

DECEMBER 2022 | ISSUE

VEDANAM

MCA and SEBI Updates

Why Vedanam?

We, Mehta & Mehta present you with our monthly newsletter which cover regulatory updates, case laws and study articles. We hereby release our December, 2022 issue.

Quote for the month:

"Do the best you can until you know better"



INDEX

I. MINISTRY OF CORPORATE AFFAIRS UPDATES	
A.	MCA Circulars and Notifications
1.	<u>MCA planning to shift company forms to new portal - December 26, 2022</u>
2.	<u>MCA circular - Clarification of holding of Annual General Meeting (AGM) through Video Conference (VC) or Other Audio Visual Means (OAVM)-reg. - December 28, 2022</u>
3.	<u>MCA circular - Clarification on passing of Ordinary and Special resolutions by the companies under the Companies Act, 2013 read with rules made thereunder on account of COVID-19-reg. - December 28, 2022</u>
II. SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI) UPDATES	
A.	SEBI CIRCULARS AND NOTIFICATIONS
1.	<u>SEBI circular on extension of timelines for implementation of Standardized industry classification by CRAs - December 01, 2022</u>
2.	<u>SEBI operational circular for listing obligations and disclosure requirements for Non-convertible Securities, Securitized Debt Instruments and/or Commercial Paper - December 01, 2022</u>
3.	<u>Securities and Exchange Board of India (Procedure for Board Meetings) (Amendment) Regulations, 2022- December 09, 2022</u>
4.	<u>SEBI Clarification - Scheme(s) of Arrangement by entities who have listed their Non-convertible Debt securities (NCDs) / Non-convertible Redeemable Preference shares (NCRPS) ('debt listed entities') - December 09, 2022</u>
5.	<u>SEBI Circular on Foreign investment in Alternative Investment Funds (AIFs) - December 09, 2022</u>
6.	<u>SEBI circular on Performance Benchmarking and Reporting of Performance by Portfolio Managers - December 16, 2022</u>
7.	<u>SEBI circular on Framework for Orderly Winding Down of Critical Operations and Services of a Clearing Corporation- December 16, 2022</u>
8.	<u>SEBI circular on applicability of SEBI circular on Principles of Financial Market Infrastructures (PFMIs) to AMC Repo Clearing Limited - December 16, 2022</u>
9.	<u>SEBI Clarification - SEBI circular dated August 04, 2022 on enhanced guidelines for debenture trustees and listed issuer companies on security creation and initial due diligence - December 19, 2022</u>
10.	<u>SEBI Master Circular for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors - December 19, 2022</u>
11.	<u>SEBI circular on Introduction of Investor Risk Reduction Access (IRRA) platform in case of disruption of trading services provided by the Trading Member (TM)- December 30, 2022</u>
B.	<u>ORDERS/ CASE LAWS/ ANOUNCEMENT</u>

1.	<u>SEBI issues Rs 14-cr demand notice to Jindal Cotex in GDR manipulation case</u>
2.	<u>SEBI bans Moneytree Research, its proprietor from securities market for 3 years</u>
III. KNOWLEDGE SHARING	
1.	<u>TRANSFER AND TRANSMISSION OF SECURITIES - SECTION 56 OF COMPANIES ACT, 2013</u>

Disclaimer: All views in this Newsletter are expressed by the concerned individuals only and are not the views of the Department or the Company.

I. MINISTRY OF CORPORATE AFFAIRS (“MCA”) UPDATES:

A. MCA CIRCULARS AND NOTIFICATIONS:

1. MCA planning to shift company forms to new portal - December 26, 2022

The ministry of corporate affairs is planning to shift nearly five dozen company forms to its updated V3 portal by January, which would in effect migrate all company forms to the new portal.

Overall, 56 forms will be migrated to the new portal next month in two phases. As many as 10 forms will be rolled out on the new portal on January 9, including applications for reservation of name for new company incorporation and change in name of existing company as well as for GST Identification Number.

Another 46 forms would be launched on the new portal by January 23, including those relating to directors, commencement of business and conversion of public company into private company or private company into public company or conversion of Unlimited Liability Company into Limited Liability Company.

Link:

<https://www.mca.gov.in/content/dam/mca/configurations/new-forms-20221226.pdf>

GO UP

2. MCA circular - Clarification of holding of Annual General Meeting (AGM) through Video Conference (VC) or Other Audio Visual Means (OAVM)-reg. - December 28, 2022

MCA, vide its circular dated December 28, 2022 in continuation of Ministry’s General Circular No. 20/2020 dated 05.05.2020 and General Circular No. 02/2022 dated 05.05.2022 decided to allow companies whose AGMs are due in the Year, 2023, to conduct their AGMs on or before **30th September, 2023** in accordance with the requirements laid down in Para 3 and Para 4 of the General Circular Np. 20/2020 dated 05.05.2020.

Further, it is clarified that this General Circular shall not be construed as conferring any extension of time for holding of AGMs by the companies under the Companies Act, 2013 (the Act) and the companies which have not adhered to the relevant timelines shall be liable to legal action under the applicable provisions of the Act.

GO UP

3. **MCA circular - Clarification on passing of Ordinary and Special resolutions by the companies under the Companies Act, 2013 read with rules made thereunder on account of COVID-19-reg. - December 28, 2022**

MCA, vide its circular dated December 28, 2022 in continuation of Ministry's General Circular No. 14/2020 dated 08.04.2020 and General Circular No. 03/2022 dated 05.05.2022 decided to allow companies to conduct their EGMs through Video Conference (VC) or Other Audio Visual Means (OAVM) or transact items through postal ballot in accordance with framework provided in the aforesaid Circulars up to September 30, 2023. All other requirements provided in the said Circulars shall remain unchanged.

GO UP

II. SECURITIES AND EXCHANGE BOARD OF INDIA UPDATES:

1. SEBI CIRCULARS AND NOTIFICATION

1. SEBI circular on extension of timelines for implementation of Standardized industry classification by CRAs - December 01, 2022

SEBI, vide its circular dated December 01, 2022 extended timelines for implementation of Standardized industry classification by CRA till December 15, 2022.

SEBI vide Circular No. SEBI/HO/MIRSD/CRADT/CIR/P/2022/42 dated April 01, 2022 advised CRAs to implement standardized industry classification by September 30, 2022. The guidelines were subsequently revised vide Circular No. SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2022/134 dated September 30, 2022 and timeline for implementation was extended till November 30, 2022.

SEBI in the circular said that, it has been receiving representations from CRAs requesting for extension of the date of applicability of the standardized industry classification. In view of representation received from CRAs, it has been decided to extend the date of applicability of the standardized industry classification till December 15, 2022.

This circular is applicable to all Credit Rating Agencies (CRAs) registered with SEBI and Recognised Stock Exchanges.

