

Corporate & Commercial

Monthly Newsletter
June 2022

Table of Contents

- **SEBI**
 - Reduced listing time for REITs, InvITs
 - Relaxation in annual report dispatch rules for entities with listed non-convertible securities
 - Simplified procedure for transmission of securities
 - New format for security cover certificate
 - New rules to streamline rights issue process
 - Tightening of promoter norms
- **RBI**
 - Master Directions – Credit Cards and Debit Cards – Issuance and Conduct Directions, 2022
 - Banks credit to on-lend to priority sectors
- **MISCELLANEOUS**
 - NSDL unveils blockchain platform for Debenture Covenant Monitoring
 - Centre slaps export duty on steel, materials to cool prices

SEBI | Reduced listing time for REITs and InvITs

Securities and Exchange Board of India (SEBI) vide Circular dated April 28, 2022 has reduced the allotment and listing time after the closure of issue of units of Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (InvIT) to 6 working days from 12 days at present.

This new rule intends to streamline the process of public issue of units of REITs and InvITs and will apply to a public issue of units of REITs and InvITs which opens on or after June 1, 2022.

Stock exchanges and self-certified syndicate banks have been notified to make required changes to implement the same from June 01, 2022.

SEBI | Relaxation in annual report dispatch rules for entities with listed non-convertible securities

SEBI vide Circular dated May 13, 2022 has announced compliance relaxation for entities with listed non-convertible securities from dispatching physical copies of annual report to the debenture holders till December 31, 2022.

Earlier on May 5, 2022 the Ministry of Corporate Affairs (MCA) also extended the relaxations related to sending physical copies of financial statement till December 31, 2022. Together with the MCA relaxation, SEBI's new development provides relaxation from the requirement of the Listing Regulations which states that any entity with listed non-convertible securities, will have to provide the hard copy of annual reports to the shareholders of non-convertible securities who do not have a registered email address with entity or depositories.

Additionally, SEBI has dispensed with the requirement for sending proxy forms in case of general meetings held in electronic mode only.

SEBI | Simplified procedure for transmission of securities

SEBI vide Notification dated April 12, 2022 notified amendments with respect to the norms related to security cover, disclosure of credit ratings and due diligence certificate for unsecured debt securities. SEBI has also revised the rules pertaining to trustee norms, issue and listing of non-convertible securities norms and LODR (Listing Obligations and Disclosure Requirements) Rules.

SEBI has recently revised the existing threshold limit for simplified documents to INR 5 lakh from INR 2 lakh for securities held in physical mode per listed issuer. These revisions have been adopted by the securities regulator to simplify the procedure of transmission of securities. Thus, in this regard SEBI has also increased the threshold for securities held in the dematerialized mode for each beneficiary account to INR 15 lakh from present level of INR 5 lakh.

SEBI has also amended the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2022 highlighting the documentation requirements in case of transmission of securities, as follows:

- Where the securities are held in single name with nomination:
 - Transmission request form by the nominee
 - Original death certificate or copy of death certificate attested by the nominee
 - Copy of Permanent Account Number (PAN) card of the nominee
- Where the securities are held in single name without nomination:
 - Notarized affidavit from all legal heirs made on non-judicial stamp paper of appropriate value, to the effect of identification and claim of legal ownership to the securities
 - In case the legal heirs are named in the succession certificate or Probate of Will, then the Legal Heirship Certificate or its equivalent certificate

SEBI | New format for security cover certificate

SEBI vide Circular dated May 19, 2022 introduced a new format for disclosing security cover to stock exchanges and debenture trustees. SEBI also notified the obligations of the listed entity and debenture trustees with respect to preparation and submission of security cover format.

Key features

- The term 'Asset Cover' has been changed to 'Security Cover' in Debenture Trustee Rules and LODR norms as a part of aligning framework and terminology.
- SEBI has amended the timelines of submission of security cover certificate, valuation report and quarterly compliance report, and regulatory compliance by debenture trustees.
- SEBI notified that a listed entity would have to prepare the security cover certificate on quarterly basis, and the statutory auditor of the listed entity will certify the book values of the assets provided in such certificate.
- According to the Circular, each debenture trustee is required to certify the market value of assets on quarterly basis based on the due diligence carried out by it or its agencies and submit the security cover certificate in a specific format as prescribed by SEBI.
- Every certificate will have a Unique Document Identification Number (UDIN) generated in the manner prescribed by the relevant regulatory authority.
- Debenture trustee will have to ensure that the qualifications/disclaimer does not impair the rights of debenture holders in terms of security provided.
- DT will have to take corrective action in case such qualification/disclaimers curb the rights of the debenture holders.
- To ensure effective monitoring, listed entity will have to produce a compliance status report with respect to the financial covenants of the listed debt securities certified by statutory auditor to debenture trustee; while debenture trustee is required to establish board approved internal policies to monitor breaches.

