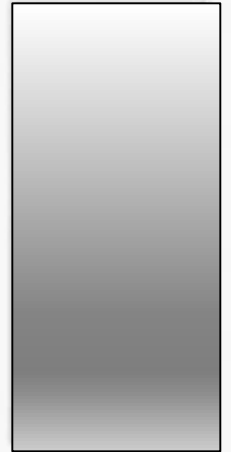


LEGALITE ADVISORS

IMPORTANT LEGAL UPDATES FOR JULY, 2020



Companies Act

- ❑ **The Ministry of Corporate Affairs (“MCA”) – notification no. G.S.R. 463(E) on the Companies (Indian Accounting Standards) Amendment Rules, 2020 dated July 24, 2020 (“Notification”).**
 - MCA *vide* the Notification has amended the Companies (Indian Accounting Standards) Rules, 2015 (“**Principal Rules**”) which shall come into force with effect from publication of the Notification in the official gazette, i.e. July 24, 2020.
 - In the annexure to the Principal Rules, the following Indian accounting standards (**‘Ind AS’**) have been amended, more specifically provided in the Notification, link of which is provided hereunder.
 - ✓ Ind AS 01– Presentation of financial statements;
 - ✓ Ind AS 08 – Accounting policies, Changes in accounting estimates and errors;
 - ✓ Ind AS 10 – Events after the reporting period;
 - ✓ Ind AS 34 – Interim financial reporting;
 - ✓ Ind AS 37 – Provisions, Contingent Liabilities and Contingent Assets;
 - ✓ Ind AS 103 – Business Combinations;
 - ✓ Ind AS 107 – Financial Instruments: Disclosures;
 - ✓ Ind AS 109 – Financial Instruments;
 - ✓ Ind AS 116 – Leases.
 - **Link of the Notification.**
http://www.mca.gov.in/Ministry/pdf/Rule_24072020.pdf

Companies Act (Contd...)

- **The Ministry of Corporate Affairs (“MCA”) – circular no. 26/2020 on extension of time limit for filing of e-form NFRA-2 dated July 06, 2020 (“Circular”).**
 - MCA *vide* the Circular has extended the time limit to file e-form NFRA-2 which is required to be filed under rule 5 of the National Financial Reporting Authority (NFRA) Rules, 2018. The extended time line for filing e-form NFRA 2 for the FY 2018-19 is now 270 (two hundred and seventy) days starting from the date of deployment of the said e-form on the website of NFRA, which was earlier 210 (two hundred and ten days) from its deployment on the website.
 - **Link of the Circular.**
http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.26_06072020.pdf

Ministry of Finance

- **The Ministry of Finance (“MoF”) – notification no. S.O. 1226(E) on enforcement of provisions pertinent to the Indian Stamp Act, 1899 (“IST Act”) and Indian Stamp (Collection of Stamp-Duty through Stock Exchanges, Clearing Corporations and Depositories) (Amendment) Rules, 2020 (“Rules”) w.e.f. July 01, 2020 as enshrined in part I of chapter IV of The Finance Act, 2019 (“FA 2019”), dated March 30, 2020 (“Notification”).**

- The FA 2019 which was passed on February 21, 2019 has, *inter alia*, proposed the following amendments to the IST Act, with a view to streamline levy of stamp duties on transactions involving financial securities:
 - ✓ **‘debenture’** shall include –
 - debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not;
 - bonds in the nature of debenture issued by any incorporated company or body corporate;
 - certificate of deposit, commercial usance bill, commercial paper and such other debt instrument of original or initial maturity upto 1 (one) year as the Reserve Bank of India may specify from time to time;
 - securitised debt instruments; and
 - any other debt instruments specified by the Securities and Exchange Board of India from time to time.

Ministry of Finance (Contd...)

'Debentures' have a distinct definition and are excluded from the definition of 'bonds' under the IST Act. Under the existing IST Act, only debentures which were 'marketable securities' were liable to be stamped under Article 27 of Schedule I thereto. The FA 2019 proposes to delete the reference to 'marketable securities' and consequently, all debentures (whether marketable or not) have become liable to be stamped.

✓ **'instrument'** shall include –

- every document, by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded;
- a document, electronic or otherwise, created for a transaction in a stock exchange or depository by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded; and
- any other document mentioned in Schedule I of the IST Act;

but does not include such instruments as may be specified by the Government, by notification in the Official Gazette.

✓ **'securities'** shall include –

- securities as defined in section 2 (h) of the Securities Contracts (Regulation) Act, 1956;
- a "derivative" as defined in clause (a) of section 45U of the Reserve Bank of India ("RBI") Act, 1934;

Ministry of Finance (Contd...)

- a certificate of deposit, commercial usance bill, commercial paper, repo on corporate bonds and such other debt instrument of original or initial maturity upto 1 (one) year as the RBI may specify from time to time; and
- any other instrument declared by the Central Government, by notification in the official gazette, to be securities for the purposes of this Act.

Thus, the definition of securities has been included afresh in the IST Act, which principally adopts the definition of securities from the Securities Contracts (Regulation) Act, 1956 and some more instruments/transactions are added thereto, viz. derivatives and repo transactions were not expressly included in Schedule I earlier.

- Key changes also include rate of stamp duty payable on issuance and transfer of securities, duty payable by, mode of collection, as follows:

[Continued on next slide]

Ministry of Finance (Contd...)

Sr. No	Description of Instrument	Rate of stamp duty (%)
1.	Issue of debenture	0.005
2.	Transfer and re-issue of debenture	0.0001
3.	Issue of security other than debenture	0.005
4.	Transfer of security other than debenture on delivery basis	0.015
5.	Transfer of security (other than debenture) on non-delivery basis	0.003
6.	Government securities	0
7.	Repo on corporate bonds	0.00001

Ministry of Finance (Contd...)

- Stamp duty on various transactions shall be payable by:
 - Sale of security through stock exchanges – **buyer**;
 - Transfer of security through a depository – **transferor**;
 - Transfer of security otherwise than through a stock exchange/ depository – **transferor**;
 - Issue of security through a stock exchange/ depository or otherwise – **issuer**;
 - Issue of security otherwise than through a stock exchange/ depository – **issuer**;
 - Offer for sale, private placement, tender offer or open offer through stock exchange – **offeror**;
 - Offer for sale, private placement, tender offer or open offer through Depository – **offeror**;
 - In any other case - **by person making, drawing or executing such instrument.**
- Manner of collection of stamp duty shall be governed by the Rules. Per the amendment in the IST Act, no state government shall charge or collect stamp duty on any security being sold, transferred or issued through stock exchanges, clearing corporations and depositories (collectively referred as “**Collecting Agent**”) when any security is being sold, transferred or issued through these platforms.
- The Collecting Agent may deduct 0.2% (zero point two percent) of the stamp-duty collected towards facilitation charges before transferring the same to state government. Stamp duty collected shall not be used for any other purpose and shall be transferred to the respective state government along with the interest earned on such amount.

