

SEBI UPDATES

1. Scheme of Arrangement by Listed Entities:

On **February 01, 2022**, SEBI vide its **Circular SEBI/HO/CFD/DIL2/CIR/P/2022/11** issued an amendment in the Scheme of Arrangement by Listed Entities. Amendment is made in Part I Para A 2(k) of the master circular dated December 22, 2020 “**Scheme of Arrangement by Listed Entities**”. This Circular shall be applicable for all the Schemes of Arrangement to be filed with Stock Exchanges on or after **November 16, 2021**.

No Objection Certificate (NOC) from the lending scheduled commercial banks/ financial institutions/ debenture trustees, from not less than 75% of the secured creditors in value before filing Scheme of Arrangement by Listed Entities with Stock Exchange.

The aim of the Circular is to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

The link for aforesaid Circular is mentioned below:

https://www.sebi.gov.in/legal/circulars/feb-2022/schemes-of-arrangement-by-listed-entities_55805.html

2. Disclosures in the Abridged Prospectus and Front Cover Page of the Offer Document:

On **February 4, 2022** SEBI vide its **Circular SEBI/HO/CFD/SSEP/CIR/P/2022/14** issued a guideline for disclosures that are required in the abridged prospectus and front cover page of offer document. The circular is applicable with immediate effect.

The highlights of this circular are mentioned below:

Section 2(1) of Companies Act, 2013 (“the Act”) defines Abridged Prospectus as a memorandum containing such salient features of a prospectus as may be specified by the Securities and Exchange Board India by making regulations in this behalf.

Regulation 34(1) of SEBI (Issue of Capital and Disclosure Requirements), 2018 (“ICDR Regulations”), states that an abridged prospectus should contain all the disclosures as specified in Annexure I of Part E of Schedule VI of ICDR Regulations.

- a. Section 33(1) of the Act states that every application form for the purchase of any securities of a company shall be accompanied by an abridged prospectus.
- b. SEBI has revised the format for abridged prospectus to simplify and provide greater clarity and consistency in the disclosures across various documents and to provide additional but critical information in the abridged prospectus. Earlier due to the multitude of information, the look and text on the front page was crowded on DRHP and RHP. Format for disclosures in the abridged prospectus has been revised and is placed at Annexure A of the Circular and the disclosure on front cover page shall be as per Annexure B of the Circular.

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- c. A copy of the abridged prospectus shall be made available on the website of issuer company, lead managers, registrar to an issuer and a link for downloading abridged prospectus shall be provided in price band advertisement.
- d. The Issuer Company/ Merchant Bankers (MBs) shall ensure that the disclosures in the abridged prospectus are adequate, accurate and does not contain any misleading or mis-statement.
- e. The Issuer Company/MBs shall ensure that the qualitative statements in the abridged prospectus shall be substantiated with Key Performance Indicators (KPIs) and other quantitative factors. Also, no qualitative statement shall be made which cannot be substantiated with KPIs.
- f. The issuer company/ MBs shall insert a Quick Response (QR) code on the front page of the documents such as front outside cover page, abridged prospectus, price band advertisement, etc. as deemed fit by them. The scan of QR code shall lead to downloading of prospectus, abridged prospectus and price band advertisement as applicable.

The link for aforesaid Circular is mentioned below:

https://www.sebi.gov.in/legal/circulars/feb-2022/disclosures-in-the-abridged-prospectus-and-front-cover-page-of-the-offer-document_55920.html

3. Guidelines on Accounting with respect to Indian Accounting Standard (IND-AS):

On **February 04, 2022**, SEBI vide its **Circular SEBI/HO/IMD-II/DOF8/P/CIR/2022/12** issued guidelines on accounting for mutual funds with respect to Indian Accounting Standards.

