

# NEWSLETTER

August 2022



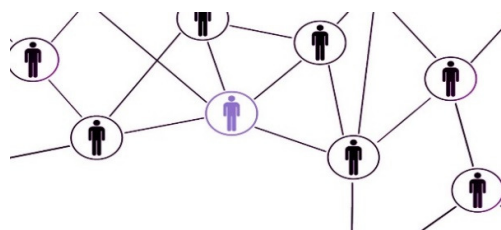
**Related Party Transactions**

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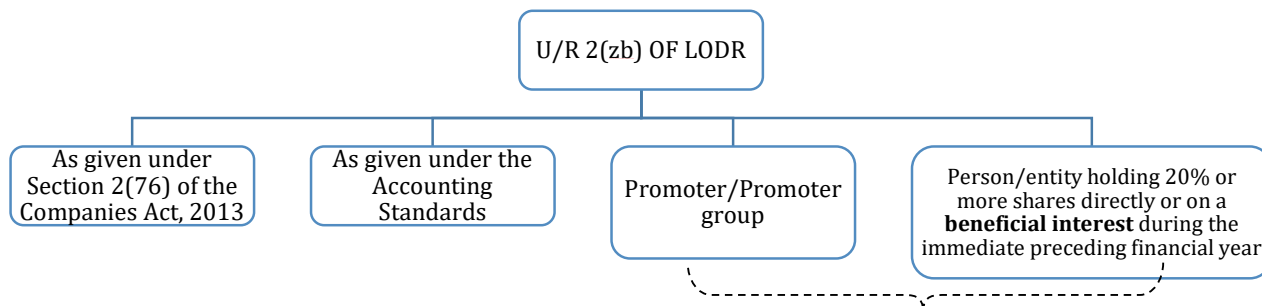
- 1. RPT (LODR) & Dormant Companies**
- 2. Monthly Updates**
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# Related Party Transactions

Covering recent amendments in SEBI(LODR) Regulations, 2015



## WHO IS A RELATED PARTY? (UNDER THE SEBI LODR REGULATIONS)

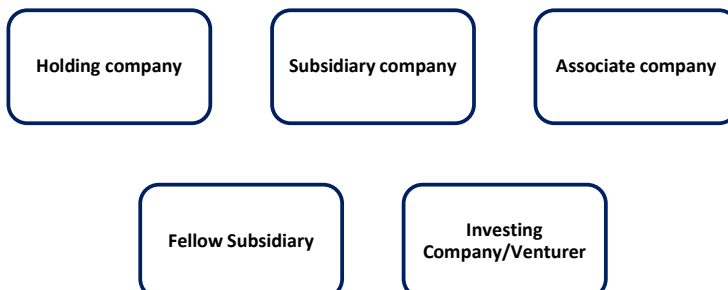


### Additional Categories

## WHO IS A RELATED PARTY? (UNDER SECTION 2(76) OF THE COMPANIES ACT, 2013)

	Individual	<ul style="list-style-type: none"> <li>• Director or relative</li> <li>• KMP or relative</li> <li>• Director (Except independent director), or KMP of holding and their relatives</li> </ul>
	Firm or Company	<ul style="list-style-type: none"> <li>• Firm if the director/manager or relative is a partner</li> <li>• Pvt Company if the director/manager or relative is a director or member</li> <li>• Public company if director/manager is a director and holds along with relative more than 2% of PSC</li> </ul>
	Control	<ul style="list-style-type: none"> <li>• Any BC whose BOD/Managing Director/Manager are accustomed to act on advice, directions or instruction of a director or manager</li> <li>• Any person on whose advice director/manager are accustomed to act</li> </ul>

### THE FOLLOWING ARE ALSO CONSIDERED AS RELATED PARTIES:



## Who is a related party? (UNDER AS 18)

- Parties are considered to be material if at any time in the reporting period, one party has the ability to control the other OR exercise significant influence over the other in making the financial or operating decisions.