[Link to the Circular:](#)

https://www.sebi.gov.in/legal/circulars/dec-2022/extension-of-timeline-for-implementation-of-standardized-industry-classification-by-cras_65727.html

GO UP

2. SEBI operational circular for listing obligations and disclosure requirements for Non-convertible Securities, Securitized Debt Instruments and/or Commercial Paper - December 01, 2022

SEBI, vide its operational circular dated December 01, 2022 updated its operational circular dated July 29, 2022 and came out with Operational Circular for listing obligations and disclosure requirements for Non-convertible Securities, Securitized Debt Instruments and/or Commercial Paper.

SEBI in the circular added that this Operational Circular has been prepared for effective regulation of the corporate bond market and to

enable the issuers and other market stakeholders to get access to all the applicable circulars at one place.

Further, it is to be noted that this Operational Circular is a compilation of the relevant existing circulars, with consequent changes. The stipulations contained in these circulars have been detailed chapter-wise in this operational circular. For ease of reference, each chapter of this operational circular contains footnotes corresponding to the respective erstwhile circulars. Accordingly, the circulars listed at Annex -1 stand superseded by this Operational Circular.

Additionally, format for submission of statement indicating the utilization of issue proceeds of listed Non-convertible Securities to the Stock Exchange(s), by the listed entities, as required under regulation 52(7) of the Listing Regulations, has been included in Chapter IV.

Further, Chapter XI has been included, containing format for review of rating obtained by the listed entity with respect to its non-convertible securities from Credit Rating Agency(ies) registered with SEBI, as required under regulation 55 and formats for submissions to be made by listed entity to the stock exchanges for interest/dividend/principal under regulations 57(1), 57(4) and 57(5) of the Listing Regulations.

While this circular covers instruments under the NCS Regulations, Chapter X contains provisions applicable to issue of Securitised Debt Instruments under the SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008. This has been accordingly indicated in the chapter.

This operational circular is applicable to all Issuers who have listed Non-convertible Securities, Securitised Debt Instruments and/or Commercial Paper and Recognised Stock Exchanges.

Link to the Operational Circular:

<https://www.sebi.gov.in/legal/circulars/dec-2022/updated-operational-circular-for-listing-obligations-and-disclosure-requirements-for-non-convertible-securities-securitised-debt-instruments-and-or-commercial-paper-modifications-in-chapter-iv-and-65728.html>

GO UP

3. **Securities and Exchange Board of India (Procedure for Board Meetings) (Amendment) Regulations, 2022- December 09, 2022**

SEBI vide its notification dated December 09, 2022 amended the Securities and Exchange Board of India (Procedure for Board Meetings) Regulations, 2001. These Regulations may be called the Securities and Exchange Board of India (Procedure for Board Meetings) (Amendment) Regulations, 2022. They shall come into force on such date as the Board may by notification in the Official Gazette. into force on such date as the Board may by notification in the Official Gazette.

publication in the Official Gazette.

Sr. No.	Part/Regulation/ Chapter/Section/ Sub-section(s)	Under Old Regulation	Under New Regulation	Comment
1.	In regulation 4, the following Proviso shall be inserted - “Provided that a Member who intends to participate in a meeting through video conferencing or any other audio visual means, shall communicate the same, sufficiently in advance to the Chairperson or the Secretary of the Board and in such	4. Place and time of meetings Meetings of the Board shall be held at such times and places in India as may be specified in the notice convening the meeting.	4. Place and time of meetings Meetings of the Board shall be held at such times and places in India as may be specified in the notice convening the meeting. “Provided that a Member who intends to participate in a meeting through video conferencing or any other audio visual means, shall communicate the same, sufficiently in advance to the Chairperson or the	With this amendment, a requirement has been furnished on Member who intends to attend meeting through video conferencing or any other audio visual means to communicate to the Chairperson or the Secretary of the Board in advance.

Sr. No.	Part/Regulation/Chapter/Section/ Sub-section(s)	Under Old Regulation	Under New Regulation	Comment
	<p>case, the procedure as specified in Schedule I to the SEBI</p> <p>(Procedure for Board Meetings) Regulations, 2001 shall be followed”</p>		<p>Secretary of the Board and in such case, the procedure as specified in Schedule I to the SEBI (Procedure for Board Meetings) Regulations, 2001 shall be followed”</p>	
2.	<p>In regulation 11,</p> <p>the word “Schedule” shall be substituted with the words and symbols “Schedule-II”</p> <p>The existing “Schedule” shall be renumbered as “Schedule II”.</p>	<p>11. Declaration of fidelity</p> <p>Every member, before entering upon his duties, shall sign a declaration of fidelity and secrecy in the form set out in the Schedule pledging himself to observe strict secrecy in relation to all transactions of the Board and all matters relating thereto and shall be by declaration pledge himself not to reveal any of the matters/information which may</p>	<p>11. Declaration of fidelity</p> <p>Every member, before entering upon his duties, shall sign a declaration of fidelity and secrecy in the form set out in the Schedule “Schedule-II” pledging himself to observe strict secrecy in relation to all transactions of the Board and all matters relating thereto and shall be by declaration pledge himself not to reveal any of the matters/informa</p>	<p>Due to insertion of new Schedule, the existing “Schedule” on Declaration of Fidelity and Secrecy shall be renumbered as “Schedule II”.</p>

Sr. No.	Part/Regulation/Chapter/Section/ Sub-section(s)	Under Old Regulation	Under New Regulation	Comment
		come to his knowledge in the discharge of his duties except when required or authorised to do so by the Board or by Law.	tion which may come to his knowledge in the discharge of his duties except when required or authorised to do so by the Board or by Law.	

After regulation 15, following Schedule shall be inserted -
<p>“Schedule - I [See Regulation 4] Procedure for allowing Members to participate in Board meetings through video conferencing or other audio visual means</p>
<p>I. A Member may participate in the meeting through video conferencing or other audio-visual means, pursuant to communicating his intention sufficiently in advance to the Chairperson or Secretary to the Board to that effect so that suitable arrangements can be made.</p> <p>In the absence of any intimation, it shall be assumed that the Member will be attending the meeting in person.</p> <p>II. On receipt of intimation from the Member, the Board shall make necessary arrangements of video conferencing or other audio visual means to enable such Member to attend the meeting through video conferencing or other audio visual means.</p> <p>III. A Member participating in a meeting through video conferencing or other audio visual means shall be counted for the purpose of quorum. A Member attending meeting through video conferencing or any other audio visual means, shall be vested with same rights and obligations as applicable in case of attending meeting in person.</p> <p>IV. Attendance of the Members participated through video conferencing or other audio visual means shall be recorded in the attendance register as “Participated through video conferencing” and the attendance register shall be deemed to have been signed by such Members.</p> <p>V. Minutes of the meeting shall disclose the particulars of the Members who attended the meeting through video conferencing or any other audio visual means.</p>

VI. Members participating through video conferencing or any other audio visual means shall participate through the video conferencing link for the meeting provided by the Board and may ensure that due care is taken:

- a) To safeguard the integrity of the meeting by ensuring sufficient security and identification procedures to join the meeting;
- b) To ensure that no unauthorized person has access to the meeting link during the meeting;
- c) To ensure that they are able to hear and see the other participants clearly during the course of the meeting.”

