

BHANDARI & ASSOCIATES

Company Secretaries

REGULATORY UPDATES

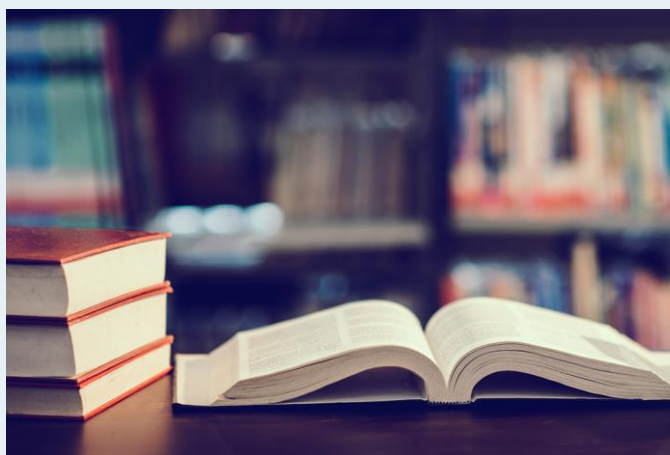
July, 2023

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

Contents

Ministry of Corporate Affairs (MCA) Page 1

Securities and Exchange Board of India Page 2

Stock Exchange(s) Page 8

Ministry of Corporate Affairs (MCA)

1. Merger of multiple user IDs in V2 Portal with new User ID in V3 and deactivation of old user ID in V2 Portal

(Circular date: July 12, 2023)

MCA vide this notification has informed that members of Institute of Chartered Accountants of India, Institute of Cost Accountants of India and Institute of Company Secretaries of India, who are unable to create user ID in the new MCA21 V3 portal due to an existing ID, may approach the respective institutes with their credentials and the respective institutes shall make recommendations for merging multiple existing user IDs with the ID created in V3 portal or for deactivation of the old User IDs in V2 to enable the desirous members to create a new ID in V3 portal. The necessary changes in the user ID in V3 portal shall be done based on the recommendations forwarded by the President or Vice President of the respective institutes to the email id mentioned in the notification.

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

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

1. Securities And Exchange Board of India (Credit Rating Agencies) (Amendment) Regulations 2023

(Circular date: July 05, 2023)

SEBI vide this notification has amended the SEBI (Credit Rating Agencies) Regulations 1999 and inserted a new chapter i.e. Chapter IVA on ESG Rating Providers. SEBI vide this amendment has inserted the following new schedules:

- Schedule Fourth-Applicability of chapter IVA
- Schedule Fifth-Forms
- Schedule Sixth-Fees for ESG Rating Providers
- Schedule Seventh-Code Of Conduct

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

2. Securities And Exchange Board of India (Issue And Listing Of Non-Convertible Securities) (Second Amendment) Regulations ,2023

(Circular date: July 06, 2023)

SEBI vide this notification has further amended the SEBI a (Issue and Listing of Non-Convertible Securities) Regulations, 2021 [NCS Regulations] which are effective from the date of publication in official gazette.

SEBI vide this amendment has inserted the definition of key managerial personnel and senior management in the regulation 2, sub-regulation (1), as clause (sa) and clause (iia) respectively. Regulation 47 has been omitted and Schedule I has been amended vide this notification.

SEBI vide this amendment has inserted following two new chapters in the NCS Regulations:

- Chapter V A - issuance and listing of non-convertible securities issued on a private placement basis
- Chapter V B - requirements for large corporates.

Below link may be referred for detailed reading of all the amendments.

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

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

1. Appointment Of Director Nominated By Debenture Trustee On Boards Of Issuers

(Circular date: July 04, 2023)

Regulation 26(6) of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 (NCS Regulations) obligates an issuer which is a company to ensure that a provision is given in its Articles of Association which requires its Board of Directors to appoint a director (nominated by the debenture trustee) in terms of regulation 15(1) (e) of SEBI (Debenture Trustee) Regulation, 1993. There is no such obligation for issuers that are not companies. There are certain issuers which are incorporated under different statutes or unable to appoint Nominee Directors on their boards due to absence of a statutory mandate.

