

# First Notes



## SEBI mandates additional compliances for issuers of non-convertible securities

10 November 2021

### First Notes on

- Financial reporting
- Corporate law updates
- Regulatory and other information**
- Disclosures

### Sector

- All**
- Banking and insurance
- Information, communication, entertainment
- Consumer and industrial markets
- Infrastructure and government

### Relevant to

- All**
- Audit committee
- CFO
- Others

### Transition

- Immediately**
- Within the next three months
- Post three months but within six months
- Post six months**
- Forthcoming requirement



## Introduction

Currently, all listed entities (i.e. entities that have listed their equity shares and convertible securities (together termed as 'specified securities') and Non-Convertible Securities (NCS) on a recognised stock exchange) are required to comply with the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing regulations)<sup>1</sup>. So far, the issuers of specified securities are required to adhere with stringent provisions pertaining to corporate governance and other reporting requirements in comparison to the issuers of NCS.

### New requirement

With a view to improve transparency and enhance the robustness of the corporate bond market, on 7 September 2021, the Securities and Exchange Board of India (SEBI) issued amendments to the Listing regulations through the SEBI (Listing Obligations and Disclosure Requirements) Fifth Amendment Regulations, 2021 (amendments). The amendments mainly pertain to the following areas:

#### I. Corporate governance regulations applicable to High Value Debt Listed Entities (HVDLE)



(Applicable from 8 September 2021 on 'comply or explain' basis and mandatory from 1 April 2023)

(Chapter IV of Listing regulations)

#### II. Financial reporting



(Applicable from 8 September 2021)

(Chapter V of Listing regulations)

#### III. Additional disclosures to stock exchanges, debenture trustees and on websites



(Applicable from 8 September 2021)

(Chapter V of Listing regulations)

#### IV. Other amendments



(Applicable from 8 September 2021)

(Chapter V of Listing regulations)

(Source: KPMG in India's analysis, 2021 read with the amendments)

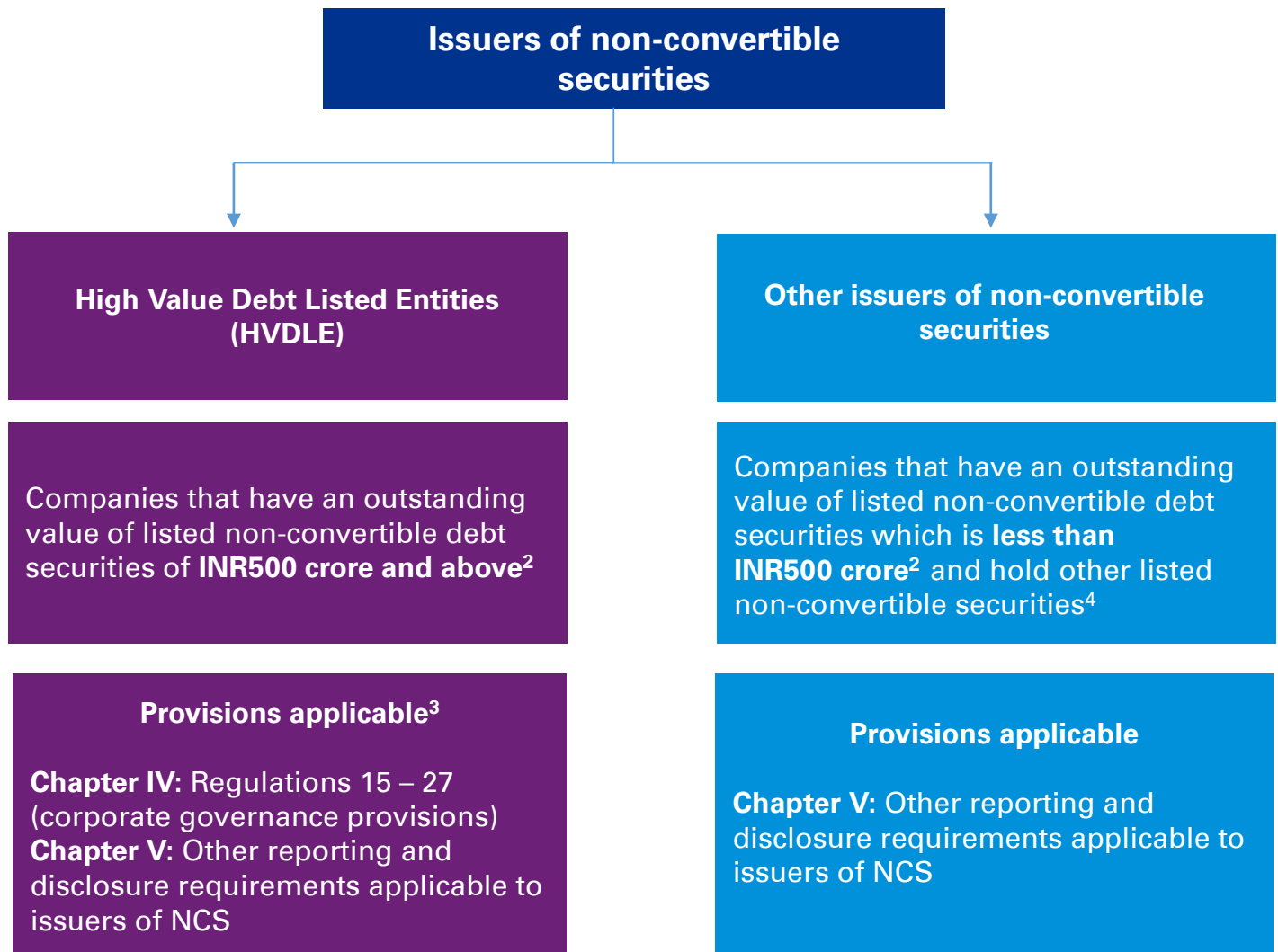
Subsequently, on 5 October 2021, SEBI has issued a circular prescribing a revised format for quarterly financial reporting, required to be submitted by issuers of NCS.

In this issue of First Notes, we aim to provide an overview of the key amendments introduced by the SEBI (LODR) Fifth Amendment Regulations, 2021.

1. Before the amendments issued on 7 September 2021, all listed companies were required to comply with Chapter II (principles governing disclosures and obligations) and Chapter III (dealing with common obligations of listed entities) of Listing regulations; provisions of Chapter IV (dealing with corporate governance provisions and other compliances) were applicable to issuers of specified securities and Chapter V (dealing with disclosures and compliances of NCS) of the Listing regulations were applicable to issuers of NCS.

## Overview of the amendments introduced by SEBI

**Applicability:** SEBI requires the provisions of the Listing regulations to be applicable to issuers of NCS on the basis of the outstanding value of listed non-convertible debt securities. Therefore, applicability of the amendments to issuers of NCS can be bifurcated as below:



(Source: KPMG in India's analysis, 2021 of the amendments)

### I. Corporate governance provisions applicable to High Value Debt Listed Entities (HVDLE)

**Applicability:** The corporate governance provisions will now be applicable to:

- HVDLEs<sup>5</sup>
- Listed entities that meet the threshold for HVDLEs during the course of the year would be required to comply with these provisions within six months from the date they become HVDLEs.

2. Threshold limit for compliance as on date of notification will be computed basis principal outstanding of listed debt securities as on 31 March 2021

3. Provisions of these regulations will continue to apply to listed entities even if they fall below the threshold for HVDLE

4. Other listed NCS include non-convertible redeemable preference shares, perpetual non-cumulative preference shares, perpetual debt instruments and any other securities specified by SEBI

5. The Board of the Manager of the Real Estate Investment Trust (REIT) and Board of Investment Manager of the Infrastructure Investment Trust (InvIT) should ensure compliance with the corporate governance provisions.