**NOTE:**

*The criteria in this to be considered while ascertaining the relation is the ability of the party to make a 'financial or an operating decision'. If the party is making any other decision other than a financial or an operating decision then such person is not a related party. In contrary, the definition of a related party under the other Acts is a broader one and includes any kind of decision taken under such control/influence.*

## WHO IS A RELATED PARTY? (Under IND AS 24)

It is a person or entity that is related to the reporting entity. A person or close family member is related to the reporting entity if:

That person has control or joint control over the reported entity

That person has significant influence over the reported entity

That person is a member of the KMP of the reporting entity or of the parent of the reporting entity

## WHAT ARE RELATED PARTY TRANSACTIONS?

UNDER LODR REGULATIONS

"Related Party Transactions" means:		
Transaction relating to	<i>resources, services or obligations</i> between (whether single transaction or Group of)	
Transaction between	<b>One Side</b>	<b>Other Side</b>
	(a) a listed entity or any of its subsidiaries	(a) a related party of the listed entity or any of its subsidiaries; or
	(a) a listed entity or any of its subsidiaries	(b) and any other person or entity <i>the purpose and effect of which is to benefit a related party of the listed entity or any of its subsidiaries, [w.e.f. April 1, 2023]</i>
Commercials	regardless of whether a price is charged or not	

## RELATED PARTY TRANSACTIONS - EXCLUSIONS

Issue of specified securities on preferential basis, subject to compliance to ICDR

Corporate actions including Payment of dividend, subdivision or consolidation of securities, rights or bonus issue, buyback of securities

Acceptance of fixed deposits by banks/NBFCs

## MATERIAL RELATED PARTY TRANSACTIONS

### MATERIAL RPT

A transaction with a related party shall be considered material, if individually the transaction(s) to be entered into or taken together with previous transactions during a financial year, **exceeds Rs. 1000 crore or 10% of the annual consolidated turnover** of the listed entity as per the last audited financial statements of the listed entity, **whichever is lower**.

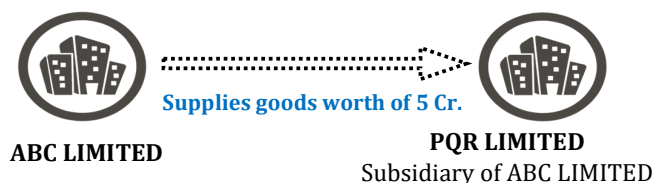
### MATERIAL MODIFICATION

Not defined in SEBI LODR.

Audit Committee to shall define "material modifications" and disclose it as part of RPT policy. Any material modification shall require the approval of the shareholders and no related party shall vote to approve

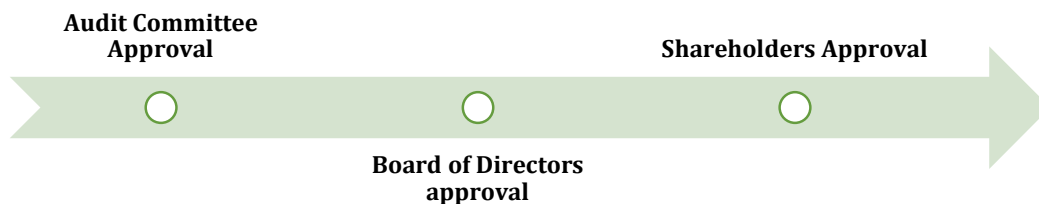
**Note:** If any transaction is undertaken with respect to brand usage or royalty with any related party then it shall be considered material if individually or taken together, it exceeds 5% of the annual consolidated turnover.

### Example



ABC LIMITED has a Consolidated Turnover Of 30 Crores during the preceding Financial Year. ABC LIMITED Supplies Goods Worth Rupees 5 Crores to PQR Limited. Transaction entered between ABC Limited and PQR Limited is Material Related Party Transaction as transaction exceeds 10% of turnover (3 crores i.e. 10% of 30 crores).