In this regard, SEBI vide this circular has required such issuers to submit an undertaking to their Debenture Trustees that a non-executive / independent director / trustee / member of its governing body shall be designated as nominee director for the purposes of Regulation 23(6) of NCS Regulations, in consultation with the Debenture Trustee(s).

Provisions of this circular shall be appropriately incorporated in the NCS Operational Circular dated August 10, 2021 and the DT Operational Circular dated March 31, 2023.

This circular shall come into force with immediate effect.

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

2. Roles And Responsibilities Of Trustees And Board Of Directors Of Asset Management Companies (AMCs) Of Mutual Funds

(Circular date: July 07, 2023)

The trustees hold the property of the Mutual Fund in trust for the benefit of the unit holders and their primary role is to ensure that AMCs appointed by them act in the best interests of the unitholders. Any conflict between interests of unitholder and that of Asset Management Company (AMCs) stakeholders need to be addressed by the Trustees. While the SEBI (Mutual Funds) Regulations 1996 ('MF Regulations') provide for restrictions to address certain scenarios of conflict of interest, there are other areas of conflict which require specific attention from the Trustees.

In order to ensure that Trustees can devote their attention to the fiduciary obligations and supervisory role cast upon them, SEBI vide this circular has specified the "core" responsibilities for the Trustees of a Mutual Fund.

In order to focus on the core responsibilities, Trustees may rely on professional firms such as audit firms, legal firms, merchant bankers ("third party fiduciaries") etc. to carry out due diligence on behalf of trustees. The responsibilities other than core responsibilities, for which the Trustees may avail services of third party fiduciaries are given in this circular.

Regulation 25(24) of MF regulations required AMC to form a unit holder protection committee (UHPC) in the form and manner as specified by SEBI. The responsibilities and duties of this committee are provided in this circular. The UHPC shall report its findings to the board of directors of AMC along with recommendations for action. The detailed guidelines regarding UHPC are specified in Annexure-1 to this circular.

As per regulation 16(7) of MF Regulations in case a company is appointed as trustee of mutual fund, the chairperson of such trustee company shall be an independent director. SEBI vide this circular has provided that a Trustee company, which has already been appointed as the Trustee of a Mutual Fund shall comply with this requirement within a period of six months from the date of this circular coming into force.

SEBI vide this circular has also provided that the board of directors of the AMCs and the board of directors of the Trustee Company shall meet at least once a year to discuss the issues concerning the Mutual Fund, if any, and future course of action, wherever required.

This circular shall come into force from January 01, 2024.

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

3. Regulatory Framework For Sponsors Of A Mutual Funds

(Circular date: July 07, 2023)

An alternative set of eligibility criteria is introduced to enhance the penetration of mutual fund industry and to facilitate new type of players to act as sponsors of mutual funds. In this regard a working group was formed by SEBI. The following were decided further:

- Deployment of liquid net worth by AMC
- Acquisition of an AMC
- Pooled investment vehicle as sponsor of AMC
- Reduction of stake and disassociation of sponsor
- Re-Association of sponsors

All provisions of this circular except paragraph 3(A) of this circular shall come into force from August 01, 2023 and the provisions of paragraph 3(A) shall come into force from January 01, 2024.

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

4. BRSR Core-Framework For Assurance And ESG Disclosures For Value Chain

(Circular date: July 12, 2023)

SEBI vide this circular has introduced the Business Responsibility and Sustainability Report (BRSR) Core for assurance by listed entities. SEBI further decided to introduce disclosures and assurances for the value chain of listed entities. The BRSR Core is a sub-set of the BRSR, consisting of a set of Key Performance Indicators (KPIs) / metrics under 9 ESG attributes. New KPIs have been identified for assurances such as job creation in small towns, gross wages paid to women etc. In order to facilitate the verification process, the BRSR Core specifies the data and approach for reporting and assurance. It is however clarified that the approach specified is only a base methodology. Any changes or industry specific adjustments / estimations shall be disclosed. The format of BRSR core for reasonable assurance is placed at annexure -I in this circular. The BRSR format for new KPIs are placed in annexure -II.

