

## Frequently Asked Questions

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January 21, 2016

### SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

***Disclaimer:** Based on queries/ comments received from market participants, these FAQs have been prepared to provide guidance on the provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("the Regulations", "Listing Regulations", "LR") and circulars issued there under. For full particulars of laws governing continuous disclosure requirements, please refer to the Acts/Regulations/Guidelines/Circulars etc. appearing under the Legal Framework Section of SEBI website i.e., [www.sebi.gov.in](http://www.sebi.gov.in) and the websites of respective recognized stock exchanges.*

#### A. Definitions

- Q1. Regulation 2(1)(b) of LR defines an 'associate company' to mean any entity which is an associate under the Companies Act, 2013 or under the applicable accounting standards. Whether both conditions have to be met or either of the two?**

**Answer:** The definition of associate company should be viewed under the Companies Act, 2013 as well as Accounting Standards. If the condition is met under either of the two, then such entity should be classified as an associate company.

- Q2. Regulation 2(1)(zb) of LR defines the term 'Related party' to mean related party under the Companies Act, 2013 or under the applicable Accounting Standards. Whether both conditions have to be met or either of the two?**

**Answer:** The definition of related party should be viewed under the Companies Act, 2013 as well as Accounting Standards. If the condition is met under either of the two, then such party should be classified as a related party.

#### B. Corporate Governance

- Q3. Regulation 17(8) of LR requires a compliance certificate to the Board of directors by Chief Executive Officer (CEO) and Chief Financial Officer (CFO). Whether the Managing Director or Whole Time Director may certify the compliance certificate, when the company has not designated a CEO?**

**Answer:** Such certificates may be signed by the officials who hold powers, duties and responsibilities of a CEO/ CFO irrespective of their designations.

- Q4. **Regulation 23 (4) provides that all material related party transactions shall require approval of the shareholders through resolution and the related parties shall abstain from voting on such resolutions whether the entity is a related party to the particular transaction or not. In this regard, whether only those related parties who are related to the concerned transaction/ contract should abstain from voting or whether related parties should altogether abstain from voting?**

**Answer:** The requirement under Regulation 23(4), is applicable for listed entities subject to the provisions of Regulation 15. Hence, for applicable entities, the regulations clearly provide that all material related party transactions shall require approval of the shareholders through resolution and the related parties shall abstain from voting on such resolutions whether the entity is a related party for the particular transaction or not.

- Q5. **Regulation 23(8) requires all existing material related party contracts or arrangements entered into prior to the date of notification of these regulations and which may continue beyond such date shall be placed for approval of the shareholders in the first General Meeting subsequent to notification of these regulations. Whether the listed entity requires to take a fresh shareholders approval in case it has already taken an approval prior to implementation of these regulations?**

**Answer:** The listed entity need not take fresh approval of shareholders in case the entity has already fulfilled the requirement of the regulations.

- Q6. **Regulation 24(1) prescribes having at least one independent director of the listed entity as a director on the board of directors of 'unlisted material subsidiary, incorporated in India'. Sub-regulations (2), (3) and (4) to the same regulation refer to 'unlisted subsidiary'. Whether such sub-regulations (2), (3) and (4) are applicable to all unlisted subsidiaries or only material unlisted subsidiaries incorporated in India?**

**Answer:** Listed entities may be guided by the provisions of Regulation 24. Wherever 'unlisted material subsidiary' and 'unlisted subsidiary' have been distinctly mentioned in a particular sub-regulation, such sub-regulation shall be applicable to material unlisted subsidiaries or all unlisted subsidiaries as the case may be.

