

Bo[u]nd to ask before transacting: High value debt issuers bound by stricter RPT regime

- FAQs on RPT framework for HVDLEs
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Introduction

A [27th March, 2025 amendment](#) to the LODR Regulations creates a new approval regime for related party transactions (RPTs) for High-value debt listed entities (HVDLEs - *those having listed debt issuance of Rs 1000 crores or more as on 31st March, 2025 as raised from the earlier applicable threshold of Rs. 500 crores or more*). This regime will require HVDLEs to seek prior majority-of-minority vote of the debenture holders, that is, excluding those holders who are related parties of the issuer. This will be in addition to shareholders' approval, where the majority-of-minority rule will cease to apply (refer graphic below).



The provisions are based on a [Consultation paper dated 8th February, 2023](#)¹ read with the [Consultation Paper dated 31st October, 2024](#)². The proposals were based on the impossibility of compliance on account of the related shareholders in closely held entities and the requirement of protecting the interests of the debenture-holders, being the lenders.

The new regime kicks-in for transactions to be entered into from 1st April, 2025, though our analysis shows that it may result in a retroactive rule for RPTs which would, in all likelihood, already stand approved before that date. Our FAQs provide guidance to some very tricky issues arising from this new regime.

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¹ See our article on the same at - [SEBI to provide debenture holders the right to object material related party transactions](#)

² See our article on the same at - [SEBI proposes to ease HVDLEs from equity linked CG norms](#)

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Scope and Applicability of the revised regime

1. Briefly speaking, what is the revised approval regime with respect to material RPTs by pure HVDLEs?

The revised approval regime with respect to material RPTs by pure HVDLEs involve a 4-stage approval: :

- I. Prior approval of Audit Committee

- II. No-objection from debenture-holders (through Debenture Trustee), with the related party debenture-holders not voting
- III. No-objection certificate (NOC) from Debenture Trustee (DT)
- IV. Shareholders' approval through ordinary resolution, without any restraint on related party voting.

Further, the usual requirements as to framing an RPT policy and making disclosures as per SEBI-prescribed formats are there. The regulations also require RPT approval by subsidiaries of the HVDLE (similar manner as reg. 23) - details discussed further.

2. What are the broad differences between the RPT regime for equity-listed entities (reg. 23) and for HVDLEs (reg. 62K)?

	Reg 23	Reg 62K
Applicability	Equity-listed entities, even if having listed debt securities	HVDLEs (not being equity listed)
No-objection from Debenture Holders through DT for material RPTs	Not required, including in case of HVDLEs having also listed equity securities	Required, through more than 50% in value, present and voting
Recusal of debentureholders being related parties	Does not arise	Applicable.
Approval of shareholders	Related parties cannot vote to approve	Related parties can also vote
Ratification by AC	Permitted subject to certain conditions	No such provision
Validity period of shareholders' omnibus approval	Valid for a financial year, or till the upcoming AGM if approved on AGM to AGM basis, then till the AGM of the current financial year	No such provision. However, in our view, the approval may be taken on omnibus basis, as the materiality threshold is based on aggregation of transactions within a financial year

It may be noted that the regulations do not factor the latest amendments brought about in reg. 23, *vide* LODR (3rd Amendment) Regulations, 2024³, for example, provisions for ratification of RPTs by the Audit Committee, exemptions with respect to RPTs between public sector companies or statutory dues with the Government, etc, exemption from approval and disclosure requirements for payment of remuneration to related parties subject to certain conditions etc.

³ Our FAQs on the same can be accessed [here](#)

3. Is the regime applicable to debt-listed entities (having outstanding NCDs beyond Rs. 1000 crores) which are also equity-listed?

No. HVDLEs have been under sub-regulation (1) of reg. 62C so as to refer to only those entities *having only listed NCDs*, with an outstanding value of Rs. 1000 crores and above and *does not have any listed specified securities*. Hence, an entity which has both debt and equity listed, is not covered under the ambit of Chapter VA. Therefore, an equity listed entity is not required to obtain debenture-holders' consent for material RPTs. The RPT approval process for an equity listed entity remains unchanged.

