

## SEBI (LODR) REGULATION - A SHORT STUDY

Dear Students,

The below mentioned points are important for your reference for preparing for Exams. Below mentioned points will give you basic idea about LODR Regulations and thus will provide you basic platform for preparation for your exams.

I wish you all the very best for your upcoming exams for June, 2016.

### INTRODUCTION

Securities and Exchange Board of India (SEBI) on **September 2, 2015** issued the **SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015** ('Listing Regulations') with the aim to consolidate and streamline the provisions of existing listing agreements for different segments of capital markets such as equity shares (including convertibles), non-convertible debt securities, etc. and disclosure norms in relation thereto, thereby ensuring better enforceability.

The Regulations shall be effective from 90 days from the date of notification of these regulations i.e. **December 01, 2015**. But Regulations relating to

- i. passing of ordinary resolution instead of special resolution in case of all material related party transactions subject to related parties abstaining from voting on such resolutions, in line with the provisions of the companies Act, 2013, and
- ii. Re-classification of promoters as public shareholders under various circumstances, shall be effective from September 02, 2015 itself.

The Listing Regulations would consolidate and streamline the provisions of the existing listing requirements for different segments of the capital markets viz-

- Equity (including convertibles) issued by entities listed on the Main Board of the stock exchanges
- Small and Medium enterprises listed on SME exchange and Institutional Trading platform
- Non-convertible debt securities, non-convertible preference shares
- Indian Depository Receipts
- Securitized debt instruments
- Units issue mutual funds
- By consolidating into one document the regulations thus provide ease of reference across various types of securities

## **STRUCTURE OF LODR**

- LODR is divided into **XI chapters further divided into 110 regulations and backed by IX schedules**, brief description as mentioned hereunder:
- Chapter I: Definitions
- Chapter II: Guiding Principles
- Chapter III: Common Obligation applicable to all listed entities
- Chapter IV-IX: Obligation applicable to specific type of securities
- Chapter X & XI: Obligation of stock exchanges and provisions in case of default

## **APPLICABILITY OF LODR REGULATIONS**

The Listing Regulations are applicable to a all Listed Entities who has listed any of the following Securities on recognized stock exchange(s):

- a. Specified securities i.e. equity shares and convertible securities listed on main Board, or SME Exchange or institutional Trading Platform;
- b. Non-convertible Debt Securities, Non-convertible Redeemable Preference Shares, Perpetual Debt Instrument, Perpetual Non-cumulative Preference Shares;
- c. Indian depository receipts;
- d. Securitized Debt Instruments;
- e. Units issued by mutual funds;
- f. Other securities as may be specified by SEBI

## **BASIC OBLIGATIONS OF LISTING — CHAPTER II OF LISTING REGULATIONS**

1. The listed entity which has listed securities shall make disclosures and abide its obligations under these regulations in accordance with the Principles enunciated in the Listing Regulations.

2. The principles of Listed Entities whose specified securities are listed on recognized stock exchange(s) are similar to those provided under Clause 49 of the Equity Listing Agreement which broadly categorized under following headings:

- THE RIGHTS OF SHAREHOLDERS
- TIMELY INFORMATION:
- EQUITABLE TREATMENT:
- ROLE OF STAKEHOLDERS IN CORPORATE GOVERNANCE

- DISCLOSURE AND TRANSPARENCY
- RESPONSIBILITIES OF BOARD OF DIRECTORS

### **OBLIGATIONS OF LISTED ENTITIES - CHAPTER III OF LISTING REGULATIONS**

Following Compliances have to be adhered to by listed entities who have listed any or all of the Designated securities i.e. specified securities i.e. equity shares and/or convertible securities, non-convertible debt securities, non-convertible redeemable preference shares, perpetual debt instrument, perpetual non-cumulative preference shares, Indian depository receipts, securitized debt instruments, units issued by mutual funds and any other securities as may be specified by the SEBI.

