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# Regulatory updates for the month of September 2023

9 October 2023

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### **Regulatory updates for September 2023**

The regulatory updates publication issued by the Foundation for Audit Quality (FAQ) highlights the latest developments in accounting, auditing and regulatory developments in India and internationally. This edition covers some of the important updates on regulatory matters and other discussion/consultation papers and publications for the period from **1 September 2023 to 30 September 2023**.

### This edition includes the below topics:

The Reserve Bank of India (RBI) recently issued the revised investment portfolio norms for commercial banks. The revised norms pertaining to investment portfolio would be applicable from **1 April 2024** and cover certain key aspects, such as:

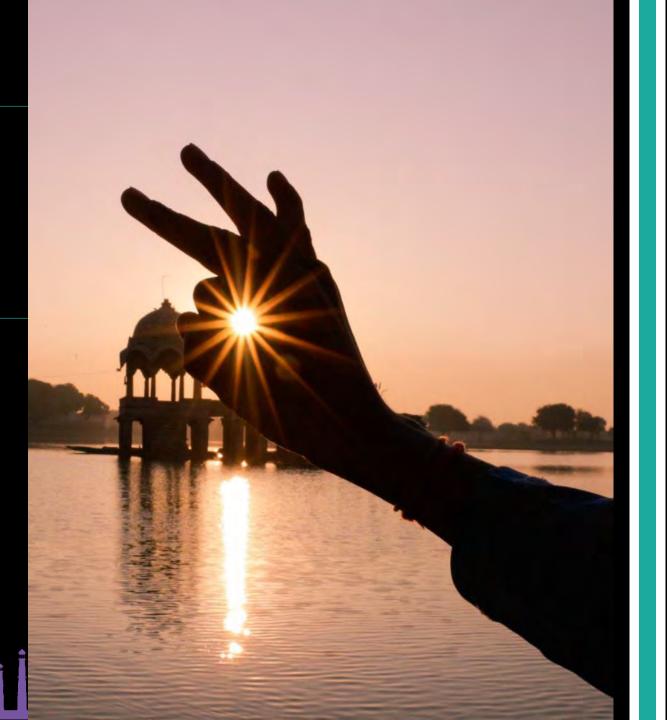
- Classification
- Recognition and measurement
- Valuation
- Disclosures, and
- Other key requirements.

Various publications have been released by the regulators during this month. Some of these include:

- The draft master direction on treatment of wilful defaulters and large defaulters issued by RBI
- FAQs on Unique Document Identification Number (UDIN) issued by ICAI
- IESBA Handbook 2023 issued by IESBA

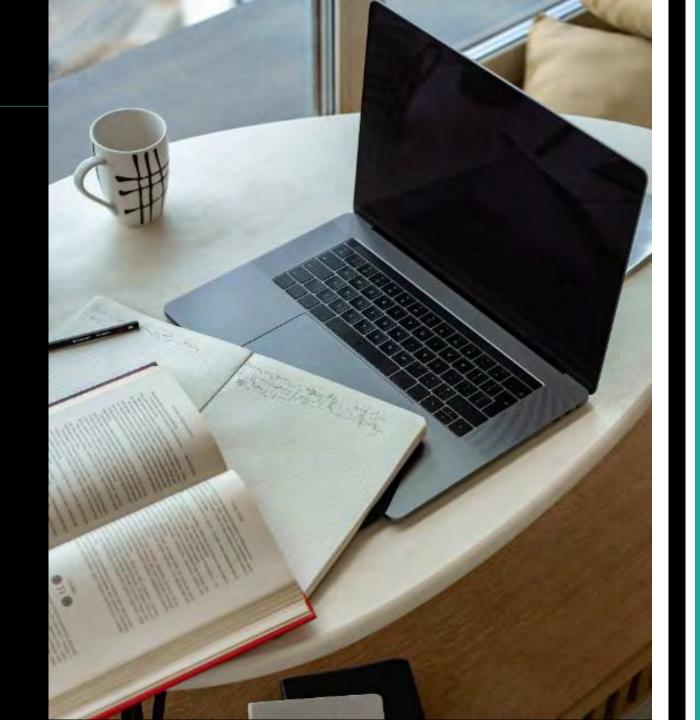
### India updates

# Discussion/Consultation papers and Publications



# India updates

# Regulatory updates



India updates	
Regulatory updates	

Discussion/Consultation Papers and Publications



EDs/consultation papers Publications-India & International Matter for Auditors' attention

### Updates from MCA MCA extends the time period for conducting AGMs and EGMs through video conference

On 25 September 2023, the Ministry of Corporate Affairs (MCA) issued a circular stating that the companies whose Annual General Meetings (AGMs) are due in 2023 or 2024, can conduct the AGM through Video Conference (VC) or Other Audio-Visual Means (OAVM) on or before 30 September 2024.

