companies to take note that a window for submitting physical forms has been introduced for a

	<p>an electronic copy of the same with the RoC without any fees and obtain acknowledgement for the same.</p> <p>Further, while submitting such form, the company shall submit an undertaking stating that the company shall make the filing in electronic form on the MCA along with the fees payable.</p> <p>No additional fees shall be charged for the same as clarified in the circular dated February 21, 2023 (covered above).</p> <p>List of forms and the purpose:</p> <table border="1" data-bbox="327 663 1190 1496"> <thead> <tr> <th data-bbox="327 663 416 792">Sr. no</th> <th data-bbox="416 663 549 792">Form</th> <th data-bbox="549 663 1190 792">Purpose</th> </tr> </thead> <tbody> <tr> <td data-bbox="327 792 416 922">1</td> <td data-bbox="416 792 549 922">GNL-2</td> <td data-bbox="549 792 1190 922">Filing of prospectus related documents and private placement</td> </tr> <tr> <td data-bbox="327 922 416 1052">2</td> <td data-bbox="416 922 549 1052">PAS -3</td> <td data-bbox="549 922 1190 1052">Filing of Resolutions relating to prospectus related documents and private placement.</td> </tr> <tr> <td data-bbox="327 1052 416 1182">3</td> <td data-bbox="416 1052 549 1182">MGT-14</td> <td data-bbox="549 1052 1190 1182">Allotment of Shares</td> </tr> <tr> <td data-bbox="327 1182 416 1312">4</td> <td data-bbox="416 1182 549 1312">SH-8</td> <td data-bbox="549 1182 1190 1312">Letter of offer for buyback of own shares or other securities</td> </tr> <tr> <td data-bbox="327 1312 416 1406">5</td> <td data-bbox="416 1312 549 1406">SH-9</td> <td data-bbox="549 1312 1190 1406">Declaration of Solvency</td> </tr> <tr> <td data-bbox="327 1406 416 1496">6</td> <td data-bbox="416 1406 549 1496">SH-11</td> <td data-bbox="549 1406 1190 1496">Return in respect of buy-back of securities)</td> </tr> </tbody> </table>	Sr. no	Form	Purpose	1	GNL-2	Filing of prospectus related documents and private placement	2	PAS -3	Filing of Resolutions relating to prospectus related documents and private placement.	3	MGT-14	Allotment of Shares	4	SH-8	Letter of offer for buyback of own shares or other securities	5	SH-9	Declaration of Solvency	6	SH-11	Return in respect of buy-back of securities)	specified time period.
Sr. no	Form	Purpose																					
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Annexure – 1



Our articles of corporate interest

Identification of Related Parties of Subsidiaries

- Aisha Began Ansari, Manager

In order to identify the RPTs and to obtain requisite approvals, the listed entity is first required to identify its related parties and share them with its subsidiaries. Similarly, the subsidiaries are required to identify their related parties and share them with the listed entity and other subsidiaries. The subsidiaries are also required to track the RPTs at their level on an ongoing basis, to check if the value of their RPTs exceeds the threshold limits requiring audit committee or shareholders' approval of the listed entity. Therefore, to carry out the implementation of RPT framework at holding company level, the subsidiaries are also required to identify their related parties.

The article discusses as to which definition of Related Party a subsidiary should follow depending upon whether it is listed or unlisted.

Section 2: Financial Sector Updates

FAQs on Digital Lending Guidelines

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
<p>NBFCs (including HFCs), Commercial Banks, Co-operative Banks</p>	<p>RBI, vide the present FAQs, has provided the following clarifications:</p> <ol style="list-style-type: none"> 1. Digital lending and applicability <ol style="list-style-type: none"> a. The lending process will be “digital” when it is ‘largely by use of seamless digital technologies’ even if some physical interface with customer is present. b. EMI programmes on Credit Card shall not be covered under the Guidelines on Digital Lending since these are governed specifically by Para 6(b)(iii) of Master Direction on Credit Card and Debit Card – Issuance and Conduct, 2022. 2. Lending Service Provider (‘LSP’) related <ol style="list-style-type: none"> a. A service provider will be designated as LSP only in case the lending transaction is classified as digital lending. b. LSPs having an interface with the borrowers would need to appoint a nodal Grievance Redressal Officer. However, responsibility for ensuring resolution of complaints arising out of actions of LSP rests with the Regulated Entity (‘RE’). 3. Annual Percentage Rate (‘APR’) related 	<p>No major impact, however, the companies may take note of the clarifications w.r.t. disclosures to be made to customers in KFS and otherwise.</p> <p>These FAQs are in line with our existing views on the topic, we have covered these in form of detailed FAQ available here - https://vinodkothari.com/2022/08/faqs-on-digital-lending-regulations/</p>

- a. In case of floating rate loans, disclose APR -
 - i. at the time of origination: based on the prevailing rate as per KFS format
 - ii. as and when the floating rate changes: only the revised APR may be disclosed to the customer via SMS/ e-mail.
- b. Insurance charges shall be included in APR only where it is linked/integrated in loan products.
- c. An annualised rate of interest must also be disclosed in teh KFS along with APR.

4. Recovery / servicing of loans

- a. In case of delinquent loans, where physical interface is deployed to recover loans in cash, such transactions are exempted from requirement of direct repayment of loan in RE's bank account. However, any recovery by cash should be duly reflected in the borrower's account and REs shall ensure that any fees, charges, etc., are not charged by LSP to the borrower directly or indirectly from the recovery proceeds.
- b. At the time of sanction of loan, the borrower may be conveyed the name of empaneled agents authorized to contact the borrower in case of loan default. However, if the loan turns delinquent and the recovery agent has been assigned to the borrower, the particulars of such recovery agent assigned must be communicated to the borrower through email/SMS before the recovery agent contacts the borrower for recovery.

