Recent amendments relating to Corporate Bonds

Prepared for WIRC-ICSI program dated February 18, 2023

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- We are a team of qualified company secretaries, chartered accountants and lawyers.

Our Organization's Credo:

Focus on capabilities; opportunities follow

Outline

- **Introduction to Debentures**
  - Concept, mode of issuance and regulatory framework
- **Recent amendments, immediate actionable**
  - Amendments relating to SEBI (ILNCS) Regulations, 2021
    - Nominee Director of DT
    - Green Debt Securities
    - Offer period for public issue of debt
    - Others
  - Consultation paper for amending SEBI (ILNCS) Regulations, 2021
    - Disclosure requirements, GID, KID, mandatory listing
- ISIN restrictions for private placement
- Timelines for listing privately placed debentures
- Revised framework for EBP
- High Value Debt Listed Entities
- Consultation paper for HVDLE
- Large Corporate Borrower Framework;
- Impact of Budget 2023-24 on Corporate Bonds

Introduction to Debentures

Concept, mode of issuance and regulatory framework

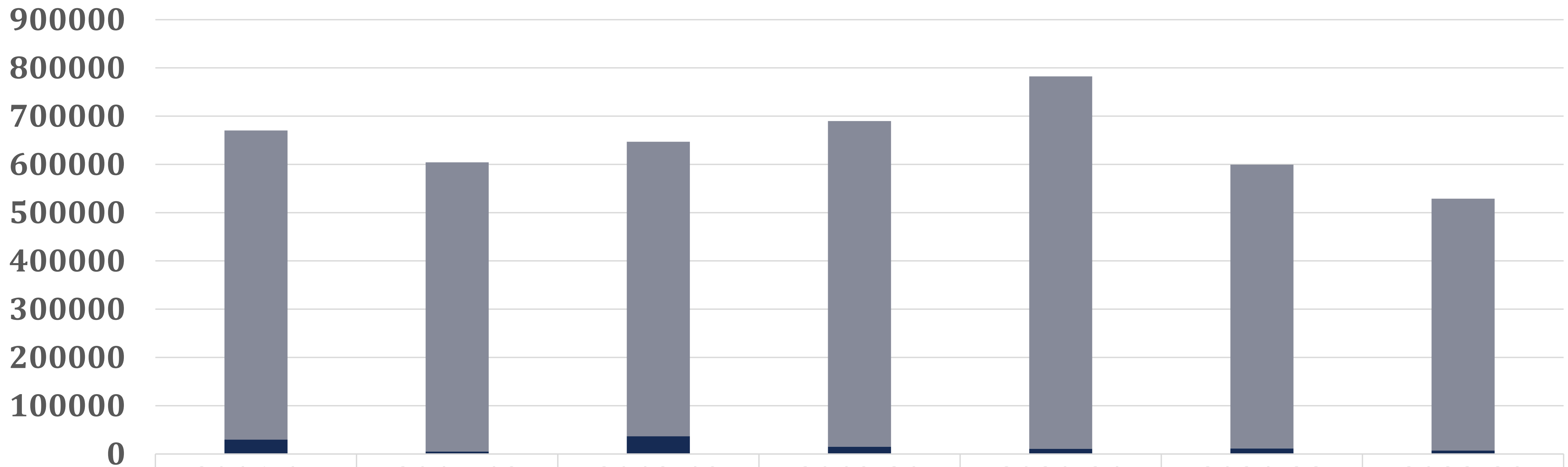
Definition

- **Companies Act, 2013 defines “debenture” as-**
  - **"Debenture"** includes debenture stock, bonds or **any other instrument** of a company evidencing a debt, whether constituting a charge on the assets of the company or not;
  - **Provided that—**
    - the instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and
    - such other instrument, as may be prescribed by the Central Government in consultation with the Reserve Bank of India, issued by a company,

  shall not be treated as debenture.

- **SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021**
  - **“debt securities”** means non-convertible debt securities with a fixed maturity period which create or acknowledge indebtedness and includes debentures, bonds or any other security whether constituting a charge on the assets/ properties or not, **but excludes** security receipts, securitized debt instruments, money market instruments regulated by the Reserve Bank of India, and bonds issued by the Government or such other bodies as may be specified by the Board;

Data on Listed Debentures



	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Private	640715.51	599147.08	610317.61	674702.88	771839.98	588036.94	522089.99
Public	29547.15	5172.56	36679.4	15068.37	10588.02	11589.41	6863.18

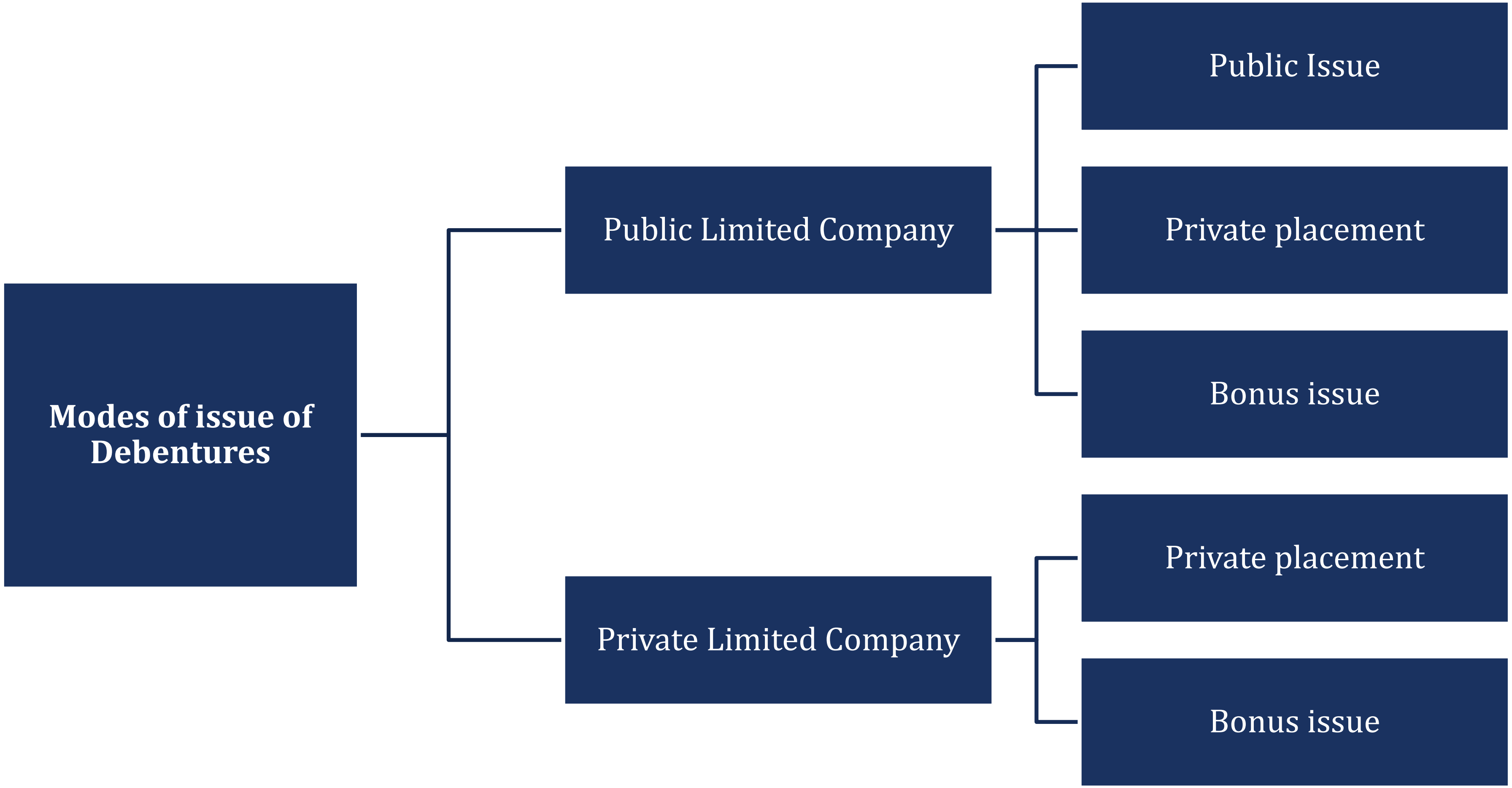
■ Public ■ Private

Amount in Crores
Source: SEBI last visited on 15-02-2023
Figures for FY 2022-23 reflects issuance till December, 2022.

Types of Debentures

- **Based on:**
  - Tenure
  - Seniority
  - Creation of security
  - Nature of guarantee
  - Convertibility
  - Ratings
  - Coupon rate
  - Rate of interest
  - Option to redeem
  - End use

Modes of Issuance of Debentures



Regulatory Framework

- **Companies Act, 2013**
  - Section 23,
  - Section 29 r/w Rule 9A of PAS Rules
  - Section 42 r/w Rule 14 of PAS Rules
  - Section 71 r/w Rule 18 of SHA Rules
  - Sections 179, 180
- **SEBI Regulations**
  - SEBI (Issue and Listing of Non Convertible Securities) Regulations, 2021
    - SEBI Operational Circular dated August 10, 2021
  - SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018
  - SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015
    - SEBI Operational Circular dated July 29, 2022
  - SEBI (Debenture Trustees) Regulations, 1993
- **FEMA**
  - FEMA (Non-Debt Instruments) Rules, 2019
  - FEMA (Debt Instrument) Regulations, 2019
  - FEMA (Borrowing and Lending) Regulations, 2018
- **RBI**
  - RBI Master Directions for NBFC - SI
    - Directions on Raising Money through Private Placement of Non-Convertible Debentures (NCDs) by NBFCs, HFCs
  - RBI Master Circular on Basel III Norms.

