

M&A Hotline

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ADAPTING TO CHANGE: SEBI'S UPDATED LODR FRAMEWORK FOR LISTED ENTITIES

- SEBI's 2024 LODR amendments enhance corporate governance, streamline compliance, and improve shareholder engagement for listed entities.
- Key changes include mandatory full-time compliance officers, integrated filings to simplify reporting, and exemptions for immaterial RPTs.
- Shareholder approval for key appointments is now required within three months, with quarterly compliance certifications enhancing transparency.
- Additional measures include stricter independence criteria for directors, mandatory KPI disclosures, and the introduction of SR Equity Shares to address governance and voting power concerns.

BACKGROUND

The Securities and Exchange Board of India ("SEBI") recently announced the third amendment to the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015¹ ("LODR Regulations")². The LODR Regulations serve as a comprehensive framework for listed entities in India, standardizing disclosure and compliance obligations. With a core focus on strengthening corporate governance, the regulations emphasize accountability, transparent disclosure practices, and mechanisms for shareholder protection.

The framework draws its authority from the SEBI Act, 1992, which empower SEBI to regulate market intermediaries and ensure transparency in securities markets. Several terms in the LODR Regulations, such as "materiality" in Related Party Transactions ("RPTs") and "independence" in director appointments, have been shaped over time through SEBI circulars and rulings by the Securities Appellate Tribunal ("SAT"). For instance, in *Padmini Technologies v. SEBI*³, the SAT emphasized the importance of clear disclosures in assessing materiality thresholds, a principle that continues to influence regulatory interpretations. The amendments introduced further refine these foundational principles, addressing gaps and incorporating modern governance practices to align with evolving market dynamics.

DEEP DIVE INTO THE KEY AMENDMENTS

(a) Enhanced Role of Compliance Officers

Original Regulation: Regulation 6 of the LODR Regulations required every listed entity to appoint a qualified company secretary as a compliance officer to oversee adherence to regulatory requirements and liaison with SEBI and stock exchanges.

Amended Regulation: The revised Regulation 6 now mandates that the compliance officer must operate on a full-time basis and report directly to the board of directors. Additionally, for entities undergoing resolution plans under the Insolvency and Bankruptcy Code ("IBC"), any vacancy in the compliance officer's position must be filled within three months of the resolution plan's approval.

Potential Impact: The amended regulation strengthens governance by mandating a full-time compliance officer who reports directly to the board, enhancing accountability and regulatory oversight. However, smaller entities may face resource challenges in meeting this requirement, and the three-month timeframe for filling vacancies during insolvency might get a bit impractical.

(b) Streamlined Oversight of RPTs

Original Regulation: Regulation 23 required all RPTs to be approved by the audit committee and, in certain cases, by shareholders. Any material RPTs, i.e., those exceeding 10% (ten percent) of the annual consolidated turnover required shareholders' approval via special resolution.

Amended Regulation: The revised Regulation 23 introduces exemptions for certain immaterial transactions, such as audit fees and small-value transactions, from prior audit committee approval. It also permits retrospective ratification of immaterial RPTs under specific conditions, provided they do not breach materiality thresholds. It also allows the audit committee to grant omnibus approval of RPT of subsidiaries as well.

Potential Impact: The amended regulation streamlines the RPT approval process by exempting immaterial transactions, such as audit fees and small-value dealings from prior audit committee approval. The provision for retrospective ratification adds flexibility but could risk oversight if misused.

(c) Strengthened Shareholder Involvement in Key Appointments

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Original Regulation: Regulation 17 outlined the composition and roles of the board of directors, including the requirement for at least one-third independent directors. Appointments of independent directors were subject to shareholder approval at general meetings.

Amended Regulation: The amendment mandates that appointments to key positions, such as independent directors, must now receive shareholder approval within 3 (three) months of the effective date of appointment. This timeline applies uniformly, even when appointments are made mid-term.

Potential Impact: The amended regulation enhances shareholder involvement by requiring their approval for key appointments, such as independent directors, within three months, promoting accountability and transparency. This ensures alignment with shareholder interests but could delay onboarding processes.

(d) Filing of Information and Quarterly Compliance Certification

Original Regulation: Regulation 10 (1) provided for filing of reports, statements, documents etc. with the stock exchanges on an electronic platform. Regulation 27 required listed entities to submit periodic compliance reports to stock exchanges, typically on an annual or half-yearly basis.

Amended Regulation: The revised regulation 10 (1A) prescribes integrated filings of periodic reports, statements, documents in a prescribed format⁴. The revised regulation 27 introduces a quarterly compliance certification, which must include details on adherence to corporate governance norms and the resolution of shareholder grievances.

Potential Impact: The amended regulation enhances transparency and governance by introducing quarterly compliance certifications, ensuring regular monitoring of corporate governance norms and prompt resolution of shareholder grievances. While this promotes investor confidence, it may increase administrative burdens for companies, particularly smaller entities, requiring additional resources for frequent reporting.

ADDITIONAL AMENDMENTS: STRENGTHENING GOVERNANCE AND COMPLIANCE

(a) Changes in Director Tenure and Independence Requirements

One of the other significant amendments pertains to the independence and tenure of directors. The regulations now require more stringent checks on the independence of non-executive directors, particularly those who have served longer tenures. Independent directors are now expected to adhere to stricter criteria regarding their continued independence, ensuring that they do not develop ties that might compromise their ability to make unbiased decisions.

(b) Disclosure of Key Performance Indicators ("KPIs")

A new provision requires listed entities to disclose KPIs and material changes in performance metrics during quarterly filings. This disclosure aims to improve transparency and provide investors with timely insights into the performance trajectory of the company. With this amendment, SEBI aims to promote greater financial transparency and reduce the potential for market manipulation or investor misinformation.

(c) Introduction of SR Equity Shares

SR Equity Shares are a new class of shares introduced under the latest amendments, although SEBI is yet to fully define their characteristics or provide extensive guidance on their implementation. However, based on the context in which they have been introduced, SR Equity Shares raise significant concerns about the potential concentration of voting power within a small group of shareholders, which could undermine the fundamental principle of one-share, one-vote. While these shares may offer strategic advantages to companies, their issuance can reduce the influence of minority shareholders, potentially impacting corporate governance and decision-making fairness.

CONCLUSION

The last set of 2024 amendments to the LODR Regulations mark a step in SEBI's ongoing efforts to refine India's corporate governance landscape. While these changes introduce additional responsibilities for listed entities, they also present opportunities to enhance governance, build investor trust, and align with global best practices.

Companies that embrace these reforms proactively will not only ensure compliance but also strengthen their competitive positioning in an increasingly transparent and accountable market environment. As India continues to emerge as a global economic powerhouse, these regulatory amendments play a crucial role in supporting robust, fair, and transparent financial markets.

¹SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, September 2, 2015, Available at https://www.sebi.gov.in/legal/regulations/jul-2024/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-last-amended-on-july-10-2024-_84817.html.

²Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Third Amendment) Regulations, 2024, December 12, 2024, Available at https://www.sebi.gov.in/legal/regulations/dec-2024/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-third-amendment-regulations-2024_89956.html.

³*Padmini Technologies Ltd. v. SEBI*, [2001] SAT 16.

⁴SEBI vide circular dated December 31, 2024 has provided for process and formats of various such filings to be made, available at https://www.sebi.gov.in/legal/circulars/dec-2024/circular-for-implementation-of-recommendations-of-the-expert-committee-for-facilitating-ease-of-doing-business-for-listed-entities_90406.html (last accessed on January 6, 2025).

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