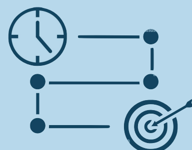
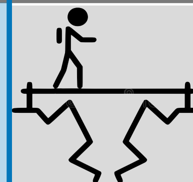
ENHANCING TRANSPARENCY & PREVENTING INSIDER TRADING: THE ROLE OF SSD IN MUTUAL FUND REGULATIONS



AMENDMENTS IN REGULATORY FRAMEWORK FOR DEBT-LISTED ENTITIES AND THE SIGNIFICANCE OF ONLINE BOND PLATFORMS



COMPANY LAW COMMITTEE'S VISION FOR A REVITALIZED COMPANIES ACT, 2013

AVID ALERT!

|| NAVIGATING THE CORPORATE LEGAL ADVANCEMENT IN FY 2022-23||

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PREFACE

Welcome to the latest edition of our law firm newsletter, where we embark on an intellectual journey through the intricate world of corporate legal developments. In this edition, titled "The Regulatory Odyssey: Charting the Path through Corporate Legal Developments in FY 22-23," we set sail on a voyage to navigate the ever-changing seas of corporate law. The fiscal year 2022-2023 witnessed a remarkable array of regulatory advancements, reshaping the legal landscape and demanding our attention. With an unwavering commitment to providing you with invaluable insights, this edition serves as your trusted compass, guiding you through the complex twists and turns of corporate legal developments during this transformative period. Our analysis and meticulous examination of the key regulatory changes will enable you to chart your course through this regulatory odyssey.

As we delve into the fiscal year 2022-2023, a pivotal period of transformative regulatory changes, it becomes crucial for businesses and legal practitioners alike to remain keenly attuned to the shifting legal landscape. In this comprehensive review, we embark on an enlightening journey through the corridors of corporate law, meticulously examining the key advancements that have unfolded. By delving into the depths of these regulatory reforms, we aim to shed light on their intricacies and elucidate their potential ramifications for businesses operating within this multifaceted terrain. This meticulously crafted analysis endeavours to the multifaceted world of regulatory reforms, specifically examining the Companies Act, the Securities and Exchange Board of India (SEBI) regulations, the advent of Social Stock Exchanges (SSEs), amendments to buy-back regulations, provisions of the Companies Act, and pertinent changes concerning debt-listed entities and provide invaluable insights that will empower both legal professionals and their clients to deftly navigate the complex tapestry of corporate regulations. By assimilating these refined perspectives, practitioners can proactively adapt, effectively comply, and seize the opportunities inherent in the ever-evolving corporate legal landscape. With a resolute commitment to staying abreast of the latest regulatory developments, we pave the way for informed decision-making, with refined insights required to adeptly navigate the labyrinthine corridors of corporate regulations.

Let us embark on this enlightening journey together, as we explore the ever-evolving nature of corporate regulations in FY 22-23 and empower you to make informed decisions that will shape the future of your business.
Happy Reading.!

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INTRODUCTION

As we step into the new financial year 23-24, it is crucial to reflect on the regulatory developments that have shaped the corporate legal landscape during FY 22-23. While the Companies Act did not undergo substantial changes, one area that caused significant disruption was the migration of various forms to the Ministry of Corporate Affairs (MCA) V3 portal. This transition, intended to streamline processes, instead created turmoil for businesses. The fundraising process came to a standstill, and practical difficulties arose, resulting in additional fines being imposed. The need for a smoother transition and enhanced operational efficiency became apparent, requiring attention and remedial measures.

In terms of regulatory advancements, the Securities and Exchange Board of India (SEBI) made notable progress. The focus on combating insider trading remained a priority, leading to the introduction of the requirement for Structured Digital Databases (SDD) as a compliance tool for listed entities. To ensure adherence to insider trading regulations, listed companies were mandated to submit quarterly compliance certificates, with the requirement for annual secretarial compliance reports under the Listing Regulations. These measures aimed to strengthen controls and provide effective monitoring mechanisms for potential instances of insider trading. A groundbreaking development during FY 22-23 was the introduction of Social Stock Exchanges (SSEs). Designed to facilitate responsible donations and provide a dedicated platform for social enterprises, SSEs received detailed frameworks from SEBI. The Bombay Stock Exchange (BSE) and the National Stock Exchange (NSE) obtained in-principle approval to establish SSEs as separate segments within their exchanges. This initiative aims to promote impact investing and sustainable development, encouraging businesses to contribute positively to society.