Amendments relating to SEBI (ILNCS) Regulations, 2021

Appointment of Nominee Director of Debenture Trustees

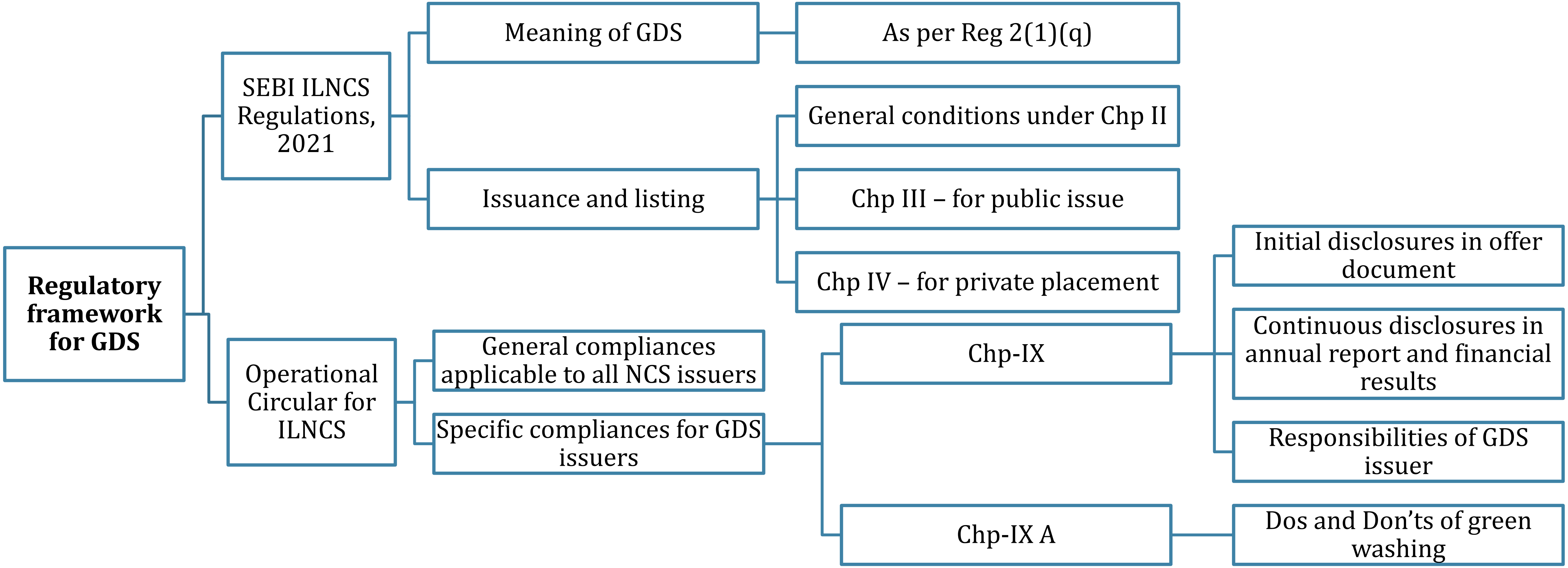
Amendments in NCS Regulations effective from February 2, 2023

- **Appointment of nominee director by DTs [Reg. 23 (6)]**
  - Power to appoint comes from Reg. 15 (1) (e) of DT Regulations, 1993
    - two consecutive defaults in payment of interest to the debenture holders; or
    - default in creation of security for debentures; or
    - default in redemption of debentures.
  - AOA to provide for enabling clause
    - Timeline for issuers with listed debt as on February 2, 2023 – Till September 30, 2023
    - For first time issuers of debt – within 6 months from listing – SEBI Circular of February 9, 2023
      - SEs to obtain an undertaking at the time of granting the in-principle approval.
      - The issuer to comply and report compliance to SEs. SEs to periodically monitor/ remind such issuers on doing the needful.
  - Once nomination received from DT, appointment to be made
    - Within 30 days from receipt of nomination or Feb 2, 2023, whichever is later.
- **Amendment in DTD [Reg. 18 (6A)]**
  - Mandating issuer to appoint nominee director of DT on its Board of Directors at the earliest and not later than 1 month from the date of receipt of nomination from DT
    - Debenture Trust Deed for existing issuance to be amended by September 30, 2023.
- **What should the AOA capture?**
  - Just the enabling clause or terms around it?
  - What if AOA provides a general clause?
    - In line with Section 161 (3) of CA, 2013.
  - Other aspects relating to nominee directors
    - Tenure
    - Impact on Board composition
    - Duties
    - Office liable to retire by rotation
    - Termination

Other Amendments in NCS Regulations effective from February 2, 2023

- **Green Debt securities**
  - Refer next slides.
- **Manner of serving the notice of recall/redemption prior to maturity of NCS [Reg. 15 (6) & (7)]**
  - Issuer to send the notice to eligible holders in the following manner:
    - Soft copy via e-mail - in case email address registered with the Listed Entity (LE) or Depository;
    - Hard copy - in case email address is not registered
    - The issuer should simultaneously provide a copy of the such notice to Designated Stock Exchange (DSE).
      - Newspaper advertisement not required.
- **Timeline of offer period of public issue[Reg. 33A]**
  - Offer to be kept open for minimum 3 working days and up to maximum 10 working days.
    - Aligned with ICDR Regulations (Reg. 46, 142)
  - Grounds for extension of bidding period upto maximum 10 working days
    - In case of revision in price band or yield as disclosed in the offer document
      - the issuer should extend the issue for minimum 3 working days.
    - In case of force majeure - The issuer may extend the issue period by recording the reasons in writing.
- **Regulatory fee for PDIs and PNCPs [Reg 50 (4) & Schedule VI]**
  - DSE will collect regulatory fee as per Schedule VI
  - 0.00025% of issue size, subject to
    - minimum Rs. 25000 and
    - maximum Rs. 50,00,000

Regulatory framework for GDS issuance



Details of GDS issuances in India

- **As of 14th September, 2022, 15 issuers have listed GDS on Indian stock exchanges aggregating to Rs. 4539 crores in volume. (Source- SEBI statistics)**

Issuer	Date of issue	Date of maturity	Amt in crore	Coupon	Tenure	ISIN
L&T Infrastructure Finance Company Ltd	29/06/2017	18/11/2024	667.00	7.59%	7.39	INE691I07DZ9
Tata Cleantech Capital Limited	18/12/2018	18/12/2023	180.00	8.74%	5.00	INE857Q07216
Indian Renewable Energy Development Agency Limited	03/01/2019	03/01/2029	275.00	8.51%	10.01	INE202E07260
Indian Renewable Energy Development Agency Limited	17/01/2019	17/01/2029	590.00	8.47%	10.01	INE202E07278
Ghaziabad Nagar Nigam *	31/03/2021	06/04/2025	150.00	8.10%	4.02	INE0GVF24014
Yarrow Infrastructure Private Limited	01/07/2021	01/07/2024	581.00	6.49%	3.00	INE001W07011
Priapus Infrastructure Limited	01/07/2021	01/07/2024	16.00	6.49%	3.00	INE964M07011
Rattanindia Solar 2 Private Limited	01/07/2021	01/07/2024	227.00	6.49%	3.00	INE935V07012
Malwa Solar Power Generation Private Limited	01/07/2021	01/07/2024	197.00	6.49%	3.00	INE999X07014
Citra Real Estate Limited	01/07/2021	01/07/2024	19.00	6.49%	3.00	INE969M07010
Sepset Constructions Limited	01/07/2021	01/07/2024	197.00	6.49%	3.00	INE961M07017
Fermi Solarfarms Private Limited	28/02/2022	28/02/2025	337.00	6.75%	3.00	INE404X07015
Clean Sustainable Energy Private Limited	28/02/2022	28/02/2025	334.00	6.75%	3.00	INE00JT07017
Avaada Sataramh Private Limited	28/02/2022	28/02/2025	270.00	6.75%	3.00	INE0CSU07013
Avaada Solarise Energy Private Limited	28/02/2022	28/02/2025	499.00	6.75%	3.00	INE07H107012

Amended definition of Green Debt Securities (GDS)

- **GDS is defined under Reg 2(1)(q) of NCS Regs**
  - means a **debt security** issued for raising funds
    - Ordinary debt securities with “green” label attached to it
  - **subject to the conditions** as may be specified by the Board from time to time,
    - Prescribed under Ch IX and IX-A of Operational Circular
  - to be **utilised for project(s) and/ or asset(s) falling under any of the following categories**
    - Categories of projects/ assets specified under the definition clause

- **Eligible categories for GDS**
  - renewable and sustainable **energy**
  - clean **transportation**
  - **climate change** adaptation
  - **Energy efficiency** including efficient and green buildings
  - sustainable **waste management**
  - sustainable **land use**
  - **biodiversity** conservation
  - **pollution prevention** and control
  - **circular economy** adapted products, production technologies and processes and/or eco-efficient products
  - **blue bonds** (for **sustainable water management**)
  - **yellow bonds** (for **solar energy creation**)
  - **transition bonds** (for **transition in line with India’s Intended Nationally Determined Contributions**)
    - climate targets determined by India under the Paris Agreement at the Conference of Parties 21 in 2015, and at the Conference of Parties 26 in 2021, as revised from time to time

