

RELATED PARTY TRANSACTIONS - 6TH AMENDMENT SEBI (LODR), 2015

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SEBI has, vide Notification No. SEBI/LAD-NRO/GN/2021/55 dated 9th November 2021, amended certain provisions relating to Related Party Transactions which come into effect from 01st April 2022. Vide this amendment, SEBI has widened the scope of Related party and Related Party Transactions of a Listed entity resulting in an increase in the number of transactions falling within the ambit of review by the Audit Committee and its Shareholders of the Listed Entity.

Who is a Related Party?

Under regulation 2(1)(zb), the following are considered as Related Parties of a Listed Entity:

- A Related party as defined under sub-section (76) of section 2 of the Companies Act, 2013.
- A Related party as defined under applicable accounting standards.
- Any person or entity forming a part of the promoter or promoter group of the listed entity.
- Any person or any entity, holding equity shares of 20% or more (10% or more w.e.f. 01/04/2023) in the listed entity
 - Either directly or on a beneficial interest basis as provided under section 89 of the Companies Act, 2013,
 - At any time, during the immediate preceding financial year shall be deemed to be a related party:

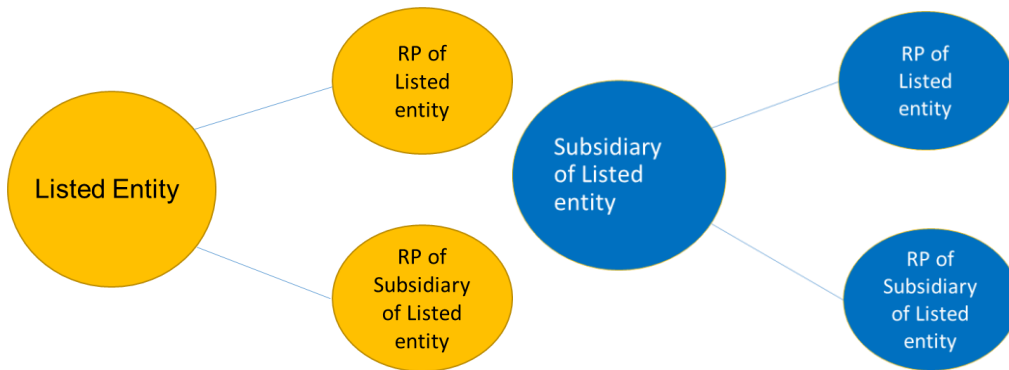
The definition of Related Party has been broadened to include any and all promoters of the listed entity, irrespective of their shareholding in the entity and also extends to shareholders of the Listed entity based on their equity shareholding.

What is a Related Party Transaction?

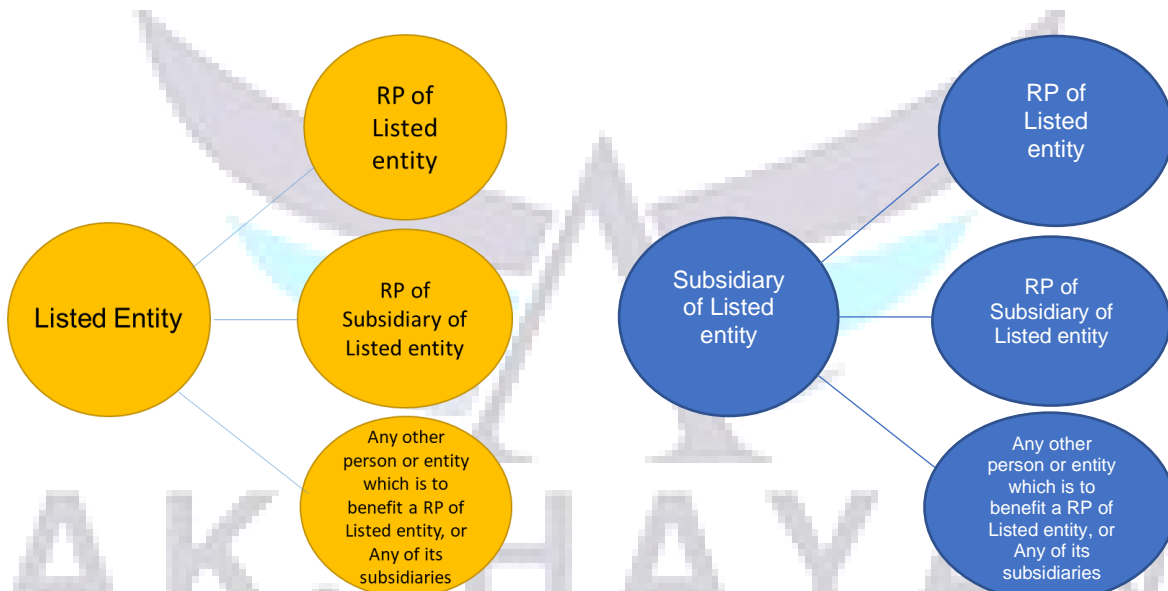
Under regulation 2(1)(zc), the following are considered as Related Party Transactions of a Listed Entity:

