

MAY 2021

# NEWSLETTER

## REGULATORY

- RBI
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**RBI**

**1. Sponsor Contribution to an AIF set up in Overseas Jurisdiction, including IFSCs**

RBI/2021-22/38 A.P.(DIR Series) Circular No. 04  
Dated 12<sup>th</sup> May, 2021

Vide this notification, RBI has decided that any sponsor contribution from a sponsor Indian Party (IP) to an Alternative Investment Fund (AIF) set up in an overseas jurisdiction, including International Financial Services Centres (IFSCs) in India, as per the laws of the host jurisdiction, will be treated as Overseas Direct Investment (ODI). Accordingly, IP, as defined in regulation 2(k) of the Notification can set up AIF in overseas jurisdictions, including IFSCs, under the automatic route provided it complies with Regulation 7 of the Notification FEMA 120/2004-RB.

All the other provisions under the Notification shall remain unchanged.

[Notification](#)

## SEBI

### **1. Relaxation in timelines for compliance with regulatory requirements by Debenture Trustees due to the CoVID-19 pandemic**

Circular No.: SEBI/HO/MIRSD/CRADT/CIR/P/2021/561  
Dated: 3<sup>rd</sup> May 2021

Debenture trustees are required to perform periodical monitoring and disclose various reports/documents/certificates on Stock Exchanges and on their websites within prescribed timelines as per SEBI (Debenture Trustees) Regulations, 1993 as amended from time to time and circulars issued thereunder.

In wake of the CoVID-19 pandemic, SEBI vide this circular has extended the timelines for the following regulatory requirements of the SEBI circular No. SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2020/230 dated November 12, 2020 for the quarter/half year/year ending March 31, 2021:

S. No.	Regulatory requirements of SEBI circular dated November 12, 2020	Original Timeline (due date)	Extended Timeline
1.	Submission of reports/certifications to Stock Exchanges as per <b>clause 2.1</b> of circular	Quarterly – 60 days from the end of quarter Half Yearly - 60 days from the end of half-year Annually - 75 days from the end of financial year	July 15 <sup>th</sup> , 2021
2.	Following disclosures on website as per <b>clause 4</b> of circular:  i. Monitoring of asset cover certificate and quarterly compliance report of the listed entity. ii. Monitoring of utilization certificate iii. Status of information regarding breach of covenants/terms of the issue, if any action taken by debenture trustee iv. Status regarding maintenance of accounts maintained under supervision of debenture trustee	Quarterly – 60 days from the end of quarter Half Yearly - 60 days from the end of half-year Annually - 75 days from the end of financial year	July 15 <sup>th</sup> , 2021
3.	Reporting of regulatory compliance as per <b>clause 5</b> of circular	Half Yearly - 30 days from the end of half-year	May 31 <sup>st</sup> , 2021

### [Circular](#)

### **2. Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2021**

No. SEBI/LAD-NRO/GN/2021/19  
Dated 5<sup>th</sup> May, 2021

SEBI, vide this notification, has amended the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

Following is the gist of the amendments:

**1. Regulation 1 pertaining to short title, commencement and applicability:** The words “Institutional Trading Platform” has been substituted with the words “Innovators Growth Platform” in the proviso under sub-regulation (3) to provide that these regulations shall not apply to direct and indirect acquisition of shares or voting rights in, or control over a company listed without making a public issue on the Innovators Growth Platform of a recognized stock exchange.

**2. Regulation 3 pertaining to Substantial acquisition of shares or voting rights:** After the existing sub-regulation (4), the following new sub-regulation shall be inserted, namely,—

(5) For the purpose of this regulation, any reference to “twenty-five percent” in case of listed entity which has listed its specified securities on Innovators Growth Platform shall be read as “forty-nine per cent”

**3. Regulation 6 pertaining to Voluntary Offer:** After the existing sub-regulation (3), the following new sub-regulation has been inserted, namely,–

(4) For the purpose of this regulation, any reference to “twenty-five percent” in case of listed entity which has listed its specified securities on Innovators Growth Platform shall be read as “forty-nine percent”.

