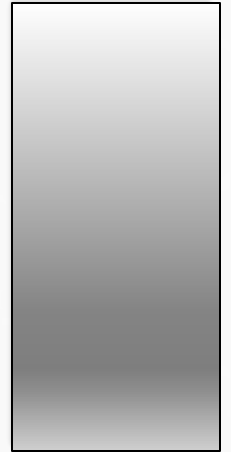


LEGALITE ADVISORS

IMPORTANT LEGAL UPDATES FOR JUNE, 2023



Ministry of Corporate Affairs

- ❑ **Circular Reference No.:** General Circular no. 06/2023 (“**Notification**”).
- ❑ **Circular Date:** June 21, 2023
- ❑ **Effective Date of Circular:** June 21, 2023.
- ❑ **Subject:** Relaxation in paying additional fees in case of delay in filing e-form DPT-3 for the financial year ended on March 31, 2023 upto July 31, 2023.
- ❑ **Analysis:**
 - ✓ As per Rule 16 of The Companies (Acceptance of Deposits) Rules, 2014 (“Rules”), every company (i) which has accepted deposits as per sections 73 to 76 and the relevant rules prescribed thereunder; or (ii) entered into transactions which are considered as exempted deposits as per Rule 2(1)(c) of the Rules, is required to file a return of deposits in e-form DPT-3 with the Registrar of Companies on or before the 30th day of June, of every year.
 - ✓ *Vide* the release of this Circular, the Ministry of Corporate Affairs has relaxed the payment of the additional fees to be paid on e-form DPT-3 in case of delay in filing the said form by the companies upto July 31, 2023, for the financial year ending on March 31, 2023.
 - ✓ The said relaxation has been granted considering the transition of e-form DPT-3 from Version-2 to Version-3 and the difficulties faced by the stakeholders in filing the said e-form.

Ministry of Corporate Affairs (Contd...)

□ **Link of the Circular:**

<https://www.mca.gov.in/bin/dms/getdocument?mds=GZbzY8G5s24kITjoGKWLQQ%253D%253D&type=open>

Ministry of Corporate Affairs (Contd...)

- ❑ **Notification Reference No:** G.S.R. 411(E) (“Notification”)
- ❑ **Notification Date:** June 02, 2023
- ❑ **Notification Effective Date:** June 02, 2023
- ❑ **Subject of the Notification:** Substitution of LLP Form No. 3 i.e. Information with regard to Limited Liability Partnership Agreement and changes, if any, made therein.
 - ✓ As per Rule 21 (1) of the Limited Liability Partnership Rules, 2009, a limited liability partnership shall interalia file information with regard to limited liability partnership agreement or regarding any changes in the same in LLP Form No. 3.
 - ✓ *Vide* this Notification the Ministry of Corporate Affairs has amended the format of LLP Form No. 3 and the same has been substituted with the format provided in the Notification, link whereof has been provided below.

❑ **Link of the Notification:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MzM5MDg1NzQy&docCategory=Notifications&type=open>

SECURITIES LAW

❑ **Notification Reference No:** SEBI/LAD-NRO/GN/2023/131

❑ **Notification Date:** June 14, 2023.

❑ **Effective Date*:** July 14, 2023 (except for amendments prescribed in sub-regulations III, XI, XII and XIV of Regulation 3 of The Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2023 (“Amendment Regulations”), which shall come into force with effect from the date of their publication in the Official Gazette i.e. June 14, 2023).

*The amendment prescribed in sub-regulation XII of regulation 3 of the Amendment Regulations, shall not be applicable to a sale, lease or disposal of undertakings of a listed entity where the notice has already been dispatched to the shareholders of the listed entity. Also, the amendment prescribed in sub-regulation X of regulation 3 of the Amendment Regulations shall be applicable to the issuers whose public issues open on or after the Amendment Regulations come into effect.

❑ **Subject:** Amendment to the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, (“**Principal Regulations**”)

❑ **Analysis**

The Securities and Exchange Board of India (“**SEBI**”) has vide the Amendment Regulations, further amended the Principal Regulations, key highlights whereof are given below:

SECURITIES LAW (Contd...)

✓ **Introduction of new definition for “Mainstream Media” and related disclosure:**

- The term mainstream media shall include Newspapers registered with the Registrar of Newspapers for India, News channels permitted by Ministry of Information and Broadcasting under Government of India; Content published by the publisher of news and current affairs. It also covers similarly registered news platforms in jurisdiction outside India.