## APPROVAL MECHANISM



## SUMMARY OF APPROVAL MECHANISM

Type Of Entity	Materiality	Audit Committee	Shareholders' approval
Listed Entity	Material	PRIOR	Required
Listed Entity	Not material	PRIOR	Not required
Subsidiaries	Material	PRIOR*	Required
Subsidiaries	Not material	PRIOR*	Not required

*\*Only those members who are Independent Director in Audit Committee shall vote to approve Related Party Transaction.*

*\*Regulation 17(11) specifies that each item of special business to be transacted at general meeting shall set forth the recommendations of board to shareholders.*

*\*Prior Approval of Audit Committee is not required for a transaction entered by subsidiary of a listed entity, where listed entity is not a party.*

## OMNIBUS APPROVAL

<p>▪ <b>WHAT IS IT?</b></p> <p>A general approval is given by the Audit Committee to the company to enter into the transactions which are of repetitive nature also by giving the justification as to how it is in the interest of the listed entity</p>	<p>• <b>PERIOD:</b></p> <p>✓ Valid for a Period of one year          ✓ The Audit Committee shall review on Quarterly Basis, the details transaction entered by Listed Entity for which Omnibus Approval is given</p>
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▪ **WHAT IS TO BE CONSIDERED?**

1. The name of the Related Party, nature of transaction, period of transaction,
2. Maximum amount of transactions that shall be entered into by the Related Party,
3. Contracted Price,
4. Such other conditions as the audit committee may deem fit

### EXEMPTIONS

**Exemption from Sub-Regulation 2 (Audit Committee) ,3 (omnibus) and 4 (SH approval) of Regulation 23**

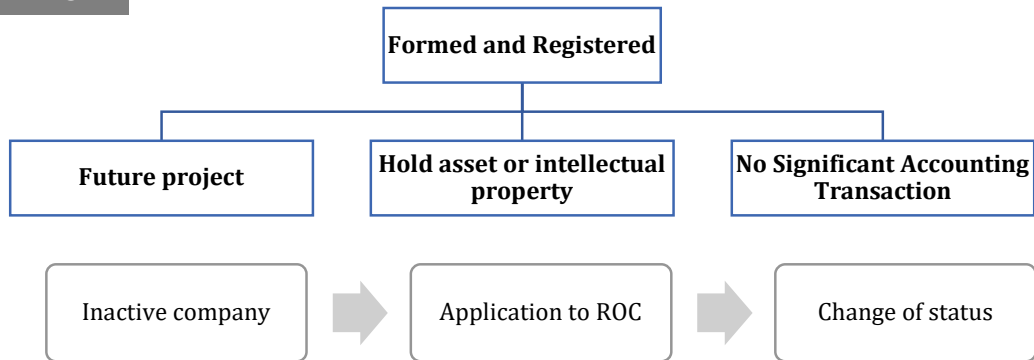
- transactions entered into between two government companies.
- transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.
- transactions entered into between two wholly owned subsidiaries of the listed holding company, whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

### DISCLOSURES

- The listed entity shall submit to the stock exchanges disclosures of related party transactions in the format as specified by the Board and publish the same on its website.
- Provided that a **'high value debt listed entity'** shall submit such disclosures along with its standalone financial results for the **half year**.
- The listed entity shall make such disclosures **every six months** within **fifteen days** from the date of publication of its standalone and consolidated financial results.

