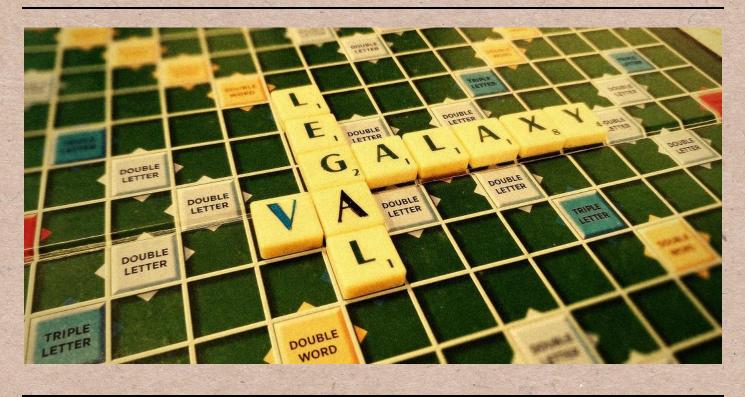
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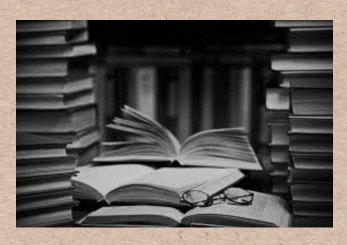
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Ex-Gratia - 'as a matter of grace or favour'

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THE MEDIATION ACT, 2023 RECEIVES THE PRESIDENT ASSENT

Ministry of Law and Justice, vide its notification dated September 15, 2023, has published the Mediation Act, 2023 ("Mediation Act"), subsequent to receiving assent from the President for the same on September 14, 2023. The Mediation Act shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions. The Mediation Act is a pertinent legislation that has been enacted to promote and facilitate mediation, especially institutional mediation, for the resolution of disputes, commercial or otherwise, to enforce mediated settlement agreements, provide for a body for registration of mediators, to encourage community mediation and to make online mediation as an acceptable and cost-effective process to resolve matters of dispute. The Mediation Act, inter alia, provides for the following key provisions: (a) requirement of a mediation agreement to be in writing for the parties to submit to mediation to resolve the disputes that may arise between the parties. The mediation agreement may be in the form of a mediation clause in a contract or in the form of a separate agreement altogether; (b) provides for pre-litigation mediation; (c) provides an indicative list of matters which cannot be referred to mediation e.g. (i) disputes relating to claims against minors, deities, etc.; (ii) disputes involving prosecution for criminal offences; (iii) complaints or proceedings initiated before in relation to registration, discipline, misconduct of any practitioner, or other registered professional; (iv) disputes relating to the levy, collection, penalties or offences in relation to any direct or indirect tax or refunds; (d) a mediator can be of any nationality possessing appropriate experience and accreditation as prescribed; (e) stipulates a timebound mechanism to complete the mediation (within a maximum period of 120 days + 60 days extension, if mutually agreed between the parties); (f) introduction of 'online mediation' and 'community mediation'; and (g) provides for establishment of a regulatory body referred as 'Mediation Council of India', recognition to Mediation Service Providers and Mediation Institutes.

To read the notification click here

IBBI AMENDED THE CIRP REGULATIONS UNDER THE IBC

Insolvency and Bankruptcy Board of India ("**IBBI**"), *vide* its notification dated September 18, 2023, (*effective date*), has notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2023 ("**CIRP 2nd Amendment Regulations**"), under the Insolvency and Bankruptcy Code, 2016 ("**IBC**") for resolving the issues which were plaguing the efficient insolvency resolution process.

Key amendments, inter-alia, include, the following:

(a) Regulation 2D has been introduced, which provides for the details of debt, default, and limitation in respect of applications under Section 7 or Section 9 of the IBC. According to this regulation, the financial creditor while filing an application under Section 7 of the IBC or the operational creditor while filing an application under Section 9 of the IBC, should also submit along with evidence, chronology of the debt and default including the date when the debt became due, date of default, dates of part payments, if any, date of last acknowledgment of debt and the limitation applicable;



