

BHANDARI & ASSOCIATES

Company Secretaries

REGULATORY UPDATES

August, 2023

ABOUT US:

Bhandari & Associates was formed in the early 80's and is one amongst India's oldest practicing firms.

Our Firm is a full-service corporate law advisory firm. It assists in compliance with the Companies Act, 2013, and a wide array of other corporate laws and regulations for starts-up, medium and large Companies.

Our Regulatory Updates aim to provide an overview of the key Circulars, Notifications and Amendments by regulators/ entities including Ministry of Corporate Affairs (MCA), Securities Exchange Board of India (SEBI), Reserve Bank of India (RBI) and Stock Exchanges (BSE and NSE).



“We are what we repeatedly do. Excellence, then is not an act, but a habit.”

- Aristotle

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Ministry of Corporate Affairs (MCA)

1. Companies (Incorporation) Second Amendment Rules, 2023

(Circular date: August 02, 2023)

MCA has notified the Companies (Incorporation) Second Amendment Rules, 2023 and vide this notification, Form no. RD-1 [Form for filing application to central government (Regional Director)] has been substituted in the annexures of the Companies (Incorporation) Rules, 2014.

Key Amendments in this form are as follows:

- Notice of approval of the scheme of merger in CAA-11 is added as an additional purpose of the application.
- In case the purpose of the form is change in financial year, details of any previous application made within last five years for change in financial year and outcome thereof should be disclosed in the form.
- In case the purpose of the form is conversion of public company into a private company, details of conversion made within last five years and outcome thereof should be disclosed in the form.
- An additional Declaration under Rule 41 of the companies (Incorporation) Rules, 2014 is added in the form.

The amendment is effective from August 02, 2023.

The circular can be accessed from the below link.

Accessible here: <https://www.mca.gov>

2. Condonation of delay in filing Form-3, Form-4 and Form-11 under section 67 of Limited Liability Partnership Act, 2008 read with section 460 of the Companies Act, 2013

(Circular date: August 23, 2023)

Representations have been received by the Government that certain LLPs are finding difficulties in filing Form-3 (LLP Agreement and changes therein), Form-4 (Notice of appointment, cessation, change in name/address/designation of a designated partner or partner and consent to become a partner/designated partner) and Form-11 (Annual Return of LLP) for various reasons including due to mismatch in the master data in electronic registry of the Ministry.

To address the difficulties faced by the LLPs and to promote ease of doing business, the Ministry, in exercise of its power under section 67 of Limited Liability Partnership Act, 2008, has granted one time relaxation in additional fees to those LLP who could not file the Form-3, Form-4 and Form-11 within due date and provide an opportunity to update their filings and details in master data for future compliances.

The salient features for filing Form-3, Form-4 and Form-11 can be accessed from the below link:

Accessible here: <https://www.mca.gov.in>

Securities and Exchange Board of India (SEBI) (Regulations)

1. Securities and Exchange Board Of India (Facilitation Of Grievance Redressal Mechanism) (Amendment) Regulations, 2023

(Circular date: August 16, 2023)

SEBI vide this notification has issued the Securities and Exchange Board of India (Facilitation of Grievance Redressal Mechanism) (Amendment) Regulations, 2023. Vide this notification, SEBI has mandated to redress investor grievances promptly but not later than twenty-one calendar days from the date of receipt of the grievance by listed entities, Merchant Bankers, Debenture Trustees, Registrar to an Issue, Share Transfer Agent, Know Your Client Registration Agency, Portfolio Managers, Investment Advisers and Research Analysts etc. SEBI can also recognise a body corporate for handling and monitoring the grievance redressal process within the stipulated time.