Snapshot of recent amendments to GDS framework

- **SEBI (ILNCS) (Amendment) Regulations, 2023**
  - Categories of projects/ assets for which GDS proceeds can be utilized has been broadened
    - Includes new categories in alignment with voluntary ICMA Green Bond Principles
    - Includes "transition bonds" for funding activities aligned with India's Nationally Determined Contributions (NDCs)
    - Includes new colored bonds, viz., "blue" bonds and "yellow" bonds for easier identification and attracting investors
- **Amendments to Ch IX of the Operational Circular**
  - Enhances initial and continuous disclosure requirements on GDS issuers
    - Requires mandatory appointment of independent third party reviewer/ certifier
    - Promotes transparency of information by requiring disclosure of relevant standards/ taxonomies referred for determining eligibility
    - Attracts impact reporting on an annual basis
    - Requires disclosure of specific elements of BRSR in terms of Principle 6 of the NGRBC principles relating to environmental conservation
- **Insertion of Ch IX-A to the existing Operational Circular**
  - Prescribes certain Do's and Don'ts for avoidance of green washing by GDS issuers
    - Requires disclosure to GDS investors in case of use of proceeds for un-authorized purposes, and early redemption if so required by investors in such case
    - Prohibits use of misleading lables, cherry-picking data or making untrue claims
    - Requires the issuer to quantify the negative externalities associated with the utilization of GDS proceeds

Appointment of Third Party Reviewer

- Mandatory appointment of third party reviewer on a continuous basis
  - On a comply or explain basis for the period of two years from issuance of Circular
- For review/ certification of
  - processes including project evaluation and selection criteria, project categories eligible for financing by GDS.
  - Post-issue management of the use of proceeds from GDS and
  - verification of the internal tracking and impact reporting
- Eligibility to act as independent third party reviewer
  - Not specified under the NCS Regulations/ Operational Circular
  - Any person having the requisite technical knowledge and expertise may act as such
  - Voluntary institutes such as ICMA and Climate Bonds Standards Board (CBSB) provides list of existing verifiers
- Motivation for investors or demotivation for issuers?
  - Increased compliance burden may act as a deterrent for sustainable debt market in India
  - However, such appointment is already in practice among existing GDS issuers (e.g. - Yes Bank, State Bank of India, Indian Renewable Energy Development Agency Ltd (IREDA) etc)

Guidelines on Green Washing

- Green-washing is generally referred as 'making false, misleading, unsubstantiated, or otherwise incomplete claims about the sustainability of a product, service, or business operation.'
  - Globally, concerns are raised over green washing
- SEBI Circular dated 3rd February, 2023 provides for dos' and don'ts for avoidance of green washing
  - To be appended as Ch IX-A to the existing Operational Circular
- **Guidelines** include the following -
  - Continuous **monitoring of actual reduction of the adverse environmental impact** and contribution towards sustainable economy
  - **Prohibition on utilisation** of green bonds' proceeds **for purposes not provided under ILNCS Regs**
  - Prohibit **use of misleading labels** or **picking data selectively** that highlight green practices and obscure unfavourable data
  - Maintain **highest standards** while adhering to assigned rating
  - **Quantify negative externalities** associated with utilization of the green bonds' proceeds
  - Prohibition on making **untrue claims giving false impression** of certification by a third-party entity
- Utilisation of GDS proceeds for purposes other than as provided under ILNCS Regulations
  - Mandatory disclosure to GDS holders
  - Undertake early redemption of GDS if so required by the majority of GDS holders
- Are GDS investors required to approach issuer for redemption or issuer to take steps for seeking approval?
  - The language reads "if required, by majority of debenture holders"
  - So one may contend that investor is required to approach
- However, utilization for un-authorized purpose leads to breach of contract
  - Therefore, in our view, issuer will be required to obtain approval from GDS holders
    - Through calling a meeting of GDS holders, or
    - Seeking no-objection letters from GDS holders

Consultation Paper for amendment in SEBI (ILNCS) Regulations

Time till February 24, 2023 for public comments

Summary of changes proposed – 1/2

- **Common disclosure requirement**
  - To bring parity between initial disclosures to be provided for public issue and private placement of NCS.
  - Once listed, privately placed debt is akin to a security through public issue.
- **General Information Document (GID)**
  - **Applicability:** Issue of NCS & Commercial Papers (CPs) on a private placement basis.
  - **When to file:** Issuers to file GID with the stock exchanges (SEs) at the time of first issuance.
  - **Validity:** 1 year from date of opening of first offer of NCS under the GID.
  - **Contents:** Shall contain the following disclosures as specified:
    - In Annex-I of the Consultation Paper;
    - In CA, 2013;
    - Additional disclosures as maybe specified by SEBI.
- **Key Information Document (KID)**
  - **Intent:** Save time, cost and effort of repeated disclosures
  - **Applicability:** Issue of NCS & Commercial Papers (CPs) on a private placement basis.
  - **When to file:** : Issuers to file KID with the SEs for subsequent private placement of NCS and CPs.
  - **Frequency:** At the time of each issue
  - **Contents:**
    - details of the offer made through the KID;
    - financial information as per Para 3.3.8 of Annex-I of the Consultation Paper(not more than 6 months old);
    - material changes and developments if any, not disclosed in GID.
    - In case of CPs - Additional disclosures specified in Annex II of the Consultation Paper.
- **Shelf Placement Memorandum to be done away with**
  - suffered the deficiency of shelf limit but the KID has no limit on the issue size to be raised during the validity period.
  - KID will dispense the requirement of filing numerous documents for subsequent issuances.

Summary of changes proposed – 2/2

- **Mandatory listing of NCS**
  - **Intent:** to address concerns;
    - information asymmetry;
    - undesirable opacity in the corporate bond market;
    - regulatory or information arbitrage;
    - possibility of mis-selling;
    - counterparty risk as trades not settled on clearing corporation;
    - liquidity risk for investors as no enough buyers for unlisted debt security;
    - No recourse to SEBI's grievance redressal mechanism.
  - **Applicability:** Issuers having outstanding listed debt securities and proposing to make further issuances
  - **Timeline for listing:**
  - **Prospective issuances**: To be listed as per provisions applicable to specified securities (Reg. 28 of LODR Regulations)
  - **Past issuances:**
    - O/s unlisted debt securities of maturity of more than 5 yrs - **Mandatory listing** within a specified time period
    - O/s unlisted debt securities of maturity of less than 5 yrs - **Optional listing** within a specified time period

- **Mandatory disclosure of issue related expenses**
  - **Intent:** To ensure transparency in disclosure of issue related expenses
  - **Requirement**: Issuers to disclose various issue expenses incurred on issuance of NCS irrespective of type of issuance.
  - **Manner of Disclosure**: Shall include break up for various heads and percentage of contribution to total issue expenses of respective categories
    - Lead manager(s) fees including underwriting commission, if any.
    - Brokerage, selling commission and upload fees.
    - Registrars to the issue
    - Legal Advisors.
    - Advertising and marketing expenses.
    - Regulators including stock exchanges.
    - Printing and distribution of issue stationary

ISIN Restrictions for Private Placement of NCS

SEBI further caps limit for ISINs to reduce fragmentation and boost liquidity (1/2)

SEBI, vide circular dated October 31, 2022, has further capped the number of ISINs for debt securities issued on private placement basis maturing in a given financial year. The position may remail unchanged for large issuers of NCDs.

- The revised cap will be **effective from April 01, 2023**.
- The present limits, as introduced on June 30, 2017, were included in Chapter VIII of the operational circular dated August 10, 2021.

Particulars	Existing limit	Revised limit
Maximum ISINs maturing in a financial year	17	14
Further bifurcation of ISINs:		
i. Maximum ISINs for plain vanilla debt securities	12	9
ii. Additional limit in case of breach of a aforesaid limit if total o/s amount across the 9 ISINs maturing in a given FY reaches Rs. 15,000 Cr	N.A.	3
iii. Maximum ISIN for structured/MLDs are issued	5	5
Maximum ISINs for the issuance of capital gains tax securities by the authorized issuers under section 54EC of the Income Tax Act, 1961 on private placement basis	12	6
Maximum ISINs, if only structured/MLDs are issued *Additional 3 ISIN in case the conditions stated above is satisfied.	12	9*
The newly capped limits shall not be applicable to ISINs utilised for issuance of debt securities upto March 31, 2023 and maturing in later years.		

Manner of computing ISIN

Year of issue	Tenure in years	Maturity year	Number of ISIN
April, 2023	4	April, 2027	1
June, 2023	4	June 2027	2
December 2023	4	December 2027	3
January 2024	3.5	June 2027	4
March, 2024	3.5	September 2027	5
April, 2024	3	April 2027	6
May 2024	3.25	August 2027	7
November 2024	3	November 2027	8
February, 2025	2.5	August 2027	9
March, 2025	2.75	December, 2027	Depends on o/s value of above ISINs If less than 15000 crore – no new ISIN (consider re-issuance) If 15,000 crore or more – additional 3 ISINs

SEBI further caps limit for ISINs to reduce fragmentation and boost liquidity (2/2)

The operability of this circular for an issuer with respect to ISINs (plain vanilla debt securities) issued prior to and from March 01, 2023 is illustrated as under:

Date of Issuance of listed debt securities	Year of maturity (cited as an example)	No. of ISINs already maturing in the FY (citied as an example)	Value of listed debt securities outstanding (in INR)	Applicability of this circular
Up to March 31, 2023	FY 2024-25	11	Any amount	Since the issuance is within March 31, 2023, the existing limit of 12 ISINs will apply.
April 01, 2023	FY 2025-26	7	Less than Rs. 15000 crore	Revised limits specified in this circular **shall apply**. Issuers will have only 2 more ISINs.
April 01, 2023 onwards	FY 2026-27	9	Less than Rs. 15000 crore	Revised limits specified in this circular **shall apply**. As the limit of 9 ISIN has been exhausted, no fresh ISIN will be allotted.
April 01, 2023 onwards	FY 2026-27	9	Equal to or more than Rs. 15000 crore	Issuer eligible for additional 3 ISINs and can make fresh issuance.

