



FOUNDATION FOR AUDIT QUALITY

Enhancing professional excellence

Toolkit for assessing compliances pertaining to Related Party Transactions-

Approval mechanism for RPTs

Foundation for Audit Quality

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Checklist for compliance with Regulations pertaining to related parties

Approval mechanism for RPTs

Both the Companies Act, 2013 and the LODR Regulations prescribe an approval mechanism for related party transactions. While both the regulations stipulate approval procedures that aim to enhance governance in this area, however, in certain procedures LODR Regulations in comparison to the Companies Act, 2013 could be stringent.

We believe that where two regulations govern the same procedure/requirement, the stringent of the two should be complied with.

In figure 3 below, we have compared the approval procedures and requirements under both, the Companies Act, 2013 and the LODR Regulations.

Figure 3: RPT approval mechanism under the Companies Act, 2013 and LODR Regulations

Approval procedure	The Companies Act, 2013	LODR Regulations
Step 1: Audit Committee (AC) approval <ul style="list-style-type: none"> - Transactions requiring prior approval of the AC - Which AC members can vote - Can AC provide omnibus approval 	<div>All RPTs and <i>subsequent material modifications</i></div> <div>All members of the AC</div> <div>Yes, subject to certain conditions</div>	<div> <div>All RPTs and <i>subsequent material modifications</i></div> <div>Certain RPTs where subsidiary of a listed entity is a party but listed entity is not a party</div> </div> <div>Members of the AC that are independent directors</div> <div>Yes, subject to certain conditions</div>
Step 2: Board of directors (BoD) approval	<div>Prior approval of BoD required for RPT which are not in the ordinary course of business or are not at an arm's length basis</div>	<div>No requirement for BoD approval</div>
Step 3: Shareholder approval <ul style="list-style-type: none"> - Transactions requiring prior approval of the shareholders - What is a material RPT 	<div>All material RPTs which are not in the ordinary course of business or are not at an arm's length basis</div> <div>Contracts or arrangements with related parties that exceed the threshold prescribed in Rule 15 of the Companies (Meetings of Board and its Powers) Rules, 2014</div> <div>No related party should vote to approve*</div>	<div> <div>All material RPTs and <i>subsequent material modifications</i></div> <div>Material RPTs where subsidiary of a listed entity is a party but listed entity is not a party</div> </div> <div>Transactions entered into individually or taken together with previous transactions during a financial year, exceeds INR1,000 crore or 10 per cent of consolidated turnover</div> <div>No related party should vote to approve</div>
Exemptions from audit committee, BoD and shareholder approval	<div>Transactions between holding company and wholly-owned subsidiary are exempt from BoD and shareholder approval.</div> <div>No exemption from AC approval for transactions under Section 188 of the Companies Act, 2013</div>	<div>Transactions between:</div> <ul style="list-style-type: none"> - Holding company and wholly-owned subsidiary - Two companies which are both wholly-owned subsidiaries of the same company - Two government companies

* Companies in which 90 per cent or more of the members (in number) are relatives of the promoters or are related parties should allow related parties to vote on RPT approvals

Both, the Companies Act, 2013 and the LODR Regulations require audit committees to provide a prior

approval for RPTs, however, the subsequent approvals (in step 2 and 3 are different). The Companies Act, 2013 requires a prior approval of the BoD and of the shareholders (where transactions exceed a prescribed threshold¹) where transactions are not in the ordinary course of business or are not at arm's length.

The LODR Regulations, don't need a BoD's approval, however, they would require a prior shareholders' approval for material transactions.

- **Audit committee's approval mechanism**

The Companies Act, 2013

As per the Companies Act, 2013, all companies need to obtain a prior audit committee approval for proposed RPTs and subsequent material modifications. All members of the AC can approve RPTs.

The AC may also provide an omnibus approval. Such an omnibus approval would be valid for one financial year².

