

JUNE 22, 2023

Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2023

The Securities Exchange Board of India vide notification dated June 14, 2023 has notified Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2023 ("**LODR Amendment**") to amend Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

The LODR Amendment shall come into force on the 30th day from the notification date with exception to few amendments (i.e. amendments in regulation 3, sub-regulations III, XI, XII and XIV) which shall come into force immediately.

I. OVERVIEW OF KEY AMENDMENTS

A. Definition of "Mainstream Media"

Definition of "**Mainstream Media**" to include newspapers registered with the Registrar of Newspapers for India, news channels permitted by the Ministry of Information and Broadcasting under Government of India and similarly registered newspapers and news channels. It will also include content published by a publisher of news and current affairs content as defined under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

B. Timeline for filling up of vacancies of offices

Vacancies in the offices of the Compliance Officer, Director, Chief Executive Officer, Managing Director, Whole Time Director, Chief Financial Officer or Manager shall be required to be filled by the listed entity within 3 months from the date of such vacancy.

C. Extension for compliance by "high value debt listed entities"

The timelines for compliance of provisions of Regulations 16 – 27, by an entity which has listed its non-convertible debt securities and has an outstanding value of listed non-convertible debt securities of Rs. 500 Crore or more has been extended from March 31, 2023 to March 31, 2024, post which the compliance of the aforementioned regulations shall be mandatory.

D. Quantifying the "materiality" threshold

The LODR Amendment now provide for quantitative threshold for carrying out the test of materiality of an event/ information, as per which the listed entity are required to disclose such event/ information, whose value or the expected impact in terms of value exceeds the lower of the (a) 2% of the turnover, as per the last audited consolidated financial statement; (b) 2% of the net worth, as per the last audited consolidated financial statement; and (c) 5% of the average of absolute value of profits or loss after tax, as per the last 3 audited consolidated financial statement.

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.

E. Reduced timeline for disclosure

- The LODR Amendment has now streamlined and reduced the timeline for disclosure of all material events or information not later than: (a) 30 minutes from the closure of the board meeting in which the decision pertaining to the event or information has been taken; (b) 12 hours from the occurrence of the event or information, in the case such event or information is emanating from within the listed entity; and (c) 24 hours from the occurrence of the event or information, in the case such event or information is emanating outside the listed entity.
- Furthermore, any continuing event or information which becomes material pursuant to the LODR Amendments shall be disclosed within 30 days from the effective date of the LODR Amendment.

F. Periodical approval for continuing Board Seat

With effect from April 01, 2024, the continuation of every director on the Board of the listed entity shall require approval of the shareholders at least once in every 5 year from the date of their appointment or reappointment, as the case may be with exceptions as certain category of pre-approved directors, court and tribunal appointed directors, director nominated by a financial institution registered or regulated by the Reserve Bank of India or nominee director. Further the continuation of service of any director serving on the Board of any listed entity without the approval of the shareholders shall be subject to the shareholders' approval in the first general meeting held after March 31, 2024.

G. Mandatory response to market rumors

As per the LODR Amendments all top 100 listed entities (with effect from October 01, 2023) and thereafter the top 250 listed entities (with effect from April 01, 2024) shall be required to confirm, deny or clarify to the reported event, information or rumours not later than 24 hours from the reporting of such event, information or rumours in the mainstream media.

H. Shareholders approval required for granting special right to shareholders

Any special rights now granted to a shareholder shall be subject to shareholders approval by way of special resolution once in every 5 years starting from the date of grant of such special right. The only exception to this provision, is the special right granted to a financial institution or debenture trustee which become shareholders pursuant to the provisions of such lending arrangement or subscription agreement for the debentures.

I. Disclosure of cyber security incidents

All listed entities shall now be required to disclose the details of cyber security incidents or breaches or loss of data or documents in the quarterly compliance report.

J. Timeline for disclosure of first financials after listing

After listing, the listed entity shall be required to publish its first financial result within the timeline specified in clause (a) or clause (d) of Regulation 33(3), as the case may be, or within 21 days from the date of its listing, whichever is later.