5. Flow of funds

- a. Flow of funds between the bank accounts of borrower and lender cannot be controlled directly or indirectly by a third-party including LSP.
- b. In a co-lending transaction, no third party other than the REs should have direct or indirect control over the flow of funds at any point of time.
- c. Entities offering only Payment Aggregator ('PA') services are not covered under Digital Lending Guidelines, however any PA also performing the role of an LSP must comply with the Digital Lending Guidelines including provisions related to flow of funds.
- d. In case of loan against salary, the loan is disbursed directly to the bank account of the borrower, however, the repayment from the corporate employer can be allowed subject to the condition that it is repaid by deducting the amount from the borrower's salary.

6. Charges

- a. The amount under default shall act as the ceiling on which the penal charges can be levied.
- b. Penal charges such as cheque bounce/mandate failure charges, which are necessarily levied on a per instance basis must be disclosed separately in the KFS under 'Details about Contingent Charges'.

Reasonable one-time processing fee can be retained if the customer exits the loan during cooling-off period. This, if applicable, should be disclosed to the customer upfront in KFS. However, the processing

	fee has to be mandatorily included for the computation of APR	
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Updates to UNSC's Sanctions List (Amendments to 29 entries)

- Notification can be viewed [here](#)

Applicability	Amendment	Actionables and timelines, if any
Regulated Entities	<p>In accordance with para 51 of the KYC Master Directions, NBFCs are required to comply with Section 51A of the Unlawful Activities (Prevention) (UAPA) Act, 1967, which requires them to not have any account in the name of individuals/entities appearing in the lists of individuals and entities, suspected of having terrorist links, which are approved by and periodically circulated by the United Nations Security Council (UNSC).</p> <p>Accordingly, this circular provides an updated list of individuals and entities linked to ISIL (Da'esh), Al-Qaida and Taliban.</p>	<p>Companies to take note of UNSC Communications and ensure that its records are updated as per the updated list.</p>

[Our articles of financial interest](#)

[Liquidity Stress testing for NBFCs](#)

- **Vinod Kothari, Managing Partner**

Stress testing is a part of risk management process. Stress testing envisages those plausible, however, low frequency events, which may occur and disrupt the operations.

The sources of liquidity test reside on the liability side- extent of leverage, contractual maturities of liabilities and run off rates, extent of revolving facilities and so on. However, there may also exist asset side problems which may take the form of delinquencies in loans and receivables and illiquidity of receivables and other assets. The article talks about the various contingency plans that an entity may draw upon should any stressful liquidity situations arise.

Further, the article talks about specific points that are relevant for Indian NBFCs with respect to liquidity stress testing.

[Ushering the Ne-Age TReDS Platform](#)

- **Anirudh Grover, Executive**

Receivables or debtors though from the face of it is considered as a positive thing for businesses, however when you lift the tag of positivity one can assess the true color of trade receivables. This essentially means that despite it being classified as an asset it may not be helping the business when required.

Besides providing a simplified overview of the mechanism of TReDs, the article discusses some new measures introduced by RBI with the intent of providing further impetus to the TReDS platforms.

[The Do's and Don'ts of Penal Charges](#)

- **Tejasvi Thakkar, Executive**

It is said that 'where there is no law, but every man does what is right in his own eyes, there is the least of liberty'. Presently, RBI provides discretion to NBFCs for determination of the rates of interest on advances as well as other charges levied by them in lieu of the services provided to the borrowers, subject to a Board approved policy.

It was observed by RBI that some lenders were charging high penal charges and using penalty as a revenue enhancement tactic. Considering the present practices and the grievances faced by the borrowers, the RBI has proposed to issue guidelines to regulate the levy of penal charges by lenders.

The article provides an insight into these RBI propositions.

Section 3: Special Mentions



Mr. Vinod Kothari
Managing Partner

- Session on the topic “Budget Marathon: Series of webinar on the Union Budget 2023-24 “on 4th February 2023. It was organized by TAXMANN.
- Session on the topic “Related Party Transactions-Law, Compliance, Disclosure, Case Laws & Penal Provisions,” on 18th February 2023. It was organized by LCO Alumni Association Kolkata.



Ms. Vinita Nair
Senior Partner

- Session on the topic “Key Elements of Framework for Controls Relating to Insider Trading,” on 11th February 2023. It was organized by ICSI-WIRC.
- Session on the topic “Recent Amendments in Corporate Bonds & LODR” on 18th February 2023
- Session on the topic “Insider Trading Regulations” on 27th February 2023. It was organized by ICSI- CCGRT.



Ms. Barsha Dikshit
Partner

- Session on the topic “Management Skills- Confidentiality, Security and Compliances
i. Maintaining confidentiality of information.
ii. Data Security” on 13th February, 2023. It was organized by ICSI- EIRC.



Ms. Pammy Jaiswal
Partner

- Session on the topic “Legal Skills -2: Basic / Legal Drafting : Secretarial Drafting” on 2nd February, 2023. It was organized by ICSI-EIRC.



Ms. Aisha Begam Ansari
Manager

- Session on the topic “Insider Trading Regulations” on 27th February, 2023. It was organized by ICSI- CCGRT.

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Our Credo

“Focus on capabilities, opportunities follow”