These guidelines is issued after SEBI amended the Mutual Funds Rules which mandated all the AMCs to prepare the financial statements and accounts of the mutual fund schemes in accordance with Ind AS, with effect from April 1, 2023. Following requirements are specified in the guidelines:

- 1. Mutual Fund Schemes shall prepare the opening balance sheet as on date of transition and the comparatives as per the requirements of IND AS.
- 2. Perspective historical per unit statistics mentioned in Clause 6 of XI Schedule of MF Regulations, requires disclosure of scheme wise per unit statistics for the past 3 years. Mutual Fund Schemes may not be mandatorily required to restate the previous years published perspective historical per unit statistics as per requirement of IND AS for the first 2 years from first time adoption of IND AS. However, Mutual Fund schemes shall furnish following additional information in perspective historical per unit statistics:
 - a. Label the previous Generally Accepted Accounting Principles (GAAP) information prominently as not being prepared in accordance with IND AS; and
 - b. Disclose the nature of the adjustments that would be required to make it comply with IND AS. Mutual Funds schemes need not quantify those adjustments.
- 3. The Financial Statements of the Mutual Fund Schemes shall be prepared in the format given in **Annexure-A** of the Circular.

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4. In order to align with IND AS requirement regarding transactions cost of investment to be expensed out, it is clarified that:

Brokerage and transaction cost incurred for the purpose of execution shall be charged to the schemes as provided under Regulation 52 (6A) (a) upto 12 bps and 5 bps for cash market transactions and derivatives transactions respectively. Any payment towards brokerage & transaction costs, over and above the said 12 bps and 5 bps for cash market transactions and derivatives transactions respectively may be charged to the Scheme within the maximum limit of Total Expense Ratio (TER) as prescribed under Regulation 52 of the SEBI (Mutual Funds) Regulations, 1996.

Following things are to be kept in mind while preparing financials of Mutual Funds:

- All disclosures required by Indian Accounting Standards (IND AS) shall be applicable with respect to preparation of annual statements of accounts of the mutual fund schemes, shall form part of notes to account.
- Accounting policy in respect of recognition of revenue and income from investments (including dividend and interest in case of securities and rental income in case of real estate asset) shall be disclosed by way of a note.
- If a security is in default beyond its maturity date, then disclosure to this effect shall be provided. Such disclosure shall include details of the security including ISIN, name of security, value of the security considered under net receivables (i.e. value recognized in NAV in absolute terms and as % to NAV) and total amount (including principal and interest) that is due to the scheme on that investment. Further, this disclosure shall continue till the value of the security recognized in the NAV is received or for a period of 3 years from the date of maturity of security, whichever is later.
- The total income and expenditure expressed as a percentage of average net assets, calculated on a Daily Average Net Asset basis should be indicated. Expenditure expressed as a percentage of average net assets should be at plan level.
- Accounting policy of valuation of Investments should also be disclosed.
- Contingent liabilities disclosure should be made of all contingent liabilities, showing separately underwriting commitments, uncalled liability on partly paid shares, other commitments and others (specifying details).
- The Balance Sheet and the Revenue Account shall be signed by the CEO, COO/ CFO/ such other KMP as designated by Board of AMC who is responsible for preparation of financial statements, Chief Investment Officer, scheme wise fund manager/s, and the Board of Trustees, and reported upon by the Auditors. The financial statements of the scheme should be approved at a meeting of the Board of Directors of the Asset Management Company and also at a meeting of the trustees or in the case of a trustee company by the Board of Directors of the trustee company.
- Disclosures as required by the Regulations or as may be prescribed by the Board from time to time shall form part of notes to accounts.

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The link for aforesaid Circular is mentioned below:

<https://www.sebi.gov.in/legal/circulars/feb-2022/circular-on-guidelines-on-accounting-with-respect-to-indian-accounting-standards-ind-as-55919.html>

4. Conversion of Private Unlisted InvIT into Private Listed InvIT:

On **February 09, 2022**, SEBI vide its **Circular SEBI/HO/DDHS/DDHS Div3/P/CIR/2022/16** provides a framework for Conversion of Private Unlisted InvIT into Private Listed InvIT.