Summary:

A Member may intimate in advance for participation in meeting through video conferencing to Chairperson or Secretary to the Board and Board shall make necessary arrangements for the same.

A Member participating in a meeting through video conferencing shall be counted for the purpose of quorum and shall have same rights and obligations.

Attendance of the Members participated through video conferencing shall be recorded in the attendance register as “Participated through video conferencing”.

Minutes of the meeting shall disclose the particulars of the Members who attended the meeting through video conferencing or any other audio visual means.

GO UP

4. **SEBI Clarification - Scheme(s) of Arrangement by entities who have listed their Non-convertible Debt securities (NCDs) / Non-convertible Redeemable Preference shares (NCRPS) ('debt listed entities') - December 09, 2022**

SEBI, vide its circular dated December 09, 2022 came out with a clarification - Scheme(s) of Arrangement by entities who have listed their Non-convertible Debt securities (NCDs)/Non-convertible Redeemable Preference shares (NCRPS) ('debt listed entities').

This is in reference to Circular dated November 17, 2022 on “Scheme(s) of Arrangement by entities who have listed their Non-convertible Debt securities (NCDs)/ Non-convertible Redeemable Preference shares (NCRPS)”

In this regard, it is clarified that the provisions of the aforementioned circular shall not apply to a Scheme of Arrangement which solely provides for an arrangement between a debt listed entity and its unlisted

wholly owned subsidiary. However, such debt listed entity shall file the draft Scheme of Arrangement with Stock Exchange(s) for the purpose of disclosure and the Stock Exchange(s) shall disseminate the scheme documents on their websites.

Further, Chapter XII of the LODR Operational Circular dated July 29, 2022 will accordingly stand modified.

This Circular is applicable to all entities who have listed their Non-convertible Debt securities/Non-convertible Redeemable Preference shares and all the Recognized Stock Exchanges.

Link to the Circular:

<https://www.sebi.gov.in/legal/circulars/dec-2022/clarification-scheme-s-of-arrangement-by-entities-who-have-listed-their-non-convertible-debt-securities-ncds-non-convertible-redeemable-preference-shares-ncrps-debt-listed-entities-66037.html>

GO UP

5. SEBI Circular on Foreign investment in Alternative Investment Funds (AIFs) - December 09, 2022

SEBI, vide its circular dated December 09, 2022 came out with requirements which the manager of an AIF shall ensure at the time of on-boarding investor.

It is to be noted that this circular is in reference of Regulation 10(a) of SEBI (Alternative Investment Funds) Regulations, 2012 ('AIF Regulations'), AIFs may raise funds from any investor whether Indian, foreign or non-resident Indians, by way of issue of units.

2.1. At the time of on-boarding investors, the manager of an AIF shall ensure the following:

(a) Foreign investor of the AIF is a resident of the country **whose securities market regulator is a signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding (Appendix A Signatory) or a signatory to the bilateral Memorandum of Understanding with SEBI.**

For the purpose of the aforesaid clause, "Bilateral Memorandum of Understanding with SEBI" shall mean a bilateral Memorandum of Understanding between SEBI and any authority outside India that provides for information sharing arrangement as specified under clause (ib) of sub-section (2) of Section 11 of the Securities and Exchange Board of India Act, 1992.

AIFs may accept commitment from an investor being Government or Government related investor, who does not meet the aforesaid condition, if the

investor is a resident in the country as may be approved by the Government of India.

(b) The investor, or its underlying investors contributing twenty-five percent or more in the corpus of the investor or identified on the basis of control, **is not the person(s) mentioned in the Sanctions List notified from time to time by the United Nations Security Council and is not a resident in the country identified in the public statement of Financial Action Task Force** as–

(i) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or

(ii) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies.

For the purpose of the aforesaid clause, “control” includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of shareholding or management rights or shareholders agreements or voting agreements or in any other manner.

2.2. In case an investor who has been on-boarded to scheme of an AIF, **subsequently does not meet the conditions specified at clause 2.1 above, the manager of the AIF shall not drawdown any further capital contribution from such investor for making investment**, until the investor again meets the said conditions. The same shall also apply to investors already on-boarded to existing schemes of AIFs, who do not meet conditions specified at clause 2.1 above.

This Circular shall come into force with immediate effect and is applicable to all Alternative Investment Funds.

[Link to the Circular:](#)

https://www.sebi.gov.in/legal/circulars/dec-2022/foreign-investment-in-alternative-investment-funds-aifs-_66045.html

GO UP

6. **SEBI circular on Performance Benchmarking and Reporting of Performance by Portfolio Managers – December 16, 2022**

SEBI, vide its circular dated December 16, 2022 came out with guidelines for portfolio managers pertaining to performance benchmarking and reporting of performance. It is to be noted that SEBI, vide circulars SEBI/HO/IMD/DF1/CIR/P/2020/26 dated February 13, 2020 and SEBI/HO/IMD/DF1/CIR/P/2021/02 dated January 8, 2021, specified various modalities related to Portfolio Managers including, inter-alia, reporting of performance/periodic reporting by Portfolio Managers.

SEBI in the circular added that the applicable requirements related to performance reporting and benchmarking by Portfolio Managers has been reviewed in order to help investors in assessing the performance of a Portfolio Manager.

Performance Benchmarking

2.1. An investment approach ('IA') is the documented investment philosophy to be adopted by the Portfolio Managers while managing the client funds in order to achieve client's investment objectives. Now, in addition to IA, an additional layer of broadly defined investment themes called "Strategies" shall be adopted by Portfolio Managers. These broad Strategies shall be 'Equity', 'Debt', 'Hybrid' and 'Multi Asset'.

2.2. Each IA shall be tagged to one and only one Strategy from the Strategies as above. This tagging shall be at the discretion of the concerned Portfolio Manager. A Portfolio Manager may tag more than one IA to a Strategy, but each IA must be tagged to only one Strategy.

2.3. APMI shall prescribe a maximum of three benchmarks for each Strategy. These benchmarks shall reflect the core philosophy of the Strategy. While tagging an IA to a particular Strategy, the Portfolio Manager shall select one benchmark from those prescribed for that Strategy to enable the investor to evaluate relative performance of the Portfolio Managers.

2.4. The Board of the Portfolio Managers shall be responsible for ensuring appropriate selection of Strategy and benchmark for each IA.

2.5. Once an IA is tagged to a Strategy and/or to a benchmark, the tagging shall be changed only after offering an option to subscribers to the IA to exit without any exit load. The performance track record (of the specific IA whose tagging with Strategy/ benchmark was changed) prior to the change shall not be used by the Portfolio Manager for performance reporting. Further, the same shall be verified as part of annual audit under Regulation 30 of the Securities and Exchange Board of India (Portfolio Managers) Regulations, 2020 ('PM Regulations').