Furthermore, FY 22-23 witnessed a multifaceted review of corporate laws, particularly in the areas of corporate governance and compliance. The Companies Law Committee (CLC) played a pivotal role in this review, proposing key recommendations to streamline processes, enhance corporate governance practices, and promote ease of doing business. The CLC's report encompassed various aspects, including corporate defaults, cooling-off periods for independent directors, auditor safeguards, disclosure requirements for key managerial personnel (KMP) resignations, and digital initiatives. Additionally, the report suggested measures such as the establishment of specialized benches in the National Company Law Tribunal (NCLT) and alignment with the National Digital Initiative Amendment Rules, 2020. These comprehensive recommendations aim to bolster accountability, transparency, and operational efficiency within the corporate ecosystem. In addition to the developments mentioned before, FY 22-23 also witnessed significant strides in the realm of debt-listed entities. The focus on corporate governance and investor confidence prompted crucial amendments aimed at aligning the applicability of corporate governance provisions under the Listing Regulations for debt-listed entities. This shift towards a "comply or explain" basis for FY 23-24 encourages greater accountability and transparency while allowing companies the flexibility to explain any deviations from prescribed norms. Furthermore, the Insolvency and Bankruptcy Code (IBC) underwent notable regulatory developments during the year 2022. This legislation played a pivotal role in resolving stressed assets and revitalising the financial ecosystem. Key amendments and initiatives were introduced to streamline the insolvency process, expedite resolution timelines, and strengthen creditor rights. These changes sought to strike a balance between the interests of debtors and creditors, fostering a more efficient and robust insolvency framework.

As we bid farewell to FY 22-23, it is essential to stay informed and updated on these regulatory developments. They have far-reaching implications for businesses and legal practitioners. Our law firm newsletter serves as your trusted source of insights and analysis, enabling you to navigate the complexities of the corporate legal landscape. Through our meticulous examination of the key regulatory changes, we aim to empower you to make informed decisions, mitigate risks, and seize opportunities in the dynamic realm of corporate regulations. Stay tuned for more comprehensive updates and valuable perspectives as we chart the path through this regulatory odyssey.

CAPITAL ISSUANCE BY LISTED ENTITIES

In recent times, the landscape of capital issuance by listed entities has experienced significant transformations, marked by a series of regulatory developments. These noteworthy changes have left an indelible impact on the intricate process of fundraising for companies listed on stock exchanges. The regulatory reforms introduced in this domain have reshaped the fundamental dynamics of capital markets, requiring listed entities to adapt to new frameworks, guidelines, and compliance requirements. As a result, the issuance of capital has become a meticulously regulated endeavor, demanding a heightened level of diligence and adherence to ensure transparency, investor protection, and the overall integrity of the market. The implications of these regulatory advancements resonate throughout the financial ecosystem, influencing the strategies, procedures, and outcomes associated with capital raising activities by listed entities.

The ICDR Amendment Regulations, 2018, have wielded a significant impact on the diverse avenues of capital raising employed by listed entities. These comprehensive amendments, implemented throughout the fiscal 2022-23, a broad spectrum of facets pertaining to the preferential issuance of securities. They encompassed changes in pricing

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valuation, specifying the purpose of the issue, imposing restrictions on the lock-in and pledge of such securities, enhancing disclosure requirements, and extending the applicability of the norms to the issuance of convertible loans and instruments. One notable effect of these amendments was the restriction on the permissibility of "consideration other than cash" to only include the swap of securities, with their valuation conducted by a registered valuer. Furthermore, the requirement to monitor the use of issue proceeds was extended to funds raised through Qualified Institutional Placements (QIP) and preferential issuances. In line with this, a circular issued by the stock exchange limited the utilization of funds for general corporate purposes to a maximum of 25% of the funds raised through such issues. The timeline for rights issues underwent alignment with the provisions of the Companies Act. Additionally, the timeline for concluding the trading of "rights entitlements" was amended from the previous requirement of "4 days" prior to the closure of the rights offer to "3 working days" prior to the closure.

In an effort to ensure proper utilization of funds, SEBI also introduced stricter regulations concerning the "objects of the issue" for Initial Public Offerings (IPOs). The amended requirement restricts the utilization of funds for general corporate purposes to only 25% of the issue size and limits the aggregate funds raised for unidentified acquisition targets to 35% of the total issue size. Moreover, credit rating agencies are now responsible for monitoring the utilization of funds, including those allocated for "general corporate purposes." To enhance transparency and ensure the objectivity of performance indicators provided in the offer documents for IPOs and Follow-on Public Offerings (FPOs), qualitative statements in abridged prospectus/offer documents are now required to be substantiated with Key Performance Indicators (KPIs) and other quantitative factors. Furthermore, a recent amendment allows entities proposing to issue listed securities the option to keep the information-rich Draft Red Herring Prospectus (DRHP) confidential until they deem it opportune to proceed with the IPO. Upon receiving observations from SEBI, the issuer is required to make the updated DRHP-I public for a minimum period of 21 days to receive comments. Subsequently, an updated DRHP-II is to be filed with SEBI. The issuer may then open the IPO within 18 months from the receipt of final observations from SEBI on the DRHP. These amendments aim to foster transparency, accountability, and prudent utilization of funds, while also aligning the regulatory framework with the evolving dynamics of the corporate sector. It is crucial for companies, legal professionals, and market participants to stay informed and compliant with these regulatory requirements as they navigate the ever-changing corporate finance landscape. Staying informed and compliant with these requirements is vital for companies and market participants navigating the dynamic corporate finance landscape.

