

Corporate Governance under Law and  
under SEBI regulations, Rules & Best Practices

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Venue : ICAI Tower, BKC

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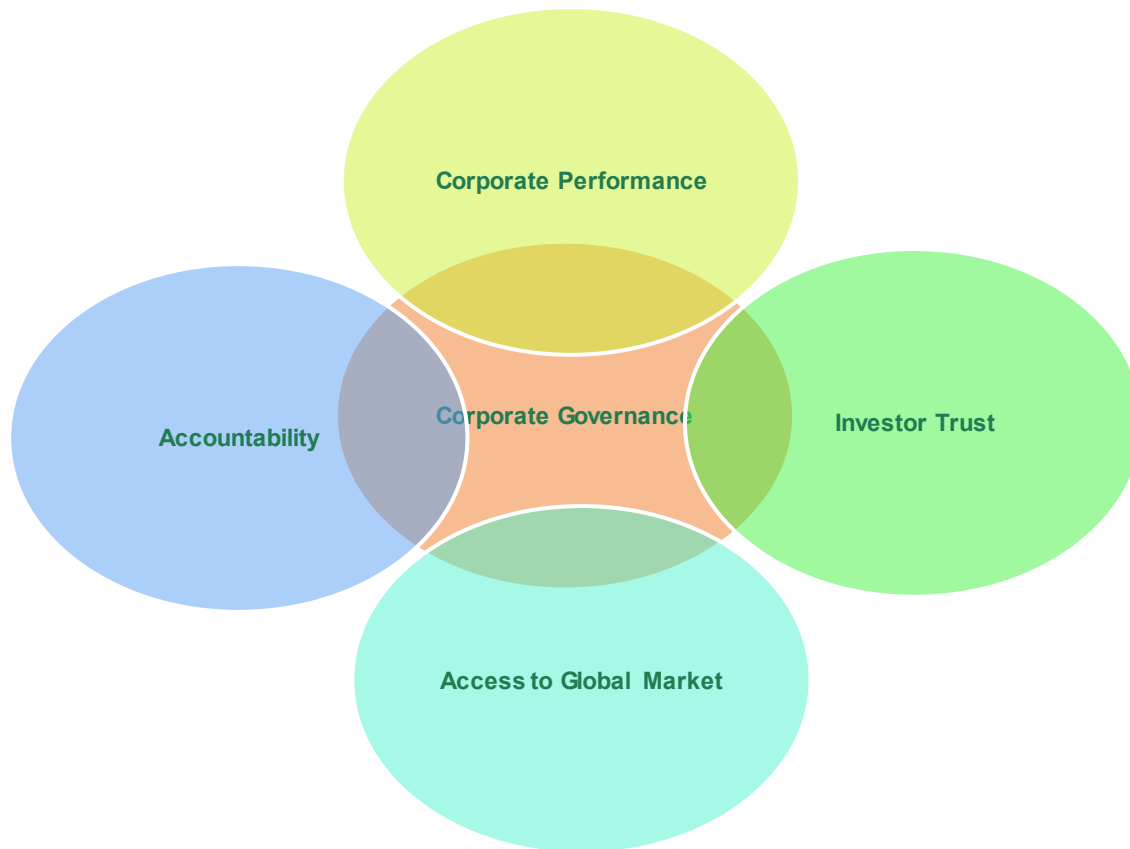
- Background
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A close-up photograph of a person's hands holding a tablet. The tablet screen is illuminated with green light, displaying lines of code or data. The background is dark and out of focus, showing a laptop keyboard and a wooden desk. A semi-transparent dark grey horizontal bar is overlaid across the middle of the image, containing the word "Background" in yellow text.

**Background**

# Corporate Governance

CG is the application of best management practices, compliance of law in true letter and spirit, adherence to ethical standards for effective management and distribution of wealth, discharge of social responsibility for sustainable development of all stakeholders



A person's hands are shown holding a tablet computer. The tablet screen displays a complex data visualization with green lines and bars, resembling a financial or technical chart. The background is dark and out of focus, showing a laptop keyboard in the lower-left corner. A semi-transparent dark horizontal band is overlaid across the middle of the image, containing the text.