- To enhance transparency with respect to no-objection certificate issued by debenture trustee and monitoring of listed entity, debenture trustee will have to make certain disclosure to stock exchanges, including any breach of the minimum-security cover within 48 hours of such breach.
- Debenture trustee will be required to submit the security cover certificate to the exchange and make website disclosure of the security cover certificate and quarterly compliance report for the last quarter of the financial year within 90 days from the end of the financial year, and the valuation report and title search report to the exchange once in three years within 75 days from the end of the financial year.
- On independent verification of creation of Recovery Expense Fund (REF) by issuer companies, debenture trustee(s) will be required to take confirmation from designated stock exchange(s) or any other independent source in writing regarding the creation of REF by the listed entity and will not rely solely upon the communication by the listed entity.
- The exchange(s) will be required to disclose the REFs created by the listed entities on half-yearly basis; such disclosure will also include the details of the debenture trustee to the debt issue.
- The framework related to revised format of the security cover and monitoring of covenants are applicable with effect from October 1, 2022.

SEBI | New rules to streamline rights issue process

SEBI vide Circular dated May 19, 2022 has streamlined the process of rights issue with respect to the minimum time period between the closure of trading in Right Entitlements (REs) on the stock exchange platform and closure of such issue.

Key features

- Trading in REs on the secondary market platform of stock exchanges will start with the opening of the issue and will be closed at least 3 days prior to the closure of the rights issue. Previously, this was 4 days.
- SEBI further explains that the minimum gap of 3 working days will consist of:
 - 2 days for settlement
 - 1 additional day for investors to make application in rights issue
- REs are traded on the secondary market platform of stock exchanges, with T+2 (trading plus two) rolling settlement, similar to the equity share.

SEBI | Tightening of promoter norms

Under the Regulator's Issue of Capital and Disclosure Requirements (ICDR), any immediate family member of the promoter, such as spouse, parent, brother, sister, or child, or any relative who holds more than 20% stake in the company, are considered part of the promoter group. In such cases, both the relative and the company must furnish necessary information in the offer document, to SEBI and stock exchanges.

SEBI has recently issued an advisory to investment banks, asking them to furnish either an affidavit from such family member(s), clearly stating they do not want to be classified as part of the promoter group, or a Memorandum of Understanding (MoU) between the promoter and the family member.

Companies who are unable to furnish such documents will be disclosed as a promoter group, along with prescribed disclosures about such promoter group, in the DRHP. Additionally, the exemption based on such documents has to be obtained from SEBI before filing the DRHP.

RBI | Bank credit for NBFCs to on-lend to priority sectors

The Reserve Bank of India (RBI) on May 13, 2022 allowed the banks to lend to Non-Banking Finance Companies (NBFCs) for on-lending to priority sectors, which will ensure synergy and continuation between banks and NBFCs in delivering credit to the specified priority sectors. The same holds true for small finance banks who are on-lending to NBFC-MFIs. This facility was earlier allowed till March 31, 2022.

Key features

- Bank credit to NBFCs, including Housing Finance Companies (HFCs), for on-lending to priority sectors will be allowed up to an overall limit of 5% of an individual bank's total priority sector lending.
- Small finance banks for on-lending to NBFC-MFIs and other MFIs, which are RBI recognized, will be allowed up to an overall limit of 10% of an individual bank's total priority sector lending.
- These limits shall be computed by averaging across four quarters of the financial year, to determine adherence to the prescribed cap.
- Small finance banks will be allowed to lend to registered NBFC-MFIs and other MFIs who have a gross loan portfolio of up to INR 500 crore as of March 31 of the previous financial year.
- In case the gross loan portfolio of the NBFC-MFIs/other MFIs exceeds the stipulated limit at a later date, all priority sector loans created prior to exceeding the gross loan portfolio limit will continue to be classified by the small finance banks (SFBs) as priority sector lending till repayment/maturity.

RBI | Master Directions – Credit Cards and Debit Cards – Issuance and Conduct Directions, 2022

On April 21, 2022, the Reserve Bank of India (RBI) published the Master Directions on Credit Card and Debit Card – Issuance and Conduct Directions, 2022 (Directions). These Directions will become effective from July 1, 2022 and cover the general and conduct regulations relating to credit, debit, and co-branded cards.