✓ **Time limit for appointment of a Compliance Officer in case of a vacancy:**

- The Amendment Regulations prescribes that any vacancy in the office of the compliance officer needs to be filled within 3 (three) months from the date of such vacancy. However, the listed entity shall not fill the vacancy in interim capacity, unless all the laws applicable (in case of fresh appointment to such office) and obligations under such laws have been made applicable to such person.

✓ **Compliance with Regulation 16 to Regulation 27 of the Principal Regulations for high value debt listed entities:**

- In the Principal Regulations, regulation 15(1A) has been amended.

As per the Amendment Regulations, the provisions of Regulation 16 to 27 shall be applicable to high value debt listed entities on a “comply or explain basis” till March 31, 2024 (which earlier was March 31, 2023).

SECURITIES LAW (Contd...)

✓ Approval of Shareholders for continuation of the office of the Director, vacancy in the office of the Director:

- In the Principal Regulations, after regulation 17(1C), the following has been inserted as sub-regulation (1D) and sub-regulation (1E).
 - The continuation of the office of Director of a listed entity shall be subject to the approval of the shareholders at least once in every 5 (five) years from the date of appointment/ reappointment, which shall be effective from April 1, 2024. In cases where the Director has been holding the office for a period exceeding 5 (five) years as on March 31, 2024, the continuation shall be subject to approval of the shareholders at the next General Meeting held after March 31, 2024.
 - The aforesaid **shall not be applicable** in the following cases:
 - (i) Whole-time Director, Managing Director, Manager, Director retiring u/s 152(6) of the Companies Act, 2013, where the approval of the shareholders for reappointment or continuation is already taken in compliance with these regulations or the Companies Act, 2013.
 - (ii) Nominee Director appointed on the Board of the listed entity:
 1. Appointed by the Government on the Board of a listed entity other than a public sector company
 2. Appointed pursuant to the order of a Court/ Tribunal
 3. Nominated by the financial sector regulator
 4. Nominated by a financial institution registered with or regulated by the Reserve Bank of India (“RBI”)

SECURITIES LAW (Contd...)

5. Nominated by a Debenture Trustee registered with SEBI under a subscription agreement (on the Board of the listed entity which has listed its Debentures).

○ With the introduction of the aforesaid provisions, the SEBI has envisaged to put in place regulations which ensure that no director of a listed entity continues therein, without having shareholders' approval in place, for a period more than 5 (five) years, thereby ensuring stricter governance around appointment/reappointment and continuance of directors in listed entities.

○ Any vacancy in the office of the Director shall be filled not later than 3 (three) months from the date of such vacancy. Where there is a non-compliance of Regulation 17(1) of the Principal Regulations, such vacancy shall be filled not later than the date of such vacancy, meaning, this shall not be applicable to the listed entity which fulfils the requirement u/R 17(1) without filling this vacancy.

✓ **Vacancies in respect of certain Key Managerial Personnel:**

▪ In the Principal Regulations, after regulation 26, the following has been inserted as regulation 26A.

Any vacancy in the office of the Key Managerial Personnel of the listed entity viz., Chief Executive Officer, Managing Director, Whole-time Director, Manager or Chief Financial Officer shall be filled not later than 3 (three) months from the date of such vacancy. However, the listed entity shall not fill the vacancy in interim capacity, unless all the laws applicable (in case of fresh appointment to such office) and obligations under such laws have been made applicable to such person.

SECURITIES LAW (Contd...)

✓ **Additional disclosure in quarterly Corporate Governance Report u/r 27(2)(a) of the Principal Regulations:**

- In the Principal Regulations, after clause (b) sub-regulation (2) of Regulation 27, the following clause (ba) under sub-regulation (2) has been inserted.

The details of the cyber security incidents or any breaches/ loss of data/ documents shall be reported in the report on Corporate Governance, which shall be submitted within 21 (twenty one) days of the end of the quarter.

✓ **Ascertainment of materiality of events/ information under Regulation 30 of the Principal Regulation:**

- In the Principal Regulations, sub-clause (c) of clause (i) sub-regulation (4) of Regulation 30 has been substituted with the following:

The materiality of the event which was previously determined based on 3 criteria (three) now gets an additional criteria for determination. In case where an omission of an event or information is likely to cause an impact **exceeding the lower** of the following, the same shall be disclosed to the stock exchanges:

SECURITIES LAW (Contd...)