4. Whether the RPT regime is applicable to HVDLEs which only have privately-placed debentures?

It does not make a difference whether the debentures are publicly issued or privately placed. If the entity is an HVDLE pursuant to debt securities being listed and crossing the limit of Rs. 1000 crores, then the RPT regime will apply.

5. Is the RPT regime applicable to existing RPTs or RPTs entered into after the date of notification of this Amendment? Also, whether the approval needs to be obtained from existing debentureholders?

As per sub-reg. (8) of reg. 62K, the provisions of this regulation shall be applicable to all transactions entered into on or after April 01, 2025. Also, as per Explanation (2) to reg. 62K(6), the NOC is to be obtained from DTs and debenture-holders for issuances brought on or after 1st April, 2025.

Hence, - (i) only those RPTs which have been entered into by the company on or after 1st April, 2025 require approval, and (ii) approval shall be required with respect to the listed debt securities issued on or after 1st April, 2025.

Therefore, there is no question of seeking approval for existing RPTs.

Now, it is a usual practice to obtain AC approval for RPTs before the beginning of FY. As on the date of notification of this Amendment, many companies would have already taken AC approval for the RPTs proposed to be undertaken in FY 2025-26. Therefore, the question is - whether debentureholders' approval would be required even with respect to those RPTs which have been approved by AC even before the Amendments came into effect?

It may be noted that RPTs are not approved on a one-on-one basis; RPTs are bunched against a particular RP, and then approved for the entire year. Materiality of an RPT is seen, basis the entire set of transactions to be undertaken during the year. If the value of transactions crosses the materiality threshold, each RPT with the RP becomes material. Therefore, the entire series of RPTs for the financial year goes for shareholder approval (and as per amendment, now onwards, will also need debentureholders' approval). Now, the Amendment says that approval shall only be required from debentureholders with respect to debentures issued on or after 1st April, 2025. However, at the time the company obtained AC approval for RPTs proposed to be undertaken in FY 2025-26, there could not have been those debentureholders whose approval was required. By the time the debentures are issued, it is quite possible that the company would have already

started transacting with the RP. It cannot be argued that the company has to seek approval from the debentureholders for the RPTs which have been entered, prior to such debentureholders subscribing to the debentures of the company.

If it is argued that even after getting AC approval before 1st April, 2025, the RPTs would still require approval from debenture-holders post 1st April, 2025, it would create uncertainty as transactions/contracts already entered into, as rescindment of such contracts, if not approved by the debentureholders, can be more prejudicial to the company. If a view is taken that a prospective approval after the issuance of the debentures should be taken, it amounts to splitting of transactions already done before the issuance, from those to be done post issuance, which cannot be the scheme of the law.

Hence, we are of the view, that the RPT regime would apply to RPTs already approved by AC for FY 2025-26, and would require approval from debentureholders (becoming so after 1st April, 2025) only in these cases -

- The relevant approvals for transactions during FY 25-26 have not been taken before the issuance of the debentures.
- There is a material modification in such RPT
- The RPT is proposed to be renewed
- The limits for such RPT are proposed to be revised

Besides, if there is any RPT which was not approved by AC/shareholders prior to 1st April, 2025, would of course require approval from such debentureholders.

Another way of approaching the issue is that the companies going for debenture issuance on or after 1st April, 2025 may disclose in their offer documents the approvals for RPTs that they are already holding.

No-objection of Debenture Holders

6. What is the threshold of debenture holders' approval?

The threshold is more than 50% of debentures in value (referred to as "approval threshold")

7. Will the approval threshold be calculated on the basis of total outstanding debentures?

No - it has to be on a present and voting basis. Please see the illustrations later (FAQ no. 26).

8. Can the debenture holders' approval be omnibus in nature? If so, what is its validity?

In the context of listed entities covered by Regulation 23, the [SEBI Circular dated 8th April, 2022](#)⁴ provided clarification on the validity of omnibus shareholders' approval. Regulation 62K has no mention of the omnibus approval by the debenture-holders or the shareholders.