Ministry of Finance (Contd...)

- Overall, the FA 2019 envisages uniformity in stamp duty rates to prevent rate shopping and evasion of duty as was prevalent till date and also tries to strike a balance by lowering duties on issue and transfer and by prescribing duties for securities which were earlier not within the stamp duty regime. The transfer of securities held in DEMAT form has been brought under the stamp duty regime too and this may be a huge dent in the entire attempt to go paperless.
- It is also to be observed, how the enforcement of some of the provisions prescribed in the FA 2019 will be made as the amendments in the IST Act make it clear that the state governments shall not directly collect the duty, although the powers to prescribe rates and collect duties on activities, viz. issue of shares are with the state governments as far as the List II of the Seventh Schedule of the Constitution of India is concerned.
- It may be noted that the enforcement of the provisions of FA 2019, amending the IST Act was delayed from time to time and the same has been finally made effective, from July 1, 2020. The link of the notification, pertaining to promulgation of FA 2019 and the Notification for enforcement of provisions thereof are appended herewith.
- **Link of the Notifications.**
Promulgation of FA 2019 - <http://egazette.nic.in/WriteReadData/2019/198304.pdf>
Enforcement of provisions of FA 2019 - <http://egazette.nic.in/WriteReadData/2020/218957.pdf>

Securities Law

- **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/CFD/CMD1/CIR/P/2020/145 on use of digital signature certifications for authentication / certification of filings / submissions made to Stock Exchanges, dated July 31, 2020 (“Circular”).**
 - Due to the ongoing COVID-19 pandemic and operational challenges faced in carrying out certification and authentication of documents in physical form, SEBI *vide* the Circular has allowed listed companies to use digital signature certifications for authentication/certification of filings/submissions made under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“**LODR Regulations**”) to the Stock Exchanges till **December 31, 2020** which was earlier permitted till June 30, 2020.
 - The Circular shall apply for filings / submissions made from July 1, 2020.
 - **Link of the Circular.**
https://www.sebi.gov.in/legal/circulars/jul-2020/use-of-digital-signature-certifications-for-authentication-certification-of-filings-submissions-made-to-stock-exchanges_47219.html

Securities Law (Contd...)

- ❑ **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/CFD/CMD1/CIR/P/2020/144 on clarification on applicability of regulation 40(1) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”) to open offers, buy backs and delisting of securities of listed entities, dated July 31, 2020 (“Circular”).**
 - Regulation 40(1) of the LODR Regulations states that *“...except in case of transmission or transposition of securities, requests for effecting transfer of securities shall not be processed unless the securities are held in the dematerialized form with a depository.”*
 - Market regulator SEBI on July 31, 2020 *vide* the Circular, which shall come into force with immediate effect, clarified that shareholders holding securities in physical form are allowed to tender shares in open offers, buybacks through tender offer route and exit offers in case of voluntary or compulsory delisting. However, such tendering shall be as per the provisions of respective regulations.
 - This gives investors a much needed relief who had expressed their concerns of not being able to participate in open offers, buybacks and delisting of securities of listed entities since the securities held by them were not in dematerialised form.
 - **Link of the Circular.**
https://www.sebi.gov.in/legal/circulars/jul-2020/clarification-on-applicability-of-regulation-40-1-of-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-to-open-offers-buybacks-and-delisting-of-securities-of-listed-entities_47216.html

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/MIRSD/DOP/CIR/P/2020/142 on relaxation in timelines for compliance with regulatory requirements, dated July 29, 2020 (“Circular”).**
 - Due to ongoing COVID-19 pandemic, SEBI had earlier provided relaxations in timelines for compliance with various regulatory requirements by the depository participants(DPs) / Registrars to an Issue & Share Transfer Agents (RTAs) *vide* circular nos. SEBI/HO/MIRSD/DOP/CIR/P/2020/62 dated April 16, 2020 and SEBI/HO/MIRSD/DOP/CIR/P/2020/72 dated April 24, 2020. Later, *vide* circular no. SEBI/HO/MIRSD/DOP/CIR/P/2020/112 dated June 30, 2020, timelines/period of exclusion was further extended for certain compliance requirements.
 - In view of the prevailing situation due to COVID-19 pandemic and representation received from the Depositories, SEBI has further extended the timelines for compliance with the regulatory requirements by DPs / RTAs/ KRAs, mentioned in the SEBI circulars, as under:

[Continued on next slide]

Securities Law (Contd...)

Compliance requirements for which timelines were extended <i>vide</i> SEBI circular No. SEBI/HO/MIRSD/DOP/CIR/P/2020/62 dated April 16, 2020.	S. No. in circular for which timeline is extended further	Extended timeline / Period of exclusion
Processing of the DEMAT request form by Issuer / RTA	I	Period of exclusion shall be from March 23, 2020 till September 30, 2020.
Processing of the DEMAT request form by the Participants.	II	A 15-day time period after September 30, 2020 is allowed to Depository / DPs, to clear the back log.
KYC application form and supporting documents of the clients to be uploaded on system of KRA within 10 working days.	III	

Securities Law (Contd...)

Compliance requirements for which timelines were extended vide SEBI circular No. SEBI/HO/MIRSD/DOP/CIR/P/2020/72 dated April 24, 2020.	S. Nos. for which timeline is extended	Extended timeline / Period of exclusion
Submission of half yearly Internal Audit Report (IAR) by DPs for half year ended March 31, 2020.	II	September 30, 2020.
Redressal of investor grievances.	III	Period of exclusion shall be from March 23, 2020 till September 30, 2020. A 15-day time period after September 30, 2020 is allowed to Depository / DPs, to clear the back log.
Transmission of securities.	IV	
Closure of DEMAT account.	V	
Systems audit on annual basis.	VI	September 30, 2020 for the financial year ended on March 31, 2020.

Securities Law (Contd...)

- All other conditions specified in the aforementioned circulars shall continue to remain applicable.
- **Link of the Circular.**
https://www.sebi.gov.in/legal/circulars/jul-2020/relaxation-in-timelines-for-compliance-with-regulatory-requirements_47186.html

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/CFD/CMD1/CIR/P/2020/140 on extension of time for submission of financial results for the quarter/half year/ financial year ended June 30, 2020, dated July 29, 2020 (“Circular”).**
 - As per Regulation 33 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the original deadline for submission of the financial results for the quarter/half year/ financial year ended June 30, 2020 is August 14, 2020.
 - In a relief to listed companies amidst the COVID-19 pandemic and subsequent to receipt of representations requesting an extension of time for submission of financial results for the quarter/half year/ financial year ended June 30, 2020, SEBI vide the Circular has extended the timeline for its submission till **September 15, 2020**.
 - **Link of Circular.**
https://www.sebi.gov.in/legal/circulars/jul-2020/extension-of-time-for-submission-of-financial-results-for-the-quarter-half-year-financial-year-ended-30th-june-2020_47183.html