## I. Corporate governance provisions applicable to High Value Debt Listed Entities (HVDLE) (cont.)

**Timeline:** The timelines for adoption of the corporate governance provisions have been given below:

Timeline	Applicability
8 September 2021 to 31 March 2023	Entities to adopt corporate governance provisions on 'comply or explain' basis. This means that entities should endeavour to comply with these provisions and achieve full compliance by 31 March 2023. In case the entity is not able to achieve full compliance with the provisions till such time, it shall explain the reasons for such non-compliance/partial compliance and the steps initiated to achieve full compliance in quarterly compliance reports filed with SEBI.
1 April 2023 onwards	Mandatory compliance

Some of the key compliances (including specific amendments notified for HVDLEs) are given below:

- **Definitions (Regulation 16):** All definitions prescribed in regulation 16 would be applicable to HVDLEs. However, SEBI has provided an explanation with regard to who would be considered as an Independent Director (ID) in case of a body corporate or a trust, as given below:
  - **Body corporate:** The non-executive directors on the board of directors of the body corporate would be treated as IDs
  - **Trust:** The non-employee trustees on the 'board of trustees' of the trust would be treated as IDs
- **Compliance with composition of board of directors** e.g. appointment of woman director, minimum number of directors, etc. (Regulation 17)
- **Establishing committees of the Board** e.g. Audit Committee, Nomination and Remuneration Committee, Risk Management Committees, Stakeholders Relationship Committee and formulation of Vigil mechanism (Regulation 18-22). Currently the top 1,000 equity listed entities, determined on the basis of market capitalisation, are required to set up a Risk Management Committee. However, as per the amendments, **all HVDLEs** are required to set up a risk management committee.
- **Related Party Transactions (RPTs)** approval process including submission of RPTs disclosures along with its standalone financial results for the half year to Stock Exchange (SE) (Regulation 23). The related party transactions submitted should be disclosed on a consolidated basis, in the format specified in the relevant accounting standards for annual results.
- **Compliance with corporate governance requirements** with respect to subsidiary (Regulation 24)
- **Secretarial audit and secretarial compliance report (Regulation 24A)**
- **Undertake Directors & Officers (D&O) insurance** for all its Independent Directors (IDs) (Regulation 25). All provisions pertaining to IDs would be applicable to all HVDLEs. This includes obtaining a **Directors and Officers insurance** for all IDs, for such sum assured and such risks, as may be determined by the board of directors.
- **Obligations with respect to IDs** (Regulation 25 read with regulation 16)
- **Obligations with respect to employees including senior management, key managerial persons, directors and promoters (Regulation 26).** As per regulation 26, a director can be a member in not more than 10 committees or act as chairperson of not more than five committees across all listed entities in which he/she is a director. For the purpose of computing the limit of the committees in which a director may serve, membership and chairmanship of the audit committee and stakeholders relationship committee will be considered for all public companies, whether listed or not. Membership and chairmanship in committees of other companies including private limited companies, foreign companies, **HVDLEs** and companies registered under section 8 of the Companies Act, 2013 (2013 Act) will be excluded.
- **Quarterly compliance report (Regulation 27)**

*Detailed compliances with regard to these provisions are given in Annexure A to this First Note.*

## II. Financial reporting (applicable to all issuers of NCS including HVDLEs)

- **Timelines for submission of financial results (Regulation 52):** The amendments require issuers of NCS to submit audited or un-audited financial results on a quarterly basis (earlier to be submitted on a half-yearly basis) to the stock exchanges. The key changes to Regulation 52 of the Listing regulations with regard to financial reporting are given in the table below:

Period	Before amendment	After amendment
Quarter 1	No requirement to disclose financial results	<ul style="list-style-type: none"> <li>• Submit audited/un-audited financial results# with LRR* within 45 days of end of quarter</li> <li>• Ratios including additional ratios prescribed by the amendment</li> <li>• Statement of utilisation of proceeds</li> </ul>
Quarter 2/ half-year	<ul style="list-style-type: none"> <li>• Submit audited/un-audited half yearly financial results with LRR* within 45 days from end of half year</li> <li>• Ratios to be disclosed</li> <li>• Statement of utilisation of proceeds</li> </ul>	<ul style="list-style-type: none"> <li>• Submit audited/un-audited financial results# with LRR* within 45 days of end of quarter</li> <li>• Statement of assets and liabilities and statement of cash flows as at the end of the half year (as a note)</li> <li>• Ratios including additional ratios prescribed by the amendment</li> <li>• Statement of utilisation of proceeds</li> <li>• Disclosures pertaining to related party transactions (as required under Regulation 23(9))</li> </ul>
Quarter 3	No requirement to disclose financial results	<ul style="list-style-type: none"> <li>• Submit audited/un-audited financial results# with LRR* within 45 days of end of quarter</li> <li>• Ratios including additional ratios prescribed by the amendment</li> <li>• Statement of utilisation of proceeds</li> </ul>
Quarter 4/ annual results	<ul style="list-style-type: none"> <li>• <i>Option 1:</i> Un-audited half yearly financial results with LRR* within 45 days from end of half year and Submit audited results as soon as they are approved by BOD</li> <li>• <i>Option 2:</i> Submit annual audited financial results within 60 days from end of financial year (advance intimation to be given to stock exchange)</li> <li>• Ratios to be disclosed</li> <li>• Statement of utilisation of proceeds</li> </ul>	<ul style="list-style-type: none"> <li>• Submit annual audited standalone and consolidated financial results within 60 days from end of financial year along with audit report<sup>6</sup></li> <li>• Ratios including additional ratios prescribed by the amendment.</li> <li>• Statement of utilisation of proceeds</li> </ul>

\* Limited Review report issued by statutory auditor (in case of entities required to be audited by CAG, the Limited Review report will be issued by any practicing Chartered Accountant)

# Quarterly and year-to-date financial results

6. In case of entities required to be audited by the Comptroller and Auditor General of India (CAG), this audit report will be issued by an auditor appointed by CAG. Subsequently, CAG will conduct audit of the financial results and these will be submitted to the stock exchange within nine months from the end of the financial year.

## II. Financial reporting (applicable to all issuers of NCS including HVDLEs) (cont.)

- **Additional disclosures along with the financial results (Regulation 52(4)):** Before the amendment, the Listing Regulations required issuers of NCS to provide certain disclosures while submitting their half yearly/annual financial results. Further, banks and Non-Banking Financial Companies (NBFCs) registered with the Reserve Bank of India (RBI) were exempt from providing few of the stated disclosures.

### Amendment

Issuers of NCS are now required to provide certain **additional disclosures** (in addition to the existing disclosures) while submitting their **quarterly**/annual financial results. Additionally, **Housing Finance Companies** (HFCs) (in addition to banks and NBFCs) have been exempt from providing certain disclosures.  
(*Emphasis added to highlight the change*)

Therefore, the disclosures required to be provided in the quarterly/annual financial results include:

Existing disclosures	Additional disclosures
a. Debt-equity ratio	i. Current ratio
b. Debt service coverage ratio	j. Long-term debt to working capital ratio
c. Interest service coverage ratio	k. Bad debts to account receivable ratio
d. Outstanding redeemable preference shares	l. Current liability ratio
e. Capital redemption reserve / debenture redemption reserve	m. Total debts to total assets ratio
f. Net worth	n. Debtors' turnover
g. Net profit after tax	o. Inventory turnover
h. Earnings per share	p. Operating margin (%)
	q. Net profit margin (%)
	r. Sector-specific equivalent ratios

Banks, NBFCs and HFCs registered with RBI are not required to disclose the debt service coverage ratio and interest service coverage ratio.

- **Format for financial reporting:** SEBI vide circular number SEBI/HO/DDHS/CIR/2021/000000637 dated 5 October 2021 has provided a revised format for filing of quarterly financial information for issuers of NCS. Some of the key clarifications provided by SEBI in this circular include:
  - **Formats for financial reporting**  
The circular has provided formats for:
    - Standalone financial results required to be filed with stock exchange on a quarterly basis
    - Standalone and consolidated financial results required to be filed with stock exchange on an annual basis
    - Statement of assets and liabilities to be submitted to stock exchange on a half-yearly basis
    - Statement of cash flows to be submitted to stock exchange on a half yearly basis
    - Format for financial results to be published in newspapers
  - **Comparatives**  
SEBI has clarified the following with regard to the comparatives to be provided in the financial results:
    - **Quarterly financial results:** Where the entity does not have corresponding quarterly financial results for the four quarters ended September 2020, December 2020, March 2021 and June 2021, the column on corresponding figures for such quarters would not be applicable
    - **Half yearly financial results:** Where the entity does not have corresponding statement of assets and liabilities or the corresponding cash flow statement for the half year ended September 2020, the column on corresponding figures will not be applicable
  - **Content of financial results**  
SEBI has specified that financial results should comply with the following provisions:
    - **Balance sheet and profit and loss:** The financial results should contain the items mentioned in the balance sheet (in case of half yearly financial results) and statement of profit and loss (in case of quarterly financial results) as prescribed in Schedule III of the 2013 Act (excluding notes and detailed sub-classification).
    - **Security created:** The extent and nature of security created and maintained in case of secured non-convertible debt securities should also be mentioned



## II. Financial reporting (applicable to all issuers of NCS including HVDLEs) (cont.)

- **Content of financial results (cont.)**
  - **Cash flow statement:** The statement of cash flows is required to be prepared under the indirect method as prescribed under Accounting Standard 3, *Cash Flow Statements* or Indian Accounting Standard 7, *Statement of Cash Flows*
  - **Ratios:** Ratios as prescribed by regulation 52(4) should also be provided with the quarterly financial results
- **Banks and insurance companies:** Banks and insurance companies will be required to comply with the formats specified under the respective Acts or regulations (as specified by their regulators).
- **Reasons for delay in submission of financial results**  
Detailed reasons for non-submission or delay in submission of financial results need to be intimated to stock exchange and placed on an entity's website (such reason should be submitted within one working day of due date of submission of financial results. Where decision to delay the results was taken prior to the due date, the entity should disclose detailed reasons for such delay within one working day of such decision.)

