

Making life easy for listed entities: SEBI approves action on Expert Committee recommendations

- *Ease of compliances approved, crucial proposals remain unapproved*

SEBI had released a [Consultation Paper](#) ('CP') on 26th June, 2024 on the recommendations of the Expert Committee on various amendments to the Listing Regulations and ICDR Regulations including streamlining of provisions in LODR and ICDR for facilitating Ease of Doing Business (EODB). The recommendations have been made with the objective of simplification of procedures, compliances, easing out on timelines, filing records, rationalization of legal provisions etc. While some recommendations pertain to ease of doing business, reduction of compliances or streamlining of provisions, other recommendations include measures towards further strengthening of corporate governance. Some of these proposals have been approved by SEBI in its [Board meeting dated 30th September, 2024](#). Final text of the amendments is awaited.

Based on the press release, it is understood that the proposals with respect to the exemptions under the RPT framework, as well as revised procedure with respect to reclassification of promoter/ promoter group into public category has not been approved by SEBI. The amendments approved primarily pertain to disclosure of material events, ease of filing requirements with stock exchanges and relaxation in timelines for certain compliances.

Disclosure of material events and information under Regulation 30

Recommendations under CP	Proposals approved in SEBI Board Meeting and Rationale
Monetary limits for disclosure of imposition of penalty	
<ul style="list-style-type: none">● Penalties levied by sectoral regulators/enforcement agencies (as specified by Industry Standards) - Rs. 10,000● Penalties levied by other authorities - Rs. 10 lacs● Clarification with respect to testing tax litigation for materiality in terms of Para B(8) instead of deemed material event as per Para A(20) of Part A of Schedule III of LODR	<ul style="list-style-type: none">● Given the monetary threshold of Rs. 10,000 in the CP being too less to be material, an increased threshold of Rs. 1 lac has been approved for disclosure purposes.● The other recommendations have been approved.

Additional time for disclosure of certain material events	
<ul style="list-style-type: none"> ● Increase in timelines from 30 minutes to 3 hours for intimation of outcome of board meeting, subject to following conditions: <ul style="list-style-type: none"> ○ Pre-board meeting intimation has been given for such meeting (u/r 29) ○ Board meeting concluded after the closure of trading hours ● Increase in timelines from 24 hours to 72 hours in case of litigation where claims are against the listed entity 	<p>The proposals have been approved in the SEBI Board Meeting.</p> <ul style="list-style-type: none"> ● Additional time for disclosure after closing of trading hours vitiates the possibility of trading on the basis of price sensitivity of decisions taken in the board meeting. ● In case of litigation where claims are against the listed entity, the company may need some time for materiality assessment. Hence, the same has been approved subject to making entries in Structured Digital Database (SDD).
Disclosure of acquisition by listed entities	
<ul style="list-style-type: none"> ● In case of listed companies - shares or voting rights aggregating to 20% (increased from 5% at present) or there has been any subsequent change in holding exceeding 5% (increased from 2% at present). ● In case of unlisted companies - no change in thresholds. Details may be disclosed on a quarterly basis as part of the Integrated Filing (Governance). 	<ul style="list-style-type: none"> ● The SEBI Meeting release does not specify whether the proposals have been approved or not. <p><u>Our Comments on the Proposal under CP</u></p> <ul style="list-style-type: none"> ● The increase in limit should apply even in case of unlisted companies instead of the existing threshold of 5% and change of 2%. The need to align with the SAST disclosure requirements is not clear. ● Where the stake is insignificant, but the quantum of investment is significant exceeding the threshold prescribed under Reg. 30(4), in that case the present regulatory regime anyways warrants a disclosure.

Ease of filing requirements on stock exchanges

Various proposals were made with respect to ease of filing requirements with the stock exchanges. The same has been approved by the SEBI in the present Meeting. These include:

- (a) Introduction of a single filing system to eliminate the requirement of filing the same document to each stock exchange separately. The same will be automatically updated with other stock exchanges through API-based integration.

- (b) Integration of periodic filings under two broad categories, viz., Integrated Filings (Governance) and Integrated Filing (Financial) to minimize the number of filings. The CP provides suggestive formats of filing the said information.
- (c) System driven disclosure for filing of shareholding pattern under Reg 31 and revision in credit ratings (Reg 30 read with Schedule III)

Proposals not approved in SEBI Board Meeting

The following proposals were made as a part of the Consultation Paper on EoDB, however, the press release of SEBI Board Meeting does not mention the same. Hence, it is assumed that the proposals have not been approved by the regulator. We discuss the key proposals below with the gaps in such proposals.