**4. Regulation 26 pertaining to obligations of the target company:** After the first proviso to sub-regulation (6), the following new proviso has been inserted, namely, -

*“Provided further that while providing reasoned recommendations on the open offer proposal, the committee shall disclose the voting pattern of the meeting in which the open offer proposal was discussed.”*

**5. Regulation 29 pertaining to disclosure of acquisition and disposal:**

(i) After the existing sub-regulation (1), the following new proviso has been inserted, namely, -

*Provided that in case of listed entity which has listed its specified securities on Innovators Growth Platform, any reference to “five percent” shall be read as “ten percent”.*

(ii) After the existing sub-regulation (2), the following new proviso has been inserted, namely, -

*Provided that in case of listed entity which has listed its specified securities on Innovators Growth Platform, any reference to “five percent” shall be read as “ten percent” and any reference to “two percent” shall be read as “five percent”.*

[Regulation](#)

### **3. Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2021**

No. SEBI/LAD-NRO/GN/2021/18

Dated 5<sup>th</sup> May, 2021

SEBI, vide this notification, has amended the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.

Following is the gist of the amendments:

**1. Regulation 282 pertaining to Applicability of Innovators Growth Platform:**

(i) In sub-regulation (3), the words “Institutional Trading Platform” has been substituted with the words “Innovators Growth Platform”.

(ii) After sub-regulation (3), the following new sub-regulation shall be inserted, namely, -

*“(4) If an issuer has issued SR (Superior Voting Rights) equity shares to its promoters/ founders, the said issuer shall be allowed to make an initial public offer of only ordinary shares for listing on the Innovators Growth Platform subject to compliance with the provisions of this Chapter and continued compliance with the provisions for SR equity shares in accordance with sub-regulation (3) of regulation 6.”*

**2. Regulation 287 pertaining to Application and Allotment:**

A new sub-clause has been inserted after sub-clause (3):

(4) The issuer may allocate up to sixty per cent of the issue size on a discretionary basis, prior to the issue opening, to eligible investors as identified under sub-regulation (1) of regulation 283, in accordance with the requirements with

respect to anchor investors for public issue made on the SME exchange as specified in Part A of Schedule XIII:

Provided that the price of the specified securities offered to eligible investors shall not be lower than the price offered to other applicants.

Provided further that eligible investors shall make an application of a value of at least fifty lakh rupees.

### 3. Regulation 288 pertaining to general conditions for Lock-in:

A new sub-clause has been inserted after sub-clause (4):

(5) The SR equity shares shall be locked-in till conversion into equity shares with voting rights similar to that of ordinary shares or shall be locked-in for a period specified in sub-regulations (1), whichever is later.

**4. Regulation 290A: A new regulation has been inserted after regulation 290: Exit of issuers whose securities are listed and trading on the Innovators Growth Platform pursuant to an initial public offer.** The issuer company whose specified securities are traded on the Innovators Growth Platform pursuant to an initial public offer may exit from the Innovators Growth Platform after complying with the conditions prescribed therein.

### 5. Regulation 292 pertaining to eligibility requirements for migration to the main board:

Substitution of sub-regulation (3) as under:

A company not satisfying the conditions laid down under sub-regulation (2) of regulation 292, shall, as on date of application for migration under the regular category, have fifty per cent (previously 75%) of its capital held by Qualified Institutional Buyers.

[Regulation](#)

## 4. Securities and Exchange Board of India (Intermediaries) (Second Amendment) Regulations, 2021

No. SEBI/LAD-NRO/GN/2021/20  
Dated 5<sup>th</sup> May, 2021

SEBI, vide this notification, has amended the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

**After Regulation 30, the following new regulation has been inserted:**

“30A. Special procedure for action on expulsion from membership of the stock exchange(s) or clearing corporation(s) or termination of all the depository participant agreements with depository(ies)”. A special procedure for action by the SEBI on expulsion from membership of the stock exchange(s) or clearing corporation(s) or termination of all the depository participant agreements with depository(ies) has been specified.

[Regulation](#)

## 5. Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2021

No. SEBI/LAD-NRO/GN/2021/22  
Dated 5<sup>th</sup> May, 2021

Vide this notification, SEBI has amended the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

Following is the gist of important amendments:

**1. Regulation 3 pertaining to Applicability of the regulations:** A new sub-clause (2) has been inserted after sub-clause (1) as under:

*The provisions of these regulations which become applicable to listed entities on the basis of market capitalisation criteria shall continue to apply to such entities even if they fall below such thresholds*

**2. Regulation 15 pertaining to Applicability in respect of obligations of listed entity which has listed its specified securities:** A new proviso has been inserted in clause (a) of sub-regulation (2) after first proviso as under:

*Provided further that once the above regulations become applicable to a listed entity, they shall continue to remain applicable till such time the equity share capital or the net-worth of such entity reduces and remains below the specified threshold for a period of three consecutive financial years.*