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/CFD/DCR2/CIR/P/2020/139 on relaxations relating to procedural matters – Takeovers and Buy-back, dated July 27, 2020 (“Circular”).**
 - SEBI *vide* circular no. SEBI/CIR/CFD/DCR1/CIR/P/2020/83 dated May 14, 2020 (“**Circular-1**”) had granted one time relaxations from strict enforcement of certain regulations of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and SEBI (Buy-back of securities) Regulations, 2018 pertaining to open offers and buy-back through tender offers opening upto July 31, 2020.
 - On receipt of representations from the market participants, the validity of relaxations, as provided in Circular-1 is further extended and shall be applicable for open offers and buy-back through tender offers opening **upto December 31, 2020** as against the erstwhile July 31, 2020.
 - **Link of our analysis on Circular-1.**
https://legaliteadvisors.files.wordpress.com/2020/06/la-monthly-updates_may_2020.pdf
 - **Link of Circular.**
https://www.sebi.gov.in/legal/circulars/jul-2020/relaxations-relating-to-procedural-matters-takeover-and-buy-back_47152.html

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/CFD/DIL1/CIR/P/2020/136 on relaxations relating to procedural matters – Issues and Listing, dated July 24, 2020 (“Circular”).**
 - SEBI *vide* circular no. SEBI/HO/CFD/DIL2/CIR/P/2020/78 dated May 6, 2020 (“**Circular-1**”) granted one time relaxations from strict enforcement of certain regulations of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, pertaining to Rights Issue opening upto July 31, 2020.
 - On receipt of representations from the market participants, the validity of relaxations, as provided in Circular-1 is further extended and shall be applicable for Rights Issues opening **upto December 31, 2020** as against the erstwhile July 31, 2020.
 - **Link of our analysis on Circular-1.**
https://legaliteadvisors.files.wordpress.com/2020/06/la-monthly-updates_may_2020.pdf
 - **Link of Circular.**
https://www.sebi.gov.in/legal/circulars/jul-2020/relaxations-relating-to-procedural-matters-issues-and-listing_47135.html

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/MRD2/DDAP/CIR/P/2020/137 on recording of all types of encumbrances in depository system, dated July 24, 2020 (“Circular”).**
 - SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 (“**SAST Regulations**”) requires promoters of a company to disclose details of their encumbered shares. SEBI noted that apart from pledge, hypothecation and non-disposal undertakings, currently there is no framework to capture the details of other types of encumbrances in the depository system.
 - Accordingly, SEBI *vide* the Circular has decided that depositories shall put in place a system for capturing and recording all types of encumbrances. which are specified under Regulation 28(3) of SAST Regulations, as amended from time to time. This is apart from pledge and hypothecation, whose processes and specific norms are separately provided in SEBI (Depositories & Participants) Regulations, 2018.
 - *Vide* the Circular, SEBI has allowed the depositories to implement the provisions of the Circular within 1 (one) month from the date of the Circular and depositories have been advised to make amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision and such other changes as may be necessary.
 - **Link of Circular.**
https://www.sebi.gov.in/legal/circulars/jul-2020/recording-of-all-types-of-encumbrances-in-depository-system_47140.html

Securities Law (Contd...)

□ **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/ISD/ISD/CIR/P/2020/133 on allowing offer for sale (“OFS”) and rights entitlements (“RE”) transactions during trading window closure period, dated July 23, 2020 (“Circular”).**

- Under SEBI (Prohibition of Insider Trading) Regulations, 2015 (“**PIT Regulations**”), listed companies need to use a trading window to monitor transactions by designated persons in a bid to prevent insider trading.
- Clause 4 (3) (b) of Schedule B read with Regulation 9 of the PIT Regulations, *inter-alia*, states that trading window restrictions shall not apply in respect of transactions mentioned therein or transactions undertaken through such other mechanism as may be specified by SEBI from time to time.
- The Circular, which shall come into force with immediate effect, states that in addition to the transactions mentioned in Clause 4 (3)(b) of Schedule B read with Regulation 9 of the PIT Regulations, trading window restrictions shall not apply in respect of OFS and RE transactions carried out in accordance with the framework specified by SEBI from time to time.

▪ **Link of Circular.**

https://www.sebi.gov.in/legal/circulars/jul-2020/allowing-offer-for-sale-ofs-and-rights-entitlements-re-transactions-during-trading-window-closure-period_47120.html

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/ISD/ISD/CIR/P/2020/135 on reporting to stock exchanges regarding violations under Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 relating to the code of conduct (“CoC”), dated July 23, 2020 (“Circular”).**
 - SEBI *vide* gazette notification no. SEBI/LAD-NRO/GN/2020/23 dated July 17, 2020 (*as explained in the subsequent slides*), has further amended the SEBI (Prohibition of Insider Trading) Regulations, 2015 (“**PIT Regulations**”) as detailed hereinbelow.
 - ✓ Clause 13 of Schedule B (in case of listed companies) and clause 11 of Schedule C (in case of intermediaries and fiduciaries) read with regulation 9 of the PIT Regulations, states that the listed companies, intermediaries and fiduciaries shall promptly inform the Stock Exchange(s) where the concerned securities are traded, regarding violations relating to CoC under PIT Regulations in such form and manner as may be specified by SEBI from time to time.
 - ✓ The standard format for reporting of violations related to CoC was provided by SEBI, *vide* circular no. SEBI/HO/ISD/ISD/CIR/P/2019/82 dated July 19, 2019, which has been modified and placed as Annexure A in enclosed Circular. Accordingly, the listed companies, intermediaries and fiduciaries shall inform the violations of PIT Regulations relating to CoC as per the revised format to the stock exchange(s).
 - ✓ Further, in terms of clause 12 of Schedule B and clause 10 of Schedule C read with regulation 9 of the PIT Regulations, any amount collected by the listed companies, intermediaries and

Securities Law (Contd...)

fiduciaries under these clauses for violation(s) of CoC shall be remitted to SEBI for credit to the Investor Protection and Education Fund (“IPEF”) administered by SEBI under the Securities and Exchange Board of India Act, 1992, either through the online mode or by way of a demand draft, as stated in the Circular.

- The Circular is issued in supersession of circular no. SEBI/HO/ISD/ISD/CIR/P/2019/82 dated July 19, 2019.
- **Link of Circular.**
<https://www.sebi.gov.in/legal/circulars/jul-2020/reporting-to-stock-exchanges-regarding-violations-under-securities-and-exchange-board-of-india-prohibition-of-insider-trading-regulations-2015-relating-to-the-code-of-conduct-coc-47121.html>

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – notification no. No. SEBI/LAD-NRO/GN/2020/23 on Securities and Exchange Board of India (Prohibition of Insider Trading) (Amendment) Regulations, 2020, dated July 17, 2020 (“Notification”).**
 - SEBI *vide* the Notification has amended the SEBI (Prohibition of Insider Trading) Regulations, 2015 (“**Principal Regulations**”), which shall come into force from the date of publication in the official gazette i.e. July 17, 2020.
 - Below is the detailed analysis of the amendments in the Principal Regulations:

[Continued on next slide]

Securities Law (Contd...)