From FY 2023-2024, the top 1000 listed entities (by market capitalization) shall make disclosures as per the updated BRSR format as part of their annual report.

Listed entities shall mandatorily undertake reasonable assurance of the BRSR Core, as per the glide path specified in this circular.

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

5. Disclosure Of Material Events/Information By Listed Entities Under Regulation 30 And 30A Of Securities And Exchange Board Of India (Listing Obligations And Disclosure Requirements) Regulations 2015*(Circular Date: July 13,2023)*

SEBI vide second amendment dated June 14, 2023 in SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 [Listing Regulations], has amended the Regulation 30 in order to ensure timely disclosure of material events/information by listed entities. Accordingly, SEBI vide this circular has provided four annexures with respect to disclosure requirement under regulation 30 and 30A of Listing Regulations which are as follows:

- ANNEXURE –I specifies the details that need to be provided while disclosing events in part A of schedule III.
- ANNEXURE –II specifies the timeline of disclosing events in part A of schedule III.
- ANNEXURE –III provides guidance on when event/information can be said to have occurred.
- ANNEXURE-IV provides guidance on the criteria for determining materiality of an event.

This circular shall be effective from July 15, 2023.

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

6. Trading Window Closure Period Under Clause 4 Of Schedule B Read with Regulation 9 Of SEBI (PIT) Regulations 2015- Extending Framework For Restricting Trading By Designated Persons (“DPs”) By Freezing PAN At Security Level To All Listed Entities In A Phased Manner*(Circular Date :July 19,2023)*

SEBI vide its circular SEBI/HO/ISD/ISD-SEC-4/P/CIR/2022/107 dated August 05, 2022 (now rescinded and superseded vide section 3.4.2 of Master Circular dated March 23, 2023), has laid down a framework for developing a system to restrict the trading by Designated Persons (DPs) by way of freezing the PAN at security level during Trading Window closure period which was initially made applicable for those listed companies that were part of benchmark indices i.e. NIFTY 50 and SENSEX. SEBI vide this circular has extended the aforesaid framework to all the listed companies. In order to ensure smooth implementation of the framework, timelines for phase wise implementation have been provided in this circular. The procedure for implementation is prescribed in ANNEXURE-A and the flowchart is prescribed in ANNEXURE-B of this circular. The depositories shall submit quarterly report to SEBI in the format placed at Annexure- C of this circular.

The circular shall come into force as per the glide chart prescribed in table 1.

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

7. New Category Of Mutual Fund Schemes For Environmental, Social And Governance (“ESG”) Investing And Related Disclosure By Mutual Funds*(Circular Date :July 20,2023)*

Considering the increasing needs of green financing, SEBI has been decided to launch multiple ESG schemes with different strategies by mutual funds. SEBI on June 27, 2023 has amended the provisions of the SEBI (Mutual Funds) Regulations, 1996 to inter-alia specify that the funds under ESG schemes shall be invested in the manner as specified by SEBI from time to time.

Accordingly, SEBI vide this circular has decided to implement following measures to facilitate green financing with thrust on enhanced disclosures and mitigation of green washing risk:

- Thematic schemes on ESG strategies
- Investment criteria for ESG schemes
- Disclosures requirements for ESG schemes
- Certification by the board of AMCs

SEBI in this circular has provided that the board of directors of AMCs, based on comprehensive internal ESG audit, shall certify the compliance of ESG schemes with the regulatory requirements including disclosures, in annual report of the scheme. This certification shall be applicable with immediate effect. The board of directors of AMCs shall provide the certificate for FY 2022-23 by December 31, 2023. Thereafter, the certification shall be disclosed in the Annual Reports of the schemes.

The provision of new category of ESG scheme shall be applicable with immediate effect.