# **SEBI LODR Regulations(Amendments)**



# Composition and role of the board of directors

1 Oct 2018 to 31 March 2019

1 April 2019

1 April 2020

**For all listed entities:**

- Disclosure of expertise/ skills overall of the board\*

**For all listed entities:**

- Approval by special resolution for non-executive directors on attaining the age of 75 #
- Person must not be a director in more than eight listed entities
- Disclosure of expertise / skills along with the name of each board member^

**For top 500 listed entities:**

- At least one independent woman director on the board

**For top 1,000 listed entities:**

- Min. six directors on the board
- Quorum higher of 1/3 of total board strength or three directors @

**For all listed entities:**

- Person must not be a director in more than seven listed entities

**For top 500 listed entities:**

- Separate roles of non-executive Chairperson and MD / CEO

**For top 1,000 listed entities:**

- At least one independent woman director on the board

**For top 2,000 listed entities:**

- Min. six directors on the board
- Quorum higher of 1/3 of total board strength or three directors

\* Currently applicable, with reporting from the year ended 31 March 2019

***The Companies Act has a similar requirement***

# For the managing director, whole-time director, or managers attaining the age of 70 years.

@ Quorum of one-third of the total strength of the board of directors or two directors, whichever is higher

^ With effect from the year ended 31 March 2020

The listed entity may consider the following as a part of its disclosures on board evaluation

- Observations of board evaluation carried out for the year
- Previous year's observations and actions taken
- Proposed actions based on current year observations



# The institution of Independent Directors(ID)

1 Oct 2018 to 31 March 2019

**For all listed entities:**

- Definition of ID exclude persons who constitute the “promoter group”
- Resolution of board inter-locks @
- Alternate director cannot continue or be appointed as ID
- Confirmation by the board regarding fulfilment of specified conditions by IDs\*
- Disclosure on resignation of IDs in annual report\*

**For top 500 listed entities:**

- Director and Officers Insurance for all the IDs

1 April 2019

**For all listed entities:**

- Evaluation of IDs by the board
- Disclosure of IDs independence in Corporate Governance Report
- Declaration of independence to be submitted by ID
- Disclosure on resignation of IDs to stock exchanges

1 April 2020

\* Currently applicable, with reporting from the year ended 31 March 2019

@ board inter-locks” that arise due to common non-independent directors on the boards of listed entities

**Example of Board Inter-lock**

If Mr. A is an executive director on companyA (being a listed company) and is also an independent director on the board of companyB, then no non-independent director of companyB can be an independent director on the board of companyA.



# Board Committees

1 Oct 2018 to 31 March 2019

1 April 2019

1 April 2020

## **For all listed entities:**

- Audit committee review of utilization of loans / advances / investments by the holding company in the subsidiary exceeding INR100 crore or 10% of the asset size of the subsidiary, whichever is lower
- Definition of senior management widened and Nomination and Remuneration Committee (NRC) to recommend board on remuneration of senior management
- Min. three directors of which at least one ID on the Stakeholders Relationship Committee (SRC)
- SRC's roles and responsibilities widened

- SRC chairperson to be present in AGM
- NRC quorum higher of 1/3 of total strength or two directors
- SRC and NRC to meet at least once a year

## **For top 500 listed entities:**

- Mandatory set-up of Risk Management Committee (RMC) and to specifically cover cyber security
- RMC to meet at least once a year





# Enhanced monitoring of group entities

1 Oct 2018 to 31 March 2019

**For all listed entities:**

- Secretarial audit to be performed for every listed entity and its material unlisted Indian subsidiary\*

1 April 2019

**For all listed entities:**

- Wider ambit of definition of material subsidiary
- Appoint at least one ID on the board of unlisted material subsidiary including foreign subsidiaries

1 April 2020

\* Currently applicable, with reporting from the year ending 31 March 2019

## Obligations on the board with respect to subsidiaries

Definition of material subsidiary revised (Applicable from April 1, 2019)

- A subsidiary, whose income or net worth exceeds 10% (from the current 20%) of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year
- material subsidiary is considered based on the 20% threshold for the purpose of appointment of an independent director of a listed entity as a director on the board of an unlisted material subsidiary, whether incorporated in India or not.

## Corporate Governance requirements for subsidiary of listed entity

- Appoint at least one independent director of a listed entity as a director on the board of an unlisted material subsidiary has been expanded to those material subsidiary entities, which are incorporated outside India.
- Board of a listed entity to have under its purview all significant transactions and arrangements entered into it by all its unlisted subsidiaries (as compared to the current applicability to only material unlisted).