LODR Regulations

The LODR Regulations require prior approval of an AC of a listed entity in the following circumstances:

- All RPTs and **subsequent material modifications**. The audit committee needs to define what would constitute material modifications and disclose it as part of the policy on materiality of RPTs and on dealing with RPTs (effective from 1 April 2022)
- An RPT to which the subsidiary of a listed entity is a party, but the listed entity is not a party if the value of such a transaction whether entered into individually or taken together with previous transactions during a financial year exceeds threshold of 10 per cent of the annual standalone turnover in accordance with the last audited Financial statements of the subsidiary (effective from 1 April 2023).

Additionally, an audit committee's approval would not be required if a listed subsidiary is subject to compliance with Regulation 23³ and Regulation 15(2)⁴ of the LODR Regulations. Furthermore, the amendments clarify that for RPTs of unlisted subsidiaries of a listed subsidiary, prior approval of the audit committee of the listed subsidiary would suffice.

The SEBI, vide its circular dated 22 November 2021 has also stipulated the information that should be placed before the audit committee for approval of a proposed RPT. This circular is applicable from 1 April 2022.

As per Regulation 23 of the LODR Regulations, only those members of the audit committee who are independent directors can approve RPT.

The AC may also provide an omnibus approval. Such an omnibus approval would be valid for one financial year⁵.

¹ This threshold has been prescribed by Rule 15 of the [Companies \(Meetings of Board and its Powers\) Rules, 2014](#)

² Rule 6A of the [Companies \(Meetings of Board and its Powers\) Rules, 2014](#) prescribes the conditions subject to which omnibus approval may be granted by the audit committee

³ Regulations pertaining to related parties

⁴ Regulations pertaining to corporate governance

⁵ Regulation 23 of the LODR Regulations lays down the criteria for providing omnibus approvals. The criteria for omnibus approvals in the LODR Regulations are similar to those prescribed in the Companies Act, 2013.

- **Board of Directors' approval**

In addition to the AC approvals, the Companies Act, 2013 requires companies to obtain a prior BoD approval for transactions that are not in the normal course of business or which are not at an arm's length basis.

The LODR Regulations however, do not have a similar approval requirement.

- **Shareholders' approval mechanism and threshold of material transactions**

Under the Companies Act, 2013, a prior approval of the shareholders would be required only when the transactions (that exceed a prescribed threshold) are not in the ordinary course of business or are not at an arm's length.

The LODR Regulations on the other hand requires listed entities to obtain a prior approval of its shareholders for all material RPTs and subsequent material modifications of such transactions.

However, prior approval of the shareholders would not be required if the transaction is entered into by a listed subsidiary of the listed entity, and the subsidiary is subject to compliance with Regulation 23 and Regulation 15(2) of the LODR Regulations. Furthermore, SEBI has clarified that for RPTs of unlisted subsidiaries of a listed subsidiary, prior approval of the shareholders of the listed subsidiary would suffice.

Revision in materiality threshold that mandatorily requires shareholders' approval

As per the LODR Regulations, an RPT would be considered material, if the transaction entered into individually or taken together with previous transactions during a financial year, exceeds INR1,000 crore or 10 per cent of the consolidated annual turnover of the listed entity as per last audited financial statements of the listed entity, whichever is lower (effective from 1 April 2022).

The SEBI, vide its circular dated 22 November 2021 has also stipulated the information to be included in the notice being sent to the shareholders, seeking approval for any proposed RPT, in addition to the existing requirements under the Companies Act, 2013. This circular is applicable from 1 April 2022.

- **Clarification on shareholders' approval for transactions that have received omnibus approval of the audit committee**

As per Regulation 23(3) of the LODR Regulations, an audit committee of a listed entity may grant omnibus approval for an RPT proposed to be entered into by a listed entity, subject to certain prescribed conditions.

Further, as per Regulation 23(4) of the LODR Regulations, all material RPTs and subsequent material modifications as defined by the audit committee, are required to obtain a prior approval of shareholders through a resolution.

