Audit Committee update

Quarter ended 31 December 2022

Agenda

Amendments to SEBI Listing Regulations

Appointment and removal of Independent Directors (IDs)

Continuing mechanism

(Regulation 25(2A))

- Appointment, re-appointment, or removal of an ID subject to an approval of shareholders by way of a **Special Resolution (SR).**

In case requisite number of votes for SR is not obtained

Alternate mechanism (w.e.f. 14 Nov 2022)

(New proviso to Regulation 25(2A))

- An ID will be deemed to have been appointed if the following two conditions are satisfied:
  a) Votes cast in favour of the resolution exceed the votes cast against the resolution; and
  b) Votes cast by the public shareholders in favour of the resolution exceed the votes cast against the resolution
- An ID appointed under the alternate mechanism will be removed through similar mechanism.

The alternate mechanism does not apply to re-appointment

Appointment and removal of IDs (Contd.)

Case study

(In percentage)

Particulars	Promoters	Public shareholders	Total
Votes in favour	10	52	62
Votes against	16	22	38
Total	26	74	100

- As per continuing mechanism, special resolution will not get passed on account of failure to achieve the requisite majority of 75 percent of the votes.
- However, as per alternate mechanism:
  - Votes cast in favour of the resolution (62 percent) exceed the votes cast against the resolution (38 percent); and
  - Votes cast by the public shareholders in favour of the resolution (52 percent) exceed the votes cast against the resolution (22 percent).

Therefore, the ID will be deemed to have been appointed through the alternate mechanism.

Amendments for entities having listed NCS*

Timeline for submission of financial results
Regulation 52(1)

- For the last quarter – Submit un-audited/audited quarterly and year-to-date standalone financial results **within 60 days from the end of the last quarter.**

Statement of utilisation of proceeds
Regulations 52(7) and (7A)

- Submit a statement indicating the utilisation of issue proceeds as well as the statement of material deviation(s), if any, **along with the financial results** to a recognised stock exchange(s) (*earlier within 45 days from the end of the quarter*).

Disclosure of Ratios
Regulation 52(4)

- Requirement to disclose sector specific equivalent ratios has been omitted.
- In case ratios mentioned in the regulation are not applicable, then other ratios/equivalent financial information, as may be required to be maintained under applicable laws, should be disclosed.

Newspaper publication
Regulations 52(8)

- In case both standalone and consolidated financial results are issued - Publish the consolidated financial results along with the ratios and financial information in the newspaper.

**Non-Convertible Securities (NCS)*

Scheme of arrangements for entities having listed NCS

Regulation 59A

Applicability

- Applicable to entities that have listed NCDs/NCRPS**
- Not applicable to restructuring proposal approved as part of a resolution plan by the National Company Law Tribunal (NCLT)

Submission to designated stock exchange

- File draft scheme of arrangement along with prescribed documents, including valuation report and auditor's certificate, to obtain **Non-Objection certificate (NOC)**
- NOC valid for six months.

Operational aspects

- SEBI through its circular dated 17 November 2022 has specified the operational aspects with regard to the schemes of arrangement.
- The provisions of the circular would not apply to scheme of arrangement between a debt listed entity and its unlisted wholly owned subsidiary.

***NCDs - Non-convertible debt securities*
NCRPs - Non-convertible Redeemable Preference shares

SEBI’s consultation paper on disclosure of material events and information

Consultation paper on disclosure of material events and information

- Regulation 30 of LODR Regulations requires listed entities of specified securities [1] to provide disclosures of certain events and information. Disclosures are to be provided as per Part A of Schedule III consisting of:
  - Para A - Deemed to be material events
  - Para B – Disclosure based on the materiality policy of the listed entity.
- On 12 November 2022, SEBI issued a consultation paper to review disclosure requirements for material events/information.