Any provisions in the Directions in relation to credit cards will apply to every Scheduled Bank (excluding Payments Banks, State Co-operative Banks, and District Central Co-

operative Banks) and all Non-Banking Financial Companies (NBFC) operating in India. Any provisions in the Directions in relation to debit cards will apply to every bank operating in India. Excerpts from the Directions have been reproduced below.

Provisions in relation to conducting a credit card business

Eligibility for issuing credit cards:

Entity	Eligibility
Scheduled Commercial Banks (SCB) (can issue independently or in a tie-up arrangement with other card issuing banks or NBFCs with approval of their boards)	<ul style="list-style-type: none"> Minimum net worth of INR 100 crore Prior approval of RBI only required if setting up separate subsidiaries for undertaking credit card business
Regional Rural Banks (RRB)	<ul style="list-style-type: none"> Collaboration with their sponsor bank or other banks
Urban Co-operative Banks (UCB)	<ul style="list-style-type: none"> Minimum net-worth of INR 100 crores Prior approval of regional office of the RBI with a copy of Board resolution Credit card cannot be issued to the non-members Cannot issue co-branded credit cards
NBFCs ¹	<ul style="list-style-type: none"> Maintaining net owned fund of INR 100 crores Prior approval of RBI required

- Governance structure:** As a measure of corporate governance, the Directions provide that each card-issuer² should have a well- documented, Board-approved policy for the issuance and conduct of the credit cards, which should be in adherence to the various instructions given by the RBI from time to time and must be published on the website of the card-issuer. Card-issuers should also have a mechanism in place for the review of their credit card operations on a half-yearly basis by their Audit Committee.
 - A one-page key fact statement along with the credit card application containing the important aspects of the card such as rate of interest, quantum of charges, among others, to be provided to customers
 - Reasons for rejection of application to be conveyed in writing
 - The Most Important Terms and Conditions (MITC) will be highlighted and published/sent to the customers at acceptance stage (welcome kit), in important subsequent communications, and each time a condition is modified with notice to the customer
 - Explicit consent required for issuing credit cards or other products/services offered along with the card, including any insurance cover offered with the card
 - Any loss arising out of misuse of such unsolicited cards, before the card reaches the persons in whose

names these have been issued, will be the responsibility of the card-issuer only

- One Time Password (OTP) based consent from the cardholder for activating a credit card
- No reporting of any credit information relating to a new credit card account to Credit Information Companies prior to activation of the card
- Appointed telemarketers must comply with directions/regulations on the subject issued by the Telecom Regulatory Authority of India (TRAI) from time to time while adhering to guidelines issued on Unsolicited Commercial Communications – National Customer Preference Register (NCPR)
- Specified hours (10 am to 7 pm) to contact customers
- Complete transparency in the conversion of credit card transactions to Equated Monthly Instalments (EMIs) by clearly indicating the principal, interest and upfront discount provided by the merchant/card-issuer (to make it no cost), prior to the conversion, and the same will also be separately indicated in the credit card bill/statement
- Types of credit cards:**
 - Card-issuers may issue credit cards/charge cards and add-on cards to individuals for personal use as well as issue business credit cards (charge cards, corporate credit cards or by linking a credit facility such as overdraft/cash credit) with add-on cards to business entities/individuals for business expenses
- Closure of credit cards:**
 - Closure requests to be honored in 7 working days, subject to payment of all dues by the cardholder; failure to meet timeline will result in a penalty of INR 500 for every day of delay, which is payable to the customer, till the closure of the account provided there is no outstanding in the account
 - Cardholder will be immediately notified about the closure through email, SMS, etc.
 - Closure process to be initiated upon non-usage for more than 1 year, after intimating the cardholder
- Interest rates and other charges:**
 - Card-issuers will be guided by instructions on interest rate on advances issued by RBI, as amended from time to time
 - Interest charged will be justifiable having regard to the cost incurred and the extent of return that could be reasonably expected by the card-issuer
 - The card-issuers will publicize through their website and other means, the interest rates charged to various categories of customers, and indicate upfront the methodology of calculation of finance charges with illustrative examples
 - A credit card account will be reported as 'past due' or penal charges levied, if any, only when the account remains 'past due' for more than three days
 - There will not be any hidden charges while issuing credit cards free of charge
- Billing:**
 - Card-issuers to ensure no delay in sending/dispatching/emailing bills/statements and that the customer has sufficient number of days (at

¹ Please note that without RBI approval, NBFCs cannot issue debit cards, credit cards, charge cards, or similar products virtually or physically.