The circular clarifies that this should not be implied as conferring any extension of the time for holding the AGMs by the companies. Accordingly, the companies which do not adhere to the relevant statutory timelines, would be liable to legal consequences under the relevant provisions of the Companies Act, 2013.

Further, the aforementioned extension and clarification would be applicable in case of Extraordinary General Meetings (EGMs) as well.

To access the text of the circular, please  $\underline{\text{click here}}$ 

### **Updates from SEBI**

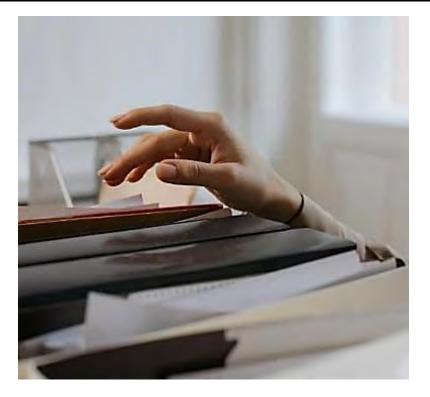
### New format of abridged prospectus for public issues of NCDS and NCRPS

Regulation 2(1)(a) of the Securities and Exchange Board of India (SEBI) (Issue and Listing of Non-Convertible Securities) Regulations, 2021 (NCS Regulations) defines 'abridged prospectus' as:

A memorandum accompanying the application form for a public issue containing such salient features of a prospectus, as specified by SEBI.

The NCS Regulations prescribe the rules and compliances for the issuance and/or listing of non-convertible securities<sup>1</sup>. Regulation 32 of the NCS Regulations *inter alia* require the issuer and lead manager of the issue to ensure that the abridged prospectus and the application form is in the format as prescribed by SEBI.

However, currently, the NCS Regulations do not stipulate a format for the abridged prospectus<sup>2</sup>. Accordingly, in order to maintain consistency in the disclosures across documents and provide important information in the abridged prospectus, on 4 September 2023, SEBI issued a circular (the circular), thereby prescribing the format for disclosures in the abridged prospectus for public issues of non-convertible securities.



<sup>1</sup> Non-convertible securities includes non-convertible debentures and nonconvertible preference shares

<sup>2</sup> It is to be noted that prior to the SEBI (Issue and Listing of Non-Convertible Securities) (Second Amendment) Regulations, 2023 (Second Amendment regulations), issued in July 2023, Part B of Schedule I of the NCS Regulations provided a format for the abridged prospectus. However, the Second Amendment regulations replaced Schedule I with common disclosures required to be made for the public as well as private issue of non-convertible securities. Accordingly, post this amendment, there is no format for the abridged prospectus in the NCS Regulations

India updates
Regulatory updates

Discussion/Consultation Papers and Publications EDs/consultation papers



Publications-India & International Matter for Auditors' attention

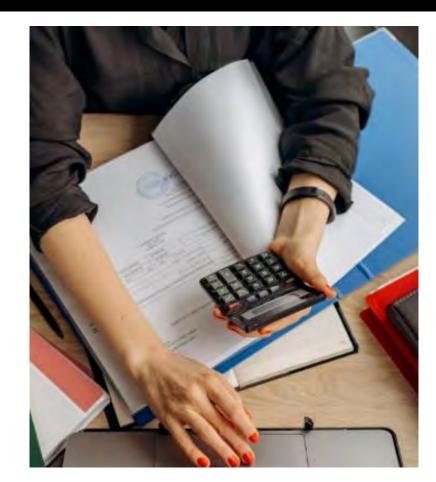
The circular also prescribes the following:

- Format of the abridged prospectus: Annexure- I of the circular provides the format of the abridged prospectus. Also, Annexure-II includes the instructions that should be provided to investors for the completion of the application form. Issuers/merchant bankers/syndicate members like brokers who are involved in the public issue should disclose the same on their websites during the period a public issue is kept open
- Availability of the abridged prospectus: A copy of the abridged prospectus should be made available on the website of the issuer, merchant bankers, registrar to the issuer and a link for downloading the abridged prospectus must be provided in the issue advertisement for public issue
- **Requirement for QR Code:** Issuers/merchant bankers would be required to insert a Quick Response (QR) code in the following places. The scan of such QR code would lead to the prospectus:
  - The last page of the abridged prospectus
  - The front page of the documents such as front outside cover page, advertisement, etc. as deemed fit by them.

- Accurate information: The issuer/merchant banker should ensure that the disclosures in the abridged prospectus are adequate, accurate and do not contain any misleading information or misstatement
- Qualitative and quantitative disclosures: The issuer/merchant bankers must ensure that the qualitative statements in the abridged prospectus are substantiated with quantitative factors as well. Further, qualitative statements should not be made which cannot be substantiated with quantitative factors.