# DORMANT COMPANIES UNDER COMPANIES ACT, 2013

## DEFINITION



## EXPLANATION:

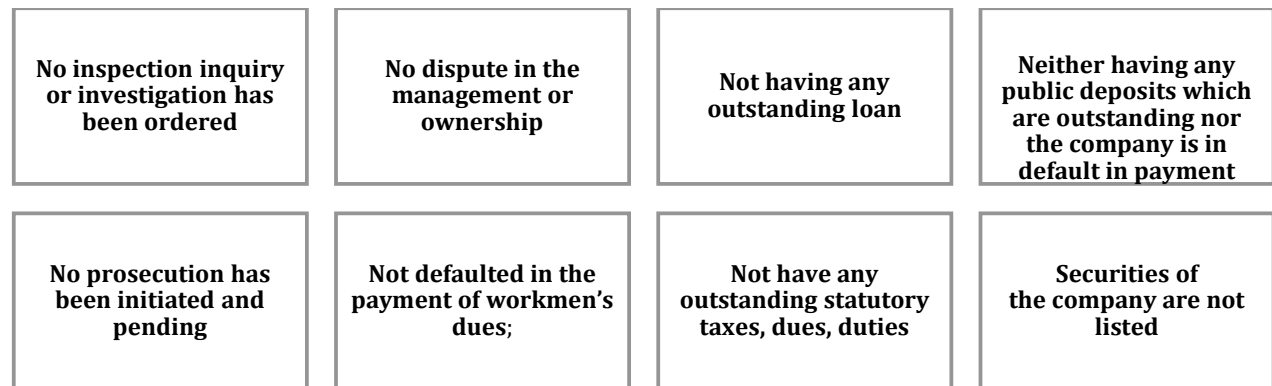
### Inactive Company

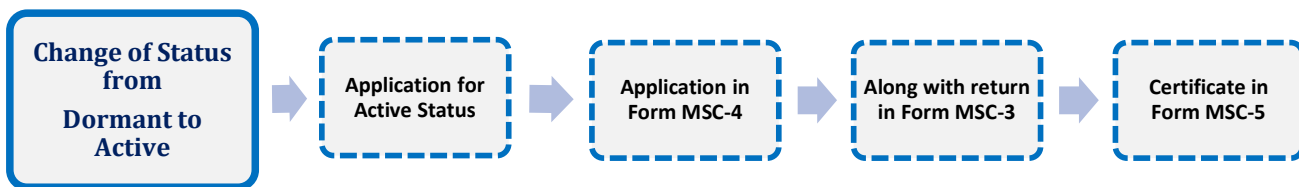
Not been carrying on any business or operation, or  
 Not made any significant accounting transaction  
 Not filed financial statements and annual returns

### Significant Accounting Transaction

Any transaction other than—  
 (a) payment of fees by a company to the Registrar;  
 (b) payments made by it to fulfil the requirements of this Act or any other law;  
 (c) allotment of shares to fulfil the requirements of this Act; and  
 (d) payments for maintenance of its office and records

## ELIGIBLE COMPANIES - DORMANT STATUS





## Advantages

- Need not file Annual filing;
- No requirement to hold AGM;
- No need to convene four Board Meetings in a year,
- Safeguards and protects the Company's name.
- Helps to hold a fixed asset or an intellectual property.
- Less compliance compared to the Company closure or strike off process.
- Easy to reactive and get the active status.
- No Dormant Company is liable to pay any taxes until it is reactive.
- No need to re-spend on Incorporation cost.

## Compliance maintained by Dormant Company

File Return in Form MSC-3 audited by CA.

One Board Meeting in Every Six Months.

## Duties of ROC

- 1.The Registrar shall maintain a register of dormant companies.
- 2.In case of a company which has not filed financial statements or annual returns for two financial years consecutively, the Registrar shall issue a notice to that company and enter the name of such company in the register maintained for dormant companies.
- 3.The Registrar shall strike off the name of a dormant company from the register of dormant companies, which has failed to comply with the requirements of this section.
- 4.The Registrar shall automatically strike off the name of a company after 5 years of obtaining Dormant status.

## Duties of company

1. Minimum number of directors
- Rotation of auditors shall not apply on dormant companies.
2. Annual fee.

## **Amendments to Companies Act, 2013**

### ***1. Amendment to Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016***

(i) In the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016, - In rule 4, after sub-rule (3), the following sub-rule shall be inserted, namely:—

“(4) (a) Where the Registrar, on examining the application made in Form STK-2, finds that it is necessary to call for further information or finds such application or any document annexed therewith is defective or incomplete in any respect, he shall inform to the applicant to remove the defects and re-submit the complete Form within fifteen days from the date of such information, failing which the Registrar shall treat the Form as invalid in the electronic record, and shall inform the applicant, accordingly.

