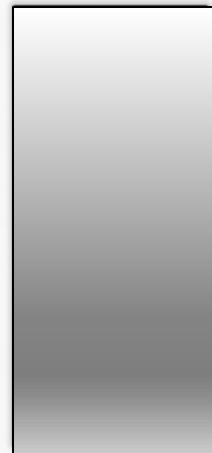


# **LEGALITE** ADVISORS

**IMPORTANT LEGAL UPDATES FOR NOVEMBER,  
2024**



# Securities Laws

- ❑ **Circular No.** SEBI/HO/CFD/CFD-PoD-2/P/CIR/2024/0161 (“**Circular**”)
- ❑ **Circular Date.** November 21, 2024
- ❑ **Circular Effective Date.** November 21, 2024
- ❑ **Circular Subject.** Withdrawal of Master Circular on issuance of No Objection Certificate (NOC) for release of 1% of Issue Amount.
- ❑ **Analysis.**
  - ✓ To protect the interest of the investors and regulate the securities market, the Securities and Exchange Board of India (“**SEBI**”) *vide* Circular has withdrawn the requirement of obtaining No Objection Certificate (NOC) from SEBI by the issuer companies (“**Issuer Companies**”) for the release of security deposit of 1% of the issue amount. This withdrawal is followed by the omission of Regulation 38(1) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations), *vide* notification dated May 17, 2024 which stated as under:

*“The Issuer Companies shall before the opening of the subscription list, deposit with the designated stock exchange, an amount calculated at the rate of 1% of the issue amount available for subscription to the public in the manner specified by SEBI and/or stock exchange(s) and such amount shall be refundable in the manner specified by the SEBI”.*

## Securities Laws (Contd...)

- ✓ The abovementioned amendment to IDCR Regulations indicates that to promote ease of doing business, the regulatory compliances are being simplified for the Issuer Companies.
- ✓ This Circular further directs the stock exchanges to, inter-alia,
  - frame a joint standard operating procedure (SoP) for release of 1% security deposit which were deposited with stock exchange(s) by the Issuer Companies prior to abovementioned amendment in IDCR Regulations; and
  - to make amendments to the relevant bye-laws, rules and regulations for the implementation of the terms of this Circular.
- **Link of the Circular.**  
[Withdrawal of Master Circular on issuance of No Objection Certificate \(NOC\) for release of 1% of Issue Amount](#)

## Securities Laws (Contd...)

- ❑ **Notification No.** SEBI/LAD-NRO/GN/2024/210 (“**Notification**”).
- ❑ **Notification Date.** November 20, 2024.
- ❑ **Notification Effective Date.** November 20, 2024.
- ❑ **Notification Subject.** The Securities and Exchange Board of India (Buy-Back of Securities) (Second Amendment) Regulations, 2024 (“**Amendment Regulations**”).
- ❑ **Analysis.**
  - ✓ The Securities and Exchange Board of India (“**SEBI**”) has *vide* the Amendment Regulations further amended the Securities and Exchange Board of India (Buy-Back of Securities) Regulations, 2018 (“**Principal Regulations**”), key highlights whereof are given below:
    - In Regulation 4 of the Principal Regulations certain words have been substituted to make the applicability more specific in nature as can be referred to the Amendment Regulations.
    - Further, after the clause (a) of sub-regulation (iv) of regulation 4 of the Principal Regulations (Conditions and requirements for buy-back of shares and specified securities), the following proviso shall be inserted which reads as under:

*“Provided that in case any member of the promoter / promoter group has declared its intention to not participate in the buy back, the shares held by such member of the promoter/ promoter group shall not be considered for computing the entitlement ratio.”*

## Securities Laws (Contd...)

Insertion of the above proviso mandates to exclude shares of promoters opting out of the buy-back from entitlement calculations.

- Per the amended sub-regulation (ii) of regulation 17 of the Principal Regulations (Opening of the offer on stock exchange), “Date of Public Announcement” shall be considered for ascertaining the period of opening of buy-back offer, instead of “record date”.
- To provide relaxation to the listed Companies for the issue of securities, clause (b) of sub-regulation (i) of regulation 24 of the Principal Regulations (Obligations of the company for all buy-back procedure) has been revised and shall be read as under:

*“The company shall not issue any shares or other specified securities including by way of bonus till the date of expiry of buyback period for the offer made under these regulations, except in discharge of subsisting obligations through conversion of warrants, stock option schemes, sweat equity or conversion of preference shares or debentures into equity shares:*

*Provided that the relevant details and the potential impact of such subsisting obligations, if any, shall be disclosed in the public announcement.”*

The above amendment ensures that the details and potential impact of issuance of such subsisting obligations shall be disclosed in the public announcement to ensure transparency in the issuance of securities before the completion of buy-back.

