

B S R & Co. LLP  
Chartered Accountants

# Corporate reporting insights

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## Revised framework for Large Corporates

As per the SEBI (Issue and Listing of Non-convertible Securities) Regulations, 2021 (NCS Regulations) read with NCS Master Circular, Large Corporates (LCs) are required to raise a minimum of 25 per cent of their incremental borrowing during a Financial Year (FY) by issuing debt securities. This requirement has to be met over a contiguous block of three years from Financial Year (FY) 2022 onwards. However, in order to facilitate ease of doing business and development of corporate bond markets, on 19 October 2023, SEBI issued revise framework (the Framework) for LCs with respect to raising of funds by issuance of debt securities.

The key takeaways of the revised framework are as follows:

- **Applicability:** The Framework is applicable to all listed entities (except for Scheduled Commercial Banks (SCB)) which fulfil the following criteria as on the last day of the FY (i.e. 31 March or 31 December):
  - a) Have specified securities or debt securities or non-convertible redeemable preference shares listed on a recognised stock exchange(s), and
  - b) Have outstanding long term borrowings of INR1,000 crore or above (earlier it was 100 crore or above), and

- c) Have a credit rating of 'AA'/'AA+'/'AAA', where the credit rating relates to the unsupported bank borrowing or plain vanilla bonds of an entity, which have no structuring/support built in.

The term 'outstanding long-term borrowings' means outstanding borrowings with an original maturity of more than one year. However, it would exclude:

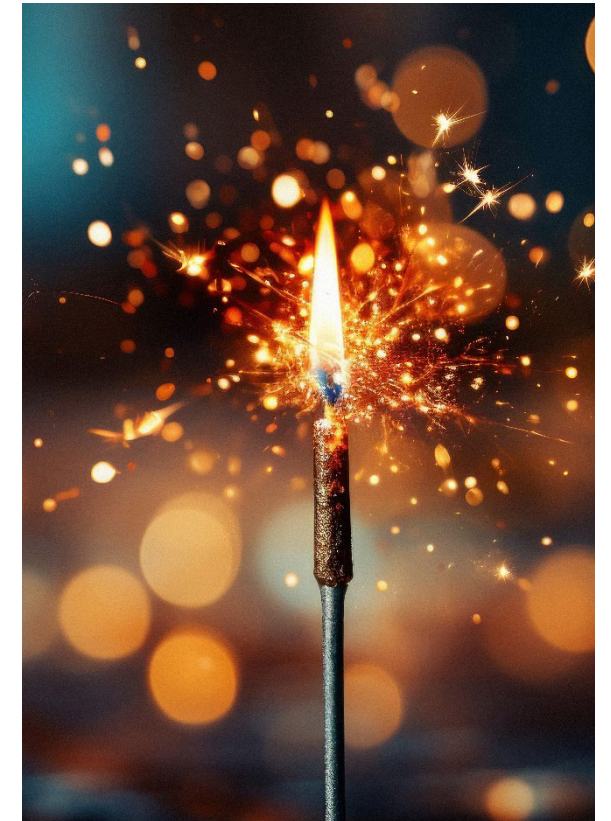
- i. External Commercial Borrowings (ECBs)
- ii. Inter-corporate borrowings involving the holding company and/or subsidiary and/or associate companies
- iii. Grants, deposits or any other funds received as per the guidelines or directions of Government of India
- iv. Borrowings arising on account of interest capitalisation and
- v. Borrowings for the purpose of schemes of arrangement involving mergers, acquisitions and takeovers.

Further, it is clarified that the qualified borrowings for a FY should be determined as per the audited accounts for the year filed with the stock exchanges.

- **Requisite borrowing criteria:** The LC (determined as per the above applicability criteria) should raise at least 25 per cent of its **qualified borrowings** (earlier termed as incremental borrowings) by issuing debt securities<sup>1</sup> in the financial years subsequent to the financial year in which it is identified as the LC. The term 'qualified borrowings' means incremental borrowing between two balance sheet dates having original maturity of more than one year.
- **Incentives in case of surplus in the requisite borrowings<sup>2</sup>:** If at the end of three years, there is a surplus in the requisite borrowings, the following incentives would be available to the LC:
  - I. Reduction in the annual listing fees pertaining to debt securities or non-convertible redeemable preference shares, and
  - II. Credit in the form of reduction in contribution to the Core Settlement

1. Debt securities as defined under SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021  
 2. Requisite borrowing – The difference between the actual borrowing through debt securities and 25 percent of the qualified borrowings for the FY  
 3. SEBI circular no. SEBI/HO/DDHS/DDHS-RACPOD1/P/CIR/2023/172 dated 19 October 2023

Guarantee Fund (SGF) of Limited Purpose Clearing Corporations (LPCC). The basis of computation of the incentive is specified in the Annexure to the Circular<sup>3</sup>.