(b) After the re-submission of the Form or document, if the Registrar finds that the Form or document is defective or incomplete in any respect, he shall give further time of fifteen days to remove such defects or complete the Form, failing which the Registrar shall treat the Form as invalid in the electronic record and shall inform the applicant, accordingly.

(c) Any re-submission of the application in Form STK-2 made prior to the commencement of the Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022 shall not be counted for the purposes of reckoning the maximum number of re-submissions of such Form.”.

(ii) Forms STK-1, Form STK-5 and Form STK-5A have been modified.

### ***2. Amendment to Companies (Incorporation) Rules, 2014***

These rules may be called the Companies (Incorporation) Second Amendment Rules, 2022.

(i) In the Companies (Incorporation) Rules, 2014, the Form INC-9 have been substituted.

(ii) In FORM No.INC-32 (SPICe+), in Part-B, in Declaration, the following shall be inserted at the end:

“I, on behalf of the proposed directors, hereby declare that person seeking appointment is a national of a country which shares a land border with India, necessary security clearance from Ministry of Home Affairs, Government of India shall be attached with the consent. (if yes is opted, a copy of the security clearance is to be attached)”

### ***3. Clarification on spending of CSR funds for "Har Ghar Tiranga" campaign***

It has been clarified that spending of CSR funds for the activities related to “Har Ghar Tiranga” campaign, such as mass scale production and supply of the National Flag, outreach and amplification efforts and other related activities, are eligible CSR activities under item no. (ii) of Schedule VII of the Companies Act, 2013 pertaining to promotion of education relating to culture.



## Compliance Calendar - August 2022

FEMA			
Compliance details	Form	Applicability	Due Date
External Commercial Borrowings (ECB) - FEMA	Form ECB-2	All Companies having ECB	07/08/2022
SEBI LODR Regulations			
Compliance details	Form	Applicability	Due Date
Regulation 33	Financial Results along with Limited review report/Auditor's report	All Listed Entity	14/08/2022
Labour Laws			
Compliance details	Form	Applicability	Due Date
PF Payment	Monthly ECR	Entities registered with PF Authorities	15/08/2022
ESI Payment	Monthly ECR	Entities registered with ESIC Authorities	15/08/2022
INCOME TAX			
Compliance details	Form	Applicability	Due Date
TDS Deposit	Challan 281	Non-government deductors	07/08/2022
GST			
Compliance details	Form	Applicability	Due Date
Return of outward supplies of taxable goods and/or services	GSTR 1	GST Taxpayers who have not opted for QRMP scheme	11/08/2022
Return of outward supplies of taxable goods and/or services	GSTR 1	GST Taxpayers who opted for QRMP scheme -Optional	13/08/2022
Summary Return of Outward and Inward Supplies along with payment of Tax	GSTR 3B	GST Taxpayers who have not opted for QRMP scheme	20/08/2022
GST Challan Payment if no sufficient ITC		GST Taxpayers who opted for QRMP scheme and not having sufficient ITC	25/08/2022
Summary Return of Outward taxable supplies and tax payable	GSTR 5 & 5A	Non-Resident GST Taxpayers	20/08/2022
Return for details of ITC received and distribution	GSTR 6	Input Service Distributors	13/08/2022
Return for TDS under GST	GSTR 7	Government Authorities	10/08/2022
Return for Details of Supplies and the amount of tax collector	GSTR 8	E-commerce Operator	10/08/2022
Return for details of goods and services purchased in India	GSTR-11	Taxpayer claiming Refund & having UIN	28/08/2022
Summary Return of Outward and Inward Supplies along with payment of Tax	CMP-08	Composition taxpayers	18/07/2022