

REGULATORY UPDATE

**Related Party & Related
Party Transactions**



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The governance of **Related Parties** and **Related Party Transactions (RPTs)** is central to India's corporate compliance regime. The intersection of the *Companies Act, 2013* and the *SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015* (“SEBI LODR”) represents a multi-tiered framework to address conflicts of interest, enhance transparency, and protect stakeholders. This article provides a comparative analysis, with statutory and regulatory footnotes for journal publication standards.

1. Defining Related Parties and Related Party Transactions

1.1 Under the Companies Act, 2013

A “Related Party” as per Section 2(76) includes (a) directors, key managerial personnel (KMP), and their relatives; (b) entities with directorial or managerial overlap; (c) holding/subsidiary/associate companies; (d) investing companies/venturers that make the company an associate; and (e) any other person as may be prescribed.

A “Relative,” defined in Section 2(77), includes spouse, parents, siblings, children and their spouses, and members of a Hindu Undivided Family (HUF).

The term “Associate Company” (Section 2(6)) refers to any company in which another holds at least 20% voting power or controls business decisions under agreement.

1.2 Under SEBI LODR Regulations, 2015

SEBI LODR (Regulation 2(1)(zb)) incorporates the Companies Act definition and additionally covers:

- Individuals/entities in the promoter or *promoter group*.
- Entities holding 20% (lowered to 10% from April 1, 2023) of equity, directly or beneficially, in the preceding financial year.

• 1.3 “Related Party Transaction” (RPT)

- **Companies Act, Section 188(1):** RPTs encompass contracts for sale/purchase of goods, property, services, agency, appointments (office of profit), and securities underwriting with a related party.

SEBI LODR, Regulation 2(1)(zc): Any transfer of resources/services/obligations between the listed entity or subsidiary and a related party. From April 1, 2023, it includes

transactions benefiting a related party indirectly. Uniformly applicable actions (dividends, bonus issues) and ICDR-compliant security issues are excluded

2. Approval Regime for Related Party Transactions

2.1 Board Approval

Section 188(1) requires a resolution at a Board meeting to approve specified RPTs.

- **2.2 Audit Committee Approval**

- SEBI LODR Regulation 23(2) mandates audit committee (independent directors only) prior approval for all RPTs and material modifications. “Material modification” must be defined in policy. Subsidiarised RPTs require approval if they cross 10% turnover thresholds (consolidated or subsidiary basis).
- Omnibus approvals may be granted for repetitive RPTs, valid for one year and subject to specified monetary and procedural limits.

2.3 Shareholder Approval

- **Companies Act:** Triggered by prescribed capital or value thresholds. Related parties cannot vote, unless 90%+ members are related parties or promoter relatives.
- **SEBI LODR:** All material RPTs need disinterested shareholder approval. No related party may vote, irrespective of involvement in the transaction.

- **2.4 Debenture Trustee/Debenture Holder Approval for HVDLEs**

- For High Value Debt Listed Entities (HVDLEs), from April 1, 2025, material RPTs require *No-Objection Certificates* from the Debenture Trustee, who in turn must seek NOC from unrelated debenture holders.

- **3. Exceptions to Approval Requirements**

- **Ordinary Course/Arm's Length Pricing:** No shareholder approval if on arm's length basis and in ordinary course; board/audit committee approval still required for listed entities.
- **Inter-government/public sector transactions and intra-group transactions fully consolidated** in group accounts are exempt under SEBI LODR.

- **Insolvency Code Plans:** No prior approval required for IBC-approved resolution plans if disclosed on stock exchanges within one day.

4. Disclosure Obligations

- **Board's Report (Companies Act Section 188(2)):** All RPTs entered under Section 188(1) must be disclosed, along with justification.
- **SEBI LODR:** Half-yearly stock exchange disclosures and website publications (Reg. 23(9)), detailed annual reporting of material RPTs, large loans, and promoter group dealings (10%+ holding). Remuneration/sitting fees only disclosed if material.

5. Policy Requirements & Registers

- Every listed entity must maintain and periodically review a **policy on materiality of RPTs** with clear threshold limits.
- **Register of Contracts/Arrangements** per Section 189, open for inspection at the AGM and to shareholders on demand; applies to RPTs above ₹1 lakh or not at arm's length.