However, given the way RPTs happen over the financial year, the materiality threshold is taken based on the projected transactions during the FY, and are approved on an omnibus basis. As the

⁴ Read an article on the same at - [Life of shareholders' approval for material related party transactions](#)

so-called “no objection certificate” for RPTs precedes shareholders’ approval, it has to follow the same process as in case of shareholders approval. Therefore, we have no doubt that the debentureholders’ “no objection certificate” may also be on omnibus basis.

If so, what about the validity of the omnibus approval? Once again, the debentureholders’ NOC becomes a condition precedent for the shareholders’ approval - hence, the process applicable to shareholders’ approval, viz., omnibus approval, and its validity, very much applies to debentureholders’ approval too.

9. Is there a difference between “no objection certificate” and a resolution in a meeting of debentureholders?

Given that the so-called “no objection certificate” is to be taken at a meeting of debenture holders on “present and voting” basis, it is no different from a resolution. The expression “resolution” is much better understood in corporate law parlance; hence, the use of the other expression was not warranted.

If a company seeks to take a written NOC instead of a meeting, it may then have to obtain the consent of all the debentureholders (analogous provisions as to members are present in section 117(3)(b) of the Companies Act, 2013).

10. What is the meaning of ‘value’ for the purpose of seeking no-objection from debenture-holders?

The value of NCDs should be based on the principal outstanding of the debentures.

11. Whether the value of “more than 50% of debentures” is to be checked individually for each ISIN or for all issuances together?

The relevance of ISIN arises in case of a change affecting the rights and interests of one specific class or category of debenture-holders, for instance, any variation in the terms of or rights available to a specific class of debenture-holders.

However, in case of material RPTs, the impact is not limited to one class or series of debenture-holders, but is expected to impact all debenture-holders as a class of stakeholders.

Therefore, in our view, the value of more than 50% should be considered on an aggregate basis for all issuances made on or after 1st April, 2025 and remaining outstanding as on the date of seeking no-objection from the debenture-holders.

12. Is it expected to call the meeting of each series of debentureholders, or one single meeting?

As the approval is for the entire body of debentureholders, the meeting should be for all outstanding debentures, issued or or after 1st April 2025.

13. Who will be calling such a meeting?

From the language of the regulations, it seems the DT will be calling the meeting.

14. What if there is more than one DT?

Calling separate meetings will create issues in aggregation of votes; in our view, the meeting should still be jointly called. This should not be difficult if the meeting is e-voting.

15. What are the rules applicable to the meeting of debentureholders? Can the holders impose an obligation to call e-meeting, so that the voting can be more inclusive?

The law does not prescribe any written rules with respect to the calling of the meeting of debenture-holders. Therefore, the meeting may be held in accordance with the procedure laid down in the Debenture Trust Deed or other relevant transaction documents.

16. Should there be any differential treatment for debentures based on the seniority or sub-ordinated terms of the debentures?

The terms of debentures with respect to seniority or sub-ordination is based on the priority of payment with respect to such debentures. The material RPTs to be undertaken by the HVDLE is not expected to have a differential impact on the debentures based on the priority of payment. Hence, the denominator should be all listed debentures issued or after 1st April, irrespective of seniority.

17. Does it make a difference if the Debenture Subscription Agreement with respect to the sub-ordinated debentures specify that the debenture-holders have inferior rights with respect to no-objection in case of material RPTs?

No. We do not think such a clause has any relevance or validity..

18. Can an HVDLE incorporate a clause in the Debenture Subscription Agreement waiving the rights of debenture-holders from objecting to the material RPTs?

The same is contrary to the intention of law, and such a clause being *ultra-vires* the requirements of the Amended Regulations, will be void.

19. Which debenture-holders are eligible to vote to provide no-objection to material RPTs of HVDLE?

The debenture-holders that are not “related parties” to the HVDLE can provide no-objection to material RPTs of HVDLE. The denominator will be of all debentures issued and outstanding, but the eligible votes will be only from those who are not related parties. See also below.