² The Directions have defined the term 'card-issuer' to include banks which issue credit or debit cards and NBFCs who have been permitted by the RBI to issue credit cards.

least one fortnight) for making payment before the interest starts getting charged

- In case, a cardholder protests any bill, the card-issuer will provide explanation and, wherever applicable, documentary evidence will be provided to the cardholder within a maximum period of 30 days from the date of complaint
- No charges will be levied on transactions disputed as 'fraud' until the dispute is resolved
- Cardholders will be provided a one-time option to modify the billing cycle

▪ **Issue of unsolicited facilities:**

- Explicit consent required for offering unsolicited loans or other credit facilities
- No unilateral upgradation of credit cards and enhancement of credit limits
- Explicit consent required whenever there is/are any change/s in terms and conditions

▪ **Reporting to Credit Information Companies (CICs):**

- Card-issuer will explicitly bring to the notice of the customer that such information is being provided in terms of the Credit Information Companies (Regulation) Act, 2005
- In the event the customer settles his/her dues after having been reported as defaulter, the card-issuer will update the status within 30 days from the date of settlement
- In cases of dispute, disclosure/release of information will be made only after the dispute is settled

▪ **Customer conduct:**

- In the matter of recovery of dues, card-issuers will ensure that they, as well as their agents, adhere to the Fair Practices Code for lenders
- Card-issuers will ensure that their third-party agencies for debt collection refrain from actions that could damage their integrity and reputation and observe strict customer confidentiality
- Name and contact details of the recovery agent to be provided to the cardholder immediately upon assigning the agent
- Card-issuers will ensure that their employees/agents do not indulge in mis-selling of credit cards by providing incomplete or incorrect information to the customers, prior to the issuance of a credit card

Issue of debit cards by banks

- Banks will formulate a comprehensive issuance policy with the approval of their Boards and issue debit cards to their customers in accordance with this policy
- Prior approval of the RBI is not necessary for banks desirous of issuing debit cards to their customers
- Debit cards will only be issued to customers having savings bank/current accounts
- No bank will issue debit cards to cash credit/loan account holders
- Banks will not force a customer to avail debit card facility and will not link issuance of debit card to availing of any other facility from the bank
- SCBs (other than RRBs) may issue other form factors in place of a plastic debit card such as wearables after obtaining explicit consent from the customer
- Banks will provide options for disabling or blocking the form factor through mobile banking, internet banking, SMS, IVR or any other mode

▪ **Co-branding arrangements:**

- Prior approval of the RBI is not necessary for issuance of co-branded debit cards/co-branded prepaid cards by banks; however, UCBs will not issue debit/credit cards in tie-up with other non-bank entities
- The co-branding partner will not advertise/market the co-branded card as its own product
- Card-issuers will carry out due diligence in respect of the co-branding partner entity with which they intend to enter into tie-up for issue of such cards to protect themselves against the reputation risk
- Card-issuers will be liable for the acts of the co-branding partner
- Card-issuers will ensure that cash backs, discounts and other offers advertised by a co-branding partner are delivered to the cardholder on time
- The role of the co-branding partner entity under the tie-up arrangement will be limited to marketing/distribution of the cards and providing access to the cardholder for the goods/services that are offered, and the co-branding partner will not have access to information relating to transactions undertaken through the co-branded card
- Post issuance of the card, the co-branding partner will not be involved in any processes or controls relating to the co-branded card except for being the initial point of contact in case of grievances
- NBFCs, which desire to enter into a co-branding arrangement for issue of credit cards with a card-issuer, will also be guided by the Guidelines on issue of co-branded credit cards contained in the respective Master Directions applicable to NBFCs, as amended from time to time

General guidelines for credit and debit cards

▪ **Redressal of grievances:**

- Card-issuers will put in place a Grievance Redressal Mechanism within the card issuing entity and give wide publicity through electronic and print media
- Call centre staff to be trained adequately to competently handle and escalate a complaint
- Provision for automatic escalation of unresolved complaints from a call center/base level to higher authorities
- Card-issuers will be liable to compensate the complainant for the loss of his/her time, expenses, financial loss as well as for the harassment and mental anguish where the grievance has not been redressed in time
- If a complainant does not get satisfactory response within a maximum period of 1 month from the date of lodging the complaint, he/she will have the option to approach the concerned RBI Ombudsman for redressal of his/her grievance/s

▪ **Confidentiality of customer information:**

- Card-issuers will not reveal any information relating to customers obtained at the time of opening the account or issuing the card to any other person or organization without obtaining their explicit consent, with regard to the purpose/s for which the information will be used and the organizations with whom the information will be shared
- Card-issuers will ensure strict compliance to the legal framework on data protection