- Transfer of:
 - Resources,
 - Services or
 - Obligations

- w.e.f. 1st April 2022 between:



- w.e.f. 1st April 2023 between:

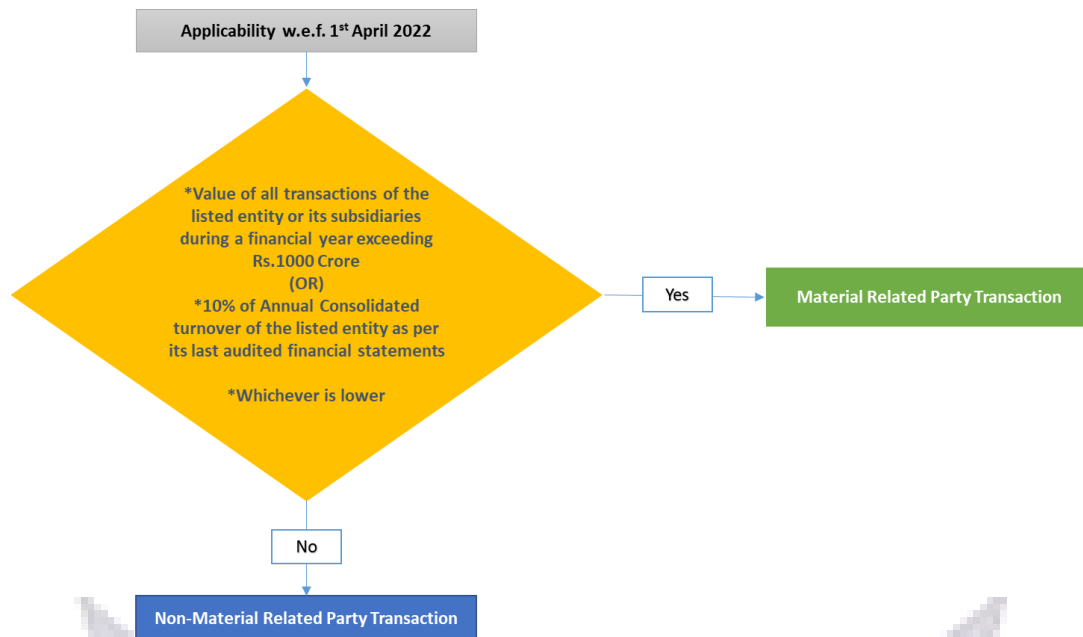


- Irrespective of whether a price is charged or not
- Transaction = single or group of transactions in a contract
- This definition isn't applicable for listed Mutual Funds units.

The current amendment brings into its ambit the **transactions of any and all subsidiaries** of the listed entity **with** (w.e.f. 1st April 2022)/ **for the benefit of** (w.e.f. 1st April 2023) **any related party of the former** as compared to the earlier provision which considered only the transactions between a listed entity and its related party.

What is a Material Related Party Transaction?

Under regulation 23(1), the following thresholds are to be considered to determine Material Related Party transactions of a Listed Entity:

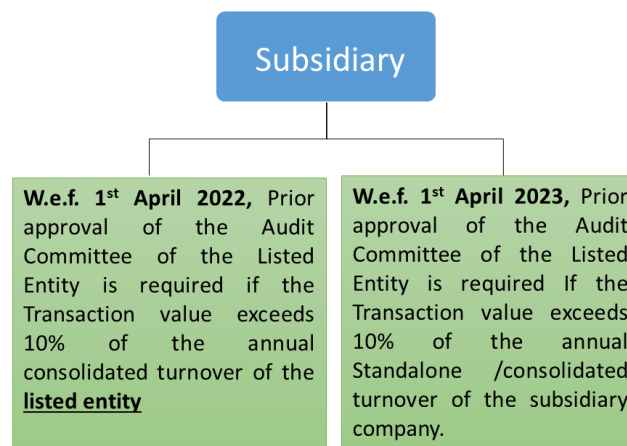


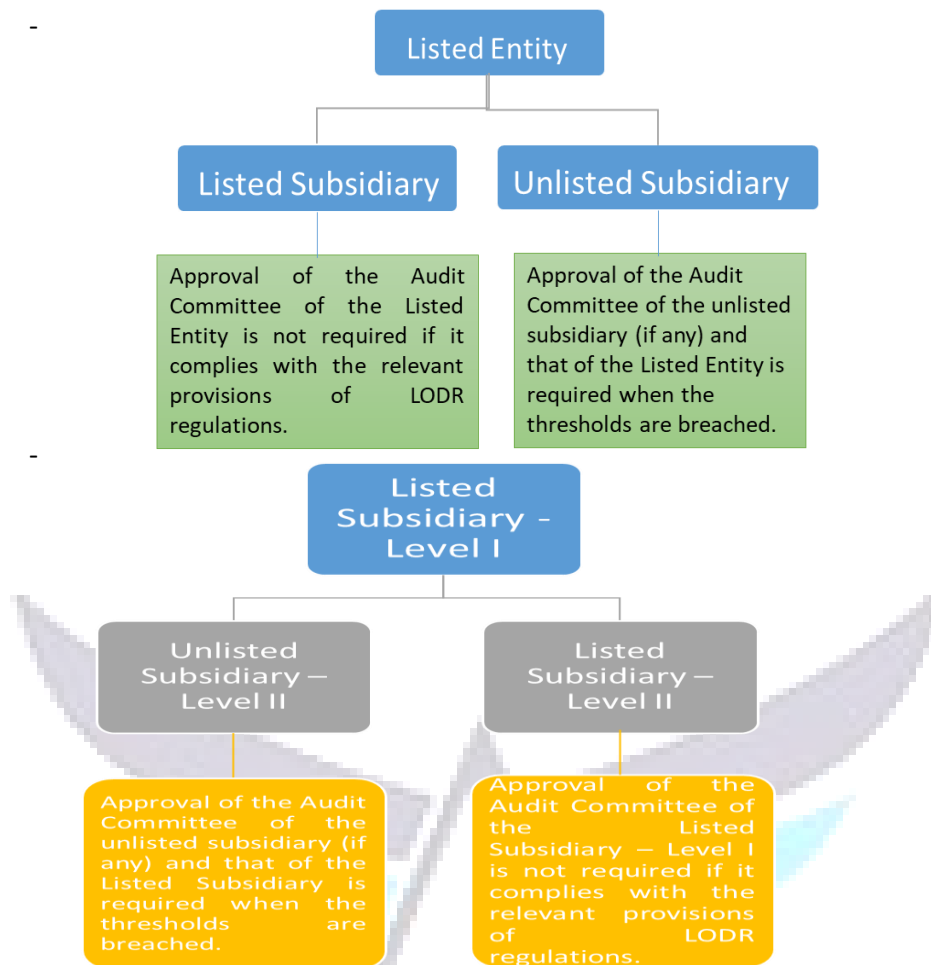
The current amendment provides two criteria for identification of Material Related Party Transactions as compared to the earlier single criteria relating to Annual Consolidated Turnover.

Situations where prior approval of Audit Committee of Listed Entity is required

Under regulation 23(2), prior approval of Audit Committee of Listed Entity is required in the following situations:

- When the Listed entity is a party to the transaction:
 - All related Party Transactions
 - Subsequent material modifications (Material modifications to be defined by the Audit Committee and disclosed in its policy on Materiality of Related Party Transactions).
- When the Listed entity is NOT a party to the transaction but its subsidiary is:
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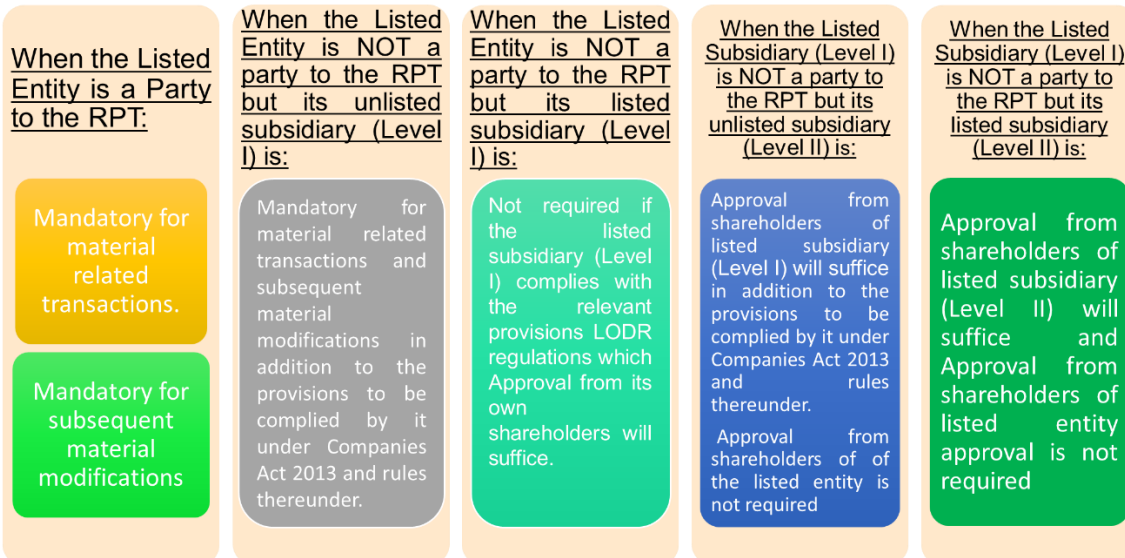
- Only those members of the audit committee, who are independent directors, shall approve related party transactions.

As the scope of related party transactions has been broadened as captured above, prior approval from the Audit committee of the LISTED ENTITY (irrespective of whether the listed entity is a party to the said RPT or not, as elaborated below) is required to be obtained not only for all related party transactions but also for their subsequent material modifications.

In addition, the Audit Committee of the listed entity is required to amend its policy on materiality of related party transactions and on dealing with related party transactions to define “material modifications”.

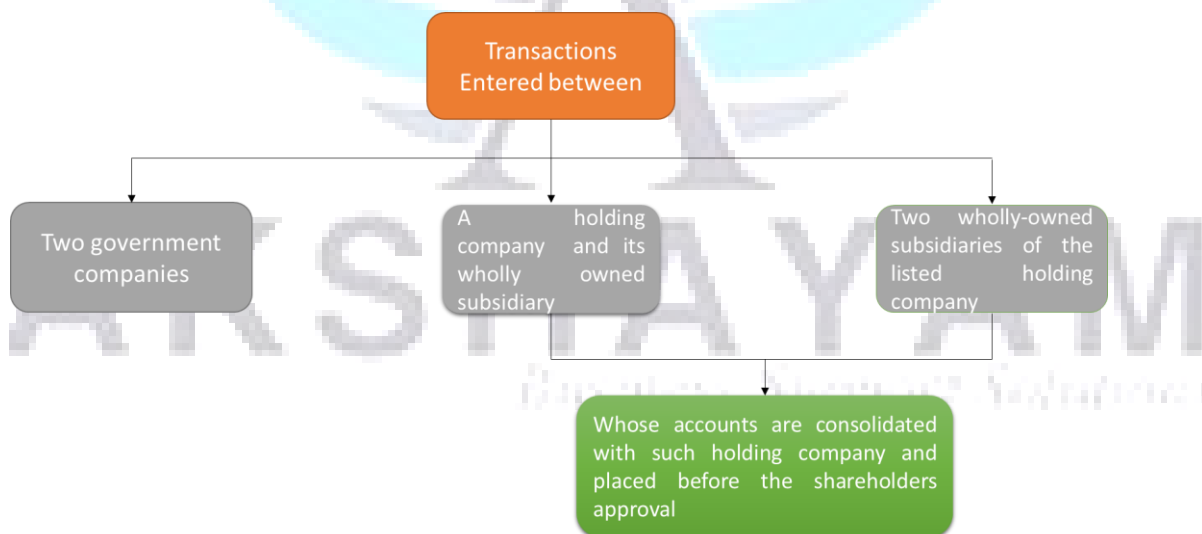
Situations where prior approval of Shareholders of Listed Entity is required

Under regulation 23(4), prior approval of Shareholders of Listed Entity is required in the following situations:



No related party shall vote to approve such resolutions whether the entity is a related party to the particular transaction or not.

Situations where prior approval of Audit Committee and Shareholders of Listed Entity is Not Applicable.



In the above-mentioned situations, the listed Entity is not required to obtain prior approval and Omnibus approval from its Audit Committee and prior approval from its shareholders as per the provisions of Regulation 23(5).