- (b) Regulation 3A has been introduced, which outlines the assistance and cooperation expected from the personnel of the Corporate Debtor ("CD"), and provides a detailed procedure for the Resolution Professional ("RP") to take custody and control of assets and records of the CD, including provisions for making a list and tracking who has possession of assets and records of the CD;
- (c) Amendments to Regulation 12 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("Principal Regulations"): (i) in accordance with amended Regulation 12 of the Principal Regulations, creditors must submit their claims with proof to the Interim Resolution Professional ("IRP")/ RP by the deadline specified in the public announcement. If this deadline is missed, creditors may still submit their claims with proof on or before the 90th day following the insolvency commencement date; (ii) the CIRP 2nd Amendment Regulations has increased the timelines for creditors to submit their claims with proof up to the date of issue of request for resolution plans under Regulation 36B of the Principal Regulations or 90 days from the commencement of insolvency commencement date, whichever is later. However, the creditor shall provide reasons for delay in submitting the claim beyond the period of 90 days from the insolvency commencement date;
- Amendments to Regulation 13 of the Principal Regulations: The CIRP 2nd Amendment (d) Regulations has amended the Regulation 13 of the Principal Regulation by inserting subregulations (1A), (1B) and (1C) which respectively states that: (i) as per sub-regulation (1A), where the IRP/ RP does not collate the claim after verification, he shall provide reasons for the same; (ii) according to the sub-regulation (1B), if the claims are received after the period specified under sub-regulation (1) of Regulation 12 of the Principal Regulations and up to 7 days before the date of meeting of creditors for voting on the resolution plan or the initiation of liquidation, as the case may be, the IRP or RP shall verify all such claims and categorise them as acceptable or non-acceptable for collation; and (iii) as per the sub-regulation (1C), IRP/ RP should intimate the creditors within 7 days of such categorisation of claims and provide reasons where such claim has been categorised as non-acceptable for collation or put up the claims categorised as acceptable and collated by him before the committee in its next meeting for recommendation for inclusion in the list of creditors and its treatment in the resolution plan, if any, and submit such claims before the adjudicating authority for condonation of delay and adjudication wherever applicable;
- (e) Other amendments include: (i) enhancement of role and responsibilities of the Authorised Representative ("**AR**") of creditors in a class and include enhanced fees of AR; (ii) stipulates a fixed timeline for intimation to the RP of assignment of debt by a creditor; (iii) to make the resolution process more transparent and robust, the amendment enables committee members to get an audit of the CD conducted and makes cost of such audit to be part of CIRP cost; (iv) Form G (*Invitation for Expression of Interest*) of the Principal Regulations has been amended to include further information to be rendered to the prospective resolution applicants; and (v) Form H has been amended to include the minutes of the committee of creditors meeting pertaining to discussion and decisions regarding the resolution plan.



AGMS AND EGMS THROUGH VIRTUAL MODE - EXTENSION OF TIMELINE

Ministry of Corporate Affairs, *vide* its general circular dated September 25, 2023, allowed companies whose Annual General Meetings ("**AGMs**") are due in the year 2023 or 2024, to conduct their AGMs through video conference or other audio-visual means ("**Virtual Mode**") on or before September 30, 2024, in accordance with para 3 and para 4 of the <u>General Circular No. 20/2020</u> dated May 5, 2020.

Companies are also allowed to conduct their Extra-Ordinary General Meetings ("EGMs") through Virtual Mode or transact items through postal ballot up to September 30, 2024, in accordance with the framework provided in the earlier circulars in this regard. All other requirement provided in the earlier circulars shall remain unchanged.

To read the general circular <u>click here</u>

RBI ISSUES DIRECTIONS FOR RELEASE OF PROPER DOCUMENTS UPON REPAYMENT OF PERSONAL LOANS

In terms of the Fair Practices Code, Regulated Entities ("**REs**") are required to release all movable/immovable property documents upon receiving full payment for the loan and thereby closing such loan amount. However, it was observed that the REs had not been following this rule in a proper manner and had been using divergent practices to release the property documents which in turn led to several customer grievances and disputes. In furtherance of the same, the Reserve Bank of India ("**RBI**") has released certain directions titled 'Responsible Lending Conduct – Release of Movable / Immovable Property Documents on Repayment/ Settlement of Personal Loans', dated September 13, 2023 ("**Directions**"), to address the issues faced by borrowers and for promoting responsible lending conduct among REs. The Directions shall be applicable to all such cases wherein the stipulated release of the original property documents falls due on or after December 1, 2023.