- Q7. **Regulation 24 (4) requires that the management of the unlisted subsidiary shall periodically bring to the notice of the board of directors of the listed entity, a statement of all significant transactions and arrangements entered into by the unlisted subsidiary. Whether the requirement is applicable only to the material unlisted subsidiary?**

**Answer:** The requirement is applicable to all unlisted subsidiaries.

- Q8. **Regulation 26(1) stipulates that a director shall not be a member in more than ten committees or act as chairperson of more than five committees across all listed entities. Clause (a) to the aforesaid sub-regulation requires membership on committees that a director serves in all public limited companies, whether listed or not, to be included for determining the count of committee membership/ chairmanship for sub-regulation (1) and excludes membership on committees of private limited companies, foreign companies and companies under Section 8 of the Companies Act, 2013. Whether a director can be committee member for ten listed entities only or the same includes unlisted public companies as well?**

**Answer:** A director of a listed entity can be member in maximum ten committees and chairperson of more than five committees of listed entities and unlisted public limited companies put together.

### **C. Disclosure of Events or Information**

- Q9. **Regulation 30(8) of LR requires posting of disclosures on the listed entity's website for a minimum period of five years. Whether the said provision is prospective from December 1, 2015 and pertains to disclosures relating to events happening thereafter?**

**Answer:** The disclosures made under Regulation 30(8) shall be made w.e.f. December 01, 2015, i.e., the listed entity shall disclose on its website all such events or information which has been disclosed to stock exchange(s) under this regulation on or after the said date, and such disclosures shall be hosted on the website of the listed entity for a minimum period of five years from the date of disclosure to the stock exchange.

- Q10. **Regulation 30(9) of LR requires disclosure of all events and information with respect to subsidiaries which are material. If both parent and subsidiary are listed entities, would it be sufficient compliance if the listed subsidiary has made a disclosure or whether same disclosure be made by the parent listed entity also?**

**Answer:** Both the parent and material subsidiary in their own right as Listed Entities have to make disclosure separately as applicable under Listing Regulations.

- Q11. **Regulation 16 (1)(c) defines material subsidiary as - "material subsidiary" shall mean a subsidiary, whose income or net worth exceeds twenty percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year." The Explanation to Regulation 16 (1)(c) states that the listed entity shall formulate a policy for determining material subsidiary. Can the listed entity adopt a different criteria for determining material subsidiary for the purpose of Regulation 30 (9)?**

**Answer:** The definition of 'material subsidiary' under regulation 16(1)(c) defines a subsidiary that is material to the listed entity. Further, the explanation to the aforesaid

provision allows the listed entity to formulate a policy for the same, i.e., a listed entity can develop criteria that is stricter than what has been provided in the Regulations.

Regulation 30(9) requires the listed entity to disclose all events or information with respect to subsidiaries which are material for the listed entity. The said sub-regulation places stress on materiality of the events or information. Therefore, disclosure would be required in cases where the event or information originating from a subsidiary is material to the listed entity, irrespective of whether such a subsidiary is material or not as per the definition provided at regulation 16(1)(c).

- Q12. **Schedule III Part A, Para A, item 1(ii)(a) requires disclosures on acquisition or agreements to acquire shares or voting rights in a company, whether directly or indirectly, such that the listed entity holds shares or voting rights aggregating to five per cent or more of the shares or voting rights in the said company. Whether the disclosure is with respect to acquisition of shares or voting rights when the target company is a listed entity only or whether it is applicable to unlisted entities also?**

**Answer:** The Schedule refers to the listed entity's acquisition of shares or voting rights in the company. Such target company can be listed or unlisted.

- Q13. **Schedule III Para A of Part A, item 4 (d) on deemed material events mentions that a listed entity shall disclose within 30 minutes of the closure of the meeting the decision with respect to fund raising proposed to be undertaken. What all methods of fund raising are covered under the same?**

**Answer:** The listed entity may be guided by Regulation 29(1) (d) which stipulates the types of fund raising an entity is required to intimate to Stock Exchange.

#### **D. Other Clarifications**

- Q14. **Under Regulation 33(3), for submission of financial results for the last quarter, whether Unaudited Results can be submitted to the Exchanges?**

**Answer:** Regulation (33)(3)(d) clearly states that the listed entity shall file audited annual results in 60 days from the end of the last quarter. Therefore, the financial statements for the last quarter shall necessarily be audited. The said provision was also there in the erstwhile Listing Agreement.

