

## ERGO

*Analysing developments impacting business*

### SEBI ENHANCES DISCLOSURE AND GOVERNANCE REQUIREMENTS OF LISTED ENTITIES

19 June 2023     The Securities and Exchange Board of India (SEBI) recently amended the [SEBI \(Listing Obligations and Disclosure Requirements\) Regulations, 2015](#) (LODR) by way of its notification dated 14 June 2023 has notified [SEBI \(Listing Obligations and Disclosure Requirements\) \(Second Amendment\) Regulations, 2023](#) (LODR Amendment). The LODR Amendment comes riding on the back of consultation papers issued by SEBI in the past, recommendations of which were recently approved for amendment in the SEBI board meeting.

The effective date of the LODR Amendment is thirtieth day from date of publication (i.e., 14 July 2023), with an exception for some amendments coming into effect from date of publication (i.e., 14 June 2023).

The key changes brought about by the LODR Amendment are as follows:

#### *Amendments enhancing disclosure*

1. Timelines for disclosure streamlined: Under the new regime, listed entity is required to make the statutory stock exchange intimation not later than: (a) 30 minutes from closure of the board meeting, in which decisions pertaining to the event/information has been taken, (b) 12 hours from the occurrence of the event/information, in case the event/information is emanating from within the listed entity, and (c) 24 hours from the occurrence of the event/information, in case the event/information is not emanating from within the listed entity.

Additionally, in case an investor meet is being convened, the listed entity is required to publish details of such meet 2 working days prior to meet (excluding the date of the intimation and meet).

2. Quantitative materiality thresholds: Under the new regime, SEBI has prescribed quantitative materiality thresholds for determining materiality, as per which a listed entity is required to make disclosure of event/information if the value or expected value impact exceeds 2% of the turnover or net worth or 5% of the average profit/loss after tax. Further, the listed entities have been prohibited from diluting these thresholds in their materiality policy.
3. Top listed entities required to comment on market rumours: Under the new regime, top 100 listed entities (with effect from 1 October 2023) and eventually top 250 listed entities (with effect from 1 April 2024) are required to confirm/deny/clarify and provide current status for market rumour carried out in mainstream media.

4. Disclosure of agreements binding listed entities: Under the new regime, SEBI has mandated listed entities to disclose certain agreements binding them, irrespective of whether the listed entity is a party to such agreements.
5. ESG disclosures: SEBI has brought in the concept of BRSR Core. Under the new regime, the listed entities are required to provide assurance in respect of certain key performance indicators regarding ESG specified by SEBI from time to time.
6. Other new disclosure requirements: Under the new regime, the listed entities are also now required to also disclose the following:
  - a. details of cyber security incidents or breaches or loss of data/documents;
  - b. communication from any regulatory, statutory, enforcement or judicial authority, unless prohibited;
  - c. sale, lease or disposal of an undertaking outside scheme of arrangement (including taking prior approval of shareholders);
  - d. sale or disposal of whole or substantially the whole of the undertaking and sale of stake in associate company of the listed entity;
  - e. new ratings;
  - f. change in senior management;
  - g. resignation of key managerial personnel (KMP), senior management, compliance officer (CO) or director (other than independent director) along with letter of resignation with detailed reasons for resignation;
  - h. certain announcement/communication by director, promoter, KMP or senior management in the social media;
  - i. action initiated/order passed by regulatory, statutory, enforcement authority or judicial body against the listed entity, director, KMP, senior management, promoter or subsidiary in respect of certain events;
  - j. voluntary revision of financial statements or board report; and
  - k. delay or default in the payment of fines, penalties, dues, etc. to any regulatory, statutory, enforcement or judicial authority.
7. Changes in existing disclosure requirements: Under the new regime, certain existing disclosure requirements have been amped up or shuffled in terms of status from disclosable based on materiality to mandatorily disclosable. List of such changes below:
  - a. Mandatory disclosure regarding fraud/default by director/senior management/subsidiary of listed entity (irrespective of materiality) or arrest of director/KMP /senior management (whether in India or abroad).

- b. Streamlining disclosure manner and triggers regarding non-convertible securities.
  - c. Clarification that pending litigation/dispute/regulatory action to be reported based on materiality.
  - d. Materiality based disclosure of listed entity giving guarantee/indemnity or being surety, to be spirit based and not linked with nomenclature.
8. Publication of first financial result post initial public offer: Taking into consideration representations made, SEBI has provided newly listed entities maximum time limit of 21 days from the date of listing to submit its first financial results.

#### *Amendments strengthening governance*

9. Timeline for filling vacancy certain offices: Any vacancy in the office of director, certain KMPs (being chief executive officer, managing director, whole time director, manager and chief financial officer) and CO to be filled within 3 months from the date of vacancy. However, in case the office of director becomes vacant in such a manner that it makes the listed entity non-compliant with the board composition requirement under LODR, then such vacancy is to be filled on the date of vacancy itself. Further, interim appointments for KMPs/CO to be aligned with Companies Act and LODR.
10. Striking at board permanency: Under the new regime, every director of a listed entity requires shareholder approval at least once every 5 years, with certain identified exceptions, like certain already once approved directors, court/tribunal appointed director, Government/financial sector regulator nominee director, nominee director of lending or debenture trustee.
11. Approval of special rights to shareholders: Under the new regime, commercial or otherwise special rights of shareholders (including investors) of listed entity are required to be subjected to shareholder approval. The only exception to this new approval requirement is special rights of financial institutional lender or debenture trustee, becoming shareholders pursuant to lending arrangement or subscription agreement, respectively.
12. Deferring 'comply or be penalised' application of LODR to high value debt listed entities: By way of the LODR Amendment, the 'comply or explain' application of LODR has been extended by a year (till 31 March 2024) for high value debt listed entities (which were brought under the scope of LODR in 2021).

A more detailed and analytical version will follow.

- *Sharad Abhyankar (Partner), Vaibhav Mittal (Partner), Saranya Mishra (Senior Associate)*

For any queries please contact: [editors@khaitanco.com](mailto:editors@khaitanco.com)

We have updated our [Privacy Policy](#), which provides details of how we process your personal data and apply security measures. We will continue to communicate with you based on the information available with us. You may choose to unsubscribe from our communications at any time by clicking [here](#).