Some of the key proposals provided by the consultation paper are:

Materiality threshold (Reg 30(4)(i))

- Proposes to introduce a quantitative criteria of minimum threshold for disclosure of specified events under Para B
- Threshold value or the expected impact in terms of value exceeds the lower of the following:

  a) Two per cent of turnover, as per the last audited standalone financial statements of the listed entity;

  b) Two per cent of net worth, as per the last audited standalone financial statements of the listed entity;

  c) Five per cent of three-year average of absolute value of profit/loss after tax, as per the last three audited standalone financial statements of the listed entity.

Materiality policy (Reg.30(4)(ii))

- Proposed additional quantitative threshold or criteria for determining materiality of events in their materiality policy.
- Proposed to specify the following in the Regulation 30(4):

  a) Materiality policy should not dilute any requirements specified under the LODR Regulation.

  b) Materiality policy framed in a manner to assist employees in identifying potential material events or information, which should be escalated and reported to the relevant Key Managerial Personnel (KMP) for determining materiality of an event or information and for making disclosure to the stock exchange(s).

[1] Regulation 2(1)(zl) of SEBI LODR Regulations defines specified securities as equity shares and convertible securities defined under Regulation 2(1)(eee) of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018

Consultation paper on disclosure of material events (cont.)

New clause related to cyber security to be inserted

Cyber security incidents/cyber security breaches or loss of data/documents to be disclosed in the quarterly corporate governance report.

Timeline for disclosure of events under Part A of Schedule III (Reg. 30(6))

a) **Emanating from within the listed entity** - Not later than 12 hours from occurrence of event or information

b) **Not emanating from within the listed entity -** Not later than 24 hours from occurrence of event or information

c) **Outcome of meetings of Board of Directors -** Within 30 minutes from the closure of the meeting of the Board of Directors

Note: In case of those events for which specific timelines have already been provided under Part A of Schedule III of LODR, disclosure of those events would be required to be done as per the said specified timelines.

Verification of market rumors (Reg. 30(11))

Top 250 listed companies would mandatorily be required to confirm or deny any event or information reported in mainstream media (whether in print or digital mode), which may have material effect.

Addition and modification of events

Proposed certain additions and modifications to events under Para A and Para B of Part A of Schedule III which *inter alia* includes disclosure of actions taken/initiated by any regulator, statutory enforcement or judicial authority against the listed entity, voluntary revision of financial statements or the report of the board of directors of the listed entity under Section 131 of the Companies Act, 2013, resignation letter of a KMP, a senior management, or a director other than independent director etc. Refer Annexure II for details.

Reviews by NFRA

Reviews by NFRA

- In accordance with the provisions of Section 132 of the Companies Act, 2013, NFRA monitors the compliance with accounting standards and auditing standards and has the power to conduct investigations. In this regard, NFRA has issued review reports to body corporates and practicing chartered accountants and chartered accountant firms.

- Additionally, NFRA has issued a circular dated 20 October 2022 with respect to identified non-compliance of provisions of Ind AS 109, *Financial Instruments*.

  The circular states that as per the provisions of Ind AS 109, a financial liability or a part of it should be derecognised only when a borrower is legally released from the primary responsibility for the liability (or part of it) either by process of law or by the creditor and therefore discontinuation of interest expense recognition on a financial liability solely based on borrowing company's expectation of waiver/ concession of the loan/interest without evidence of legally enforceable contractual documents would result in a major non-compliance with the provisions of Ind AS 109.

RBI updates

Financial Statements – Presentation and Disclosure Directions, 2021

- The Reserve Bank of India (RBI) (Financial Statements - Presentation and Disclosures) Directions, 2021 (Master Directions) provide guidelines/instructions/directives to the banks on the presentation of financial statements, regulatory clarification on compliance with accounting standards and disclosures in notes to accounts.
- Part A of Annexure II of the Master Directions provide instructions for the compilation of balance sheet and profit and loss account for commercial banks.
- On 13 December 2022, RBI issued a notification relating to disclosure of material items by commercial banks. The requirements are effective for financial year ending 31 March 2023 and onwards.