## SEBI updates

## MCA updates

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- **Disincentive in case of shortfall in the requisite borrowings:** If at the end of three years, there is a shortfall in the requisite borrowings, then an additional contribution is required to the core SGF in the manner as specified in the Annexure to the Circular.
- **Identification of LC by the stock exchange:** Based on the financial results submitted by the listed entities, the stock

exchanges would determine the LCs for the financial year and release a uniform list which would be placed on their websites. The stock exchanges are also required to notify the listed entities identified as LCs, by email to enable them to comply with the defined requirements. The timeline within which the stock exchanges should determine the LCs are as follows:

Financial year	Timeline
For LCs following April-March as their financial year	By 30 June
For LCs following January-December as their financial year	By 31 March

Further, the stock exchange would also calculate the incentive and disincentive and would intimate the same to the LCs as follows

Financial year	Timeline
For LCs following April-March as their financial year	By 31 May
For LCs following January-December as their financial year	By 28/29 February

- **Effective date:** The Framework is applicable with effect from 1 April 2024 for LCs following April-March as their financial year. For LCs following January-December as their financial year, the framework is effective from 1 January 2024.
- **Transition relief:** Listed entities which were earlier identified as LCs based on the erstwhile criteria<sup>4</sup> should comply with the requirement of raising 25 percent of their incremental borrowings during FY 2022, FY 2023 and FY 2024 respectively by way of issuance of debt securities till 31 March 2024. In case of any failure to comply with the new requirement, such LCs should provide a one-time explanation in their Annual Report for FY 2024. Further the requirement as per erstwhile circular relating to penalties and annual disclosure regarding the details of incremental borrowing and mandatory borrowing have now been removed. Hence, no penalty would be levied on LCs identified based on the erstwhile criteria and the framework would be applicable on comply or explain basis.



(Source: SEBI circular no. SEBI/HO/DDHS/DDHS-RACPOD1/P/CIR/2023/172 dated 19 October 2023)

4. All listed entities (except for Scheduled Commercial Banks), which as on last day of the FY (i.e. 31 March or 31 December):

- have their specified securities or debt securities or non-convertible redeemable preference shares, listed on a recognised stock exchange(s) in terms of Listing Regulations; and
- have an outstanding long term borrowing of Rs. 100 crore or above, where outstanding long-term borrowings shall mean any outstanding borrowing with original maturity of more than one year and shall exclude external commercial borrowings and inter-corporate borrowings between a parent and subsidiary(ies); and
- have a credit rating of "AA and above", where credit rating shall be of the unsupported bank borrowing or plain vanilla bonds of an entity, which have no structuring/ support built in; and in case, where an issuer has multiple ratings from multiple rating agencies, the highest of such ratings shall be considered for the purpose of applicability of this framework.



## Relaxation for AGMs through VC

On 25 September 2023, the Ministry of Corporate Affairs (MCA) provided relaxation to companies for conducting Annual General Meetings (AGMs) and Extraordinary General Meetings (EGMs) through Video Conference (VC) or Other Audio Visual Means (OAVM) on or before 30 September 2024.

Considering the relaxation provided by MCA, SEBI issued two circulars dated 6 October 2023 and 7 October 2023 to extend the applicability of certain provisions of the Listing Regulations pertaining to dispatch of physical copies of the financial statements (including Board's report, Auditor's report or other documents required to be attached therewith) and holding virtual meetings till 30 September 2024 (earlier 30 September 2023).

(Source: MCA general circular no. 09/2023 dated 25 September 2023, SEBI circular no. SEBI/HO/DDHS/P/CIR/2023/0164 dated 6 October 2023 and SEBI/HO/CFD/CFD-PoD-2/P/CIR/2023/167 dated 7 October 2023)



5. Regulation 36(1)(b) of the Listing Regulation applicable to listed entities that have issued specified securities and Regulation 58(1)(b) of the Listing Regulation applicable to issuers of listed Non-Convertible Securities



## Stricter norms for companies to disclose beneficial interests

Rule 9 of the Companies (Management and Administration) Rules, 2014 (Management and Administration Rules) relates to the declaration of beneficial interest in the shares of a company. On 27 October 2023, MCA issued certain amendments to Management and Administration Rules by introducing a new provision relating to a 'designated person'. The newly inserted Rule 9(4) provides as follows:

- **Requirement of a designated person:** Every company is required to designate a person responsible for providing information to the Registrars of Companies (ROC) or any authorised officer regarding beneficial interests in the company's shares.
- **Options for designation:** A company has the option to appoint the company secretary, key managerial personnel (other than the company secretary) or every director.
- **Deemed designation:** Until a person is designated as mentioned above, certain individuals are deemed as the designated person. This includes the company secretary, every managing director or manager or every director based on the organisation structure of the company.