2.6. The changes in Strategy and/ or benchmark shall be recorded with proper justification and shall be verified as part of the annual audit under Regulation 30 of the PM Regulations.

Summary:

SEBI asked Portfolio Managers to adopt an additional layer of broadly defined investment themes called “Strategies”. These broad Strategies shall be ‘Equity’, ‘Debt’, ‘Hybrid’ and ‘Multi Asset’.

Each IA shall be tagged to one and only one Strategy.

The Association of Portfolio Managers in India (APMI) would prescribe a maximum of three benchmarks for each strategy. These benchmarks would reflect the core philosophy of the strategy.

Further, the board of the portfolio managers would be responsible for ensuring appropriate selection of strategy and benchmark for each IA.

Once an IA is tagged to a strategy or a benchmark, the tagging can be changed only after offering an option to subscribers to the IA to exit without any exit load. The performance track record prior to the change would not be used by the portfolio manager for performance reporting.

The changes in strategy and benchmark would be recorded.

Valuation of Securities by Portfolio Managers

2.7. APMI shall prescribe standardized valuation norms for Portfolio Managers same as the corresponding norms applicable to the Mutual Funds. Valuation of the portfolio debt and money market securities by portfolio managers shall be carried out in accordance with these standardized valuation norms prescribed by APMI.

2.8. APMI shall empanel valuation agencies for the purpose of providing security level prices to Portfolio Managers. Portfolio Managers shall mandatorily use valuation services obtained only from one or more of such empanelled valuation agencies for the purpose of valuation of debt and money market securities in portfolios managed by them. The ultimate responsibility for fair valuation shall be that of the Portfolio Manager.

Summary:

SEBI asked APMI to prescribe standardised valuation norms for portfolio managers, same as the corresponding norms applicable to the mutual funds. Further, valuation of the portfolio debt and money market securities by portfolio managers would be carried out in accordance with the standardised valuation norms prescribed by APMI.

APMI would empanel valuation agencies for the purpose of providing security level prices to portfolio managers.

Portfolio managers would mandatorily use valuation services obtained from such empanelled agencies for the purpose of valuation of debt and money market securities in portfolios managed by them.

Reporting of Performance

2.9. Portfolio Manager shall present the Time-weighted Rate of Return ('TWRR') of the IA along with the trailing return of the selected benchmark when communicating/advertising/publishing/mentioning performance of an IA.

2.10. Portfolio Manager shall present the Extended Internal Rate of Return ('XIRR') for each IA the investor invests in when reporting performance to an investor. This shall be accompanied by the minimum, maximum and median XIRR return generated across all investors in each of the IA the investor has invested in. The TWRR of the respective IA(s) and the trailing return of the benchmark(s) selected shall also be presented separately. Following disclaimer must accompany this disclosure:

"Please note that performance of your portfolio may vary from that of other investors and that generated by the Investment Approach across all investors because of

- 1) the timing of inflows and outflows of funds; and
- 2) differences in the portfolio composition because of restrictions and other constraints."

2.11. The following shall not be mentioned or implied in performance reporting or in any other communication in any form by the Portfolio Managers:

2.11.1. Any other categorization/classification of IAs, except for the Strategy that they are tagged to.

2.11.2. Model Portfolio returns

2.11.3. The performance of one or more cherry-picked investor(s) However, aggregated performance statistics of all investors in an IA may be used by a Portfolio Manager for aggregated performance reporting.

2.12. Formats placed at Annexure -1 of this Circular shall replace format at Section E "Performance Data" in Annexure-A of SEBI Circular no. SEBI/HO/IMD/DF1/CIR/P/2021/02 dated January 8, 2021.

2.13. Portfolio Manager shall disclose relative performance of its investment approach in all the marketing material where performance of the concerned investment approach is being presented. Such disclosure of relative performance shall, at minimum, include the following:

2.13.1. Performance relative to the selected benchmark

2.13.2. Performance relative to other Portfolio Managers within the selected Strategy

2.14. Verification of all the above performance statistics shall be carried out in the annual audit under Regulation 30 of the PM Regulations.

2.15. Portfolio Managers shall also submit the monthly reports to APMI in addition to SEBI within 7 working days from the end of each month. APMI shall make available the monthly reports of the Portfolio Managers on APMI website in an intuitive and user-friendly manner facilitating ease of comparison so as to provide access to portfolio level, investment approach level, portfolio manager level and industry level information to all the stakeholders. APMI shall also make available relative performance of each investment approach within the strategy to concerned portfolio manager and also disclose the same on its website.

Summary:

Portfolio manager will present the time-weighted rate of return (TWRR) of the IA along with the trailing return of the selected benchmark when advertising or publishing performance of an IA.

The portfolio manager would disclose relative performance of its investment approach in all the marketing material where performance of the concerned investment approach is being presented. Such disclosure of relative performance would include the performance relative to the selected benchmark as well as performance relative to other portfolio managers within the selected strategy.

In addition to SEBI, Portfolio managers would submit the monthly reports to APMI within 7 working days from the end of each month. APMI would make available the monthly reports of the portfolio managers on its website in a user-friendly manner facilitating ease of comparison so as to provide access to portfolio level, investment approach level, portfolio manager level and industry level information to all the stakeholders.

Further, APMI would also make available relative performance of each investment approach within the strategy to concerned portfolio manager and also disclose the same on its website.

3. Applicability:

3.1. The provisions of this Circular shall be applicable with effect from April 01, 2023.

3.2. The provisions of para 2.9 to 2.15 of this Circular shall be applicable to any entity reporting/ publishing / advertising performance of any IA of any Portfolio Manager. All other provisions of this Circular shall be applicable to the Portfolio Managers.

3.3. Portfolios of investors/ clients of Portfolio Manager shall not be covered under the circular if,

3.3.1. Investors are governed by separate statutes like Provident Funds (Employees' Provident Fund Organization, Coal Mines Provident Fund Organization, Exempted Provident Fund Trusts), Employee State Insurance Corporation, Postal Life Insurance, etc.

3.3.2. The non-individual Investors are regulated by RBI, IRDA & PFRDA for whom specific valuation and/or benchmarking norms have been specified by the concerned regulator(s). subject to verification of compliance with the above conditions in the annual audit under Regulation 30 of the PM Regulations.

3.4. Portfolio Managers shall not advertise/ publish/ mention to any entity other than those belonging to the investor category to which said IA is offered the returns of the IAs where exception as above has been exercised. Portfolio Managers may, however, include the assets managed in such IAs in their total AUM when communicating publicly as well as in regulatory reporting.