1. Every Listed entity shall ensure that KMP, directors, promoters or any other person dealing with the listed entity, complies with responsibilities or obligations, if any, assigned to them under these regulations. Therefore, adequate information/training on Securities Law, etc. shall be provided to the said persons on time to time basis.
2. The listed entity to have a Policy for Preservation of Documents duly approved by Board, classifying 2/8 them in at least two categories such as **the documents to be preserved permanently and the documents for preservation for less than 8 years**. Documents may also be kept electronically. These Policies shall be formulated and approved by the Board before **November 30, 2015**.
3. Every Listed Entity shall file the reports, statements, documents, filings and any other information with the recognized stock exchange(s) on the electronic platform and proper infrastructure shall be put in place by listed entity.

This means that electronic filing will be compulsory (Students please note applicability of electronic filing was from December 01, 2015) and accordingly the listed entities shall ensure that appropriate infrastructure and electronic systems are in place in the listed entities to ensure the electronic filing.

4. Company Secretary shall only act as "Compliance Officer" who will be responsible for ensuring compliances under these regulations. Any qualified Company Secretary of the Listed Entity can be appointed as Compliance Officer for adhering compliance under these Regulations which shall be **ideally approved by Resolution to be passed by Board of Directors at its duly convened Meeting/or through Circular Resolution**.
5. A Compliance Certificate to be provided to Stock Exchanges by Compliance Officer and Share Transfer Agent duly signed by both the compliance officer (Company Secretary) of the Listed Entity and the authorised representative of the share transfer agent, wherever applicable, within one month of end of each half of the financial year, certifying compliance with the requirements of Regulation 7(2) with respect to all the activities relating to Share Transfer in relation to both physical and electronic share transfer facility are maintained by

RTA.

6. Dividend/ Interest / Redemption or Repayment shall be paid in electronic mode and if not possible than by warrant 'payable at par' or cheque and if amount exceeds Rs. 1500 per warrant or cheque it has to be delivered through Speed Post only and Courier or ordinary post shall not be allowed.
7. The listed entity shall file with the Recognized stock exchange(s) on a quarterly basis, within twenty one days from the end of each quarter, a statement giving the number of investor complaints pending at the beginning of the quarter, those received during the quarter, disposed of during the quarter and those remaining unresolved at the end of the quarter. The said statement shall be placed before the Board on Quarterly basis.

#### **CHAPTER IV OF LISTING REGULATIONS**

##### **OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS SPECIFIED SECURITIES I.E. EQUITY SHARES AND CONVERTIBLE SECURITIES**

**The listed entities whose equity shares and convertible securities are listed on recognized Stock Exchanges shall comply under this Chapter:**

1. The role of audit committee to review with the management, the annual financial statements and auditor's report thereon before submission to the board for approval, with particular reference to the qualifications in the audit report has now been amended to include review with respect to modified opinion in the draft audit report. Therefore, the umbrella of reviewing the qualifications/adverse remarks in the audit report has been expanded under the Regulations 2015. Concept of "Modified Opinion" is newly coined phenomena in Regulations which was earlier referred to as "Qualification in Audit Report" in Listing Agreement.

It is pertinent to note that as per SA 7057, a modified opinion includes qualified opinion, adverse opinion and disclaimer of opinion. Accordingly, as per the Regulation, the audit committee will have to also review adverse opinion on audit report and disclaimer of opinion on audit report.

2. All existing material related party contracts or arrangements entered into prior to the date of notification of these regulations i.e. September 02, 2015 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.
3. All related parties irrespective of the fact whether the party is related to a particular transaction or not, will be abstained from voting on any material related party transaction.

This means that even if a certain related party is not interested in the transaction even then by virtue of the Listing Regulations, the dis-interested related party also would be abstained from voting.