Timeline for listing of privately placed debt

Timelines for listing of privately placed debentures – Till Dec 31, 2022

Sl. No	Details of Activities	Due Date
1	Closure of Issue	T day
2	Receipt of Funds	To be completed by T+2 working day
3	Allotment of Securities	
4	Issuer to make listing application to stock exchange(s)	To be completed by T+4 working day
5	Listing permission from stock exchange(s)	

Revised Timelines for Issuances made on or after Jan 01, 2023 – 1/2

Category	Timeline (Working day)	Nature of Activity	
		EBP	Non-EBP
In-principle approval	Prior to T-2/ T-5 (EBP); Prior to T (Non-EBP)	In-principle approval from SEs- Prior to the date of providing PM & Term sheet to EBP(s)	In-principle approval from SEs- prior to issue open date.
Bidding announcement	On or before T-1	Bidding start time & close time to be provided to the EBP	Open and close date to be disclosed in PM
Day of bidding/ Issue period	T	• Bidding on EBP. • Provisional allocation • pay-in obligations to bidders	Final allotment to investor to finalize on closure date.
ISIN allocation/ assignment/ confirmation by Depository	On or before T+1	Receipt of ISIN from depository to be ensured by issuer prior to pay-in	Receipt of ISIN from depository to be ensured by issuer prior to pay-in

‘T’ – Being the day of bidding/Issue Period

Revised Timelines for Issuances made on or after Jan 01, 2023 – 2/2

Category	Timeline (Working day)	Nature of Activity	
		EBP	Non-EBP
Settlement	On or before T+1/ T+2 (as per settlement cycle chosen by Issuer) (EBP) On or before T+2 (Non-EBP)	• Pay-in by bidders, • Communication of receipt by issuer, • Final allocation • Payment of stamp duty. • Filing of corporate action by RTA. • Credit of securities to investors • pay out to Issuer • Issue of credit confirmation by depository to issuer	• Receipt of funds by issuer, • finalization of allotment, • payment of stamp duty, • Filing of corporate action by RTA. • Credit of securities to investors, • pay out to Issuer, • Issue of credit confirmation by depository to issuer.
Listing	On or before T+3	• Make application of listing • Confirmation of listing permission by SEs • ISIN activation by depositary	• Make application of listing • Confirmation of listing permission by SEs • ISIN activation by depositary

SEs- Stock exchanges
PM- Placement Memorandum
EBP – Electronic Book Process

Revised framework for Electronic Book Provider Platform

EBP Framework : An overview – 1/2

- **Platforms**
  - **BSE –** BSE Bond
  - **NSE –** NSE EBP
- **Eligible participants/ bidders**
  - Qualified Institutional Buyers (QIBs) as defined in SEBI ICDR;
  - Non-QIB who/which has been authorised by the issuer, to participate in particular issue.
  - Reqd. to enroll with EBP as onetime exercise. KYC to be done in the manner prescribed.
    - For QIBs – by EBP
    - For non- QIBs bidding directly – by issuer
    - For non-QIBs bidding through arrange – by arranger.
- **Issuer obligations**
  - Ensure compliance with applicable law, including CA, 2013;
  - Provide placement memorandum and term sheet at least 2 WD before issue opening date, with reqd. disclosures;
  - Disclosure details of allotment after closure of issue;

- **Applicability**
  - Private placement of NCS
    - Single issue, inclusive of green shoe option;
    - Shelf issue, consisting of multiple tranches, in a financial year;
    - Subsequent issue, in a financial year,
    - That aggregates to or exceeds Rs. 100 crore.
  - Private placement of NCDs/ NCRPS by issuers who are in existence for less than 3 years
    - The issue is made on the EBP platform irrespective of the issue size; and
    - The issue is open for subscription only to QIBs
  - issuance of PDIs, PNCPS, PCPS, RNCPS, and instruments of similar nature which are essentially non-equity regulatory instruments, forming part of a bank's or NBFC's capital
    - The issue is made on the EBP platform irrespective of the issue size

EBP Framework : An overview – 2/2

- **Bidding process**
  - Bidding on EBP platform can take place between 9 am to 5 pm on SE working days
  - Period of bidding window decided by issuer. Should be open atleast for 1 hour.
  - Bidding announcement to be done by issuer
    - Atleast 1 WD before initiating the bidding process.
    - Details of bid opening and closing time, with other details.
    - Can be changed by issuer, maximum 2 times.
      - To be done atleast 1 day before bidding date.
  - Participants to enter bids, may place multiple.
    - Cancellation, modification permitted during bidding period.
  - Bids are disclosed on EBP Platform
    - Open bidding – on real time basis. Except bidder name.
    - Closed bidding – disseminated after the closure.
- **Allotment and settlement parameter**
  - Discussed in next slide.
- **Pay-in obligations**
  - To be done from the account of bidder to whom allocation to be made.
    - The funds pay-in by the successful bidders will be made only from the bank account(s), which have been provided/ updated in the EBP system.
  - Manner of pay-in to be given by Issuer in the PM
  - In case of non-fulfillment by allottees
    - be debarred from accessing the bidding platform across all EBPs for a period of thirty days from the date of such default.
    - For arranger - refer next slide.
  - RTA, to reconcile the information received from escrow bank and then intimate to the issuer about receipt of funds, give instruction for corporate action, instruct for release of funds
- **Withdrawal of issue**
  - Bids not received upto base issue size, bidder defaulted, cut-off yield higher than estimated cut-off yield disclosed to EBP.
  - Otherwise, debarred from accessing platform for a period of 7 days.

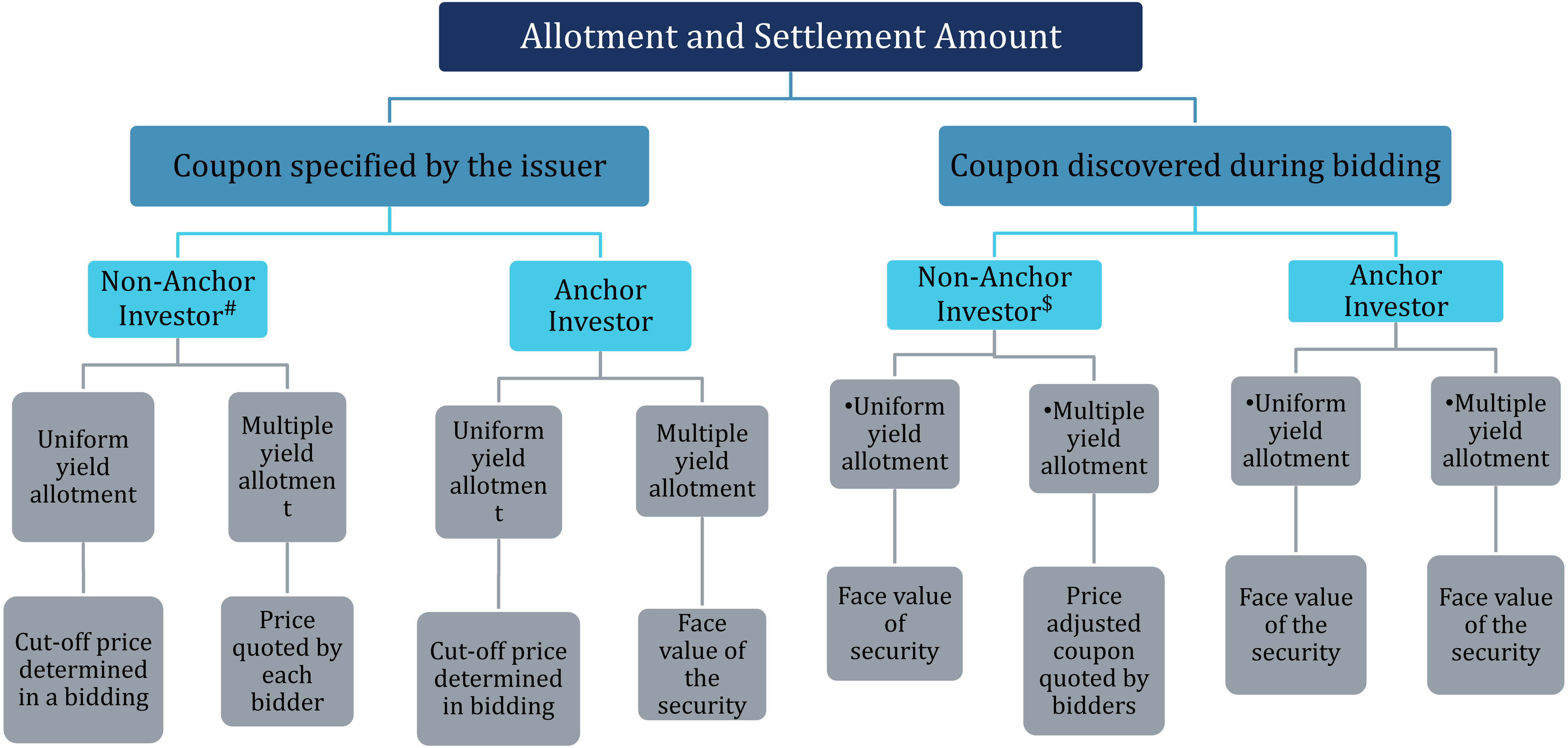
SEBI rationalizes issuances on Electronic Book Platform ('EBP') – Limits | Bidding Process | Anchor Investor | Basis of Allotment. w.e.f. January 01, 2023