Framework on dealing with related party transactions

Recommendations under CP	Existing gaps and our comments
Exemption from the meaning of RPTs	
<ul style="list-style-type: none"> ● Corporate actions uniformly applicable / offered to all shareholders / public <ul style="list-style-type: none"> ■ By subsidiaries of a listed entity, or ■ Received by the listed entity or its subsidiaries. ● Acceptance of CASA deposits by banks in accordance with RBI directions ● Retail purchases from any listed entity or its subsidiaries <ul style="list-style-type: none"> ○ by its directors or employees <ul style="list-style-type: none"> ■ Without establishing a business relationship, and ■ at the terms which are uniformly applicable/ offered to all employees and directors 	<ul style="list-style-type: none"> ● The recommendations prescribe for exemption for retail purchases for directors and employees only. Relatives of directors, other related parties seem to be excluded from the scope of carve out. For e.g. if a relative of the director of a Food app co. orders food from the same app, or an entity related to a director of a hotel company hosts a conference or books a room in the same hotel - will these be subject to approvals under RPT regime? ● The idea of specific regulatory carve-out leads to an impression that what is not so carve-out cannot be carved-out. The carve-outs under the law should not be so specific so as to restrict the power of the listed entities in specifying other policy-based exemptions. What is not carved-out by law, can still be carved-out by the company by specifying exclusions in the RPT policy and hence, the aforesaid carve-out can be made available to all related parties, by the RPT policy of the company. ● As a good corporate governance, such policy-based exemptions may be further subjected to shareholders' approval. ● Retail transactions lack potential for conflict of interests as those are typically in the ordinary course of business and on an arm's length. For retail transactions, a carve-out may be given for all related parties, if following criteria are met:

Recommendations under CP	Existing gaps and our comments
	<ul style="list-style-type: none"> ○ The transaction is a retail transaction, happening over the counter/ through automated system; ○ the transaction in question is a goods/ service provided by the listed entity to customers in general; ○ Identity of customer is not known at the point of transaction; ○ Charges for the product/ service is based on a common rate chart and is non-discretionary.
Ratification of RPTs by AC	
<p>Post-facto ratification of RPTs by AC subject to following conditions:</p> <ul style="list-style-type: none"> ● Ratification to be done within earlier of <ul style="list-style-type: none"> ○ 3 months from the date of transaction or ○ immediate next AC meeting ● Value of ratified transactions along with other transactions with the RP during the FY \leq Rs. 1 crore ● Transaction should not be material RPT ● Rationale for inability to seek prior approval shall be placed before AC ● Details of ratification to be disclosed along with half-yearly RPT disclosures to SEs. ● Additional conditions may be specified by AC. <p>Consequences of failure to seek ratification of AC</p> <ul style="list-style-type: none"> ● Transaction becomes voidable at the option of board of directors. ● Concerned directors to indemnify the company against losses, if the transaction is with an RP of director/ authorised by director. 	<ul style="list-style-type: none"> ● The ratification norms seem to be a bit misplaced. The confusion exists under CA, 2013 and now, under LODR as well. ● Ratification is not approving an exception – AC may set its own discipline. AC is now considering the RPT which should have been considered while originally undertaking. There cannot be rulemaking around this. ● Threshold based conditions for permitting ratification frustrate the purpose of obtaining post-facto ratification ● RPTs of a value upto Rs. 1 crore are anyways covered by the blanket approval for unforeseen RPTs, hence, subsequent approval of AC is not required. ● Hence, in our view, the decision to ratify RPTs should be based on the judgement of the members of AC, and not on threshold based conditions ● Further, a failure to obtain ratification by AC, brings the transaction into board domain. This is notionally wrong, having the impact of taking away the rights from AC - the specialised body of IDs, to the larger board (that comprises of Non-IDs as well). Under Section 177, the transaction remains voidable at the option of AC only. ● Similar provisions are there u/s 188 of the Companies Act, however, the coverage of section 188 is quite different from Reg 23 of LODR, and