The format prescribed by SEBI in its circular dated 5 October 2021 has been given in Annexure D to this note.

- **Format for limited review and audit report:** On 14 October 2021, SEBI vide circular number SEBI/HO/DDHS/CIR/2021/0000000638 issued revised formats for limited review/audit report for issuers of NCS. This circular provides format for:
  - Limited review report and audit report for quarterly standalone financial results (Annexures I to IV of the circular)
  - Audited annual consolidated financial results (Annexures V and VI of the circular)
  - Insurance companies are required to disclose the limited review report/audit report in the format specified by IRDAI.
- **Statement of utilisation of proceeds (Regulation 52):** Before amendment, the issuers of NCS were required to submit to the stock exchange, on a half-yearly basis along with the half-yearly financial results, a statement indicating material deviations, if any, in the use of issue proceeds of NCS from the objects stated in the offer document.
 

**Amendment**

Issuers of NCS are now required to submit to the stock exchange, within 45 days from the **end of every quarter**, a statement indicating the **utilisation of issue proceeds** of NCS. This statement will continue to be given till the time:

  - The issue proceeds have been fully utilised, or
  - The purpose for which these proceeds were raised has been achieved.

In case there is any material deviation in the use of the proceeds as compared to the objects of the issue, the same is required to be indicated in the format specified by SEBI.
- **Submission of annual report (Regulation 53):** Before amendment, issuers of NCS were required to circulate their annual report to their shareholders, debenture trustees, publish it on their website and provide a soft copy of the annual report to the holders of the NCS. However, the Listing Regulations did not specify the timeline for submission of the annual report to the stock exchanges or for its upload on the website.
 

**Amendment**

The Listing regulations now require issuers of NCS to submit to the stock exchange, debenture trustee and publish on its website:

  - A copy of the annual report along with the notice of the annual general meeting sent to the shareholders, not later than the date of commencement of dispatch to its shareholders, and
  - Submit a revised copy of the annual report (in case of any changes in the annual report) with the details and explanation for the changes, within 48 hours of the annual general meeting.
- **Justification for modified opinion (Regulation 52(2)(e)):** Before amendment, the BOD of the issuers of NCS, were required to appropriately and adequately address modified opinions issued in the audit report that had a bearing on interest or dividend payment pertaining to NCS or on the principal repayment capacity of issuers of NCS while publishing accounts for the said period.
 

**Amendment**

The amendments now require the BOD of the issuers of NCS to appropriately and adequately address modified opinions issued in both audit reports **or limited review reports** that have a bearing on the interest or dividend payment pertaining to NCS or on the principal repayment capacity of the issuers of NCS.  
*(emphasis added to highlight the change)*

### III. Additional disclosures to stock exchanges, debenture trustees and on the website

SEBI requires a number of disclosures and certain disclosures have to be given simultaneously to the stock exchanges, debenture trustees and a company's website. Also, there are a number of other disclosures that have to be given specifically only to debenture trustees or are to be disclosed on the company's website. The table below depicts the regulations falling under various disclosure requirements.

Regulations	Disclosures to be given to/uploaded on			Reference
Price sensitive information (Regulation 51 read with Part B of Schedule III)  Submission of annual report (Regulation 53) – disclosed in financial reporting section above  Submission of quarterly and annual financial results (Regulation 52 and certain clauses of regulation 62) – disclosed in financial reporting section above	Disclosures to be given to stock exchange	Disclosure to be given to the debenture trustee	Details to be disclosed on company's website	Table A
Intimations and submissions to stock exchange (Regulations 50 and 57) Disclosure of asset cover and security created (Regulation 54)	Disclosure to be given to stock exchange	NA	NA	Table B
Details to be uploaded on entity's website (Regulation 62)	NA	NA	Details to be disclosed on entity's website	Table C

**Table A: Disclosures required to be provided to stock exchanges, to debenture trustee and uploaded on an entity's website**

Regulation	Before amendment	Post amendment
<b>Price sensitive information (Regulation 51 read with Part B of Schedule III)</b>		
Disclosure of price sensitive information (Regulation 51(1), 51(3), 56(1A))	Issuers of NCS are required to 'promptly inform' the stock exchange(s) of all information having bearing on the performance/operation of the issuers of NCS, price sensitive information or any action that would affect payment of interest/dividend/ redemption of NCS. The expression 'promptly inform' meant ' <i>as soon as practically possible and without any delay, and that the information would be first given to the stock exchange(s) before providing to any third party</i> '.	SEBI has now clarified that the expression 'promptly inform' would imply that the stock exchange should be informed as soon as reasonably possible <b>but not later than 24 hours</b> from date of occurrence of the event or receipt of information. Where the disclosure is made after 24 hours from the date of occurrence of the event or receipt of information, the issuers of NCS would be required to provide an explanation for the delay along with the disclosures.  All price sensitive events or information which would be disclosed to the stock exchange under regulation 51 would need to be hosted on the website of the listed entity for a minimum period of five years and thereafter as per the archival policy of the listed entity, as disclosed on its website.  All price sensitive events and/or information disclosed under regulation 51 should also be disclosed to the debenture trustee <sup>7</sup> at the same time as it has been intimated to the stock exchanges.

7. Price sensitive information under regulation 51 required to be disclosed to debenture trustees should relate to interest, principal, issue and terms of non-convertible debt securities, rating, creations of charge on the assets, notices, resolutions and meetings of holders of non-convertible debt securities.

### III. Additional disclosures to stock exchanges, debenture trustees and on the website (cont.)

Regulation	Before amendment	Post amendment
<b>Price sensitive information (Regulation 51 read with Part B of Schedule III) (cont.)</b>		
Disclosure of outcome of meetings (Regulation 51(2) read with Schedule III (Part B – para A clause 16), 51(3), 56(1A))	Earlier, the Listing regulations did not prescribe any timelines for disclosure of outcome of board meetings to the stock exchanges.	SEBI now requires issuers of NCS to disclose the outcome of BOD meetings to the stock exchange(s) within 30 minutes of the closure of the meeting held to consider the following: <ul style="list-style-type: none"> <li>Decision with respect to fund raising proposed to be undertaken by way of NCS</li> <li>Financial results.</li> </ul> Where board meetings are held for more than one day, the financial results should be disclosed within 30 minutes of end of the meeting for the day on which it has been considered.
Additional submissions/intimation to stock exchange, debenture trustees/to be uploaded on an entity's website (Regulation 51(2) read with Schedule III (Part B), 51(3), 56(1A))	The Listing Regulations require issuers of NCS to promptly inform the stock exchange of all information which shall have bearing on the performance// operations of the listed entity, affect payment of interest of dividend on NCS or is price sensitive. This information has been specified in Schedule III (Part B) to the Listing Regulations.	The amended regulations have added certain additional disclosures required to be provided by issuers of NCS e.g. <ul style="list-style-type: none"> <li>Fraud/defaults by promoter/KMP/director/ employees/by listed entity or arrest of KMP/promoter</li> <li>Change in directors/KMP, auditor/compliance officer</li> <li>Detailed reasons for resignation of the auditor, etc.</li> </ul> <i>(Refer to Annexure B to this First Note for the entire list of disclosures to be provided under schedule III - part B).</i>
<b>Submission of annual report (Regulation 53)</b>		
Submission of annual report (Regulation 53)	Issuers of NCS were required to circulate their annual report to their shareholders, debenture trustees, publish it on their website and provide a soft copy of the annual report to the holders of the NCS. However, the Listing Regulations did not specify any timeline for submission of the annual report to the stock exchanges or for making it available on the website.	The Listing regulations now require issuers of NCS to submit to the stock exchange, debenture trustee and publish on its website: <ul style="list-style-type: none"> <li>A copy of the annual report along with the notice of the annual general meeting sent to the shareholders, not later than the date of commencement of dispatch to its shareholders, and</li> <li>Submit a revised copy of the annual report (in case of any changes in the annual report) with the details and explanation for the changes, within 48 hours of the annual general meeting.</li> </ul>
<b>Submission of quarterly and annual financial results (Regulation 52 read with certain clauses of regulation 62)</b>		
Submission/upload of financial results (Regulation 52 and certain clauses of Regulation 62)	Before the amendment, issuers of NCS were required to submit their half yearly financial results to the stock exchanges within a prescribed timeline.  Further entities whose <i>debt securities and equity securities</i> were listed on a recognised stock exchange were required to provide the financial results to the debenture trustee.	Issuers of NCS are now required to submit <b>quarterly financial results</b> to the stock exchanges within the prescribed timeline. These results are also required to be uploaded on the website of the entity.  Further, entities whose <b>debt securities</b> are listed on a recognised stock exchange are required to provide these financial results to the debenture trustee. <i>(Emphasis added to highlight the change)</i>