- Limit for Mandatory issuance on EBP reduced to **Rs. 50 crore from Rs. 100 crore.** *(made stringent)*
- Limit for Greenshoe portion *(new)*
  - Cannot exceed **5 times the base issue size.**
- Additional disclosure on Interest rate parameters to be made in Placement Memorandum ('PP') and term sheet *(new)*
  - Zero Coupon,
  - Fixed Coupon,
  - Floating coupon.
- System-related confirmation by Eligible participants *(new)*
  - Not using software algorithms, bots, or automation tools for placing bids.
- No preferential access to any bidder on a selective basis
  - EBP has to ensure the same.
- Limits for bids upto which can be made through arrangers' modified
  - **5% of base issue size** or;
  - **100 crore** *(earlier 15 crores); whichever is* ***lower****.*
  - Arranger to ensure while bidding on behalf of multiple participants.
- New term introduced – **Client bid**
  - Bids entered on behalf of eligible participants by the arranger.
  - Disclosure norms for the arranger e.r.t. proprietary bids or client bid or consolidated bid remains the same
- Bidding time and period *(new)*
  - List of eligible participants to be provided to the EBP by the issuer at least one hour before the bidding start time.
- Basis of entering bid
  - Price (in INR)
  - Coupon (in %) in 4 decimal places. *(same was disclosed in basis points earlier)*
  - Spread in basis points *(new)*

SEBI rationalizes issuances on Electronic Book Platform ('EBP') – Limits | Bidding Process | Anchor Investor | Basis of Allotment. w.e.f. January 01, 2023

- Bidding Process
  - **Coupon Specified by issuer** - The face value and coupon remaining constant, bids/ quotes shall be placed by the bidders in terms of price.
  - **Coupon/ spread discovered during bidding** - The face value remaining constant, bids/ quotes shall be placed by the bidders in terms of coupon/ spread.
- Modification of Bids during the last 10 mins of the bidding period allowed for:
  - Downward revision of coupon/spread; *(new)* or
  - Upward modification of price; and/ or *(new)*
  - Upward revision in terms of bid size.
- Basis of allotment modified
  - Refer next slide.
  - Earlier was based on first on "yield priority" basis.

- Reservation for anchor portion permitted *(new)*
  - No bidding for the anchor portion on the EBP.
  - Total allocation cannot exceed 30 % of the base issue size.
  - Disclosure requirement - Details of Anchor Investor, quantum allocated
  - Eligible for bidding in the non-anchor portion.
    - If identified as an eligible participant by the issuer.
- Grounds for debarment of arranger across all EBPs. *(new)*
  - In case of 3 instances of non-fulfillment of pay-in obligations by clients, debarment for a period of 7 days from the date of such 3rd or subsequent default.
- Measures introduced to avoid "fat finger" errors by eligible participants *(new)*
  - EBP to provide facility to define limits/ range within which quotes to be placed.



# Bids shall be arranged as per 'price time priority'.
$ bids shall be arranged as per 'yield time priority'.

High Value Debt Listed Entities

Applicability of LODR Regulations on 'High Value' Debt Listed Entities

'High Value' Debt Listed Entities (HVDLEs)

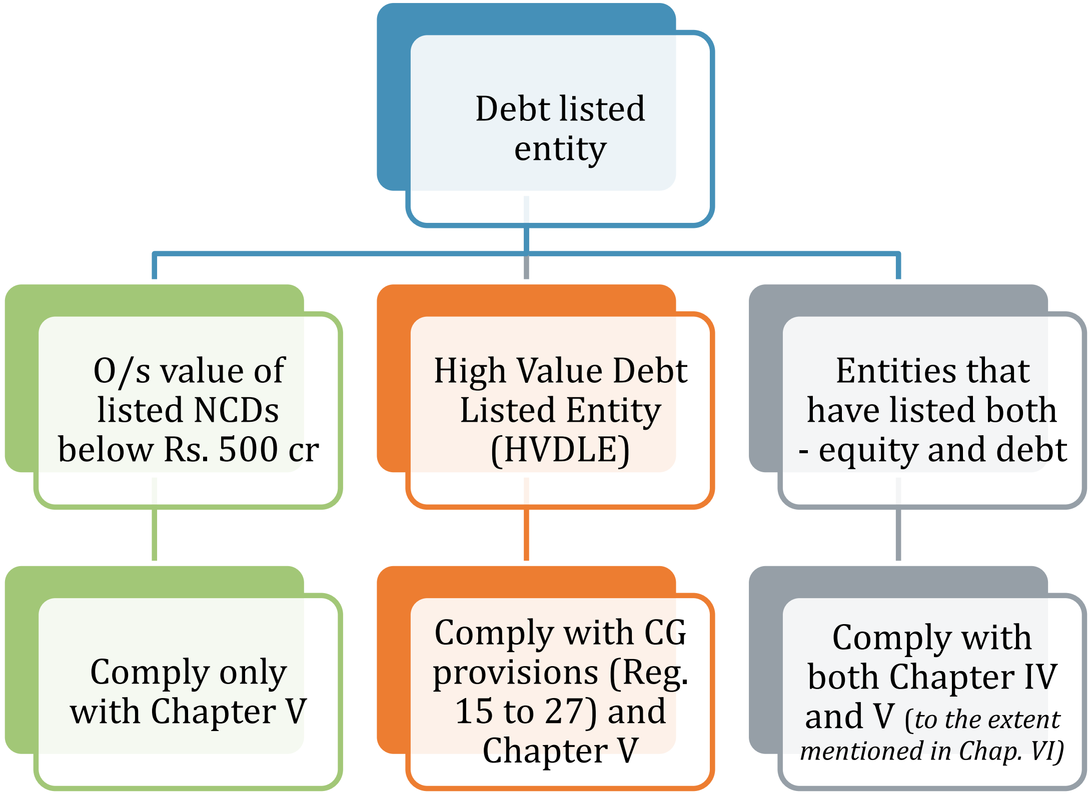
Entities with listed non-convertible debt securities ('NCDs') with outstanding principal value of Rs. 500 crore or more as on **March 31, 2021**.

Timeline for compliance

For HVDLEs as on March 31, 2021	For listed entities that become HVDLEs subsequently
• On comply or explain (Corex) basis till March 31, 2023. • Mandatory from April 01, 2023 and onwards.	• Within 6 months from the date when the listed entity becomes HVDLEs. However, shall be on Corex basis till March 31, 2023.

Corex basis means that although provisions are mandatory from April 01, 2023, HVDLEs should endeavour to comply with them and disclose the level of compliance / reasons for non-compliance in the quarterly CG reports.

As per Reg. 3(3), once these regulations are applicable, they shall continue to apply even if outstanding listed debt of HVDLE falls below the threshold of Rs. 500 crore. *(Refer slide on consultation paper)*



In case of REITs, InvITs that are HVDLE, CG provisions as provided under the respective REITs & InvITs regulations shall be applicable instead of LODR regulations (w.e.f. April 01, 2023).

Immediate actionable for HVDLEs (1/2)

- **Board Composition as per reg. 17 :**
  - There shall be at least one woman director and not less than 50% of the board shall comprise of NEDs;
  - Where the Chairperson of the board is a NED- at least 1/3rd of the board shall comprise of IDs and where the listed entity does not have a regular NED as Chairperson – at least ½ of the board shall comprise of IDs
  - Incase of appointment of director, shareholder approval to be taken in the next AGM or within 3 months of appt. (whichever is earlier).
- **Appointment of Independent Directors**
  - Board has to undertake D & O Insurance, familiarization program for all IDs on the board.
- **Board meeting :**
  - CEO, CFO to give a compliance certificate to Board, in format as mention in Part B of schedule II.
- **Committees:**
  - All mandatory committees for a listed entity have to be constituted viz; AC, NRC, SRC, RMC;
- **Framing of policies**
  - RPT policy, material subsidiary policy, Code of Conduct for Directors and SMP, Succession planning policy, Board diversity policy;
  - Frame, board approval, disseminate on website.
- **RPTs:**
  - AC approval as per revised mechanism for all RPTs;
  - Half yearly disclosure - disclosures on RPT along with the results.
- **Corporate Governance requirements with respect to subsidiary of listed entity u/r 24 :**
  - ID on the board of listed entity to be on the board of such material subsidiary;
  - AC to review of the investments made by unlisted subsidiary (whether material / not).
  - Minutes of Board meeting of unlisted subsidiary to be placed before the Board of the company.
- **Secretarial Audit u/r 24A :**
  - Such listed entity and its material unlisted subsidiaries incorporated in India shall undertake secretarial audit
    - The secretarial audit report shall be annexed to the annual report;
  - Secretarial compliance report to be filed with the stock exchange(s) within 60 days from the end of each financial year;
- **Obligations of senior management / Directors u/r 26:**
  - Director to notify about the changes in his/her committee positions;
  - Directors and SMP to annually affirm compliance with the code of conduct.
  - SMPs to disclose all material, financial and commercial transactions where they have personal interest that may have a potential conflict with the interest of the listed entity.
    - conflict of interest relates to dealing in the shares of listed entity, commercial dealings with bodies, which have shareholding of management and their relatives etc.
- **Submission of quarterly CG report to SE u/r 27**
  - As per SEBI Circular, only Annexure 1 to be submitted.

