MONTHLY **NEWSLETTER**

- The Business Brief

GNLU CENTRE FOR BUSINESS AND PUBLIC POLICY

Welcome to the inaugural edition of the GNLU Centre for Business and Public Policy's newsletter! In this issue, we explore the major business developments of November and December. From economic trends and policy shifts to emerging technologies and industry insights, we bring you a carefully curated selection of articles and analysis.

Volume I

Issue III

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SEBI INTRODUCES FLEXIBILITY ON PRO-RATA RIGHTS FOR AIF INVESTORS

Pursuant to the SEBI (AIF) (Fifth Amendment) Regulations, 2024, and the Circular dated December 13, 2024, SEBI has introduced pro-rata rights for limited partners (LPs) concerning investments and the distribution of proceeds within a scheme. These pro-rata rights, however, do not apply to investments where excused or defaulting LPs are identified. All other rights of LPs, apart from those related to investment and distribution, must remain pari-passu across the board.

This amendment eliminates the priority distribution model that previously required certain LPs to bear disproportionate losses compared to others. However, SEBI has specified that certain contributors may still share losses disproportionately by subscribing to junior classes, including managers/sponsors, multilateral or bilateral development financial institutions, state industrial development corporations, and entities owned or controlled by central or state governments or foreign governments, including central banks and sovereign wealth funds. Additionally, SEBI has clarified that investee companies cannot use the funds invested by these contributors to settle liabilities owed to managers, sponsors, or their associates.

Existing AIFs or schemes that do not provide for pro-rata rights must cease accepting new commitments and refrain from investing in new investee companies, either directly or indirectly. If a scheme subsequently violates concentration norms, it will not be deemed non-compliant by SEBI but must be documented in the annual compliance test report.

SEBI has mandated that all LP rights within a scheme (excluding large-value funds for accredited LPs), apart from pro-rata rights and their exceptions, must be pari-passu. An exception allows differential rights to certain LPs as long as they do not adversely impact the interests of other LPs. Prior to these amendments, SEBI had outlined specific items on which side letter rights could not be granted.

Existing AIFs with private placement memorandums (PPMs) filed after March 1, 2020, must report details of differential rights that deviate from implementation standards established by the SFA to SEBI in the prescribed format by February 28, 2025. These side letters should be thoroughly reviewed to determine compliance with SFA standards, particularly when involving institutional LPs in negotiated contexts. Differential rights that adversely affect the rights of other LPs must be promptly terminated or discontinued

- YASH MUNDADA
(2023-2028)

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STREAMLINING LIQUIDATION: AMENDMENTS TO ENHANCE TRANSPARENCY, EFFICIENCY, AND STAKEHOLDER CONFIDENCE IN INDIA'S INSOLVENCY FRAMEWORK

The Insolvency and Bankruptcy Board of India (IBBI) released a detailed discussion paper on November 19, 2024, proposing significant amendments to the Liquidation Process Regulations, 2016, and the Voluntary Liquidation Process Regulations, 2017.

The proposed changes tackle critical challenges in the liquidation process, particularly in the auction framework, which currently faces issues like short bidder timelines, overreliance on liquidators' discretion, and risks of collusion. To address these, the proposals include requiring bidders to submit affidavits declaring eligibility under Section 29A, mandating Stakeholders' Consultation Committee (SCC) review before rejecting high bids above the reserve price, and forfeiting Earnest Money Deposits (EMD) for false declarations.

Additionally, to manage unclaimed proceeds effectively, the amendments suggest allowing IBBI to permanently oversee the Corporate Liquidation Account, removing the requirement for its operation within the Public Accounts of India (PAI). Interest income from this account would be allocated to stakeholder awareness campaigns, thereby enhancing transparency and accessibility.