Key takeaways are provided herein after:

- Registered unlisted InvIT which has issued units in terms of the provisions of chapter VIA of the InvIT Regulations, may list its units on a Recognised Stock Exchange, subject to it complying with the requirements specified for privately placed and listed InvIT and in the manner specified by the SEBI from time to time.
- A Private Unlisted InvIT may list its units and convert into a Private Listed InvIT on making a private placement of units through a fresh issue and/or an offer for sale.
- Post issuance and listing of units through private placement in accordance with this circular, the Private Unlisted InvIT shall stand transformed and shall be considered as Private Listed InvIT and it shall be required to comply with the provisions of the InvIT Regulations prescribed for Private Listed InvITs.

1. Definitions:

- Private Listed InvIT” means an InvIT which has issued units in terms of Regulation 14(2) of the InvIT Regulations.
- “Private Unlisted InvIT” means an InvIT which has issued units in terms of Chapter VIA of the InvIT Regulations.

2. Conditions for Issuance:

In addition to the conditions applicable for initial offer through private placement of units under the InvIT Regulations and any circular issued thereunder, a Private Unlisted InvIT is also required to fulfil the following conditions:

- The assets held by the InvIT satisfies the conditions specified under Regulation 18(4) of InvIT Regulations.
- It is compliant with all the applicable obligations and disclosure requirements for Private Unlisted InvIT since the date of issuance of its unlisted units or preceding 3 years, whichever is less.
- It has not defaulted in making any distribution since issuance of its unlisted units, as applicable under the terms of the InvIT Regulations, its distribution policy (if any) and other applicable laws since the date of issuance of its unlisted units or preceding 3 years, whichever is less.
- It has obtained approval from 75% of the unit holders by value for such private placement of units.

3. Conditions for offer for sale of units:

Units held by existing unit holder in a Private Unlisted InvIT may be offered for sale in the private placement if such units have been held by the sellers for a period of at least 1 year prior to the filing of the draft placement memorandum with the Board. Such units shall be free from any encumbrance or lock-in on the date of filing of draft placement memorandum with the Board.

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In addition to that unit holders, other than sponsor its associates and its related parties, who offer units in OFS shall not be eligible to participate in the private placement.

4. Process for private placement of units:

For private placement, InvIT shall comply with the requirements for initial offer through private placement prescribed under InvIT Regulations and shall follow the guidelines provided by SEBI from time to time.

5. Minimum sponsor contribution:

Minimum sponsor contribution for Private Placement of the units shall be 15% of the units issued through Private placement **OR** to the extent of 15% of the post issue capital. Such minimum sponsor contribution shall be locked in for a period of 3 years from listing of units allotted through such private placement.

6. Restrictions on transferability of units:

Units held by sponsor in excess of minimum sponsor contribution and units held prior to the issue by persons other than the sponsor, shall be locked in for the period of 1 year from the date of listing of units allotted through the private placement.

Provided that if any units are already locked-in and the remaining lock-in period is more than 1 year, the units shall continue to be locked-in for such remaining period.

7. Maximum subscription from Investors:

Maximum subscription from any investor other than sponsor(s), its related parties and its associates, in initial offer shall not be more than 25% of the total unit capital on post-issue basis.

8. Disclosures in the draft placement memorandum/placement memorandum:

In addition to the disclosures mandated in Schedule III of InvIT Regulations, the InvIT shall disclose the following:

- Details of distributions made by the InvIT
- Comparison of actual performance vis-à-vis the projections made in the placement memorandum at the time of initial offer

The link for aforesaid Circular is mentioned below:

https://www.sebi.gov.in/legal/circulars/feb-2022/conversion-of-private-unlisted-inv-it-into-private-listed-inv-it_55972.html

5. Framework for conversion of Private Listed InvIT into Public InvIT

On **February 09, 2022**, SEBI vide its **Circular SEBI/HO/DDHS/DDHS Div3/P/CIR/2022/15** provides a framework for Conversion of Private Listed InvIT into Public InvIT.