4. All other requirements of the Circulars dated January 8,2021 and February 13, 2020 shall remain unchanged.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/dec-2022/performance-benchmarking-and-reporting-of-performance-by-portfolio-managers_66256.html

GO UP

7. **SEBI circular on Framework for Orderly Winding Down of Critical Operations and Services of a Clearing Corporation- December 16, 2022**

SEBI, vide its circular dated December 16, 2022 decided that the CCs shall have a policy framework for orderly winding down of their critical operations and services.

In order to enable the Clearing Corporations (CCs) to have a framework for orderly winding down of critical operations and services, Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 (SECC Regulations, 2018) have been amended vide Gazette Notification No. SEBI/LAD-NRO/GN/2022/104 dated November 15, 2022.

1. Identification of Potential Scenarios

The scenarios which may potentially prevent a CC from being able to provide its critical operations and services as a going concern and may lead to wind down of its critical operations and services, shall be identified. Some of the reasons for winding down of CC can be:

1.1. Voluntary: The CC is solvent and is able to meet all its obligations towards Clearing Members (CMs) as well as other creditors; however, wishes to wind down its critical operations and services and exit as a strategic or business decision.

1.2. Involuntary: The winding down of critical operations and services on involuntary basis maybe due to various factors including but not limited to the following:

1.2.1. Losses due to default by CM(s): The default management resources maintained by the CC may get exhausted due to default by CM(s), and, consequently, the CC fails to fulfil its obligations towards CM(s) and/or its constituents.

1.2.2. Losses due to other factors: There is no CM default and the settlements have been happening in a timely manner; however, the solvency of a CC may get adversely affected as a result of some large operational expenses, legal expenses, business or investment losses, etc. thereby rendering a CC unable in fulfilling its obligations to CM(s), its constituents and/ or other creditors.

1.2.3. Regulatory Actions: Directions to a CC to wind down its critical operations and services by SEBI or any other statutory authority under applicable laws. SEBI may direct a CC to wind down its critical operations and services including but not limited to the following scenarios:

i. A CC shall be required to continuously meet the annual clearing turnover, aggregated across segments, including by way of interoperability, of at least INR 1,000 Cr. per annum or any other amount as may be specified by SEBI from time to time. In case the

CC fails to meet the aforesaid requirement for two consecutive years, it shall be liable to exit and accordingly, apply for orderly winding down of its critical operations and services. Provided that the above threshold condition shall not be applicable to a CC for a period of 5 years from the date of grant of recognition. In case where the CC does not apply for voluntary winding down of critical operations and services, pursuant to breaching the minimum turnover threshold as mentioned above, SEBI may proceed with compulsory de-recognition of such CC under applicable laws.

ii. SEBI may also direct a CC to wind down its critical operations and services in case of non-compliance of either the conditions of grant of recognition or renewal, wherever applicable; or any other condition under the applicable laws.

Summary:

Under the framework, CCs will have to draw up a Standard Operating Procedure (SOP) outlining the manner in which their critical services would be carried out in an orderly manner so as to not cause any disruption to the financial system, upon triggering of any of voluntary or involuntary winding down of operations.

SEBI in the circular said that the reasons for winding down of CC can be voluntary or involuntary.

Involuntary winding down would depend on factors such as regulatory action, losses due to default by clearing member and losses due to other factors like some large operational expenses, legal expense or investment losses.

As per the regulatory requirements, a CC would be required to continuously meet the annual clearing turnover of at least Rs 1,000 crore per annum.

In case the CC fails to meet the requirement for two consecutive years, it will be liable to exit and accordingly, apply for orderly winding down of its critical operations and services.

The threshold condition would not be applicable to a CC for a period of 5 years from the date of grant of recognition.

In case where the CC does not apply for voluntary winding down after breaching the minimum turnover threshold, Sebi may proceed with compulsory derecognition of such CC under applicable laws.

SEBI has asked CCs to make the policy framework containing the SOP duly approved by their governing boards and make it available on their websites within 90 days.

2. Identification of Critical Operations and Services of CCs

2.1. To identify the operations and services which may be classified as critical, CCs shall, inter alia, consider their risk profile, operations, organizational structure, financial resources, business practices, interconnectedness and interdependencies, and any other relevant factor as deemed appropriate. As timely clearing and settlement of trades is a core function of CCs, the operations and services such as collateral management, risk management, clearing and settlement, etc. shall be deemed to be critical.

2.2. Further, the contractual obligations of CCs with CMs, Stock Exchanges, Depositories and other CCs, arising out of clearing and settlement of trades, shall necessarily be classified as critical or essential.

Summary:

To identify the operations and services which may be classified as critical, CC would have to consider their risk profile, operations, organisational structure, financial resources, business practices, interconnectedness and interdependencies.

Further, the contractual obligations of CCs with clearing members, stock exchanges, depositories and other CCs, arising out of clearing and settlement of trades, would necessarily be classified as critical.

3. Standard Operating Procedure (SOP)

3.1. The policy framework of CCs shall contain a Standard Operating Procedure (SOP) duly approved by their governing board, inter alia, outlining the manner in which the critical operations and services of the CCs shall be carried out in an orderly manner so as to not cause any disruption to the financial system, upon triggering of any of the scenarios as mentioned at paragraphs 1.1 and 1.2 above. A notice or intimation regarding winding down of critical operations and services shall be issued by the CC as and when the scenarios get triggered, with prior approval of SEBI.

3.2. The SOP shall, inter alia, include details of infrastructure and premises, technological systems including back-up, outsourcing activities/ vendors/ service providers, etc. which would need to be retained or continued for orderly winding down of critical operations and services. The SOP shall also contain details of key employees or staff members, along with their roles and obligations, etc., who shall be retained and responsible for development, review, and ongoing monitoring etc. of the critical operations and services, once the process of orderly winding down of critical operations and services is initiated.

3.3. The CCs shall include the operational modalities relating to transfer or close-out of positions, collateral, etc. in detail considering interoperable or non-interoperable scenarios as applicable, while

framing their policy for orderly winding down of critical operations and services. Broad guidelines in this regard are as under:

3.3.1. Voluntary Winding Down- Voluntary winding down of a CC shall be approved by the governing board, its shareholders and SEBI. The CC shall inform the members and the market regarding its decision to wind down voluntarily and shall also mention a sufficient notice period (at least six months) for such winding down, after prior approval of SEBI, so as not to have a significant impact in financial system. Since the CC shall be solvent, it shall have the choice of continuing full range of operations or providing only critical services during the notice period. However, the CC shall continue to provide at least the critical services during the notice period. Once the winding down process is initiated, any open positions of the CMs and/or its constituents at the exiting CC shall have to be transferred to the new CC where the CMs become member within the notice period. Any open positions within the notice period that could not be transferred shall be closed-out at the daily settlement price and in terms of the provisions of the Rules, Bye-laws and Regulations of the exiting CC.

3.3.2. Involuntary Winding down (due to default by CM(s) or due to other factors) - The procedure for winding down shall be as follows:

- i. The CC shall announce a termination date, with prior approval of SEBI.
- ii. The CMs who have open positions may change their designated CC, or close-out their open positions.
- iii. All open positions, if any, shall expire at the daily settlement prices of the termination date.