4. Modification or reclassification of the status of the shareholders shall be allowed only on application made by Company to stock exchanges and all relevant evidence and on being satisfied with the compliance of conditions mentioned in this regulation.
5. When a new promoter replaces the previous promoter subsequent to an open offer or in any other manner, re-classification may be permitted subject to approval of shareholders in the general meeting and compliance of the conditions mentioned in Regulations. The compliance requirements are provided in brief below:
  - Shareholders' approval is required.
  - Outgoing promoters cannot hold more than 10% shares/ VRs &
  - Outgoing promoters cannot act as KMP for more than 3 years without shareholder approval.
  - They shall not exercise control over the listed entity & all Special rights shall be terminated.
  - In case of professionally managed companies-No group can hold more than 1%.
6. The Financial Results shall be approved by the Board of Directors which was not specifically provided under Listing Agreement earlier.
7. The listed entity shall on the direction issued by the Board, carry out necessary steps, for rectification of modified opinion and/or submission of revised pro-forma financial results, in the manner specified in Schedule VIII of the Listing Regulations.
8. There is no mention to submit the explanation of the reasons for variations between the unaudited quarterly or year to date financial results and the results amended pursuant to limited review for the same period.
9. The financial results shall be submitted to the stock exchange within thirty minutes of conclusion of the meeting of the Board in which they were approved. Previously, under the listing agreement the outcome was required to be provided within 15 minutes from the conclusion of the Board Meeting.
10. The timeline to give prior intimation regarding date of the Board meetings in which the financial results will be considered, has been reduced to five days prior to the meeting (excluding the date of the intimation and date of the meeting).
11. Listed entity shall inter- alia give prior intimation for fund raising by way of further public

offer, rights issue, American Depository Receipts/Global Depository Receipts/Foreign Currency Convertible Bonds, qualified institutions placement, debt issue, preferential issue or any other method and for determination of issue price. Provided that intimation shall also be given in case of any annual general meeting or extraordinary general meeting or postal ballot that is proposed to be held for obtaining shareholder approval for further fund raising indicating type of issuance.

12. The redundant requirement of serving six copies of Annual Report has been done away with altogether but sending Annual Report is now required to be sent to Stock Exchanges within 21 days of the same getting approved by the shareholders in the Annual General Meeting which earlier was required to be sent as soon as they were sent to shareholders.

13. Disclosure pertaining to Loans and advances in the nature of loans where there is:

- a) No repayment schedule or repayment beyond seven years or war
- b) No interest or interest below section 185, 186 of Companies Act, 2013 by name and amount was required to be provided in Consolidated Financial Statements in Annual Report, the same has been done away with in the Listing Regulations.

14. The listed entity shall submit to the stock exchange(s) an "Annual Information Memorandum" in the manner specified by the Board from time to time. The said requirement is not there in Equity Listing Agreement currently. The format of the said Annual Information Memorandum is yet to be prescribed by SEBI.

15. Disclosure of commodity price risk or foreign exchange risk and commodity hedging activities is required to be provided in Annual Report. There was no such requirement under the Equity Listing Agreement.

16. Every listed entity shall make disclosures of any events or information which, in the opinion of the board of directors of the listed company, is material.

- a. Certain events are deemed to be material as per the list provided in the Regulations under Schedule III i.e. no test of materiality to be applied for such events.
- b. Certain events have to be decided as material based on criteria provided in the Regulations. 4/8

17. The listed entity shall frame a Board approved policy for determination of materiality, based on criteria specified in the regulation 30 of the Listing Regulations and disclose on its website.

18. The Board needs to authorize one or more KMP(s) for determining the materiality of a certain event and the contact details of such personnel shall be also disclosed to the stock exchange(s) and as well as on the listed entity's website.

19. The listed entity shall make disclosures updating material developments on a regular basis, till

such time the event is resolved/closed, with relevant explanations.

20. The listed entity shall disclose all material events or information with respect to subsidiaries for the listed entity.

21. Change in name of the listed entity shall be done only after receiving confirmation from Stock Exchange upon filing application of the same.