A Private Listed InvIT may convert into a Public InvIT on making a public issue of units through a fresh issue and/or an offer for sale in terms of the InvIT Regulations. Post issuance and listing of units through public issue as per this Circular, the Private Listed InvIT shall stand transformed and shall be considered a Public InvIT and it shall be required to comply with all provisions of the InvIT Regulations prescribed for Public InvITs.

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1. Definition:

“Private Listed InvIT” means an InvIT which has issued units in terms of Regulation 14(2) of the InvIT Regulations. Regulation 14(2) of SEBI (InvIT) Regulation, 2014 prescribes that **“If the InvIT raises funds by way of private placement”**

“Public InvIT” means an InvIT which has issued units in terms of Regulation 14(4) of the InvIT Regulations. Regulation 14(4) of SEBI (InvIT) Regulation, 2014 stipulates that **“If the InvIT raises funds by public issue”**

2. Conditions for Issuance:

In addition to the conditions applicable for initial offer through public issue of units under the InvIT Regulations, a Private Listed InvIT shall fulfil the following conditions at the time of filing of draft offer document:

- The assets held by the InvIT satisfies the conditions specified under Regulation 18(5) of InvIT Regulation, 2014. Regulation 18(5) provides that Investment conditions and dividend policy.
- It is compliant with all the applicable listing obligations and disclosure requirements specified for Private Listed InvIT since the date of its listing or preceding 3 years, whichever is less. Provided that imposition of only monetary fines by stock exchanges on it or its Investment Manager shall not be a ground for ineligibility for issuance.
- It has not defaulted in making any distribution since listing, as applicable under the terms of the InvIT Regulations, its distribution policy (if any) and other applicable laws since the date of its listing or preceding 3 years, whichever is less.
- InvIT has obtained approval from **75%** of the unit holders by value for public issue of units

3. Conditions for offer for sale of units

Units held by an existing unit holder of a Private Listed InvIT may be offered for sale in the public issue by complying with the requirement of InvIT Regulations.

Units offered for sale in the public issue shall be free from any encumbrance or lock-in on the date of filing of draft offer document.

Unitholders other than the sponsor(s), its related parties and its associates who offer units towards the offer for sale shall not be eligible to participate in Public Issue.

4. Process for public issue of units

For such public issue, the InvIT shall comply with the requirements for initial offer through public issue prescribed under InvIT Regulations and shall follow the guidelines for public issue of units of InvITs provided in SEBI from time to time.

5. Minimum sponsor(s) contribution

Minimum sponsor contribution for public issue of the units shall be either to the extent of 15% of the units issued through public issue OR to the extent of 15% of the post issue capital.

Minimum Sponsor(s) contribution shall be locked-in for **18** months from the date of listing of units allotted in public issue. However, if the any units are already locked-in and the remaining lock-in period is more than 18 months, the units shall continue to be locked-in for such remaining period.

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6. Restrictions on transferability of units

Units held by the sponsor(s) in excess of minimum sponsor(s) contribution, shall be locked-in for a period of 1 year from the date of listing of units allotted in the public issue. However, if the any units are already locked-in and the remaining lock-in period is more than 1 year, the units shall continue to be locked-in for such remaining period

Units held by the person other than sponsor shall be locked in for 1 year from the date of listing of units allotted in the public issue.

7. Maximum subscription from investors

Maximum subscription from any investor other than sponsor(s), its related parties and its associates, in initial offer shall not be more than 25% of the total unit capital on post-issue basis.