RECENT REVISION TO LISTING REGULATIONS

SEBI, with its primary objective of fortifying corporate governance in listed entities and safeguarding investor interests, implemented several amendments to the Listing Regulations throughout the year, accompanied by various related circulars. These regulatory updates aimed to strengthen transparency, accountability, and compliance within the corporate sector. Additionally, stock exchanges issued several guidance notes and circulars, some of which garnered significant attention. SEBI introduced stricter norms for the appointment and re-appointment of rejected candidates and established an alternative mechanism for the appointment and removal of independent directors. Amendments were made to the format of the quarterly shareholding pattern filed by listed entities to enhance transparency of information. The revised Related Party Transaction (RPT) framework, notified on November 9, 2021, became effective from April 1, 2022. Ongoing clarifications were provided on the periodicity and manner of obtaining approvals, accompanied by guidance notes issued by stock exchanges.

In January 2023, the Listing (Amendment) Regulations, 2023 were enacted, introducing clarificatory changes to the Listing Regulations. Additionally, the amendment relaxed the applicability of existing corporate governance norms on Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InVITs), requiring them to comply with a separate set of corporate governance norms effective from April 1, 2023. The definition of "Senior Management" was amended to include "functional heads" within its scope. Starting from FY 22-23, listed entities are required to disclose details of material subsidiaries in their Annual Reports, including the date and place of incorporation and the name and appointment date of statutory auditors. Contrary to the recommendations of the Kotak Committee, the mandatory separation of roles for Managing Director and Chairman, originally slated to be effective from April 1, 2022, has been made voluntary. Various measures were implemented to enhance investor protection and convenience, such as facilitating requests for transfer, transmission, and other corporate actions solely through dematerialized mode. The procedure for issuing duplicate share certificates was simplified and standardized. An updated Standard Operating Procedure (SOP) for dispute resolution and a simplified format of the investor complaint report were introduced. To streamline reporting requirements, various filings mandated under the Listing Regulations, including material events and information, prior intimation for board meetings, and quarterly financial results, are now required to be provided in Extensible Business Reporting Language (XBRL) format. The NSE Prime listing norms, though released during 2021 itself, have come into effect from 1st July, 2022."

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ROLE OF STRUCTURED DIGITAL DATABASES IN MUTUAL FUND REGULATIONS

The fiscal year 2022-23 marked a significant period for the mutual fund industry, as regulatory developments focused on enhancing transparency and preventing insider trading. Recognizing the need for robust regulatory frameworks, authorities placed great importance on the implementation of Structured Digital Databases (SDDs) as a fundamental tool to achieve regulatory compliance and safeguard investor interests. The adoption of SDDs represented a major shift in the industry's approach to data management and reporting. These databases provided a structured framework for mutual funds to organize and maintain accurate, up-to-date, and comprehensive information regarding their holdings, transactions, and other relevant data. By centralizing this information, SDDs facilitated transparency and ease of access for market participants, regulators, and investors. The introduction of SDDs aimed to address key concerns related to regulatory compliance and investor protection. Through centralized data repositories, authorities sought to establish a standardized reporting system that would ensure accurate and timely disclosures by mutual funds. This, in turn, would enable investors to make informed decisions based on reliable information, ultimately bolstering trust and confidence in the industry. Furthermore, SDDs played a pivotal role in preventing insider trading within the mutual fund sector. By maintaining a comprehensive record of transactions and holdings, SDDs enabled regulators to monitor trading activities more effectively and detect any suspicious or unauthorized transactions. This proactive approach was essential in curbing insider trading and preserving market integrity. The implementation of SDDs required mutual funds to adhere to stringent compliance requirements. Regulatory authorities and stock exchanges introduced guidelines and circulars mandating the regular maintenance and reporting of data in a structured manner. Mutual funds were obligated to provide quarterly certificates confirming their adherence to SDD maintenance requirements, demonstrating their commitment to transparency and regulatory compliance.