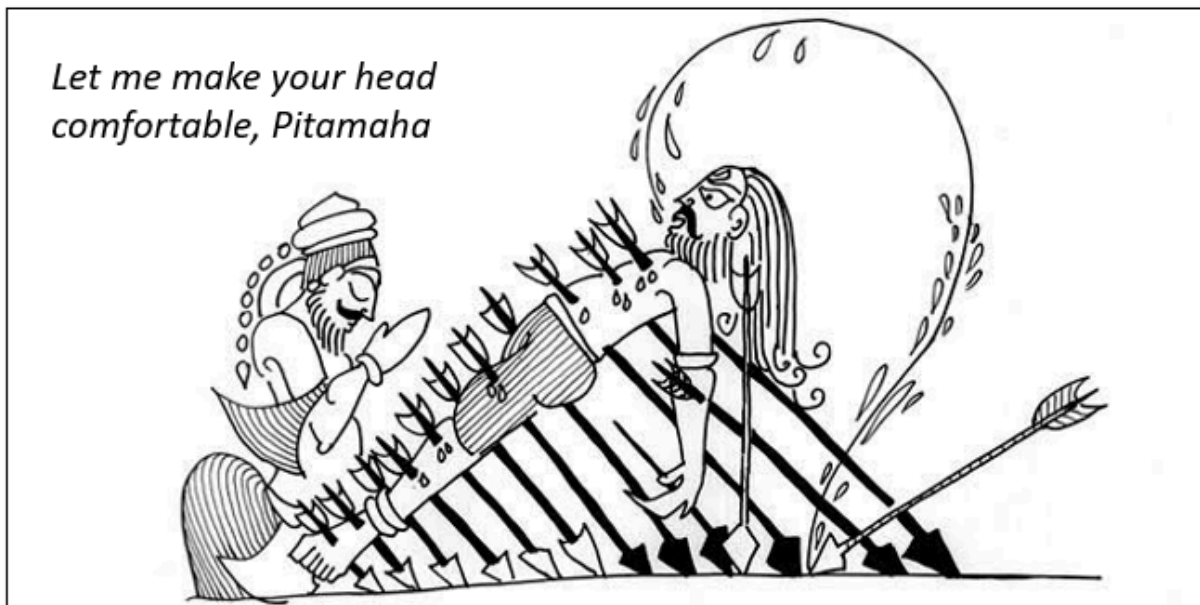
Recommendations under CP	Existing gaps and our comments
	hence, cannot be put on the same ground.
Exemption from approval requirements for RPTs	
<p>Exemptions from approval requirements for RPTs under Reg 23 to be extended to the following:</p> <ul style="list-style-type: none"> ● Payment of statutory dues, fees or charges to Central/ State Govt ● Transactions entered into between two public sector companies (including government companies) ● Transactions entered into between a public sector company (including government company) and the Central/ State Government. 	<ul style="list-style-type: none"> ● Instead of prescribing exemptions for transactions with Central Govt/ State Govt, the Central and State Govts should be explicitly excluded from the definition of related party under LODR. ● The term ‘public sector companies’ is still likely to cause confusion for bodies corporate like LIC, SBI, PSU Banks. The term and meaning should either be aligned with the one used in applicable accounting standards (for e.g. a government-related entity under IND-AS 24 or a State-controlled enterprise under AS-18), or an explanation may be added that the term will have meaning of a public sector company as defined under SCRR.

Framework for reclassification of promoter/ promoter group entities

Recommendations under CP	Existing gaps and our comments
<ul style="list-style-type: none"> ● Obtaining NOC of SEs prior to shareholders’ approval instead of SE approval post shareholders’ approval to enable identifying the defects beforehand. ● Reduction in timelines for LEs & SEs for processing reclassification requests. ● Disclosures limited to the outcome of board meeting instead of minutes of board meeting. ● Penalty on LEs for delay in processing the requests. 	<ul style="list-style-type: none"> ● Promoter reclassification requests mostly emerge on account of absence of control for persons having neither any shareholding nor control over board composition, apart from the change in control due to dissolution of stake. ● Practical issues remain for immediate relatives of promoters, holding no control but forming part of promoter group on account of blood relationship <ul style="list-style-type: none"> ● SEs to have a policy for providing NOC, taking into account factors on the basis of which one may establish absence of control and hence, admissibility of the promoter reclassification application. The same may be indicated in public domain for the benefit of the applicants. Presently,

	the checklist only provides for details to be submitted.
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Over a period of time, regulatory compliances for listed entities have become far more cumbersome and rule-driven (as opposed to principle-driven) in India, as compared to other major jurisdictions in the world. Often, the regulatory compliances are repetitive, substantially redundant, and burdensome. Hence, it is important to ensure that the amendments meet the original intent of EODB rather than just adding to a little Ease of Dying on Bed.



EODB: Ease of Bhishma Dying on Bed

It is required to ensure that the regulations remain relevant for the listed entities, aligned with the changing business landscape. Several recommendations of the Expert Committee are expected to bring ease of compliance for LEs, some of which have been approved by SEBI.