



Ref: 02/NOV/2021-22/CORP

November 9, 2021

Chief General Manager
Corporation Finance Department
The Securities and Exchange Board of India
G Block, Plot No. C 4-A, G Block Road,
Bandra Kurla Complex, Bandra East,
Mumbai, Maharashtra – 400051

Dear Sir/Ma'am,

Subject: Request for informal guidance by way of an interpretive letter under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 in connection with the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 as amended from time to time (SEBI LODR Regulations).

We would like to submit the following facts for your kind consideration and seek "Informal guidance – interpretative letter" with respect to procedure to be followed for approval of material related party transactions as per the provisions of SEBI LODR Regulations.

A. Background:

1. About the Company:

India Infradebt Limited (Infradebt/ Company), the applicant, is a Public Limited Company formed by four leading financial institutions of India viz. ICICI Bank Limited, Bank of Baroda, Citicorp Finance (India) Limited and Life Insurance Corporation of India. Infradebt is registered as an Infrastructure Debt Fund (IDF) - NBFC (Systemically Important Non-Deposit Taking Company) with the Reserve Bank of India (RBI). Being an IDF-NBFC, Infradebt finances the relatively safe, completed infrastructure projects which have completed at least one year of commercial operations. Infradebt has been raising funds by way of issuing secured and unsecured Non-Convertible Debentures (NCDs) on private placement basis. The NCDs issued by Infradebt are listed on Bombay Stock Exchange (BSE).

All corporate Shareholders of the Company and Infradebt have entered into a Joint Venture and Shareholders Agreement.

2. Shareholding pattern as on November 8, 2021:

Sr. No.	Name of Shareholder	Category	Total No of Equity Shares	Total Shareholding as % of total no. of equity shares
1.	ICICI Bank Limited	Promoter	36,73,61,005	42.33
2.	Bank of Baroda	Promoter	35,57,32,414	40.99

India Infradebt Limited

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Sr. No.	Name of Shareholder	Category	Total No of Equity Shares	Total Shareholding as % of total no. of equity shares
3.	Citicorp Finance (India) Limited	Promoter	8,70,00,000	10.02
4.	Life Insurance Corporation of India	Public	5,77,77,778	6.66
5.	Mr. Prashant Mistry (Nominee of ICICI Bank Limited)	Nominee of Promoter	1	0.00
6.	Mr. Vivek Ranjan (Nominee of ICICI Bank Limited)	Nominee of Promoter	1	0.00
7.	Mr. Rajesh Malhotra (Nominee of Bank of Baroda)	Nominee of Promoter	1	0.00
	Total		86,78,71,200	100.00

Note: The Nominee Shareholders are holding share on behalf of respective Institutions and have transferred the beneficial interest in such shares in favour of the respective Institutions.

B. Relevant provisions of SEBI LODR Regulations for which "Informal guidance – interpretative letter" is sought:

1. Regulation 15(1A) which was added pursuant to the SEBI (Listing Obligations and Disclosure Requirements) (Fifth Amendment) Regulations, 2021:

"(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, 2023 and on a mandatory basis thereafter.

Explanation (1)-The entities referred in the first proviso to sub-regulation (1A) of regulation 15 are referred to as 'high value debt listed entities' for the purpose of this chapter.

Explanation (2) -The 'high value debt listed entities' on the date of notification of this amendment would be determined on basis of value of principal outstanding of listed debt securities as on March 31, 2021.

Explanation (3) - 'Comply or explain' for the purpose of the second proviso to sub-regulation (1A) of regulation 15 shall mean that the entity shall endeavour to comply with the provisions and achieve full compliance by March 31, 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 the quarterly compliance report filed under clause (a), sub-regulation (2) of regulation 27 of these regulations.

..."

2. Regulation 2 (zb) "related party" means a related party as defined under sub-section (76) of section 2 of the Companies Act, 2013 or under the applicable accounting standards:



Provided that any person or entity belonging to the promoter or promoter group of the listed entity and holding 20% or more of shareholding in the listed entity shall be deemed to be a related party.

Provided further that this definition shall not be applicable for the units issued by mutual funds which are listed on a recognised stock exchange(s);

3. Regulation 2 (zc) *"related party transaction" means a transfer of resources, services or obligations between a listed entity and a related party, regardless of whether a*

5. Regulation 23 Related party transactions: (relevant extract)

Provided that the requirements specified under this sub-regulation shall not apply in respect of a resolution plan approved under section 31 of the Insolvency Code, subject to the event being disclosed to the recognized stock exchanges within one day of the resolution plan being approved.

- **Sub regulation (6):** *The provisions of this regulation shall be applicable to all prospective transactions.*
- **Sub regulation (7):** *For the purpose of this regulation, all entities falling under the definition of related parties shall not vote to approve the relevant transaction irrespective of whether the entity is a party to the particular transaction or not.*
- **Sub regulation (8):** *All existing material related party contracts or arrangements entered into prior to the date of notification of these regulations and which may continue beyond such date shall be placed for approval of the shareholders in the first General Meeting subsequent to notification of these regulations.*



C. Submission by the Company:

1. Your attention is drawn to relevant provision of the Companies Act, 2013 w.r.t. definition of related party which reads as under:

- **Section 2(76) - Definition of related party (relevant extract):**

"related party", with reference to a company, means—

.....