Amendments	Implications
<p>In regulation 3, sub-regulation 5, shall be substituted with the following, namely -</p> <p><i>“(5) The board of directors or head(s) of the organisation of every person required to handle unpublished price sensitive information shall ensure that a structured digital database is maintained containing the nature of unpublished price sensitive information and the names of such persons who have shared the information and also the names of such persons with whom information is shared under this regulation along with the Permanent Account Number or any other identifier authorized by law where Permanent Account Number is not available. Such database shall not be outsourced and shall be maintained internally with adequate internal controls and checks such as time stamping and audit trails to ensure non-tampering of the database.”</i></p>	<p>The substitution has resulted in the following changes:</p> <ol style="list-style-type: none">1. Besides the board of directors, head of the organizations who are responsible to deal with the unpublished price sensitive information (“UPSI”) have also been handed the responsibility of maintaining the database;2. It has been made mandatory to maintain the nature of UPSI shared besides the persons to whom the same has been shared; and3. The outsourcing of maintenance of the database as aforesaid has been expressly prohibited.

Securities Law (Contd...)

Amendments	Implications
<p>In regulation 3, after sub-regulation 5, the following shall be inserted, namely -</p> <p><i>“(6) The board of directors or head(s) of the organisation of every person required to handle unpublished price sensitive information shall ensure that the structured digital database is preserved for a period of not less than eight years after completion of the relevant transactions and in the event of receipt of any information from the Board regarding any investigation or enforcement proceedings, the relevant information in the structured digital database shall be preserved till the completion of such proceedings.”</i></p>	<p>The structured digital database is to be preserved for a period of:</p> <ul style="list-style-type: none">a) not less than 8 (eight) years after completion of the relevant transactions; orb) in event of receipt of any information from SEBI regarding any investigation or enforcement proceedings, till the completion of such proceedings.

Securities Law (Contd...)

Amendments	Implications
<p>In regulation 7, in sub-regulation 2, after clause (b), the following shall be inserted, namely -</p> <p><i>“(c) The above disclosures shall be made in such form and such manner as may be specified by the Board from time to time.”</i></p>	<p>The insertion of clause (c) means that the SEBI has reserved a power to specify formats for reporting to be made by the every company under regulation 7(2)(b), i.e. reporting to the relevant stock exchange by ever company within 2 (two) trading days of receipt of the disclosure or from becoming aware of such information pertinent to trading made by every promoter, promoter group, designated person or director of that company.</p>
<p>In Schedule B - clause 4(3)(b), after the words “delisting offer”, the words <i>“or transactions which are undertaken through such other mechanism as may be specified by the Board from time to time”</i> shall be inserted.</p>	<p>To further extend the scope of the relaxations for trading or dealing during closure of trading window by the designated persons and their relatives of a company, the said insertion vests powers with SEBI to add any transactions to the said exemption list as it may deem fit, from time to time.</p>

Securities Law (Contd...)

Clause 12 of Schedule B, shall be substituted with the following, namely -

“Without prejudice to the power of the Board under the Act, the code of conduct shall stipulate the sanctions and disciplinary actions, including wage freeze, suspension, recovery, etc., that may be imposed, by the listed company required to formulate a code of conduct under sub-regulation (1) of regulation 9, for the contravention of the code of conduct. Any amount collected under this clause shall be remitted to the Board for credit to the Investor Protection and Education Fund administered by the Board under the Act.”

and;

Clause 10 of Schedule C, shall be substituted with the following, namely-

Without prejudice to the power of the Board under the Act, the code of conduct shall stipulate

Amendment in Schedule B and Schedule C of the Principal Regulations:

1. With an amendment in Schedule B and Schedule C, it has been specified that any amount collected by the company or the intermediaries or fiduciaries as a disciplinary action, will be remitted to SEBI for credit to the Investor Protection and Education Fund administered by SEBI under the Securities and Exchange Board of India Act, 1992. This change will ensure that any amount collected by listed companies as fine etc. are used for investor promotion activities.
2. Further, the right to claw back has been taken away from the company, the intermediaries and fiduciaries; as a disciplinary action.

Securities Law (Contd...)

the sanctions and disciplinary actions, including wage freeze, suspension, recovery, etc., that may be imposed, by the intermediary or fiduciary required to formulate a code of conduct under sub-regulation (1) and sub-regulation (2) of regulation 9, for the contravention of the code of conduct. Any amount collected under this clause shall be remitted to the Board for credit to the Investor Protection and Education Fund administered by the Board under the Act.”

In clause 13 of Schedule B, the words *“inform the Board promptly”* shall be replaced by the words *“promptly inform the stock exchange(s) where the concerned securities are traded, in such form and such manner as may be specified by the Board from time to time”*.

and;

In clause 11 of Schedule C, the words *“inform the Board promptly”* shall be replaced by the

The reporting of violation of Principal Regulations are required to be filed with the relevant stock exchanges by the listed companies, intermediaries and fiduciaries, instead of SEBI.

Securities Law (Contd...)

words “*promptly inform the stock exchange(s) where the concerned securities are traded, in such form and such manner as may be specified by the Board from time to time*”

- **Link of Notification.**

https://www.sebi.gov.in/legal/regulations/jul-2020/securities-and-exchange-board-of-india-prohibition-of-insider-trading-amendment-regulations-2020_47104.html

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/DDHS/CIR/P/2020/121 on relaxation from compliance with provisions of the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (“ILDS Regulation”), SEBI (Non-Convertible Redeemable Preference Shares) Regulations, 2013 (“NCRPS Regulations”) and SEBI Circulars relating to Listing of Commercial Papers, dated July 15, 2020 (“Circular”).**
 - Per ILDS Regulations, NCRPS Regulations and circulars related to listing of commercial papers (“**CPs**”) require an issuer to inter-alia submit its latest audited financials which should not be older than 6 (six) months. However, compliant listed entities are permitted to use unaudited financials with limited review in lieu of the audited financials for the stub period, subject to these unaudited financials not being older than 6 (six) months.
 - In wake of COVID-19 pandemic and on account of representations received from listed entities seeking extension of time for listing their Non-Convertible Debentures (“**NCDs**”) / Non-Convertible Redeemable Preference Shares (“**NCRPS**”) / CPs, pending finalization of their annual accounts for the financial year ending March 31, 2020, SEBI has provided relaxations to listed issuers who have issued NCDs / NCRPS/ CPs, on or after July 01, 2020 and intend/propose to list such issued NCDs/ NCRPS/ CPs, on or before July 31, 2020, to use available financials as on December 31, 2019.
 - **Link of Circular.**
<https://www.sebi.gov.in/legal/circulars/jul-2020/relaxation-from-compliance-with-provisions-of-the-sebi-issue-and-listing-of-debt-securities-regulations-2008-ilds-regulation-sebi-non-convertible-redeemable-preference-shares-regulations-20-47071.html>