**3. Regulation 21 pertaining to Risk Management Committee:** Substitution of existing sub-regulation (2) as under:

*The Risk Management Committee shall have minimum three members with majority of them being members of the board of directors, including at least one independent director and in case of a listed entity having outstanding SR equity shares, at least two thirds of the Risk Management Committee shall comprise independent directors.*

After sub-regulations (3A), following sub-regulations have been inserted:

*(3B) - The quorum for a meeting of the Risk Management Committee shall be either two members or one third of the members of the committee, whichever is higher, including at least one member of the board of directors in attendance.*

*(3C) - The meetings of the risk management committee shall be conducted in such a manner that on a continuous basis not more than one hundred and eighty days shall elapse between any two consecutive meetings.*

**4. Regulation 24A pertaining to Secretarial Audit:** The words “Secretarial Compliance Report” have been inserted in the heading. Sub-regulation (1) has been substituted and new sub-regulation (2) has been inserted as under:

*(1) - Every listed entity and its material unlisted subsidiaries incorporated in India shall undertake secretarial audit and shall annex a secretarial audit report given by a company secretary in practice, in such form as specified, with the annual report of the listed entity.*

*(2) - Every listed entity shall submit a secretarial compliance report in such form as specified, to stock exchanges, within sixty days from end of each financial year.*

**5. Regulation 34 pertaining to Annual Report:** Clause (f) of sub-regulation (2) has been substituted as under to introduce new reporting requirements on Environment, Social and Governance (ESG) parameters called the Business Responsibility and Sustainability Report (BRSR).

**6. Regulation 43A pertaining to Dividend Distribution Policy:** Sub-regulation (1) and (3) have been substituted as under:

*(1) - The top 1000 (previously 500) listed entities based on market capitalization (calculated as on March 31 of every financial year) shall formulate a dividend distribution policy which shall be disclosed on the website of the listed entity and a web-link shall also be provided in their annual reports.*

*(3) – The listed entities other than those specified at sub-regulation (1) of this regulation may disclose their dividend distribution policies on a voluntary basis on their websites and provide a web-link in their annual reports.*

[Regulation](#)

## **6. Business responsibility and sustainability reporting by listed entities**

Circular No.: SEBI/HO/CFD/CMD-2/P/CIR/2021/562  
Dated 10<sup>th</sup> May, 2021

SEBI vide Circular No. CIR/CFD/CMD/10/2015 dated November 04, 2015 had prescribed the format for the Business Responsibility Report (BRR) in respect of reporting on ESG (Environment, Social and Governance) parameters by listed entities.

In terms of amendment to regulation 34(2)(f) of LODR Regulations vide Gazette notification no. SEBI/LAD-NRO/GN/2021/22 dated May 05, 2021, SEBI vide this circular, has introduced new reporting requirements on ESG parameters called the Business Responsibility and Sustainability Report (BRSR).

The BRSR seeks disclosures from listed entities on their performance against the nine principles of the 'National Guidelines on Responsible Business Conduct' (NGBRCs) and reporting under each principle is divided into essential and leadership indicators. The essential indicators are required to be reported on a mandatory basis while the reporting of leadership indicators is on a voluntary basis. Listed entities should endeavor to report the leadership indicators also.

**Applicability:** In terms of the aforesaid amendment, with effect from the financial year 2022-2023, filing of BRSR shall be mandatory for the top 1000 listed companies (by market capitalization) and shall replace the existing BRR. Filing of BRSR is voluntary for the financial year 2021-22.

[Circular](#)

#### **7. Procedure for seeking prior approval for change in control of SEBI registered Portfolio Managers**

Circular No.: SEBI/HO/IMD/IMD-I/DOF1/P/CIR/2021/564  
Dated 12<sup>th</sup> May, 2021

SEBI had amended the SEBI (Portfolio Managers) Regulations, 2020 vide circular dated April 26, 2021 by which a Sub-regulation (aa) had been inserted in Regulation 11 to provide that a Portfolio Manager shall obtain prior approval of SEBI in case of change in control in such manner as may be specified by SEBI.

Vide this circular, SEBI has prescribed that all SEBI registered Portfolio Managers shall comply with the following in case they propose a change in control:

- a. An online application shall be made to SEBI for prior approval through the SEBI Intermediary Portal (<https://siportal.sebi.gov.in>).
- b. The prior approval granted by SEBI shall be valid for a period of six months from the date of such approval.
- c. Applications for fresh registration pursuant to change in control shall be made to SEBI within six months from the date of prior approval.
- d. Pursuant to grant of prior approval by SEBI, all the existing investors/clients shall be informed about the proposed change prior to effecting the same, in order to enable them to take well informed decision regarding their continuance or otherwise with the changed management.