For voluntary liquidation, the amendments aim to streamline processes by permitting liquidation to proceed even when uncalled capital remains, while ensuring creditors' rights are safeguarded. These comprehensive proposals seek to reduce delays, simplify processes, and foster greater stakeholder confidence by promoting transparency and accountability. Public comments have been invited to further refine these measures and strengthen the insolvency framework for better financial outcomes.

- PALAK CHATURVEDI
(2023-28)

CONSULTATION PAPER ON REVIEW OF SME SEGMENT FRAMEWORK UNDER SEBI (ICDR) REGULATIONS, 2018, AND APPLICABILITY OF CORPORATE GOVERNANCE PROVISIONS UNDER SEBI (LODR) REGULATIONS, 2015 ON SME COMPANIES TO STRENGTHEN PRE-LISTING AND POST-LISTING SME PROVISIONS

The Securities and Exchange Board of India (SEBI) has released a Consultation Paper addressing critical reforms in the framework governing Small and Medium Enterprises (SMEs) listed on SME platforms. Currently, SME listings adhere to the SEBI (ICDR) Regulations, 2018 and SEBI (LODR) Regulations, 2015, which offer light-touch regulations compared to Main Board companies.

While the SME framework has been instrumental in fostering growth, SEBI's data highlights challenges including fund diversion and circular transactions among SMEs, limited corporate governance and investor protection mechanisms and increased activity in SME IPOs, with ₹5,700 crore raised by October 2024.

Proposals-

1. Raising the minimum IPO application size from ₹1 lakh to ₹2-4 lakhs, aligning with the growth of markets and attracting risk-informed investors.
2. Increasing the minimum number of allottees in SME IPOs from 50 to 200 to ensure greater post-listing liquidity.
3. Limiting the OFS portion in SME IPOs to 20% of the issue size, ensuring that proceeds primarily benefit the issuer, not selling shareholders.
4. Appointment of monitoring agencies for IPOs exceeding ₹20 crore or targeting specific objectives like acquisitions or loan repayments.
5. For smaller issues, issuers must submit auditor-certified utilization reports to exchanges.
6. Appling stricter RPT norms under LODR Regulations, limiting fund siphoning risks.
7. Mandatory quarterly reporting of board composition, meetings, and committee actions for SMEs with paid-up capital exceeding ₹10 crore or net worth exceeding ₹25 crore.
8. Shifting from half-yearly to quarterly filings for financial results, shareholding patterns, and fund deviations.
9. Companies converted from partnerships or LLPs must exist for at least two financial years before filing an IPO.
10. A two-year waiting period for companies undergoing significant promoter changes or acquisitions before listing.
11. Eligibility tied to a minimum operating profit of ₹3 crore in two of the last three years.
12. Mandatory disclosures of departmental heads (e.g., sales, operations) and their qualifications.
13. Public disclosure of merchant banker fees to curb exorbitant charges, which sometimes exceed 30-40% of issue size.
14. Ensure Draft Red Herring Prospectuses (DRHPs) are open to public scrutiny for at least 21 days.
15. SMEs with paid-up capital exceeding ₹25 crore can remain on the SME platform if they adhere to Main Board compliance standards.
16. Post-listing, companies must ensure better disclosures, including detailed financial and operational transparency.

SEBI has invited public comments on these proposals by December 4, 2024. SEBI's consultation paper shows a delicate balance between encouraging SMEs to grow and protecting investors from undue risks.

- AISHANI AGARWAL
(2023-28)

SEBI CONSULTATION PAPER ON REVIEW OF REGULATORY FRAMEWORK FOR ANGEL FUNDS IN THE SECURITIES AND EXCHANGE BOARD OF INDIA (ALTERNATIVE INVESTMENT FUNDS) REGULATIONS, 2012

The Securities and Exchange Board of India vide its Consultation paper on review of regulatory framework for Angel Funds dated November 13, 2024 has proposed changes to Chapter III – A of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012. Angel Funds, a sub-category of Category I AIFs - Venture Capital Funds, which was inserted in the AIF Regulations with effect from September 16, 2013. Angel Funds play a crucial role in providing capital to start-ups through investments from Angel Investors.