8. Disclosures in the draft offer document/offer document

In addition to the disclosures mandated in Schedule III of InvIT Regulations, the InvIT shall disclose the following:

- Details of distributions made by the InvIT
- Comparison of actual performance vis-à-vis the projections made in the placement memorandum at the time of initial offer

The link for aforesaid Circular is mentioned below:

https://www.sebi.gov.in/legal/circulars/feb-2022/framework-for-conversion-of-private-listed-inv-it-into-public-inv-it_55971.html

6. Audit Committee of Asset Management Companies (AMCs):

On **February 09, 2022**, SEBI vide its **Circular SEBI/HO/IMD/IMD-I DOF2/P/CIR/2022/17** provides the role, responsibility, membership and other features of the Audit Committee of AMC. On the recommendation of Mutual Fund Advisory Committee (MFAC) the provision for constitution of Audit Committee of AMC is being made. This circular is applicable with effect from **August 01, 2022**.

1. Role:

The Audit Committee of the AMC shall be responsible for oversight of financial reporting process, audit process, company's system of internal controls, compliance to laws and regulations and other related process, with specific reference to operation of its Mutual Fund business. The Audit Committee shall have the following mandates:

- To review the financial reporting processes, the system of internal controls and the audit processes for the Mutual Fund operations of the AMC;
- To ensure that the rectifications, if any, suggested by internal and external auditors, etc. are acted upon.

2. Membership:

- The Audit Committee of AMC shall have minimum 3 directors as members.
- Atleast 2/3rd members of Audit Committee shall be Independent Directors of AMC.
- The members of the Audit Committee will be appointed by the Board of Directors of AMC.
- All members of Audit Committee shall be persons with ability to read and understand the financial statement and at least 1 member shall have experience and background in finance and accounts.

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- The Chairperson of Audit Committee shall be Independent Director with adequate experience in the area of finance and financial services.

3. Meetings:

- At least 4 meetings shall be called in a financial year and not more than 120 days shall elapse between two meetings.
- Quorum for the Meeting of Audit Committee is 2 Members **OR** 1/3rd of the members of Audit Committee, whichever is greater with minimum of 2 Independent Directors.

4. Reporting

- The Internal Auditor shall submit its report to the Audit Committees of AMC and the Board of AMC.
- The Audit Committee of AMC shall forward their observations on internal audit report, if any, to the Trustees



5. Powers & Responsibility has been provided to Audit Committee with respect to:

- Financial Reporting
- Audit (Internal & Statutory) and Internal Controls
- Regulatory Compliance and other functions

The link for aforesaid Circular is mentioned below:

<https://www.sebi.gov.in/legal/circulars/feb-2022/circular-on-audit-committee-of-asset-management-companies-amcs-55987.html>

7. Trading features pertaining to the Electronic Gold Receipts (EGR) segment:

On **January 10, 2022**, SEBI vide its **Circular SEBI/HO/CDMRD/DMP/P/CIR/2022/18** issued guidelines regarding various aspects of the trading of EGR on the recognized stock exchange/s. This Circular shall come into effect immediately. The key aspects of this circular are given below:

- (A) Trade Timings: As per Annexure A of this Circular
- (B) Transaction charges by Stock Exchange: As per Annexure B of this Circular
- (C) Framework for Call Auction in Pre-open session: As per Annexure C of this Circular
- (D) Framework for Block Deals and Bulk Deals in EGR Segment: As per Annexure D of this Circular
- (E) Price Band: As per Annexure E of this Circular
- (F) Investor Protection Fund (IPF) & Investor Service Fund (ISF): As per Annexure F of this Circular
- (G) Unique Client Code (UCC): As per Annexure G of this Circular

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The link for aforesaid Circular is mentioned below:

https://www.sebi.gov.in/legal/circulars/feb-2022/trading-features-pertaining-to-the-electronic-gold-receipts-egr-segment_56063.html

8. Standard Operating Guidelines for the Vault Managers and Depositories - Electronic Gold Receipts (EGR) segment:

On **February 14, 2022**, SEBI vide its **Circular SEBI/HO/CDMRD/DMP/P/CIR/2022/19** issued **Standard Operating Guidelines for the Vault Managers and Depositories of EGR Segment**. These guidelines are issued to ensure ease of compliance for the market participants in the EGR segment as well as effective implementation of the Regulations. The circular shall come into force with immediate effect.