- **Disclosure in the Annual Return:** The details of the designated person need to be disclosed in the annual return.
- **Change in the designated person:** Any change in the designated person should be intimated to ROC in e-form GNL-2 as per the Companies (Registration Offices and Fees) Rules, 2014.

(Source: MCA circular no. G.S.R 801(E) dated 27 October 2023)



## Mandatory dematerialisation for public and private companies

On 27 October 2023, the MCA issued certain amendments to Rule 9 of the Companies (Prospectus and Allotment of Securities) Rules, 2014 relating to 'Dematerialisation of securities'. The key amendments pertain to the following:

- Share warrants for public companies:** The amendment inserted a new Rule 9(2) which provides that every public company which has issued share warrants prior to commencement of the 2013 Act, and not converted such share warrants into shares, should:
  - Inform the ROC about the details of such share warrants in Form PAS-7, within three months of commencement of the amendment rules.
  - Place a notice to the bearers of share warrants in Form PAS-8 on the website of the company, requiring them to surrender such warrants to the company and get the shares dematerialised in their account within a period of six months of the commencement of the amendment rules.
  - Convert such share warrants into dematerialised form and transfer the same to the Investor Education and Protection Fund (IEPF), in case any

bearer of share warrant does not surrender the share warrants within the period referred above.

- Dematerialisation for private companies:** New Rule 9B has been inserted which relates to the issuance of securities in dematerialised form by private companies. The key requirements are as below:
  - All private companies (excluding small companies) should issue securities only in dematerialised form and compliance with this provision should be ensured within 18 months commencing from 31 March 2023.
  - All private companies (excluding small companies) should ensure that before making any offer for issue of securities or buyback of securities or bonus shares or rights issue, the entire holding of securities of its promoters, directors, key managerial personnel has been dematerialised.
  - The provisions of this Rule do not apply in case of a Government company.

(Source: SEBI circular no. SEBI/LAD-NRO/GN/2023/151 dated 19 September 2023)



## Appointment of whole-time directors

The Reserve Bank of India (RBI) had issued regulatory stipulations in the past with respect to the governance in commercial banks covering, inter alia, tenure and upper age limit for Managing Director (MD) and Chief Executive Officer (CEO) positions. In order to address the growing complexity of the banking sector, RBI issued further instructions to establish an effective senior management team in the banks

to navigate challenges and facilitate succession planning.

The circular issued on 25 October 2023, requires banks to ensure the following:

- The board should have the presence of at least two Whole Time Directors (WTDs), including the MD and CEO.

- The number of WTDs should be decided by the board based on factors such as the size of operations, business complexity, and other relevant aspects.
- Banks that do not currently meet the minimum requirement are advised to submit their proposals for the appointment of WTD(s) within a period of four months from

the date of issuance of the notification to the RBI.

- Existence of enabling provisions regarding appointment of WTDs in its Articles of Association.

(Source: RBI circular no RBI/2023-24/70 dated 25 October 2023)





SEBI updates



MCA updates



RBI updates



ICAI updates

## ICAI's technical guide on internal audit of pharmaceutical industry

On 11 October 2023, the Board on Internal Audit and Management Accounting of the Institute of Chartered Accountants of India (ICAI) issued a technical guide on internal audit of pharmaceutical industry. This guide provides an insight into the functioning of the pharmaceutical industry, the key drivers of pharmaceutical industry, technical aspects peculiar to the industry and internal audit procedures with respect to certain processes which would help the internal auditors in conducting internal audit of a pharmaceutical company.

The guide provides guidance on the regulatory framework and risks associated with pharmaceutical industry and internal controls checklist for various processes. It also contains an illustrative checklist for internal audit of major areas of the pharmaceutical industry.

[\(Source: ICAI announcement dated 11 October 2023\)](#)

## IAASB enhances the transparency requirements in auditors report

The International Ethics Standards Board for Accountants (IESBA) amended the International Code of Ethics for Professional Accountants (the Code) in April 2022. It specified a broader category of entities whose audits should be subject to additional auditor independence requirements, to meet stakeholder expectations when an entity is a public interest entity.

In this regard, on 12 October 2023, the International Auditing and Assurance Standards Board (IAASB) issued narrow scope amendments to International Standard on Auditing (ISA) 700 (Revised), *Forming an Opinion and Reporting on Financial Statements*

and ISA 260 (Revised), *Communication with Those Charged with Governance*. These amendments provide a clear and practical framework for implementing IESBA's new requirement through appropriate communication in the auditor's report and with Those Charged With Governance (TCWG) and includes a new transparency requirement for a firm to publicly disclose when it has applied the independence requirements applicable to public interest entities. The amendment is effective for audits of financial statements for periods beginning on or after 15 December 2024.

[\(Source: IAASB news dated 12 October 2023\)](#)





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