**Effective date:** The circular would be applicable for all public issues opening on or after 1 October 2023.

To access the text of the circular, please click here



Discussion/Consultation Papers and Publications



EDs/consultation papers Publications-India & International Matter for Auditors' attention

### SEBI mandates listing of subsequent issues of NCDS

Regulation 28 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) precludes an entity having listed specified securities from issuing further specified securities without listing them.

However, there are no similar regulations in this regard in the LODR Regulations for issuers of Non-Convertible Debt Securities (NCDS). Hence, presently, there exist entities which have simultaneously outstanding unlisted NCDS as well as listed NCDS.

This created various issues, such as information asymmetry, lack of liquidity to investors, no recourse to the established grievance redress mechanism of SEBI for private investors, differential interest rates for similar securities, possibility of mis-selling, etc.

Accordingly, to overcome these challenges, on 19 September 2023, SEBI amended the LODR Regulations through the issuance of the SEBI (LODR) (Fourth Amendment) Regulations, 2023 (the amendments). SEBI has now inserted a new regulation – Regulation 62A: Listing of subsequent issuances of non-convertible debt securities.

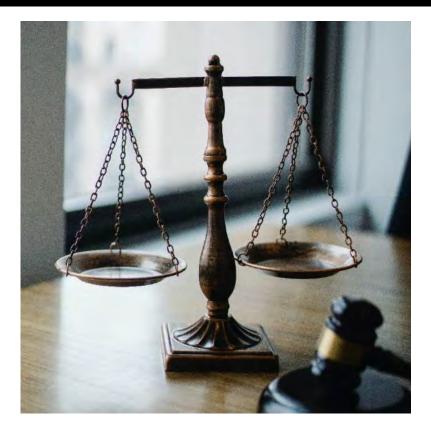
As per the new regulation:

• A listed entity whose NCDS are listed, must list all NCDS, proposed to be issued on or after **1 January 2024**, on the stock exchange(s).

- A listed entity whose subsequent issues of unlisted NCDS made on or before **31 December 2023** are outstanding on the said date, may voluntarily list such securities on the stock exchange(s), and
- A listed entity that proposes to list its NCDS on the stock exchange(s) on or after **1 January 2024**, should list all outstanding unlisted NCDs, previously issued on or after **1 January 2024** on the stock exchange(s), within **three months** from the date of listing of the NCDS proposed to be listed. (For example, if tranche A was issued on 1 February 2024 as an unlisted tranche of NCDS, and tranche B is being issued on 1 January 2025 as a listed tranche of NCDS, then tranche A needs to be listed within three months from 1 January 2025.)

Further, the regulation states that a listed entity would not be required to list the following securities<sup>3</sup> (exempt securities):

- Bonds issued under Section 54EC<sup>4</sup> of the Income Tax Act, 1961
- NCDS issued pursuant to an agreement entered into between the listed entity and multilateral institutions<sup>5</sup>, and
- NCDS issued pursuant to an order of any court or tribunal, or regulatory requirement as stipulated by a financial sector regulator.



- <sup>3</sup> A listed entity proposing to issue these securities must disclose to the stock exchange(s) on which its NCDS are listed – all the key terms of such securities, including embedded options, security offered, interest rates, charges, commissions, premium, period of maturity and such other details as may be prescribed.
- <sup>4</sup> Deduction on Long Term Capital Gains (LTCG) through capital gain bonds
   <sup>5</sup> Provided that these securities are locked-in and held till maturity by the investors and are unencumbered.

Updates from MCA

Updates from RBI

7

India updates	
Regulatory updates	
	Di

Discussion/Consultation Papers and Publications EDs/consultation papers



Publications-India & International Matter for Auditors' attention

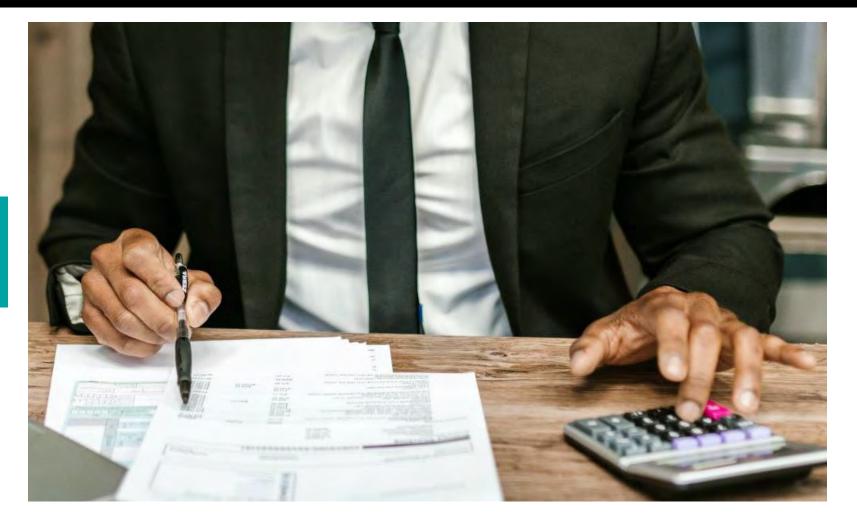
A listed entity proposing to issue the exempt securities should disclose all the key terms of such securities to the stock exchanges on which its NCDS are listed.