- i) 2 (two) percent of turnover, as per the last audited consolidated financial statements; or
- ii) 2 (two) percent of net worth, as per the last audited consolidated financial statements; except where the net worth is negative; or
- iii) 5 (five) percent of average of absolute values of value of profit or loss after tax, as per the last three audited consolidated financial statements.

In the Principal Regulations, after sub-clause (c) of clause (i) sub-regulation (4) of Regulation 30, the following has been inserted as sub-clause(d):

In cases, where the sub-clause (a), (b) and (c) of Regulation 30(4)(i) are not applicable, an event/ information can be treated material if in the opinion of the Board of Directors it is material. Further, any continuing event/ information becomes material pursuant to these Amendment Regulations, the same shall be disclosed within 30 (thirty) days from the date of these regulations coming into effect.

✓ In the Principal Regulations, proviso to clause (ii) sub-regulation (4) of Regulation 30, have been inserted:

Clause (ii) of sub-regulation (4) of Regulation 30, specifies the obligation of a listed entity to frame a policy for determination of materiality duly approved by the Board of Directors of the listed entity. The proviso vide Amendment Regulations have been inserted which requires that the policy shall not dilute the requirement specified under the provisions of these regulations. Further, it should be drafted in such a way that it would help the relevant employees in identifying the material transactions.

SECURITIES LAW (Contd...)

- ✓ In the Principal Regulations, sub-regulation (6) of Regulation 30, has been substituted with the following:
 - In case of any material event, the listed entity shall disclose the same to the stock exchange within the time limits as hereinunder:

Sr. No	Particulars	Time limit
1.	Where a decision relating to such material event/ information has been taken at the meeting of the Board of Directors	Within 30 minutes of the closure of the meeting
2.	In case of occurrence of an event (emanating from within the listed entity)	Within 12 hours from the occurrence
3.	In case of occurrence of an event (not emanating from within the listed entity)	Within 24 hours from the occurrence
4.	In case of events specified in Part A of Schedule III	As specified therein

SECURITIES LAW (Contd...)

- In cases where the listed entity fails to provide disclosure as per the timelines mentioned above, it shall provide explanation for such delay along with the disclosure.
- ✓ In the Principal Regulations, after sub-regulation (11) of Regulation 30, the following provisos and explanation has been inserted:
 - Regulation 30(11) of the Principal Regulations specifies the listed entity's action to suo-motu confirm or deny the reported information to stock exchanges.
 - A proviso has been inserted vide these amendment regulations, wherein the top 100 listed entities and top 250 listed entities with effect from October 1, 2023 and April 1, 2024 respectively, shall confirm, deny, clarify reported event/ information which is not general in nature within 24 hours of the reporting of information; along with the current stage of such event/ information.
- ✓ In the Principal Regulations, after sub-regulation (12) of Regulation 30, the following has been inserted as sub-regulation (13):

This provision relates to the disclosure which is to be given on the receipt of the information from any regulatory authority, unless it has been prohibited by such authority.

SECURITIES LAW (Contd...)

✓ Disclosure requirements for certain types of agreements binding listed entities:

- In the Principal Regulations, after Regulation 30, the following has been inserted as Regulation 30A:
 - This regulation relates to disclosure to the listed entity of the agreements entered into by the various parties including the shareholders, promoters, promoter group entities, related parties, directors, key managerial personnel and employees of a listed entity or of its holding, subsidiary and associate company, where the listed entity is not a party to such agreement, which is to be given within 2 (two) working days of entering into such agreement.
 - Any agreement subsisting on the date of this notification to which the listed entity is not a party, shall be disclosed to Stock Exchange and be placed on the website within such time as may be decided by SEBI. Also, the link of the complete details of the agreements available in the Annual Report (for the relevant Financial Year) shall be disclosed in such disclosure.

✓ Special rights to shareholders:

In the Principal Regulations, after Regulation 31A, the following has been inserted as Regulation 31B:

SECURITIES LAW (Contd...)

- This amendment specifies that where a special right is already granted or to be granted to any shareholder of the listed entity, the approval of the members shall be required by way of a special resolution at a general meeting at least once in every five years.
- This shall not be applicable to a financial institution (regulated by RBI) or debenture trustee (registered with SEBI) where such financial institution/ debenture trustee has become a member of the listed entity as a consequence of a lending agreement (entered in the normal course of business) or subscription agreement respectively.