REGULATORY AWAKENING: IMPORTANCE OF STRUCTURED DIGITAL DATABASES

The fiscal year 2022-2023 witnessed a remarkable regulatory awakening among listed entities and mutual funds regarding the significance of structured digital databases (SDDs). This awakening was driven by concerted efforts from stock exchanges, which actively engaged with listed entities through targeted communications to highlight the importance of maintaining a robust and well-maintained SDD. These regulatory developments were motivated by the overarching goals of fostering transparency, accountability, and the prudent utilization of funds within the financial ecosystem. Stock exchanges, as key regulatory bodies, recognized the need to promote awareness and compliance with SDD requirements. They took proactive measures by reaching out to listed entities through targeted communications, effectively awakening them to the importance of adopting and maintaining SDDs. By doing so, stock exchanges aimed to instill a sense of responsibility and accountability among listed entities, emphasizing the pivotal role of SDDs in ensuring transparency and adherence to regulatory standards. The awakening process encompassed various aspects related to SDDs, including their purpose, maintenance, and utilization. Stock exchanges diligently highlighted the importance of maintaining a proper SDD, which serves as a centralized repository of information pertaining to financial transactions, holdings, and other relevant data. This comprehensive database enables listed entities and mutual funds to effectively manage and disclose vital information, ensuring transparency and facilitating regulatory oversight. The regulatory awakening of the fiscal year 2022-2023 served as a wake-up call for listed entities and mutual funds, emphasizing the criticality of maintaining proper and well-maintained SDDs. As entities embrace the significance of SDDs and strive for compliance, the financial ecosystem is poised to experience enhanced transparency, improved investor protection, and sustainable growth.

SDD COMPLIANCE REQUIREMENTS FOR LISTED ENTITIES

The regulatory developments surrounding Structured Digital Databases (SDDs) in the fiscal year 2022-2023 brought forth specific compliance requirements for listed entities. Stock exchanges took proactive measures to ensure SDD compliance by introducing circulars that mandated listed entities to provide quarterly certificates as evidence of their adherence to SDD maintenance requirements. These certificates served as an official confirmation of the entity's commitment to maintaining a robust and well-maintained SDD. In addition to the quarterly certificates, stock exchanges played a crucial role in facilitating SDD compliance by releasing comprehensive Standard Operating Procedures (SOPs). These SOPs provided detailed guidelines and instructions on how listed entities could achieve and sustain compliance with SDD requirements. By outlining the necessary steps and processes, the SOPs aimed to assist entities in effectively implementing and maintaining their SDDs. Non-compliance with SDD regulations carried significant consequences for listed entities. To ensure transparency and accountability, stock exchanges implemented measures to publicly address non-compliance issues. In the event of non-compliance, the name of the non-compliant company, along with the name of the designated Compliance Officer, would be displayed prominently on the Exchange website. This public display served as a means of alerting stakeholders and investors about the non-compliant status of the listed entity, promoting transparency and fostering a culture of compliance. By introducing these

compliance requirements and consequences, stock exchanges sought to emphasize the importance of SDDs as a fundamental component of regulatory compliance and investor protection. The aim was to motivate listed entities to prioritize the establishment and maintenance of SDDs, ensuring the accurate recording and disclosure of financial data, transactions, and holdings. This emphasis on compliance aimed to enhance transparency, mitigate the risk of fraudulent activities, and promote the prudent utilization of funds. Compliance with SDD regulations served as a critical pillar in promoting responsible financial practices and upholding regulatory standards for the benefit of all stakeholders involved.

STRENGTHENING INSIDER TRADING CONTROLS: FOCUS ON MUTUAL FUNDS

During the fiscal year 2022-2023, regulatory developments pertaining to insider trading controls took centre stage, particularly within the realm of mutual funds. A notable aspect of these developments was the extension of insider trading regulations to encompass mutual funds, ensuring a level playing field and safeguarding investor interests. To effectively regulate and minimize instances of insider trading within mutual funds, a dedicated Framework was introduced. This Framework focused on restricting trading activities by Designated Persons associated with mutual funds. Designated Persons, such as fund managers and key personnel, play influential roles in the decision-making process and have access to sensitive information that could potentially be misused for personal gain. Under the Framework, specific measures were implemented to control trading activities during critical periods, especially when financial results were due for release. One of the key provisions mandated the freezing of the Permanent Account Number (PAN) at the security level during trading window closures. This requirement aimed to prevent Designated Persons from engaging in transactions that could be influenced by unpublished price-sensitive information. The extension of insider trading controls to mutual funds was a significant step in bolstering regulatory oversight and investor protection. It aligned the regulatory framework for mutual funds with the stringent standards already in place for other market participants. This harmonization aimed to create a level playing field and maintain the integrity of the financial ecosystem.