Clarification issued by SEBI

The SEBI reiterated that an RPT for which an audit committee has granted omnibus approval should continue to be placed before the shareholders if it is material in terms of Regulation 23 of the LODR Regulations.

Shareholders' omnibus approval of material RPTs, approved in an AGM would be valid upto the date of the next AGM for a period not exceeding 15 months. However, where omnibus approvals for material RPTs was obtained from shareholders in general meetings other than AGMs, the validity of such omnibus approvals would not exceed one year.

1 RPT approvals for transactions governed by regulations

S. No.	Questions	Note	Response
1	<i>Base procedures</i>		
	Have companies drawn up a plan at the beginning of the year for undertaking certain transactions governed by specific provisions of the Companies Act, 2013 or LODR Regulations during the year?	1.1	
	Have the underlying processes to seek approvals been planned in a manner that approvals under all regulations have been obtained in a timely and a systematic basis?	1.2	
	Where transactions are in the ordinary course of business and are repetitive in nature, has the company obtained omnibus approvals of both, the audit committee and shareholders?		
	Have reimbursements been considered as a related party transaction and undergone an approval process as prescribed by the LODR regulations?		
2	<i>Management diligence procedures</i>		
	Has an appropriate department or committee, as appointed by the company, reviewed whether the annual budgets		

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	<p>drawn at the beginning of each year include a separate plan for the following:</p> <ul style="list-style-type: none"> - RPTs planned to be entered into during the year - Timing of the RPTs - Are other approvals required on the same RPT - Have meetings of relevant committees (such as the audit committees, board of directors and other committees of the board of directors) called for on a timely basis, and have approvals been obtained in an effective manner? 		
3	<p><i>Monitoring procedures</i></p> <ul style="list-style-type: none"> - Has an internal or external agency reviewed on a test check basis whether all RPTs, including the ones governed under the specific provisions of the Companies Act, 2013 and LODR Regulations have obtained appropriate approvals? - Have the results of the validation been considered by the company to ratify transactions, where a prior approval of the required committees/shareholders (if applicable) was not obtained? - Where prior approvals for certain transactions were not obtained, have appropriate communications been made to regulators? 		

Note 1.1

Transactions such as granting of Employee Stock Option Plans (ESOP), Stock Appreciation Rights (SARs), Employee Stock Purchase Schemes (ESPS), remuneration to Key Managerial Personnel (KMP), CSR contributions, etc. are governed by specific provisions of the Companies Act, 2013 or specific SEBI regulations.

Note 1.2

For example, as per the Companies Act, 2013, ESOPs, SARs, etc. require an approval of the board of directors and an approval of the shareholders by way of a special resolution. Companies should plan to get a dual-purpose approval on such transactions – i.e. approval under the relevant regulations governed by the Companies Act, 2013 and approval for RPT from the audit committee and shareholders (where applicable) under the SEBI regulations.

2 Approval of related party transactions of the listed holding company and of the subsidiaries

S. No.	Questions	Note	Response
4	<p><i>Base procedures</i></p> <ul style="list-style-type: none"> - Has the listed entity consolidated the RPTs planned to be entered into by its group of companies during the financial year, including RPTs to which the listed entity will not be a party to? - Has the company identified which of the RPTs that are planned at the beginning of the year would require a prior approval of the audit committee and shareholders of the listed parent company? 	2.1	
5	For meeting the above requirement, have the board of directors/audit committees of the subsidiary companies planned their board meetings/audit committee meetings in advance, so that the timelines for holding the meetings are in accordance with the timelines of the meetings of the holding company		
6	Do the secretarial departments of the subsidiary companies closely co-ordinate with the secretarial department of the listed company to ensure that all the agenda items of the subsidiary companies which are to be placed in the audit committee meeting of the listed company, are shared on a timely basis (for example, at least a month in advance).	2.2	
7	Have unlisted subsidiaries first taken the approval of their board of directors, and then submitted their related party transactions for the approval of the audit committee of the listed holding company as per the LODR Regulations?	2.3	
8	For those transactions of the subsidiaries which would be entered into in the normal course of business on an ongoing basis (such as sales, purchases, services, etc.), have omnibus approvals been obtained from the audit committee of the listed holding company?		

