



भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

CONSULTATION PAPER

DEPARTMENT OF DEBT AND HYBRID SECURITIES

Consultation paper on review of provisions of LODR Regulations pertaining to corporate governance norms for High Value Debt Listed entities (HVDLEs) (updated- changes highlighted in yellow)

October 2024



भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

CONTENTS

Particulars	Page no.
Objective and Background	3 - 4
Proposals 2 to 13	5 - 30
2. Introduction of a separate chapter for corporate governance norms in the LODR Regulations which will be applicable only to HVDLEs	5-6
3. Relaxation in the threshold for identification of High Value Debt Listed Entities for applicability of Corporate Governance Norms	7-9
4. Introduction of the sunset clause for applicability of Corporate Governance norms	10-13
5. Relaxation for HVDLEs which are not companies as per the Companies Act, 2013	14-15
6. Relaxation with regard to constitution of the Nomination and remuneration committee (NRC)	16
7. Relaxation with respect to constitution of Risk Management Committee(RMC)	17
8. Relaxation with respect to constitution to Stakeholders Relationship Committee (SRC)	18
9. Introduction of filing of corporate governance compliance report in XBRL format and harmonization of reporting formats with that specified for equity listed entities	19-20
10. Introduction of Business Responsibility and Sustainability Report (BRSR) for HVDLEs on a voluntary basis	21
11. Requirements related to maximum number of directorships	22-24
12. Requirements related to number of memberships or chairpersonships in the committees by a director	25-26
13. Requirements pertaining Related Party transactions (RPT)	27-30
Public Comments	31-32

Timeline to Respond

Comments on the Consultation paper may be sent by November 15, 2024

1. OBJECTIVE AND BACKGROUND:

- 1.1. The objective of this consultation paper is to seek comments/ views/ suggestions from the public on the proposals related to review of provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”) pertaining to corporate governance norms for High Value Debt Listed entities (HVDLEs).
- 1.2. SEBI vide notification dated September 07, 2021, inserted Regulation 15(1A) in the LODR Regulations which specifies compliance of Regulation 16 to Regulation 27 by an entity having outstanding value of listed non-convertible debt securities of Rs. 500 Crore and above, referred to as ‘High Value Debt Listed Entities’ (“HVDLEs”). This amendment was effected with a view to protect the interests of debenture holders of such entities and imbibing corporate governance amongst such issuer entities of debt securities. They, *inter-alia*, relate to the composition of Board of Directors, minimum number of meetings to be held per year, code of conduct, submission of compliance certificate, framing and implementing risk management plan for listed entities, constitution of various specialized committees, vigil mechanism, stipulations related to Related Party Transactions (RPTs), etc. The aforesaid provisions were made applicable on a ‘comply or explain’ basis until March 31, 2023, and currently extended till March 31, 2025.
- 1.3. SEBI constituted a working group on May 17, 2023, comprising of representatives from the industry to review the applicability of Corporate Governance Norms under LODR Regulations, *inter-alia*, keeping in mind the ease of doing business and the interest of investors in such HVDLEs.
- 1.4. Further, in order to promote the ease of doing business and reduce the compliance burden, SEBI vide Press Release dated October 04, 2023 had also sought comments from the public on various Regulations by November 06, 2023. The comments received from the public regarding corporate governance

norms for HVDLE were forwarded to the working group for consideration in its final recommendation. The working group submitted its report on January 19, 2024.

1.5. Based on the recommendations of working group and subsequent internal deliberations, the proposals regarding the corporate governance norms for HVDLE on which public comments are sought are listed below.

- (a) Introduction of a separate chapter for corporate governance norms in the LODR Regulations which will be applicable only to HVDLEs;
- (b) Relaxation in the threshold for identification of High Value Debt Listed Entities for applicability of Corporate Governance Norms;
- (c) Introduction of the sunset clause for applicability of Corporate Governance norms;
- (d) Relaxation for HVDLEs which are not companies as per the Companies Act, 2013;
- (e) Relaxation with regard to constitution of the Nomination and remuneration committee (NRC);
- (f) Relaxation with respect to constitution of Risk Management Committee (RMC);
- (g) Relaxation with respect to constitution to Stakeholders Relationship Committee (SRC);
- (h) Introduction of filing of corporate governance compliance report in XBRL format and harmonization of reporting formats with that specified for equity listed entities;
- (i) Introduction of Business Responsibility and Sustainability Report (BRSR) for HVDLEs on a voluntary basis;
- (j) Requirements related to maximum number of directorships;
- (k) Requirements related to number of memberships or chairpersonships in the committees by a director; and
- (l) Requirements pertaining Related Party transactions (RPT);

1.6. The detailed proposals and consultation matters related to aforementioned items are mentioned in Paragraphs 2 to 13 of this consultation paper.