3.3.3. Involuntary Winding down due to regulatory action- In this case, SEBI on case to case basis may issue appropriate directions for winding down.

Summary:

Further, the contractual obligations of CCs with clearing members, stock exchanges, depositories and other CCs, arising out of clearing and settlement of trades, would necessarily be classified as critical.

With regard to SOP, the regulator said an intimation regarding winding down needs to be issued by the CC as and when the scenarios get triggered, with prior approval of Sebi.

The SOP shall include details of infrastructure and premises, technological systems including back-up and outsourcing activities which would need to be retained or continued for orderly winding down of critical operations and services.

It would also contain details of key employees, along with their roles and obligations, who would be retained and responsible for development and ongoing monitoring of the critical operations and services, once the

process of orderly winding down of cri critical operations and services is initiated.

4. The provisions of SECC Regulations, 2018 and various circulars and guidelines issued thereunder, shall continue to apply during the entire period of winding down of critical operations and services of CCs. This shall be mentioned in the policy framework of CCs. The framework shall be

- (i) periodically reviewed, at least on an annual basis, and
- (ii) published or disclosed on the website of the CC (excluding any confidential details).

5. Return of Assets

5.1. The exiting CC shall be permitted to distribute its assets subject to conditions as laid down in its framework, guidelines issued by SEBI from time to time, or any other direction issued by SEBI or any other statutory authority.

5.2. For the purpose of valuation of the assets of the CC, a valuation agency may be appointed by SEBI.

5.3. The quantum of assets available for distribution shall be arrived at after payment of statutory dues, including applicable taxes; contribution to SEBI as specified in para 5.4 and 5.5 below, return of refundable collateral and membership deposits of CMs, return of deposits to warehouse service providers, if any, and the unutilized Core SGF contributions of CMs and Stock Exchanges, as the case may be, depending upon the scenario triggering winding down of critical operations and services.

5.4. Subsequent to exit, the CC shall also be required to contribute upto 20% of its assets (after applicable taxes) towards SEBI Investor Protection and Education Fund (IPEF) in order to provide for settlement of any claims pertaining to pending arbitration cases, unresolved complaints or grievances lying with the CC, etc. The contribution percentage may be decided by SEBI taking into account relevant factors such as the governance standards of the CC, estimation of future liabilities, etc.

5.5. The CC shall pay following dues to SEBI:

- i. The dues outstanding to SEBI;
- ii. The outstanding fees of CMs of such exiting CC till the date of such exit:

In this regard, the CC shall recover the dues of the CMs to SEBI out of the CMs' own deposits/ capital/ share of sale proceeds/ winding down proceeds of CC, etc. available with the CC. The CC shall be liable to make good any shortfall in collection of dues of CMs to SEBI.

5.6. Penalties collected from CM(s), issuer(s) contribution in case of Limited Purpose Clearing Corporation (LPCC), and interest on these components, forming part of Core SGF shall be used by the CC in a manner as specified by SEBI from time to time.

5.7. An exiting CC shall not alienate any assets without taking prior approval of SEBI.

Summary:

The CCs would include the operational modalities relating to transfer or close-out of positions and collateral in detail considering interoperable or non-interoperable scenarios as applicable, while framing their policy for orderly winding down of critical operations and services.

SEBI said that quantum of assets available for distribution would be arrived at after payment of statutory dues, including applicable taxes and contribution to the regulator, return of refundable collateral and membership deposits of clearing members (CMs), return of deposits to warehouse service providers, if any, and the unutilised Core SGF contributions of CMs and stock exchanges.

Subsequent to exit, the CC would also be required to contribute up to 20 per cent of its assets towards Sebi Investor Protection and Education Fund (IPEF) in order to provide for settlement of any claims pertaining to pending arbitration cases, unresolved complaints or grievances lying with the CC.

6. Financial Resources

6.1. Regulation 14(3)(b) of SECC Regulations, 2018 stipulates that every CC shall hold additional capital to cover costs required for orderly winding down or recovery of operations. Further, SEBI vide circular dated April 10, 2019 has, inter alia, stipulated that while computing the capital requirements for winding down, a CC shall consider a minimum time span of six months for ensuring an orderly winding down or restructuring of its activities and thus, hold liquid net assets equal to at least six months of gross operational expenses.

6.2. As the instant policy proposal is intended to serve the purpose as envisaged under the above mentioned regulatory provisions, the said capital requirements for CCs shall be required to be maintained at all times, and shall be used for carrying out critical operations and services of the CCs, once the process of orderly winding down of critical operations and services is initiated.

7. Oversight

The Regulatory Oversight Committee (ROC) of the CC shall oversee the implementation of steps or processes involved in orderly winding down of critical operations and services of the CC and shall submit a report to SEBI after approval from the governing board, in a manner as may be specified by SEBI, upon completion of necessary steps or processes.

Summary:

The regulatory oversight committee (ROC) of the CC would oversee the implementation of processes involved in orderly winding down of critical operations and services and would submit a report to Sebi.

8. Directions to be issued by SEBI

Appropriate directions by SEBI shall be issued to CCs for orderly winding down of their critical operations and services.

C. Obligations of Exchange(s) and Clearing Member(s)

1. For non-interoperable segments, if the exchange (whose trades are cleared by the exiting CC) intends to continue to offer trading in the concerned segment(s), then it shall engage with another clearing corporation within the notice period.
2. For both non-interoperable and interoperable segments, the CMs of exiting CC shall have to become members of new or another CC within the notice period. Alternatively, such CMs may close-out their open positions within the notice period.

D. Modification to SEBI circular on Core-SGF dated August 27, 2014

1. With regard to paragraph 6.1 above, it may be noted that the existing regulatory provision in SEBI circular No. SEBI/HO/MRD/DRMNP/CIR/P/2019/55 dated April 10, 2019, stipulates that while computing the capital requirements for winding down, a CC shall consider a minimum time span of six months for ensuring an orderly winding down or restructuring of its activities and thus, hold liquid net assets equal to at least six months of gross operational expenses.

2. Since the abovementioned capital requirement for carrying out winding down in an orderly manner shall be maintained by CCs at all times, clause V of paragraph 16 of SEBI circular No. CIR/MRD/DRMNP/25/2014 dated August 27, 2014 read with SEBI circular No. SEBI/HO/MRD2/DCAP/CIR/P/2020/01 dated January 03, 2020, on "Default Waterfall" of CCs has been modified as follows:

"Default waterfall

16. The default waterfall of CC for any segment shall generally follow the following order:

I.....

