

Important Aspects & Analysis of SEBI (LODR) Regulations, 2015

SEBI has recently revamped its Listing Agreement that the companies need to enter into with the stock exchanges while listing its securities with the new **SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015** ("SEBI Listing Regulations"). The Listing Regulations have been notified with the regulator aiming to consolidate and streamline the existing listing agreements for different segments of the capital market into one single document across various types of securities listed on the stock exchanges.

In this article I will be discussing and analyzing some of the key aspects of that the **SEBI (LODR) Regulations 2015** provides for the listed equities.

Effective from:

- ✓ SEBI Listing Regulations came into force on the ninetieth day from date of publication in the official gazette i.e. **1 December 2015**

Applicability:

- ✓ SEBI Listing Regulations are applicable to a listed entity who has listed any of the following securities on recognized stock exchange(s).
- ✓ Specified securities listed on the main board or SME Exchange or Institutional Trading Platform;
- ✓ Non-Convertible Debt Securities, Non- Convertible Redeemable Preference Shares, perpetual debt instrument, perpetual non-cumulative preference shares;
- ✓ Indian depository receipts;
- ✓ Securitized debt instruments and
- ✓ Units issued by mutual funds.

Main Features:

- SEBI Listing Regulations have been sub-divided into two parts **(a)** substantive provisions incorporated in the main body of Regulations **(b)** procedural requirements in the form of Schedules to the Regulations.
- **Chapter II** of the SEBI Listing Regulations provide the broad principles in relation to disclosures and obligations of the listed entities. In the event of absence of specific requirements or ambiguity, these principles would serve to guide the listed entities.
- **Chapter III** of the SEBI Listing Regulations provide Obligations which are common to all listed entities have been enumerated. These include general obligation of compliance of listed entity, appointment of common compliance officer, filings on electronic platform, mandatory registration on SCORES, etc.
- **Chapter IV to IX** of the SEBI Listing Regulations deal with obligations which are applicable to specific types of securities have been incorporated in various chapters.
- **Chapter X and XI** of the SEBI Listing Regulations provide that Stock Exchanges have been given responsibility to monitor compliance or adequacy / accuracy of compliance with provisions of these regulations and to take action for non-compliance.
- **Ease of Reference:** The related provisions have been aligned and provided at a common place for ease of reference. For example, all clauses dealing with disclosure of events or information which may be material or price sensitive spread across the Listing Agreement have been provided as a schedule to the regulations. All disclosures required to be made on the website of the listed entity have been enumerated at a single place for ease of reference and all requirements pertaining to disclosures in annual report have been combined.
- **Streamlining and segregation of initial issuance/listing obligations:** In order to ensure that there is no overlapping or confusion on the applicability of these regulations, pre-listing requirements have been

incorporated in respective regulations viz. ICDR Regulations, ILDS Regulations, etc. These provisions pertain to allotment of securities, refund and payment of interest, 1% Security Deposit (in case of public issuance), etc. Post-listing requirements have been incorporated in Listing Regulations.

- **Listing Agreement** – A shortened version of the Listing Agreement (2 page approximately) has been prescribed which the companies are required to execute while listing its securities with the stock exchange. **Existing listed entities will be required to sign the shortened version within six months** of the notification of the regulations. **The companies are required to adopt the fresh simplified listing agreement in a Board Meeting and also authorize director to sign the LA and then send the Extract of the BR to the SE along with 2 Copies of LA executed and signed by the authorized director of the company on a Rs. 100 /- Stamp Paper.**

KEY CHANGES AND OTHER MATERIAL CLAUSES (restricted to Equity Listing Agreement only):

Regulation 6- Compliance Officer and his Obligations:

(Corresponds to **Clause 47A** of the Listing Agreement)

1. A listed entity **shall appoint a qualified Company Secretary (CS) as the Compliance Officer.**
2. **The compliance officer of the listed entity shall be responsible for-**
 - (a) Ensuring conformity with the regulatory provisions applicable to the listed entity in letter and spirit.
 - (b) Co-ordination with and reporting to the Board, recognized stock exchange(s) and depositories with respect to compliance with rules, regulations and other directives of these authorities in manner as specified from time to time.
 - (c) Ensuring that the correct procedures have been followed that would result in the correctness, authenticity and comprehensiveness of the information, statements and reports filed by the listed entity under these regulations.
 - (d) Monitoring email address of grievance redressal division as designated by the listed entity for the purpose of registering complaints by investors:

Provided that the requirements of this regulation **shall not** be applicable in the case of units issued by mutual funds which are listed on recognized stock exchange(s) but shall be governed by the provisions of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996.