2. Introduction of a separate chapter for corporate governance norms in the LODR Regulations which will be applicable only to HVDLEs

2.1. Background:

Presently, Regulation 15 to 27 of the LODR regulations contain corporate governance norms which have been approached from an equity perspective and as such may not be fully relevant from the perspective of the debt listed entities. Out of total 812¹ debt listed entities as on March 31, 2024², 264 (33%) entities are both equity and debt listed whereas 538 (66%) entities are only debt listed.

2.2. Need for review and Proposal:

To facilitate ease of reference for HVDLEs to adhere to the corporate governance norms, the following is proposed:

- a) Introduce a separate chapter for HVDLEs comprising of all the provisions pertaining to corporate governance norms; and
- b) Carve out only those provisions for HVDLEs which differ from equity listed entities in a separate chapter.

Consultation 1: Introduction of a separate chapter for corporate governance norms in the LODR Regulations which will be applicable only to HVDLEs

Kindly provide your comments for the below items along with supporting rationale:

- 1) Whether the proposal of introducing a separate chapter for HVDLEs comprising of all the provisions pertaining to corporate governance norms is appropriate and adequate?

² Source: NSDL

- 2) Whether the proposal of carving out only those provisions for HVDLEs which differ from equity listed entities in a separate chapter is appropriate and adequate?

3. Relaxation in the threshold for identification of High Value Debt Listed Entities for applicability of Corporate Governance Norms

3.1. Background:

Currently, the Corporate Governance norms are applicable on the basis of the outstanding value of listed non-convertible debt securities³ and an entity is identified as HVDLE as and when it hits the threshold of Rs. 500 crore.

3.2. Extant regulatory provision:

Regulation 15(1)(A) of LODR regulations reads as under:

“(1A) The provisions of this regulation and regulation 16 to regulation 27 of this chapter shall apply to a listed entity which has listed its non-convertible debt securities and has an outstanding value of listed non-convertible debt securities of Rupees Five Hundred Crore and above:

Provided that in case an entity that has listed its non-convertible debt securities triggers the specified threshold of Rupees Five Hundred Crore during the course of the year, it shall ensure compliance with these provisions within six months from the date of such trigger:

Provided further that these provisions shall be applicable to a ‘high value debt listed entity’ on a ‘comply or explain’ basis until March 31, 2025 and on a mandatory basis thereafter.

.....”

3.3. Need for review and Proposal:

3.3.1. Vide notification dated September 07, 2021, LODR Regulations were amended, wherein the corporate governance norms were made applicable to High Value Debt Listed Entity (HVDLE), specifying the threshold of Rs.500 crores.

³ Regulation 2 (1)(t) of the LODR Regulations provides that non-convertible debt securities’ means ‘debt securities’ as defined under the Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021;

3.3.2. SEBI Board in its meeting held on March 15, 2024 suggested that thresholds of public or non-institutional investors holdings, or a suitable risk based approach may be explored for mandating corporate governance norms for debt listed entities.

3.3.3. Further, SEBI vide circular dated October 19, 2023 *inter-alia* enhanced the limit of outstanding long term borrowing from Rs.100 crore to Rs.1000 Crore for identification of a listed entity as Large Corporate.

3.3.4. Data Analysis:

3.3.4.1. As per the data received from NSDL for entities having their debt listed as on March 31, 2024, the following may be noted:

Sr.no	Category	No. of Entities Total	Total Amount Outstanding as on March 31, 2024 (in Rs. Lakh Crores)
1	Total No. of Debt listed entities	812	37.25
2	No. of entities having both equity and debt listed	264	22.84
3	No. of REITs/InvITs who have their debt listed	10	0.27
3	No. of pure debt listed entities	538	14.14
4	No. of pure debt listed entities with outstanding more than Rs. 500 crores	166	13.54
5	No. of pure debt listed entities with outstanding more than Rs.1000 crores	112	13.16

6	No. of pure debt listed entities with outstanding more than Rs. 2000 crores	75	12.64
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3.3.5. In view of the above, it is proposed that the threshold of listed outstanding non-convertible securities for identification of a debt listed entity as HVDLE may be increased from Rs.500 crore to Rs.1000 crore.