AMENDMENTS TO PROHIBITION OF INSIDER TRADING REGULATIONS

In a continuous effort to fortify insider trading controls within the mutual fund sector, amendments were made to the existing Prohibition of Insider Trading (PIT) Regulations of 2015. These amendments specifically focused on regulating trading activities carried out by Asset Management Companies (AMCs) and trustees of mutual funds, acknowledging their crucial role in overseeing fund operations and investment decisions. The amendments introduced under the PIT Regulations aimed to bring AMCs and trustees of mutual funds within the purview of robust regulatory oversight. By subjecting them to the same insider trading controls as other market participants, regulators sought to ensure a level playing field and maintain the integrity of the mutual fund industry. While the amendments were formally incorporated into the PIT Regulations, their implementation is yet to be realized. This indicates the meticulous approach taken by regulators in ensuring effective execution and compliance. It also underscores the commitment to refine regulatory frameworks and align them with the evolving dynamics of the market. The incorporation of amendments specifically addressing insider trading controls for AMCs and trustees of mutual funds highlights the regulatory focus on closing any potential gaps in oversight. By subjecting these entities to the same regulations as other market participants, regulators aim to instill trust and confidence among investors, knowing that all participants are held to the same high standards of transparency and accountability.

The amendments serve as a reminder of the ongoing efforts to enhance regulatory frameworks and prevent illicit activities within the mutual fund industry. The introduction of specific provisions for AMCs and trustees of mutual funds under the PIT Regulations signifies the regulators' proactive stance in adapting to changing market dynamics and safeguarding the interests of investors. As the implementation of these amendments is still pending, it reflects the meticulous approach taken to ensure effective enforcement and compliance. Regulators are likely to provide guidance and clarity regarding the practical application of these amendments, thereby fostering a compliant and responsible mutual fund ecosystem. Overall, the amendments to the Prohibition of Insider Trading Regulations, focusing on AMCs and trustees of mutual funds, underscore the regulatory commitment to upholding integrity, fairness, and investor protection within the mutual fund industry. By subjecting all market participants to stringent insider trading controls, regulators strive to maintain market confidence and ensure a level playing field for investors, ultimately fostering a thriving and transparent mutual fund landscape.

ROLE OF SSD IN ENHANCING TRANSPARENCY

The implementation of Structured Digital Databases (SDDs) has emerged as a pivotal mechanism in promoting transparency and accountability within the mutual fund industry. SDDs serve as comprehensive repositories of reliable and real-time information, facilitating access to critical data related to mutual fund holdings, transactions, and other pertinent details. The utilization of SDDs has revolutionized the way market participants, including investors, regulators, and other stakeholders, obtain and analyze information, enabling them to make well-informed decisions and effectively manage risks. One of the primary advantages of

SDDs is their ability to centralize and organize vast amounts of data pertaining to mutual funds. By leveraging modern technological advancements, SDDs streamline the collection, storage, and dissemination of information, ensuring its accuracy and accessibility. This transparency is instrumental in fostering investor confidence and facilitating market efficiency. Through SDDs, investors gain valuable insights into the composition and performance of mutual fund portfolios. They can access detailed information about the underlying securities, their allocation, sector exposure, and historical performance. This transparency empowers investors to evaluate the risks and potential returns associated with different mutual funds, aiding them in making informed investment decisions aligned with their financial goals and risk tolerance. Regulators also benefit from SDDs as these databases enable them to effectively monitor and regulate the mutual fund industry. By having access to accurate and comprehensive data, regulators can identify any irregularities or potential violations, such as unauthorized trades, front-running, or market manipulation. This proactive oversight strengthens market integrity and helps safeguard the interests of investors. Moreover, SDDs play a crucial role in facilitating market surveillance and risk management. By consolidating data from various sources, including fund managers, custodians, and exchanges, SDDs enable the identification of trends, patterns, and potential systemic risks within the mutual fund industry. This early detection and monitoring of risks allow regulators and market participants to take timely actions to mitigate any adverse impact on the financial system. The advent of SDDs has brought about a paradigm shift in the way information is managed and disseminated within the mutual fund industry. The enhanced transparency offered by SDDs not only benefits investors and regulators but also fosters healthy competition among mutual fund providers. It incentivizes fund managers to maintain high standards of disclosure, ensuring that investors have access to accurate and timely information for making investment decisions. In summary, the utilization of SDDs has revolutionized the mutual fund industry by promoting transparency and accountability. These databases serve as a centralized repository of reliable information, enabling investors, regulators, and other stakeholders to make well-informed decisions. By harnessing the power of SDDs, the industry can strive towards greater transparency, investor protection, and market efficiency.

EMERGENCE OF SOCIAL STOCK EXCHANGES IN INDIA

The introduction of Social Stock Exchanges (SSE) into the regulatory framework of India was initiated through the issuance of amendments under the ICDR Regulations, LODR Regulations, and AIF Regulations. SEBI, the regulatory authority, further provided a comprehensive SSE framework outlining the eligibility criteria and registration process for entities seeking registration with SSEs. The leading stock exchanges in India, namely BSE and NSE, obtained in-principle approval from SEBI to establish SSEs as distinct segments within their respective exchanges. As SSEs are poised to become operational, auditors are preparing for the implementation of social audit standards. To facilitate this, Self-Regulatory Organizations (SROs) have been established by professional bodies such as the Institute of Chartered Accountants of India (ICAI) and the Institute of Company Secretaries of India (ICSI).