Disclosures and Reporting requirements

- Under Regulation 23(9), The listed entity is required to submit disclosures of related party transactions on a consolidated basis, in the format specified in the relevant accounting standards for annual results to the stock exchanges and publish the same on its website

- w.e.f. 1st April 2022, within 15 days from the date of publication of its standalone and consolidated financial results for the half year.
- w.e.f. 1st April 2023, months on the date of publication of its standalone and consolidated financial results.
- High value debt listed entity shall submit such disclosures along with its standalone financial results for the half year
- Under Schedule V Part A, Disclosures regarding related parties is required to be made in the Annual Report of all listed entities including those which has listed its non-convertible securities except for listed banks.
- Under Schedule II Part C Para B, The Audit committee is mandatorily required to review the statement of significant related party transactions (as defined by the audit committee), submitted by management.

Summary Of Actions Points

Below is a table containing Summary of Action points vide the SEBI (Listing Obligations and Disclosure Requirements) (Sixth Amendment) Regulations, 2021 which is effective from 01st April 2022.

S. No	Reg Ref.	Action Point	Responsibility	Frequency
1.	2(1)(zb)	Amend the definition of Related party in any official documents/ guidelines/ charters or Terms of Reference, etc... if any	Listed Entity	One time WITH THE APPROVAL OF AUDIT COMMITTEE
2.	2(1)(zc)	Amend the definition of Related party transactions in a) Policy on dealing with related party transactions; b) Any other official documents/ guidelines/ charters or Terms of Reference of Board / Audit Committee	Listed Entity	One time WITH THE APPROVAL OF THE AUDIT COMMITTEE
3.	2(1)(zc)	To obtain a list of related parties of all subsidiaries and consolidate the same.	Listed Entity	Periodical – Quarterly suggested
4.	2(1)(zc)	Identify and procure information on the nature and value of transactions of the subsidiaries with the related parties of the listed entities and itself.	Listed Entity	Periodical – Quarterly suggested
5.	23(1)	Amend official documents/ guidelines/ charters or Terms of Reference, etc... if any for determination of Material Related Party Transactions.	Listed Entity	One time
6.	23(1)	Identify Material Related Party transactions entered/ to be entered into by the Listed Entity and its Subsidiaries.	Listed Entity	Periodical – Quarterly
7.	23(2)	Audit Committee of Listed Entity to define “Material Modification”	Listed Entity	One time with periodical review
8.	23(2)	Amend the Policy on dealing with related party transactions to include the definition of “Material Modification”	Listed Entity	One time

9.	23(2)	Identify transactions with related parties of the listed entity and/or of subsidiaries which require prior approval of Audit Committee of Listed Entity	Subsidiary	Periodical – Quarterly
10.	23(2)	Obtain prior approval of Audit Committee of Listed Entity for applicable transactions		Event based
11.	23(4)	Obtain prior approval of Shareholders for all material related party transactions and material modifications	Listed Entity	Event based
12.	23(9)	Submit disclosures of related party transactions on a consolidated basis, in the format specified in the relevant accounting standards for annual results to the stock exchanges and publish the same on its website <ul style="list-style-type: none"> w.e.f. 1st April 2022, within 15 days from the date of publication of its standalone and consolidated financial results for the half year. w.e.f. 1st April 2023, months on the date of publication of its standalone and consolidated financial results. 	Listed Entity	Half Yearly
13.	23(9)	High value debt listed entity - Submit disclosures of related party transactions on a consolidated basis, in the format specified in the relevant accounting standards for annual results to the stock exchanges and publish the same on its website along with its standalone financial results for the half year.	High value debt listed entity	Half Yearly
14.	Schedule II Part C Para B	Audit Committee of listed entity to mandatorily review the statement of significant related party transactions, submitted by management.	Audit Committee of Listed Entity	Periodical – Quarterly
15.	Schedule V part A	Related Party Disclosures in Annual Report	Listed Entity	Annual

Points To Ponder

- a) *For the purpose of related party should the company go by the Shareholding pattern as per LODR or should it go by the ICDR definition which is wider and could possibly include Related parties irrespective of whether they form part of the shareholding pattern or not?*
- b) *What is the logic for Audit committee approval for modification? Even today the approval granted cannot be modified without Audit Committee approval. So where is the questions of material modification and consequent approval by the Audit Committee.*
- c) *The 10% limit is for transactions with individual related parties or on a combined basis?*

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