# Promoters / Controlling shareholders and RPTs

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1 Oct 2018 to 31 March 2019

**For all listed entities:**

- Disclosure of RPTs on a consolidated basis to stock exchanges and on website within 30 days from Board meeting date\*
- Related parties allowed to cast a negative vote on RPTs\*
- Threshold specified for Royalty and Brand payments to related parties (2% of annual consolidated turnover of PY)
- Disclosure of board approved thresholds for material RPTs\*

1 April 2019

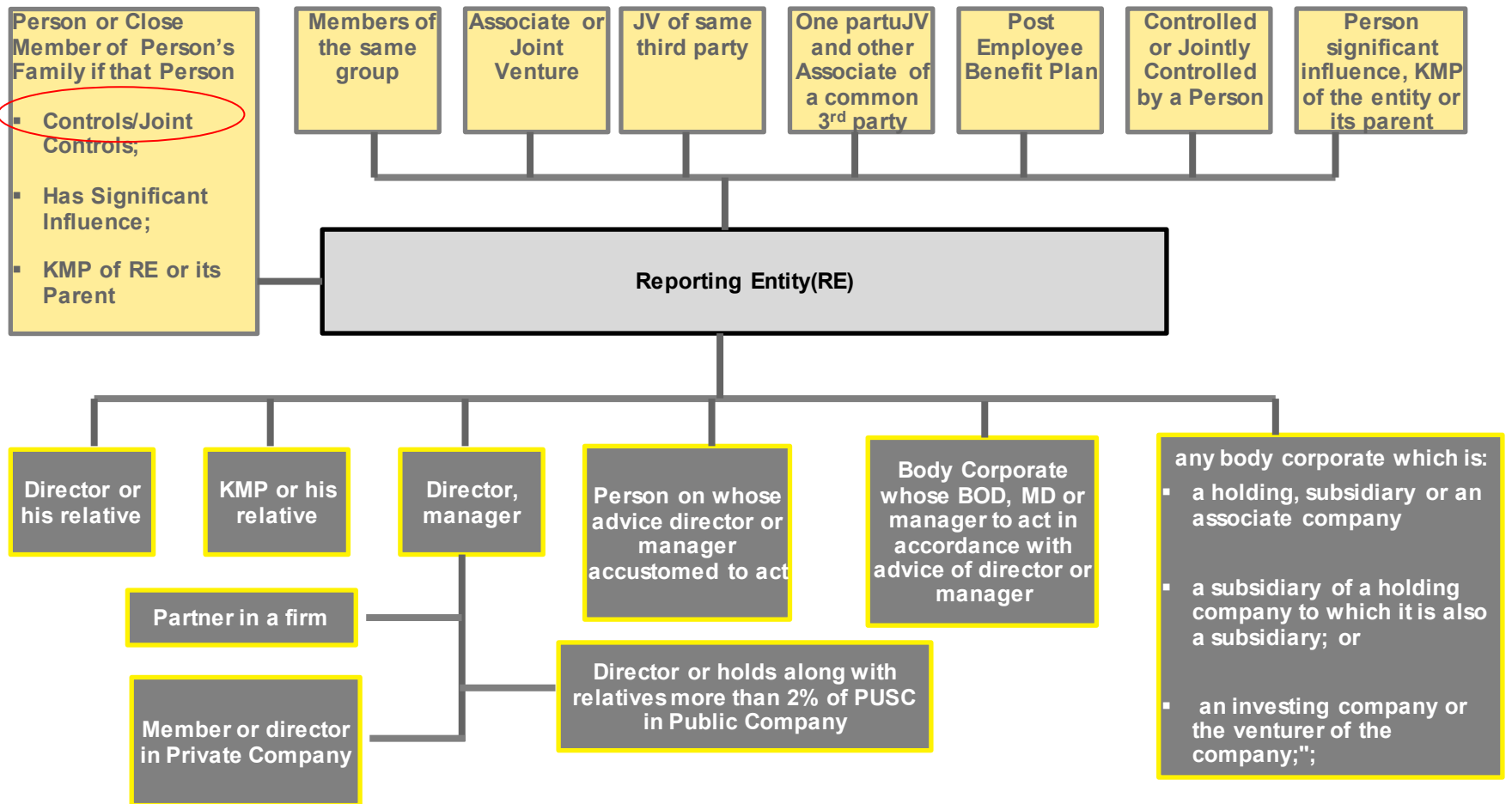
**For all listed entities:**

- Definition of related party is widened and disclosure required in annual report
- Shareholder approval required for payment of remuneration to executive promoter directors/ non-executive directors exceeding threshold