The upcoming financial year is anticipated to witness a significant shift towards "responsible" donations, as SSEs commence their operations in India. Social enterprises, driven by their commitment to social causes, are expected to demonstrate interest in registering with the SSEs, leveraging the platform to attract socially conscious investors and expand their impact. With the establishment of SSEs, India aims to create a dedicated marketplace for impact-driven organizations, encouraging responsible investing and facilitating capital flows into social initiatives. SSEs will serve as platforms where investors seeking to align their investments with social objectives can find suitable investment opportunities. By channeling funds into social enterprises through SSEs, the regulatory authorities seek to foster sustainable development and address pressing social challenges. The advent of SSEs represents a significant step towards aligning capital markets with social and environmental goals, while simultaneously providing a transparent and regulated ecosystem for impact investing.

In conclusion, the introduction of SSEs within the Indian regulatory framework signifies a transformative milestone in responsible and impact investing. Through amendments to existing regulations, the issuance of SSE frameworks, and the approval granted to stock exchanges for establishing SSEs, India is paving the way for a new era of financial markets that prioritize social and environmental considerations. The operationalization of SSEs is expected to bring forth enhanced transparency, increased accountability, and greater opportunities for social enterprises to access capital and drive positive change in society.

ENHANCING BUY-BACK REGULATIONS

In a bid to improve the existing framework for buy-back transactions, the Securities and Exchange Board of India (SEBI) initiated a thorough review of the Buy-back Regulations. This comprehensive review process began with the release of a consultation paper on 16th November, 2022. The consultation paper was the result of the diligent work carried out by a sub-group which was chaired by Mr. Keki Mistry, and the same proposed several substantial recommendations aimed at reforming the buy-back regime. SEBI's consultation paper not only analyzed the existing

provisions but also identified areas where statutory amendments were deemed necessary. The paper focused on various aspects, including the methodology for open market buy-backs, tender offers, and book building processes. These recommendations were designed to strengthen the buy-back framework, enhance market efficiency, and provide clarity and transparency to market participants. After careful consideration of the consultation paper and its recommendations, SEBI approved amendments to the existing Buy-back Regulations in late December. Many of the proposals put forth in the consultation paper were incorporated into the Amendment Regulations, thereby shaping the revised buy-back framework. However, certain recommendations, such as expanding the permissible limits for buy-backs and addressing tax treatment, were deferred due to potential requirements for consent from other regulatory authorities such as the Ministry of Corporate Affairs (MCA) and the Ministry of Finance (MoF), as well as amendments to related laws. The approved amendments introduced significant changes to the buy-back process. One notable enhancement is the introduction of a glide-path exit strategy for open market buy-backs conducted through stock exchanges. This strategy offers greater flexibility and clarity in managing buy-back transactions.

Furthermore, revisions to the mechanisms governing tender offers and book building processes aim to streamline procedures and facilitate efficient execution. The objective behind these amendments is to foster market efficiency, instill investor confidence, and ensure fair practices in buy-back transactions. By strengthening the regulatory framework and aligning it with evolving market dynamics, SEBI seeks to create a conducive environment that facilitates buy-back transactions while safeguarding the interests of investors and market participants. The amendments to the Buy-back Regulations signify SEBI's commitment to continuous improvement and regulatory excellence. It is anticipated that these reforms will enhance the effectiveness and integrity of buy-back transactions, ultimately contributing to the overall growth and stability of the securities market in India.

AMENDMENTS IN REGULATORY FRAMEWORK FOR DEBT-LISTED ENTITIES & THE SIGNIFICANCE OF ONLINE BOND PLATFORMS

During the fiscal year, several amendments were made to the regulatory framework governing debt-listed entities. These amendments encompassed a range of clarifications as well as actionable requirements for the listed entities. One of the most noteworthy changes pertained to the regulation of online bond platforms. The Indian Listing of Non-Convertible Securities (ILNCS) Regulations were amended to prohibit intermediaries from facilitating transactions in listed debt securities without a valid stockbroker license. Additionally, a regulatory framework for online bond platform providers was established, bringing more structure and oversight to this area. Further amendments were introduced to the Electronic Book Provider (EBP) mechanism, including the imposition of a cap on the maximum number of ISINs (International Securities Identification Numbers) that can mature within a year. To encourage broader participation, the Securities and Exchange Board of India (SEBI) allowed stockbrokers registered under the debt segment of stock exchanges to place and seek bids on behalf of their clients through the Request for Quote (RFQ) Platform. The introduction of Distributed Ledger Technology (DLT) played a significant role in enhancing the recording and monitoring of security created on secured non-convertible securities, as well as overseeing associated covenants. SEBI also issued enhanced guidelines to improve monitoring and due diligence by debenture trustees, ensuring better governance in debt markets. Amendments related to the filing of schemes of arrangement by debt-listed entities were implemented to streamline the process. In a bid to facilitate the appointment of debenture-trustee nominated directors, debt-listed companies were mandated to include enabling clauses in their debenture-trust deeds and Articles of Association.