***Comments:** Only qualified CS, who is a Member of ICSI, shall be Compliance Officer. Therefore the responsibility of a Company Secretary has increased tremendously to ensure the compliance with all the regulatory provision applicable on the company.*

Regulation 9 – Preservation of documents:

The listed entity shall have a policy for preservation of documents, approved by its board of directors, classifying them in at least two categories as follows:-

- (a) Documents whose preservation shall be permanent in nature ;
- (b) Documents with preservation period of **not less than eight years** after completion of the relevant transactions:

The list of documents to be preserved under LODR CAN be as follows:-

Sr. No.	Category A	Category B
1.	Statutory registers and records maintained under the Companies Act, 2013	VAT/Sales Tax Records.
2.	Annual Report, Directors Report, Auditors Report, Secretarial Report and other such report as required.	Tax Deducted at Source Records.
3.	Minute books, Notices, Agendas and other related papers of Board Meeting, General Meeting and Committee Meetings.	Income Tax papers.
4.	All documents required under the Listing Agreement	Books of Accounts.
5.	Documents pertaining to NSDL, CDSL, SEBI, and Stock Exchange.	Bank Statements and other related documents.
6.	All e- forms and other documents as required to file with Registrar of Companies and other regulatory Authorities.	Non-statutory registers under the Companies Act, 2013
7.	Records of all Contracts and Arrangement if any.	Annual Plans and Budgets
8.	Memorandum of Associations, Articles of Association, Share certificates, adopted policies, codes and other related documents.	Employees records
9.	Orders and approvals of all Regulatory Authorities.	Other miscellaneous documents as may required.
10.	disclosures, Declarations as required under Companies Act, 2013, Listing Agreement, <u>SEBI (Prohibition of Insider Trading) Regulations, 2015</u> , <u>SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011</u> and other such regulation as may required.	
11.	News Paper Publications.	

***The list is not exhaustive.**

Provided that the listed entity **may** keep documents specified in category (a) and (b) in electronic mode.

Comments:

The Company needs to Approve the policy in its Board meeting and the policies should be made available on the Website of the Company.

Regulation 13(3) – Grievance Redressal Mechanism:

The listed entity shall ensure that it is registered on the **SCORES platform** or such other electronic platform or system of the Board as shall be mandated from time to time, in order to handle investor complaints electronically. The listed entity shall file with the recognized stock exchange(s) on a quarterly basis, **within twenty one days from the end of each quarter**, a statement giving the number of investor complaints pending at the beginning of the quarter, those received during the quarter, disposed of during the quarter and those remaining unresolved at the end of the quarter.

Procedure to Register a Company on SCORES:

As per SEBI Circular No.: CIR/OIAE/1/2014, Dated: December 18, 2014

“All newly listed companies and SEBI registered intermediaries (excluding Stock Brokers, Sub-Brokers and Depository Participants) are hereby advised to send their details as per Form-A and Form-B annexed to this Circular, respectively to SEBI in hard copy and by email to scores@sebi.gov.in and obtain SCORES user id and password immediately within a period of one month from the date of listing. The email id to be furnished by the listed company / SEBI registered intermediary for receiving SCORES user id and password from SEBI has to be preferably a corporate email id and necessarily a permanent one. Failure by any listed company or SEBI registered intermediary to obtain the SCORES user ID and password would not only be deemed as non-redressal of investor grievances but also indicate willful avoidance of the same.”

The Circular and Forms required to get registered with SCORES can be downloaded from:

<http://scores.gov.in/Docs/Circular%20-%20Redressal%20of%20Investor%20Grievances%20through%20SCORES.pdf>

Or

The same PDF has been given in the Folder.