Consultation 2: Relaxation in the threshold for identification of High Value Debt Listed Entities for applicability of Corporate Governance Norms

Kindly provide your comments for the below item along with supporting rationale:

- 3) Whether the proposal of increasing the threshold of listed outstanding non-convertible securities for identification of a debt listed entity as HVDLE from Rs.500 crore to Rs.1000 crore is appropriate and adequate?

4. Introduction of the sunset clause for applicability of Corporate Governance norms

4.1. Background:

Currently, Regulation 3(3) of the LODR Regulations provide that the corporate governance norms shall continue to apply to a HVDLE even when the outstanding amount of listed non-convertible debt securities falls below the specified threshold of Rs. 500 crores. But there is no specified period for which a HVDLE shall continue to comply with such provisions, once the outstanding amount of listed non-convertible debt securities falls below the specified threshold of Rs. 500 crores.

4.2. Extant regulatory provision:

4.2.1. Regulation 3(3) of the LODR Regulations read as under:

“3(3). The provisions of these regulations which become applicable to listed entities on the basis of the criterion of the value of outstanding listed debt securities shall continue to apply to such entities even if they fall below such thresholds as mentioned in sub-regulation (1A) of regulation 15”

4.2.2. Explanation to Regulation 15(2)(a) of the LODR Regulations reads under:

“Provided further that once the above regulations become applicable to a listed entity, they shall continue to remain applicable till such time the equity share capital or the net-worth of such entity reduces and remains below the specified threshold for a period of three consecutive financial years.”

4.3. Need for review and Proposal:

4.3.1. At present, the existing provisions of the regulations which become applicable on the basis of value of outstanding listed debt securities continue to remain applicable forever even if the value of outstanding

listed debt securities falls below the specified threshold of Rs. 500 crores and the entity does not remain a HVDLE.

- 4.3.2. Explanation to Regulation 15(2)(a) of the LODR Regulations provides that once the corporate governance norms become applicable to a listed entity, they shall continue to remain applicable till such time the equity share capital or the net-worth of such entity reduces and remains below the specified threshold for a period of three consecutive financial years.
- 4.3.3. Thus, in order to address the Issue for HVDLEs, the following is proposed:
- a) Once the corporate governance norms become applicable to a HVDLE, they shall continue to remain applicable till such time the value of outstanding listed debt securities reduces and remains below the specified threshold for a period of three consecutive financial years. The value of outstanding listed debt securities may be reviewed on the last day of every financial year (i.e. cut-off date – March 31).
 - b) Further, if the value of outstanding listed debt securities of the entity increases in the subsequent years and the listed entity hits the specified threshold, then it has to comply ensure compliance with the provisions within two quarter i.e. six months and disclosures of such compliance may be made in Corporate Governance compliance report on and from third quarter following the trigger.

Consultation 3: Introduction of the sunset clause for applicability of Corporate Governance norms

Kindly provide your comments for the below items along with supporting rationale:

- 4) Whether the proposal that once the corporate governance norms become applicable to a HVDLE, they shall continue to remain applicable till such time the value of outstanding listed debt securities reduces and remains below the specified threshold for a period of three consecutive financial years. The value of outstanding listed debt securities may be reviewed on the last day of every financial year (i.e. cut-off date – March 31) is appropriate and adequate?
- 5) Whether the proposal that if the value of outstanding listed debt securities of the entity increases in the subsequent years and the listed entity hits the specified threshold, then it has to comply ensure compliance with the provisions within two quarters i.e. six months and disclosures of such compliance may be made in Corporate Governance compliance report on and from third quarter following the trigger is appropriate and adequate?

Illustration for ease of reference:

Particulars/ Date	March 31, 2023	March 31, 2024	March 31, 2025	October 01, 2025
Outstanding value of non-convertible securities (in Rs. cr)	Rs 600 Cr	Rs. 500 Cr	Rs.750 Cr	Rs.1,050 Cr
Compliance Status	Listed entity is not mandated to comply with the corporate governance norms w.e.f April 01, 2025			Date of trigger: October 01, 2025; HVDLE shall ensure compliance with corporate governance norms by March 31, 2026 (2 qtrs); Compliance starts from April 01, 2026; Disclosure w.r.t compliance shall be made in the compliance report for the quarter April to June 2026.