In line with the above provisions, following regulations has been amended with effect from the date of their publication in the Official Gazette i.e. August 16, 2023:

- Securities and Exchange Board of India (Stock Brokers) Regulations, 1992,
- Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992,
- Securities and Exchange Board of India (Registrars to an Issue and Share Transfer Agents) Regulations, 1993,
- Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993,
- Securities and Exchange Board of India (Bankers to an Issue) Regulations, 1994,
- Securities and Exchange Board of India (Mutual Funds) Regulations, 1996,
- Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999,
- Securities and Exchange Board of India (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008,
- Securities and Exchange Board of India {KYC (Know Your Client) Registration Agency} Regulations, 2011,
- Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012,
- Securities and Exchange Board of India (Investment Advisers) Regulations, 2013,
- Securities and Exchange Board of India (Research Analysts) Regulations, 2014,
- Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014,
- Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014,
- Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, ["Listing Regulations"]
- Securities and Exchange Board of India (Issue and Listing of Municipal Debt Securities) Regulations, 2015,
- Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018,
- Securities and Exchange Board of India (Portfolio Managers) Regulations, 2020 and
- Securities and Exchange Board of India (Vault Managers) Regulations, 2021

Pursuant to above, Regulation 13 of the Listing Regulations is amended as below:

“(1) The listed entity shall redress investor grievances promptly but not later than twenty one calendar days from the date of receipt of the grievance and in such manner as may be specified by the Board”.

A new sub-regulation (5) has been inserted:

“(5) The Board may also recognize a body corporate for handling and monitoring the process of grievance redressal within such time and in such manner as may be specified.”

Accessible here: <https://www.sebi.gov.in>

2. Securities and Exchange Board Of India (Depositories and Participants) (Second Amendment) Regulations, 2023

(Circular date: August 22, 2023)

SEBI vide this notification has further amended the Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018 [“DP Regulations”] which shall come into force on the date of their publication in the Official Gazette i.e. August 22, 2023.

SEBI vide this notification has amended and substituted the Regulation 23 of DP Regulations for requirement and criteria of fit and proper person. Now, the ‘fit and proper person’ criteria shall apply to the applicant, depository, its shareholders, directors and key management personnel (KMP) at all times and the depository shall ensure that all its shareholders, directors and KMP are fit and proper persons at all times. If any director or KMP of a depository is not deemed to be fit and proper under sub-regulation (3) of regulation 23 of DP Regulations, the depository shall replace such a person within thirty days from the date of such disqualification, failing which the fit and proper person criteria may be invoked against the depository. Any disqualification of the depository under sub-regulation (2) of regulation 23 of DP Regulations shall not have any bearing on the fit and proper status of the directors or KMP unless they are found to be disqualified. Any order passed by any the regulatory authority against the person may be taken into account while determining the fit and proper person criteria.

SEBI vide this notification has also amended the regulations 24, 28, 30 and 35 of DP Regulations.

Accessible here: <https://www.sebi.gov.in>

3. Securities and Exchange Board Of India (Listing Obligations and Disclosure Requirements) (Third Amendment) Regulations, 2023

(Circular date: August 23, 2023)

SEBI vide this notification has further amended the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 [“Listing Regulations”] which has come into force on the date of their publication in the Official Gazette i.e. August 23, 2023.

Vide this notification, a new Chapter VIA has been inserted in the Listing Regulations which provides the framework for voluntary delisting of non-convertible debt securities or non-convertible redeemable preference shares and obligations of the listed entity on such delisting. The provisions of this Chapter VIA shall be applicable to voluntary delisting of all listed non-convertible debt securities or non-convertible redeemable preference shares from all or any of the stock exchanges where such non-convertible debt securities or non-convertible redeemable preference shares are listed, subject to the exceptions mentioned in this notification.

The newly inserted Chapter VIA includes the following:

- Applicability
- In-Principle Approval of the Stock Exchange

- Obligations of the Listed Entity
- Notice of Delisting
- Approval from the holders and No-Objection letter from the Debenture Trustee
- Failure of delisting proposal
- Final Application to the Stock Exchange
- Delisting from some of the Stock Exchanges
- Monitoring of compliance by the Stock Exchanges

Below link may be referred for detailed reading of amendments.

Accessible Here: <https://www.sebi.gov.in>

Securities and Exchange Board of India (SEBI) (Circulars)

1. Corrigendum cum Amendment to Circular dated July 31, 2023 on Online Resolution of Disputes in the Indian Securities Market.