Comments: *As Regulation 13(3) mandates as aforesaid, one more quarterly compliance is in queue, the Listed Company has to file such statement on quarterly basis mandatorily.*

Regulation 15- Corporate Governance & its Applicability

1. The provisions of this chapter shall apply to a listed entity which has listed its specified securities on any recognised stock exchange(s) either on the main board or on SME Exchange or on institutional trading platform.

2. The compliance with the corporate governance provisions as specified in regulations 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and clauses (b) to (i) of sub-regulation (2) of regulation 46 and para C, D and E of Schedule V **shall not apply**, in respect of –

(a) The listed entity having **paid up equity share capital not exceeding rupees ten crore and net worth not exceeding rupees twenty five crore, as on the last day of the previous financial year:**

√ Provided that where the provisions of the regulations specified in this regulation becomes applicable to a listed entity at a later date, such listed entity shall comply with the requirements those regulations **within six months** from the date on which the provisions became applicable to the listed entity.

(b) **The listed entity which has listed its specified securities on the SME Exchange:**

“Provided that for other listed entities which are not companies, but body corporate or are subject to regulations under other statutes, the provisions of corporate governance provisions as specified in regulation 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and clauses (b) to (i) of sub-regulation (2) of regulation 46 and Para C, D and E of Schedule V shall apply to the extent that it does not violate their respective statutes and guidelines or directives issued by the relevant authorities.”

2. Notwithstanding with above, the provisions of Companies Act, 2013 shall continue to apply, wherever applicable.

Comments: Since the SME Equity Listing Agreement has now been abolished and SEBI LODR now applies for all sorts of Listed Entities, the LODR provides some relief from corporate governance requirements for the SME Listed Companies.

Regulation 17: Board of Directors – Composition

To be noted:

- **Provided that where the regular non-executive chairperson is a promoter of the listed entity or is related to any promoter or person occupying management positions at the level of board of director or at one level below the board of directors, at least half of the board of directors of the listed entity shall consist of independent directors.**
- **The Term Related to any promoter means: A) if the promoter is a listed entity, its directors other than the independent directors, its employees or its nominees shall be deemed to be related to it; B) if the promoter is an unlisted entity, its directors, its employees or its nominees shall be deemed to be related to it.**
- **Frequency of Board Meetings as per:**

LODR	Companies Act, 2013	Secretarial Standard-1
At least four times a year, with a maximum time gap of one hundred and twenty days between any two meetings.	Minimum number of four board meetings every year and the gap shall not exceed 120 days between two consecutive meetings of the board.	The board shall meet at least once in every calendar quarter with a maximum gap of 120 days between any two consecutive meetings of the board. And; At least four meetings are held in each calendar year.

Various Committees required by SEBI (LODR) and their Composition:

Audit Committee:

- Minimum three directors as members
- **Two-thirds** of the members of audit committee shall be **independent Directors**
- All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.
- **Company Secretary** shall act as the secretary to the audit committee.
- **Frequency of Meeting of Audit Committee:** At least four times a year, with a maximum time gap of one hundred and twenty days between any two meetings.
- **Quorum:** 2 Members or one third of the members of the audit committee, whichever is greater, with at least two independent directors.

Nomination and remuneration committee:

- Minimum three directors as members
- all directors of the committee shall be non-executive directors
- at least fifty percent of the directors shall be independent directors.
- **Chairperson:** Independent Director
- **Provided that the chairperson of the listed entity, whether executive or non-executive, may be appointed as a member of the Nomination and Remuneration Committee and shall not chair such Committee.**

Stakeholders Relationship Committee:

Motive: To look into the mechanism of redressal of grievances of shareholders, debenture holders and other security holders

- **Chairperson:** non-executive director.
- The board of directors shall decide other members of this committee

Risk Management Committee

- **Majority** of members of Risk Management Committee shall consist of members of the board of directors.
- **Chairperson:** member of the BOD.
- Senior executives of the listed entity may be members of the committee.