[Circular](#)

#### **8. Relaxation from compliance to REITs and InvITs due to the CoVID -19 virus pandemic**

Circular No.: SEBI/HO/DDHS/DDHS\_Div3/P/CIR/2021/563  
Dated 14<sup>th</sup> May, 2021

In view of various representation by SEBI from InvITs and REITs requesting extension of timelines for various regulatory filings and compliances for the period ending March 31, 2021 due to ongoing second wave of the CoVID-19 pandemic and restrictions imposed by various state governments, SEBI, vide this circular, has extended the due date for regulatory filings and compliances for InvITs and REITs for the period ending March 31, 2021 **by one month over and above the timelines**, prescribed under SEBI (Infrastructure Investment Trusts) Regulations, 2014 (InvIT Regulations) and SEBI (Real Estate Investment Trusts) Regulations, 2014 (REIT Regulations) and circulars issued thereunder.

[Circular](#)

#### **9. Enhancement of overall limit for overseas investment by Alternative Investment Funds (AIFs)/Venture Capital Funds (VCFs)**

Circular No.: SEBI/HO/IMD/DF6/CIR/P/2021/565  
Dated 21<sup>st</sup> May, 2021

In terms of SEBI Circulars No. SEBI/VCF/CIR No. 1/98645/2007 dated August 09, 2007, CIR/IMD/DF/7/2015 dated October 01, 2015, and SEBI/HO/IMD/DF1/CIR/P/2018/103/2018 dated July 3, 2018, SEBI registered AIFs and VCFs were permitted to invest overseas, subject to an overall limit of USD 750 million.

In consultation with the Reserve Bank of India, SEBI, vide this circular has enhanced the above limit to **USD 1,500 million.**

All other regulations governing such overseas investment by eligible AIFs/VCFs shall remain unchanged.

[Circular](#)



## MCA

### **1. Relaxation on levy of additional fees in filing of certain Forms under the Companies Act, 2013 and LLP Act, 2008**

General Circular No. 06/2021  
Dated 3<sup>rd</sup> May, 2021

Vide this circular, MCA has granted additional time for Companies and LLPs to file various forms (other than forms CHG-1, CHG-4 and CHG-9) without any additional fees upto 31<sup>st</sup> July, 2021.

Accordingly, no additional fee shall be levied upto 31<sup>st</sup> July, 2021 for the delayed filing of forms (other than charge related forms referred above) which were/would be due for filing during 1<sup>st</sup> April, 2021 to 31<sup>st</sup> May, 2021. Normal fee shall be payable for such delayed filing upto 31<sup>st</sup> July, 2021.

[Circular](#)

### **2. Relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013**

General Circular No. 07/2021  
Dated 3<sup>rd</sup> May, 2021

In the wake of CoVID-19 pandemic, MCA vide this circular, has decided to allow relaxation of time and condone the delay in filing forms related to creation/modification of charges as per the details given below:

**1. Applicability:** This circular shall be applicable in respect of filing of Form No. CHG-1 and Form CHG-9 by a company or a charge holder, where the date of creation/modification of charge:

- a. is before 01.04.2021 but the timeline for filing such form had not expired under section 77 of the Act as on 01.04.2021.
- b. falls on any date between 01.04.2021 and 31.05.2021 (both dates inclusive).

**2. Relaxation of time:**

- a. In case of clause 1(a) above, if the form is not filed in the period beginning from 01.04.2021 and ending on 31.05.2021, the first day after 31.03.2021 shall be reckoned as 01.06.2021 for the purpose of counting the number of days within which the form is required to be filed under section 77 or 78 of the Act.
- b. In case of clause 1(b) above, if the form is not filed in the period beginning from the date of creation/modification of charge to 31.05.2021, the first day after the date of creation/modification of charge shall be reckoned as 01.06.2021 for the purpose of counting the number of days within which the form is required to be filed under section 77 or 78 of the Act.

**3. Applicable Fee:**

- a. In respect of clause 2(a) above, if the form is filed on or before 31.05.2021, the fees payable as on 31.03.2021 under the Fees Rules for the said form shall be charged. If the form is filed thereafter, the applicable fees shall be charged under the Fees Rules after adding the number of days beginning from 01.06.2021 and, ending on the date of filing plus the time period lapsed from the date of the creation of charge till 31.03.2021.
- b. In respect of 2(b) above, if the form is filed before 31.05.2021, normal fees shall be payable under the Fees Rules. If the form is filed thereafter, the first day after the date of creation/modification of charge shall be reckoned as 01.06.2021 and the number of days till the date of filing of the form shall be counted accordingly for the purposes of payment of fees under the Fees Rules.