However, a review of the current regulatory framework has highlighted gaps in operational clarity and raised concerns about offering investment opportunities to a broad spectrum of investors, some of whom may not possess the requisite risk appetite. Considering these issues and the recent Budget announcement of abolishing Angel Tax in Financial Year 2024-2025, this paper seeks public views on the necessity of a regulatory environment for Angel Funds and proposes ways to streamline the regulatory framework for them.

The capital markets watchdog seeks to limit investment to accredited investors who have risk appetite and ability to evaluate investment proposals while also enhancing ease of doing business. It has also proposed to raise the maximum investment limit by an angel fund to Rs 25 crore from the current Rs 10 crore and the minimum investment limit to be reduced to Rs 10 lakh from Rs 25 lakh at present. In addition, SEBI recommended reducing the lock-in period from one year to six months to enhance liquidity and flexibility for investors.

These amendments also include capping the number of investors for any single company to 200. According to the regulator, eligible angel investors include family trusts, corporations, and individuals with five years of experience who must be accredited by an external independent agency.

- DEV SHROFF (2021-26)

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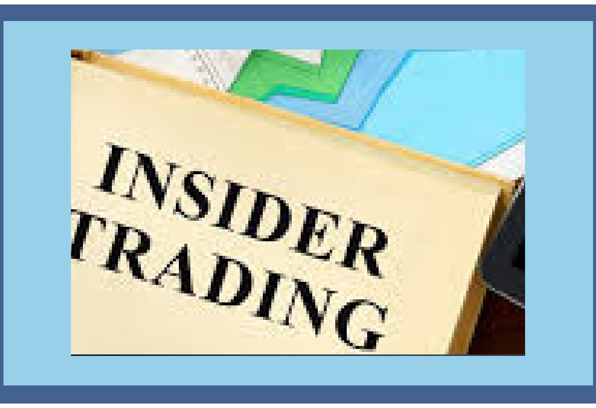
SEBI'S 2024 REGULATORY UPDATE: TIGHTENING THE NOOSE ON INSIDER TRADING

The Securities and Exchange Board of India (SEBI) has introduced the Prohibition of Insider Trading (Third Amendment) Regulations, 2024, effective December 11, 2024. This represents an all-encompassing strategy to enhance market integrity and protect investor interests.

The need stems from SEBI's inadequate enforcement, which has created a regulatory vacuum, leading to a rise in insider trading and exposing weaknesses in market oversight. Despite addressing over 140 cases between FY15 and FY19, few reached conclusive outcomes. Among the high-profile cases demonstrating this systemic failure, General Insurance Corporation of India faced a settlement of over ₹1.23 crore for failing to disclose ownership changes, while Infosys Ltd. was scrutinized after a whistleblower complaint about illegal trading. Allegations against prominent investors like Rakesh Jhunjhunwala, regarding Aptech Limited, and Balram Garg, Managing Director of PC Jeweller, further highlight enforcement complexities.

Strengthening regulations to address the aforementioned challenges is the focus of the recent amendment. One of the critical innovations lies in the expanded definition of "connected persons" and "relatives", now capturing individuals with direct or indirect access to unpublished price-sensitive information (UPSI). New comprehensive reporting protocols transform corporate disclosure practices, mandating companies to disclose holdings of designated persons, trustees, and their relatives quarterly, with any individual transaction exceeding ₹15 lakh within a calendar quarter requiring reporting, effective November 1, 2024. Asset Management Companies (AMCs) now face elevated compliance standards, with designated persons required to report threshold-exceeding transactions to their Compliance Officer within two business days, ensuring timely reporting. Additionally, penalty structures have been enhanced, shifting the burden of proof to parties alleging insider trading, who must now show possession of unpublished price-sensitive information, compelling companies to bolster their internal processes, transparency measures, disclosure practices, and training programs.