### III. Additional disclosures to stock exchanges, debenture trustees and on the website (cont.)

**Table B: Disclosures required to be provided only to stock exchanges in addition to the disclosures covered in Table A**

Regulation	Before amendment	Post amendment
<b>Intimations and submissions to stock exchanges (Regulation 50 and 57)</b>		
Prior intimation to stock exchange(s) (Regulation 50)	<p>The Listing regulations prescribed certain 'prior intimations' that were to be provided by issuers of NCS to the stock exchange(s). This included:</p> <ul style="list-style-type: none"> <li>• At least 11 working days prior to payment of interest on debentures and bonds or redemption of redeemable shares or debentures and bonds regarding such payment</li> <li>• At least <b>two working days</b> prior to the board meeting at which following proposals are to be made: <ul style="list-style-type: none"> <li>○ Fund raising by way of issuance of NCS</li> <li>○ Any matter affecting the rights or interests of holders of NCS.</li> </ul> </li> </ul>	<p>The amendments have prescribed certain additional information regarding which a prior intimation should be given to the stock exchange. These are given below:</p> <ul style="list-style-type: none"> <li>• At least <b>two working days</b> prior to the board meeting at which following proposals are to be made: <ul style="list-style-type: none"> <li>○ Fund raising by way of issuance of NCS</li> <li>○ Any matter affecting the rights or interests of holders of NCS</li> <li>○ An alteration in the form or nature of NCS that are listed on the stock exchange or in the rights or privileges of the holders thereof</li> <li>○ An alteration in the date of the interest/dividend/ redemption payment of NCS</li> <li>○ Financial results viz. quarterly or annual, as the case may be.</li> </ul> </li> </ul> <p>Prior intimation to be given before or on the date of dispatch of notices for:</p> <ul style="list-style-type: none"> <li>• Annual general meeting/extraordinary general meeting for approval of financial results or fund raising through NCS</li> <li>• Meeting of NCS holders for matters affecting their rights or interests.</li> </ul>
Submissions to stock exchange with regard to status of payment of interest/dividend/principal (Regulation 57)	<p>Before the amendment, issuers of NCS were required to submit a certificate to the stock exchange within two days of the interest or principal or both becoming due that it has made timely payment of interests or principal obligations or both in respect of the non-convertible debt securities.</p>	<p>Issuers of NCS are now required to intimate the stock exchanges regarding the status of payment of interest/dividend/principal in the following manner:</p> <ul style="list-style-type: none"> <li>• <b>Prior intimation:</b> Within <b>five working days</b> prior to the beginning of the quarter, provide details of NCS for which interest/dividend/principal is payable during the quarter</li> <li>• <b>Certificate post due date:</b> Within <b>one working day</b> of the due date of payment of interest/dividend/principal on NCS, submit a certificate regarding status of such payment. (Earlier, this requirement was to be complied within two days.)</li> </ul>

### III. Additional disclosures to stock exchanges, debenture trustees and on the website (cont.)

Regulation	Before amendment	Post amendment
Submissions to stock exchange with regard to status of payment of interest / dividend/principal (Regulation 57) (cont.)		<ul style="list-style-type: none"> <li>• <b>Quarterly certificate:</b> Within <b>seven working days</b> from the end of the quarter: <ul style="list-style-type: none"> <li>○ A certificate confirming the payment of interest/dividend/principal obligations for NCS which were due in the quarter, and</li> <li>○ Details of all unpaid interest/dividend/principal obligations in relation to NCS at the end of the quarter.</li> </ul> </li> </ul>
<b>Disclosure of asset cover and security created (Regulation 54)</b>		
Asset cover (Regulation 54)	<p>The Listing regulations require entities that have listed their non-convertible debt securities to maintain a 100 per cent asset cover or an asset cover mentioned in the terms of the offer document/information memorandum and/or debenture trust deed, that is sufficient to discharge the principal amount at all times for the non-convertible debt securities issued.</p> <p>Entities that have listed their secured non-convertible debt securities, are required to disclose to the stock exchange, as part of the financial statements, the extent and nature of security created and maintained with respect to the secured listed non-convertible debt securities.</p>	<p>The amended regulations now state that either a 100 per cent asset cover or a <b>higher</b> asset cover, as is stated in the offer document/information memorandum/debenture trust deed is required to be maintained by issuers of NCS. <i>(Emphasis added to highlight the change)</i></p> <p>In addition to the existing disclosures required by issuers of secured listed non-convertible debt securities, entities that have listed their non-convertible debt securities (secured or unsecured) are required to disclose the asset cover available for the non-convertible debt securities in their financial results in the format specified by SEBI.</p> <p><b>Note:</b> Banks and NBFCs, who were earlier exempt from disclosing their asset cover ratios, will now be required to report these ratios. Additionally, a quarterly certificate (instead of half-yearly certificate) will be required from the statutory auditor regarding maintenance of 100% or higher asset cover and will be submitted to the debenture trustee along with the financial results.</p>

**Table C: Details to be uploaded on website in addition to the requirements specified in Table A**

Regulation	Before amendment	Post amendment
Disclosure of events and information on website (Regulation 62)	Regulation 62 requires issuers of NCS to maintain a functional website containing information about the company. It also specifies the list of information required to be maintained. Further, the contents of the website should be correct and updated at any given point of time.	<p>SEBI has prescribed certain additional information requirements to be uploaded on the website and has revised existing information requirements. Some of the additional information requirements to be disclosed on the website includes:</p> <ul style="list-style-type: none"> <li>• Composition of the board</li> <li>• Financial information – financial results and annual report</li> <li>• Information on credit ratings</li> <li>• Information on utilisation of proceeds</li> <li>• Information relating to corporate governance by HVDLE</li> </ul> <p><i>A detailed list of requirements is given in Annexure C to this First Note.</i></p> <p>Further, SEBI has provided a timeline for updating changes in the content of the website. Issuers of NCS are now required to change the content of their website within <b>two working days</b> from the date of such change.</p>

## IV. Other amendments

- **Structure of non-convertible securities (Regulation 59):** Before amendment, for making any material modification in the structure of NCS, in terms of coupon/dividend, conversion, redemption or otherwise, issuers of NCS are required to take prior approval of:
  - Board of directors
  - Debenture trustee
  - Requisite majority of holders of that class of securities, and
  - Stock exchange.

### **Amendment**

The Listing Regulations now require issuers of NCS to obtain consent of not less than **three-fourths**, by value of holders of that class of securities (instead of requisite majority of holders of that class of securities). Further, remote e-voting facility is required to be provided to facilitate such a consent.

- **Unclaimed non-convertible securities and benefits accrued thereon (Regulation 61):** The Listing Regulations state that an issuer of NCS should not forfeit unclaimed interest/dividend, and such unclaimed interest/dividend should be transferred to the 'Investor Education and Protection Fund' set up under the 2013 Act.

### **Amendment**

A new regulation 61A has been inserted by the amended regulations which specify a detailed process for dealing with the unclaimed NCS and related accrued benefits. It states following:

- The listed entity shall not forfeit unclaimed interest/dividend/redemption amount.
  - Where the interest/dividend/redemption amount has not been claimed within 30 days from the due date of interest/dividend /redemption payment, an issuer of NCS should transfer the amount to an escrow account (opened in any scheduled bank) within seven days from the date of expiry of the said period of 30 days
  - The interest/ dividend/redemption amount that is unclaimed and outstanding for a period of less than seven years as on the date of notification of this sub-regulation<sup>8</sup> should be transferred to the escrow account within 30 days, where it shall remain for the intervening period up to seven years.
  - Any amount transferred to the escrow account that remains unclaimed for seven years should be transferred to the 'Investor Education and Protection Fund' constituted under the 2013 Act.
- **Certificate from debenture trustee no longer required (Regulation 52(5)) :** Earlier, entities that had listed their debt securities were required to submit to the stock exchange, a certificate signed by debenture trustee that it has taken note of the contents, within seven working days from the date of submission of financial results. This requirement is no longer required.
  - **Other clerical changes:** In addition to the aforementioned changes, SEBI has issued some clerical changes in the Listing regulations, pursuant to merger of SEBI (Issue and Listing of Debt Securities) Regulations, 2008 and SEBI (Issue and Listing of Non- Convertible Redeemable Preference Shares) Regulations, 2013 into SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021.