1 April 2020

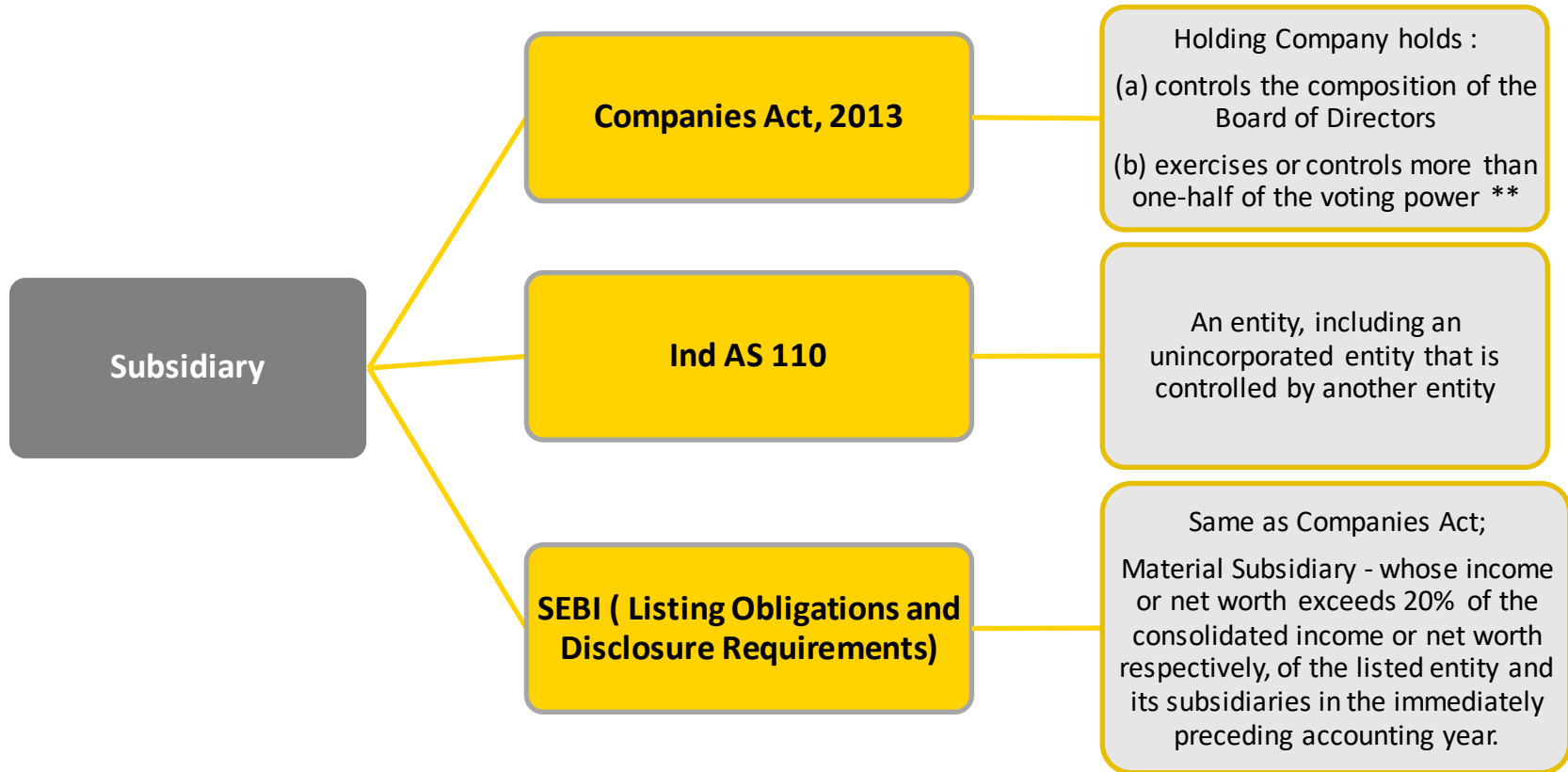
\* Applicable from 1 October 2018, with effect from the half-year ending 31 March 2019

# Related Party Definition



Ind AS 24 | Companies Act, 2013 Section 2(76)