V. Proportion of remaining CC resources (excluding CC contribution to core SGFs of other segments and higher of INR 100 Crore or the capital requirement towards orderly winding down of critical operations and services) equal to ratio of segment MRC to sum of MRCs of all segments.*"

3. Similarly, clause VI of paragraph 16A of SEBI circular No. CIR/MRD/DRMNP/25/2014 dated August 27, 2014, read with SEBI circulars bearing No. SEBI/HO/MRD2/DCAP/CIR/P/2020/01 dated January 03, 2020 and No. SEBI/HO/MRD2/DCAP/CIR/P/2020/245 dated December 21, 2020, pertaining to "Default Waterfall of LPCC" has been modified as follows:

"Default waterfall of LPCC

16A) The default waterfall of CC shall generally follow the following order

-

I.....

VI. Remaining LPCC resources (excluding higher of INR 100 Crore or the capital requirement towards orderly winding down of critical operations and services). *"

Summary:

It will have to hold liquid net assets equal to at least six months of gross operational expenses for an orderly winding.

E. Applicability:

The CCs shall have the policy framework containing the SOP duly approved by their governing boards and make it available on their websites within 90 days from the date of issuance of this circular.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/dec-2022/framework-for-orderly-winding-down-of-critical-operations-and-services-of-a-clearing-corporation_66268.html

GO UP

8. **SEBI circular on applicability of SEBI circular on Principles of Financial Market Infrastructures (PFMIs) to AMC Repo Clearing Limited - December 16, 2022**

SEBI, vide its circular dated December 16, 2022 said rules pertaining to "Principles of Financial Market Infrastructures" will apply to AMC Repo Clearing Limited.

This mandates clearing corporations and depositories to comply with the Principles of Financial Market Infrastructures (PFMIs) published by the committee on payments and settlement systems and the International Organization of Securities Commissions (IOSCO).

This came after SEBI in January this year granted recognition to AMC Repo Clearing Limited as a clearing corporation for the purpose of clearing and settling transactions in repo and reverse repo in the debt securities that are traded on a stock exchange.

Further it is to be noted that in October 2020, SEBI allowed setting up of a Limited Purpose Clearing Corporation for clearing and settlement of repo transactions in debt securities.

This circular is applicable to all Recognized Clearing Corporations and Depositories.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/dec-2022/applicability-of-sebi-circular-on-principles-of-financial-market-infrastructures-pfmis-to-amc-repo-clearing-limited_66269.html

GO UP

9. **SEBI Clarification - SEBI circular dated August 04, 2022 on enhanced guidelines for debenture trustees and listed issuer companies on security creation and initial due diligence - December 19, 2022**

SEBI, vide its circular dated December 19, 2022 came out with a clarification pertaining to SEBI circular dated August 04, 2022 on enhanced guidelines for debenture trustees and listed issuer companies on security creation and initial due diligence.

SEBI in the circular added that, Representations have been received from Depositories and market participants seeking clarifications with respect to para A.3 and para A.4.6 of the aforementioned circular, on whether a new ISIN is to be allocated pursuant to:

- i. a change in underlying security;
- ii. creation of additional security; or
- iii. creation of security in case of unsecured debt securities

para A.3:

Regulation 59 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) provides for a change in terms of listed non-convertible debt securities.

A change in the structure of non-convertible debt securities, inter-alia, may include:

- *A change in security,*
- *Creation of additional security in case of already secured debt securities or*
- *Creation of security in case of unsecured debt securities.*

para A.4.6:

The Depository shall assign a new ISIN to the non-convertible debt securities pursuant to submission of documents mentioned above only and shall share the information with respect to change in ISIN of debt securities, with the recognized Stock Exchanges.

In this regard, SEBI clarified that, none of the above cases would constitute a change in the structure of the non-convertible debt securities, provided there are no other changes to the terms/ nature of issue of the non-convertible debt securities like maturity date, coupon rate, face value, redemption schedule, nature of the non-convertible debt securities (secured/unsecured) etc. Accordingly, Depository shall not assign a new ISIN in such cases. However, where there is a change in the underlying security, the debenture trustee shall ensure compliance with the provisions of Regulation 15(1)(i) of SEBI (Debenture Trustees) Regulations, 1993.

This Circular is applicable to all Issuers who have listed and/ or propose to list Non-Convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities or Commercial Paper; All Recognized Stock Exchanges; All Depositories; All Debenture Trustees registered with SEBI; All Credit Rating Agencies registered with SEBI.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/dec-2022/clarification-to-sebi-circular-dated-august-04-2022-on-enhanced-guidelines-for-debenture-trustees-and-listed-issuer-companies-on-security-creation-and-initial-due-diligence_66367.html

GO UP

10. **SEBI Master Circular for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors - December 19, 2022**

SEBI, vide its master circular dated December 19, 2022 superseded its master circular dated November 05, 2019 on Operational guidelines for FPIs, DDPs and Eligible Foreign Investors under the Securities and Exchange Board of India (Foreign Portfolio Investors), Regulations 2019. The circulars mentioned in Annexure A of the Master Circular shall stand rescinded with the issuance of this Master Circular. With respect to the directions or other guidance issued by SEBI, as specifically applicable to FPIs, shall continue to remain in force in addition to the provisions of any other law for the time being in force. Terms not defined in this Master Circular shall have the same meaning as provided under the Regulations.

SEBI in the circular added that, Notwithstanding such rescission,

- a. anything done or any action taken or purported to have been done or taken including registration or approval granted, fees collected, registration or approval, suspended or cancelled, any adjudication, enquiry or investigation commenced or show-cause notice issued under the rescinded circulars, prior to such rescission, shall be deemed to have been done or taken under the corresponding provisions of this Master Circular;
- b. any application made to the Board under the rescinded circulars, prior to such rescission, and pending before it shall be deemed to have been made under the corresponding provisions of this Master Circular;
- c. the previous operation of the rescinded circulars or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the rescinded circulars, any penalty, incurred in respect of any violation committed against the rescinded circulars, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty as aforesaid, shall remain unaffected as if the rescinded circulars have never been rescinded;

This operational circular is applicable to all Foreign Portfolio Investors ("FPIs"), Designated Depository Participants ("DDPs") and Custodians, Depositories, all recognized Stock Exchanges and Clearing Corporations including those in International Financial Services Centre.

Link to the Master Circular:

https://www.sebi.gov.in/legal/master-circulars/dec-2022/master-circular-for-foreign-portfolio-investors-designated-depository-participants-and-eligible-foreign-investors_66356.html

GO UP

11. **SEBI circular on Introduction of Investor Risk Reduction Access (IRRA) platform in case of disruption of trading services provided by the Trading Member (TM)- December 30, 2022**

SEBI, vide its circular dated December 30, 2022 asked Stock Exchanges and clearing corporations to set up Investor Risk Reduction Access platform to help investors in instances of glitches in trading members' systems, disruption of trading services and investor complaints.

Development of the service

SEBI in the Circular said that after extensive consultations with Stock Exchanges, Clearing Corporations and TMs, it has decided to introduce Investor Risk Reduction Access (IRRA) platform to provide the investors an opportunity to square off/close the open positions and/or cancel pending orders in case of disruption of trading services provided by the Trading Member. The IRRA service shall support multiple segments across multiple exchanges.

