

Examining New Regulations for Registrars



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Background

The role of Registrars has evolved over a period of time, from that of paper processors and manual record keepers to that of an entirely system driven IT-based knowledge service providers. What started as a pain-area outsourcing for companies, engaging the services of a Registrar is today a necessity. As an issuer's representative

in the system the Registrar provides expertise & process ability to sift through massive physical / electronic data and produce the necessary output for the client companies. This key capital market intermediary thus ensures the smooth functioning of both the primary and secondary capital markets.

Securities and Exchange Board of India (SEBI) started registration of market intermediaries around 1993 and at a point of time, more than three hundred entities had registered with SEBI as Registrars. The advent of Depositories was one of the major steps for bringing efficiencies into the functioning of capital markets including getting rid of physical certificates. Many believed that post demat, there would be no role for registrars and many registry companies wound up their activities. But for those who remained and grew post 'demat', the journey has been exhilarating. With a total shift to IT based systems, constant need to upgrade both knowledge and firmware, today the best Registrars are not only surviving, but are called upon to deliver some of the crucial services in the capital market. This is not just a local phenomenon - across the globe, Depositories have been co-existent with Registrars. The growth of the Indian Mutual Fund industry, has also been facilitated by Registrars who took up the challenge of providing technology based solutions to the fund houses.

Current Scenario & New Regulations Impacting Registrars

SEBI has over the last 25 years, been steering a lot of changes in the functioning of intermediaries, including registrars in order to enhance efficiencies, increase compliance and bring in transparency in the functioning of capital markets. Registrars have lived up to the regulator's expectation and brought in required changes in their functioning to cope up with the demands.

In 2018, SEBI has ushered in more changes, with the aim of further strengthening operations and preventing frauds.

SEBI Circular No. SEBI/HO/MIRSD/DOP1/CIR/P/2018/73 dated April 20, 2018 aims at raising standards for RTAs, Issuer Companies and Bankers to Issue. This circular was issued after detailed consultations with representatives from Issuer Companies, Depositories, Bankers and Registrars. The primary objective of this circular is to streamline and strengthen the procedures and processes involved in maintenance of records, transfer of securities and payments on account of corporate actions like redemption, dividend and interest payments.

The salient features of this Circular with respect to cash pay-outs are listed below:

1. Registrars are required to seek bank account details from investors whose details are not available in their records, or where the details have undergone changes.
2. Issuer companies have to ensure that their bankers are equipped to handle cash corporate actions and provide a secured gateway to their Registrars.
3. Banks are required to provide a secured process as per the security mechanism available. They also have to provide file formats which have to include the broad contents as outlined in the Circular.
4. Registrars have to prepare payment files as per file formats, and share the files using the secured gateway as provided by the bankers.
5. Bankers are required to maintain separate records of each corporate action processed by them. Bankers are also required to maintain records of the Payment master file.
6. The issuer company and their Registrar have to carry out periodic reconciliation of all such accounts after receiving data from their bankers.
7. Bankers are required to cancel all unpaid warrants post validity period. Unpaid amounts should be transferred back to the Issuer Company by the designated bank. All unpaid amounts, post validity of the payment period, are also required to be paid through electronic file transfers. If for technical reasons, electronic payment is not feasible, then the bankers can issue demand draft or Banker's cheque with particulars of bank account of the investor.
8. Post the validity period, Registrar has to maintain data of revalidation and reissuance of instruments, including reason for reissuance.
9. Bankers have to provide data for reconciliation on a fortnightly basis during the validity period. Post validity period the data is required to be provided on a quarterly basis. This has to be carried out till the residual amount is transferred to Investors' Education and Protection Fund (IEPF).
10. All reconciliation files are to be maintained by Registrar, Banker and Issuer for a period of eight years.

Registrars' system should have the requisite provision to maintain records of all paid/unpaid and transferred to IEPF account against each investor.