20. How to compute the value of debentures for the purpose of ensuring no-objection of *more than fifty per cent. of the debentures in value*? Is the same to be considered for all debenture-holders or only for the debenture-holders present and voting?

The final proposal, as approved by SEBI in its BM (refer BM Agenda: pg 42) refers to the voting by debenture-holders *on the basis of present and voting including e-voting*. Therefore, it is clear that the value of debentures is to be considered for the debenture-holders present and voting, and not all debenture-holders.

21. Debentureholders who are related parties are precluded from voting on related party matters - does that mean companies will have to maintain a separate list of such debentureholders who are related parties?

The companies are required to maintain a list of related parties in accordance with the definition of related party under Reg 2(1)(zb) of the LODR. Additionally, for the purpose of ensuring compliance with obtaining no-objection from unrelated debenture-holders, the company will have to identify such related parties who are also debenture-holders of the company as on the date of seeking no-objection.

Further, the list of debenture-holders are based on the issuances brought by the company on or after 1st April, 2025.

22. Will related party debenture holders be entitled to the notice of the meeting? Can they vote against the resolution?

The meeting is of the debenture holders; usually there is no reason to distinguish between debentureholders in their right of information or voting. The only issue is - for the purpose of counting the affirmatory votes, the votes of related parties will be excluded.

23. Will the requirement of obtaining debentureholders' approval also apply if the RPT is a material RPT in terms of section 188 of the Companies Act, but not under SEBI LODR?

The prescription of debentureholders' approval is only with respect to material RPTs under LODR. An RPT which is material only in terms of section 188 of the Companies Act, will not require debentureholders' approval.

No-objection certificate from Debenture Trustee

24. What is the pre-condition for the DT for providing the NOC?

The pre-condition for providing the NOC by the DT is obtaining no-objection from the debenture holders who are not related with the Issuer and hold at least more than fifty per cent. of the debentures in value.

25. In case of an HVDLE having more than 1 DT, whether the more than 50% in value criteria is to be satisfied for each DT separately or at the entity-level on an aggregate basis?

The provisions are applicable for issuances made on or after 1st April, 2025. Therefore, for ease of compliance and in order to avoid multiple NOC requirements, the HVDLEs may consider engaging a single DT for the purpose of all new issuances.

In other cases as well, where an HVDLE has multiple DTs, a common meeting may be called by the DTs jointly, to take no-objection from debenture-holders holding more than 50% of the debentures, in value, of the HVDLE. It is important to note that the DTs are merely intermediaries between the issuer and the debenture-holders, and therefore, the approval has to be considered from the point of view of debentureholders and not debenture trustees.. Hence, the criteria should be applied on an entity-basis based on the aggregate outstanding value of the listed NCDs, rather than looking at individual DTs. Please see the illustrations below.

26. Examples to understand whether requisite majority of debenture-holders in value has provided no-objection

Case I - No-objection from more than 50% in value from debenture-holders at each DT level

Debenture Trustee	Total value of O/s NCDs (Rs. in crores)	Present and voting in value (in crores)	No-objection to the proposal (in crores)	No-objection (in %)
DT1	500	200	150	75%
DT2	300	200	120	60%
DT3	200	100	100	100%
Total	1000	500	370	74%

In the given case, the requisite majority is complied with on both DT level as well as entity level, and hence, NOC to be issued by the DTs.

Case II - No-objection from more than 50% in value from debenture-holders at each DT level

Debenture Trustee	Total value of O/s NCDs (Rs. in crores)	Present and voting in value (in crores)	No-objection to the proposal (in crores)	No-objection (in %)
DT1	500	200	150	75%
DT2	300	200	80	40%
DT3	200	100	100	100%
Total	1000	500	330	66%

In the given case, while the requisite majority has not been met at the level of DT2, as discussed in Q 26, the DTs are required to consider the debentures at an aggregate level in a common meeting jointly, and provide NOC considering that the debenture-holders, present and voting, have provided their no-objection by more than 50% in value.