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/DDHS/CIR/P/2020/120 on Guidelines for Issue and Listing of Structured Products/Market Linked Debentures-Amendments, dated July 13, 2020 (“Circular”).**
 - SEBI *vide* the Circular has amended guidelines prescribed under circular no. CIR/IMD/DF/17/2011 dated September 28, 2011 (hereinafter referred as “**MLD circular**”) for issue and listing of structured products/Market Linked Debentures (“**MLDs**”).
 - Para 4(f)(i) of the MLD circular, specifies that issuer of MLDs shall appoint a third party valuation agency which shall be a Credit Rating Agency (“**CRA**”) registered with SEBI for carrying out valuation of MLDs
 - However, pursuant to amendment to SEBI (Credit Rating Agencies) Regulations, 1999 on May 30, 2018, a CRA cannot carry out any activity other than rating of securities, post May 30, 2020.
 - Therefore, in view of the above, valuation of MLDs shall be carried out by an agency appointed by Association of Mutual Funds in India (“**AMFI**”) for the purpose of carrying out valuation (hereinafter referred as “**AMFI appointed valuation agency**”).
 - Accordingly, para 4(f)(i) of the MLD circular stands modified as under:

“It shall be mandatory for the issuer to appoint a third party valuation agency which shall be an AMFI appointed valuation agency.”

Securities Law (Contd...)

- **Link of Circular.**

https://www.sebi.gov.in/legal/circulars/jul-2020/guidelines-for-issue-and-listing-of-structured-products-market-linked-debentures-amendments_47053.html

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI” or “Board”) – notification no. SEBI/LAD-NRO/GN/2020/22 on the Securities and Exchange Board of India (Investment Advisers) (Amendment) Regulations, 2020 (“Amendment Regulations”), dated July 03, 2020 (“Notification”).**
 - SEBI *vide* the Notification has further amended the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (“**Principal Regulations**”) which shall come into force on the 90th (ninetieth) day from the date of its publication in the official gazette, i.e. from October 02, 2020.
 - Major regulatory changes include:
 - ✓ Insertion of/amendments to key definitions;
 - ✓ Bifurcation of advisory and distribution activities;
 - ✓ Implementation services;
 - ✓ Agreement between Investment Advisor (“**Investment Adviser**”) and client;
 - ✓ Fees;
 - ✓ Eligibility Criteria for Investment Adviser and associated persons .
 - An overview of the amendments in the Principal Regulations is as under:

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
<p>Regulation 2: Definitions</p>	<p>Insertion of following clauses under regulation 2(1) to define various terms</p> <p><i>(aa) “assets under advice” shall mean the aggregate net asset value of securities and investment products for which the investment adviser has rendered investment advice irrespective of whether the implementation services are provided by investment adviser or concluded by the client directly or through other service providers.</i></p> <p><i>(ga) “CPE” means continuing professional education in terms of clause (f) of sub regulation (1) of regulation 2 of the SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007.</i></p> <p><i>(gb) “family of client” shall include individual client, dependent spouse, dependent children and dependent parents.</i></p>	<p>Various definitions have been inserted and clause (r) has been substituted in regulation 2(1) which are key to support the new concepts introduced <i>vide</i> the Notification, which are explained hereinafter.</p> <p>Throughout the Principal Regulations, appropriate changes have been made to reflect the new definitions inserted or the substitutions made to the extant definitions.</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
	<p>(gc) <i>“family of an individual investment adviser”</i> shall include individual investment adviser, spouse, children and parents.</p> <p>(pa) <i>“non-individual”</i> means a body corporate including a limited liability partnership and a partnership firm.</p> <p>(s) <i>“principal officer”</i> shall mean the managing director or designated director or managing partner or executive chairman of the board or equivalent management body who is responsible for the overall function of the business and operations of non-individual investment adviser.</p> <p>Further, clause (r) under regulation 2(1) has been substituted as under:</p> <p><i>“persons associated with investment advice”</i> shall mean any member, partner, officer, director or employee or any sales staff of such investment adviser including any person occupying a similar status or performing a similar function</p>	