5. Relaxation for HVDLEs which are not companies as per the Companies Act, 2013

5.1. Background and need for review:

5.1.1. There are certain entities like NABARD, SIDBI, NHB, EXIM Bank which raise funds from bond market through issuance of debt securities. These institutions are governed by the specific Acts passed by the Parliament and not governed under Companies Act 2013. These Acts, *inter alia*, lay down the governance structure like Composition of the Board, appointment, removal and other terms and conditions. These entities, thus, specifically need approvals from Govt or Regulatory bodies concerning the appointment of directors and other related aspects. In addition, in case of Govt. companies, the appointment of the directors is done by the concerned administrative Ministry. As such, there appears to be special need for dispensation for these entities.

5.1.2. Explanation to Regulation 15(2) (b) of the LODR Regulations provided a carve out for listed entities which are not companies. The proviso is given as under:

“Provided that for other listed entities which are not companies, but body corporate or are subject to regulations under other statutes, the provisions of corporate governance provisions as specified in regulation 17, 17A, 18, 19, 20, 21, 22, 23, 24, 24A, 25, 26, 27 and clauses (b) to (i) of sub-regulation (2) of regulation 46 and para C, D and E of Schedule V shall apply to the extent that it does not violate their respective statutes and guidelines or directives issued by the relevant authorities.”

The aforesaid proviso was deleted with effect from September 01, 2021.

5.2. Proposal:

It is proposed to specify a carve-out HVDLEs which are not companies similar to what was provided for equity listed entities. The proposed clause is given below:

Provided that for HVDLEs which are not companies, but body corporate or are subject to regulations under other statutes, the provisions of corporate governance provisions as specified in regulation 17 to 27 of the LODR Regulations shall apply to the extent that it does not violate their respective statutes and guidelines or directives issued by the relevant authorities.

Consultation 4: Relaxation for HVDLEs which are not companies as per the Companies Act, 2013

Kindly provide your comments for the below item along with supporting rationale:

- 6) Whether the proposal of to specify a carve-out HVDLEs which are not companies similar to what was specified for equity listed entities in Regulation 15(b) of the LODR Regulations is appropriate and adequate?

6. Relaxation with regard to constitution of the Nomination and remuneration committee (NRC)

6.1. Background:

Regulation 19 of the LODR mandates constitution of NRC as part of corporate governance norms

6.2. Extant Regulatory Provisions:

Regulation 19 of the LODR Regulations reads as under:

“Nomination and remuneration committee.

19. (1) The board of directors shall constitute the nomination and remuneration committee as follows:

- (a) the committee shall comprise of at least three directors ;*
 - (b) all directors of the committee shall be non-executive directors; and*
 - (c) at least two-thirds of the directors shall be independent directors*
- (2).....”*

6.3. Need for review and Proposal:

In order to avoid constitution of multiple committees by HVDLEs, it is proposed that the board of directors of a HVDLE may either choose to constitute NRC or may ensure that the functions of NRC as specified in Regulation 19(4) of the LODR Regulations is delegated and discharged by the Audit Committee.

Consultation 5: Relaxation with regard to constitution of the Nomination and remuneration committee (NRC)

Kindly provide your comments for the below item along with supporting rationale:

- 7) Whether the proposal that the board of directors of a HVDLE may either choose to constitute NRC or may ensure that the functions of NRC as specified in Regulation 19(4) of the LODR Regulations is delegated and discharged by the Audit Committee is appropriate and adequate?

7. Relaxation with respect to constitution of Risk Management Committee (RMC)

7.1. **Background:** Regulation 21 of LODR regulations, inter-alia, specifies that the board of directors shall constitute a Risk Management Committee.

7.2. Extant Regulatory Provisions:

Regulation 21 of the LODR Regulations reads as under:

“Risk Management Committee.

21. (1) The board of directors shall constitute a Risk Management Committee.

(2) The Risk Management Committee shall have minimum three members with majority of them being members of the board of directors, including at least one independent director and in case of a listed entity having outstanding SR equity shares, at least two thirds of the Risk Management Committee shall comprise independent directors.”

7.3. **Need for review and Proposal:** In order to avoid constitution of multiple committees by HVDLEs, it is proposed that the board of directors of a HVDLE may either choose to constitute RMC or may ensure that the functions of RMC as specified in Regulation 21(4) of the LODR Regulations is delegated and discharged by the Audit Committee.

Consultation 6: Relaxation with regard to constitution of the Risk Management Committee (RMC)

Kindly provide your comments for the below item along with supporting rationale:

- 8) Whether the proposal that the board of directors of a HVDLE may either choose to constitute RMC or may ensure that the functions of RMC as specified in Regulation 21(4) of the LODR Regulations is delegated and discharged by the Audit Committee is appropriate and adequate?