Miscellaneous income and other expenditure

- Provide disclosure in notes to accounts in case an item exceeds one per cent of total income

Other liabilities and assets

- In case any item exceeds one per cent of the total assets, then banks should disclose the particulars of all such items in the notes to accounts.

Other income, commission, exchange and brokerage:

- With respect to payment banks, in case any item exceeds one per cent of the total income, then payments bank is required to disclose particulars of all such items in the notes to accounts.

The circular further states that, with respect to the disclosures provided under ‘Chapter IV Disclosure in financial statements – notes to accounts’ of the Master Directions, the banks must provide comprehensive disclosures in addition to the minimum required disclosures, if such disclosures significantly aid in understanding the financial position and performance of banks.

Financial Statements – Presentation and Disclosure Directions, 2021

Annexure III - Disclosure of details of divergence in asset classification and provisioning for commercial banks (other than regional rural banks)

- The guidelines require commercial banks (excluding Regional Rural Banks (RRBs)) to disclose details of divergence in asset classification and provisioning if such divergence exceeds certain specified thresholds.
- On 11 October 2022, RBI introduced similar disclosure requirements for primary (urban) co-operative banks and revised the specified thresholds for commercial banks which are as follows. The requirements are effective for financial year ending 31 March 2023 and onwards.

Disclosure of details of divergence of asset classification and provisioning if both the following thresholds are exceeded:

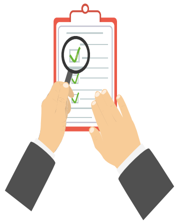
Thresholds linked to	Year ended 31 March 2023		Year ended 31 March 2024	
	Commercial Banks (%)	Primary urban co-operative banks (%)	Commercial Banks (%)	Primary urban co-operative banks (%)
Reported profit before provisions and contingencies	10	10	5	5
Reported incremental Gross NPA	10	15*	5	15*

*Would be reduced progressively in a phased manner after review.

Other RBI updates during the quarter

Key changes to the Unhedged Foreign Currency Exposure (UFCE) Directions 2022 are as follows: (w.e.f. 1 January 2023)

- Definition of an 'entity' is revised. An entity now means a counterparty to which the bank has an exposure in any currency.
- A bank's exposures to an entity arising from derivative transactions and/or factoring transactions are excluded from the purview of these guidelines.
- Revised definition of 'smaller entities' - Entities on which total exposure of the banking system is INR50 crore or less.
- Alternative method for assessment of exposure to 'smaller entities' is applicable when the smaller entities have Foreign Currency Exposure (FCE), instead of UFCE (Unhedged Foreign Currency Exposure) and are not in a position to provide information on their UFCE to the bank.
- The incremental capital requirement for exposures falling in the last bucket of the incremental capital requirement matrix should be provided as 25 per cent point increase in risk weight.



Aggregation of NBFC's assets for middle layer classification (w.e.f. 1 October 2022)

- If the consolidated asset size of the NBFCs [1] in a group is INR1,000 crore and above, then each of the NBFCs classified as NBFC-Investment and Credit Company (NBFC-ICC), NBFC-Micro Finance Institution (NBFC-MFI), NBFC-Factor and NBFC-Mortgage Guarantee Company (NBFC-MGC), forming part of the group should be considered as an NBFC in the middle layer.

[1] Includes NBFCs classified as Base Layer – NBFC-Peer to Peer Lending Platform, NBFC-Account Aggregator, Non-Operative Financial Holding Company and NBFC without public funds and customer interface

Year-end reminders

Year-end reminders

Business Responsibility and Sustainability Report (BRSR)

- **Mandatory from FY2022-23**: For top 1,000 listed companies by market capitalisation
- **Voluntary for other companies**: Listed companies (other than top 1,000) and companies which have listed their specified securities on the Small and Medium Enterprises (SME) exchange may voluntarily submit BRSR.