Regulation 23 – Related party transactions

- Definition of ‘related party’ and ‘related party transaction’ have been amended to provide an exception for units issued by mutual funds which are listed on a recognised stock exchange(s).
- Listed entity shall formulate a policy on materiality of related party transactions.
- Prior approval of all RPT by Audit Committee required.
- Audit Committee may provide **omnibus approval** to RPT which will be **valid for One Year only**.
- Previously all material related party transactions required shareholders’ approval through special resolution and the related parties shall abstain from voting on such resolutions.
- As per the SEBI Listing Regulations, **ordinary resolution shall suffice** and the related party shall abstain from voting on such resolution, irrespective of the related party being a party to the transaction.

***Comments:** It is pertinent to note that under the Companies Act, 2013, related party who is related to the transaction is required to abstain from voting.*

Regulation 25 – Obligations with respect to independent directors –

A person shall not serve as an independent director in more than seven listed entities: Provided that any person who is serving as a whole time director in any listed entity shall serve as an independent director in **not more than three listed entities**.

Regulation 27- Other corporate governance requirements:

1. The listed entity shall submit a quarterly compliance report on corporate governance in the format as specified by the Board from time to time to the recognized stock exchange(s) **within fifteen days from close of the quarter**.
2. Details of all material transactions with related parties shall be disclosed along with the Corporate Governance report.
3. The Corporate Governance report shall be signed either by the compliance officer or the chief executive officer of the listed entity.

Regulation 31 -Holding of specified securities and shareholding pattern:

1. The listed entity shall submit to the stock exchange(s) a statement showing holding of securities and shareholding pattern separately for each class of securities, in the format specified by the Board from time to time within the following timelines –

- a) **one day prior to listing of its securities on the stock exchange(s);**
- b) **on a quarterly basis, within twenty one days from the end of each quarter; and,**
- c) **within ten days of any capital restructuring of the listed entity resulting in a change exceeding two per cent of the total paid-up share capital:**

Provided that in case of listed entities which have listed their specified securities on **SME Exchange**, the above statements shall be submitted on a half yearly basis **within twenty one days from the end of each half year.**

- 2. The listed entity shall ensure that **hundred percent of shareholding of promoter(s) and promoter group is in dematerialized form** and the same is maintained on a continuous basis in the manner as specified by the Board.
- 3. The listed entity shall comply with circulars or directions issued by the Board from time to time with respect to maintenance of shareholding in dematerialized form.

Regulation 33- Financial results:

- 1. **While preparing financial results, the listed entity shall comply with the following:-**
 - (a) The financial results shall be prepared on the basis of accrual accounting policy and shall be in accordance with uniform accounting practices adopted for all the periods.
 - (b) The quarterly and year to date results shall be **prepared in accordance with the recognition and measurement principles laid down in Accounting Standard 25 or Indian Accounting Standard 31 (AS 25/ Ind AS 34 – Interim Financial Reporting)**, as applicable, specified in Section 133 of the Companies Act, 2013 read with relevant rules framed thereunder or as specified by the Institute of Chartered Accountants of India, whichever is applicable.
 - (c) **The listed entity may also submit the financial results, as per the International Financial Reporting Standards notified by the International Accounting Standards Board.**
 - (d) The listed entity shall ensure that the limited review or audit reports submitted to the stock exchange(s) on a quarterly or annual basis are to be given only by an auditor who has subjected himself to the peer review process of Institute of Chartered Accountants of India and holds a valid certificate issued by the Peer Review Board of the Institute of Chartered Accountants of India.
 - (e) The listed entity shall make the disclosures specified in Part A of Schedule IV.
- 2. **The approval and authentication of the financial results shall be done by listed entity in the following manner:**
 - (a) **The quarterly financial results submitted shall be approved by the board of directors:**

Provided that while placing the financial results before the board of directors, **the chief executive officer and chief financial officer of the listed entity shall certify that the financial results do not contain any false or misleading statement or figures and do not omit any material fact which may make the statements or figures contained therein misleading.**

- (b) The financial results submitted to the stock exchange shall be **signed by:**
 - The chairperson or managing director, or a whole time director or
 - In the absence of all of them; it shall be signed by any other director of the listed entity who is duly authorized by the board of directors to sign the financial results.
- (c) The limited review report shall be placed before the board of directors, at its meeting which approves the financial results, before being submitted to the stock exchange(s).
- (d) The annual audited financial results shall be approved by the board of directors of the listed entity and shall be signed in the manner specified in clause (b) of sub-regulation (2).