Immediate actionable for HVDLEs (2/2)

1. Identification of RPs

- HVD to revisit list of related parties of the HVD
  - List is wider than that provided under Companies Act

2. Identification of RPTs

- As the meaning of RPT is wider now, certain further information is required w.r.t. RPs
  - If HVD has a listed parent entity
  - If HVD have subsidiaries

3. Frame RPT policy

- Including criteria for regarding a 'material modification'

4. Prior approval of AC for FY 23-24 RPTs

- Validly constituted Audit Committee in terms of Reg 18
  - Only ID members should vote to approve RPTs
- All RPTs by HVD to be placed before AC
  - with its own RP, RP of parent listed entity or RP of subsidiaries
- All RPTs by subsidiaries of HVD with own RP or RP of HVD or RP of other subsidiaries
  - Only if significant under Reg. 23 (2), if HVD is not a party
- Information as per SEBI Circular of November 22, 2021 applicable to HVDLEs.
  - As per SEBI Circular dated January 7, 2022

5. Identifying Material RPTs for FY 23-24

- for transactions by HVD or any of its subsidiary with RP of HVD or RP of subsidiaries exceeding the thresholds
  - 1000 crore or 10% of annual consolidated turnover of HVD, whichever is lower.
- Obtain prior approval of shareholders of HVD.
  - In case of closely held companies, Explain and not comply.
  - *Refer slides on Consultation Paper*

6. Disclosure of RPTs on half yearly basis

- In the format prescribed by SEBI
  - SEBI Circular dated January 7, 2022
- Along with standalone financial results for HY
- publish the same on its website

SEBI on January 22, 2020 issued a circular providing fines for non-compliance with provisions of LODR Regulations. The fines for non-compliance of various regulations of LODR are as follows:

Regulation	Fine/action
Regulation 6(1) Non-compliance with requirement to appoint a CS as the compliance officer	₹ 1,000 per day
Regulation 7(1) Non-compliance with requirement to appoint STA	₹ 1,000 per day
Regulation 13(1) Failure to ensure that adequate steps are taken for expeditious redressal of investor complaints	₹ 1,000 per day
Regulation 13(3) Non-submission of the statement on shareholder complaints within the period prescribed under this regulation or under any circular issued in respect of redressal of investor grievances	₹ 1,000 per day
Regulation 17(1) Non-compliance with the requirements pertaining to the composition of the Board including failure to appoint woman director	₹ 5,000 per day
Regulation 17(1A) Non-compliance with the requirements pertaining to appointment or continuation of Non-executive director who has attained the age of seventy five years	₹ 2,000 per day
Regulation 17(2) Non-compliance with the requirements pertaining to the number of Board meetings	₹ 10,000 per instance

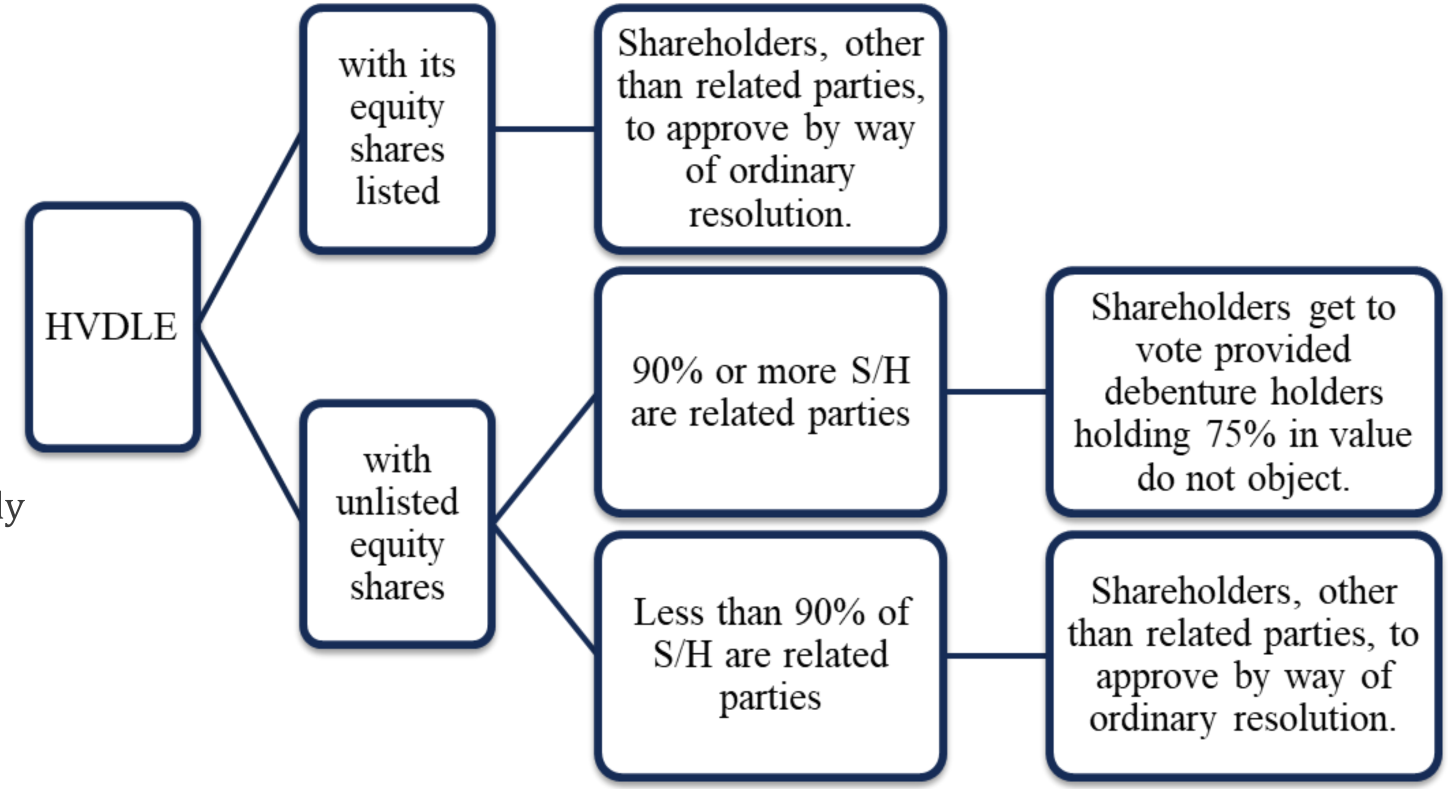
Regulation	Fine/action
Regulation 17(2A) Non-compliance with the requirements pertaining to quorum of Board meetings.	₹ 10,000 per instance
Regulation 18(1) Non-compliance with the constitution of audit committee	₹ 2,000 per day
Regulation 19(1)/ 19(2) Non-compliance with requirement to appoint STA	₹ 2,000 per day
Regulation 20(2) / (2A) Non-compliance with the constitution of stakeholder relationship committee	₹ 2,000 per day
Regulation 21(2) Non-compliance with the constitution of risk management committee	₹ 2,000 per day
Regulation 23 (9) Non-compliance with disclosure of related party transactions on consolidated basis.	₹ 5,000 per day
Regulation 24A Non-compliance with submission of secretarial compliance report	₹ 2,000 per day
Regulation 27(2) Non-submission of the Corporate governance compliance report within the period provided under this regulation	₹ 2,000 per day

Consultation Paper for LODR amendment relating to HVDLEs

Time till February 22, 2023 for public comments

Summary of changes proposed

- Criteria for ceasing to be an HVDLE
  - the outstanding value of listed NCDs of such entity reduces and remains below the specified threshold (Rs. 500 crore) for a period of three consecutive financial years.
    - To be ascertained as on financial year end.
    - To align with condition under second proviso to Reg. 15 (2) (a), that applies to equity listed entities.
      - paid up equity share capital remains below Rs. 10 cr and net worth below Rs. 25 cr.
- Manner of approving Material RPTs
  - Proposed process applicable to HVDLEs that are only debt listed and with 90% or more shareholders as related parties.
    - As per data sought by SEBI, out of 138 HVDLEs as on March 31, 2022, 104 HVDLEs fall in above category.
  - Other HVDLEs to follow existing process under Reg. 23 (4)
    - no related party shall vote to approve such resolutions whether the entity is a related party to the particular transaction or not.



Debenture holders get a right to object Material RPTs

- Process to be followed by HVDLE
  - Notice of general meeting to approve material RPT to be sent to Debenture Holders (DHs) too;
  - DH have the right to submit objection, if any, on a dedicated functional email id.
    - Within 7 days of dispatch of agenda item
  - PCS to scrutinize the response received from DHs and submit report within 3 days from the last day to receive response from DHs.
  - Report to indicate
    - Total number of responses received from DHs;
    - Number of no-objections received from DHs; and
    - Number of objections received from DHs;
    - If no response is received from the debenture holders, the PCS shall provide a certificate to that effect.
  - Report to be disseminated promptly on website
    - Of company, SE, DT and
    - Emailed to S/H and DHs
  - **If objection received from DHs holding 75% or more in value, based on the number of responses received, Board to withdraw the RPT agenda**
    - **No response should be regarded as no-objection.**

Illustration by SEBI in Consultation Paper

Sr. No.	Particulars	Amount in INR Cr.
1	Total value of listed outstanding debentures held by the Company	1000
2	Value of the outstanding debentures held by DHs who have sent their responses on RPT	500
3.	75% of value mentioned in point (2)	375

- If the debenture holders having outstanding value of Rs. 375 crores object to the proposed RPTs, the same shall not be placed for approval by the shareholders in the GM.
- Where no response from any DH is received, then on the basis of the PCS certificate, it will be presumed that DHs do not have any objection and the proposal of such RPTs shall be placed before the shareholders in the GM for approval.