Maintenance of electronic records

- Books of account and other relevant books and papers maintained in an electronic mode should be accessible in India, **at all times.**
- Back-ups of books of account and other books and papers of a company should be maintained on servers physically located in India on a daily basis
- Additional disclosure by a company to the Registrar of Companies (ROC) where the service provider is located outside India.

Effective: 11 August 2022

Implementation of audit trail (effective 1 April 2023)

For companies:

Every company which uses an accounting software for maintaining its books of account, should use only such accounting software

- Which records an audit trail of each and every transaction and creates an edit log of each change made in the books of account along with the date when such changes were made.
- Additionally, companies would need to ensure that the audit trail is not disabled.

For auditors:

An auditor is required to comment in his/her auditor's report that the company has used such an accounting software which has a feature of recording audit trail including the following:

- The audit trail feature has been in operation throughout the year and has not been tempered with
- The audit trail has been preserved by the company as per the statutory requirements for record retention.

Year-end reminders - Related party disclosures under SEBI LODR

Definition of Related Party	• As defined in Section 2(76) of the 2013 Act and the applicable AS or Ind AS • Any person or entity forming part of the 'promoter' or promoter group' of the listed entity (effective from 1 April 2022) • Any person or any entity, holding equity shares directly or indirectly or on beneficial interest basis at any time during the immedicably preceding financial year: i) 20 per cent or more (applicable from 1 April 2022) **ii) 10 per cent or more (applicable from 1 April 2023)**
Definition of Related Party Transactions (RPTs)	• Listed entity or any of its subsidiaries on one hand and a related party of the listed entity or any of its subsidiaries on the other hand (applicable from 1 April 2022) • **Listed entity or any of its subsidiaries on one hand and any other person or entity on the other hand, purpose and effect of which is to benefit the related party of the list entity or any of its subsidiaries (applicable from 1 April 2023)** Regardless of whether a price has been charged. Additionally, following transactions are specifically excluded from the purview of RPT. i) Issue of specified securities on a preferential basis, subject to compliance of the requirements under the SEBI ICDR Regulations ii) Corporate actions by the listed entity which are uniformly applicable/offered to all shareholders in proportion to their shareholding such as payment of dividend, subdivision or consolidation of securities, issuance of securities by way of a rights issue or a bonus issue and buy-back of securities. iii) Acceptance of fixed deposits by banks/Non-Banking Finance Companies (NBFCs) at the terms uniformly applicable/offered to all shareholders/public, subject to disclosure of the same along with the disclosure of RPTs every six months to the stock exchange(s) in the specified format iv) Units issued by mutual funds which are listed on a recognised stock exchange(s)

Year-end reminders - Related party disclosures under SEBI LODR (cont.)

Audit committee approval	• All RPTs and subsequent material modifications (applicable from 1 April 2022) • An RPT to which a subsidiary of a listed entity is a party but the listed entity is not a party, if the value of such transaction whether entered into individually or taken together with previous transaction during the financial year exceeds threshold of: i) 10 per cent of the annual consolidated turnover as per last audited financial statements of listed entity (applicable from 1 April 2022) **ii) 10 per cent of annual standalone turnover in as per last audited financial statements of subsidiary (applicable from 1 April 2023)**
Shareholders' approval	• All material RPTs and subsequent material modifications of such transactions require prior* approval of the shareholders of a listed entity. (effective 1 April 2022).
Materiality threshold	A RPT would be considered material, if the transaction entered individually or taken together with previous transactions during a financial year: • Exceeds INR1,000 crore or • 10 per cent of the consolidated annual turnover of the listed entity as per last audited financial statements whichever is lower (effective from 1 April 2022)
Submission of half yearly RPT disclosure	• From 1 April 2023, **on the date of publication** of the standalone and consolidated financial results (*Within 15 days from date of publication till 31 March 2023*) • **From 1 April 2023, High value debt entities are mandatorily required to submit the disclosures along with the standalone financial results for the half year (*Applicable on a 'comply or explain' basis till 31 March 2023*).**

Annexures

Annexure I - Non-Compliance with Laws and Regulations (NOCLAR)

What is NOCLAR?