- The information sought from customers will not be of such nature which will violate the provisions of law relating to maintenance of secrecy in the transactions
- Card-issuers will be solely responsible for the correctness or otherwise of the data provided for the purpose
- Under a co-branding arrangement, the co-branding entity will not be permitted to access any details of customer's accounts that may violate the card-issuer's secrecy obligations.
- **Other general aspects:** The Directions contain a number of general guidelines, some of which are enumerated here:
 - The cardholder will be provided with a record of the transactions after he/she has completed it, immediately in the form of receipt or another form such as the bank statement/email/SMS
 - Card-issuers will block a lost card immediately on being informed by the cardholder
 - Card-issuers will provide to the cardholder the detailed procedure to report the loss, theft or unauthorized use of card or PIN
 - No card-issuer will dispatch a card to a customer unsolicited, except in the case where the card is a replacement/renewal of a card already held by the customer
 - Card-issuer will obtain explicit consent of the cardholder prior to the renewal of an existing card
 - The terms will clearly specify the time-period for reversal of unsuccessful/failed transactions and the compensation payable for failure to meet the specified timeline

Miscellaneous | NSDL unveils blockchain platform for Debenture Covenant Monitoring

The National Securities Depository Ltd (**NSDL**) on May 7, 2022 launched a blockchain-based or Distributed Ledger Technology (**DLT**) platform for debenture covenant monitoring. This DLT platform will facilitate the monitoring of security and governance in the corporate bonds market, bring discipline and transparency to the market.

Key characteristics of the platform

- Transparency and the real-time nature of the technology will gather and project the information that is recorded on the blockchain platform for users to monitor.
- It permits infinite divisibility which helps in breaking digital assets, currency, or any form of information into bits and can help in financial inclusion.
- Establish a robust framework for blockchain technology to transform the corporate bond market with enhanced digitization.

The network will be maintained by two nodes, whom the NSDL and the Central Depository Services Ltd (**CDSL**), a SEBA division, will control.

Miscellaneous | Centre slaps export duty on steel, materials to cool prices

The Government of India (**Gol**) on May 22, 2022 imposed strict export duty on steel, raw materials of steel and intermediaries, in an attempt to control the prices and promote domestic supplies. Additionally, import duty on coal has also been waived off.

Rise in prices of coking coal and energy cost has directly affected the price of the steel and iron production in the country. Gol has made efforts to ease the domestic steel prices to around INR 73,000 per ton in May from INR 76,000 levels in April.

Key changes to export and import duties on steel, iron and coal

- Export duty of 15% will be levied on hot-rolled and cold-rolled alloy and non-alloy flat steel products (of 600 mm or more width).
- 15% duty will be levied on exports of:
 - Hot-rolled bars and rods
 - Other bars and rods of iron or non-alloy steel
 - Flat-rolled products of stainless steel
 - Bars and rods of stainless steel, angles, shapes, and sections of stainless-steel
- Iron ore exports (for all grades and including concentrates) will attract a 50% duty.
- 45% export duty has been levied on iron ore pellets.
- Considering the rising energy cost because of increased import prices of coal, Centre has cut levies on all grades of coal imports and pulverized coal to offer relaxation to domestic industries including sponge-iron and secondary steel makers.

Contributors

Sharmil Bhushan
Partner

Ashutosh Gupta
Partner

Hema Naik
Associate

Yash Parihar
Associate

Sinjini Saha
Manager

HSA AT A GLANCE

FULL-SERVICE CAPABILITIES

	BANKING & FINANCE		COMPETITION & ANTITRUST		CORPORATE & COMMERCIAL
	DEFENCE & AEROSPACE		DISPUTE RESOLUTION		ENVIRONMENT, HEALTH & SAFETY
	INVESTIGATIONS		LABOR & EMPLOYMENT		PROJECTS, ENERGY & INFRASTRUCTURE
	PROJECT FINANCE		REAL ESTATE		REGULATORY & POLICY
	RESTRUCTURING & INSOLVENCY		TAXATION		TECHNOLOGY, MEDIA & TELECOMMUNICATIONS

GLOBAL RECOGNITION



CONTACT US



www.hsalegal.com



mail@hsalegal.com



HSA Advocates

PAN INDIA PRESENCE

New Delhi

Email: newdelhi@hsalegal.com

Mumbai

Email: mumbai@hsalegal.com

Bengaluru

Email: bengaluru@hsalegal.com

Kolkata

Email: kolkata@hsalegal.com