## Our comments

On 7 September 2021, SEBI has issued enhanced requirements for entities that issue non-convertible securities including enhanced corporate governance standards for HVDLEs and enhanced disclosure requirements applicable to all entities that issue non-convertible securities. Later on 5 October 2021, SEBI issued revised format for filing financial information to the stock exchanges on a quarterly basis. Some of the key considerations are as follows:

### Enhanced governance and disclosures requirements

Through the new regulations, SEBI has raised the bar on corporate governance and related disclosures for HVDLEs, and overall compliances for all issuers of NCS, thereby virtually bringing them on par with the compliances required for equity listed companies, and the requirements even more stringent in some cases. The motivation behind these amendments seems to be the fact that the regulators are no longer differentiating between debt and equity per se and are focussing on public money at large and the related accountability. Also, with effect from FY 2020, SEBI compulsorily required large borrowers to meet 25 per cent of their incremental borrowings from the bond markets<sup>9</sup>. While some issuers of debt securities may privately place their securities, others are likely to tap the market at large. It would thus be imperative for security holders to have transparent and timely information about their investee companies. Thus, the enhanced requirements come as a welcome step from a corporate governance point of view as well as from protection of the security holders' interest.

Some of the important disclosures are listed below:

- **Corporate governance:** HVDLEs would be required to comply with corporate governance regulations from regulation 15 – 27 initially on a comply or explain basis, and mandatorily from 1 April 2023. Some of these provisions include specific requirements with regard to composition of the board, setting up various committees of the board, stricter provisions on approval of related party transactions, etc. A comparison of these requirements across different classes of companies is given in tabular form on the next page.
- **Financial reporting:** The frequency of reporting (quarterly reporting), the format of reporting and timeline for filing of financial results by issuers of NCS has been aligned with the requirements of equity listed entities (that is prescribed in regulation 33 of the Listing Regulations). However, requirements pertaining to submission of consolidated financial results apply on an annual basis. There are no specific requirements for submission of consolidated financial results on a quarterly basis, and issuers of NCS may voluntarily choose to submit consolidated quarterly financial results along with standalone quarterly financial results.

Since the amendments relating to submission of financial results are effective immediately, entities would need to comply with the amendments for their financial results for the period ended 30 September 2021.

- **Intimation regarding BOD meetings:** Issuers of NCS are required to intimate to the stock exchange the outcome of BOD meetings held to consider the financial results within 30 minutes of closure of the BOD meeting. This is in line with the requirements for equity listed companies.
- **Disclosure of material events or information:** The requirement to provide additional disclosures with regard to material events/information to the stock exchange that are provided by equity listed entities have now been extended to issuers of NCS. These disclosures relate to resignation of auditors, directors, settlement with banks, details pertaining to the corporate insolvency resolution process, etc.
- **Intimation regarding payment of interest/dividend:** Issuers of NCS are required to intimate the stock exchanges regarding the payment of interest/dividend/principal in three stages:
  - details of interest/dividend/principal payable during a particular quarter, within five working days prior to the beginning of the quarter,
  - status on payment of the interest/dividend/principal, within one working day of the due date of payment, and
  - status on payment of the interest/dividend/principal payable during the quarter, within seven working days from the end of the quarter.
- **Directors and Officers Insurance:** All HVDLEs are required to undertake a Directors & Officers insurance for all its IDs for such sum assured and such risks, as may be determined by the board of directors
- **Investor Education and Protection Fund:** Timeline for transferring unpaid or unclaimed interest, dividend or redemption amounts to an 'escrow' account within seven days and then transferring it into the Investor Education and Protection Fund post seven years is in line with the requirements of section 124 of the 2013 Act<sup>10</sup> applicable to unclaimed and unpaid dividend.

The disclosures to be provided to stock exchanges, debentures trustees and on the website have been made robust and extensive. However, this will increase the compliance and reporting responsibilities of the issuers of NCS, who will now need to report the same information to multiple authorities at the same time. The table on the next page summarises the applicability of various provisions of the amendments that are applicable to various classes of companies.

9. SEBI circular number SEBI/HO/DDHS/CIR/P/2018/144 dated 26 November 2018

10. Section 124 of the 2013 Act requires unpaid or unclaimed dividend to be transferred to the 'Unclaimed Dividend' account within seven days and into the Investor Education and Protection Fund within seven years from the date of transfer.

## Our comments (cont.)

Table summarising the applicability of provisions of the amendments to various classes of companies

SEBI LODR 2021	Equity listed entities	Debt Listed entities		
		HVDLE with listed NCS	Other entities with listed NCS (that are not HVDLE)	Banks/ NBFCs/HFCs (that are not HVDLE)
Chapter IV				
– Reg 15 Applicability	✓	✓	X	X
– Reg 16 Definitions	✓	✓	X	X
– Reg 17 Board of Directors	✓	✓	X	X
– Reg 18 Audit committee	✓	✓	X	X
– Reg 19 Nomination and remuneration committee	✓	✓	X	X
– Reg 20 Stakeholders relationship committee	✓	✓	X	X
– Reg 21 Risk management committee	✓ <sup>11</sup>	✓ <sup>12</sup>	X	X
– Reg 22 Vigil Mechanism	✓	✓	X	X
– Reg 23 Corporate governance requirements with respect to subsidiary of listed entity	✓	✓	X	X
– Reg 24A Secretarial audit and secretarial compliance report	✓	✓	X	X
– Reg 25 Obligations with respect to Independent Directors	✓ <sup>13</sup>	✓ <sup>14</sup>	X	X
– Reg 26 Obligations with respect to employees including senior management, key managerial persons, directors and promoters	✓	✓	X	X
– Reg 27 Other corporate governance requirements	✓	✓	X	X
– Reg 28 to 48	✓	X	X	X
Chapter V amendments	X	✓	✓	✓ <sup>15</sup>

11. Applicable to top 1,000 equity listed entities

12. Applicable to all HVDLEs

13. D&O insurance for independent directors is applicable to top 500 equity listed entities. However, from 1 January 2022 it would be applicable to top 1,000 equity listed entities

14. D&O insurance for independent directors is applicable for all HVDLEs

15. Exemptions from providing certain disclosures (ratios) to banks, NBFCs and HFCs



## Our comments (cont.)

### Date of determining a HVDLE

A company shall be considered a HVDLE if it has an outstanding value of listed non-convertible debt securities of INR500 crore and above. This threshold limit for compliance should be computed basis principal outstanding of listed debt securities as on 31 March 2021. Entities need to adopt the corporate governance provisions on a 'comply or explain' basis and should aim to achieve full compliance by 31 March 2023. Thus, entities that are identified as HVDLEs based on the threshold limit as on 31 March 2021 will need to mandatorily adopt the provisions of the amendments with effect from 1 April 2023, irrespective of the fact that they may not meet the specified threshold on 31 March 2023.

Additionally, listed entities that meet the prescribed threshold for HVDLEs post 31 March 2021 will be required to ensure compliance with the specific provisions applicable to HVDLEs within six months of them becoming a HVDLE.

HVDLEs could be a private company, a trust, a body corporate or an equity listed entity that have issued and listed their non-convertible debt securities.

### Definition of listed company under 2013 Act

Pursuant to MCA notification dated 19 February 2021, wherein amendment was made to the definition of listed company', public companies with listed non-convertible debt securities or non-convertible redeemable reference shares as well as private companies with listed non-convertible debt securities issued on private placement basis have been excluded from the definition of listed companies under the 2013 Act with effect from 1 April 2021. This change provided several relaxations to the specified debt listed entities in terms of compliances and disclosures prescribed under the 2013 Act. However, now SEBI has expanded the listing regulations requirements for HVDLEs.

Under the 2013 Act certain companies may not fall in the definition of a listed company but would be required to set up an audit committee as they may fall in the HVDLE category under Listing Regulations. Therefore, companies would need to evaluate the interplay between the company law and SEBI regulations e.g. impact on the requirements to set up audit committee, appointment of directors and independent directors.

### Disclosures relating to interest and principal repayment obligations

Since these amendments are effective from 8 September 2021, intimations on status of payment of interest/principal/dividend will be required to be given to stock exchanges within one working day of the due date of payment of the specified obligations which is due on or after 8 September 2021. Status of payment of obligations for the quarter ended 30 September 2021 and subsequent quarters should be intimated within seven working days from the end of the quarter. Prior intimation (information to be provided within five working days prior to beginning of the quarter) of details of payments to be made during the quarter should be given for quarters ending 31 December 2021 and subsequent quarters. Companies should check for any non-compliances in this regard and make appropriate intimations to SEBI.