- The Institute of Chartered Accountants of India (ICAI) issued NOCLAR requirements through the 12 edition of Code of Ethics which are **applicable from 1 October 2022**.
- A professional accountant may encounter an instance of NOCLAR or suspected NOCLAR, while rendering professional services to a client, or carrying out professional activities for an employer.
- Section 260 and 360 of the Code provides detailed guidance in assessing the implications of NOCLAR instances encountered and the possible courses of action for addressing the same.

Particulars	Section 260	Section 360
Applicability	• Senior professional accountants in service being employees of listed entities • Senior professional accountants − Directors, officers or senior employees who are able to exert significant influence over, − Make decisions regarding the acquisition, deployment and control of the employing organisation's human, financial, technological, physical and intangible resources. Senior professional accountants refer to the KMP of the entity.	• Professional accountant in practice undertaking audit engagements for following entities: a) Shares of which are listed on recognised stock exchange(s) in India **and** b) Have a net worth of INR250 crore or more.

Annexure I - NOCLAR (cont.)

Particulars	Section 260	Section 360
Scope	• Laws and regulations generally recognised to have a direct effect on the determination of material amounts and disclosures in the financial statements, • Other laws and regulations, compliance of which might be fundamental to the operating aspects of the client's/employing organisation's business, to its ability to continue its business, or to avoid material penalties. • Does not include personal misconduct unrelated to the business activity of the employing organisation and non-compliance by parties other than those stated below.	• Laws and regulations generally recognised to have a direct effect on the determination of material amounts and disclosures in the financial statements. • Other laws and regulations, compliance of which might be fundamental to the operating aspects of the client's/employing organisation's business, to its ability to continue its business, or to avoid material penalties. • Does not include personal misconduct unrelated to the business activity of the employing organisation and non-compliance by parties other than those stated below.
Non-compliance committed by	i) Employing organisation ii) Those Charged With Governance (TCWG) iii) Management iv) Other individuals working for or under the direction of the employing organisation.	i) A client ii) TCWG of client iii) Management of client, or iv) Other individuals working for or under the direction of a client.

Annexure I - NOCLAR (cont.)

Examples

- Fraud, Corruption and bribery,
- Money Laundering, Terrorist financing and proceeds of crime
- Securities Market and Trading
- Banking and other Financial products & Services
- Data Protection
- Tax & Pension liabilities & Payments
- Environmental Protection
- Public Health and Safety

Disclosure of matter

- Appropriate authority for the purpose of disclosure will depend on the nature of the matter.