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
	<p><i>irrespective of the nature of association with the investment adviser who is engaged in providing investment advisory services to the clients of the investment adviser.</i></p> <p>Explanation. — <i>All client-facing persons such as sales staff, service relationship managers, client relationship managers, etc., by whatever name called shall be deemed to be persons associated with investment advice, but do not include persons who discharge clerical or office administrative functions where there is no client interface.</i></p> <p><i>Further all references to “Companies Act, 1956” have been replaced with “Companies Act, 2013.”</i></p>	
<p>Regulation 3: Application for grant of certificate</p>	<p>1. Proviso to Regulation 3(1) has been omitted.</p> <p>2. Insertion of sub regulation (1A) in regulation 3 as under:</p>	<p>1. Omission of proviso to regulation 3(1):</p> <p>With the deletion of the said proviso, the transitional provision relating to requirement</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
	<p><i>(1A) Notwithstanding anything contained in sub-regulation (1), any application made by a person prior to coming into force of these regulations containing such particulars or as near thereto as mentioned in Form A of First Schedule shall be treated as an application made in pursuance of sub-regulation (1) and dealt with accordingly.</i></p> <p>3. Insertion of sub regulation (3) in regulation 3 as under:</p> <p><i>(3) On and from the date of commencement of these regulations, no person, while dealing in distribution of securities, shall use the nomenclature "Independent Financial Adviser or IFA or Wealth Adviser or any other similar name" unless registered with the Board as Investment Adviser.</i></p>	<p>for registration within 6 (six) months for an investment adviser rendering services, immediately before the commencement of the Amendment</p> <p>Regulations has been done away with due to its non-applicability as of date.</p> <p>2. Insertion of sub regulation (1A) in regulation 3:</p> <p>The said insertion specifies that the applications for registration made prior to the promulgation of</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
		<p>the Amendment Regulations, shall be treated as if they have been made as per the revised Form A appended to the Amendment Regulations. This is to ensure that the persons who have already applied for registration, do not have to go through a hardship of applying again.</p> <p>4. Insertion of sub regulation (3) in regulation 3:</p> <p>With the said insertion, persons dealing in distribution of securities have been expressly prohibited to use the nomenclature <i>“Independent Financial Adviser or IFA or Wealth Adviser or any other similar name”</i> unless registered with SEBI as Investment Adviser.</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
		<p>The said insertion is in furtherance of SEBI's endeavour to bifurcate investment advisory and distribution activities.</p>
<p>Regulation 6: Consideration of application and eligibility criteria.</p>	<p>1. Substitution of clause (b), (c), (d) and (f) under regulation 6 as under</p> <p><i>(b) in case the applicant is an individual, he and all persons associated with investment advice are appropriately qualified and certified as specified in regulation 7.</i></p> <p><i>(c) in case the applicant is a body corporate, the principal officer and all persons associated with investment advice of the applicant are appropriately qualified and certified as specified in regulation 7.</i></p>	<p>The substitution of said clauses have brought about an obligation on all persons associated with the applicants to be qualified and certified under regulation 7 of the Principal Regulations (Qualification and certification requirement). Further, it has also made the associated persons subject to the fit and proper persons based on the criteria as specified in Schedule II of the SEBI (Intermediaries) Regulations, 2008.</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
	<p><i>(d) in case the applicant is a firm or a limited liability partnership, the principal officer and all persons associated with investment advice of the applicant are appropriately qualified and certified as specified in regulation 7.</i></p> <p><i>(f) whether the applicant, its partners, principal officer and persons associated with investment advice, if any, are fit and proper persons based on the criteria as specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.</i></p>	<p>The aforesaid requirement would mean that all the persons associated with an Investment Adviser are having sound credentials to render the services to the clients and is in large interest for protection of the persons seeking investment advice.</p>
<p>Regulation 7: Qualification and certification requirement -</p>	<p>Substitution of Regulation 7 as under:</p> <p>7 (1) An individual investment adviser or a principal officer of a non-individual investment adviser registered as an investment adviser under these regulations, shall have the following minimum qualification, at all times-</p>	<p>1. The substitution of regulation 7 results out of changes in certain definitions <i>vide</i> the Amendment Regulations, viz. principal officer and a need to specifically bear a reference to</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
	<p><i>(a) A professional qualification or post- graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognised foreign university or institution or association or a CFA Charter from the CFA Institute;</i></p> <p><i>(b) An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;</i></p> <p><i>(c) Persons associated with investment advice shall meet the following minimum qualifications, at all times-</i></p> <p><i>(i) a professional qualification as provided in clause (a) of sub-regulation (1) of regulation 7; and</i></p>	<p>“non individual Investment Adviser”. Also, a minimum 2 (two) years’ period in case of a post graduate diploma has been prescribed which was earlier not the case.</p> <p>2. Additionally, a CFA Charter from the CFA Institute has also been recognized as a an eligible qualification for registration as an Investment Advisor.</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
	<p><i>(ii) an experience of at least two years in activities relating to advice in financial products or securities or fund or asset or portfolio management:</i></p> <p><i>Provided that investment advisers registered under these regulations as on the date of commencement of these regulations shall ensure that the individual investment adviser or principal officer of a non-individual investment adviser registered under these regulations and persons associated with investment advice comply with such qualification and experience requirements within three years:</i></p> <p><i>Provided further that the requirements at clauses (a) and (b) shall not apply to such existing individual investment advisers as may be specified by the Board.</i></p> <p><i>(2) An individual investment adviser or principal officer of a non-individual investment adviser, registered under these regulations and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment</i></p>	<p>3. The Amendment Regulations also cast an obligation on persons associated investment advice, which was earlier not the case, thereby making the service delivery more competent by an Investment Adviser. The said insertion mandates the persons associated investment advice to have minimum qualifications prescribed under regulation 7(1)(a) and an experience of at least 2 (two) years in activities relating to advice in financial</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
	<p><i>advisory services-</i></p> <p><i>(a)from NISM; or</i></p> <p><i>(b)from any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM:</i></p> <p><i>Provided that fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements:</i></p> <p><i>Provided further that fresh certification before expiry of the validity of the existing certification shall not be obtained through a CPE program.</i></p>	<p>products or securities or fund or asset or portfolio management.</p> <p>4. The persons associated with investment advice have also been mandated to have a certification on financial planning or fund or asset or portfolio management or investment advisory services similar to what has been prescribed for an Investment Adviser under regulation 7(2) of the</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
		<p>Principal Regulations, as amended.</p> <p>5. Investment Advisors and the persons associated with investment advice need to ensure compliance with the new qualification and certification requirements within 3 (three) years of the commencement of the Amendment Regulations, i.e., October 02, 2023.</p> <p>6. Fresh certification before expiry of the validity of the existing certification shall not be obtained through a CPE program, defined in regulation 2(1)(ga) of the Principal Regulations.</p>
<p>Regulation 8: Networth-</p>	<p>Substitution of Regulation 8 as under:</p> <p><i>8 (1) Investment advisers who are non-individuals shall have a net worth of not less than fifty lakh rupees.</i></p>	<p>With the amendment coming into force, the minimum net worth of Investment Advisors who are non-individuals is INR 50,00,000</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
	<p><i>Explanation. —</i></p> <p><i>For the purposes of this regulation, "networth" means the aggregate value of paid up share capital plus free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses, deferred expenditure not written off, including miscellaneous expenses not written off, and networth requirement for other services offered by the advisers in accordance with the applicable rules and regulations.</i></p> <p><i>(2) Investment advisers who are individuals shall have net tangible assets of value not less than five lakh rupees:</i></p> <p><i>Provided that existing investment advisers shall comply with the networth requirement within three years from the date of Commencement of the SEBI (Investment Advisers) (Amendment) Regulations, 2020."</i></p>	<p>(Indian Rupees Fifty Lakhs only (minimum limit raised from INR 25,00,000 (Indian Rupees Twenty Five Lakhs only) and the Investment Advisers who are individuals are required to have net tangible assets of INR 5,00,000 (INR 5,00,000 (Indian Rupees Five Lakhs only) (minimum limit raised from INR 1,00,000 (Indian Rupees One Lakh only).</p> <p>All existing Investment Advisers are required to meet the minimum networth / net tangible assets' requirement within 3 (three) years of the commencement of the Amendment Regulations, i.e., by October 02, 2023.</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
Regulation 13- Conditions of certificate	<p>Insertion of clause (e) under regulation 13 as under:</p> <p><i>“(e) individuals registered as investment advisers whose number of clients exceed one hundred and fifty in total, shall apply for registration as non-individual investment adviser within such time as may be specified by the Board.”</i></p>	<p>The insertion mandates all individual Investment Advisers to register as non-individual Investment advisers in case the number of their clients exceeds 150 in total. Further, the SEBI has reserved the power to prescribe timeline for such change in registration.</p>
Regulation 15- General responsibility.	<p>Substitution of regulation 15(13) as under:</p> <p><i>“(13) It shall be the responsibility of the investment adviser to ensure compliance with the certification and qualification requirements as specified under Regulation 7 at all times.”</i></p>	<p>This is a corresponding amendment, following the amendment to regulation 7 of the Principal Regulations. Accordingly, a specific reference to responsibility of Investment Adviser for certification and qualification requirements of its representatives and partners</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
		<p>has been omitted and the drafting has been made more succinct to just bear a reference to regulation 7 of the Principal Regulations.</p> <p>In short – the Investment Adviser shall still be, at all times, responsible for ensuring certification and qualification requirements of its associated persons.</p>
<p>Regulation 15A Fees-</p>	<p>Insertion of regulation 15A as under:</p> <p><i>“15A. Investment Adviser shall be entitled to charge fees for providing investment advice from a client in the manner as specified by the Board.”</i></p>	<p>The SEBI has reserved the power with itself to regulate the manner of charging of fees by an Investment Adviser from the client. This is another step towards protection of clients from onerous payment obligations to the Investment Advisers.</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
<p>Regulation 18 – Disclosures to clients</p>	<p>In regulation 18 of the Principal Regulations, sub-regulations (2) and (3) shall be omitted.</p>	<p>Disclosure requirement pertaining to compensation/remuneration obtained from Investment Adviser's subsidiary/associates for distribution/execution services have been omitted.</p> <p>Also, the requirement for disclosing fees, if any to be received by an Investment Adviser from a stock broker or intermediary for recommending their services to the clients has been done away with.</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
<p>Regulation 19 (d)</p>	<p>Substitutions/Insertions in regulation 19 as under:</p> <p>clause (d) of sub-regulation (1) shall be substituted by the following clause, namely:</p> <p><i>“(d) Copies of agreements with clients, incorporating the terms and conditions as may be specified by the Board;”</i></p> <p><i>in sub-regulation (3), after the words “Institute of Company Secretaries of India” the words “and submit a report of the same as may be specified by the Board” shall be inserted.</i></p>	<p>The amendment in clause(d) suggests that the Investment Adviser has to mandatorily include the terms and conditions as specified by the SEBI in the agreement entered into with the clients. Amendment to sub-regulation (3) Now, post completion of the yearly compliance audit of an Investment Adviser, a report has to be submitted to SEBI. The process and form may be specified by SEBI for such reporting from time to time.</p>
<p>Regulation 22- Client level segregation of advisory and</p>	<p>Substitution of regulation 22 as under:</p>	<p>The substitution brings about an absolute overhaul of the present regulation 22.</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
<p>distribution activities:</p>	<p><i>22(1) An individual investment adviser shall not provide distribution services.</i></p> <p><i>(2) The family of an individual investment adviser shall not provide distribution services to the client advised by the individual investment adviser and no individual investment adviser shall provide advice to a client who is receiving distribution services from other family members.</i></p> <p><i>(3) A non-individual investment adviser shall have client level segregation at group level for investment advisory and distribution services.</i></p> <p><i>Explanation. —</i></p> <p><i>(i) The same client cannot be offered both advisory and distribution services within the group of the non-individual entity.</i></p>	<p>The Amendment Regulations bring about a clear restriction on provision of distribution and advisory services simultaneously or under one roof. The bifurcation of services has been summarized as under:</p> <p>1. An individual Investment Adviser shall not provide distribution services at all and family thereof shall not provide distribution services to a client to whom the individual Investment Adviser is providing advisory services and vice-versa;</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
	<p><i>(ii) A client can either be an advisory client where no distributor consideration is received at the group level or distribution services client where no advisory fee is collected from the client at the group level.</i></p> <p><i>(iii) 'Group' for this purpose shall mean an entity which is a holding, subsidiary, associate, subsidiary of a holding company to which it is also a subsidiary or an investing company or the venturer of the company as per the provisions of Companies Act, 2013 for non-individual investment adviser which is a company under the said Act and in any other case, an entity which has a controlling interest or is subject to the controlling interest of a non-individual investment adviser.</i></p> <p><i>(4) Non-individual investment adviser shall maintain an arm's length relationship between its activities as investment adviser and distributor by providing advisory services through a separately identifiable department or division.</i></p>	<p>2. The same client cannot be offered both advisory and distribution services within the group of the non-individual Investment Adviser. However, simultaneous provision of services is possible at with a group of a non-individual Investment Adviser, if a fee is not charged for one of the services.</p> <p>3. Also, a separate division or department has to be identified by a non-individual Investment Adviser for providing the advisory and distribution services simultaneously and the said departments or divisions shall maintain an arms' length distance with each other;</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
	<p><i>(5) Compliance and monitoring process for client segregation at group or family level shall be in accordance with the guidelines specified by the Board.”</i></p>	<p>4. The definition of group has been prescribed by the Amendment Regulations, which is quite encompassing for a non-individual Investment Adviser.</p> <p>5. SEBI has reserved power to specify monitoring process for client segregation at group or family level.</p>
<p>Regulation 22A- Implementation of advice or execution</p>	<p>Insertion of regulation 22A as under:</p> <p><i>22A (1) Investment adviser may provide implementation services to the advisory clients in securities market:</i></p> <p><i>Provided that investment advisers shall ensure that no consideration including any commission or referral fees, whether embedded or indirect or otherwise,</i></p>	<p>Execution services can be provided by the Investment Advisers to its advisory clients only through direct schemes, but consideration shall not be received in any form, whatsoever by Investment Adviser, whether at its group level or family level.</p>