Ultimately, these changes reflect SEBI's vision of a lucid, accountable, and investor-friendly financial ecosystem, enhancing mechanisms to detect and prevent insider trading, thereby boosting market integrity.



- PRIYAL MANTRI
(2023-2028)

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PARTICIPATION OF RETAIL INVESTORS IN ALGORITHM TRADING

The Securities and Exchange Board of India (SEBI) has proposed new regulations to enable retail participation in algorithmic trading. Introduced formally in India through the Direct Market Access (DMA) Facility in 2008, algorithmic trading was initially restricted to institutional investors such as hedge funds, mutual funds, and proprietary trading firms.

However, with the growing demand for algorithmic trading among retail investors and the indirect use of APIs (Application Programming Interfaces) posing investment risks, SEBI has now expressed its willingness to regulate and formalize algorithmic trading for retail traders. This move is expected to enhance trading efficiency, minimize human errors, and enable faster transactions, ultimately helping retail investors capitalize on market trends. Moreover, by standardizing existing practices, these regulations aim to boost market integrity.

Algorithmic trading relies on pre-programmed instructions and computer programs to execute trades based on criteria like price, timing, and volume. While institutional investors have long enjoyed the advantages of algorithmic systems, retail traders have been limited to manual research and investment methods, leaving them at a significant disadvantage. Allowing retail participation in algorithmic trading will provide them with faster execution capabilities and the ability to leverage microsecond price fluctuations, narrowing the gap with institutional investors. That said, the introduction of algo trading for retail investors will likely involve increased compliance requirements and operational challenges for brokers and traders, particularly given the iterative nature of strategy optimization in algorithmic systems.

Conclusively, regulating algorithmic trading for retail investors will empower them with faster, more efficient trading tools, bridging the gap with institutions. While compliance challenges remain, the move promises enhanced market integrity and broader participation in India's financial markets.

- PRISHA MEHTA
(2023-28)

SEBI'S KEY AMENDMENTS TO THE LISTING REGULATIONS

SEBI has amended the Listing Regulations to enhance corporate governance and simplify disclosure requirements, effective April 1, 2025. The scope of Related Party Transaction (RPT) exemptions has been broadened by removing the phrase "by the listed entity" in Regulation 2(zc). Exemptions now extend to uniform corporate actions, such as dividends, stock splits, rights issues, and buybacks offered by subsidiaries.

The definition of "senior management" now includes all KMPs, excluding directors, and replaces the specific mention of the Company Secretary and CFO. Non-material remuneration and sitting fees paid to directors and senior management are exempt from audit committee approval and disclosure. RPTs below ₹1 crore may be ratified post facto if deemed non-material.

Secretarial audits must now be conducted by peer-reviewed Company Secretaries serving a single five-year term. Audit firms are limited to two consecutive five-year terms with a cooling-off period and are prohibited from offering certain non-audit services to maintain independence. Decisions made at board meetings held after trading hours must be disclosed within three hours, while litigation-related claims (excluding tax disputes) must be disclosed within 72 hours. The fixed 21-day timeline for quarterly compliance reports has been replaced with a flexible framework.

The reclassification of promoters has been simplified, reducing procedural requirements and timelines, with mandatory disclosure of intentions in open offer documents. Companies ranked 1001-2000 by stock exchanges are encouraged to appoint at least one woman independent director. Compliance officers must now report within one level of the board and be designated as KMPs.

Newspaper advertisements are streamlined, replacing detailed financial data with QR codes linking to company websites. Upside sharing plans post-listing are permitted with approval. Reappointments of individuals previously rejected by shareholders also require prior justification and approval.

While these changes aim to enhance operational clarity and efficiency, they may also increase the risk of regulatory oversight.

- DWIJA VASAVADA
(2021-26)

MESSAGE FROM THE NEWSLETTER TEAM

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