- Q15. **Regulation 33 (3)(d) requires a company to 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). However for listed entities having subsidiaries whether two sets of Form A or Form B have to be prepared for standalone and consolidated results?**

**Answer:** A company having subsidiaries will prepare two sets of Form A and/or Form B, one for standalone results and another for consolidated results based on the respective audit report.

**Q16. Regulation 34 (2) (f) requires Annual Report to contain Business Responsibility Report (BRR). Since when this requirement will be applicable?**

**Answer:** Presently Regulation 34 requires top hundred listed entities based on market capitalization(calculated as on March 31 of every financial year) to compulsorily and other than top hundred listed entities to voluntarily include BRR in their Annual Report. Subsequent to amendment in SEBI (Listing Obligations and Disclosure Requirements) Regulation 2015 notified on December 22, 2015, the requirement of mandatory reporting of BRR in Annual Report has been raised from hundred to five hundred listed entities which will be effective from April 1, 2016 and hence it will form a part of the Annual Report for the financial year 2016-17.

**Q17. Regulation 35 requires the listed entity to submit to the stock exchange(s) an Annual Information Memorandum in the manner specified by the Board from time to time. Since the Regulations do not currently specify the applicable date and the manner, is the said provision currently applicable?**

**Answer:** As mentioned, in the regulation, the said requirement will become applicable as and when Annual Information Memorandum is specified by SEBI.

**Q18. Regulation 40(3) requires that the listed entity shall register transfers of its securities in the name of the transferee(s) and issue certificates or receipts or advices, as applicable, of transfers; or issue any valid objection or intimation to the transferee or transferor, as the case may be, within a period of fifteen days from the date of such receipt of request for transfer. It provides that the listed entity shall ensure that transmission requests are processed for securities held in dematerialized mode and physical mode within seven days and twenty one days respectively, after receipt of the specified documents and that proper verifiable dated records of all correspondence with the investor shall be maintained by the listed entity. In this regard, how would a company ensure compliance in an era where companies have no role to play in processing of transmission of securities held in dematerialized mode?**

**Answer:** The provision in Regulation 40(3) may be read in context with Regulation 7(1) which states that the listed entity shall appoint a share transfer agent or manage the share transfer facility in-house. In cases where the listed entity is managing the share transfer in-house, such compliance may be ensured. In this regard, the share transfer agent is an agent of the listed entity and it is imperative that the listed entity as a principal shall supervise the activities of its agent. Further, Regulation 8 provides that the listed entity, wherever applicable, shall co-operate with and submit correct and

adequate information to the intermediaries registered with the Board including registrar to an issue and share transfer agents.

- Q19. **As per Regulation 46(2)(n), the listed entity is required to disseminate on its website details of agreements entered into with the media companies and/or their associates, etc. In this regard, should the listed entity disclose all agreements entered into with media companies/ their associates including ordinary agreements or disclose only such agreements that are not in the normal course of business as required under item 5 of paragraph A of part A of Schedule III of LR?**

**Answer:** It is clarified that only such agreements that are not in the normal course of business shall be disclosed. Listed entities may refer to [SEBI Press Release No. 200/2010 dated August 27, 2010](#) and [Press Council of India Press Release No. PR/3/10-11-PCI dated August 02, 2010](#) wherein concerns related to 'private treaties' and their disclosures have been discussed in detail.

- Q20. **Regulation 46 (3) requires listed entity to update any change in the content of its website within two working days from the date of such change in content. Whether change in the content of website means any change on the website?**

**Answer:** Regulation 46(2) prescribes the list of information to be disseminated by a listed entity on its website. Regulation 46 (3) refers to the update of any change in the content which is provided as per the requirements of Regulation 46 (2).

## **E. Miscellaneous**

- Q21. **The regulations do not define 'working days'. Whether the same can be clarified?**

**Answer:** 'Working days' means working days of the stock exchange where the securities of the entity are listed.

*Note: Additional FAQs will be issued shortly.*

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