22. The Company whose specified securities are listed i.e. equity and / or convertible securities shall maintain functional website and inter — alia following information shall be disclosed which are additional requirements apart from one already required under exiting Listing Agreement:

- a) Details of its business;
- b) Composition of various committees of board of directors;
- c) Criteria of making payments to non-executive directors, if the same has not been disclosed in annual report;
- d) Details of familiarization programmes imparted to independent directors including the following details:-
  - (i) number of programmes attended by independent director during the year and on a cumulative basis till date),
  - (ii) number of hours spent by independent directors in such programmes (during the year and on cumulative basis till date) and
  - (iii) other relevant details
- e) details of agreements entered into with the media companies and/or their associates etc.
- f) schedule of analyst or institutional investor meet and presentations made by the listed entity to analysts or institutional investors simultaneously with submission to stock exchange;

**CHAPTER V OF LISTING REGULATIONS - OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS NON-CONVERTIBLE DEBT SECURITIES (NCD'S) OR NON-CONVERTIBLE REDEEMABLE PREFERENCE SHARES ('NCPS') OR BOTH.**

**From the perspective of Examination, the Students can refer to the below mentioned points. However for detail procedure they can refer to LODR Regulations in Details:**

**I am enlisting the Basic Obligations for ready references:**

1. Prior intimation to the stock exchange(s) to be given by Listed Companies at least eleven days before the date on and from which the interest on debentures and bonds, and redemption amount of redeemable shares or of debentures and bonds shall be payable.

However the above compliances are not required if the securities has been exempted under Chapter VI of the Regulations which exempts compliances of certain provisions of Chapter V

whose specified securities as well as NCDs or NCPS are listed.

2. The listed entity shall promptly inform the stock exchange(s) of all information having bearing on the performance/operation of the listed entity, price sensitive information or any action that shall affect payment of interest or dividend of NCPs or redemption of NCD's or redeemable preference shares.
3. Disclosures shall be required to be disclosed as per Part B of Schedule III to the Regulations by Listed entities.
4. Listed entity shall intimate to the stock exchange(s), at least two working days in advance, excluding the date of the intimation and date of the meeting, regarding the meeting of its board of directors, at which the recommendation or declaration of issue of NCD's or any other matter affecting the rights or interests of holders of NCD securities or non-convertible redeemable preference shares is proposed to be considered.
5. Every Listed entity shall prepare and submit Limited Review Report or Audited Financial Results along with Audit Report on a half yearly basis in the format as specified by the Board within forty five days from the end of the half year to the Recognized stock exchange(s).
6. Every listed entity shall, within two calendar days of the conclusion of the meeting of the board of directors, publish the financial results and statement referred to in sub-regulation 52(4), in at least one English national daily newspaper circulating in the whole or substantially the whole of India.
7. Every Listed entity shall disclose to the stock exchange in quarterly, half-yearly and annual financial statements, as applicable, the extent and nature of securities, created and maintained with respect to its secured listed NCD's.
8. Listed Companies has to provide certain prescribed information to the debenture trustee promptly as prescribed in Regulation 56.
9. Every Listed entity shall submit a certificate to the stock exchange within two days of the interest or principal or both becoming due that it has made timely payment of interests or principal obligations or both in respect of the non-convertible debt securities.
10. Every Listed entity shall provide an undertaking to the stock exchange(s) on annual basis stating that all documents and intimations required to be submitted to Debenture Trustees in terms of Trust Deed and SEBI (Issue and Listing of Debt Securities) Regulations, 2008 have been complied with.
11. Annual Reports shall be provided to security holders of NCDs and also certain half yearly communication to be provided as provided in Regulation 52(4) and 52(5).



12. Notice of **all meetings** shall be sent to NCD's holder along with Proxy Forms.
13. The structure of NCD/NCPS shall not be modified unless application is made to Stock Exchange and In principal approval is received thereon and approval of Board, Debenture Trustees and requisite approval after meeting of Debenture Holders is received.
14. A Record date for purposes of payment of interest, dividend and payment of redemption or repayment amount or for such other purposes as specified by the stock exchange at least 7 working days (excluding the date of intimation and the record date) to the Recognized stock exchange(s) of the record date or of as many days as the stock exchange(s).
15. The listed entity shall not declare or distribute any dividend wherein it has defaulted in payment of interest on debt securities or redemption thereof or in creation of security as per the terms of the issue of debt securities.
16. Every Listed entity who has listed their Debt Securities shall have functional website and the following information shall be displayed on website:
  - a. details of its business;
  - b. financial information including complete copy of the annual report including balance sheet, profit and loss, account, directors report etc.;
  - c. contact information of the designated officials of the listed entity who are responsible for assisting and handling investor grievances;
  - d. email address for grievance Redressal and other relevant details;
  - e. name of the debenture trustees with full contact details;
  - f. the information, report, notices, call letters, circulars, proceedings, etc. concerning non-convertible redeemable preference shares or non-convertible debt securities;
  - g. all information and reports including compliance reports filed by the listed entity;
  - h. information with respect to the following events:
    - default by issuer to pay interest on or redemption amount;
    - failure to create a charge on the assets;
    - revision of rating assigned to the non-convertible debt securities;