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S. No.	Questions	Note	Response
9	<p>At the beginning of each year, has the entity estimated the volume of related party transactions (both routine and non-routine transactions) expected to be entered into by the following during the year?</p> <ul style="list-style-type: none"> - The listed company with its related parties or the related parties of its subsidiaries - The unlisted subsidiaries with the listed company - The unlisted subsidiaries with its related parties or the related parties of the listed company 	2.4	
10	Where the volume of transactions is expected to cross the threshold prescribed by the LODR Regulations (i.e. 10 per cent of the consolidated annual turnover of the listed entity or INR1,000 crore, whichever is lower), has a prior approval been obtained from shareholders in advance?		
11	Where transactions (either of the listed company or of the unlisted subsidiaries) with their related parties are unplanned, have approvals from the audit committee of the listed holding company been obtained by passing a circular resolution and from shareholders by e-voting or through postal ballot?	2.5	
12	<p><i>Management diligence procedures</i></p> <p>Has the company set controls which will enable it to assess whether all planned related party transactions have been undertaken? Where they have been undertaken, is there a post facto review process which checks whether all approvals have been obtained?</p>		
13	<p><i>Monitoring controls</i></p> <p>Has an external or internal agency validated:</p> <ul style="list-style-type: none"> - RPT plans made at the beginning of each year by the group of companies? - Approval process adopted by the subsidiaries and the company for transactions entered into by the subsidiaries with its related parties? - On a sample basis that all RPTs (of the company and its subsidiaries) have obtained the requisite approvals as prescribed by the LODR Regulations? 		

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S. No.	Questions	Note	Response
14	Have the external or internal agency provided certain recommendations for improving the process for obtaining approvals for RPTs?		
15	Have the results of such a validation or the recommendations of the external or internal agency been considered by the company?		

Note 2.1

Each company is aware about its business - i.e. its requirements, which includes an estimation of transactions it would need to enter in the normal course of business with its related parties. For example, the materials it would need to source from related parties or services that would need to be availed from related parties, etc. Once these transactions have been identified at the beginning of the year, omnibus approvals may be obtained from the audit committee for such transactions.

Note 2.2

This will ensure that all compliances before conducting a meeting (such as intimations to the stock exchanges, to the independent directors, etc.) as prescribed by the Companies Act, 2013 and SEBI regulations can be obtained.

Note 2.3

Many entities believe that by approving the RPTs of the subsidiaries, the listed entity would be participating in the operating decisions (and thus interfering in the corporate governance process) of the subsidiaries or their related parties. To avoid this, entities may first take the approvals of their board of directors and thereafter take the approval of the audit committee of the listed parent company.

Note 2.4

This activity is done at the beginning of each year, so that companies can obtain approvals for all transactions that were planned for in advance.

Note 2.5

During the year, generally there would be very few unplanned transactions that may be entered into, since most transactions would be budgeted for at the beginning of each year. For such unplanned transactions, companies may either consider aligning the timing of the transaction with that of the audit committee meeting and with the AGM. However, where such timing is not practicable from a business perspective, then companies may conduct a virtual audit committee meeting and an Extraordinary General Meetings (EGMs) (where shareholders' approval is applicable) through video conferencing or through other audio-visual means and enable voting on the proposed resolution using e-voting or seek approval through postal ballot.