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

8. Resources For Trustees Of Mutual Funds

(Circular Date :July 26,2023))

As per Master Circular on Mutual Fund dated May 19, 2023, the Trustees shall have standing arrangements with independent firms for special purpose audit and/or to seek legal advice in case of any requirement as identified and whenever considered necessary. As the standing arrangement with independent firms has to be available on a continuous basis, a confirmation for to this effect shall be provided by Trustees in the half yearly reports submitted to SEBI. Accordingly, the modified format for such half yearly trustee report is as under:

- *“72. Compliance with the requirement of standing arrangement with independent firms for special purpose audit and/or to seek legal advice.*
- *73. Any other matter the trustee would like to report to SEBI.”*

The provisions of this circular shall be applicable with immediate effect.

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

9. Investments By Mutual Funds Schemes And AMCs In Units Of Corporate Debt Market Development Fund

(Circular Date :July 27,2023)

SEBI has inserted Regulation 43A in SEBI (Mutual Funds) Regulations, 1996 [MF Regulations] vide Gazette notification dated June 26, 2023 to facilitate constitution of Corporate Debt Market Development Fund (“CDMDF” or “the fund”), as a backstop facility for purchase of investment grade corporate debt securities. CDMDF shall be launched as a close ended scheme with initial tenure of 15 years (extendable) from the date of its initial closing. The units of CDMDF shall be subscribed by the by AMCs of mutual funds and specified debt-oriented MF schemes. Contribution from specified debt oriented mutual funds schemes and AMCs shall be locked in till winding up of the fund. AMCs shall make one time contribution equivalent to 2bps of the AUM of specified debt oriented MF schemes managed by them. AMCs shall ensure that the net worth as prescribed under regulation 21(1)(f) of MF Regulations shall be maintained over and above the contribution made towards CDMDF.

The provisions of this circular shall come into effect into immediate effect.

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

10. Mandating Legal Entity Identifier (LEI) For All Non- Individual Foreign Portfolio Investors (Circular Date :July 27,2023)

The legal entity identifier (LEI) code is unique global 20 character code to identify legally distinct entity that engage in financial transactions. RBI directions mandated non-individual borrowers having aggregate exposure of above 25 crore to obtain LEI code. Currently, FPIs are required to provide their LEI details in Common Application Form (CAF) on a voluntary basis. SEBI vide this circular has mandated the requirement of providing LEI details for all non-individual FPIs. All existing FPIs including those applying for renewal shall provide their LEI details within 180 days from the issuance of this circular failing which their account shall be blocked for further purchases until their LEI details are provided to their DDPS. FPIs are required to ensure that their LEI are active at all the time.

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

11. Online Resolution Of Disputes In The Indian Securities Market (Circular Date :July 31,2023)

All listed entities/specified intermediaries/regulated entity (collectively referred as market intermediaries) shall enroll on the (online dispute resolution) ODR Portal within the timeline as specified in paragraphs 46 and 47 of this circular. Disputes between investors/clients and listed entities or arising out of specified intermediaries/regulated entities in securities market arising out of latter activities will be resolved in accordance with this circular. The provision of this circular shall be implemented in phases.

This circular contained five Schedules i.e. Schedule A, Schedule B, Schedule C, Schedule D, Schedule E which can be accessed through below link.

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

Master circulars

SEBI has issued following Master Circulars during the month, in order to provide access to all the applicable circulars/ directions at one place. These master circulars are compilation of all the existing/ applicable circulars issued by SEBI:

- i. Master Circular for ESG rating providers (ERPs)
- ii. Master Circular for compliance with the provisions of the Securities and Exchange Board Of India (Listing Obligations And Disclosure Requirement) Regulation 2015 by listed entities
- iii. Master Circular for Issue and listing of non-convertible securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities and commercial paper
- iv. Master Circular for Debenture Trustees
- v. Master Circular for Credit Rating Agencies
- vi. Master Circular for Alternative Investment Funds (AIFs)

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

Stock Exchange(s)

1. Guidance On filing Announcements through BSE Listing Centre pursuant to the SEBI (Listing Obligations and Disclosure Requirement) (Second Amendment) Regulations 2023 (Circular date: July 14, 2023)

SEBI vide its notification dated June 14, 2023 has further amended the SEBI (LODR) Regulations, 2015. The amended Regulations provide for various amendments and additions in the existing disclosure requirements. In this regard, all listed entities are required to take note of following points while filing the disclosure of events/information under Regulation 30 and 30A of the SEBI (LODR) Regulations, 2015:

- i) In case of any event emanating from a decision taken in a meeting of board of directors, the listed entities shall:
 - a) In case the prior intimation is not required (under necessary provisions) for said meeting of Board of Directors, Company is required to file the disclosure in the PDF form “General Announcement/ General Updates” > and mention subject as “Outcome of Board Meeting”
 - b) Mention the Start & End time of the Meeting of the Board of Directors
 - c) Modify the Announcement Text accordingly specifying the subject of event
- ii) The listed entities shall mandatorily mention the Date & Time of occurrence of the event/information in all the PDF disclosures filed with the Exchange under Regulation 30.
- iii) In case of any delayed submission, the listed entity shall ensure that the PDF disclosure filed specifies the reason of delay.

The listed entities are requested to take note of the aforementioned disclosure requirements and exercise abundant precaution while filing the disclosure/announcement under Regulation 30 of SEBI LODR.

Accessible here: <https://www.bseindia.com>

2. Guidance on filing announcements through NSE electronic application processing system(NEAPS)platform pursuant to the SEBI(listing obligations and disclosure requirement) (second amendment) regulations 2023

(Circular date: July 14, 2023)

SEBI vide its notification dated June 14, 2023 has further amended the SEBI (LODR) Regulations, 2015. The amended Regulations provide for various amendments and additions in the existing disclosure requirements. In this regard, all listed entities are required to take note of following points while filing the disclosure of events/information under Regulation 30 and 30A of the SEBI (LODR) Regulations, 2015:

- (i) In case of any event emanating from a decision taken in a meeting of board of directors, the listed entities shall:

- (a) At first file the disclosure in the PDF form under the subject “Outcome of Board Meeting” and shall select “Others” in the Type field in case the event is not mentioned under the existing drop-down options.
 - (b) Mention the Start & End time of the Meeting of the Board of Directors
 - (c) Modify the Announcement Text accordingly specifying the subject of event.
- (ii) The listed entities shall mandatorily mention the Date & Time of occurrence of the Event/ information in all the PDF disclosures filed with the Exchange under Regulation 30.
 - (iii) In case of any delayed submission, the listed entity shall ensure that the PDF disclosure filed Specifies the reason of delay.

The listed entities are requested to take note of the aforementioned disclosure requirements and exercise abundant precaution while filing the disclosure/announcement under Regulation 30 of SEBI LODR.

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

3. Trading window closure period under clause 4 of schedule B read with regulation of SEBI (PIT) Regulations 2015-Extending framework for restricting trading by designated persons by freezing PAN at security level to all listed companies in phased manner.

(Circular date: July 21, 2023)

This is in furtherance to the Exchange notice no: 20220808-7 dated August 8, 2022; 20230628-23 dated June 28, 2023 and 20230721-41 dated July 21, 2023 and in accordance with Securities and Exchange Board of India (SEBI) circular dated August 5, 2022 and July 19, 2023, regarding Trading Window closure period under Clause 4 of Schedule B read with Regulation 9 of SEBI (Prohibition of Insider Trading) Regulations, 2015 (“PIT Regulations”) – Framework for restricting trading by Designated Persons (“DPs”) by freezing PAN at security level.

1. According to the said circular issued by SEBI, Exchange has issued circular on July 21, 2023 for the same. However, all listed entities are requested to please find attached revised Annexure 1 for Top 1,000 companies in terms of BSE Market Capitalization as of June 30, 2023 (excluding companies which are a part of benchmark indices).
2. Companies that qualify must include all equity ISIN and ISINs that are convertible into equity.
3. Listed entities are required to designate one of the depositories as its designated depository and provide the information including PAN of Promoter(s), promoter group, director(s) and designated person(s) in the manner as specified by the depositories according to SEBI circular dated September 9, 2020. Further, listed entities shall update their designated person list in the manner specified by the depositories on regular basis.

This circular shall come into force for trading window closure with effect from October 1, 2023

Accessible here: <https://www.bseindia.com>

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Agility | Precision | Quality

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