Annexure II – Significant proposed additions and modifications of events

Certain significant proposed additions and modifications of events in Para A
❖ Announcement or communication to any form of mass communication media by directors or promoters or KMP or senior management of a listed entity, in relation to the listed entity, which is not already made available in the public domain by the listed entity
❖ Details of the regulatory actions taken against listed entity, its directors, KMP, senior management, promoter, or subsidiary shall be disclosed. The name of the authority, nature and details of the action(s) taken or initiated, date of receipt of direction or order, details of the violation(s) committed and the impact on financial, operational or other activities of the listed entity should be disclosed.
❖ Details regarding voluntary revision of financial statements or the report of the board of directors of the listed entity shall be provided.
❖ In case of resignation of a KMP, a senior management, or a director other than independent director, the letter of resignation along with detailed reasons for the resignation as given by the KMP or the senior management or the director shall be disclosed to the stock exchanges by the listed entities within seven days from the date of resignation
❖ If the Managing Director (MD)/Chief Executive Officer (CEO) is not available to perform his roles and responsibilities for a period of more than a month, the same should be disclosed to the investors
❖ In case of acquisition of control by a listed entity, it has been clarified that acquisition would mean acquisition of shares in a newly incorporated entity as well as an existing entity. Further, a disclosure shall be provided if the acquisition exceeds the materiality threshold limit as prescribed in consultation paper
❖ Disclosure should be provided in case of sale of stake in an associate company and sale or disposal of the whole or substantially the whole of an undertaking as defined under Section 180 of the Companies Act, 2013. It has been further clarified that sale or disposal of subsidiary or stake in an associate shall include: a) Cessation of control in subsidiary, or b) Sale or agreeing to sell more than two per cent of shares or voting rights in the subsidiary or associate company
❖ The disclosure of credit rating or revision in rating shall be made even if it was not requested for by the listed entity or the request was withdrawn by the listed entity
❖ At present, disclosure of change in directors, KMP, auditor and compliance officer are required to be provided. It has been proposed that change in senior management shall also be disclosed.
❖ Fraud/defaults by promoter or director or key managerial personnel or senior management or subsidiary or by listed entity or arrest of key managerial personnel or senior management or promoter or director.

Annexure II – Significant proposed additions and modifications of events (cont.)

Certain significant proposed additions and modifications of events in Para B
❖ Delay or default in payment of fines, penalties, dues, etc. to any regulatory, statutory, enforcement or judicial authority should be disclosed.
❖ Disclosure shall be provided by the listed entity in case of any arrangements for strategic, technical, manufacturing, or marketing tie-up, adoption of new line(s) of business or closure of operation of any unit/division/subsidiary (in entirety or piecemeal).
❖ At present, disclosures were provided for loan agreements wherein the listed entity was a borrower. It has been proposed that material loan agreements in which the listed entity is a lender should also be disclosed. Therefore, a listed entity should provide disclosures with respect to all loan agreements entered/amended/revised/terminated which are binding and not entered into in the normal course of business. Further, this disclosure shall not be provided by a bank or a non-banking financial company.

Annexure III - IFRS updates applicable from 1 January 2023

Application of materiality when preparing financial statements (effective from 1 January 2023)

Change in the definition of materiality

IASB revised the definition of materiality as below:

Information is material if omitting, misstating or **obscuring it could reasonably be expected** to influence decisions that the **primary users** of general purpose financial statements make on the basis of those financial statements, which provide financial information about a specific reporting entity. *(emphasis added to highlight the amendment.)*

Four step process to make materiality judgements

Identify → **Assess** → **Organise** → **Review**

Amendment to IAS 1, *Presentation of Financial Statements*

- Companies should disclose **material accounting policies** rather than their significant accounting policies
- Provide clarification that accounting policies for immaterial transactions, other events or conditions are themselves immaterial and as such need not be disclosed; **and**
- Provide clarification that not all accounting policies relating to material transactions, other events or conditions are themselves material to a company's financial statements.

Annexure III - IFRS updates applicable from 1 January 2023 (Contd.)

Change in definition of accounting estimate under IAS 8

Definition of accounting estimate

- Definition of ‘change in account estimate’ in IAS 8[1] has been replaced by revised definition of ‘accounting estimate’.
- Revised definition clarifies that accounting estimates are monetary amounts in the financial statements that are subject to measurement uncertainty[2].

Relationship between accounting policies and accounting estimates

Amendments have clarified that a company develops an accounting estimate to achieve the objective set out by an accounting policy.

(Note – There is no change in the definition of accounting policy)

Accounting estimates includes:

- Selection of a measurement technique (estimation or valuation technique)
- Selecting the inputs to be used when applying the chosen measurement technique

Above amendments are effective from 1 January 2023

[1] Accounting Policies, Changes in Accounting Estimates and Errors

[2] Measurement uncertainty has been defined in the Conceptual Framework as ‘uncertainty that arises when monetary amounts in financial reports cannot be observed directly and must instead be estimated’

Thank you!

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