3 Related parties of subsidiaries, including foreign subsidiaries

S. No.	Questions	Note	Response
16	<p><i>Base requirements</i></p> <p>Do all companies which are a part of the listed holding company's group, including foreign subsidiaries, comply with the RPT rules as prescribed in the LODR regulations?</p>	3.1	
17	<p><i>Management diligence procedures</i></p> <p>Is there an appropriate communication by senior members of the parent company with their subsidiaries, including foreign subsidiaries, regarding details of the LODR requirements, in terms of RPTs?</p>		
18	<p><i>Monitoring procedures</i></p> <p>Has an external or internal agency validated the compliance of RPT rules by foreign subsidiaries?</p>		
19	<p>Have the results of such a validation or the recommendations of the external or internal agency been considered by the company?</p>		

Note 3.1

Where it is challenging (due to legal constraints or otherwise) for the foreign subsidiary to comply, the company could consider alternate approaches. For example, specific confirmations may be obtained from the KMPs of the foreign subsidiaries to provide a confirmation on a periodical basis (say half-yearly or annual basis), confirming that none of his/her relatives or entities in which he/she is interested has directly or indirectly entered into any transactions with the listed holding company or any of its subsidiaries.

Prior approval of audit committee

4 Approval of transactions between two subsidiaries

S. No.	Questions	Note	Response
20	<p><i>Base procedures</i></p> <p>Has the company and its group of companies prepared a budget at the beginning of the year at a standalone and/or consolidated level? Does the budgeting process include planned RPTs of the subsidiaries, which includes transactions between two subsidiaries (a transaction in which the listed holding company does not form a part)?</p>		
21	<p>Have the unlisted subsidiaries linked the repository of their RPTs with their IT systems in a manner that will generate rule-based triggers, which can highlight all RPTs that it proposes to enter into during a period which exceed 10 per cent of the annual standalone turnover of the subsidiary?</p>	4.1	
22	<p><i>Monitoring procedure</i></p> <p>Has the company defined procedures to ensure there is post facto verification of transactions of subsidiaries by different defined teams (such as legal/compliances/finance teams), that ensure all material RPTs (which are within the prescribed threshold defined by the LODR regulations) of the subsidiaries have obtained relevant approvals of the listed holding companies?</p>	4.1	
23	<p><i>Base procedures</i></p> <p>Have the subsidiaries of the listed holding company first obtained the approvals of their board of directors before submitting those transactions to the audit committees of the listed holding companies for their approval?</p>	4.2	
24	<p>Have the unlisted subsidiaries of the listed holding company planned their board of director/audit committee meetings (where they have an audit committee) in close coordination with the listed holding company at the beginning of the year?</p>		
25	<p>Have the transactions that merit the audit committee's approval been placed before the audit committee in the following manner:</p> <ul style="list-style-type: none"> - Tranche 1: Transactions that are material to the group, broken into routine and non-routine transactions 	4.3	

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S. No.	Questions	Note	Response
26	<p>- Tranche 2: Transactions that are not material to the group and include transactions pertaining to both material and immaterial subsidiaries. These transactions could be further bifurcated into:</p> <ul style="list-style-type: none"> • Routine transactions⁶ • Funding transactions • Sale of assets • Other non-routine transactions • Other immaterial transactions, whether entered into with material or not-material subsidiaries 		
27	For transactions that have not been planned in advance, have companies made use of circular resolutions and other means of getting approvals where ACMs cannot be called for on an immediate basis? Have approvals from shareholders been obtained through e-voting or postal ballot system?		
28	<p><i>Monitoring procedure</i></p> <p>Does the accounting manual for the group and for the individual subsidiaries have a separate section on RPTs which brings out the fact that approval of RPTs should be obtained from the listed parent entity as per the Indian regulatory norms?</p>	4.4	
29	<p>Has an external or internal agency validated:</p> <ul style="list-style-type: none"> - RPT plans made at the beginning of each year by the group of companies? 		
30	<ul style="list-style-type: none"> - Approval process adopted by the subsidiaries and the company for transactions entered into by the subsidiaries with its related parties? 		
31	<ul style="list-style-type: none"> - On a test check basis that all RPTs (of the company and its subsidiaries) have obtained the requisite approvals as prescribed by the LODR Regulations? 		
32	Have the external or internal agency provided certain recommendations for improving the process for obtaining approvals for RPTs?		