8. Relaxation with respect to constitution to Stakeholders Relationship Committee(SRC):

8.1. Background:

At present, Regulation 20 of the LODR Regulations mandates listed entity to constitute a Stakeholders Relationship Committee.

8.2. Extant Regulatory Provision:

Regulation 20 of the LODR Regulations reads as under:

“Stakeholders Relationship Committee.

20. (1) The listed entity shall constitute a Stakeholders Relationship Committee to specifically look into various aspects of interest] of shareholders, debenture holders and other security holders.

(2) The chairperson of this committee shall be a non-executive director.

(2A)....”

8.3. Need for review and Proposal:

In order to avoid constitution of multiple committees by HVDLEs, it is proposed that the board of directors of a HVDLE may either choose to constitute SRC or may ensure that Board of directors of a HVDLE may discharge the functions of SRC as specified in Regulation 20(4) of the LODR Regulations.

Consultation 7: Relaxation with respect to constitution to Stakeholders Relationship Committee (SRC)

Kindly provide your comments for the below item along with supporting rationale:

9) Whether the proposal the board of directors of a HVDLE may either choose to constitute SRC or may ensure that Board of directors of a HVDLE may discharge the functions of SRC as specified in Regulation 20(4) of the LODR Regulations is appropriate and adequate?

9. Introduction of filing of corporate governance compliance report in XBRL format and harmonization of reporting formats with that specified for equity listed entities

9.1. Background:

Regulation 27(2) of LODR Regulations mandates listed entities to submit compliance report on corporate governance on quarterly basis. Further Chapter VII (Formats specifying disclosure of Corporate Governance by 'high value debt listed entities') of Master circular for listing obligations and disclosure requirements for Non-convertible Securities, Securitised Debt Instruments and/ or Commercial Paper dated May 21, 2024 specifies the formats for disclosure of corporate governance requirements by HVDLEs.

9.2. Extant Regulatory Provisions:

Regulation 27(2) of the LODR Regulations reads as under:

“(2) (a) The listed entity shall submit a quarterly compliance report on corporate governance in the format as specified by the Board from time to time to the recognised stock exchange(s) within twenty one days from the end of each quarter.”

9.3. Need for review and Proposal:

9.3.1. It has been observed from the filings made by HVDLEs on the websites of stock exchange (s) that the filings are not made in uniform formats; in fact, in most cases, it is made in PDF format, which hampers readability and monitoring of clause wise compliance by Stock Exchanges. Hence, it is proposed to specify that quarterly compliance report as specified in Regulation 27(2) of the LODR regulations shall be in XBRL format.

9.3.2. Further, in case of reporting for corporate governance compliance, it is proposed that the format for HVDLEs may be harmonized with the format specified for equity listed entities⁴.

Consultation 8: Introduction of filing of corporate governance compliance report in XBRL format and harmonization of reporting formats with that specified for equity listed entities

Kindly provide your comments for the below items along with supporting rationale:

- 10) Whether the proposal to specify that quarterly compliance report as specified in Regulation 27(2) of the LODR regulations shall be in XBRL format is appropriate and adequate?
- 11) Whether the proposal of harmonising the format of quarterly compliance report for HVDLEs with that specified for equity listed entities is appropriate and adequate?

⁴ Refer Chapter II – Section II-B Master circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 by listed entities dated July 11, 2023

10. Introduction of Business Responsibility and Sustainability Report (BRSR) for HVDLEs on a voluntary basis

10.1. Background:

Regulation 34(2)(f) of LODR regulations mandates top 1000 listed companies (by market capitalization) to provide disclosures as per the BRSR.

10.2. Extant Regulatory Provision:

Regulation 34(2)(f) of LODR regulations reads as under:

“34(2) The annual report shall contain the following:

f) for the top one thousand listed entities based on market capitalization, a Business Responsibility and Sustainability Report on the environmental, social and governance disclosures, in the format as may be specified by the Board from time to time.

.....”

10.3. Need for review and Proposal:

To inculcate practice of good governance at par with equity listed, HVDLEs may comply with the requirements of publishing BRSR on a voluntary basis.

Consultation 9: Introduction of Business Responsibility and Sustainability Report (BRSR) for HVDLEs on a voluntary basis

Kindly provide your comments for the below item along with supporting rationale:

- 12) Whether the proposal that HVDLEs may comply with the requirements of publishing BRSR on a voluntary basis, is appropriate and adequate?