(viii) any company which is—

(A) a holding, subsidiary or an associate company of such company; or

(B) a subsidiary of a holding company to which it is also a subsidiary;

(C) an investing company or the venturer of the company;

Explanation — For the purpose of this clause, "the investing company or the venturer of a company" means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate.

- **Section 2(6) of Companies Act, 2013 - Definition of Associate Company:**

*"associate company", in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and **includes a joint venture company.***

Explanation — For the purposes of this clause,—

(a) the expression "significant influence" means control of at least twenty per cent. of total voting power, or control of or participation in business decisions under an agreement;

(b) the expression "joint venture" means a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement;

Pursuant to above referred definition of related party as per the Companies Act, 2013 and considering the fact that corporates Shareholders of InfraDebt have entered into a Joint Venture and Shareholders Agreement, as on date InfraDebt has classified all its corporate Shareholders viz. ICICI Bank Limited (Shareholding - 42.33%), Bank of Baroda (Shareholding - 40.99%), Citicorp Finance (India) Limited (Shareholding - 10.02%) and Life Insurance Corporation of India (Shareholding - 6.66%) as related party. Currently, the related party transactions entered by InfraDebt are in compliance with the requirements under the Companies Act, 2013.

2. Further, your attention is also drawn to relevant provisions of Section 188(1) - Related party transactions of the Companies Act, 2013 which reads as under:



"Except with the consent of the Board of Directors given by a resolution at a meeting of the Board and subject to such conditions as may be prescribed, no company shall enter into any contract or arrangement with a related party with respect to—

.....

Provided that no contract or arrangement, in the case of a company having a paid-up share capital of not less than such amount, or transactions exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a resolution.

Provided further that no member of the company shall vote on such resolution, to approve any contract or arrangement which may be entered into by the company, if such member is a related party.

Provided also that nothing contained in the second proviso shall apply to a company in which ninety per cent. or more members, in number, are relatives of promoters or are related parties.

Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business other than transactions which are not on an arm's length basis.

.....

Pursuant to the above referred provisions, the Companies Act, 2013 provides relaxations/ exemption to the companies in which ninety per cent. or more members, in number, are relatives of promoters or are related parties, enabling related party to vote on related party transactions.

3. Subsequently, Regulation 23 of SEBI LODR Regulations relating to related party transactions, has recently been made applicable to InfraDebt effective September 7, 2021 being a 'high value debt listed entity' on a 'comply or explain' basis until March 31, 2023 and on a mandatory basis thereafter. Accordingly, InfraDebt is now required to:

- (i) obtain Shareholders approval as per Regulation 23(8) of SEBI LODR Regulations for all existing material related party contracts or arrangements entered into prior to the date of notification of the regulations and which may continue beyond such date (i.e. September 7, 2021) (if any); and
- (ii) obtain Shareholders approval as per Regulation 23(4) of SEBI LODR Regulations for prospective material related party transaction (if any).

Further, pursuant to Regulation 23(4) and Regulation 23(7) of SEBI LODR Regulations, all entities falling under the definition of related parties shall not vote to approve the relevant transaction irrespective of whether the entity is a party to the particular transaction or not.

The exemption provided under the Companies Act, 2013 as mentioned above, is not explicitly provided under SEBI LODR Regulations in relation to the voting by a related party on the related party transactions.



D. Query:

Request you to provide us an "Informal guidance – interpretative letter" regarding the procedure to be followed by InfraDebt for obtaining Shareholders approval for (i) ratification of all existing material related party transaction; and (ii) prospective material related party transactions, considering the fact that all the corporate Shareholders are identified as related parties for InfraDebt and cannot vote at the General Meeting.

As the Companies Act, 2013 specifically provides an exemption for not voting by related party on the related party transactions, to the companies in which ninety per cent. or more members, in number, are relatives of promoters or are related parties, we propose that InfraDebt can continue with the said exemptions of the Companies Act, 2013, where the related party (except the related party for that particular transaction) can vote on the approval of material related party transaction(s).

E. Fees for "Informal Guidance – interpretative letter":

In accordance with para 6 of the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003, we enclose a Demand Draft dated November 8, 2021 bearing no. 355225 of ₹ 25,000 (Rupees Twenty Five Thousand only) in favour of "Securities and Exchange Board of India" payable at Mumbai, towards fee for "Informal guidance–interpretative letter".

For further assistance or clarifications, we request you to contact us at the address below:

Mr. Gaurav Tolwani,
Company Secretary & Compliance Officer
India InfraDebt Limited
The Capital, 'B' Wing, 1101 A,
Bandra Kurla Complex,
Mumbai – 400051
Mobile No.: 9594638300
Email ID: gaurav.tolwani@infraDebt.in

Thanking you,

For India InfraDebt Limited

SUVEK RAGHAVAN
NAMBIAR

Suvek Nambiar
Managing Director & CEO
DIN: 06384380

Digitally signed by SUVEK RAGHAVAN NAMBIAR
DN: c=IN, o=Personal,
ou=IndiainfraDebt, email=gaurav.tolwani@infraDebt.in,
serialNumber=2c5484c2b09123209981f1d8a4e83e788d73b1b671
6021f7c7e788d019d61d3, cn=SUVEK RAGHAVAN NAMBIAR
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