**Effective date:** The amendment has come into force from the date of its publication in the Official Gazette, i.e., 19 September 2023 and would apply to those NCDs that are proposed to be issued on or after **1 January 2024**, on the stock exchange(s).

To access the text of the amendment, please click here

### Action points for auditors

This is an important update that auditors should highlight in their quarterly communication with the audit committees of listed entities/entities proposing list NCDS



Discussion/Consultation Papers and Publications EDs/consultation papers



Publications-India & International Matter for Auditors' attention

### **SEBI board meeting**

SEBI approved the following proposals in its board meeting dated 21 September 2023:

- Flexibility in the framework for Large Corporates (LCs) for meeting incremental financing needs through issuance of debt securities: SEBI approved the proposal to provide flexibility in the framework for LCs for meeting their financing needs from debt market through the following measures:
  - As per the existing requirement, threshold for the criteria of outstanding long-term borrowings is INR100 crore or above. SEBI has now approved a higher monetary threshold limit in this regard
  - The current provisions state that in case of a shortfall in the requisite borrowing, a monetary penalty/fine of 0.2 per cent of the shortfall in the borrowed amount is levied and payable. SEBI has now decided to dispense off this requirement
  - SEBI has clarified that LCs are required to ensure that the provisions of the framework are met over a contiguous block of **three years**, and
  - SEBI has further introduced certain important incentives and moderated disincentives for the LCs.
- Streamlining the framework for credit of unclaimed amounts of investors to the Investor Protection and Education Fund (IPEF) in listed entities other than companies, REITs and InvITs: SEBI had previously, in its board meeting dated 30 September 2022 approved the proposal for transfer of unclaimed amounts lying in the escrow account for more than seven years, to the IPEF for debt listed entities (other than companies) under the LODR Regulations.

Consequently, the proposal to transfer unclaimed or unpaid amounts to investors in REITs and InvITs to IPEF was approved in the meeting held on 20 December 2022.

With a view to further streamline the credit of unclaimed amounts and provide for claim of such amounts, SEBI has now approved amendments to the SEBI (Investor Protection and Education Fund) Regulations, 2009 (IPEF Regulations), LODR Regulations, SEBI (Real Estate Investment Trusts) Regulations, 2014 (REIT Regulations) and SEBI (Infrastructure Investment Trusts) Regulations, 2014 (InvIT Regulations), thereby creating a regulatory framework for segregation of unclaimed amounts of investors in the IPEF, to facilitate utilisation and processing of such amounts in the prescribed manner.



India updates	Discussion/Consultation Paper and Publications
Regulatory updates	EDs/consultation papers
	Publications-India & International
	Matter for Auditors' attention



Extension of timeline for compliance with enhanced qualification and experience requirements for investment advisers: SEBI requires individual investment advisers, principal officers of non-individual investment advisers and persons who are with investment advisers and associated with investment advice to comply with certain enhanced gualification and experience requirements by 30 September 2023.

Based on the representations received from various stakeholders, SEBI has now decided to allow an extension up to 30 September 2025, to comply with these requirements.

To access the text of the proposals approved in the SEBI board meeting, please click here

### SEBI extends timeline for verification of market rumours by listed entities

Regulation 30(11) of the LODR Regulations requires mandatory confirmation, denial or clarification of any reported event or information in the mainstream media (which is not general in nature), and which indicates that rumours of an impending specific material event or information are circulating amongst the investing public. These requirements are applicable to top 100 listed entities by market capitalisation\* w.e.f. 1 October 2023 and top 250 listed entities w.e.f. 1 April 2024.

Recently, SEBI issued a circular, thereby extending the effective date of the implementation of the aforementioned rule. The requirement would now be applicable in the following manner:

Company category	Original timeline	Revised timeline
Top 100 listed entities	1 October 2023	1 February 2024
Top 250 listed entities	1 April 2024	1 August 2024

\*As per market capitalisation as at the end of the immediately preceding financial year

To access the text of the circular, please click here

Updates from MCA



India updates	Discussion/Consultation Papers and Publications
Regulatory updates	EDs/consultation papers
	Publications-India & International