11. Requirements related to maximum number of directorships

11.1. Background:

Regulation 17A of LODR Regulations, inter-alia, specifies that a person shall not be a director in more than seven listed entities. Further, a person shall not serve as an independent director in more than seven listed entities.

11.2. Extant Regulatory Provision:

Regulation 17(1)(A) of LODR regulations reads as under:

“(17A) The directors of listed entities shall comply with the following conditions with respect to the maximum number of directorships, including any alternate directorships that can be held by them at any point of time –

(1) A person shall not be a director in more than eight listed entities with effect from April 1, 2019 and in not more than seven listed entities with effect from April 1, 2020:

Provided that a person shall not serve as an independent director in more than seven listed entities.

(2) Notwithstanding the above, any person who is serving as a whole time director / managing director in any listed entity shall serve as an independent director in not more than three listed entities.

Explanation - For the purpose of this [regulation, the count for the number of listed entities on which a person is a director / independent director shall be only those whose equity shares are listed on a stock exchange.

11.3. Need for review and Proposal:

11.3.1. The regulation 17 (A) of LODR Regulations specifies that the count for the number of listed entities on which a person is a director / independent director shall be only those whose equity shares are listed on a stock exchange. Accordingly, extant regulations exclude HVDLEs while counting the number to directorships held by a person, as a

consequence of this, a person may hold directorships in many HVDLEs which would not be counted for the purpose of the limits.

- 11.3.2. The Companies Act, 1956 restricted a person from being a director in more than 15 companies. Subsequently, the Companies, Act, 2013 increased the limit to 20 companies with a sub-limit of 10 as far as public companies are concerned.
- 11.3.3. The Committee on Corporate Governance chaired by Uday Kotak in its report dated October 5, 2017 had recommended introduction of a limit on maximum number of directorships in listed entities. Accordingly, a new regulation 17A was inserted in the LODR which capped the maximum directorship in listed entities to seven w.e.f. April 1, 2020. However, only those entities whose equity shares are listed on a stock exchange were considered for the purposes of regulation 17A.
- 11.3.4. The rationale given by the Kotak Committee is that multiple directorships beyond a reasonable limit may lead to a director not being able to allocate sufficient time to a particular company, thus hindering their ability to play an effective role. In view of the increasing responsibilities of corporate boards and thereby increased requirement of time from directors, the Committee recommended reduction of maximum permitted directorships for listed entities.
- 11.3.5. The aforesaid logic holds good for directorship held in every listed entity and exclusion of pure debt listed entities while counting the number of directorships held by a person for the purpose of the limits can be considered as defeating the intent of stipulating a ceiling on the number of directorships.
- 11.3.6. To ensure that a director is able to pay adequate attention to all listed entities irrespective of the security listed, it is important to include pure

debt listed entities while counting the ceiling on the number of directorships; this will facilitate due corporate governance, due attention to matters by the directors and accordingly, protection of investors – whether in debt or equity.

- 11.3.7. Accordingly, it is proposed to include directorships in HVDLEs alongwith directorships in equity listed entities while reckoning the number of directorships held by a person in listed entities. Further, to give sufficient time to all the listed entities to ensure compliance with the provision, a period of six months or a period of time till next AGM is held, may be provided.

Consultation 10: Requirements related to number of memberships or chairpersonships in the committees

Kindly provide your comments for the below items along with supporting rationale:

- 13) Whether the proposal to include directorships in HVDLEs alongwith directorships in equity listed entities while reckoning the number of directorships held by a person in listed entities, is appropriate and adequate?
- 14) Whether the proposal of providing a period of six months or a period of time till next AGM to all the listed entities to ensure compliance with the provision, is appropriate and adequate?

12. Requirements related to number of memberships or chairpersonships in the committees by a director

12.1. Background:

Regulation 26 of the LODR Regulations provides a maximum cap on the number of committees across all listed entities, a director can act as a member or chairperson. While determining the number of such listed entities, HVDLEs are excluded.

12.2. Extant Regulatory Provision:

Regulation 26 of the LODR Regulations reads as under:

*“26. (1) A director shall not be a member in more than ten committees or act as chairperson of more than five committees across all listed entities in which he 182[*she*] is a director which shall be determined as follows:*

(a) the limit of the committees on which a director may serve in all public limited companies, whether listed or not, shall be included and all other companies including private limited companies, foreign companies, ‘high value debt listed entities’ and companies under Section 8 of the Companies Act, 2013 shall be excluded;

(b) for the purpose of determination of limit, chairpersonship and membership of the audit committee and the Stakeholders' Relationship Committee alone shall be considered

(2).....”