✓ **Filing of Financial Results by an entity subsequent to the listing:**

- In the Principal Regulations, after Regulation 33(3)(i), the following has been inserted as clause (j) of sub-regulation (3) of regulation 33:

This clause relates to the filing of quarterly financial results by an entity who has just listed its specified securities on the stock exchange. The amendment specifies that such entity may file the financial results for the quarter or the financial year immediately succeeding the filing of the financial statements by such listed entity (as disclosed in the offer document of the initial public offer) within 45 (forty five) days or 60 (sixty) days, as the case may be, or within 21 (twenty one) days of the date of the listing; whichever is later.

SECURITIES LAW (Contd...)

✓ **Additional disclosure in Annual Report:**

- In the Principal Regulations, Regulation 34(2)(f), the following has been substituted:

This clause is applicable to the top 1000 listed entities based on the market capitalization, which specifies that, Business Responsibility and Sustainability Report (“BRSR”) shall form a part of the Annual Report of such listed entities disclosing the environmental, sustainable and governance aspects. Such listed entities shall obtain assurance for the value chain from Business Responsibility and Sustainability Report Core.

Also, remaining listed entities and entities listed on a SME Exchange can obtain such assurance for their value chains and comply with the same voluntarily.

“Business Responsibility and Sustainability Report Core” shall comprise of such key performance indicators as may be specified by the Board from time to time.

SECURITIES LAW (Contd...)

✓ Sale, lease or disposal of an undertaking outside Scheme of Arrangement:

- In the Principal Regulations, after Regulation 37, the following has been inserted as Regulation 37A:
 - This amendment provides that, prior approval of the members by way of passing a special resolution is required, where one or more undertaking(s) are proposed to be sold, leased or disposed of. The notice of the shareholders shall include the object, commercial rationale, and specifics of the use of the proceeds of the proceeds arising therein.
 - The said special resolution shall be said to have been passed, where the **number of votes in favour** exceeds the **number of votes against by the public shareholder**. Where any public shareholder is directly/ indirectly a party to such sale/ lease/ disposal, shall not vote in this resolution.
 - This shall not be applicable:
 - (i) where the listed entity is selling, leasing or disposing of the whole or substantially the whole of the undertaking to its wholly owned subsidiary (whose accounts are consolidated with the accounts of the listed entity)
 - Further, in case where such entity is further to be sold/ leased/ disposed of to another entity by the wholly-owned subsidiary, the above provisions shall become applicable and the requisite consents shall have to be sought by the listed entity.
 - The listed entity shall also seek the requisite consents as mentioned above, before it dilutes any stake in its wholly-owned subsidiary which leads to the said subsidiary no longer be the

SECURITIES LAW (Contd...)

Wholly owned subsidiary of the listed entity.

(ii) where the said sale/ lease/ disposal is pursuant to a covenant covered under an agreement with financial institution (regulated by RBI) or debenture trustee (registered with SEBI)

✓ **Disclosure details of Investors' Meet on the website of the listed entity:**

- In the Principal Regulations, in regulation 46(2)(o), the following has been amended.

This amendment specifies that the listed entity shall disclose the details of the investors' meet on the website of the Company at least 2 (two) working days in advance (excluding the date of the meet and the date of the intimation).

✓ **Intimation to stock exchanges by entities who have listed their non-convertible securities:**

- In the Principal Regulations, in Regulation 57, sub-regulation (3), (4) and (5) have been omitted and regulation 57 is as follows:

The additional disclosures as were required to be given under sub-regulation (3), (4) and (5) by the entities having their non-convertible securities listed on the stock exchange, have been omitted and the disclosure under regulation 57(1) is to be given viz. the status of payment of the interest or repayment of principal shall be given to the stock exchange within 1 working day of it becoming due in the format specified by SEBI.

SECURITIES LAW (Contd...)

- ✓ In Schedule III of the Principal Regulations in Part A in Paragraph A the following changes have been made vide the Amendment Regulations:

Sub-paragraph	Amendments
(1)	The disclosure pertaining to the acquisition under this sub-para, now also include the sale of whole or substantially the whole of the undertaking(s), and sale of stake in the associate company. Further, in the Amendment Regulations the definition of “acquisition” as mentioned in the explanation (1) has been substituted with the new definition to give effect to this amendment. Further, in the Amendment Regulations the relevant definitions have been inserted vide explanation (2) and (3) to give effect to this amendment.
(3)	The disclosure of credit rating now also be disclosed for “new rating” to keep track of all the credit ratings obtained by the listed entity.