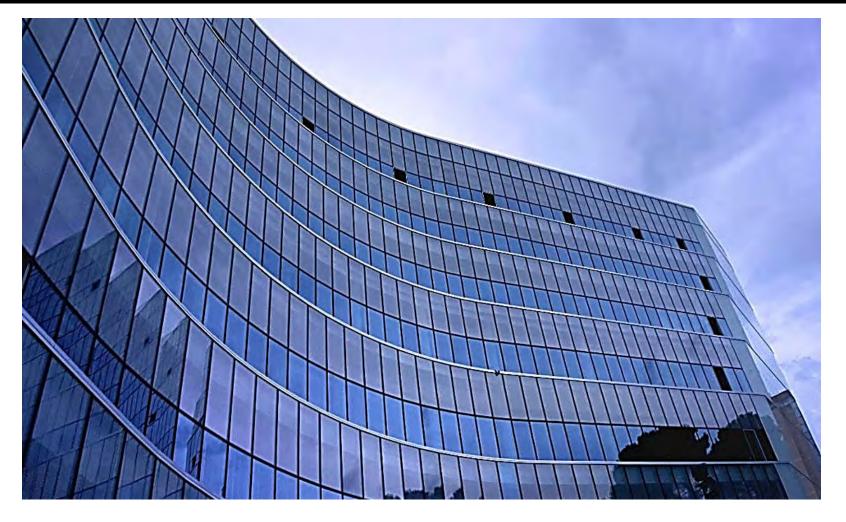
Matter for Auditors' attention

### Updates from RBI

### **RBI** issues revised investment portfolio norms

Presently, banks adhere to the Master Direction – Classification, Valuation and Operation of Investment Portfolio of Commercial Banks (Directions), 2021 (2021 regulations) for the classification and valuation of their investment portfolio. However, with significant developments in the global standards on classification, measurement and valuation of investments (i.e., the International Financial Reporting Standards (IFRS)), the linkages with the capital adequacy framework as well as progress in the domestic financial markets, RBI felt a need to review and update the 2021 regulations.

On 12 September 2023, RBI issued the revised regulatory guidelines on investment classification and valuation, the Master Directions – Classification, Valuation and Operations of Investment Portfolio of Commercial Banks (Directions), 2023 (2023 regulations).



India updates	Discussion/Consultation Papers and Publications
Regulatory updates	EDs/consultation papers
	Publications-India & International
	Matter for Auditors' attention

The 2023 regulations would be applicable to all commercial banks (excluding regional rural banks) from **1** April 2024. The figure below highlights the key aspects of the 2023 regulations:



(Source: Foundation for Audit Quality's analysis, 2023 read with the 2023 regulations issued by the RBI in September 2023)

Regulatory updates

Discussion/Consultation Papers and Publications EDs/consultation papers



Publications-India & International Matter for Auditors' attention

The above aspects are discussed in detail below:

### A. Classification of investments

As per the 2023 regulations, the investment portfolio of banks must be categorised into three categories – Held to Maturity (HTM)<sup>6</sup>, Available for Sale (AFS)<sup>7</sup> and Fair Value through Profit and Loss (FVTPL)<sup>8</sup>.

Further, Held for Trading (HFT) (which was earlier, as per the 2021 regulations, an investment category by itself) would be a **separate investment sub-category within the FVTPL category**. The 2023 regulations have dispensed off the maximum period within which investments in the HFT category need to be sold. Also, the classification for investments in subsidiaries, associates and joint ventures has also been revised.

### B. Recognition and measurement

- I. Initial recognition: All investments must be measured at fair value<sup>9</sup> on initial recognition. As per the extant provisions, investments are initially recognised at acquisition cost
- **II. Subsequent measurement:** The 2023 regulations provide that:
- The securities held under HTM should be carried at cost

and not be Marked to Market (MTM) after initial recognition

- The securities held under AFS should be **fair valued at least on a quarterly basis**, if not more frequently. The change in fair value would be recognised in a separate reserve called the 'AFS Reserve'.
- Securities that are classified under the HFT sub-category should be **fair valued on a daily basis**, whereas other securities in FVTPL need to be **fair valued at least on a quarterly basis**, if not more frequently
- Investments in subsidiaries, associates and joint ventures would be a separate category of investments and should be held at **acquisition cost.**

#### C. Valuation

In order to increase the consistency and comparability in fair value measurements and related disclosures, the 2023 regulations have prescribed that the investment portfolio should be bifurcated into three fair value hierarchies – **Level 1<sup>10</sup>, Level 2** <sup>11</sup> **and Level 3**<sup>12</sup>. Disclosures pertaining to fair valuation have also been specified.

D. Disclosures

Updates from RBI

The 2023 regulations have prescribed robust disclosures which would be required to be made in the financial

statements for the year ending **31 March 2025**. Some of these include:

 Carrying amounts and fair value of each of the categories (i.e., HTM, AFS, FVTPL) and each class (i.e., government securities, other approved securities, etc.): Disclosure need to be made in the notes to accounts of financial statements for the year ending 31 March 2025.

<sup>6</sup> Securities that fulfil the following conditions would be classified under HTM:

- The security is acquired with the objective of holding it till maturity, i.e., the financial assets are held with the objective to collect the contractual cash flows, and
- The contractual terms give rise to cash flows that are Solely Payments of Principal and Interest (SPPI criterion) on principal outstanding on the specified dates.