### Commercial papers (CP)

Entities that have issued commercial papers would need to carefully analyse the Operational Circular issued by SEBI on 10 August 2021. According to the requirements of the Operational Circular:

- An entity that has listed equity shares and/or NCS as well as listed commercial paper would follow regulation 33 and 52(4) of the Listing Regulations
- An entity that has listed NCS and also commercial paper would follow regulation 52 of the Listing Regulations
- An entity that has listed only commercial paper would follow regulation 52 of the Listing Regulations
- An entity that has listed NCS and commercial paper or only commercial paper and it prepares financial results for the purpose of consolidated financial results of its parent company as per regulation 33, then such an entity will submit financial results as per paragraph 5 of the Operational circular or submit quarterly financial results that have been prepared for the purpose of consolidation of with its parent company.

## Our comments (cont.)

### Applicability of consolidated financial results on quarterly basis

The Listing Regulations mandate issuers of NCS to issue standalone financial results on a quarterly basis and a standalone and consolidated financial result on an annual basis. Therefore, an issuer of NCS may voluntarily submit consolidated financial results along with standalone financial results for the first three quarters

### Comparatives required for profit and loss in quarterly financial results

The circular dated 5 October 2021, specifies the formats for financial reporting for issuers of NCS and requires the disclosure of the financial results for the

- 3 months ended (current quarter)
- Preceding 3 months ended (Previous quarter)
- Corresponding 3 months ended previous quarter
- Year-to-date figures for the current period ended
- Year-to-date for previous year ended, and
- Previous year ended.

Considering the practical challenges on reporting of the previous quarter's number, SEBI, has provided exemptions to entities for the quarters ended 30 September 2020, 31 December 2020, 31 March 2021 and 30 June 2021, where these results are not available. It needs to be noted that the relaxation from the stated comparatives in available only when an entity does not have such information, it is not an option that can be exercised at the discretion of the entity.

Additionally, it is imperative to note that relaxations are not available for reporting on columns pertaining to year-to-date figures e.g. half year ended 30 September 2020. However, considering that the year-to-date figures will be computed as an aggregation of the quarterly figures, SEBI should consider the practical challenges for entities where such information is not available and clarify on whether the year-to-date figures would be required to be reported for all periods.

In the situation, where an entity avails the exemption in the circular dated 5 October 2021, and does not disclose the corresponding quarterly financial results for the four quarters ended 30 September 2020, 31 December 2020, 31 March 2021 and 30 June 2021, then it will not be required to disclose the ratios specified under regulation 52(4) of the Listing regulations for those periods for which exemption is availed.

### Comparatives required for balance sheet

Regulation 52(2)(f) requires issuers of NCS to submit a statement of assets and liabilities as part of its half yearly financial results. SEBI has also prescribed the format for the statement of assets and liabilities in its circular dated 5 October 2021. As per the format, issuers of NCS are required to provide details of assets and liabilities as at the current half year end/year end date and as at the previous year end date. This is also consistent with Ind AS 34, *Interim Financial Reporting*, which requires entities to include a balance sheet as at the end of the current interim period and a comparative balance sheet as of the end of the **immediately preceding financial year**.

However, SEBI's circular dated 5 October 2021 provides a relaxation to entities from providing corresponding statement of assets and liabilities for the half year ended 30 September 2020 when an entity does not have such information.

Since the format does not include a column for corresponding previous half year, the scope of this relaxation is not clear and a clarification from SEBI would be helpful.

## Our comments (cont.)

### Disclosure of ratios for all periods presented

The amendments to the Listing regulations do not provide any specific exemption with regard to disclosure of ratios for all the periods presented in the financial results rather, they require entities to include ratios as part of the financial results. Further, the format as per the circular on 5 October 2021 for publishing financial results in the newspaper requires disclosure of certain ratios for all the periods presented. Additionally, Listing Regulations lay down the 'Principles governing disclosures and obligations' which require that periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity. Therefore, ratios should also be disclosed for all periods presented in the financial results and would also be subjected to limited review/audit by auditors. However, as mentioned in the above section 'Comparatives required for profit and loss in quarterly financial results', in our comments, where entities avail the exemption specified in the SEBI circular dated 5 October 2021, and do not present the financial information pertaining to the comparative periods, the ratios for the corresponding periods may not be presented.

As per Listing Regulation, entities that have issued NCS are required to present standalone financial results for the first three quarters and consolidated and standalone financial results for the last quarter. Accordingly, the ratios would be disclosed for standalone financial results for the first three quarters and for the consolidated and standalone financial results for the last quarter. If an entity presents consolidated financial results for the first three quarters voluntarily then it would need to present ratios on the basis of the consolidated financial results.

### Clarification on computation of ratios

SEBI has specified various additional ratios to be disclosed by the issuers of NCS. In order to ensure consistent application and disclosure of these ratios, SEBI should consider issuing guidance with regard to the standard definitions, i.e. elements that constitute a numerator and a denominator while computing these ratios. SEBI should also clarify sector specific nomenclature while computing these ratios.

## Stricter compliances for entities that are both equity listed and are issuers of NCS

### Disclosure of ratios by an entity that is both equity listed and an issuer of NCS

Regulation 52(4) requires issuers of NCS to disclose certain prescribed ratios along with their financial results. Entities that have listed both their equity securities and their NCS are required to submit their financial results in accordance with regulation 33 of the Listing regulations, and are also required to disclose the prescribed ratios, by virtue of regulation 63(2) of the Listing regulations. However, entities that have listed only equity shares are not required to disclose such ratios along with their financial results.

With respect to submission of quarterly financial results, regulation 52 of the Listing regulations requires issuers of NCS to file standalone financial results on a quarterly basis for the first three quarters and standalone and consolidated financial results for the last quarter. Regulation 33 of the Listing regulations require issuers of specified securities to also submit consolidated quarterly financial results. Thus, with respect to disclosure of ratios prescribed under regulation 52(4), it is not clear whether entities that have listed both equity securities and NCS, should disclose such ratios along with their quarterly consolidated financial results (filed under regulation 33) as well. Therefore, a clarification from SEBI on this issue would be helpful.

## Our comments (cont.)

### Stricter compliances for entities that are both equity listed and are issuers of NCS (cont.)

#### Filing of newspaper advertisement

Equity listed entities are required to comply with regulation 47 of the Listing regulations while publishing a newspaper advertisement of the financial results. As per regulation 47, where an equity listed entity has submitted both standalone and consolidated financial results, it should publish the consolidated financial results, and mention the standalone turnover, profit before tax and profit after tax as a footnote, and a reference to the places where the standalone financial results are available.

Issuers of NCS are required to comply with regulation 52(8) of the Listing regulations while publishing a newspaper advertisement of the financial results. As per regulation 52(8), issuers of NCS are required to publish the financial results and disclose the ratios prescribed under regulation 52(4) in the newspaper advertisement.

Entities that have listed both equity securities and NCS will need to comply with provisions of regulation 47 while publishing their financial results by virtue of regulation 63(1) of the Listing regulations. However, the format for filing newspaper advertisement prescribed by SEBI under regulation 47 does not require disclosure of the ratios as mentioned in regulation 52(4). Thus, it is not clear whether entities that have listed both their equity shares and NCS should disclose the ratios prescribed in regulation 52(4) in the newspaper advertisement. SEBI should thus clarify its position on this matter.

#### Timelines for submission of related party transactions for an equity listed entity which is also a HVDLE

Regulation 23(9) of the Listing Regulations requires equity listed entities to disclose related party transactions on a half yearly basis within 30 days from the date of publication of the standalone or consolidated results. However, HVDLEs are required to submit these disclosures along with its standalone financial results submitted for the half year. SEBI should clarify whether an entity that is both equity listed and is also a HVDLE, would need to comply with a stricter requirement in this regard i.e. it will need to submit the requisite disclosures along with the financial results.

### The bottom line

The significant step-up in governance standards will require entities to take significant efforts to work on their board composition, charters and other requirements. While entities have been provided a window of time to adopt the enhanced provisions initially on a 'comply or explain' basis, they should use this time wisely and start the preparation for the compliances. *It is to be noted that* some of the provisions applicable to issuers of NCS are more stringent as compared to the provisions currently applicable to equity listed entities, such as additional ratios that are required to be disclosed, or timelines for submission of disclosures pertaining to related party transactions, and other such provisions. Accordingly, these provisions would be considered by companies that are planning to issue NCS.