Summary of approval process

HVDLE to conduct General Meeting (GM) [T+21] for approval of Material RPT and dispatch notice to shareholders (S/H) [T]

→ Copy of notice of GM to be sent to Debenture Holders (DHs) in the manner Annual report/ notice of AGM is sent to shareholders [T]

→ Company to indicate dedicated function email-id for responses

→ DHs to submit their objection, if any, in writing or through electronic mode to HVDLE within 7 days from date of dispatch [T+7]

→ Responses received on the email id to be scrutinized by a PCS within 3 days from the last day by which responses are to be received. [T+10]

→ PCS to indicate total number of responses, number of objections and no-objections. Where no response received, indicate likewise.

→ Board of Directors to ascertain the response received from DH. **If 'objections' received from DH holding 75% or more debentures in value , RPT agenda to be withdrawn.**

→ Certificate to be disseminated on the websites of the HVDLE, Stock Exchange and Debenture Trustee. Should also be emailed to S/H and DH. [T+11]

→ If not objected by DH, then Material RPT will be subject to approval of shareholders at GM. Otherwise, email to S/H should indicate about withdrawal of agenda. [T+11]

→ E-voting for 3 days [T+18] and General Meeting [T+21]

Determining only on the basis of response received from DHs will not be a correct approach.
No-objection should be regarded as deemed consent.
75% of value of DHs should be based on total outstanding value and not just basis response received.

Large Corporate Borrowers Framework

Background

Government of India made an announcement for **proposing a framework** towards mandatory issuance of debt securities by large corporates

FY 18- 19
Budget Speech

July 20, 2018

SEBI came-up with a **Consultation Paper** regarding the draft framework for LCB and invited **public comments** on the same

November 26, 2018

SEBI *vide* its Circular titled as, "Fund raising by issuance of Debt Securities by Large Entities" **notified framework** for LCB, applicable w.e.f. 01.04.2019

April 01, 2019

LCB Framework became **applicable for the first time**. For the 1st two years i.e. FY-20 and FY-21, applicability was on COREX basis.

April 01, 2021

From FY-22, LCB Framework became **applicable on 'comply or pay penalty'**

Highlights - Large Corporate Borrower (LCB) Framework

SEBI *vide* its Circular **dated 26th November 2018**, came up with a circular, mandating the ***'Large Corporates'*** to ***raise at least 25%*** of their ***incremental borrowings*** by way of ***issuance of debt securities***.

❑ **When will the framework become applicable?**
- Applicability from FY 19-20/ CY 2020 and onwards
- For the first two FYs/ CYs, compliance requirement was on annual basis.
- From FY22, compliance requirement has to be met over a block of 2 FYs.

❑ **Who is a Large Corporate Borrower (LCB)?**
- A listed entity, meeting the trigger conditions, (discussed later)

❑ **What is Incremental Borrowing (IB)?**
- Any borrowing done during a particular FY/ CY, of original maturity of more than one year.
- Irrespective of whether such borrowing is for refinancing/ repayment of existing debt or otherwise.
- ECB and inter-corporate borrowings between parent and subsidiary are **excluded**

❑ **What type of securities are to be issued?**
- Debt securities, as defined under SEBI NCS Regulations, 2021 which includes:
  - Non -convertible debt securities with a fixed maturity period;
  - With or without constituting a charge on the assets/ properties.

Consequences of non-compliance

- For the first 2 years (FY-20 and FY-21 or CY 20 and CY 21) - furnish explanation for shortfall in mandatory bond issuance
- For block commencing from FY 22 - Penalty for shortfall.

Point of checking applicability & time period for IB

	T-1	T	T+1
Meaning	**Last day of the previous FY**, preceding the FY, for which the applicability of the Framework is to be checked	**FY for which the compliance has to be made** with the Framework	**The FY succeeding the FY** during which the LCB Framework was applicable
Example	Last day of FY 21 i.e. 31.03.2021 is T-1 for FY 2021-22	Entire FY 2021-22 is T	Entire FY 22-23 is T+1 for FY 2021-22
Purpose	To **determine applicability** for T by fulfilling 3 cumulative conditions are as on T-1	To determine the **quantum of IB**, done during T	To **comply with the debt issuance requirement in addition to T**, if there is any shortfall during T
Illustration	As on 31.03.2021, issuer was fulfilling all the 3 cumulative conditions. Hence, **identified as a LC for T**.	**IB** during T - **Rs. 100 cr.** Now, the issuer has to mandatorily **issue debt secs.** of **at least Rs. 25 cr.** during **T and T+1**	**During T,** issuer **issued** debt secs. for **Rs. 15 cr**. Issuer shall **issue** debt secs. of Rs. **10 cr. during T+1**, otherwise non-compliance for T

1st Trigger Condition - Type of Entity

❑ The Framework shall be applicable to all the **listed entities***, which as **on T-1** have **listed** their:

Specified securities

equity shares and convertible securities (Reg. 2(1)(zl) of LODR)

Or

Debt securities

As defined in Reg. 2(1)(k) of NCS Regulations

Includes:
Non-convertible debt secs. with a fixed maturity period which create or acknowledge indebtedness.

Does not include:
- Security receipts;
- SDIs;
- Money Market Instruments regulated by RBI;
- Bonds issued by Govt. of India or other specified bodies;

Or

Non-convertible redeemable preference shares

* This framework does not applies to **Scheduled Commercial Banks**

2nd Trigger Condition - Outstanding Long Term Borrowing (OLTB)

- The Framework shall be applicable to all the **listed entities as mentioned in the prev. slide**, which as **on T-1** have:

A listed entity having an **OLTB as on T-1**

Rs. 100 crore or above **AND** **Original maturity > 1 year**

- **External commercial borrowings** and **inter-corporate borrowings between a parent and subsidiary(ies)** are excluded for the purpose of OLTB. ✗

3rd Trigger Condition - Credit Rating

- The Framework shall be applicable to all the **listed entities as mentioned in the prev slides**, which as **on T-1** have

Credit rating of **unsupported bank borrowings** or **plain vanilla bonds** as **on T-1**

AA and above

Or

In case issuer have multiple credit ratings

Highest of such ratings which again is atleast AA and above

- What constitutes '**unsupported bank borrowings**'?
  - Borrowing not supported by any guarantee from a 3rd party to uplift its credibility / is not structured
  - It does not mean 'unsecured borrowings'

- Will a **rating of AA-** fall under the applicability condition?
  - AA rating has three notches i.e. AA-, AA and AA+
  - AA- is certainly a notch below AA
  - Therefore, reference to "AA or above" does not include AA-

Compliance requirements for an LCB

- The two major **compliance requirements** for an entity identified as a LCB on T-1 are:

Raise at least **25% of its incremental borrowings** during a FY by way of **issuance of debt securities**

Disclosure requirements

Beginning of the FY

W/n 30 days disclosing fact that they have been identified as an LCB.

Format as provided at Annex-XII-A

End of the FY

W/n 45 days disclosing the **details of IB** done during the FY (T)

Format as provided at Annex-XII-B2

- Meaning of **Incremental Borrowings**:
  - Any fresh borrowing done during T; and
  - having a original maturity >1 year
  - does not include ECB and inter-corp. borrowing between holding and subsidiary(ies)

Illustration

FY	Outstanding borrowings as on the last day of FY (in crores)	Whether LCB for the relevant FY?	Incremental borrowings during the FY (in crores)	Amount required to be raised through debt markets	Amount actually raised through debt markets	Shortfall	Penalty for shortfall
2019	120	-		-	-	-	
2020	200	Yes	100	25	20	5	Reason to be recorded
2021	80	Yes	0	0	0	Nil	NA
2022	120	No	40	0	20	NA	NA
2022	150	Yes	50	12.5	10	2.5	NA *(see note 1)*
2023	200	Yes	120	(2.5 +30)= 32.5 *(see note 2)*	1.5	31	Rs. 20,000 *(see note 3)*

Notes -

1. The incremental borrowings through debt securities can be achieved within the 2-years' block, i.e., FY 2022 and FY 2023. Therefore, the shortfall will be carried over to FY 2023 and fine will not be levied for FY 2022.

2. For FY 2023, 25% of the incremental borrowings for that financial year including the shortfall of previous financial year of the same block will be required to be raised through debt markets.

3. **Fine will be levied @0.20% of the shortfall amount for FY 2022.** The shortfall of FY 2023 can be carried over to the next 2-years' block and can be met within FY 2024.