<sup>7</sup> Securities that fulfil the following conditions would be classified under AFS:

- The security is acquired with the objective that is achieved by both collecting contractual cash flows and selling securities, and
- The contractual terms of the security meet the SPPI criterion

<sup>8</sup> FVTPL is a residual category, thus securities that do not qualify for inclusion in HTM or AFS would be classified under FVTPL

- <sup>9</sup> Unless facts and circumstances suggest that the fair value is materially different from the acquisition cost, it should be presumed that the acquisition cost is the fair value
- <sup>10</sup> Inputs which are unadjusted quoted prices in active markets
- <sup>11</sup> Observable inputs other than quoted prices
- <sup>12</sup> Unobservable inputs

India updates	
Regulatory updates	

**Discussion/Consultation Papers** and Publications

EDs/consultation papers Publications-India & International Matter for Auditors' attention



Gain/loss on investments: Disclosure to be made in the notes to accounts of financial statements for the year ending 31 March 2025

Disclosures as per fair value hierarchy: Disclosure would be required in the notes to accounts of financial statements for the year ending 31 March 2026.

E. Other key requirements

> Some other key requirements specified in the 2023 regulations include:

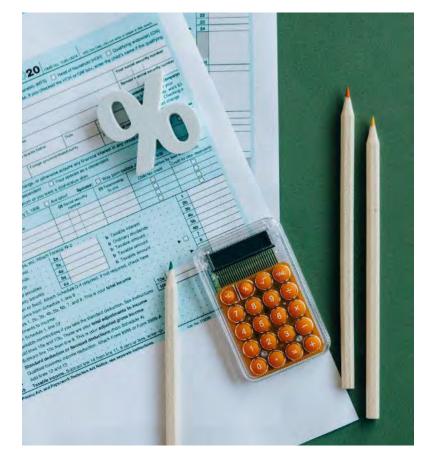
- Transition requirements: After transitioning to the revised regulatory framework, it has been provided that the banks should not reclassify investments between categories (i.e., HTM, AFS and FVTPL) without the approval of the Board of Directors and RBI. Permission for reclassification would be provided only in exceptional circumstances. At the time of transition, banks would be allowed a one-time option to reclassify their investments and adjust the gains/losses arising on such reclassification
- Investment Reserve Account: The need to maintain an Investment Reserve Account (IRA)<sup>13</sup> has been dispensed with. The balance in IRA, if any, as on 31 March 2024, should be transferred to the revenue/general reserve, provided the bank meets the minimum regulatory requirements of Investment Fluctuation Reserve (IFR)<sup>14</sup>. If the bank does not meet

the minimum IFR requirements, the balances in IRA should get transferred to IFR.

The ceiling on investments in HTM as a percentage to total investments, and also the ceiling on Statutory Liquidity Ratio (SLR) securities that can be held in HTM have been dispensed with. However, any sale from HTM needs to be made in accordance with the bank's board approved policy, and the details need to be disclosed in the notes to accounts.

Requirements w.r.t. derivatives: Specific accounting and disclosure requirements have also been stipulated for derivatives.

To access the text of the RBI announcement, please click here



<sup>13</sup> As per the 2021 regulations, the excess provision on account of depreciation of investments in the AFS or HFT categories is appropriated to IRA. This was included as a part of the Tier II capital of the bank

<sup>14</sup> The IFR is created by banks to address the systemic impact of sharp increase in yields in government securities

Discussion/Consultation Papers and Publications EDs/consultation papers

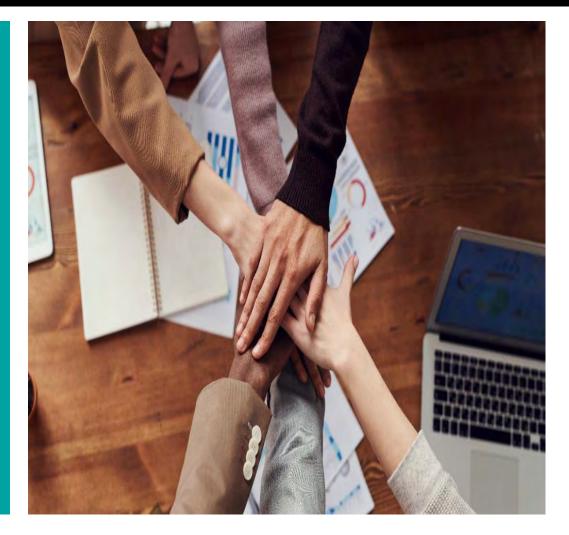


Publications-India & International Matter for Auditors' attention

#### Action points for auditors

The 2023 regulations introduce some fundamental changes to the manner in which the banks operate and classify their investment portfolio. Thus, auditors of such companies should go through the aforementioned changes and discuss their impact with the management and Those Charged With Governance (TCWG). Some of the key points for their consideration include:

- The 2023 regulations have specified certain key disclosure requirements for the banks including the
  carrying amounts and fair value of investments, gain/loss on investments, etc., in the notes to accounts of
  financial statements for the year ending 31 March 2025 and onwards. Since these would require critical
  changes to the existing mechanisms of the banks, the impact of these disclosures should be carefully
  considered
- Currently, banks are required to prepare their books of accounts in accordance with the accounting standards (IGAAP) along with the regulatory norms issued by the RBI, and the adoption of Ind AS has indefinitely been deferred. However, considering that globally banks are generally following international standards on accounting (e.g., IFRS, US GAAP), RBI is gradually making the transitional shift to an IFRS-type accounting framework by incorporating IFRS-like rules in the statutory regulations that govern income recognition, asset classification, provisioning and disclosures. For example, the classification and measurement norms prescribed in the 2023 regulations are closely aligned with Ind AS 109, *Financial Instruments* (or IFRS 9, *Financial Instruments*). Similarly, the disclosure of fair value hierarchy as required by the 2023 regulations, though not as elaborate as Ind AS 113, *Fair Value Measurement*, is in accordance with the principles set by Ind AS 113
- Auditors should discuss the impact of new requirements with the management, such as the requirement of having a board-approved policy to give effect to any sale from HTM investments. Such requirements would require banks to relook at the existing processes and policies and determine whether they need to be made more robust.



Updates from MCA

Updates from RBI

India updates	
Regulatory updates	

Discussion/Consultation Papers and Publications EDs/consultation papers



Publications-India & International Matter for Auditors' attention

### **RBI requires greater transparency in disclosures** by Regulated Entities

The Reserve Bank of India (RBI) has mandated the Regulated Entities (REs), which are categorised as secured creditors as per the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, to display information in respect of the borrowers whose secured assets have been taken into possession by them.

REs would be required to upload this information on their website in the prescribed format and the first such list should be displayed on the website within six months from the date of the RBI notification, i.e., 25 September 2023, and the same needs to be updated on a monthly basis.

To access the text of the RBI notification, please click here.



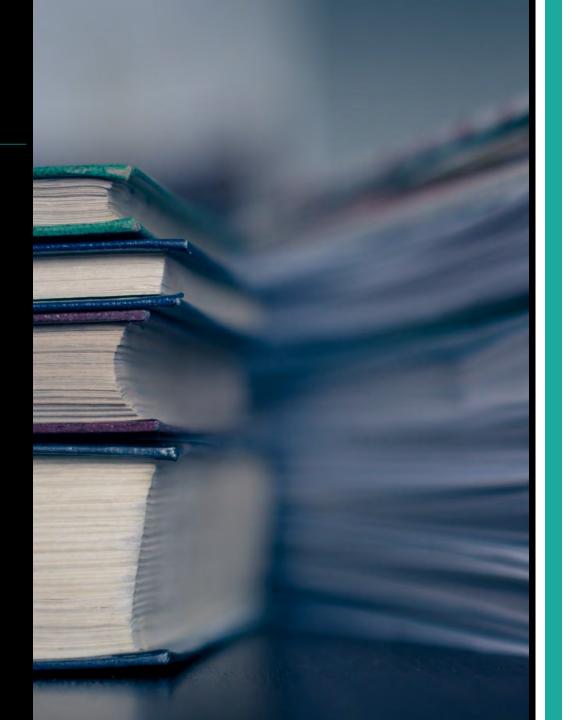
### Discussion/Consultation papers and Publications

Exposure Drafts/consultation papers – India and international

Publications – India

**Publications – International** 

Matter for Auditor's attention



# Exposure Drafts/consultation papers – India and international

India updates Regulatory updates Discussion/Consultation Papers and Publications EDs/consultation papers



Publications-India & International Matter for Auditors' attention

The table below provides an overview of some important exposure drafts/consultation papers released by various regulators during this month:

Regulator	Publication	Particulars
RBI	Draft master direction on treatment of wilful defaulters and large defaulters	In April 1999, the Reserve Bank of India (RBI) had introduced a scheme for handling wilful defaulters. These guidelines were subsequently consolidated into the master circular on wilful defaulters, last updated in 2015. In this regard, on 21 September 2023, RBI issued the revised draft master direction on treatment of wilful defaulters and large defaulters (the draft master direction). It expands the scope for Regulated Entities (REs), which can classify borrowers as wilful defaulters, broadens the definition of 'wilful default', refines the identification process and mandates a review and finalisation on wilful default aspects within six months of an account being classified as a Non-Performing Asset (NPA). Additionally, the draft master direction also addresses the treatment of wilful default loans sold to Assets Reconstruction Companies (ARCs) and their status under the Insolvency and Bankruptcy Code. Comments are invited by RBI up to 31 October 2023. To access the text of the draft master direction, please <u>click here</u>