## Annexures

### Annexure A: Corporate governance provisions applicable

HVDLEs could be private companies, unlisted public companies or an equity listed entity that have issued and listed their non-convertible debt securities. The amendments may not have a significant impact on equity listed entities as they are already complying with the corporate governance requirements laid down by Listing regulations. For other entities, significant compliances will be required. HVDLEs should take note of these regulations, as these become mandatorily applicable from 1 April 2023. Some of the key compliances are given below:

- **Composition of Board of Directors (BOD) (Regulation 17):** Some of the key provisions include:
  - At least 50 per cent of the BODs should comprise of Non-Executive Directors (NED)
  - HVDLEs should have at least one woman director
  - Where chairperson of the BOD is a NED, at least one-third of the BOD should comprise of Independent Directors (IDs)  
Where chairperson of the BOD is not a regular NED, at least half of the BOD should comprise of IDs
  - Special resolution is required to appoint a person or continue the directorship of a person as NED who has attained the age of 75
- **Meetings of the BOD (Regulation 17):** The BOD should meet at least four times a year with a maximum time gap of 120 days between any two meetings
- **Remuneration of directors (Regulation 17):** Some of the key provisions pertaining to remuneration of directors include:
  - The BOD will recommend the compensation of the NEDs (including IDs), this will be required to be approved by the shareholders in the general meeting
  - Special resolution will be required where annual remuneration of a single NED exceeds fifty per cent of the total annual remuneration payable to all NEDs
  - IDs will not be entitled to any stock options, therefore, entities that have issued stock options to their non-executive directors (or persons who would be appointed as independent directors will need to buy back the shares/withdraw the options as the case may be)
  - Fees or compensation payable to executive directors who are promoter or members of the promoter group will require approval by a special resolution if they cross specified threshold
- **Other compliances by the BOD (Regulation 17 and 22):** Some of the key provisions the BOD of HVDLE would be required to comply with include:
  - Periodically review compliance reports pertaining to all laws applicable to the entity
  - Ensure there are adequate succession plans for appointment to the BOD and senior management
  - Lay down a code of conduct for all members of the BOD and senior management, and include the duties of IDs therein
  - BOD will frame, implement and monitor the risk management plan for the entity
  - Evaluate IDs on the basis of their performance and fulfillment of independence criteria
  - Formulate a vigil mechanism/whistle blower policy for directors and employees to report genuine concerns
- **Maximum number of directorships (Regulation 17A):** Directors of HVDLEs are required to comply with the following maximum number of directorships, including alternate directorships:
  - A person can be a director in a maximum of seven listed entities
  - A person should be an ID in maximum seven listed entities
  - A whole-time director/managing director of HVDLE can serve as ID in a maximum of three listed entities
- **Establishing committees of the board (Regulations 18, 19, 20 and 21):** HVDLEs are required to establish the following committees of the board and comply with their respective provisions:
  - Audit committee
  - Nomination and remuneration committee
  - Stakeholders Relationship Committee
  - Risk Management Committee



## Annexure A: Corporate governance provisions applicable (cont.)

- **Related party transactions (Regulation 23):** HVDLEs are required to comply with the following provisions pertaining to related party transactions:
  - Formulate a policy on materiality of and on dealing with related party transactions
  - Most of the related party transactions<sup>17</sup> will require prior approval of the audit committee (only IDs who are part of the audit committee will approve such transactions)
  - Most of the material related party transactions<sup>17</sup> will require shareholder approval through resolution
  - HVDLEs are required to submit 'related party disclosures' along with its standalone financial results for the half year, to the stock exchange and publish the disclosures on the website.  
Such related party disclosures include related party transactions, disclosed on a consolidated basis in the format specified in the relevant accounting standard.
- **Corporate governance requirements with respect to subsidiary of HVDLE (Regulation 24):** Some of the key provisions that would apply to HVDLEs that have subsidiaries include:
  - At least one ID on the BOD of the HVDLE will be a director on the BOD of an unlisted material subsidiary, whether incorporated in India or not
  - The audit committee and the BOD of the HVDLE would be required to review the financial statements, minutes of meeting of the BOD of the unlisted subsidiary and the significant transactions and arrangements entered into by the unlisted subsidiary
  - Restrictions have been imposed on disposing of shares in the material subsidiary and selling, disposing and leasing of assets of the material subsidiary
- **Secretarial audit and secretarial compliance report (Regulation 24A):** All HVDLEs are required to undertake secretarial audit and annex a secretarial audit report along with the annual report. Additionally, a secretarial compliance report is required to be submitted to the stock exchanges within 60 days from the end of each financial year.
- **Obligations with respect to IDs (Regulation 25 read with regulation 16):** While appointing IDs, HVDLEs would be required to consider the following provisions:
  - Appointment, re-appointment and removal of IDs will be subject to approval of shareholders by way of a special resolution
  - No alternate director will be appointed as an ID
  - IDs to hold at least one meeting in a financial year
  - Organize various familiarisation programmes for independent directors
  - Undertake Directors and Officers (D&O) insurance for all its IDs
  - Board inter-lock is not permitted (regulation 16)
- **Obligations with respect to employees including senior management, key managerial persons, directors and promoters (Regulation 26):** Some of the key provisions with regard to these are:
  - A director can be a member in not more than ten committees or act as chairperson of not more than five committees across all listed entities in which he/she is a director.  
[Note: For the purpose of computing the limit of the committees in which the director may serve, membership and chairmanship of the audit committee and stakeholders relationship committee alone will be considered for all public companies, whether listed or not. Membership and chairmanship in committees of other companies including private limited companies, foreign companies, **HVDLEs** and companies registered under section 8 of the Companies Act, 2013 (2013 Act) will be excluded.]  
*(Emphasis added to highlight the change)*
  - All members of the BOD and senior management personnel should affirm compliance with the code of conduct on an annual basis
  - Senior management is required to make disclosure to the BOD relating to all material financial and commercial transactions, where they have personal interest that may have a potential conflict with the interest of the HVDLE at large
- **Quarterly compliance report (Regulation 27):** HVDLE are required to submit a quarterly compliance report on corporate governance in the format specified by SEBI within 21 days from the end of each quarter. The report should disclose all material related party transactions and should be signed either by the compliance officer or the chief executive officer of the HVDLE.

Companies should effectively utilise the extended time given and plan their compliance programmes.

17. Transactions entered into between two government companies, and transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company are exempt from such approval

## **Annexure B: Additional information required to be submitted to stock exchanges, debenture trustees and uploaded on website (Schedule III (Part B))**

Disclosures of the following information (which has bearing on performance/operation of listed entity, or is considered price sensitive) is required to be made to the stock exchange(s), debenture trustees and uploaded on website by issuers of NCS within 24 hours from date of occurrence:

### ***Existing provisions***

- Expected default in the timely payment of interest, dividend or redemption payment or both in respect of the NCS and also default in the creation of security for non-convertible debt securities as soon as the same becomes apparent;
- Any attachment or prohibitory orders restraining the listed entity from transferring NCS from the account of the registered holders along-with the particulars of the numbers of securities so affected, the names of the registered holders and their demat account details;
- Any action which shall result in the redemption, reduction, cancellation, retirement in whole or in part of any NCS
- Any action that shall affect adversely payment of interest on non-convertible debt securities or payment of dividend on non-convertible redeemable preference shares including default by issuer to pay interest on non-convertible debt securities or redemption amount and failure to create a charge on the assets;
- Any change in the form or nature of any of its NCS that are listed on the stock exchange(s) or in the rights or privileges of the holders thereof and make an application for listing of the securities as changed, if the stock exchange(s) so require;
- Any changes in the general character or nature of business / activities, disruption of operation due to natural calamity, and commencement of commercial production / commercial operations;
- Any events such as strikes and lock outs. which have a bearing on the interest payment/ dividend payment / principal repayment capacity;
- Details of any letter or comments made by debenture trustees regarding payment/non-payment of interest on due dates, payment/non-payment of principal on the due dates or any other matter concerning the security, listed entity and /or the assets along with its comments thereon, if any;
- Delay/default in payment of interest or dividend / principal amount /redemption for a period of more than three months from the due date;
- Failure to create charge on the assets within the stipulated time period;
- Any instance(s) of default/delay in timely repayment of interests or principal obligations or both in respect of the debt securities including, any proposal for re-scheduling or postponement of the repayment programmes of the dues/debts of the listed entity with any investor(s)/lender(s).
- Any major change in composition of its board of directors, which may amount to change in control as defined in Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;
- Any revision in the rating;
- The following approvals by board of directors in their meeting:-
  - a. the decision to pass any interest payment;
  - b. short particulars of any increase of capital whether by issue of bonus securities through capitalization, or by way of right securities to be offered to the debt security holders, or in any other way;
- All the information, report, notices, call letters, circulars, proceedings, etc. concerning non-convertible debt securities;
- Disclosure of outcome of board meetings within 30 minutes of closure of meeting, held to consider fund raising or financial results