Case III - No-objection not obtained at entity-level

Debenture Trustee	Total value of O/s NCDs (Rs. in crores)	Present and voting in value (in crores)	No-objection to the proposal (in crores)	No-objection (in %)
DT1	500	200	50	25%
DT2	300	200	80	40%

DT3	200	100	100	100%
Total	1000	500	230	46%

In the given case, what is relevant is that the debenture-holders have not consented to the material RPTs, on an aggregate basis, by more than 50% of majority in value, present and voting. Hence, the NOC cannot be provided by the DTs.

27. What are the situations in which NOC can be withheld by the DT?

As stated above, the DT is required to provide NOC based on whether the unrelated debenture-holders provide no-objection by more than 50% in value. Therefore, in our view, the only case in which the NOC can be withheld by the DT can be in a situation where the no-objection is not received by more than 50% of debenture-holders, in value.

Sl. No.	Situation	Can NOC be withheld?
(i)	Unrelated debenture-holders have given no-objection with requisite majority	No
(ii)	Unrelated debenture-holders has not given no-objection with requisite majority	Yes
(iii)	Any other factor at the discretion of the DT	No

Approval from Shareholders

28. Can shareholders who are related parties also vote to approve material RPTs under Reg 62K?

Sub-regulation (6) of Regulation 62K refers to obtaining shareholders' approval through resolution after obtaining approval of the debenture-holders. The sub-regulation does not contain any conditions restricting the related parties to vote on a material RPT resolution. The present amendments are largely based on the premise that in case of closely-held HVDLEs, there is an impossibility of compliance with respect to obtaining approval of unrelated shareholders.

Hence, related parties can also vote to approve under Reg 62K. However, the provisions of the Companies Act will continue to be applicable where the transaction is a material RPT in accordance with section 188 of the Act. Thus, the shareholders' approval is required to be obtained in the following manner:

Particulars	Approval sought under	Can RP vote?
RPTs exceeding 10% of consolidated turnover of HVDLE	Reg 62K of LODR	Yes

RPTs exceeding limits under Rule 15 of the Companies (Meetings of Board and its Powers) Rules, and not at arm's length terms or ordinary course of business	Section 188 of Companies Act	No, however, if 90% or more shareholders are RPs, can vote
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Having said this, Companies Act [section 188 read with rule 15 thereunder] will still remain applicable - so if there is a shareholders' resolution required in terms of sec. 188, and the related party shareholders are not eligible to vote as per proviso, the bar under the Act will prevail.

RPTs of Subsidiaries of HVDLE

29. Does the RPT regime require subsidiaries of the HVDLE to obtain RPT approvals from the HVDLE (either AC or debentureholders or shareholders)?

Yes, transactions exceeding the threshold of 10% of the standalone turnover of the subsidiary⁵, where the subsidiary is a party but HVDLE is not a party, requires approval of the AC of the HVDLE.

Further, material RPTs of the subsidiary, where HVDLE is not a party, would require approval from debentureholders and then, shareholders.

However, in case the subsidiary is an HVDLE, the approval shall not be required.

30. If the subsidiary of an HVDLE is an equity-listed company, will the requirements as above apply?

One can note that the exemption to a subsidiary is only subject to the condition that reg. 62K applies to such a subsidiary (that is, the subsidiary is also an HVDLE). This is similar to the language used in reg. 23, where exemption to a listed subsidiary is available, when it is covered by reg. 23 only. Going by the language, if an equity-listed entity is a subsidiary of an HVDLE, there would be no exemption. For material RPTs, it will have to obtain the RPT approvals for material RPTs from the debentureholders of the HVDLE. However, such cases might be extremely rare.

Our Resources on RPTs can be accessed at -

<https://vinodkothari.com/article-corner-on-related-party-transactions>

⁵ The Amended Regulations refer to both the thresholds of 10% of annual consolidated turnover of the parent HVDLE as well as 10% of the standalone turnover of the subsidiary. This seems to be a clerical error.