## Securities Laws (Contd...)

- In addition to the existing disclosures mentioned in the Schedule II of the Principal Regulations, following disclosure shall also be made which reads as under: *“Disclosures of the relevant details and the potential impact of subsisting obligations, if any, shall be made.”*
- To ascertain the buy-back entitlement ratio per the category of shareholders, disclosure no. (iii) of the Schedule III of the Principal Regulations, has been amended to include the following para which reads as under on the cover page of the letter of offer:
  - i. the entitlement ratio for small and general shareholders;*
  - ii. web-link to website of the Registrar and Share Transfer Agent for shareholders to check their entitlement under the buyback.*
- Schedule IV of the Principal Regulations has been amended to include the following disclosure in point no. (iii) which reads as under:

*“The relevant details and the potential impact of subsisting obligation, if any.”*

### □ Link of the Notification.

[SEBI \(Buy-Back of Securities\) \(Second Amendment\) Regulations, 2024](#)

## Securities Laws (Contd...)

- ❑ **Circular No.** SEBI/HO/CFD/PoD2/CIR/P/0155 (“**Circular**”)
- ❑ **Circular Date.** November 11, 2024
- ❑ **Circular Effective Date.** November 11, 2024
- ❑ **Circular Subject:** Master circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 by listed entities (“**Master Circular**”).
- ❑ **Evaluation:**
  - ✓ The Master Circular released by the Securities and Exchange Board of India (SEBI), *vide* Circular is an updated document which consolidates various circulars issued by the SEBI under the relevant provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“**LODR Regulations**”) till September 30, 2024 subsequent to the amendments made in the master circular dated July 11, 2023 by consolidating all relevant circulars issued till July 11, 2023. Accordingly, the Master Circular dated November 11, 2024, gives the latest and up to date provisions relating to the LODR Regulations.
  - ✓ Further, earlier circulars have been rescinded and the list of earlier circulars superseded by the Circular is given in Appendix of the Master Circular.
- ❑ **Link of the Circular:**  
[Master Circular for SEBI \(LODR\) Regulations, 2015](#)



## Securities Laws (Contd...)

- ❑ **Circular No:** SEBI/HO/CFD/PoD-1/P/CIR/2024/0154 (“**Circular**”)
- ❑ **Circular Date:** November 11, 2024
- ❑ **Circular Effective Date:** November 11, 2024
- ❑ **Circular Subject:** Master Circular for Issue of Capital and Disclosure Requirements (“**Master Circular**”).
- ❑ **Evaluation:**
  - ✓ The Master Circular released by the Securities and Exchange Board of India (**SEBI**), *vide* Circular is an updated document which consolidates various circulars/directions issued by the SEBI under the relevant provisions of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“**ICDR Regulations**”) till September 30, 2024 subsequent to the amendments made in the master circular dated June 21, 2023 by consolidating all relevant circulars issued till June 21, 2023. Accordingly, the Master Circular dated November 11, 2024, gives the latest and up to date provisions relating to the ICDR Regulations.
  - ✓ Further, the Directions issued under earlier circulars have been rescinded to the extent applicable to ICDR Regulations and the list of earlier circulars superseded by the Circular is given in Appendix of the Master Circular.
- ❑ **Link of the Circular:**  
[Master Circular for Issue of Capital and Disclosure Requirements](#)



## Securities Laws (Contd...)

❑ **Circular No.** SEBI/HO/AFD/AFD-POD-3/P/CIR/2024/152 (“**Circular**”)

❑ **Circular Date.** November 11, 2024

❑ **Circular Effective Date.** November 11, 2024

❑ **Circular Subject.** Procedure for reclassification of FPI investment to FDI

❑ **Analysis:**

- ✓ Per the Regulations (20)(7) and 22(3) of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019, if any single Foreign Portfolio Investor (FPI) including its Investor Group who fails to divest investment in excess of 10% of paid-up equity share capital of listed/to be listed Company on fully diluted basis within the prescribed time period, then the entire investment in such Company shall be considered as Foreign Direct Investment (FDI) per the procedure prescribed under Para 17 of Part C of Master Circular for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors dated May 30, 2024 (“**Procedure**”).