K. Disclosure of certain agreements binding on the listed entities

- ❑ All the shareholders, promoters, promoter group entities, related parties, directors, key managerial personnel and employees of a listed entity or of its holding, subsidiary and associate company, who are parties to the agreements which impact the management or control of the listed entity or impose any restriction or create any liability upon the listed entity to which listed entity is not a party, shall be disclosed to the listed entity within 2 working days of entering into such agreements and the listed entity shall further disclose such agreement to the stock exchanges, including disclosure of any amendment or alteration of such agreement.
- ❑ In case where such agreement subsists as on notification date of the LODR Amendment, the listed entity shall disclose all such subsisting agreements to the stock exchanges and on its website within the timelines as specified by SEBI including disclosing such subsisting agreements in its Annual Report for the Financial Year 2022-23 or for the Financial Year 2022-23.

L. Enhanced ESG disclosure

The LODR Amendment has brought in the concept of **Business Responsibility and Sustainability Report Core** as per which the specified listed entities shall obtain assurance for their value chain and disclose such key performance indicators with effect from and in the manner as may be specified by the SEBI from time to time.

M. Sale, lease or disposal of an undertaking outside Scheme of Arrangement

Under the LODR Amendment, any sale, lease or disposal of an undertaking outside Scheme of Arrangement shall require prior approval of the shareholders by way of special resolution provided that majority of public shareholders must have voted in favour of such special resolution. However, the said requirement shall not be applicable in case of sale, lease or disposal of an undertaking by a listed entity to its wholly owned subsidiary whose accounts are consolidated with such listed entity, subject to certain restriction.

N. Timeline for disclosure of analyst or institutional investors meet

Where the listed entity is convening an analyst or institutional investor meet, the details of such meet shall be published on the listed entity's website and disclosed to the stock exchange at least 2 working days in advance (excluding the date of the intimation and the date of the meet).

O. Enhanced disclosure requirements

The LODR Amendment has inserted following additional events/ information in Paragraph A of Part A of Schedule III which are required to be disclosed to the stock exchanges without application of materiality threshold:

- ❑ Any acquisition (including agreement to acquire) where the cost of acquisition or the price at which shares are acquired exceeds the materiality thresholds;
- ❑ Sale or disposal, whole or substantially the whole of the undertaking(s) or subsidiary of the listed entity;
- ❑ Sale of stake in associate company;
- ❑ New Rating(s);
- ❑ Change in senior management of the listed entity;

- ❑ Details of resignation of key managerial personnel, senior management, Compliance Officer or directors other than independent director, within 7 days from the date that such resignation comes into effect;
- ❑ Reason for indisposition or unavailability of the Managing Director or Chief Executive Officer of the listed entity to fulfil the requirements of the role in a regular manner for more than 45 days in any rolling period of 90 days;
- ❑ Announcement or communication of any material events or information by directors, key managerial personnel or senior management through social media intermediaries or mainstream media, which is not already made public by the listed entity;
- ❑ Action(s) initiated or orders passed by any regulatory, statutory, enforcement authority or judicial body against the listed entity or its directors, key managerial personnel, senior management, promoter or subsidiary in relation to certain specified events along with the information as prescribed; and
- ❑ Voluntary revision of the financial statements or the board report.

The LODR Amendment has inserted following additional events/ information in Paragraph B of Part A of Schedule III which are required to be disclosed to the stock exchanges upon application of the materiality threshold:

- ❑ Any loan agreement which is not done in normal course of business including amendment or termination thereof;
- ❑ Pendency of any litigation(s) or dispute(s) or the outcome thereof which may have an impact on the listed entity;
- ❑ Frauds or defaults by employees of the listed entity which has or may have an impact on the listed entity; and
- ❑ Delay or default in the payment of fines, penalties, dues, etc. to any regulatory, statutory, enforcement or judicial authority.

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AWARDS & RECOGNITIONS



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