6. Penalties for Non-Compliance

- **Listed companies:** ₹25 lakh penalty.
- **Other companies:** ₹5 lakh penalty.
- Invalid contracts are voidable and responsible directors/officers must indemnify the company.

Comparative Table: Key Provisions under Companies Act, 2013 & SEBI LODR

Provision	Companies Act, 2013	SEBI LODR Regulations, 2015
Definition: Related Party	Section 2(76)	Reg. 2(1)(zb)
RPT Definition	Section 188(1)	Reg. 2(1)(zc) and Reg. 23(1)
Board Approval	Mandatory for covered RPTs	N/A (handled by Audit Committee)

Audit Committee Approval	Not mandatory (except listed/unlisted public companies)*	Mandatory for all RPTs and material modifications
Shareholder Approval	Threshold/capital triggers; related party excluded from vote, with exceptions	All material RPTs; no related party can vote
Debenture Trustee/Holder NOC	N/A	For HVDLEs from April 1, 2025 for material RPTs
Materiality Threshold	Not explicitly defined; Rules for shareholder approval	₹1,000 crore or 10% of turnover (SME: ₹50 crore/10%)
Ordinary Course/Arm's Length Exemption	Yes	Yes, subject to Audit Committee approval

Public Sector/Group Exemptions	No explicit exemption	Yes for WOS/PSU/group cons.
Disclosure/Reporting	Section 188(2), Board report	Reg. 23(9), Annual Report, Website
Register of RPTs	Section 189	N/A
Penalty	₹25 lakh (listed), ₹5 lakh (others)	₹25 lakh (if SEBI law breached)

*Companies with paid-up capital above limits or transactions above thresholds also require Audit Committee approval under Rule 6A of Companies (Meetings of Board and its Powers) Rules, 2014 for certain unlisted public companies.

Conclusion

India's RPT regime—rooted in both company law and securities regulation—is among the most comprehensive globally. The dual oversight under the *Companies Act, 2013* and *SEBI LODR* ensures robust safeguards against conflicts of interest,

enhances disclosure, and upholds shareholder democracy. Boards and compliance professionals must stay alert to evolving thresholds and policy mandates to maintain seamless compliance and governance.

Reference: Relevant provisions of the Companies Act, 2013 and SEBI LODR Regulations, 2015

- 1. Section 2(76), Companies Act, 2013*
- 2. Section 2(77), Companies Act, 2013*
- 3. Section 2(6), Companies Act, 2013*
- 4. Regulation 2(1)(zb), SEBI LODR Regulations, 2015 (as amended)*
- 5. Section 188(1), Companies Act, 2013*
- 6. Regulation 2(1)(zc), SEBI LODR Regulations, 2015*
- 7. Regulation 23(2)-(3), SEBI LODR Regulations, 2015*
- 8. Regulation 23(2)-(3), SEBI LODR Regulations, 2015 (incl. subsidiary provisions)*
- 9. Regulation 23(4), SEBI LODR Regulations, 2015 (as amended)*
Regulation 62K(5), SEBI LODR Regulations, 2015 (for HVDLEs; applicable April 1, 2025)
- 10. Regulation 23(5) and Regulation 62K(7), SEBI LODR Regulations, 2015*

11. *Regulation 23(4) & 62K(5) provisos, SEBI LODR Regulations, 2015*
12. *Section 188(2), Companies Act, 2013*
13. *Regulation 23(9), Schedule V SEBI LODR Regulations, 2015*
14. *Regulation 23(1), 62K(1), SEBI LODR Regulations, 2015*
15. *Section 189, Companies Act, 2013*
16. *Section 188(5), Companies Act, 2013*

DISCLAIMER: - *The information herein is based on intersection of the Companies Act, 2013 and the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("SEBI LODR"). While the information is believed to be accurate, we make no representations or warranties, express or implied, as to the accuracy or completeness of it. Readers should conduct and rely upon their own examination and analysis and are advised to seek their own professional advice. This note is not an offer, advice or solicitation. We accept no responsibility for any errors it may contain, whether caused by negligence or otherwise or for any loss, howsoever caused or sustained, by the person who relies upon it.*