Securities Law (Contd...)

Regulations	Amendments in Principal Regulations	Implications
	<p><i>by whatever name called is received; directly or indirectly, at investment adviser's group or family level for the said service, as the case may be.</i></p> <p><i>(2) Investment adviser shall provide implementation services to its advisory clients only through direct schemes/products in the securities market.</i></p> <p><i>(3) Investment adviser or group or family of investment adviser shall not charge any implementation fees from the client.</i></p> <p><i>(4) The client shall not be under any obligation to avail implementation services offered by the investment adviser.</i></p>	<p>Further, there shall be no obligation cast upon the customer to avail execution services from the Investment Adviser.</p> <p>Thus, onerous tag along services are restricted to be provided to the customers by the Investment Adviser.</p>

- **Link of the Notification.**

https://www.sebi.gov.in/legal/regulations/jul-2020/sebi-investment-advisers-amendment-regulations-2020_47007.html

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – notification no. SEBI/LAD-NRO /GN/ 2020/20 on Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2020, dated July 1, 2020 (“Notification”).**
 - SEBI *vide* the Notification has further amended the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (“**Principal Regulations**”), which shall come into force from the date of publication in the official gazette i.e. July 01, 2020.
 - Major highlights of the Notification are summarized hereunder:
 - ✓ Amendment to regulation 17 (provision related to escrow):
 - In sub-regulation 17(1), new proviso has been inserted which provides for deposit in the escrow account of an amount equivalent to 100% (one hundred per cent) of the consideration payable in the open offer, where a public announcement has been made under indirect acquisitions. This is done to ensure, maximum security of payment to be made to the shareholders who are subject of an indirect acquisition.
 - In regulation 17(3)(c), new proviso shall be inserted which provides that the deposit of securities shall not be permitted in respect of indirect acquisitions where public announcement has been made in terms of clause (e) of sub-regulation (2) of regulation 13 of Principal Regulations, i.e. public announcement in case of indirect acquisition over shares or voting rights or control of a company.

Securities Law (Contd...)

This would mean that in case of indirect acquisitions, the escrow account shall be credited only with, either of: a) cash deposited with any scheduled bank; b) bank guarantee in favour of manager to the open offer by any scheduled commercial bank; or c) deposit of frequently traded and freely transferable equity shares.