Furthermore, the requirement for newspaper advertisements was waived, and companies were instructed to communicate through email only before exercising the right to recall. Clarifications were provided on perpetual instruments covered under the provisions of ILNCS Regulations. SEBI's attention also turned to "green debt securities," leading to several changes in the existing framework of 2017. These changes included an amended definition, stricter disclosure requirements, and guidelines aimed at preventing greenwashing. Notably, mandatory third-party verification of the use of proceeds was introduced, ensuring greater transparency and accountability in the green debt market. Throughout the fiscal year, SEBI released various consultation papers, covering topics such as debenture-holders' approval for material Related Party Transactions (RPTs), mandatory listing of all issuances of debt securities by debt-listed entities, and alignment of offer document disclosures for public issues and private placements of debentures. Some of these proposals were approved by SEBI on March 29, 2023. These amendments signify the regulatory efforts to strengthen the debt market ecosystem and ensure investor protection.

REVIEW & LIBERALIZATION OF INSURANCE REGULATIONS BY IRDAI

IRDAI (Insurance Regulatory and Development Authority of India) undertook a comprehensive review of the major

regulations applicable to insurance companies. As a result, several important regulations were superseded by their latest amended versions. These revisions primarily aim at liberalization, although the practical implications on the industry will need time to be observed. A concise summary of the amendments can be accessed at "IRDAI does comprehensive liberalization of insurance regulations." Among the recent amendments, two noteworthy regulations are:

1. **IRDAI (Payment of Commission) Regulations, 2023:** The amended regulations address the payment of commissions to insurance intermediaries. These amendments aim to streamline and ensure fair compensation practices for intermediaries, fostering transparency and accountability in the insurance distribution ecosystem. The revised regulations outline updated guidelines for commission payments, ensuring a more equitable distribution of commissions among intermediaries.

2. **IRDAI (Expenses of Management of Insurers transacting General or Health Insurance business) Regulations, 2023:** The amendments to this regulation primarily focus on Expenses of Management (EoM) limits. The earlier fixed limits have been replaced with EoM limits expressed as a percentage of the gross premium earned by insurance companies. This change provides insurers with greater flexibility in managing their expenses while ensuring prudence and accountability in cost management.

The amendments in these regulations have introduced changes to the limits for product-specific Expenses of Management (EoM). Instead of fixed limits, the EoM limits are now defined as a percentage of the gross premium earned by insurance companies. These changes in the regulatory framework reflect IRDAI's efforts to foster liberalization and true impact of these changes will become evident over time as insurers adapt their business strategies to leverage the newfound flexibility. It is essential for companies to align their operations with the revised regulations, ensuring necessary compliances.

CLC'S VISION FOR A REVITALIZED COMPANIES ACT, 2013

The Companies Law Committee (CLC) recently completed its review of the existing provisions of the Companies Act and released a report for public feedback. The report contains a wide range of recommendations that cover various aspects of the Act, including delinking automatic directorship vacation in the event of corporate defaults, extending cooling-off periods for independent directors, implementing safeguards against auditors' conflicts of interest, and requiring disclosure of reasons for key

interest, and requiring disclosure of reasons for key managerial personnel resignations, among others. Although fast track mergers have not gained significant traction, the CLC proposes simplifying the approval process by suggesting the adoption of twin tests: a special majority of voting rights for present and voting shareholders and an ordinary majority of voting rights for all existing shareholders, instead of the current requirement of 90% voting.

The CLC also recommends expanding the Investor Education and Protection Fund (IEPF) provisions to include unpaid monies on buybacks. To alleviate the burden on the National Company Law Tribunals (NCLTs), the restoration of struck-off companies may be moved to administrative offices, and specialized company law Benches within the NCLT may be established to handle matters of economic importance, corporate restructuring, Insolvency and Bankruptcy Code (IBC) cases, and cases involving public interest. However, the successful implementation of these recommendations depends on the timely filling of vacant positions within the NCLTs. In line with digitization efforts, the CLC proposes allowing the maintenance of registers in electronic form and codifying hybrid mode corporate meetings instead of relying on Ministry of Corporate Affairs (MCA) circulars. Additionally, the recommendations aim to restore certain provisions from the erstwhile Companies Act, 1956, such as the non-recognition of trusts as shareholders.

