

**CLARIFICATION ON APPLICABILITY OF REGULATION 23 OF SEBI  
(LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS)  
REGULATIONS, 2015 IN RELATION TO RELATED PARTY  
TRANSACTIONS**

Regulation 23 of the SEBI (Listing Obligations and Disclosure Requirements), Regulations 2015 (**‘LODR Regulations’**) was amended by Securities and Exchange Board of India (**‘SEBI’**) vide notification<sup>1</sup> dated November 9, 2021, inter-alia, enhancing the scope of related party, related party transactions (RPTs) and the materiality threshold for seeking shareholder approval.

SEBI has issued Circular No. SEBI/HO/CFD/CMD1/CIR/P/2022/40 dated 30<sup>th</sup> March, 2022<sup>2</sup> to provide **“Clarification on applicability of regulation 23 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 in relation to Related Party Transactions (RPT)”**. This Circular shall come into force with effect from April 1, 2022.

SEBI has provided the following clarifications and guidance for smooth implementation of the amended Regulation 23 of the LODR Regulations:

<b>SEBI’s Clarification and Guidance</b>	<b>CACS View</b>
1. For an RPT that has been approved by the audit committee and shareholders prior to April 1, 2022, there shall be no requirement to seek fresh approval from the shareholders.	This clarification is self-explanatory. In our view, unless there is any material change in terms and conditions of the earlier material RPT as approved by audit committee and shareholders prior to April 1, 2022, there is no requirement of obtaining any fresh approval from the shareholder’s for the same. However, if the approved material RPT is of repetitive nature, then omnibus approval of audit committee will be required on Annual basis.

<sup>1</sup> [https://www.sebi.gov.in/legal/regulations/nov-2021/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-sixth-amendment-regulations-2021\\_53851.html](https://www.sebi.gov.in/legal/regulations/nov-2021/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-sixth-amendment-regulations-2021_53851.html)

<sup>2</sup> [https://www.sebi.gov.in/legal/circulars/mar-2022/clarification-on-applicability-of-regulation-23-of-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-in-relation-to-related-party-transactions\\_57398.html](https://www.sebi.gov.in/legal/circulars/mar-2022/clarification-on-applicability-of-regulation-23-of-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-in-relation-to-related-party-transactions_57398.html)

<p>2. Regulation 23(8) of the LODR Regulations specifies that 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.</p> <p>In accordance with the said regulation, an RPT that has been approved by the audit committee prior to April 1, 2022 which continues beyond such date and becomes material as per the revised materiality threshold shall be placed before the shareholders in the first General Meeting held after April 1, 2022.</p>	<p>Through this clarification, SEBI probably be providing a one-time window to Companies because the provision of amended Regulation 23(4) of LODR Regulation will be effective from 01.04.2022 and obtaining of prior approval for on-going RPTs breaching the revised materiality threshold may not be feasible in the following cases:</p> <ol style="list-style-type: none"> <li>a. Companies who follow the financial year other than April to March;</li> <li>b. Companies who are entering into RPTs on continuing basis from previous years and would continue to enter as on 01.04.2022 or in next 1-2 months thereafter AND the limit of such RPT would be breaching the revised materiality threshold.</li> </ol> <p>Therefore, instead of compelling such companies to obtain the prior approval for such RPT meeting revised materiality threshold, a one-time window is given to Companies.</p>
<p>3. All RPTs for which the audit committee has already given the omnibus approval and if these RPTs hits the materiality threshold shall require shareholders' approval.</p>	<p>This clarification is self-explanatory</p>
<p>4. For seeking shareholders' approval, the listed entities are required to provide all relevant information in explanatory statement but not be limited to the</p>	<p>With a view of letting the shareholder's take the informed decision, SEBI has given the broad touching areas apart from specific</p>

information specified in circular dated November 22, 2021, so as to enable the shareholders to take a view whether the terms and conditions of the proposed RPT are not unfavorable to the listed entity, compared to the terms and conditions, had similar transaction been entered into between two unrelated parties.

disclosure / detail which should be ensured by the Companies while giving details / disclosure regarding RPTs for which shareholder's approval is being sought.

Considering the recent concerns being raised by Proxy Advisory firms on non-disclosure or under-disclosure of information in explanatory statements of the resolutions proposed to shareholders for their approval, it is advisable to all Companies to ensure the proper disclosure about the proposed RPT.

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Suggestions may be sent to

[rupesh@cacsindia.com](mailto:rupesh@cacsindia.com)

**Dr. S. Chandrasekaran | Senior Partner | Chandrasekaran Associates | Company Secretaries 11-F,  
Pocket Four | Mayur Vihar Phase One | Delhi - 110 091 | Tel. +91-11-2271 0514  
[sankara@cacsindia.com](mailto:sankara@cacsindia.com) | [info@cacsindia.com](mailto:info@cacsindia.com) | [www.cacsindia.com](http://www.cacsindia.com)**

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