The Circular also prescribes the system to deal with Transfers/Transmissions and correction of errors. The key points are as under:

1. Uniqueness of folio number is to be maintained on a continuous basis. Folio number once allotted cannot be reassigned to another investor even if earlier allotted folio has a nil balance.
2. The transaction history of every investor should be maintained in the registry system and the same should be linked to respective folios.
3. Maker / Checker with appropriate authority matrix should be maintained in the system and processes.
4. Registrar should obtain prior approval from Issuer Company for effecting changes in the records to rectify errors.
5. The software system of the Registrars should be capable of handling all changes / updates through front end. All changes carried out in the database should have a system log available for audit. This would ensure avoidance of fraud.
6. It is necessary that members' data, as available with Registrar, is also available to Issuer Company. Hence Registrar has to provide a copy of Investors' data, including transaction data for shares held in physical form to issuer company on a quarterly basis. Issuer company has to maintain this data as a permanent record. This would result in availability of data on continuous basis with issuer company. Similar data in relation to debenture holders is also required to be maintained and shared with issuer company.
7. Data pertaining to returns to be filed with ROC (Registrar of Companies) has to be shared by registrar with the issuer company which is also required to be maintained by Issuer Company.

Other Important Features of the Circular.

1. The Registrar handles value stationery like dividend / interest / redemption warrants, share and debenture certificates etc. A written policy is required to be in place which would enable strict control on such stationery items. Registrar is now required to provide periodic reconciliation of such stationery to Issuer Company, who in turn has to maintain records of such reconciled statements. Registrar has to maintain register of usage of such stationery with control numbers.
2. Issuance of bonus shares for shareholders holding shares in physical mode is now mandatorily required to be in physical mode only.
3. Many shareholders, particularly in old listed companies, continue to hold their shares in physical mode. Permanent Account Number (PAN) and bank details of such shareholders are not available. Registrars/Issuers are now required to contact such

investors and collect these details. This exercise has already started and expected to be completed within the prescribed timelines. Registrars are required to maintain records of all communication entered into with such shareholders. Enhanced due diligence would be required for all transactions pertaining to folios, where such details cannot be collected. Registrars have to provide a list of such folios to the issuer company at the end of each quarter. Further, the software system of the Registrars should have necessary provision for alert in such cases and both the Registrar and the Issuer Company have to exercise due care while processing transactions pertaining to such folios..

4. All unwanted records and documents should be destroyed by Registrar by maintaining a register of such records / documents.
5. All Registrars are hereafter required to conduct an annual internal audit covering all aspects of operations. Such audit should be conducted by qualified Chartered Accountants or Company Secretaries. The Board of Directors of the registry company is required to consider the audit report and take appropriate corrective action as may be required from time to time. A copy of the audit report (including action taken report) should be made available to the Issuer Company. The audit observations along with the corrective steps taken by the Registrar shall be placed before the Board of Directors of the Issuer Company which has to satisfy itself about the measures taken and recommend more action where due.

Investors holding securities in physical mode, particularly non-residents, who are unaware of their ancestral or old holdings are more vulnerable to frauds. SEBI proposes to take further action, as outlined in their circular as below, to address this issue.

SEBI Circular No SEBI/LAD-NRO/GN/2018/24 dated June 8th, 2018.

The Depositories Act enables investors to hold securities in physical mode although settlement of securities traded on stock exchanges is compulsorily to be in demat mode only. Many investors who do not hold a demat account, get their shares transferred through the off-market mechanism and such transfers as well as inter-family transfers are lodged with issuer company / registrar to register change of ownership. This circular restricts transfer of securities in physical mode from 5th December 2018. However, investors can continue to effect change in ownership through transposition (inter change ownership from first to second holder etc.) and transmission (change in ownership owing to death of the holder).

Depository participants ensure compliance of KYC (Know your Customer) while opening demat account. Investors, who are now required to open demat account to effect off-market and inter-family transfers have to complete necessary formalities and comply with KYC

requirements. It is suspected that many physical holdings may be 'benami' and such holders would find it extremely difficult to comply with these requirements. These physical holdings are likely to stagnate and thus frauds would reduce and the system will be cleansed.

Both the circulars discussed above are steps in the right direction and will further strengthen the processes besides help in reducing frauds.