⁶ For example, if the core business of the company is trading in chemicals, transactions involving the sale or purchase of chemicals with a counterparty would tantamount to routine transactions.

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S. No.	Questions	Note	Response
33	Have the results of such a validation or the recommendations of the external or internal agency been considered by the company?		

Note 4.1

Where prior approval for such transactions are not already obtained, they should be forwarded to the listed holding company for ratification

Note 4.2

Many entities believe that by approving the RPTs of the subsidiaries, the listed entity would be participating in the operating decisions (and thus interfering in the corporate governance process) of the subsidiaries or their related parties. To avoid this, entities may first take the approvals of their board of directors and thereafter take the approval of the audit committee of the listed parent company.

Note 4.3

Transactions that are material to the group would include all transactions that exceed the threshold as decided by the board of directors - for example, five per cent of the consolidated turnover (material to the group), etc.

Note 4.4

Companies should ensure there is harmonious application of all laws and regulations (both domestic and international) in the context of related party transactions.

5 Material modification of a contract with related parties

S. No.	Questions	Note	Response
34	<i>Base procedures</i> Has the audit committee defined what would constitute a 'material modification' of contracts with related parties?	5.1	
35	- Has the definition of material modification of contracts been inculcated in the RPT policies of the company? Have the updated RPT policies been placed on the website of the company?		
	- Has the company established a process to ensure that the policy on material modification is reviewed and updated (where necessary) by the board of directors on a periodic basis?	5.2	
36	Have the definition of material modification been based on both a quantitative and qualitative threshold?	5.3	
37	While defining 'material modification', have the board of directors also provided a rationale for such a definition (i.e. why a particular quantitative and qualitative threshold has been defined)?		
38	<i>Management diligence procedures</i> Has the company put in place appropriate controls, such that a particular defined department (say the legal/secretarial/ finance department) monitors changes in contracts, and evaluates the following: <ul style="list-style-type: none"> - Whether the change is a material modification of an existing contract - Whether appropriate approvals of the audit committee and/ or the shareholders have been obtained for a material modification of a contract? 		
39	Have the quantitative and qualitative thresholds that define a 'material modification' of a contract been periodically re-evaluated by the audit committee in order to refine and calibrate them to ensure that they stay relevant by the companies?		

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S. No.	Questions	Note	Response
40	<i>Monitoring procedures</i> Has an external or internal agency validated on a test check basis: <ul style="list-style-type: none">- Whether modifications of existing contracts are 'material' and would get covered by the RPT regulations in the LODR Regulations?		
41	<ul style="list-style-type: none">- Whether appropriate approvals of the audit committee and/ or shareholders is taken for material modification of contracts?		
42	Have the results of such a validation of the external or internal agency been considered by the company?		

Note 5.1

It is to be noted that there may be contracts for which an audit committee's and/or shareholders' approval (omnibus or specific approval) has been obtained, and the approval is linked to a well-established market benchmark. Fluctuations in the said market benchmark would not be assessed for a 'material modification' of the contract.

Note 5.2

As per Regulation 23(1) of the LODR Regulations, the policy on materiality of related party transactions (materiality policy) should be established by the board of directors, and should be reviewed by them at least once every three years and updated accordingly. The definition of 'material modification' of a contract needs to be established by the audit committee, and will be a part of the materiality policy of the company. Hence, we believe, even the policy on material modification of a contract should be reviewed by the company on a periodic basis, and at least once every three years.

Note 5.3

For determining the quantitative threshold, it could be evaluated whether the value of the contract has changed by a specific percentage (say, for example 10 per cent). For determining the qualitative threshold, it could be evaluated whether there have been any changes in the terms of the contract, for example, the transaction pricing formula, the payment terms, etc. In any case, the quantitative threshold should be reasonable and capped by an absolute amount.