The Direction enumerates the following key points:

(a) release all the original movable/immovable property documents and removal of all the charges registered with any registry within a period of 30 days upon the full repayment/settlement of the loan amount; (b) the borrower can collect the property documents either from the banking outlet/branch from where the loan amount had been serviced, or any other office of the RE where the documents may be available, as per his/her preference; (c) REs are also required to lay out a specific procedure for the return of the original property documents to the legal heirs of a sole borrower in the event of demise of such sole borrower; (d) in the event of a delay in releasing the property documents or a failure to file the charge satisfaction form beyond the aforesaid 30 days, the RE must compensate the borrower at the rate of INR 5,000/- for each day of delay if such delay is attributable to the RE; and (e) if there is a loss/damage to the original property documents, the REs shall assist the borrower in obtaining the duplicates/certified copies of such property documents and shall bear all the associated costs, apart from paying the compensation as mentioned above. An



additional time of 30 days is to be given to the REs to complete this procedure and the delayed penalty will be calculated only upon the completion of a total period of 60 days.

To read the Directions <u>click here</u>



RBI NOTIFIES THE MANDATORY DISPLAY OF INFORMATION FOR SECURED ASSETS POSSESSED UNDER THE SARFAESI ACT

RBI, *vide* its circular dated September 25, 2023, has given directions towards the display of certain information with respect to the secured assets possessed by REs under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("**SARFAESI Act**"). This move towards enhancing transparency, aims to ensure that REs, who act as secured creditors as per the SARFAESI Act, provide details about the borrowers whose secured assets have been taken into possession by them.

The information that is required to be displayed by the REs includes the name of the branch which is in possession of such secured assets of the borrowers, the state in which such branch exists, the borrower's name, the guarantor's name, the registered address of the borrower and the guarantor, the amount that is outstanding, the asset classification along with the date on which such asset was classified, details of the security possessed and the name of the title holder of the security possessed by such RE.

Further, the REs is required to upload such information on their website as per the specific format that has been prescribed in the circular. The first such list has been mandated to be displayed within 6 months from the date of this circular, and the REs have been asked to update this list on a monthly basis.

To read the circular <u>click here</u>

ELECTRICITY 3RD AMENDMENT RULES NOTIFIED BY THE MOP

Ministry of Power ("**MoP**"), *vide* its notification dated September 1, 2023, has notified the Electricity (Third Amendment) Rules, 2023 ("**Electricity 3rd Amendment Rules**"), as a clarification to the amendments under the Electricity (Amendment) Rules, dated June 30, 2023 ("**Electricity Amendment Rules**").

The Electricity Amendment Rules had introduced several amendments to the Electricity Rules, 2005 ("Electricity Rules") pertaining to the captive generation plants which was covered in the <u>earlier</u> <u>edition of Legalaxy</u>.

The Electricity 3rd Amendment Rules provides for the following revisions pertaining to Rule 3 of the Electricity Rules: (a) the term 'captive user' as proposed in the Rule 3(a)(i) of the Electricity Amendment Rules has been restated as the term 'captive user(s)', which facilitates group captive projects and not individual user; (b) the proviso to Rule 3(a)(i) (*inserted by the Electricity Amendment Rules, which stated that in case a captive power plant is set up by an affiliate company of the captive*



user, the captive user must hold at least 51% of the ownership in such affiliate company) has been omitted; (c) extension of second proviso to the definition of 'captive user' under the Rule 3(b) of the Electricity Rules which now includes consumption by a subsidiary company (*defined under Section 2(87) of the Companies Act*) or the holding company (*defined under Section 2(46) of Companies Act*) of a captive user (*end user of the electricity generated in a captive generating plant*) as a captive consumption by the captive user; (d) a new sub-rule 3 has been introduced in Rule 3 of the Electricity Rules which states that Central Electricity Authority with the approval of the Central Government and according to the procedure issued by the Central Electricity Regulator Commission (CERC) would verify the captive status of a generating plant where the captive generation plant and its captive user(s) are located in more than one state.

To read the notification <u>click here</u>

BIS RELEASED THE INDIAN STANDARDS ON BIOFUELS

Bureau of Indian Standards ("**BIS**"), *vide* its press release dated September 25, 2023, has announced the Indian standards on biofuels. BIS has made a commitment to complement the green initiatives of India through development of relevant standards and the objectives of Global Biofuel Alliance ("**GBA**"), the multilateral forum announced by Prime Minister Mr. Narendra Modi during G20 leaders' summit.