While some suggestions focus on easing compliance and digitization of certain company procedures, others aim to establish a corporate governance framework aligned with Listing Regulations. These include the formation of risk management committees for prescribed class of companies and a mandatory cooling-off period for independent directors before accepting managerial positions. The CSR Amendment Rules, 2022, addressed gaps left from the 2021 amendments, enhancing transparency of disclosures through the introduction of a web-based form, CSR-2. However, the requirement for a compulsory audit trail feature for maintaining electronic books of accounts has been deferred and will be applicable from April 1, 2023. Furthermore, amendments have been made to the manner of maintaining electronic records, mandating companies to maintain daily backups of electronic records on physical servers within India, and requiring annual disclosure of service provider details if located outside India. The procedure for physical verification of registered offices by the Registrar of Companies (ROC) has been notified, aligning with the powers provided under Section 12(9) of the Companies Act. The definition of "small companies" has been expanded, increasing the thresholds for paid-up capital and net worth. Amendments have also been made to the rules governing foreign investment through the National Company Law Tribunal (NCLT), requiring proposed directors from countries sharing land borders with India to obtain security clearance from the Ministry of Home Affairs

and attach it with Form DIR-2 and DIR-3. Various provisions relating to the incorporation of companies, compromise and arrangement, appointment of directors, and more have been amended to align with the NDI Amendment Rules, 2020. The Companies (Appointment and Qualifications of Directors) Amendment Rules, 2023, have revised certain formats and introduced changes such as extending the annual declaration by directors to cover disqualifications under Section 164(1) of the Act and transferring the application for removal of director disqualification from the ROC to the Regional Director (RD). Migration to the V3 portal has also necessitated changes in various other forms.

Overall, the recommendations of the CLC aim to improve corporate governance, streamline procedures, and facilitate digitization in line with the government's vision of a modern and transparent corporate ecosystem. By expanding the definition of "small companies," the thresholds for paid-up capital and net worth have been raised, providing more flexibility and opportunities for growth to smaller entities. In the realm of foreign investment, amendments have been introduced to ensure security clearance for proposed directors from countries sharing land borders with India. This step aims to enhance regulatory oversight and safeguard national interests. Furthermore, several provisions pertaining to company incorporation, compromise and arrangement, and director appointments have been aligned with the NDI Amendment Rules, 2020. These changes seek to harmonize the legal framework and promote a consistent approach in regulating business operations.. Additionally, the transfer of the application for the removal of director disqualification from the Registrar of Companies (ROC) to the Regional Director (RD) aims to streamline the process and ensure efficient handling of such matters. Lastly, the migration to the V3 portal has necessitated adjustments in various other forms, ensuring compatibility and a seamless transition to digital platforms. Collectively, these CLC recommendations aim to strengthen corporate governance practices, simplify procedures, and embrace digitization, aligning with the government's vision of a progressive and transparent corporate environment.

KEY COMPLIANCE UPDATES FOR FY 23-24

- Effective from 1st April 2023, companies maintaining electronic books of accounts must use accounting software with a mandatory audit trail feature.
- Amended provisions of the Related Party Transactions (RPT) framework under the Listing Regulations will apply to listed entities, including the introduction of the "purpose and effect" test and a reduction in the shareholding threshold for related party identification.
- Transactions conducted by subsidiaries of listed entities may fall within the scope of "material transactions."
- A revised cap on the maximum number of maturing ISINs will be implemented from 1st April 2023.
- Multiple amendments to the Listing Regulations, including quantitative thresholds for materiality and stricter disclosure requirements, have been approved.
- Periodic shareholders' approval will be required for special rights granted to specific shareholders and the continuation of appointments for non-retiring directors.
- A separate framework has been established for ESG Rating Providers (ERPs) in India, mandating their registration with SEBI before providing ESG ratings. Issuers of green debt securities will need to engage a third-party reviewer for the utilization of proceeds on a "comply or explain" basis, starting from 1st April 2023.
- BRSR Core disclosures will apply to the top 250 listed entities in FY 23-24, with reasonable assurance on the disclosures.
- Guidelines for investment by ESG mutual fund schemes have been approved.
- The operationalization of social stock exchanges is expected, attracting interest from social enterprises aligning with SSE-listed entity requirements.
- Compliance with the Large Corporate Borrower (LCB) framework has been relaxed with the extension of the compliance period by one fiscal year.

*In case of any clarification/s or further information please feel free to reach us .

B-18, Ground Floor,
Jangpura Extension,
New Delhi-110014

office@avidlegal.in

www.avidlegal.in

+91-9716356334
+91-11-47010543