Prior approval of the board of directors

6 Approval of the board of directors

S. No.	Questions	Note	Response
43	<i>Base procedures</i> Has the company identified the transactions which require a prior approval of the board of directors?		
44	Does the agenda to the board meeting include the information required to be disclosed under the Companies Act, 2013?	6.1	
45	<i>Management diligence procedures</i> Where the management comes to the conclusion that a prior approval of the board of directors is not required for entering into the RPT, does the board have appropriate documentation that the transaction is at an arm's length?		
46	<i>Monitoring procedures</i> Has an external or internal agency validated on a test check basis: - Whether appropriate approvals of the board of directors have been obtained?		
47	- Where the company has concluded that approval of the board of directors is not required, is there adequate documentation which is supporting that transactions are at an arm's length?		
48	Have the results of such a validation of the external or internal agency been considered by the company?		

Note 6.1

Section 4 of this checklist, which covers disclosures, includes the disclosures required to be made by the company in the agenda to the board of directors.

Transactions that require a prior approval of the board of directors should not be passed by way of a circular resolution.

Prior approval of shareholders⁷

7 Determining materiality threshold for obtaining shareholders' approval for long-term contracts

S. No.	Checklist	Note	Reply
49	<p><i>Base procedures</i></p> <ul style="list-style-type: none"> - Have companies considered the total contract value of an RPT, of a binding long-term contract (which may, for example, span for 20-25 years) when determining the materiality threshold for obtaining shareholders' approvals? - Have companies obtained a prior approval of shareholders where estimated value of the transaction expected to be undertaken during the reporting period meets the approval threshold? 		
50	<p><i>Management diligence procedures</i></p> <p>For a non-binding contract, (i.e. where an entity may exit from a contract during the contract term without any penalties or other consequences), or when an entity is not bound to execute the contract, have companies obtained an opinion from their legal team or from a professional on the value of the transaction for which a shareholders' approval is required to be obtained (for example, approval is required for related party transactions pertaining to that contract entered into during the financial year)?</p>		
51	<p><i>Monitoring procedures</i></p> <p>Has an external or internal agency validated on a test check basis:</p> <ul style="list-style-type: none"> - The material terms of a long-term contract entered into with related parties? 		
52	<ul style="list-style-type: none"> - Based on the terms of the contract, whether the shareholders' approval would be required to be obtained on the entire value of the long-term contract or on 		

⁷ Shareholders are required to approve material RPTs of the listed entity and its subsidiaries. Accordingly, it is essential that they understand the purpose of the transactions and how it would benefit the company from a long-term and short-term perspective. For this purpose, adequate and timely disclosures should be made available by the company to the shareholders. Also, the procedures and practices relating to establishing the arm's length pricing, market terms, etc. for the transactions should be communicated.

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	another basis (for example, value of transactions entered into during the year, etc.)?		
53	Have the results of such a validation of the external or internal agency been considered by the company?		

8 Enhanced disclosure requirements for shareholders

S. No.	Questions	Note	Response
54	<i>Base procedures</i> Has the company provided a brief summary of the proposed related party transaction, in the notice sent to shareholders for the general meeting?	8.1	
55	<i>Where a transaction requires a valuation report to be submitted to the shareholders, has the entity shared a report which does not have commercially sensitive information?</i>	8.2	
56	Has the information provided to shareholders been drafted in an easy-to-understand manner, where technical points are explained in a layman's language so that the shareholders discern the business rationale for entering into various RPTs?		
57	If technical jargons have been used in the notice to the shareholders, have they been appropriately explained?		
58	Does the information provided to shareholders explain the rationale of the transaction and what impact the RPTs have on the business of a company on a short-term and long-term basis?	8.3	
59	<i>Management diligence procedures</i> Does the legal team (or any other team provided with such responsibility) ensure on a periodic basis that details of all material RPTs (i.e. RPTs exceeding a prescribed threshold) to be entered into either by the listed company or its unlisted subsidiaries have been appropriately communicated to the shareholders of the listed company?		
60	<i>Monitoring procedures</i> Has an external or internal agency validated on a test check basis whether details of RPTs of the listed entity or its subsidiary, which exceed the prescribed materiality threshold have been communicated to the shareholders before they are entered into, and has also validated the appropriate approvals from minutes of meetings?		
61	Have the results of such a validation of the external or internal agency been considered by the company?		