Every Listed Entity whose equity shares/convertibles as well as NCDs or NCPS are listed shall not comply with the aforesaid compliance requirement as per Chapter VI of the regulations.

## **IMPORTANT REGULATIONS:**

### **Regulation 17: Board of Directors**

#### **Composition of Board**

1. Board shall have optimum composition of Executive and Non-Executive Director with at least one woman director and at least 50% of Non-executive director.
2. Chairman is Non-executive then at least 1/3rd of the directors shall be Independent Directors
3. Chairman is Executive director or Irregular Non-executive Chairman or related Non-executive Chairman then:
4. At least 50% of directors shall be Independent

#### **Reports/Information to be placed before the Board**

1. Periodic Review of Compliance Report pertaining to all laws applicable to listed Company by the Board of Directors; Quarterly compliance report on Corporate Governance( Annexure 1) are required to be placed before the Board of directors(Circular by SEBI No. CIR/CFD/CMD/5/2015 dated September 24, 2015
2. The Minimum Information to be placed before the Board of Directors are Specified in Schedule II, **Part A (Same as Listing Agreement)**

#### **Part A in Brief:**

Annual budgets, Quarterly Results, Minutes of Committees, senior management, Recruitment/Remuneration, Quarterly Details of foreign exchange exposure, Non Compliances etc.

#### **Compliance certificate signed by the CEO and CFO**

The contents of the compliance certificate are the same in Regulations, 2015 and has been mentioned in Schedule II, Part B (Annually Compliance Certificate)

New Requirement: However Certificate is now specifically required to be signed by CFO and CEO.

### **Regulation 18: Audit Committee**

Provisions of Listing Agreement pertaining to Audit Committee have been adopted in the LODR with a few modifications/additions briefed as:

- a. The Audit committee may meet without the presence of any executives of the listed entity.
- b. The Audit Committee is required to review modified opinion in the audit report
- c. Part C of Schedule II specifies the obligation of Audit Committee

### **Regulation 19: Nomination and Remuneration Committee**

Provisions of Listing Agreement pertaining to Audit Committee have been merged into the LODR with a few modifications/additions briefed as:

- Extension / continuation of Term of independent director on the basis performance evaluation.
- Part C of Schedule II specifies the role of Nomination and Remuneration Committee.
- Chairperson of Nomination Committee shall be present in AGM (also to be disclosed in CG report to be submitted at the end of 6 months after closure of FY)

### **Regulation 20: Stakeholder Relationship Committee read with Schedule II Part D**

### **Regulation 21: Risk Management Committee**

### **Regulation 22: Vigil mechanism**

### **AFORESAID REGULATIONS HAVE SIMILAR PROVISIONS VIS-A-VIS WITH THE LISTING AGREEMENT**

### **Regulation 23: Related Party Transaction**

Listed entities shall formulate a policy on materiality of related party transaction and on dealing with related party transactions:

- A transaction with a Related party shall be considered material, if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds 10% of the annual consolidated turnover of the listed entity as per the latest audited financial statements.
- Prior approval of the audit committee is required and omnibus approval may be given.
- All material related party transactions shall require approval of the shareholders through a resolution.
- Related parties shall abstain from voting on such resolutions, whether the entity is a related party to the particular transaction or not - Regulation 23(4).

- These provisions shall be applicable to all prospective transactions.
- Pursuant to Regulation 23 (8), all existing material related party contracts or arrangement 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.

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