BIS has developed the following 9 standards on biofuels to support the ethanol blending program and the objectives of the GBA: (a) IS 15464 : 2022 Anhydrous Ethanol for Use as Blending Component in Motor Gasoline - Specification; (b) IS 15607 : 2022 Biodiesel B-100 - Fatty Acid Methyl Esters FAME - Specification; (c) IS 16087 : 2016 Biogas (Biomethane) - Specification (First Revision); (d) IS 16531 : 2022 Biodiesel Diesel Fuel Blend B8 to B20 Specification; (e) IS 16629 : 2017 Hydrous ethanol for use in ED95 automotive fuel - Specification; (f) IS 16634 : 2017 E85 fuel (Blend Of Anhydrous Ethanol And Gasoline) - Specification; (g) IS 17021 : 2018 E 20 fuel - Admixture of anhydrous ethanol and gasoline - As fuel for spark ignited engine powered vehicles - Specification; (h) IS 17081 : 2019 Aviation turbine fuel (Kerosene Type, Jet A - 1) containing synthesized hydrocarbons - Specification; and (i) IS 17821 : 2022 Ethanol as a Fuel for Use in Positive Ignition Engine Powered Vehicles -Specification.

According to BIS, development of standard on paraffinic (green) diesel is also under progress. These standards are likely to increase the capacity of biofuel production and provide multipronged benefits.

To read the press release <u>click here</u>

106TH CONSTITUTIONAL AMENDMENT ACT: PAVED WAY FOR WOMEN LAWMAKERS

Ministry of Law and Justice, *vide* its notification dated September 28, 2023, has published the Constitution (One Hundred and Sixth Amendment) Act, 2023 ("**106th Constitutional Amendment Act**"), with an aim to provide reservation of seats for women in the Legislative Assembly of the



National Capital Territory of Delhi ("**NCT of Delhi**"), the House of People, and Legislative Assemblies of the states.

The changes proposed by the 106th Constitutional Amendment Act to the Constitution of India for reservation for women are: (a) amendment to article 239AA which states: (i) seats would be reserved for women in the Legislative Assembly of NCT of Delhi; (ii) as nearly as may be, 1/3rd of the seats reserved for scheduled castes in the Legislative Assembly of NCT of Delhi would be reserved for women; and (iii) as nearly as may be, 1/3rd of the total number of seats that has to be filled by direct election in the Legislative Assembly of NCT of Delhi (including the number of seats reserved for women belonging to the scheduled castes) would be reserved for women in such manner as the Parliament may by law determine; (b) insertion of article 330A which states: (i) seats would be reserved for women in the House of the People; (ii) as nearly as may be, 1/3rd of the total number of seats reserved under article 330(2) would be reserved for women belonging to scheduled castes or the scheduled tribes; and (iii) as nearly as may be, 1/3rd (including the number of seats reserved for women belonging to the scheduled castes and the scheduled tribes) of the total number of seats that have to be filled by direct election to the House of People would be reserved for women; (c) insertion of article 332A which states: (i) seats would be reserved for women in the Legislative Assembly of every state; (ii) as nearly as may be, 1/3rd of the total number of seats reserved under article 332(3) would be reserved for women belonging to scheduled castes or the scheduled tribes; and (iii) as nearly as may be, 1/3rd (including the number of seats reserved for women belonging to the scheduled castes and the scheduled tribes) of the total number of seats that have to be filled by direct election in the Legislative Assembly of each state would be reserved for women; (d) insertion of article 334A which states that: (i) the provisions pertaining to reservation of seats for women would come into effect after the publication of figures of next census (census taken after commencement of the 106th Constitutional Amendment Act) and the subsequent delimitation exercise and expire after a period of 15 years from the date of commencement; (ii) the seats reserved for women would continue till such date as the Parliament may by law determine; (iii) rotation of seats reserved for women would take place after each subsequent delimitation exercise as the Parliament may by law determine; (e) the amendments made to the constitution by the 106th Constitutional Amendment Act would not affect any representation in the House of the People, the Legislative Assembly of a state, or the Legislative Assembly of NCT of Delhi until in existence at the commencement of the 106th Constitutional Amendment Act.

To read the notification <u>click here</u>

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SEBI NOTIFIES THE SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) (FOURTH AMENDMENT) REGULATIONS, 2023

Securities and Exchange Board of India ("SEBI"), *vide* its notification dated September 20, 2023, has notified the SEBI (Listing Obligations and Disclosure Requirements) (Fourth Amendment) Regulations, 2023 and has inserted a new Section 62A with a view to further clarify the framework for listing of non-convertible debt securities.