12.3. Need for review and Proposal:

12.3.1. It is pertinent to mention that, like in equity listed entities, investor money is involved in debt listed entities as well; moreover, this is required to be repaid within the specified timeline. Thus, to ensure protection of debenture holders, better governance of these companies becomes paramount.

12.3.2. Directors play a crucial role in providing oversight and guidance on various committees (incl. ACs and SRCs) of these listed entities. Placing a cap on the total number of committees a director can serve on, irrespective of whether the entity is equity or debt listed (as both involves public money), helps prevent over commitment. This will ensure that directors can fulfil their responsibilities effectively without spreading themselves too thin by not providing adequate time across numerous committees.

12.3.3. Accordingly, to ensure that directors devote adequate time to listed entities including HVDLEs and in the interest of investor protection, it is proposed that HVDLEs (along with equity listed companies) should be considered for the purpose of computing the maximum limit of committees, a director can act as a member or chairperson.

Consultation 11: Requirements related to number of memberships or chairpersonships in the committees

Kindly provide your comments for the below item along with supporting rationale:

- 15) Whether the proposal of considering HVDLEs (along with equity listed companies) for the purpose computing maximum limit of committees, a director can act as a member or chairperson, is appropriate and adequate?

13. Requirements pertaining Related Party transactions (RPT)

13.1. Background:

Regulation 23 of LODR regulations specifies the regulatory requirement pertaining to related party transactions inter-alia including formulation of a policy on materiality of related party transactions and on dealing with related party transactions, prior approval of audit committee for all related party transactions, prior approval of shareholders through resolution for material related party transactions.

13.2. Extant Regulatory Provisions:

Regulation 23(4) of LODR Regulations (pertaining to RPTs), inter-alia, provides as follows

“(4) All material related party transactions and subsequent material modifications as defined by the audit committee under sub-regulation (2) shall require approval of the shareholders through resolution and no related party shall vote to approve such resolutions whether the entity is a related party to the particular transaction or not:

Provided that prior approval of the shareholders of a listed entity shall not be required for a related party transaction to which the listed subsidiary is a party but the listed entity is not a party, if regulation 23 and sub-regulation (2) of regulation 15 of these regulations are applicable to such listed subsidiary.

Explanation: For related party transactions of unlisted subsidiaries of a listed subsidiary as referred above, the prior approval of the shareholders of the listed subsidiary shall suffice.”

13.3. Need for review:

- 13.3.1. It is observed that in case of certain debt listed entities the shareholding of such entities are wholly/ substantially held by one or a few shareholders, which are related parties. When these entities enter into RPTs, they are required to obtain the approval of majority of the

shareholders who are not related parties. Such shareholders, who are not related parties, either hold a negligible portion of the equity or none at all, in which case the entity will not be able to transact such RPTs because of '*impossibility of compliance*' with the provisions of LODR Regulations.

13.3.2. Corporates generally borrow money from either banks or from the debenture holders. In this regard, it is noteworthy that banks typically include covenants in their lending agreements, requiring corporates to seek prior approval before engaging in related party transactions. This practice stems from the need to manage conflicts of interest, mitigate risks and ensure the overall financial health of borrowing entities. It is seen from a few such borrower – lender agreements that until the full discharge of the payment Obligations, without the prior approval of the Lenders, the Borrower cannot:

- (a) enter into transactions with related parties, except in the ordinary course of business and on the basis of arm's length arrangement and which are in compliance of applicable provisions of Companies Act;
- (b) incur any Financial Indebtedness (existing or future), secured or unsecured, in any manner to or from any other Person (including any group companies or related parties) other than as permitted by the Lenders;
- (c) enter into any related party transaction either in funded or non-funded form, including any transaction which might be outside of the normal course of business including the giving of any loans and financial assistance to any group companies/Affiliates.

13.3.3. Since, both banks and debenture holders are lenders to the borrowing entity, it is felt that a similar approach should be adopted for debenture holders. This provides a layer of protection to the debenture holders who might be at risk of unfair treatment due to some RPTs which may

also have an impact on the repayment capability of an entity. It is noted that the debenture holders' interest is intended to be safeguarded by a debenture trustee.

