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CHARTERED ACCOUNTANTS

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SEBI Updates



Revised Format Of Security Cover Certificate, Monitoring And Revision In Timelines

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RBI Updates



RBI Clarification Regarding New Definition Of Micro, Small And Medium Enterprises

The Reserve Bank of India vide Circular dated May 19, 2022 has issued clarification regarding New Definition of Micro, Small and Medium Enterprises. It is clarified that the existing Entrepreneurs Memorandum (EM) Part II and Udyog Aadhaar Memorandum (UAM) of the MSMEs obtained till June 30, 2020 shall remain valid till June 30, 2022 for classification as MSMEs.

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Revised Format of Security Cover Certificate, Monitoring and Revision in Timelines

SEBI vide Circular dated May 19, 2022, brought revised format of security cover certificate, monitoring, and revision in timelines with regard to SEBI Circular dated November 12, 2020, which specifies the format of security cover certificate, periodical disclosures by Debenture Trustee.

Applicability of this Circular: This Circular shall be applicable to issuers who have listed and / or propose to list Non-Convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities, or Commercial Paper; to all Recognised Stock Exchanges and Debenture Trustees registered with SEBI.

In terms of Regulation 54 read with Regulation 56(1)(d) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, listed entities are required to disclose security cover to Stock Exchange(s) and Debenture Trustee, in the format as prescribed as per Annexure A of SEBI Circular dated November 12, 2020. Based on the recommendation of the Working Group, the security cover format has been revised and the format prescribed as per Annexure A of SEBI Circular dated November 12, 2020 stands rescinded.

The revised format aims to provide complete picture of all the borrowings and the status of encumbrances on the assets of the listed entity. The provisions mentioned in Part A and B with respect to 'Revised format of the Security Cover' and 'Monitoring of Covenants' are applicable with effect from October 1, 2022. Other provisions of this Circular shall come into effect with immediate effect.



New amendments/obligations

- (a) The listed entity shall be required to prepare the security cover certificate on quarterly basis and the statutory auditor of the listed entity shall certify the book values of the assets provided in such certificate.

- (b) The listed entity shall provide the market values including the reference date based on which the market value has been arrived at and the certificate shall be submitted to Debenture Trustees. In case of loans/receivables or any other asset offered as security and the market value is not ascertainable in the specific quarter, then the listed entity may provide the carrying value/book value as per the format for security cover. However, listed entity shall provide the justification for not providing the market value along with certificate in that quarter.

- (c) The frequency of valuation for asset classes offered as security by listed entity shall be as under:
 - (i) In case of asset classes wherein frequency of valuation has been prescribed by SEBI, the market value shall be provided in the security cover certificate.

 - (ii) For the asset classes wherein there is no regulatory guideline on frequency of the valuation of a specific asset class then it shall be on quarterly basis.

- (d) In case the issuer company has more than one Debenture Trustee for its listed debt securities, the listed entity shall prepare such certificate separately for each Debenture Trustee.



- (e) The assets that are not paid for shall not be included as part of any security cover calculation.
- (f) In case security cover offered for the debt securities comprises the assets of the listed entity only, the security cover shall be prepared on standalone basis.
- (g) In case debt securities are secured by creation of charge on the assets of third party/subsidiary/ group/holding company; or assets of the listed entity are offered for securing the debt securities issued by third party/ subsidiary/ group/ holding company; or assets of the listed entity are offered for securing the other liabilities of third party/subsidiary/group/holding company, the listed entity shall make disclosure in two separate tables in the security cover format in the following manner:
 - (i) Table for security cover on standalone basis for the listed entity; and
 - (ii) Table on net summary basis on consolidated level in order to provide the overall/holistic picture of the borrowings and security cover provided by the listed entity.

Obligations of listed entity in case of third party/ subsidiary/ group/ holding company assets being offered as underlying security:

- (a) The book value for security cover shall be certified by the statutory auditor of the third party/ subsidiary/group/ holding company.
- (b) Nature of charge whether exclusive or pari-passu on third party/subsidiary/group/holding company assets, the security cover certified by the statutory auditor of the concerned third



party/ subsidiary/group/holding company shall include nature of such charge and details of assets including the book value of such assets.

- (c) Further, in order to adequately capture details regarding other debt securities, viz. unsecured debentures, subordinated debt, other debt issuances which fall in the lower priority order in the waterfall mechanism for liquidation/resolution proceeds, an additional column named “Debt not backed by any assets offered as security” shall be incorporated in the security cover certificate and the same shall be covered under such column.