The key points in the amendment are as follows:



(a) a listed entity, whose non-convertible debt securities are listed shall list all non-convertible debt securities, proposed to be issued on or after January 1, 2024, on the stock exchange(s); (b) a listed entity, whose subsequent issues of unlisted non-convertible debt securities made on or before December 31, 2023 are outstanding on December 31, 2023, may list such securities, on the stock exchange(s); (c) a listed entity that proposes to list the non-convertible debt securities on the stock exchange(s) on or after January 1, 2024, shall list all outstanding unlisted non-convertible debt securities previously issued on or after January 1, 2024, on the stock exchange(s) within three months from the date of the listing of the non-convertible debt securities proposed to be listed; (d) certain non-convertible debt securities have been exempted from being listed by entities and are as follows: (i) bonds issued under section 54EC of the Income-tax Act, 1961; (ii) non-convertible debt securities issued pursuant to an agreement entered into between the listed entity of such securities and multilateral institutions; (iii) non-convertible debt securities issued pursuant to an order of any court or Tribunal or regulatory requirement as stipulated by a financial sector regulator namely, SEBI, RBI, Insurance Regulatory and Development Authority of India or the Pension Fund and Regulatory Development Authority; (e) the securities issued by the listed entity under sub point (ii) and (iii) of point (d), shall be locked in and held till maturity by the investors and shall be unencumbered; and (f) a listed entity proposing to issue the exempted securities mentioned under point (d) above, shall disclose all the key terms of such securities to the stock exchange(s) including embedded options, security offered, interest rates, charges, commissions, premium (by any name called), period of maturity and such other details as may be required to be disclosed by SEBI from time to time.

To read the notification <u>click here</u>

SEBI INTRODUCED NEW FORMAT OF ABRIDGED PROSPECTUS FOR PUBLIC ISSUE OF NON-CONVERTIBLE SECURITIES

SEBI, in order to further simplify, provide greater clarity and consistency in the disclosures across various documents and to provide additional but critical information in the abridged prospectus, *vide* its circular dated September 4, 2023, has revised the format for disclosures in the abridged prospectus for public issue of non-convertible debt securities and/or non-convertible redeemable preference shares ("**Non-Convertible Securities**") under the SEBI (Issue and Listing of Non-Convertible Securities), Regulations, 2021 ("**NCS Regulations**").

Abridged prospectus as per the NCS Regulations, means a memorandum accompanying the application form for a public issue containing such salient features of a prospectus as specified by SEBI.

The aforesaid circular shall be applicable for all the public issues of Non-Convertible Securities opening on or after October 1, 2023 (*effective date*), and accordingly, the public issues opening on or after the effective date, the format for the abridged prospectus shall be as per Annex-I of the circular instead of part-B of Schedule I of the NCS Regulations. Further, instructions to investors for completing the application form is specified in Annex-II of the circular. Issuer/merchant bankers/ syndicate member like brokers who are involved in the public issue shall disclose the same on their websites during the period a public issue is kept open.

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A copy of the abridged prospectus should be made available on the website of issuer, merchant bankers, registrar to an issuer and a link for downloading abridged prospectus shall be provided in issue advertisement for the public issue. The issuer/ merchant bankers should insert a quick response (QR) code on the last page of the abridged prospectus. The scan of such QR code on the abridged prospectus should lead to the prospectus. The issuer/ merchant bankers should issue a QR code on the front page of the documents such as front outside cover page, advertisement, etc. as deem fit by them. Scan of the QR code will lead to the prospectus or abridged prospectus, as applicable.

The issuer/ merchant bankers shall ensure that the disclosures in the abridged prospectus are adequate, accurate and do not contain any misleading or misstatement. The issuer/ merchant bankers shall ensure that the qualitative statements in the abridged prospectus shall be substantiated by quantitative factors. No, qualitative statements shall be made which cannot be substantiated with quantitative factors

To read the circular <u>click here</u>



SEBI REVISES FRAMEWORK FOR HANDLING OF INVESTOR COMPLAINTS RECEIVED THROUGH SCORES PLATFORM

In August 2023, SEBI notified the SEBI (Facilitation of Grievance Redressal Mechanism) (Amendment) Regulations, 2023, so as to amend various regulations overseen by SEBI, with an aim to reduce the timelines for resolution of investor grievances and also to introduce auto-routing and auto-escalation of investor complaints. Consequently, in SEBI's view, it became necessary to revise the extant process for redressal of investors grievances on SEBI Complaints Redress System ("SCORES"), which is presently governed by SEBI's Master Circular dated November 7, 2022, on "*Processing of investor complaints against listed companies in SEBI Complaints Redress System – SCORES*" ("SCORES Master Circular").