# Subsidiary Definition

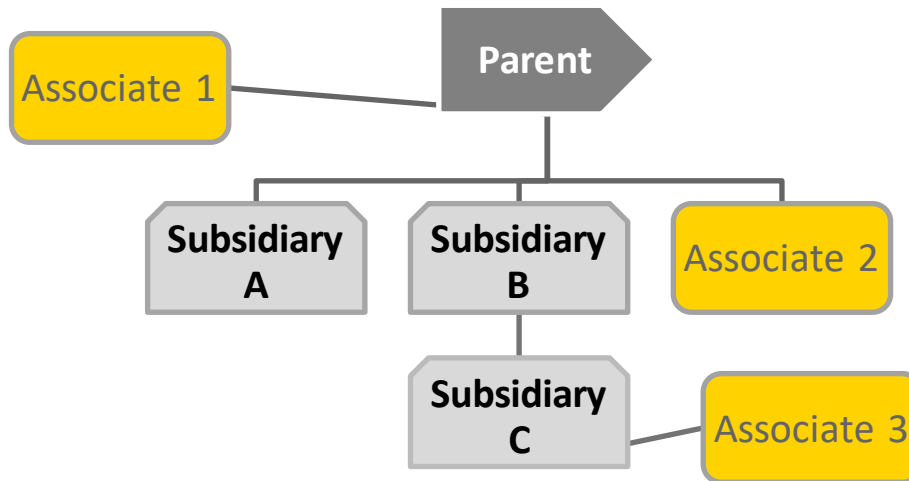


\*\* Total share capital has been replaced by voting power by Companies (Amendment) Act, 2017  
Foreign Company is not a company under the 2013 Act; rather it is a body corporate. To address this issue, the 2017 Amendment Act has specifically clarified that a body corporate that is a holding/subsidiary/associate of an Indian Company should be treated as a related party

# Example of Related Party Ind AS 24

## Associates and subsidiaries

Parent entity has a controlling interest in Subsidiaries A, B and C and has significant influence over Associates 1 and 2. Subsidiary C has significant influence over Associate 3.



**For Parent's separate financial statements,** Subsidiaries A, B and C and Associates 1, 2 and 3 are related parties

**For Parent's consolidated financial statements,** Associates 1, 2 and 3 are related to the Group

**For Subsidiary A's separate financial statements,** Parent, Subsidiaries B and C and Associates 1, 2 and 3 are related parties.

**For Subsidiary B's financial statements,** Parent, Subsidiaries A and C and Associates 1, 2 and 3 are related parties.

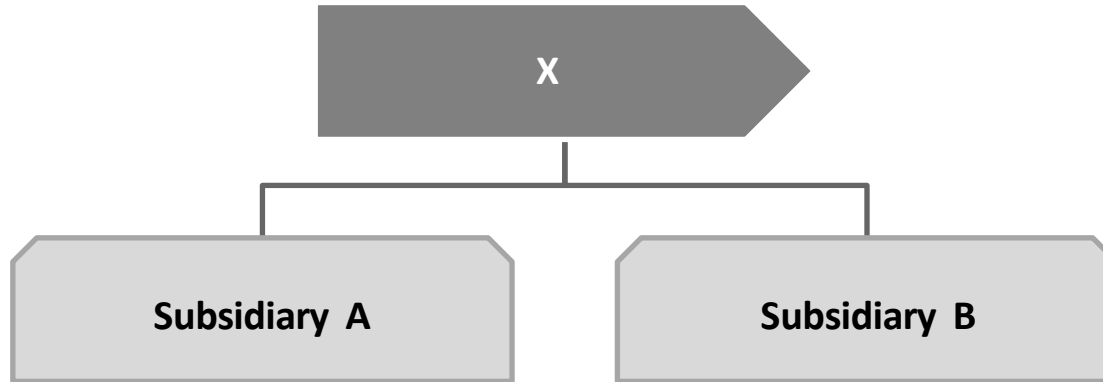
**For Subsidiary C's separate financial statements,** Parent, Subsidiaries A and C and Associates 1, 2 and 3 are related parties.

**For the financial statements of Associates 1, 2 and 3,** Parent and Subsidiaries A, B and C are related parties. Associates 1, 2 and 3 are not related to each other

# Example of Related Party Ind AS 24

## Person as investor

A person, X, has an investment in Entity A and Entity B.



**For Entity A's financial statements,** if X controls or jointly controls Entity A, Entity B is related to Entity A when X has control, joint control or significant influence over Entity B

**For Entity B's financial statements,** if X controls or jointly controls Entity A, Entity A is related to Entity B when X has control, joint control or significant influence over Entity B

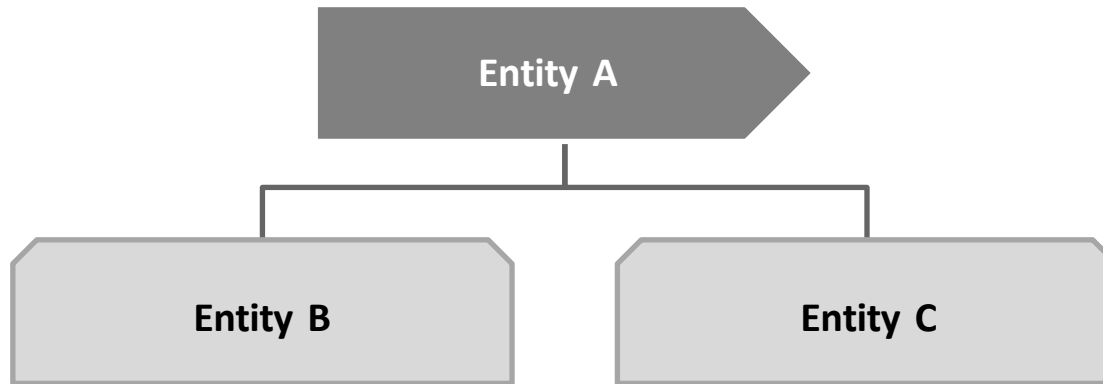
If X has significant influence over both Entity A and Entity B, Entities A and B are not related to each other

