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New quantitative thresholds for determination of materiality of events / information under the Listing Regulations

With effect from 14th July 2023, listed entities have to quickly check the events and transactions so as to see if any of those past events and transactions would qualify to be regarded as “material” on the basis of new norms on “materiality” stipulated under the recently amended SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 (LODR).

Through this amendment, the Securities and Exchange Board of India, the capital market regulator has introduced a threshold to determine whether an event or transaction is material.

Let us first understand the following new thresholds in order that an event or transaction is considered to be “material” one:

- the omission of an event or information, which is likely to result in discontinuity or alteration of event or information already available publicly; or
- The omission of an event or information, which is likely to result in significant market reaction if the said omission came to light at a later date or
- The omission of an event or information, whose value or the expected impact in terms of value, exceeds the lower of the following ("**Materiality Threshold**"):
    - *2% of turnover,* as per the last audited consolidated financial statements;
    - *2% of net worth*, as per the last audited consolidated financial statements, except in case the net worth is negative;
    - *5% of the average of absolute value of profit or loss after tax*, as per the last 3 audited consolidated financial statements.

Further, if the aforesaid criteria on threshold is not applicable to an event, but is considered material by the Board of Directors, then it should be reported to the stock exchanges as material event / information.

The revised timelines for disclosure are as follows:

(i) Within 30 minutes from the closure of board meeting,
(ii) Within 12 hours from occurrence of any event that emanates within the entity and
(iii) Within 24 hours from the occurrence of any event that emanates outside the entity.

Omission of an event or information means, if the listed entity were to omit to disclose the event or information and if such event or information comes to public domain later on, what will be the impact. Any view taken by an investor or any other stakeholder when the omission of an event or information was subsisting would not be a considered view. It was therefore, incumbent upon the market regulator to ensure that listed entities do not omit to disclose any event or information that is “material. While previously also listed entities had been under an obligation to make a disclosure of all material events and information, it has now been made precise with the introduction of quantitative aspects.

As you would have noticed, the new thresholds consider ***value of an event or information or the expected impact in terms of value.***

There is a new requirement to apply such new thresholds and make a disclosure of any undisclosed event or information provided the event continues or the information remains relevant if such event or information would be hit by the above new thresholds. Such disclosure must be made within 30 days of coming into force of amended LODR; i.e., 14th July 2023.

A question then arises, as to how one calculates the value of expected impact. The primary test would be the actual value of the event itself, which could be a capacity addition or a new product launch or some disruption in operations. If, however, for example, the value of the event or information is less than the threshold prescribed, but then it creates an impact on the market price of the stock of the listed entity, which would then exceed the threshold, will this be non-compliance? The answer is yes and such an assessment would be qualitative assessment.

The prescribed norms, appears comprehensive, as they consider both the top line and the bottom line, along with the overall strength of the listed entity. It is pertinent to note that in the case of net worth, the threshold calculation ignores the negative number, but, for profit or loss after tax, it considers absolute value. To make it clear, SEBI has advised to consider the absolute number under profit or loss after tax and add up to arrive at the average of absolute value of profit or loss after tax. This covers a situation, where in an event where a listed entity is turning around or going down south, in both cases, the materiality of a corporate action is covered.

LODR has always relied on it six principles which include transparency and timely sharing of information. Management / Key managerial personnel are advised to be conservative and be as transparent as possible and ensure that any event which is concerning or having a possible impact on the stakeholders is communicated, within the prescribed timelines.

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