- The Standard Operating Guidelines for the Vault Managers and Depositories (Annexure A of this Circular) are as follows:
 1. Financial Security Deposit (FSD)
 - a. Quantum
 - b. Use of FSD
 2. Corporate Governance (CG)
 3. Infrastructure/safekeeping features
 4. Insurance
 5. Reconciliation between Depository and Vault Manager
 6. Storage and other related charges
 - a. Levy
 - b. Collection
 7. Procedure in case of Default in payment of storage charges
 8. Procedure for ensuring safety of the gold from fire, theft, burglary etc.
 - a. Risk Management
 - b. Security Management
 - c. Procedure for fire control
 - d. Procedure in the event of theft/ burglary
 9. Indemnification in case of loss/damage
 10. Maintenance of records
 11. Inspection/ physical verification by the Depository
 12. Grievance Redressal
 13. Other compliants
 14. Disclosures by the Vault Manager and Depository
- The detailed procedure for Deposit of Gold, Creation of EGR, Withdrawal of gold and Extinguishment of EGR (Annexure B of this Circular) is as follows:
 1. Common Interface
 2. Deposit of Gold and creation of EGR
 3. Recording of EGRs created by the Vault Manager
 4. Withdrawal of Gold and Extinguishment of EGR

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https://www.sebi.gov.in/legal/circulars/feb-2022/standard-operating-guidelines-for-the-vault-managers-and-depositories-electronic-gold-receipts-egr-segment_56064.html

9. Correction to Master Circular for Depositories on Opening of demat account in case of HUF:

On **February 17, 2022**, SEBI vide its **Circular SEBI/HO/MRD2/DDAP/CIR/P/2022/20** corrected the point of “in case of Death of Karta” under the heading of “Opening of demat account in case of HUF.” The words “except married daughters” is omitted. Now the clause is read as under:

“In the event of death of Karta of HUF, the name of the deceased Karta in the Beneficial Owner (BO) account shall be replaced by the new Karta appointed by the member of the HUF who in such a case shall be senior most member of the family.”

The link for aforesaid Circular is mentioned below:

https://www.sebi.gov.in/legal/circulars/feb-2022/corrigendum-to-master-circular-for-depositories-dated-february-05-2021-on-opening-of-demat-account-in-case-of-huf_56130.html

10. SEBI (Depositories and Participants) Amendment Regulation, 2022:

On **February 23, 2022**, vide its **Notification SEBI/LAD-NRO/GN/2022/74** issued SEBI (Depositories & Participants) (Amendment) Regulations, 2022 to further amend SEBI (Depositories & Participants) Regulations, 2018 which shall be effective from February 23, 2022.

Regulation 35 of SEBI (Depositories & Participant) Regulation, 2018 provides for “Consideration of application for grant of certificate of registration”. The proviso to sub clause (a) (viii), the provisos are substituted as follows:

“Provided that the stock broker shall have a net worth of Rs. 3 crores {within one year of the date of notification of the Securities and Exchange Board of India (Depositories and Participants) (Amendment) Regulations, 2022}, which shall be increased to Rs. 5 crores {within two years of the date of notification of the Securities and Exchange Board of India (Depositories and Participants) (Amendment) Regulations, 2022}:

Provided further that a self-clearing member fulfilling the networth requirements as provided under the Securities and Exchange Board of India (Stock Brokers) Regulations, 1992 shall also be eligible to register as a depository participant.”

The link for aforesaid Circular is mentioned below:

<https://egazette.nic.in/WriteReadData/2022/233692.pdf>

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