# Example of Related Party Ind AS 24

## Person as investor

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Entity A has both (i) joint control over Entity B and (ii) joint control or significant influence over Entity C



**For Entity B's financial statements,** Entity C is related to Entity B

**Similarly, for Entity C's financial statements,** Entity B is related to Entity C



# Disclosures and transparency

1 Oct 2018 to 31 March 2019

1 April 2019

1 April 2020

**For all listed entities(from 1 Oct. 2018):**

- Disclosure of credit ratings of all outstanding instruments
- Prior intimation to stock exchange of board meeting to discuss bonus issue

**For all listed entities:**

- Timeline for annual report submission to stock exchanges and sending to shareholders aligned\*;
- Sending soft copy of annual report to shareholders with registered email id\*;
- Disclosures of Key Changes in Financial Indicators\*;
- Disclosure of utilisation of Proceeds of Preferential Issue and Qualified Institutional Placement (QIP)\*;
- Disclosure of no. of other boards or committees on which director is a member or chairperson\*;
- Disclosure of CS certificate that no director is a disqualified director\*;
- Disclosure of board committee recommendations not accepted by the board\*

**For all listed entities:**

- Disclosure of subsidiary accounts separately on website

\* Currently applicable, with reporting from the year ended 31 March 2019





# Disclosures and transparency (contd)

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## Searchable formats of disclosures

- ▶ Disclosures made by listed entity (Applicable from May 9, 2018)
  - to the stock exchanges to be in XBRL format
  - on entity's website in a user friendly searchable format

## Annual Report to include (Applicable from FY ending March 31, 2019)

- ▶ Disclosures of transactions with any person or entity belonging to the promotor/promotor group relating which hold(s) 10% or more shareholding in the listed entity
- ▶ Details of any change in return on net worth as compared to the immediate previous FY along with a detailed explanation
- ▶ Details of significant changes in Key Financial Ratios
  - Change of 25% or more as compared to the immediately previous FY, with detailed explanations
    - Debtors Turnover
    - Inventory Turnover
    - Interest Coverage Ratio
    - Current Ratio
    - Debt Equity Ratio
    - Operating profit Margin %
    - Net Profit Margin %
    - Sector specific equivalent ratios
- ▶ If an entity has raised funds through preferential allotment/qualified institutional placement, listed entity to disclose every year
  - utilisation of such funds in its annual report until such funds are fully utilised



# Accounting and audit related issues

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1 Oct 2018 to 31 March 2019

**For all listed entities:**

- Disclosure of total fees paid at consolidated level for all services of auditor and its network firms/entities\*

1 April 2019

**For all listed entities:**

- Auditor to review and report on management estimates of audit qualifications
- Mandatory submission of quarterly / year-to-date consolidated financial statements
- Limited review of last quarter financial results with disclosure of material adjustments pertaining to earlier period
- Submission of standalone and consolidated cash flow statements for the half year
- Limited review of subsidiary entities by statutory auditor of parent listed entity
- Disclosure to stock exchange of detailed reasons for auditor resignation
- Disclosure as a part of AGM notice the auditors' credentials and proposed audit fees

1 April 2020

\* Currently applicable, with reporting from the year ended 31 March 2019



# Investor participation in meetings of listed entities

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1 Oct 2018 to 31 March 2019

1 April 2019

1 April 2020

**For top 100 listed entities as at 31 March every financial year:**

- AGM to be held within five months from date of closing the financial year\*

**For top 100 listed entities based on market capitalization at the end of immediately preceding financial year:**

- One-way live webcast of the proceedings of the AGM\*

\* Applicable for the AGMs held after 1 April 2019 (i.e. from the AGM for financial year ended 31 March 2019). Currently, the Companies Act requires listed entities in India to hold AGM within six months from the end of the financial year.