3. The listed entity shall submit the financial results in the following manner:
 - (a) The listed entity shall submit quarterly and year-to-date standalone financial results to the stock exchange **within forty-five days of end of each quarter**.
 - (b) The listed entity shall submit audited standalone financial results for the financial year, **within sixty days** from the end of the financial year along with the audit report and **either Form A (for audit report with unmodified opinion) or Form B (for audit report with modified opinion)**:

Note:

*Provided that if the listed entity has subsidiaries, it shall, while submitting annual audited standalone financial results also **submit annual audited consolidated financial results** along with the audit report and either Form A (for audit report with unmodified opinion) or Form B (for audit report with modified opinion).*

4. **Companies listed on SME Exchange shall submit half yearly results instead of quarterly results, and the requirement of submitting 'year-to-date' financial results shall not be applicable for them.**

Regulation 34 – Annual Report

The listed entity shall submit the annual report to the stock exchange **within twenty one working days of it being approved and adopted in the Annual General Meeting** as per the provisions of the Companies Act, 2013.

The **Annual Report shall contain:**

- 1) **Balance sheet, Profit & Loss Accounts, Etc.** (The term Etc. includes Cash flow statement and Statement of change in Equity.)
- 2) CFS as issued by Statutory Auditors.
- 3) Directors Report.
- 4) Management Discussion & Analysis Report.

Regulation 42: Record Date or Date of closure of transfer books

Listed Company will intimate Stock Exchanges, **7 days in advance** about the record date for:

- A. Declaration of dividend
- B. Issue of right or bonus shares
- C. Issue of shares for conversion of debentures or any other convertible security
- D. Corporate actions like mergers, de-mergers, splits and bonus shares

*******There shall be a gap of at least 30 days between two Record Dates.*******

Regulation 44: E-Voting

- Listed Company to provide e-voting facility to all its shareholders, in respect of all shareholders' resolutions.
- Results of E-Voting to be submitted within forty eight hours of conclusion of its General Meeting in the format Specified by SEBI.

Regulation 46- Website:

1. The listed entity shall maintain a **functional website** containing the basic information about the listed entity.
2. **The listed entity shall disseminate the following information on its website:**
 - ✓ Details of its business;
 - ✓ Terms and conditions of appointment of independent directors;
 - ✓ Composition of various committees of board of directors;
 - ✓ Code of conduct of board of directors and senior management personnel;
 - ✓ Details of establishment of vigil mechanism/ Whistle Blower policy;
 - ✓ Criteria of making payments to non-executive directors , if the same has not been disclosed in annual report;
 - ✓ Policy on dealing with related party transactions;
 - ✓ Policy for determining 'material' subsidiaries;
 - ✓ Details of familiarization programmes imparted to independent directors.
 - ✓ The email address for grievance redressal and other relevant details;
 - ✓ Contact information of the designated officials of the listed entity who are responsible for assisting and handling investor grievances;
 - ✓ Financial information including:
 - Notice of meeting of the board of directors where financial results shall be discussed;
 - Approved financial results.
 - Complete copy of the annual report of the Company.
 - ✓ Shareholding pattern;
 - ✓ Details of agreements entered into with the media companies and/or their associates
3. **The Listed entity shall ensure the following on website:**
 - (a) **The listed entity shall ensure that the contents of the website are correct.**
 - (b) **The listed entity shall update any change in the content of its website within two working days from the date of such change in content.**

Comments:

The number of Disclosures on the Website of the Listed Company have been increased to provide the Investors and other Stakeholders

Conclusion:

The SEBI LODR, 2015 brings various changes to the Existing Listing Agreement and it is now the duty and responsibility of us The Corporates & Professionals to work along with the capital market regulator to implement the regulations in the way regulator intends it to be. As it's said, **"Government Frames Laws but Professionals Implements them."**

Regards
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