**4. This circular shall not apply, in case:**

1. Form CHG-1/CHG-9 already been filed before the date of issue of this circular.
2. The timeline for filing the form has already expired under section 77 or 78 of the Act prior to 01.04.2021.
3. The timeline for filing the forms expires at a future date, despite exclusion of the time provided in sub-para (ii) above.
4. Filing of Form CHG4 for satisfaction of charges.

[Circular](#)

### 3. Gap between two board meetings under section 173 of the Companies Act, 2013 - Clarification

General Circular No. 08/2021  
Dated 3<sup>rd</sup> May, 2021

Vide this circular, MCA has extended the requirement of holding meetings of the Board of companies within the intervals provided in section 173 of the Companies Act, 2013 (120 days) by a period of 60 days for first two quarters of Financial Year 2021-22. Accordingly, the gap between two consecutive meeting of the Board may extend to 180 days during the Quarter – April to June, 2021 and Quarter – July to September, 2021 instead of 120 days as required in the Companies Act, 2013.

[Circular](#)

### 4. Clarification on spending of CSR funds for 'creating health infrastructure for COVID care', 'establishment of medical oxygen generation and storage plants' etc.

General Circular No. 09/2021  
Dated 5<sup>th</sup> May, 2021

In continuation to the Ministry's General Circular No. 10/2020 dated 23.03.2020, where it was clarified that spending of CSR funds for COVID-19 is an eligible CSR activity, MCA, vide this circular has further clarified that spending of CSR funds for 'creating health infrastructure for COVID care', 'establishment of medical oxygen generation and storage plants', 'manufacturing and supply of Oxygen concentrators, ventilators, cylinders and other medical equipment for countering COVID-19' or similar such activities are eligible CSR activities under item nos. (i) and (xii) of Schedule VII of the Companies Act, 2013 relating to promotion of health care, including preventive health care, and, disaster management respectively.

Further, reference is also drawn to item no. (ix) of Schedule VII of the Companies Act, 2013 which permits contribution to specified research and development projects as well as contribution to public funded universities and certain organisations engaged in conducting research in science, technology, engineering, and medicine as eligible CSR activities.

The companies including Government companies may undertake the activities or projects or programmes using CSR funds, directly by themselves or in collaboration as shared responsibility with other companies, subject to fulfillment of Companies (CSR Policy) Rules, 2014 and the guidelines issued by this Ministry from time to time.

[Circular](#)

### 5. Clarification on offsetting the excess CSR spent for FY 2019-20

Circular No. CSR-01/4/2021-CSR-MCA  
Dated 20<sup>th</sup> May, 2021

Keeping in view the spread of COVID-19 in India, an appeal dated 30.03.2020 was made to MDs/CEOs of top 1000 companies in terms of market capitalization, to contribute generously to "Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund" (PM CARES Fund). In the appeal, it was mentioned that such contribution may, inter-alia, include the unspent CSR amount, if any, and an amount over and above the minimum prescribed CSR amount for FY 2019-20, which can later be offset against the CSR obligation arising in subsequent financial years.

In pursuance to the said appeal, certain companies claimed to have contributed CSR funds to the 'PM CARES Fund' over and above their prescribed CSR amount for FY 2019-20.

Vide this circular, MCA has clarified that where a company has contributed any amount to 'PM CARES Fund' on 31.03.2020, which is over and above the minimum amount as prescribed under section 135(5) of the Companies Act, 2013 ("Act") for FY 2019-20, and such excess amount or part thereof is offset against the requirement to spend under section 135(5) for FY 2020-21 in terms of the aforementioned appeal, then the same shall not be viewed as a violation subject to the following conditions that:

i. the amount offset as such shall have factored the unspent CSR amount for previous financial years, if any.

ii. the Chief Financial Officer shall certify that the contribution to “PM CARES Fund” was indeed made on 31st March 2020 in pursuance of the appeal and the same shall also be so certified by the statutory auditor of the company.

iii. the details of such contribution shall be disclosed separately in the Annual Report on CSR as well as in the Board’s Report for FY 2020-21 in terms of section 134 (3) (o) of the Act.

[Circular](#)

**Disclaimer:**

This is not a complete listing of all circulars/notifications issued during the month.

Instead it is only a listing of some of the circulars/notifications that we considered important.



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