# Recommendations referred to other agencies

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Topic	SEBI Referred recommendation to
Group audits	ICAI to introduce amendments to the relevant accounting / auditing standards
Internal Financial Controls (IFCs)	ICAI to introduce appropriate amendments in its guidance on IFC
Audit quality Indicators	ICAI
Ind AS Adoption	RBI and IRDAI for banks and insurance companies and to MCA for NBFC's
Strengthening the role of ICAI	ICAI and its appropriate levels
Strengthening the independent functioning of QRB	ICAI and QRB
E-voting of Proceedings of the Meeting	MCA for amendment of Management and Administration Rules.

A close-up photograph of a person's hands holding a tablet. The tablet screen is illuminated with a vibrant green light, displaying a dense grid of binary code (0s and 1s). The person's fingers are visible, interacting with the screen. The background is dark and out of focus, showing a laptop keyboard and a wooden desk. A semi-transparent dark horizontal band is overlaid across the middle of the image, containing the text 'Vigil Mechanism' in a bright yellow, bold, sans-serif font.

# Vigil Mechanism



# Whistle-blowing mechanism

## As introduced in Companies Act 2013

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### **Sec 177 (9) Establish a vigil mechanism**

Every listed company or such class or classes of companies, as may be prescribed, shall establish a vigil mechanism for directors and employees to report genuine concerns in such manner as may be prescribed

### **Sec 177(10) Safeguard against victimization**

Policy against victimization of persons using the mechanism  
Provide for access to Chairperson of Audit Committee in appropriate or exceptional cases  
Display policy on the company website  
“Vigil mechanism” to be included in Board’s report

### **Schedule IV Code for independent directors**

Ascertain and ensure that the company has an adequate and functional mechanism  
Ensure that interests of a person who uses the mechanism are not prejudicially affected



# Whistle-blowing mechanism Company Rules 2013

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## ▶ Applicability

- ▶ Listed companies
- ▶ Companies which accept public deposits
- ▶ Companies which have borrowed money from banks and public financial institutions in excess of 50 crores

## ▶ Operation of the vigil mechanism

- ▶ The Audit Committee to oversee the operation of the mechanism
- ▶ For companies that do not need an audit committee, a director to be nominated by the Board to oversee

## ▶ Audit Committee member to recuse if conflicted

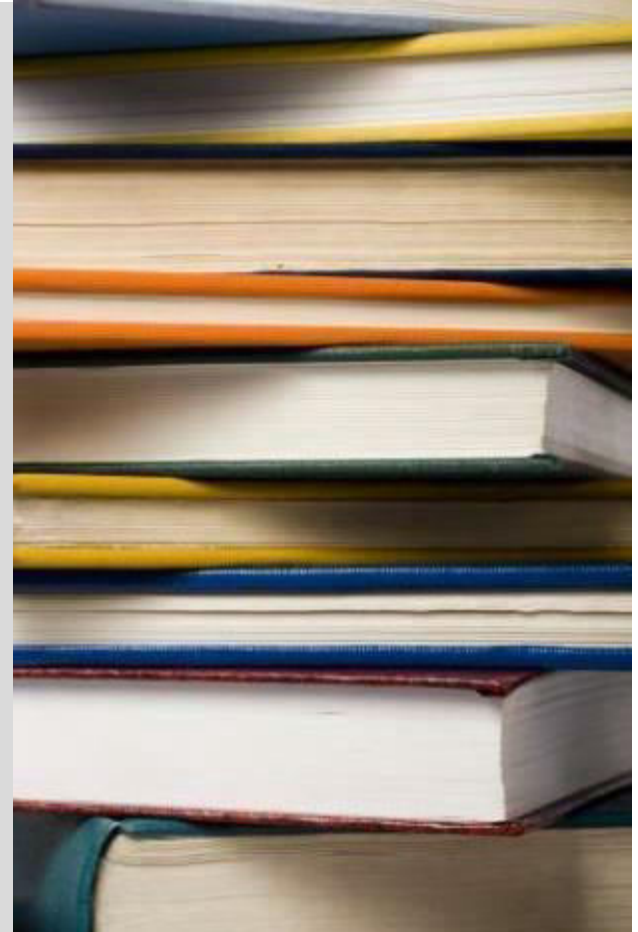
- ▶ If a member of the Audit committee is conflicted in a given case, he should recuse himself


## ▶ Safeguard against victimization

- ▶ The mechanism should provide for adequate safeguards against victimization

## ▶ Frivolous complaints

- ▶ Audit committee or the director to take suitable action (including reprimand) against repeated frivolous complaints