SECURITIES LAW (Contd...)

Sub-paragraph	Amendments
(5A)	<p>Agreements entered into by the various parties including the shareholders, promoters, promoter group entities, related parties, directors, key managerial personnel and employees of a listed entity or of its holding, subsidiary and associate company, whether amongst themselves, with the listed entity or third parties which impacts or is likely to impact (whether directly or indirectly) the control/ management of the listed entity, or imposes any restriction or creates liability of the listed entity shall be disclosed to the stock exchange within 2 (two) working days of entering into an agreement. This disclosure shall also include any change in the terms of the agreement and the cancellation thereof.</p> <p>Any agreement entered in the ordinary course of business need not be disclosed unless an agreement has been entered into, impacting the control/ management of the listed entity.</p>
(6)	<p>The amendment specifies to also disclose the fraud/ default, by a person of the senior management, director or subsidiary which has/ may have an impact on the listed entity, or the arrest of senior management personnel or director, whether in India or abroad.</p>

SECURITIES LAW (Contd...)

Sub-paragraph	Amendments
(7)	Any change in the senior management is also to be disclosed with the stock exchange.
(7C)	In case of resignation of key managerial personnel, senior management, Compliance Officer or director, other than an independent director; a disclosure containing the letter of resignation along with detailed reasons for the resignation (given by concerned persons) is to be given within 7 (seven) days of date of such resignation.
(7D)	In cases where the managing director/ chief executive officer of listed entity is not able to fulfil the requirements of such role due to indisposition/ unavailability for a period of more than 45 (forty-five) days in a rolling period 90 (ninety) days, a disclosure along with the reasons of such disposition/ unavailability to be given to the stock exchange.
(15)(a)	The disclosure of schedule of analysts or institutional investors meet to be given at least 2 (two) working days in advance (excluding the date of intimation and date of the meet).

SECURITIES LAW (Contd...)

Sub-paragraph	Amendments
(18)	Any announcement/ communication made by directors, promoters, key managerial personnel or senior management of a listed entity, through social media intermediaries/ mainstream media which is considered as material under regulation 30 and which is not generally available to the public, shall be disclosed to the stock exchange. Further, the definition of social media intermediaries has been added by way of explanation to sub-paragraph (18).
(19) & (20)	<p>Any action(s) initiated or orders passed against the listed entity or its directors, key managerial personnel, senior management, promoter or subsidiary w.r.t. the following matters:</p> <ul style="list-style-type: none"> ○ search or seizures; or ○ re-opening of accounts under section 130 of the Companies Act, 2013; or ○ investigation under the provisions of Chapter XIV of the Companies Act, 2013; or ○ suspension, imposition of fine or penalty, debarment, settlement of proceedings, disqualification, warning or caution, closure of operations, sanctions imposed, etc.;

SECURITIES LAW (Contd...)

Sub-paragraph	Amendments
	shall be disclosed to the stock exchange including such details as may be prescribed by SEBI, to keep a check on the current affairs of the listed entity.
(21)	Any voluntary revision of financial statements or boards' report of the Listed Entity under section 131 of the Companies Act, 2013.

SECURITIES LAW (Contd...)

- ✓ In Schedule III of the Principal Regulations in Part A in Paragraph B the following changes have been made vide the Amendment Regulations.

Sub-paragraph	Amendments
(9)	Any default/ fraud by the employees of the listed entity which has or may have an impact on the listed entity shall be disclosed to the stock exchange.
(13)	Any delay caused or default made in the payment of fines/ penalties/ dues to any regulatory, statutory, enforcement or judicial authority shall be disclosed to the stock exchange.

- ✓ Additional disclosures in the annual report of the listed entity as provided in Schedule V:

Paragraph	Amendments
C(5B)	Disclosure pertaining to the change in the senior management since the closure of previous financial year to be given in the Corporate Governance Report.
G	The listed entity shall disclose information relating to the agreements as disclosed under clause 5A of paragraph A of Part A of Schedule III.

SECURITIES LAW (Contd...)

□ **Link of the Notification:**

https://www.sebi.gov.in/legal/regulations/jun-2023/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-second-amendment-regulations-2023_72609.html

Deets / Disclaimer

❑ Deets.

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❑ Disclaimer.

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Thank You



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