Note 8.1

Many corporates have represented that by providing details of a proposed related party transaction to shareholders (which would then be available in the public domain), a company's strategy and pricing mechanism would get divulged. This could hamper the business. Accordingly, only a brief summary of the transaction can be provided to the shareholders. Detailed pricing mechanism, or other details which would spell out the trade secrets of a company need not be mentioned in the summary.

Further, considering that the pricing mechanism and the proposed price that an entity aims to propose in a bid cannot be divulged, when obtaining a prior approval from shareholders, approval may be obtained for a higher value or for a price range for the proposed contract.

Note 8.2

Where a valuation report is required for a transaction, the company can obtain two versions of the report from the valuer. One version which is suitable for sharing with external stakeholders, and which does not have any commercially sensitive information. The other version which would be a more detailed version and would include backup documents which could be commercially sensitive and company specific. This report would be solely for internal use by the company.

Most times, the companies provide an email ID in the notice to shareholders for obtaining such a valuation report. There could be chances that a company might not be prompt in responding back to requests made by shareholders. Accordingly, such valuation reports should be made accessible on the company's website, possibly with an additional check asking for shareholders' details.

Note 8.3

RPTs are essential for businesses, however, considering their susceptibility to abuse, it is essential that management provides the rationale for entering into a material transaction with its related party. Along with the rationale, there should be sufficient communication and articulation of the long-term value of an RPT to the investors, as certain investors may hold the shares from a short-term perspective. Such communication would enable shareholders (both short-term and long-term investors) to appreciate why a transaction is undertaken.

9 Revalidation of approvals

S. No.	Questions	Note	Response
62	<p><i>Base procedures</i></p> <p>Have the management made a plan for revalidating ongoing transactions (which may or may not be in the normal course of business) for audit committees' and shareholders' approvals?</p>		
63	<p><i>Management diligence procedures</i></p> <p>Has management validated whether:</p> <ul style="list-style-type: none"> - Audit committee's omnibus approvals have been obtained within 12 months from the date of the last omnibus approval for the said transaction 		
64	<ul style="list-style-type: none"> - Shareholders prior approvals on an ongoing transaction are obtained in a general meeting (within 12 months of the last extra ordinary general meeting or within 15 months of the last annual general meeting)? 		
65	<p><i>Monitoring procedures</i></p> <p>Does an internal or an external agency validate that all transactions that require an omnibus approval, have been revalidated for such approvals within the timelines prescribed by SEBI?</p>		

10 Exemptions from obtaining audit committee and shareholder approvals

S. No.	Questions	Note	Response
66	<i>Base procedure</i> Has the company's availed of the exemption from obtaining audit committee and shareholders' approvals, where the transaction is in between the following: <ul style="list-style-type: none">- The holding company and its wholly owned subsidiary- Two wholly owned subsidiaries- Two government companies	10.1	
67	Has the company documented the rationale for not obtaining audit committee's and shareholders' approvals?	10.2	

Note 10.1

As per the Companies Act, 2013, a subsidiary in relation to any other company inter alia means a company in which the holding company exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies.

Based on this definition, we can say that where a company directly or indirectly (through other subsidiaries) holds 100 per cent of the total voting power of another company (subsidiary), the subsidiary would be considered as a wholly owned subsidiary.

Note 10.2

The documentation may be made in the company's legal or secretarial records where it records approval of related party transactions.

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