(Circular date: August 04, 2023)

SEBI vide this circular has modified and amended the SEBI circular dated July 31, 2023 (the Circular) on online resolution of disputes in the Indian securities market. For providing additional clarity and correction of language used, SEBI has modified the Clause 8, 11, 13, 17, 20, 21, 24, 25, 27, 49, 50 of the circular.

Followings are the key modification made to the Circular:

- All listed companies / specified intermediaries / regulated entities in the securities market (collectively referred to as “Market Participant/s”) shall be deemed to have been enrolled on the ODR Portal at the end of the timeline specified at paragraphs 46 and 47 of the circular.
- Commodities Clearing Corporations and Research Analyst are added in list of securities market intermediaries / regulated entities in the Schedule A.
- In case the Market Participant wishes to pursue online arbitration, then the Market Participant must deposit 100% of the admissible claim value with the relevant Market Infrastructure Institutions (MII) prior to initiation of the online arbitration and make the payment of fees as applicable for online arbitration.
- In case the Market Participant wishes to challenge an arbitral award, then the Market Participant must deposit 100% of the amounts payable in terms of the arbitral award with the relevant MII prior to initiation of the challenge.
- Deemed place of the online proceedings has been specified in Clause 27 in case of disputes between investor/client and listed companies or any of the specified intermediaries / regulated entities in securities market and in case of disputes between institutional or corporate clients and specified intermediaries / regulated entities in securities market.
- As per modified Clause 50, matters escalated through SCOREs portal in accordance with SEBI SCOREs Circular shall not be outside the purview of the ODR Portal.

The circular has come into force with immediate effect i.e., August 04, 2023.

Below link can be referred for detailed reading of this circular.

Accessible here: <https://www.sebi.gov.in>

SEBI has also issued Master Circular on August 11, 2023 for Online Resolution of Disputes in the Indian Securities Market which can accessed from the below link.

<https://www.sebi.gov.in>

2. Reduction of timeline for listing of shares in public issue from existing T+6 days to T+3days *(Circular date: August 09, 2023)*

SEBI vide its circular has decided to reduce the time taken for listing of specified securities after the closure of public issue to 3 working days (T+3 days) as against the present requirement of 6 working days (T+6 days); “T” being the issue closing day. The revised timelines for listing of

specified securities and various activities involved in public issue process are specified in Annexure to this circular. The T+3 timeline for listing shall be disclosed in offer documents of public issues.

The timelines for submission of application, allotment of securities, unblocking of application monies and listing shall prominently be made a part of pre-issue, issue opening and issue closing advertisements issued by the issuer for public issue in terms of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“ICDR Regulations”).

In partial modification to circulars dated March 16, 2021 and April 20, 2022, the compensation to investors for delay in unblocking of ASBA application monies (if any) shall be computed from T+3 day.

The provisions of this circular shall be applicable:

- On voluntary basis for public issues opening on or after September 1, 2023 and
- Mandatory for public issues opening on or after December 1, 2023.

The timelines prescribed for public issues in SEBI circulars dated November 1, 2018, June 28, 2019, November 8, 2019, March 30, 2020, March 16, 2021, June 2, 2021, and April 20, 2022 has been modified to the extent stated in this Circular.

The general instructions and Annexure can be accessed from the below link.

Accessible here: <https://www.sebi.gov.in>

3. Timeline for Exit Option Window Period for Change in Control of AMC.

(Circular date: August 11, 2023)

SEBI vide this circular has modified the Para 17.8.1 (III) of Master Circular no. SEBI/HO/IMD/IMD-PoD-1/P/CIR/2023/74 dated 19 May, 2023 which prescribes the procedure for change in control of an Asset Management Companies (AMC). SEBI has reviewed the timeline for exit option window period for change in control of AMC and modified the aforesaid para as under:

The unitholders are given an option to exit on the prevailing net asset value (NAV) without any exit load within a period not less than 15 calendar days from the date of communication. However, in case of change in control resulting in consolidation or merger of schemes, the unitholders are given an option to exit the prevailing NAV without any exit load within a period of not less than 30 calendar days from the date of communication.