## Securities Laws (Contd...)

- ✓ To safeguard investor interests and ensure the orderly regulation of the securities market, the Securities and Exchange Board of India (“**SEBI**”), *vide* the Circular, has introduced amendments to the Procedure allowing Foreign Portfolio Investors (“**FPIs**”), including Investor Groups, to reclassify their FPI investments as Foreign Direct Investment (FDI). This reclassification must comply with the applicable provisions of the Foreign Exchange Management Act, 1999 (“**FEMA**”).
- ✓ The amended Procedure is briefed as under:
  - In case the investment made by a FPI including its Investor Group reaches 10% or more of paid-up equity share capital on fully diluted basis, then on the discretion of the FPI, its FPI holdings can be reclassified into FDI and such reclassification must be complied with the provisions FEMA;
  - After receipt of request of reclassification from FPI, the Custodian shall report it to SEBI and freeze investments of such FPI in equity instruments till completion of the reclassification; and
  - On completion of process of reclassification as prescribed by RBI, the Custodian shall on the request of FPI, transfer the equity instruments of Indian Company held in its FPI demat account to its FDI demat account.

❑ **Link of the Circular:**

[Procedure for reclassification of FPI investment to FDI](#)

# Reserve Bank of India

- ❑ **Circular No.** RBI/2024-25/90 A.P. (DIR Series) Circular No. 19 (“**Circular**”)
- ❑ **Circular Date.** November 11, 2024
- ❑ **Circular Effective Date.** November 11, 2024
- ❑ **Circular Subject.** Operational framework for reclassification of Foreign Portfolio Investment to Foreign Direct Investment (FDI)
- ❑ **Analysis.**
  - ✓ The Reserve Bank of India *vide* this Circular has provided an operational framework for reclassification of foreign portfolio investment by Foreign Portfolio Investor (“**FPI**”) to Foreign Direct Investment (“**FDI**”) if the percentage of investment of the FPI along with its investor group exceeds 10% of the total paid-up equity capital on a fully diluted basis.
  - ✓ Schedule II of FEM (NDI) Rules, 2019 (“**NDI Rules**”) prescribes that investment made by the FPI shall be less than 10 percent of the total paid-up equity capital on a fully diluted basis. In case the said is breached FPI shall either divest their holding or reclassify the same as FDI within 5 (five) trading days from the date of settlement of the trades causing the breach.
  - ✓ The reclassification shall not be allowed in prohibited sectors of FDI.

## Reserve Bank of India (Contd...)

- ✓ Necessary approvals from Government /concurrence of the investee company to be taken by the FPI before acquiring equity instruments beyond the prescribed limit to ensure compliance with the NDI Rules.
- ✓ The FPI to clearly articulate its intent to reclassify existing foreign portfolio investment held in a company into FDI and shall ensure all the necessary approvals and concurrence to its Custodian. The Custodian shall subsequently freeze the purchase transactions by such FPI in equity instruments till the reclassification is completed.

Provided that if the necessary approvals and concurrence are not obtained that shall amount to disinvestment by the FPI. The date of investment causing breach in such cases shall be considered as the date of reclassification.

- ✓ The reclassification shall be reported in accordance with Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019 as prescribed below:
  - a. By the Indian company in form FC-GPR where the investment is resulting from fresh issuance of equity instruments by an Indian company.
  - b. By the FPI in form FC-TRS, where the investment is due to acquisition of equity instruments in the secondary market.
  - c. AD bank concerned shall report the amount of reclassified foreign portfolio investment as divestment under the LEC (FII) reporting.

## Reserve Bank of India (Contd...)

- ✓ Upon completion of the abovementioned formalities the Custodian shall unfreeze the equity instruments and process the request and transfer the equity instruments of the Indian company from its demat account maintained for holding foreign portfolio investments to its demat account maintained for holding FDI.
- ✓ The entire investment of the FPI in the Indian company shall be considered as FDI and shall continue to be treated as FDI even if the investment falls to a level below ten percent subsequently and the said investment shall be governed by Schedule I to the NDI Rules.

□ **Link to the Circular:**

[Reclassification of FPI to FDI](#)

## Reserve Bank of India (Contd...)

❑ **Circular No.** RBI/2024-25/87 (“Circular”)

❑ **Circular Date.** November 06, 2024

❑ **Circular Effective Date.** November 06, 2024

❑ **Circular Subject.** Amendment to the Master Direction - Know Your Customer (KYC) Direction, 2016 (“MD-KYC”)

❑ **Analysis.**

✓ The MD-KYC has been amended to:

- align the instructions with the recent amendments carried out in the Prevention of Money Laundering (Maintenance of Records) Rules, 2005 *vide* Gazette Notification dated July 19, 2024;
- incorporate instructions in terms of the corrigendum dated April 22, 2024 issued by the Government of India to the Order dated February 2, 2021 on the ‘Procedure for implementation of Section 51A of the Unlawful Activities (Prevention) Act, 1967’; and
- revise certain existing instructions. The changes carried out in the MD-KYC are provided in appended Circular. The amended provisions in the MD-KYC shall come into force with immediate effect.

❑ **Link to the Circular:**

[Amendment to MD-KYC](#)

Legalite  
Advisors

# Thank You



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