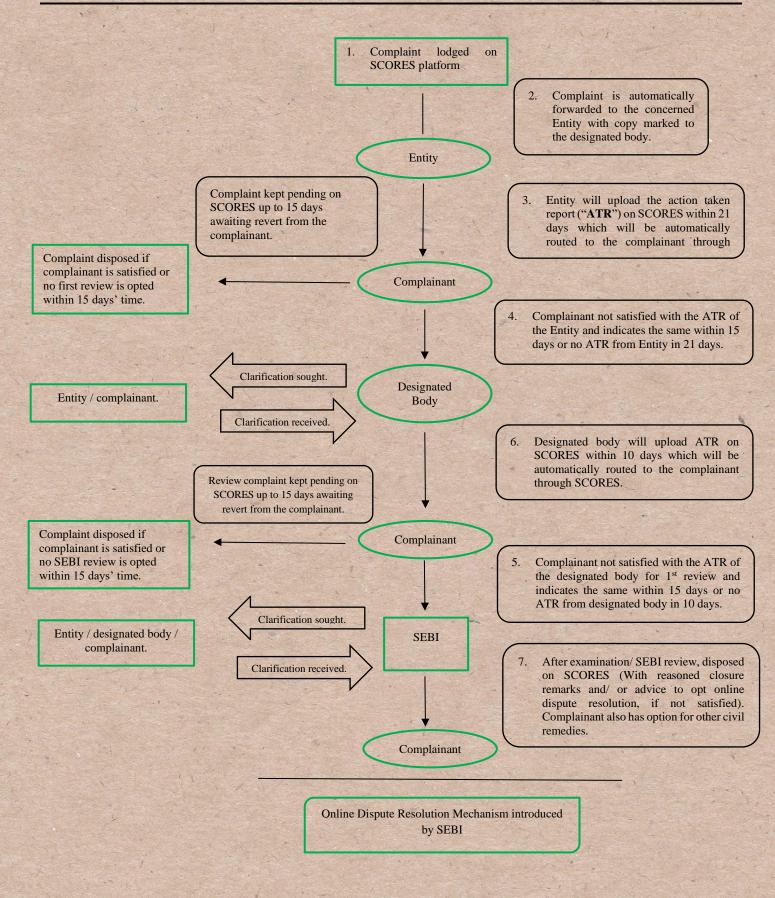
SEBI, *vide* its circular dated September 20, 2023, has now prescribed the revised framework for handling of investor's complaints (received through SCORES platform) against listed companies, registered intermediaries, or market infrastructure institutions (collectively referred to as "Entities") and for monitoring the complaints by designated bodies (*such as stock exchanges, depositories, etc, as more specifically set out in Schedule II of the said circular*).

This circular rescinds the SCORES Master Circular with effect from December 4, 2023. Pertinently, the work flow of processing of investor grievances by Entities and the framework for monitoring and handling of investor complaints by the designated bodies shall also come into force with effect from December 4, 2023.

The pictographic representation of the process for handling investor complaints received through SCORES platform is set out below:



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To read the circular <u>click here</u>

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RESPONSE TO MARKET RUMOURS UNDER SEBI LODR - SEBI EXTENDS THE DEADLINE FOR IMPLEMENTATION OF THE AMENDMENT

SEBI, *vide* its notification dated June 14, 2023, has made amendments in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR") which was covered in the <u>earlier edition</u> <u>of Legalaxy</u>. One of the crucial amendments was insertion of proviso under Regulation 30(11) of LODR which, *inter-alia* reads as follow:

"Top 100 listed entities and top 250 listed entities with effect from October 1, 2023 and from April 1, 2024, respectively, shall confirm, deny or clarify any reported event or information in the mainstream media which is not general in nature and which indicates rumours of an impending specific material event or information in terms of this regulation are circulating amongst the investing public, as soon as reasonable possible and not later than twenty four hours from the reporting of the event or information."

SEBI, *vide* its recent circular dated September 30, 2023, has extended the effective date of implementation of the aforesaid proviso to February 1, 2024, for the top 100 listed entities by market capitalization and to August 1, 2024, for the top 250 listed entities by market capitalization.

To read the circular <u>click here</u>



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