13.3.4. Accordingly, it is proposed that :

- (a) Issuer at the time of issuance of non-convertible securities (proposed to be listed) may provide a declaration upfront in the offer document regarding the amount (percentage of issue size) of RPT, issuer proposes to undertake over the tenor of the proposed non-convertible securities.
- (b) The monitoring of the utilization of proceeds of the issue may be conducted by credit rating agency
- (c) Further, the issuer shall upfront declare in the offer document the debt-equity ratio, debt service coverage ratio and interest service coverage ratio and such other financial/ non-financial covenants that will be maintained by the Issuer over the tenor of the non-convertible securities. The monitoring of such ratios including covenants shall be conducted by the Debenture Trustee.
- (d) In cases where Issuer has not made the aforesaid declaration upfront in the offer document as specified in para 13.3.4(a), the Issuer/ listed entity shall obtain No-objection Certificate (NOC) from the Debenture Trustee who in turn shall obtain such NOC from the debenture holders (determined by a majority of the debenture holders not related with the Issuer) for all the material RPTs.

Consultation 12: Requirements pertaining Related Party transactions (RPT)

Kindly provide your comments for the below items along with supporting rationale:

- 16) Whether the proposal that Issuer at the time of issuance of non-convertible securities (proposed to be listed) may provide a declaration upfront in the offer document regarding the amount (percentage of issue size) of RPT, issuer proposes to undertake over the tenor of the proposed non-convertible securities is appropriate and adequate?
- 17) Whether the proposal that the monitoring of the utilization of proceeds of the issue may be conducted by credit rating agency is appropriate and adequate?
- 18) Whether the proposal that the issuer shall upfront declare in the offer document the debt-equity ratio, debt service coverage ratio and interest service coverage ratio and such other financial/ non-financial covenants that will be maintained by the Issuer over the tenor of the non-convertible securities. The monitoring of such ratios including covenants shall be conducted by the Debenture Trustee is appropriate and adequate?
- 19) Whether the proposal that in cases where Issuer has not made the aforesaid declaration upfront in the offer document as specified in para 13.3.4(a), the Issuer/ listed entity shall obtain No-objection Certificate (NOC) from the Debenture Trustee who in turn shall obtain such NOC from the debenture holders (determined by a majority of the debenture holders not related with the Issuer) for all the material RPTs is appropriate and adequate?

14. Public Comments

14.1. Considering the implications of the aforementioned matters on the market participants, public comments are invited on the above-detailed proposals. The comments/ suggestions should be submitted through the following mode latest by September 06, 2024 :-

14.1.1. Preferably through Online web-based form

14.1.1.1. The comments may be submitted through the following link:

<https://www.sebi.gov.in/sebiweb/publiccommentv2/PublicCommentAction.do?doPublicComments=yes>

14.1.1.2. The instructions to submit comments on the consultation paper are as under:

1. *Before initiating the process, please read the instructions given on top left of the web form as “Instructions”.*
2. *Select the consultation paper you want to comment upon from the dropdown under the tab – “Consultation Paper” after entering the requisite information in the form.*
3. *All fields in the form are mandatory;*
4. *Email Id and phone number cannot be used more than once for providing comments on a particular consultation paper.*
5. *If you represent any organization other than the types mentioned under dropdown in “Organization Type”, please select “Others” and mention the type, which suits you best. Similarly, if you do not represent any organization, you may select “Others” and mention “Not Applicable” in the text box.*
6. *There will be a dropdown of Proposals in the form. Please select the proposals one- by-one and for each of the proposal, please record your level of agreement with the selected proposal. Please note that submission of agreement level is mandatory.*

7. If you want to provide your comments for the selected proposal, please select “Yes” from the dropdown under “**Do you want to comment on the proposal**” and use the text boxes provided for the same.
8. After recording your response to the proposal, click on “Submit” button. System will save your response to the selected proposal and prompt you to record your response for the next proposal. Please follow this procedure for all the proposals given in the dropdown.
9. If you do not want to react on any proposal, please select that proposal from the dropdown and click on “**Skip this proposal**” and move to the next proposal.
10. After recording your response to all the proposals, you may see your draft response to all of proposals by clicking on “**Check your response before submitting**” just before submitting response to the last proposal in the dropdown. A pdf copy of the response can also be downloaded from the link given in right bottom of the web page.
11. The final comments shall be submitted only after recording your response on all of the proposals in the consultation paper

14.1.1.3. In case of any technical issue in submitting your comment through web based public comments form, you may contact the following through email with a subject: “Consultation paper on review of provisions of LODR Regulations pertaining to corporate governance norms for High Value Debt Listed entities (HVDLEs)”.

- a) Mr. Rohit Dubey, GM (rohitd@sebi.gov.in)
- b) Ms. Kiran Dhembre, AM (kirand@sebi.gov.in)

Issued on: October 31, 2024