- ✓ Further, under regulation 18(11), after sub-regulation (11), new sub-regulation 11A has been inserted which obligates the acquirer to pay an interest at the rate of 10% (ten percent) per annum if the acquirer is unable to make payment to the shareholders who have accepted the open offer within the prescribed period. The SEBI, however, provides an immunity to the acquirer in case the delay was not attributable to any act of omission or commission of the acquirer, or due to the reasons or circumstances beyond the control of the acquirer.
- ✓ The Notification also clarifies that the SEBI may take any action under the Principal Regulations or the SEBI Act, 1992, further to the levy of interest as aforesaid.
- ✓ Under sub-regulation (2A) of regulation 22 (completion of acquisition) - the words "*other than through bulk deals or block deals,*" have been omitted. This suggests inability to acquire the shares by an acquirer, through a preferential issue or through stock exchange settlement process by way of bulk or block deals.

▪ **Link of the Notification.**

https://www.sebi.gov.in/legal/regulations/jul-2020/securities-and-exchange-board-of-india-substantial-acquisition-of-shares-and-takeovers-third-amendment-regulations-2020_46990.html

Securities Law (Contd...)

- ❑ **The Securities and Exchange Board of India (“SEBI”) – notification no. SEBI/LAD-NRO/GN/2020/21 on Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2020, dated July 1, 2020 (“Notification”).**
 - SEBI *vide* the Notification has further amended the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“**Principal Regulations**”), which shall come into force from the date of publication in the official gazette i.e. July 01, 2020.
 - The major highlights of the Notification are as under:
 - ✓ New regulation 164B (Optional pricing in preferential issue) has been inserted after regulation 164A of the Principal Regulations, which states that, in case of frequently traded shares, the price of the equity shares to be allotted pursuant to the preferential issue shall be determined by regulation 164 or regulation 164B, as opted for and shall not be less than the higher of the following:

the average of the weekly high and low of the volume weighted average price of the related equity shares quoted on the recognised stock exchange during the 12 (twelve) weeks preceding the relevant date;

or

the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the 2 (two) weeks preceding the relevant date.

Securities Law (Contd...)

✓ **Lock-in-period:**

Specified securities allotted on a preferential basis using the pricing method determined under sub-regulation 164B (2) shall be locked-in for a period of 3 (three) years.

✓ **Time period in which the pricing method can be availed:**

The pricing method determined at sub-regulation 164B (2) shall be availed in case of allotment by preferential issue made between July 01, 2020 and December 31, 2020.

✓ All allotments arising out of the same shareholders' approval shall follow the same pricing method.

- The said development is to ensure ease of operations for carrying out the fund raising by a listed company through private placement and negate the logistical challenges arising out of the COVID Pandemic. The same is in consonance with SEBI's many other amendments in the recent past to liberalize the fund raising by listed companies.

▪ **Link of the Notification.**

https://www.sebi.gov.in/legal/regulations/jul-2020/securities-and-exchange-board-of-india-issue-of-capital-and-disclosure-requirements-third-amendment-regulations-2020_46991.html

Reserve Bank of India

- **The Reserve Bank of India (“RBI”) – notification no. RBI/2020-21/12 DOR (NBFC).CC.PD.No.115/03.10.001/2020-21 on exemption to Alternative Investment Fund (AIF) from registration as a Non-Banking Financial Company (“NBFC”), dated July 10, 2020 (“Notification”).**
 - The Notification states that consequent to the repeal of Securities and Exchange Board of India (“SEBI”) (Venture Capital Funds (“VCF”)) Regulations, 1996 and enactment of SEBI (Alternative Investment Funds (“AIF”)) Regulations, 2012, the RBI has substituted the word “**VCF companies**” with “**AIF companies**”, in master direction on exemptions from the provisions of RBI Act, 1934, pursuant to which AIF companies i.e. a NBFC, which is an AIF holding a certificate of registration obtained under section 12 of the SEBI Act, 1992 (registration of stock brokers, sub-brokers, share transfer agents, etc.) and not holding or accepting public deposit are exempted from the provisions of section 45-IA (Requirement of registration and net owned fund) and 45-IC (Reserve fund) of the RBI Act, 1934 and also from the applicability of guidelines issued by the Bank for NBFCs.
 - The said development is a big relief for AIF companies who shall not be burdened by the onerous requirements of the multiple regulators at the same time and shall foster the constitution of more AIF companies, which are known to make investments in start-up companies.
 - **Link of the Notification.**
<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/CCN115EAIF27F4552FF5CF435ABB631DF60E7788BE.PDF>

Reserve Bank of India (Contd...)

- **The Reserve Bank of India (“RBI”) – circular no. RBI/2020-21/11 DoR (NBFC) (PD) CC. No. 114/03.10.001/2020-21 on extension of timeline for finalization of audited accounts for Non-Banking Financial Company (“NBFC”), dated July 06, 2020 (“Notification”).**
 - Para 18(2) of the master direction on Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016 and Non-Systemically Important Non-Deposit taking Company (Reserve Bank) Directions, 2016, states that all NBFCs shall finalize its balance sheet within a period of 3 (three) months from the date to which it pertains.
 - In view of the ongoing COVID-19 pandemic situation, every applicable NBFCs have been given a leeway to finalise its balance sheet within a period of 3 (three) months from the date to which it pertains or any date as notified by Securities and Exchange Board of India, for submission of financial results by listed entities.
 - **Link of the Notification.**
<https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=11935&Mode=0>

Insolvency And Bankruptcy Code

- ❑ **The Insolvency and Bankruptcy Board of India (“IBBI”) – notification no. IBBI/2020-21/GN/REG061 on the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Second Amendment) Regulations, 2020 (“Amendment Regulations”), dated June 30, 2020 (“Notification”).**
 - IBBI *vide* the Notification has further amended the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (“**Principal Regulations**”) which shall come into force from the date of publication on the official gazette, i.e. June 30, 2020.
 - Regulation 12(1)(a) of Principal Regulations, which specifies ‘what shall be the sole objective of insolvency professional entities’, has been substituted, stating that a company, a registered partnership firm or a limited liability partnership may be recognised as an insolvency professional entity, if its sole objective is to provide support services to insolvency professionals. Earlier, an insolvency professional entity could have its sole objective only as serving insolvency professionals, who are partners or directors, as the case may be. Thus, the objective has been made less restrictive in nature and will boost the scope of service of insolvency professional entities.
 - **Link of the Notification.**
<https://www.ibbi.gov.in/uploads/legalframework/298ceb6f7b14fc9d8647342a093925ee.pdf>

Deets / Disclaimer

❑ Deets.

Legalite Advisors LLP | LLPIN : AAJ 8514 | E-mail : la.mumbai@legalite.co.in | Corporate office:
503, 5th Floor, Shree Prasad House, Opposite Makani Centre, Khar (West) 400050 | 📞: +91
9769022955/ +91 8454846257.

❑ Disclaimer.

This article is for informational purposes only, and is not intended to provide, and should not be relied on for legal advice. Readers are advised to seek independent legal advice in accordance with their peculiar facts and circumstances.

Legalite
Advisors

Thank You



There is no wealth like knowledge and no poverty like ignorance - Buddha