



Mandatory forensic audit disclosure to stock exchanges, reverse book building not applicable for delisting listed subsidiary & other key decisions at SEBI Board meeting | Fund raising relaxations extended

INSIGHTS

September 30, 2020

SEBI has taken certain major decisions in its meeting held on September 29, 2020, including following:

- In case of initiation of forensic audits, listed entities shall make the disclosures to stock exchanges, without any application of materiality;
- Exemption from the Reverse Book Building process for delisting of listed subsidiary, where it becomes the wholly owned subsidiary of the listed parent pursuant to a scheme of arrangement;
- For Mutual Funds, introduction of Code of Conduct for Fund Managers including Chief Investment Officers and Dealers of Asset Management Companies;
- For Alternative Investment Funds, qualification and experience criteria of the investment team, may be fulfilled individually or collectively by personnel of key investment team of the manager;
- Strengthening the role of Debenture Trustees so as to protect the interest of debenture holders;
- Change in mechanism with respect to the information to be submitted by informants under the informant mechanism of the SEBI (Prohibition of Insider Trading) Regulations, 2015.

Additionally, SEBI has given extensions to certain relaxations with respect to validity of SEBI Observations and filing of fresh offer document in case of increase or decrease of issue size beyond a particular threshold SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (**ICDR Regulations**).

Aforementioned changes are summarized below:

A. SEBI Board Meeting | Changes proposed vide Press release dated September 29, 2020 ([available here](#))

<p>Forensic audit disclosure without materiality test</p>	<p>Following information to be disclosed related to forensic audit of listed entities to stock exchanges, without any application of materiality:</p> <ul style="list-style-type: none"> ▪ the fact of initiation of forensic audit (by whatever name called) along-with name of entity initiating the forensic audit and reasons for the same, if available; ▪ final forensic audit report (other than for forensic audit initiated by regulatory / enforcement agencies), on receipt by the listed entity, along with comments of the management, if any.
<p>Delisting of listed subsidiary – Exemption from Reverse Book Building process (RBB)</p>	<p>SEBI has decided to grant exemption from RBB for delisting of listed subsidiary, where it becomes the wholly owned subsidiary of the listed parent pursuant to a scheme of arrangement. Following are additional conditions:</p> <ul style="list-style-type: none"> ▪ The listed holding company and the listed subsidiary should be in the same line of business; ▪ Both the companies should be compliant with SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, specifically, the regulations (no. 11, 37 and 94) pertaining to processing of the schemes of arrangement; ▪ Votes cast by public shareholders of the listed subsidiary in favour of the proposal should be at least 2 times the number of votes cast against it; ▪ The shares of the parent listed company and the listed subsidiary entity should be listed for at least 3 years, should not be suspended at the time of taking this route, and the subsidiary should have been a listed subsidiary of the listed holding entity for at least 3 preceding years.
<p>Code of Conduct for Fund Managers and Dealers AMCs can become self-clearing member of Clearing Corporation</p>	<ul style="list-style-type: none"> ▪ Introduction of Code of Conduct for Fund Managers including Chief Investment Officers and Dealers of Asset Management Companies (AMCs). Further, the Chief Executive Officer will be responsible to ensure that the Code of Conduct is followed by all such officers. ▪ AMCs permitted to become self-clearing member of the recognized Clearing Corporations to clear and settle trades in the debt segment of recognized stock exchanges, on behalf of its mutual fund schemes.
<p>Alternative Investment Funds Qualification of investment team </p>	<ul style="list-style-type: none"> ▪ Inclusion of definition of “relevant professional qualification”. ▪ The qualification and experience criteria of the investment team may be fulfilled individually or collectively by personnel of key investment team of the Manager.

Constitution of Investment Committee	<ul style="list-style-type: none"> Other amendments cover the constitution of an Investment Committee by the Manager for approving investment decisions, responsibilities of Manager and members of such Investment Committee of an Alternative Investment Fund.
Strengthening role of Debenture Trustees (DTs)	<p>SEBI approved the proposal of strengthening the role of DT so as to protect the interest of debenture holders.</p> <ul style="list-style-type: none"> DTs to exercise independent due diligence of the assets on which charge is being created; DTs to take required action by convening the meeting of debenture holders for enforcement of security, joining the inter-creditor agreement (under the framework specified by Reserve Bank of India), etc. DTs to carry out continuous monitoring of the asset cover including obtaining mandatory certificate from the statutory auditor on half yearly basis; Issuer company to create recovery expense fund at the time of issuance of debt securities that may be utilized by DTs in the event of default, for taking appropriate legal action to enforce the security.
Information to be submitted by informants under the informant mechanism under PIT Regulations	<ul style="list-style-type: none"> Time period of up to 3 years for reporting violations under the insider trading laws through the informant mechanism; and Informants to include specific information (such as details of securities, trades by suspect and unpublished price sensitive information based on which insider trading is alleged) with respect to the alleged violations.

B. Extension of relaxation with respect to validity of SEBI observations and revision in issue size

SEBI has extended the following relaxations granted under ICDR Regulations till **March 31, 2021**:

- Flexibility on issue size:** An issuer, whose offer document is pending receipt of SEBI observation, shall be permitted to increase or decrease the fresh issue size by up to 50% of the estimated issue size (instead of the present limit of 20%) without requiring to file fresh draft offer document with SEBI, subject to certain conditions. This flexibility was earlier provided for all issues opening before December 31, 2020 (vide [SEBI Circular dated April 21, 2020](#)) and has now been further extended till March 31, 2021.
- Relaxation on validity of SEBI observations:** The validity of SEBI observations expiring between October 1, 2020 and March 31, 2021 has been extended upto March 31, 2021, subject to a prescribed undertaking from lead manager to the issue.

Aforementioned relaxation has been granted vide SEBI Circular dated September 29, 2020 ([available here](#)) and is effective from October 1, 2020.

We trust you will find this an interesting read. For any queries or comments on this update, please feel free to contact us at insights@elp-in.com

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