All other provisions mentioned in the aforesaid master circular has remain unchanged.

All AMCs are advised to make the necessary changes within one month from the date of issuance of the circular.

Accessible here: <https://www.sebi.gov.in>

Consultation Papers

During this month, the following Consultation Papers were issued by SEBI for public comments:

- i) Consultation Paper on collating and defining use cases of Financial Information Users in the Account Aggregator Framework in Securities Market dated August 01, 2023.
- ii) Consultation Paper on review of framework for borrowings by Large Corporates dated August 10, 2023.
- iii) Consultation Paper on Review of Voluntary Delisting norms under SEBI (Delisting of Equity Shares) Regulations, 2021 dated August 14, 2023.
- iv) Consultation Paper on Recognition of Body Corporate for Administration and Supervision of Research Analyst dated August 22, 2023.
- v) Consultation Paper on permitting increased participation of Non-Resident Individuals (NRIs) and Overseas Citizens of India (OCIs) into SEBI registered Foreign Portfolio Investors (FPIs) based out of International Financial Services Centre (IFSCs) in India and regulated by the International Financial Services Centres Authority (IFSCAs) dated August 25, 2023.
- vi) Consultation Paper on Association of SEBI Registered Intermediaries /Regulated Entities with Unregistered Entities (including Finfluencers) dated August 25, 2023.
- vii) Consultation Paper on mechanism for fee collected by SEBI registered Investment Advisers and Research Analyst dated August 25, 2023.
- viii) Consultation Paper on Flexibility in the framework on Social Stock Exchanges dated August 29, 2023.
- ix) Consultation Paper on Performance Validation Agency dated August 31, 2023.

Accessible here: <https://www.sebi.gov.in>

Stock Exchange(s)

1. Filing of Abridged Prospectus of Public Issue in XBRL format.

(Circular date: August 31 , 2023)

National Stock Exchange of India (NSE) has introduced filing of Issue Summary Document (ISD) and dissemination of issue advertisement in accordance with Securities and Exchange Board of India (SEBI) Circular no. SEBI/HO/CFD/PoD-1/P/CIR/P/2023/29 dated February 15, 2023. The same was informed to market intermediaries vide Exchange's Notice no. NSE/CML/2023/16 dated February 16, 2023.

In continuation of the same, the Exchange has now made provision to file abridged prospectus in XBRL format in a structured manner to facilitate consumption of data by stakeholders in respect of public issue.

The Merchant Bankers /Issuers are advised to file Abridged Prospectus of the Issue (as per format prescribed under SEBI Circular no. SEBI/HO/CFD/SSEP/CIR/P/2022/14 dated February 04, 2022) in XBRL format with the Exchange, before opening of the Issue.

The same shall be filed at the "<https://neaps.nseindia.com/NEWLISTINGCORP/>", the online portal of NSE.

The filing of Abridged Prospectus in XBRL format is applicable for all Public Issues of equity shares, opening with effect from September 01, 2023.

Accessible here: <https://static.nseindia.com>

Reserve Bank of India (RBI)

1. Review of Regulatory Framework for IDF-NBFCs

(Circular date: August 18, 2023)

In order to harmonise the regulations governing financing of infrastructure sector by the NBFCs, RBI has reviewed the guidelines applicable to Infrastructure Debt Fund-NBFCs (IDF-NBFCs) and vide this notification has issued the revised regulatory framework for IDF-NBFCs which is provided in the Annex of this notification.

These guidelines shall come into effect from the date of this circular i.e. August 18, 2023.

Below link may be referred for detailed reading of the revised regulatory framework for IDF-NBFCs.

Accessible here: <https://www.rbi.org.in>

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The contents of this publication comprise information in summary form and is therefore intended for general guidance only. It is not intended to be exhaustive or a substitute for professional advice. No one should act on such information without appropriate professional advice.

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Agility | Precision | Quality

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