## **Annexure B: Additional information required to be submitted to stock exchanges, debenture trustees and uploaded on website (Schedule III (Part B)) (cont.)**

### ***New provisions***

- Fraud/defaults by promoter or key managerial personnel or director or employees of listed entity or by listed entity or arrest of key managerial personnel or promoter
- Change in directors, key managerial personnel (Managing Director, Chief Executive Officer, Chief Financial Officer, Company Secretary etc.), Auditor and Compliance Officer
- In case of resignation of the auditor of the listed entity, detailed reasons for resignation of auditor, as given by the said auditor, shall be disclosed by the listed entities to the stock exchanges as soon as possible but not later than twenty-four hours of receipt of such reasons from the auditor
- Information with regard to resolution plan(s)/restructuring in relation to loans/borrowings from banks/financial Institutions
- One-time settlement with a bank
- Winding-up petition filed by any party/creditors
- Proceedings of Annual and extraordinary general meetings of the listed entity
- Details in relation to Corporate Insolvency Resolution Process (CIRP) of a listed corporate debtor under the Insolvency Code
- Intimation related to any change in terms of issue or redemption of exercising of call/put options
- Intimation related to any change in covenants or breach of covenants under the terms of non-convertible debentures and/or non-convertible redeemable preference shares
- Intimation related to forfeiture of unclaimed interest or dividend or principal amount
- Intimation related to any change in the debenture trustee or Credit Rating Agency or Registrar and Share Transfer Agent
- Intimation of comfort/guarantee or any credit enhancement provided by the listed entity to a third party
- Any other information/change that:
  - a. shall affect the rights and obligations of the holders of the non-convertible securities; and
  - b. is not in the public domain but necessary to enable the holders of the non-convertible securities to comprehend the true position and to avoid the creation of a false market in such listed securities.

**Annexure C: Information to be disclosed on the website of companies**

- Details of the business (existing requirement)
- Composition of the Board (new provision)
- All information and reports including compliance reports filed by the listed entity (existing requirement)
- Financial information including:
  - notice of meeting of the board of directors where financial results shall be discussed, (new provision)
  - financial results, on the conclusion of the meeting of the board of directors where the financial results were approved, (new provision)
  - complete copy of the annual report including balance sheet, profit and loss account, directors report, corporate governance report etc. (existing requirement)
- Contact information of the designated officials of the listed entity who are responsible for assisting and handling investor grievances (existing requirement)
- Email address for grievance redressal and other relevant details (existing requirement)
- Name of debenture trustees with full contact details (existing requirement)
- The information, report, notices, call letters, circulars, proceedings, etc. concerning non-convertible redeemable preference shares or non-convertible debt securities (existing requirement)
- All credit ratings obtained by the entity for all its listed non-convertible securities, updated immediately upon any revision in the ratings (amended provisions)
- Information with respect to the following: (existing requirement)
  - Default by issuer to pay interest or redemption amount
  - Failure to create a charge on the assets
- Statements of deviation(s) or variation(s) as specified in sub-regulation (7) and sub-regulation (7A) of regulation 52 (new provision)
- Annual return as provided under section 92 of the 2013 Act and the rules made thereunder (new provision)
- Information required by Regulation 51 of the Listing Regulations (for a minimum period of five years) (new provision)
  - Composition of the various committees of the board of directors
  - Terms and conditions of appointment of independent directors
  - Code of conduct of the board of directors and senior management personnel
  - Details of establishment of vigil mechanism/ whistle blower policy
  - Criteria of making payments to non-executive directors, if the same has not been disclosed in the annual report
  - Secretarial compliance report as per sub-regulation (2) of regulation 24A of Listing regulations
  - Policy for determining 'material' subsidiaries
  - Details of familiarisation programmes imparted to IDs including the following details:
    - number of programmes attended by the IDs (during the year and on a cumulative basis till date),
    - number of hours spent by the independent directors in such programmes (during the year and on cumulative basis till date), and
    - other relevant details

**Annexure D: Revised format for filing financial information<sup>11</sup>****I. Format for standalone financial results on a quarterly basis and standalone and consolidated financial results on an annual basis - (to be submitted to Stock Exchange (SE), Debenture trustees and placed on the listed entity's website)**

	<b>3 months ended (dd/mm/yyyy) (Audited/ Unaudited)</b>	<b>Preceding 3 months ended (dd/mm/yyyy) (Audited/ Unaudited)</b>	<b>Corresponding 3 months ended previous year (dd/mm/yyyy) (Audited/ Unaudited)</b>	<b>Year to date figures for current period ended (dd/mm/yyyy) (Audited/ Unaudited)</b>	<b>Year to date for previous year ended (dd/mm/yyyy) (Audited/ Unaudited)</b>	<b>Previous year ended (dd/mm/yyyy) (Audited/ Unaudited)</b>
Entities that have listed NCS (including HVDLE)	Yes	Yes	Yes	Yes	Yes	Yes

**Requirements**

- Financial results to contain the items mentioned in the statement of Profit and Loss (excluding notes and detailed sub-classification) prescribed in the Schedule III of the Companies Act, 2013 (2013 Act)
- The column on corresponding figures for quarters will not be applicable in case where a listed entity does not have corresponding quarterly financial results for the four quarters ended September 2020, December 2020, March 2021 and June 2021
- The financial results should also include line items specified under regulation 52(4) of the Listing Regulations relating to ratios such as debt-equity ratio, debt service coverage ratio, etc.

**II. Format for Statement of assets and liabilities on half yearly basis - (to be submitted to SE, Debenture trustees and placed on the listed entity's website)**

	<b>As at (Current half year end/ year end date) dd/mm/yyyy (Audited/Unaudited)</b>	<b>As at (Previous year end date) dd/mm/yyyy (Audited/Unaudited)</b>
Entities that have listed NCS (including HVDLE)	Yes	Yes

**Requirements**

- This format will contain the items mentioned in the format of Balance sheet (excluding notes and detailed sub-classification) as prescribed in the Schedule III of the 2013 Act.
- In case where a listed entity does not have corresponding statement of assets and liabilities for the half year ended September 2020, the column on corresponding figures will not be applicable.

**III. Format for Statement of cash flows on half yearly basis – (to be submitted to SE, Debenture trustees and placed on listed entity's website)**

	<b>As at (Current half year end/year end date) dd/mm/yyyy (Audited/Unaudited)</b>	<b>As at (Corresponding half year end/Previous year end date) dd/mm/yyyy (Audited/Unaudited)</b>
Entities that have listed NCS (including HVDLE)	Yes	Yes

**Requirements**

- The format will be prepared under the indirect method as prescribed in AS 3/Ind AS 7, mandated under Section 133 of the 2013 Act read with relevant rules framed thereunder or framed by the ICAI, whichever is applicable
- In case where a listed entity does not have corresponding cash flow statement for the half year ended September 2020, the column on corresponding figures will not be applicable.



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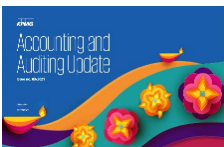
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## Missed an issue of Accounting and Auditing Update or First Notes?



### Issue no. 63– October 2021

The topics covered in this issue are:

- SPAC: India tax and regulatory conundrum
- Accounting of financial instruments under Ind AS
- Regulatory updates.



## SEBI amends provisions related to independent directors

### 8 September 2021

The Securities and Exchange Board of India (SEBI) (Listing Obligations and Disclosure Requirements), Regulations, 2015 (Listing Regulations) lays down provisions for transparency and fair disclosures by all Indian listed companies. Amendments to the Listing Regulations have been made from time to time to reinforce compliances and protect the interest of investors.

On 29 June 2021, SEBI, in its board meeting approved some of proposals pertaining to IDs mentioned in the consultation paper. These decisions come into effect through SEBI's notification dated 3 August 2021 which amended the Listing Regulations pertaining to regulatory provisions related to IDs. The amendments mainly pertain to the following areas:

- Eligibility of IDs
- Appointment, reappointment and resignation of IDs
- Committees of the board
- Related party transactions
- Directors and Officers insurance (D&O insurance) for IDs



## Voices on Reporting

### VOR quarterly publication for the quarter ended 30 September 2021

Quarterly updates publication (for the quarter ended 30 September 2021) provides a summary of key updates from the Securities and Exchange Board of India (SEBI), the Ministry of Corporate Affairs (MCA), the Institute of Chartered Accountants of India (ICAI) and the Reserve Bank of India (RBI). To access the publication, please [click here](#)

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