Manner of preparation and submission of security cover certificate by Debenture Trustee(s):

- (a) Debenture trustee on quarterly basis shall certify the market value of assets based on the due diligence carried out by it or its appointed agencies and shall submit the security cover certificate as per Annexure I. Debenture Trustee shall certify the security cover in respect of the secured debt securities, to the extent charged by it.
- (b) In case of reduction in the computed value of security cover in comparison to the previous quarter or previously calculated security cover, the Debenture Trustee shall record the reason for such variation in the security cover certificate. Clarification, if any, in this regard may be obtained by Debenture Trustee from listed entity.

Calculation of Security Cover Ratios:

In order to standardise calculation of security cover ratio as prescribed in Annexure I, the following formulas shall be used:



$$\text{Exclusive Security Cover} = \frac{\text{Value of assets having exclusive charge}}{\text{Outstanding value of corresponding debt} + \text{Interest accrued}}$$

$$\text{Pari – passu Security Cover} = \frac{\text{Value of assets having Pari – passu charge}}{\text{Outstanding value of corresponding debt} + \text{Interest accrued}}$$

Qualifications/disclaimers in security cover certificates: The Debenture Trustee shall ensure that the qualifications/disclaimer (by whatever name called) does not impair the rights of debenture holders in terms of security provided. Further, if the Debenture Trustee is of opinion that such qualifications/disclaimers are affecting rights of debenture holders, the Debenture Trustee shall be required to take corrective action in this regard.

Monitoring of covenants:

On quarterly basis, listed entity shall furnish the compliance status with respect to financial covenants of the listed debt securities certified by statutory auditor of listed entity to Debenture Trustee.

Regulation 15(f) of SEBI (Debenture Trustees) Regulations, 1993 mandates the Debenture Trustee(s) to monitor the breach of covenants. In order to ensure effective monitoring, Debenture Trustee(s) shall establish Board approved internal policies with respect to proactive and effective monitoring of breach of covenants and such policy shall inter-alia include:

- (a) Procedure of monitoring of breach of covenants and clearly defined roles and responsibilities of the employees engaged in the process of monitoring of breach of covenants including delegation of authority with respect to process of monitoring of breach of covenants.



- (b) Formulate the category wise list of covenants applicable to the particular issuance defining the frequency of each covenant to be monitored viz. continuous, quarterly, half-yearly, annual, etc. The covenants may be categorised as financial covenants, affirmative covenants, negative covenants, etc. A guidance note for the list of covenants prepared in consultation with Debenture Trustees is enclosed as Annexure II.
- (c) Initiate action in case of breach of covenants viz. accelerated payment, borrowing restriction, not to declare dividend before payment, declaration of event of default, etc. in accordance with the terms of issue/Offer Document/Debenture Trust Deed.
- (d) Independently monitor any breach of covenants from continuous monitoring of any public disclosure on Stock Exchange(s), company filings, news articles in electronic / print media or any information available in public domain apart from periodical information / documents submitted by the issuer company.
- (e) Furnish a status report on its website and to the Stock Exchange(s) for further dissemination on a quarterly basis. Such status report shall contain the covenants breached in the preceding quarter and the actions taken by the Debenture Trustee(s) for the same as per the format prescribed vide SEBI Circular dated November 12, 2020.

Disclosure by Debenture Trustee:

- No-objection Certificate (NOC)/no-dues certificate/consent/permission (by whatever name called) issued by Debenture Trustees to listed entity in terms of contractual obligations arising out of offer document/debenture trust deed or any other transaction document related to



debt securities, including the consent/NOC for further borrowing by issuer within 48 hours of issuance of such consent/no-objection certificate by Debenture Trustee to listed entity.

- Any breach of the minimum-security covers within 48 hours of such breach.

Revision in timelines of submission of security cover certificate, valuation report and quarterly compliance report and regulatory compliance by Debenture Trustees:

Based on the representations received from Debenture Trustees to align the timelines for submission and website disclosure of security cover certificate and quarterly compliance reports with the timelines prescribed for submission of financial results for listed issuer companies, and to reduce cost of compliance with respect to preparation and submission of valuation report and title search report, following modifications in timelines have been carried out:

- The security cover certificate to the stock exchange and make website disclosure of the security cover certificate and quarterly compliance report within 75 days from the end of each quarter except last quarter of financial year.
- The valuation report and title search report to the Stock Exchange(s) once in three years within 75 days from the end of the financial year.
- Further, in case of pari-passu charge wherein multiple Debenture Trustees are holding charge over the same assets, a lead Debenture Trustee may be decided amongst the Debenture Trustees based upon the amount of the charge each Debenture Trustees holds and accordingly, the exercise of carrying out the valuation and preparation of the valuation report may be carried out by the lead Debenture Trustees.



- Half yearly compliance report and details of other activities carried out by Debenture Trustee(s) including type of activity, description of activity, etc. on a half-yearly basis within 75 days of the end of each half year. It is also clarified that the half yearly compliance report shall be reviewed by the Board of Directors of the Debenture Trustee prior to the submission to SEBI.