# Exposure Drafts/consultation papers – India and international

India updates

Regulatory updates

Discussion/Consultation Papers and Publications



Publications-India & International Matter for Auditors' attention

EDs/consultation papers

Regulator	Publication	Particulars
IASB	Annual improvements to IFRS Accounting Standards – Volume 11	<ul> <li>Recently, the International Accounting Standards Board (IASB) issued proposed narrow-scope amendments to the IFRS Accounting Standards and accompanying guidance as part of its periodic maintenance of the Accounting Standards.</li> <li>These annual improvements are limited to the changes that either clarify certain wordings/meanings or correct relatively minor oversights or conflicts between the requirements of Accounting Standards. The proposed amendments included in the Exposure Draft (ED) – Annual improvements to IFRS Accounting Standards – Volume 11 relate to:</li> <li>IFRS 1, <i>First-time Adoption of International Financial Reporting</i> Standards: Hedge accounting by a first-time adopter</li> <li>IFRS 7, <i>Financial Instruments</i>: Disclosures-Gain or loss on derecognition</li> <li>Guidance on implementing IFRS 7: Introduction, disclosure of deferred difference between fair value and transaction price and credit risk disclosures</li> <li>IFRS 9, <i>Financial Instruments</i>: Derecognition of lease liabilities and transaction price</li> <li>IFRS 10, <i>Consolidated Financial Statements</i>: Determination of a 'de facto agent', and</li> <li>IAS 7, <i>Statement of Cash</i> Flows: Cost method.</li> <li>The ED is open for comments up to 11 December 2023.</li> <li>To access the text of the ED, please click here</li> </ul>

# **Publications – India**

India updates	Discussion/Consultation Papers and Publications	
Regulatory updates	EDs/consultation papers	
	Publications-India & International	
	Matter for Auditors' attention	

The table below provides an overview of some important publications released by various regulators during this month:

Regulator	Publication	Particulars
ICAI	FAQs on Unique Document Identification Number (UDIN)	The concept of UDIN was introduced to counter misrepresentation of Chartered Accountants (CAs) and forgeries of signatures of CAs that mislead the authorities and stakeholders relying upon such documents or certificates. It was mandated for the CAs in full time practice to generate UDINs for all the certificates, reports and documents issued/certified by them. In this regard, on 8 September 2023, the Institute of Chartered Accountants of India (ICAI) issued the updated version of Frequently Asked Questions (FAQs) on UDIN, on account of the recent developments at the e-filing portal for UDIN updation. Additionally, new and a few commonly asked queries have been included in this edition of the FAQs for guiding the members. To access the text of the FAQs, please <u>click here</u>

# **Publications – International**

India updates	Discussion/Consultation Papers and Publications	
Regulatory updates	EDs/consultation papers	
	Publications-India & International	
	Matter for Auditors' attention	

The table below provides an overview of some important international publications released by various regulators during this month:

Regulator	Publication	Particulars
IESBA	IESBA Handbook 2023	<ul> <li>On 21 September 2023, the International Ethics Standards Board for Accountants (IESBA) released the 2023 Handbook of the International Code of Ethics for Professional Accountants (including International Independence Standards) (the handbook). The handbook replaces the 2022 edition and incorporates the following revisions:</li> <li>The revisions relating to the definition of 'engagement team' and 'group audits'. These deal with the independence and other implications of changes made to the definition of 'engagement team', in order to align with the corresponding changes made in the International Auditing and Assurance Standards Board (IAASB's) International Standards on Auditing (ISAs) and International Standards on Quality Management (ISQMs).</li> <li>The revised provisions relating to the definition of 'engagement team' and 'group audits' would be effective for audits of financial statements and group financial statements for periods beginning on or after 15 December 2023</li> <li>The upcoming expiry of the 'jurisdictional provision', addressing long association of personnel with an audit client. The jurisdictional provision would expire and no longer be available for audits of financial statements for periods beginning on or after 15 December 2023.</li> <li>To access the text of the handbook, please click here</li> </ul>
		To access the text of the handbook, please <u>click here</u>

## Matter for Auditors' Attention

India updates	
Regulatory updates	



Publications-India & International Matter for Auditors' attention

Regulator	Publication	Particulars
CBDT	Extension of timelines for filing Form 10B/10BB and Form ITR-7 for AY 2023-24	The Central Board of Direct Taxes (CBDT), vide a circular dated 18 September 2023 extended the due date of furnishing audit report under Clause (b) of the tenth proviso to Clause (23C) of Section 10 and Sub-Clause (ii) of Clause (b) of Sub-Section (1) of Section 12A of the Income- tax Act, 1961, in case of a fund, trust, institution, any university, other educational institution, any hospital or other medical institution in Form 10B/Form 10BB for AY 2023-24, from 30 September 2023 to <b>31 October 2023</b> . Further, the due date of furnishing return of income in Form ITR-7 for AY 2023-24 has been extended from 31 October 2023 to <b>30 November 2023</b> . To access the text of the circular, please <u>click here</u>



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