

SEBI circular on disclosure norms under Regulation 30 and 30A of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

July 21, 2023

I. BACKGROUND:

- The Securities Exchange Board of India (“**SEBI**”) on July 13, 2023 issued a circular (“**Circular 2023**”) providing further guidance on disclosure norms by listed entities under Regulations 30 and 30A of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“**LODR Regulations**”)
- The Circular 2023, in light of second amendment to LODR Regulations notified on June 14, 2023 (“**Amended Regulations**”), seeks to make consequential amendment to the master circular dated June 11, 2023 (“**Master Circular**”) and aims to enhance transparency and ensure prompt disclosure of material events or information by listed entities. The Circular 2023 has been made effective from July 15, 2023 and it encompasses 4 Annexures with respect to disclosure requirements under regulations 30 and 30A of LODR Regulations.
 - a. Annexure I: Details to be provided while disclosing events given in Part A of Schedule III.
 - b. Annexure II: Timeline for disclosing events given in Part A of Schedule III
 - c. Annexure III: Guidance on when a event or information can be said to have occurred.
 - d. Annexure IV: Guidance on the criteria for determination of materiality of event or information.

II. Annexure I: Details to be provided for disclosure under Part A of Schedule III of LODR Regulations:

Following are few of the important disclosures which have been introduced by the Circular 2023 pursuant to the Amended Regulations.

A. Para A of Part A of Schedule III:

- The Circular 2023 has clarified the details to be provided for disclosure to be made under point 5A of Para A of Part A of Schedule III of LODR Regulations. As per aforementioned point 5A, agreements that fall within the specified criteria and have the potential to directly or indirectly impact the management or control of the listed entity, impose restrictions or create liabilities, must be disclosed to the stock exchanges. As per the Circular 2023, information for such disclosure to the stock exchange shall also include details of parties entering into the agreement, purpose of the agreement, significance terms of the agreement, reasons for amendment or alteration and the like.

ABOUT THE FIRM

AKS Partners (formerly known as A.K. Singh & Co) is a law firm based in New Delhi (India) that provides a comprehensive range of legal services and solutions to domestic and international clients. The Firm offers a unique blend of the local knowledge to apply the regulatory, economic, political and cultural context to legal issues and develop case strategies.

We regularly handle technically challenging and complex multi-jurisdictional matters. Our team is spearheaded by one of the highly recognised lawyers with extensive experience in international dispute resolution and strong government and diplomatic backgrounds. This experience gives us the deepest understanding of the key decision points that are critical in navigating complex & complicated matters and managing government regulations.

- Under the Circular 2023, listed entities are now obligated to disclose whether the sale, lease or disposal of the undertaking is outside the scheme of arrangement. If yes, the listed entity must provide comprehensive details including compliance with Regulation 37A of the LODR Regulations, which pertains to sale, lease or disposal of an undertaking outside the scheme of arrangement.
- In view of the Amended Regulations, the Circular 2023 has expanded the scope of credit rating disclosures to include the following scenarios:
 - a. Revision in rating, even if it was not initially requested by the listed entity or if the request was later withdrawn by the entity.
 - b. Revision in rating outlook, even without a revision in the actual rating score.
 - c. Environmental, Social and Governance (“ESG”) ratings by registered ESG rating providers.
- The listed entities now must disclose any instances of fraud or defaults committed by directors, senior management or subsidiaries of listed entity as well as any arrest of directors or senior management, whether these incidents occurred in India or abroad. This requirement supplements the existing obligations to disclose fraud or defaults by promoters, key managerial personnel as well as the arrest of key managerial personnel or promoters.

B. Para B of Part A of Schedule III:

- In view of the Amended Regulation mandating listed entities to disclose delays or defaults in payments to regulatory and judicial authorities, the Circular 2023 now clarifies the information which need to be disclosed and such information includes the name of the authority, details of the fines, penalties, dues, due date of payment, reason for delay or default and the impact on the entity’s financial and operational activities. Upon payment of the fines, penalties dues etc., the listed entity must also disclose the payment details, including the date and amount paid.
- The Circular 2023 has expanded the disclosure requirement with respect to notifying the stock exchanges of any litigation, assessment, adjudication, arbitration or dispute which may have impact on the listed entity. Now as per the Circular 2023, any litigation, assessment, adjudication, arbitration or dispute involving the director, key managerial personnel, senior management, promoter or subsidiary shall be disclosed to the stock exchange. Additionally, if the cumulative amount involved in ongoing litigations or disputes reaches a material threshold, the same shall also be required to be disclosed to the stock exchange. The information to be disclosed during such disclosure includes name of the opposing parties and court, expected financial implication, quantum of claim, change in status of litigation, in the event of settlement terms of such settlement and the like.

III. Annexure II: Timelines for disclosing events given in Part A of Schedule III:

- The Amended Regulations had introduced an updated timelines for disclosures mandated by Regulation 30 of the LODR Regulations. In view of the same and in order to improve transparency and providing clear guidance on the disclosure of timelines for material events or information, the Circular 2023 has provided a table outlining the specific timelines for disclosures associated with each event mentioned in Para A, Para B, Para C of Part A of Schedule III of LODR Regulations.
- It has been further clarified by the Circular 2023 that any ongoing event or information that becomes material following the notification of Amended Regulations shall be disclosed by the listed entity within 30 days from the effective date of said Amended Regulation i.e. by August 14, 2023.

IV. Annexure III: Guidance on when an event or information can be said to have occurred:

- The Master Circular had provided guidance on determining the occurrence of event or information for the purpose of Regulation 30 of LODR Regulations. However, through the Circular 2023, SEBI has now clarified certain aspects. According to the Circular 2023, if the board of directors grant in-principle approval or approval to explore (which is not final approval), it will not be necessary to disclose such information under Regulation 30 of the LODR Regulations.
- Additionally, in view of the Amended Regulation, listed entities are required to confirm, deny or provide clarification regarding any reported event or information in the mainstream media, as per Regulation 30(11) of the LODR Regulations.

V. Annexure IV. Guidance on the Criteria for determination of materiality of events or information:

- The Amended Regulations introduced the revised materiality thresholds for determining the significance of events for disclosures, as outlined in Regulation 30(4) of the LODR Regulations of the listed entities.
- The Circular 2023 clarifies on the calculation of the revised materiality threshold by providing that the average of the absolute value of profits or loss should be considered without considering the 'sign' (positive or negative) that indicates the value. This calculation is solely for determining the threshold of 'materiality' of the event and not for any commercial considerations. For reference purpose, the Circular 2023 also provides an illustration to further illustrate this concept.
- Furthermore, the Circular 2023 also clarifies that, if a listed entity does not have a track record of three years of financials, for example in the case of demerged entity, the aforementioned average may be calculated for the period/number of years as may be available.

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AWARDS & RECOGNITIONS



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