# Vigil mechanism (whistle-blowing)

## SEBI norms: aligned to Companies Act and Rules

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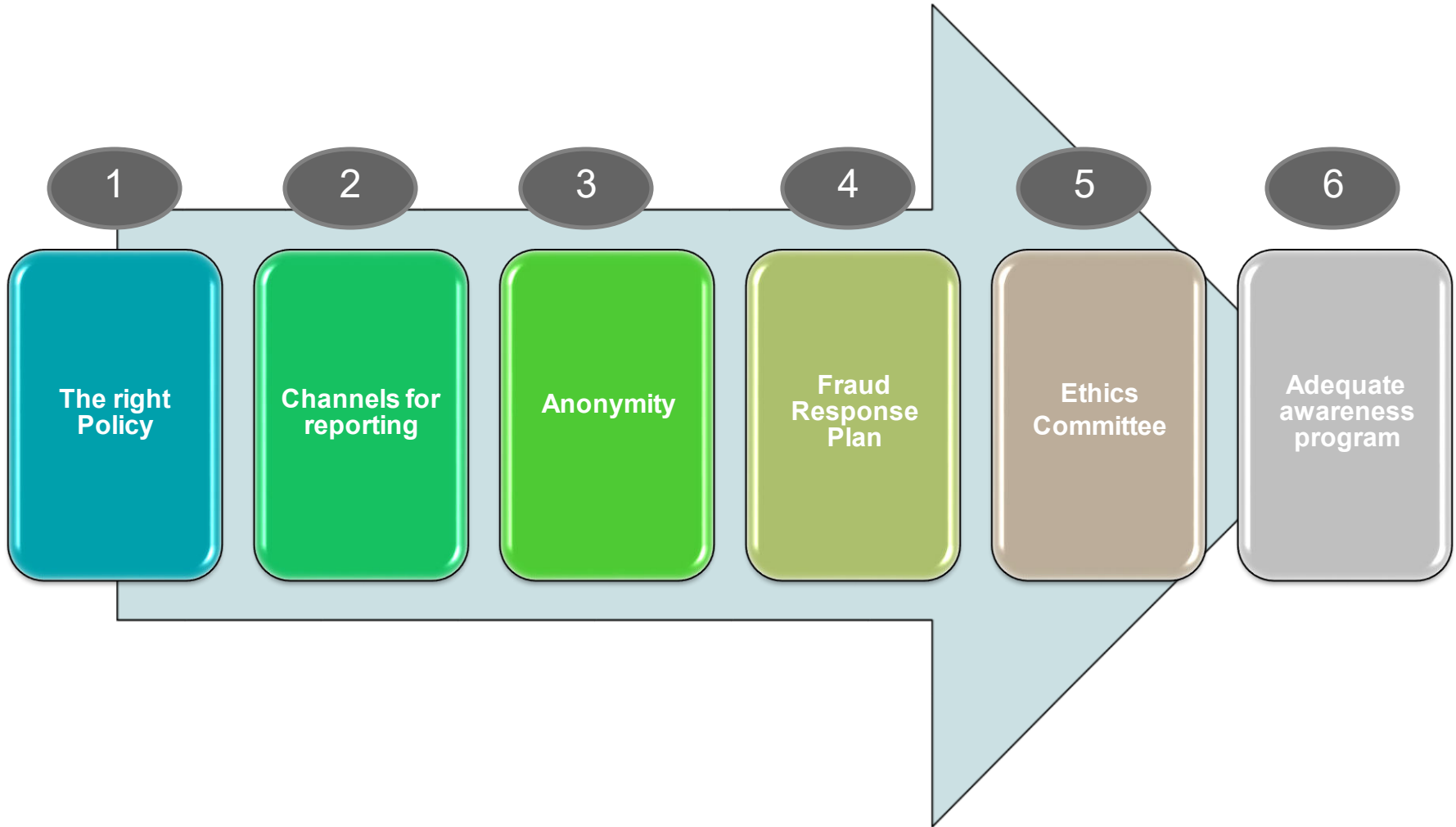
Corporate Governance norms are aligned to the Companies Act 2013. A synopsis of the provisions is set out below.

<b>Provision</b>	<b>Companies Act &amp; Rules</b>	<b>SEBI Norms</b>
Establishing a mechanism		
Establish vigil mechanism for directors and employees to report genuine concerns	Yes	Yes
Direct access to the chairperson of the Audit Committee in appropriate/exceptional cases	Yes	Yes
Disclosure and awareness of the mechanism		
Disclose details on the website and in the Board's report	Yes	Yes
Protection against victimization		
Provide for adequate safeguards against victimisation	Yes	Yes



# Making whistle-blowing effective

## - Critical success factors & Best practices





Thank You