Responsibilities of stock exchanges

- Stock exchanges shall have **following responsibilities** under the Framework

Collate the information about the LC, disclosed on their platform

within 14 days of the last date of submission of annual financial results

Submit the information collated to SEBI

Stock exchanges shall collect the fine, in the event of a shortfall in the requisite borrowing,

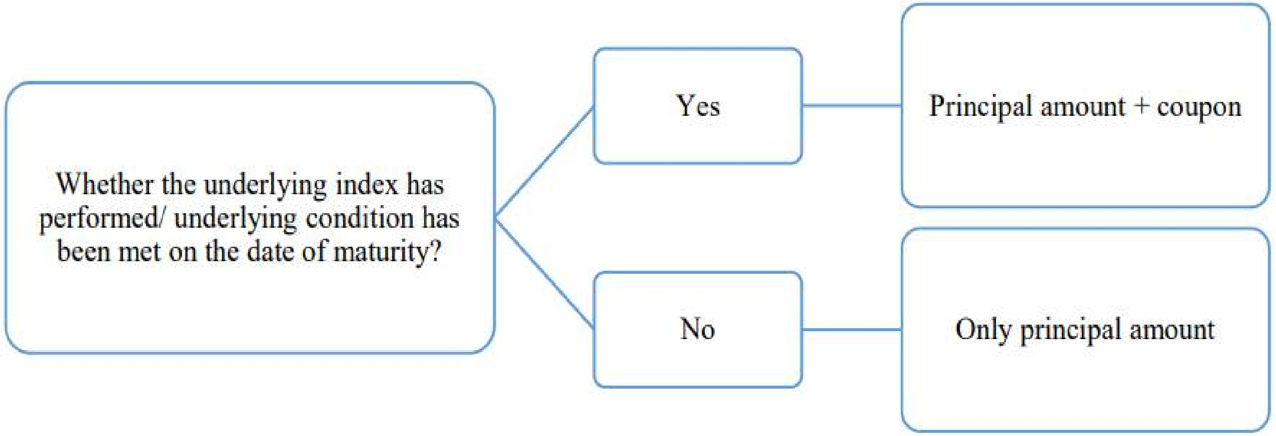
within 10 days from the end of the month in which the fine was collected

Remitted by the stock exchanges to SEBI IPEF

Impact of Budget 2023- 24 on Corporate Bonds

Understanding Market Linked Debentures (MLDs)

- MLDs have been quite popular with NBFCs,
  - Particularly attractive for UHNIs.
- From April, 2022 to December 2022, MLD issuances amounted to Rs.16,463 crs. (source NSDL data)
- MLDs fall under the category of 'structured products' or 'hybrid instruments



Market Linked Debentures	
Tenure	12-36 months
Coupon	Usually low, mostly payable on redemption
Premium	High, to make up for the return
Nature	Privately placed; listed
Market linkage	Often with events which are quite remote in short term

Motivations for issuing MLDs

- **Tax Exemptions**
  - Exempt from withholding tax - carve-out u/s 193
    - Applicable to other listed bonds as well:
    - *any interest payable on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the rules made thereunder.*
  - Taxed as LTCG on holding period for 12 months or more,
    - 36 months in case of normal capital assets. [sec. 2 (42A)].
- **Regulatory arbitrage**
  - Exemption from EBP mechanism for MLDs
  - Additional 5 ISINs permitted for MLDs

Plain Vanilla Debentures	MLDs
Return	
Fixed and regular rate of return- monthly, quarterly, annually etc.	No regular return. Return paid at the time of maturity along with principal amount
Risk	
No additional risk apart from risk of default.	Higher and additional risk as no return maybe received (in case of PP-MLDs) or loss on investment/ principal amount (in case of NPP-MLDs) if the underlying moves downward.

Market Linked Debentures issuance illustration

Instances	Terms of Issue			Underlying	Scenario At the time of redemption Where underlying performance is		Likeliness of the event
	Returns (type)	**Tenure**	**Payment on**				
Case 1	Premium	3 years	redemption	10-year Indian Government Bond (IGB)	≥25% maturity value = **Rs.12,67,000** **yield - approx 8.18%**	< 25% maturity value = **Rs.10,00,000**	Conclusion - This condition is **highly unlikely** to happen. Looking at past trends, the probability that G-sec would fall below 25% of the initial level is low.
Case 2	coupon	2.2 years	redemption	Nifty 50 Initial level -	Final Fixing Level > 25% of the Initial Fixing level **Coupon = 22.738%** **Yield approx 9.76%**	Final Fixing Level ≤25% of the Initial Fixing level **Coupon = 0%**	Conclusion - The condition is **highly unlikely.** Looking at past trends, the probability that Nifty 50 will fall to 25% is very low.

Amendments proposed in relation to MLDs & related concerns

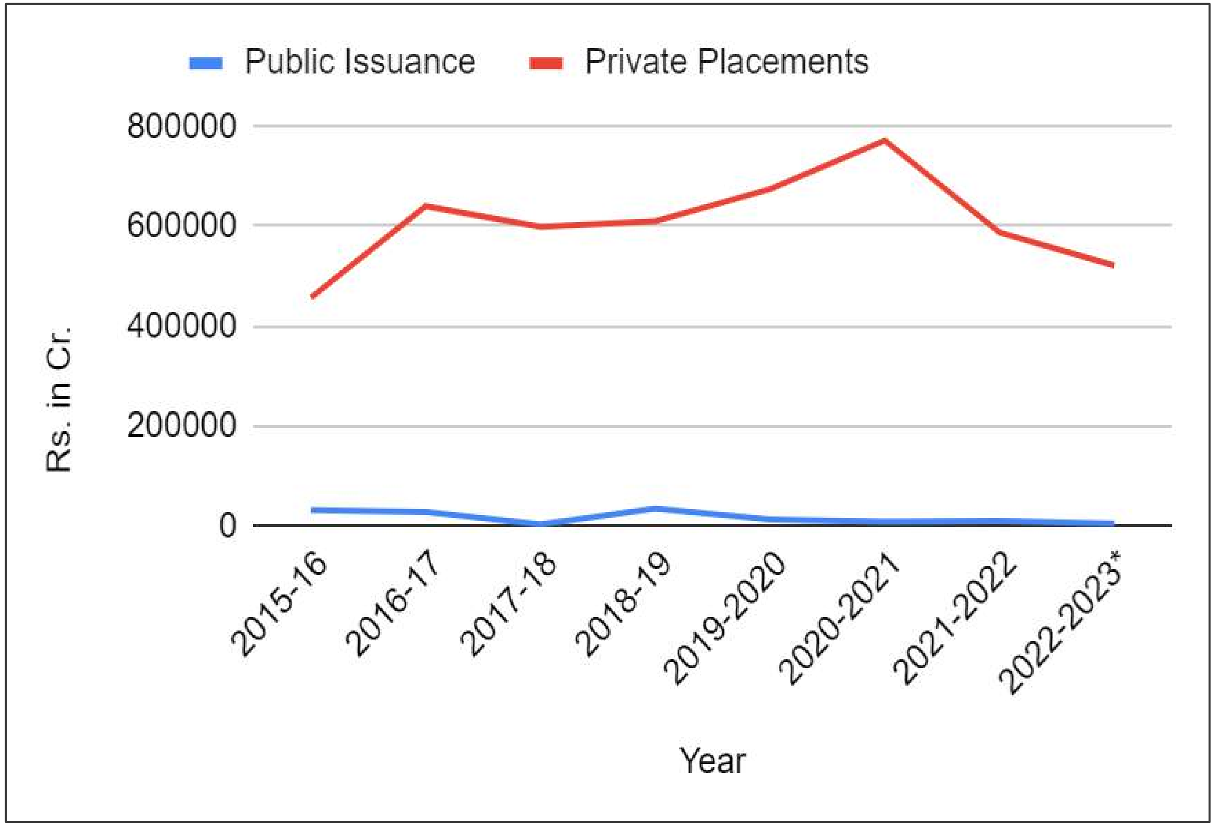
- Irrespective of the holding period, MLDs will be taxed as STCG
  - leads to hike in the tax rate *(from 10% to the slab rate as may be applicable)*
- Exemption from withholding tax goes
- New section 50AA to be inserted
  - Provide: *irrespective of the holding period, capital gains on MLDs will be taken as "short term capital assets"*
  - **If tenure of the MLDs ≥ 36 months** *(which is the usual holding period for qualifying as a long term capital asset):* Still be treated as short-term capital assets
- W.e.f. 1st April, 2024
- **No grandfathering** for the provisions of proposed section 50AA

- Potential action by issuers:
  - If issued MLDs are older than 12 months: call option may be exercised to avail the LTCG benefit **before April 01, 2023.**
  - There is no call option typically:
    - May be based on request of the holder, the company may buyback and extinguish
- Change of structure of the existing MLDs in terms of Reg 59 of LODR Regulations i.e. material modification
    - Approval of BoD and DT
    - Approval of DHs holding 3/4th, **by value,** of the MLDs
    - Prior approval of SE where the MLD is listed

Listed Bonds Market: Brief overview

- The market for bond issuance in India is mostly a private placement market
- Investors are mostly institutional investors
  - Retail participation mostly happens in case of public issues of bonds, or
  - Through secondary market activity in the debt segment of SEs.
- As per RBI in 'Corporate Bond Markets in India – Challenges and prospects'
  - the investor base for corporate bonds is largely dominated by domestic institutions – insurance companies, banks and mutual funds
  - Retail participation remains low

Corporate bonds issuance: Public Issuance vs. Private Placements



* till 1st week of December, 2022

Proposed amendments in relation to listed bonds

- Interest received from listed debentures is not subject to TDS, irrespective of any limit *[section 193 (ix) of IT Act]*
  - Budget-2023 proposes to delete the said clause.
  - With a **'retroactive effect':** Applies to bonds that may have already been issued.
- **No Grandfathering:** TDS payment on existing issuances made prior to effective date?
- Unclear intent of the proposal-
  - Intent of Withholding tax to avoid potential for tax evasion
  - In case of listed bonds the apprehension becomes baseless
    - Investor has demat account, bank account, etc.
  - Trail of the information including the income earned on the investment is easily available
- Likely impact on the market?
  - Discourages retail investors
    - Complex return filing system for claiming set off / refund of the tax deducted.
- Major deterrent for bond issuers:
  - Deduction of tax at source is a hassle, complete with filing of tax deduction forms
  - In many cases, the interest is paid quarterly or half yearly

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