Enablement of IRRA service:

TMs, upon facing technical glitches which lead to disruption of trading services, can request for enablement of the IRRA service as per the procedures specified by the stock exchanges.

In addition, stock exchanges shall also monitor the parameters like connectivity, order flow, social media posts etc. and suo moto initiate the enablement of the service.

This service shall be enabled by the exchanges, suo moto, only in case of disruption of trading services of TM across all the exchanges, where the TM is member.

Access to Investors:

Once the service is enabled, all the investors of the TM shall be informed by the exchange of the availability of the service through email/SMS and a public notice on exchanges' website.

Investors can login to the service using either the Unique Client Code (UCC) or the PAN number and they shall be authorized by a One Time Password (OTP) to be sent to their registered mobile numbers and email ids.

Actions on IRRA service:

Once successfully authorized, the investors can-

Square off/close the open positions across segments and exchange/s and/or.

Cancel the orders across segments which are pending at the exchange/s.

The IRRA service shall not permit any action that increases the risk of the investor.

Further, IRRA service shall also provide the TM with access to an Admin Terminal, through which the TM can monitor the actions of investors and also carry out the actions as mentioned at clause 3.8 above, on instructions of investors. The TM shall maintain evidence of such instructions. The form of such evidence shall be as specified by SEBI/stock exchanges, through various circulars, from time to time.

In case of enablement of IRRA due to cyber-attacks, such Admin Terminal shall be on a network other than the network, which was subjected to the attack, to protect the other critical infrastructure.

The TM shall continue to be responsible for all the activities on the IRRA with respect to all obligations including settlement and margin requirements.

Reverse Migration to the TM's systems:

Stock exchanges shall design a detailed framework for reverse migration from IRRA system to the TM's trading system, as and when the TM's trading system is revived successfully and a request is made in this regard.

Upon revival of the TM's trading system, TM shall update their systems taking data from the exchanges thus ensuring that latest status of orders and trades is available to the investors.

Stock exchanges shall decide on the reverse migration based on various parameters including the size of the broker, time required for reverse migration and remaining time of the trading session.

Stock Exchanges shall ensure that credible and periodic testing of the IRRA platform is carried out from time to time for smooth functioning of the service.

Stock exchanges and CCs shall put in place appropriate systems to ensure compliance of the provisions of this circular on or before October 01, 2023.

Link to the Circular:

<https://www.sebi.gov.in/legal/circulars/dec-2022/introduction-of-investor-risk-reduction-access-irra-platform-in-case-of-disruption-of-trading-services-provided-by-the-trading-member-tm-66785.html>

GO UP

A. ORDERS/ CASE LAWS/ ANNOUNCEMENT

1. SEBI issues Rs 14-cr demand notice to Jindal Cotex in GDR manipulation case

SEBI sent a notice to Jindal Cotex Ltd NSE 4.17 % and asked the firm to pay over Rs 14 crore in a matter related to manipulation in issuance of global depository receipts (GDR). SEBI directed Jindal Cotex Ltd (JCL) to pay over Rs 14 crore, which includes interest and recovery costs, within 15 days.

In the event of non-payment, it will recover the amount by attaching and selling the movable and immovable properties of the firm. The firm will also face attachment of assets and bank accounts and further arrest of its directors, Sebi said.

The notice came after JCL failed to pay the fine imposed on it by the SEBI.

SEBI in its order in January 2020, levied a total fine of Rs 10.3 crore on JCL, while its directors and chairman Sandeep Jindal faces a fine of Rs 20 lakh, Rajinder Jindal and Yash Paul Jindal face a fine of Rs 10 lakh each.

GO UP

2. SEBI bans Moneytree Research, its proprietor from securities market for 3 years

SEBI has barred Moneytree Research and its proprietor Narendra Madan Rathod from the securities markets for three years for providing unauthorised investment services. The order came after Sebi received a complaint against Moneytree and Rathod. SEBI then examined the matter and subsequently issued a show-cause notice to Moneytree Research and Rathod in August 2021.

Moneytree Research and Rathod are collectively referred to as noticees. In its order, SEBI found that noticees was never registered with Sebi in any capacity as an intermediary.

By operating as an 'investment adviser', without obtaining a registration from the SEBI, it was found that noticees have violated the IA (Investment Adviser) rules.

GO UP

IV. KNOWLEDGE SHARING

TRANSFER AND TRANSMISSION OF SECURITIES - SECTION 56 OF COMPANIES ACT, 2013

(1) A company shall not register a transfer of securities of the company, or the interest of a member in the company in the case of a company having no share capital, other than the transfer between persons both of whose names are entered as holders of beneficial interest in the records of a depository, unless a proper instrument of transfer, in such form as may be prescribed, duly stamped, dated and executed by or on behalf of the transferor and the transferee and specifying the name, address and occupation, if any, of the transferee has been delivered to the company by the transferor or the transferee within a period of sixty days from the date of execution, along with the certificate relating to the securities, or if no such certificate is in existence, along with the letter of allotment of securities:

Provided that where the instrument of transfer has been lost or the instrument of transfer has not been delivered within the prescribed period, the company may register the transfer on such terms as to indemnity as the Board may think fit.

(2) Nothing in sub-section (1) shall prejudice the power of the company to register, on receipt of an intimation of transmission of any right to securities by operation of law from any person to whom such right has been transmitted.

(3) Where an application is made by the transferor alone and relates to partly paid shares, the transfer shall not be registered, unless the company gives the notice of the application, in such manner as may be prescribed, to the transferee and the transferee gives no objection to the transfer within two weeks from the receipt of notice.

(4) Every company shall, unless prohibited by any provision of law or any order of Court, Tribunal or other authority, deliver the certificates of all securities allotted, transferred or transmitted –

(a) within a period of two months from the date of incorporation, in the case of subscribers to the memorandum;

(b) within a period of two months from the date of allotment, in the case of any allotment of any of its shares;

(c) within a period of one month from the date of receipt by the company of the instrument of transfer under sub-section (1) or, as the case may be, of the intimation of transmission under sub-section (2), in the case of a transfer or transmission of securities;

(d) within a period of six months from the date of allotment in the case of any allotment of debenture:

Provided that where the securities are dealt with in a depository, the company shall intimate the details of allotment of securities to depository immediately on allotment of such securities.]

(5) The transfer of any security or other interest of a deceased person in a company made by his legal representative shall, even if the legal representative is not a holder thereof, be valid as if he had been the holder at the time of the execution of the instrument of transfer.

(6) Where any default is made in complying with the provisions of sub-sections (1) to (5), the company and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees.

(7) Without prejudice to any liability under the Depositories Act, 1996 (22 of 1996), where any depository or depository participant, with an intention to defraud a person, has transferred shares, it shall be liable under section 447.

GO UP

THANKYOU
