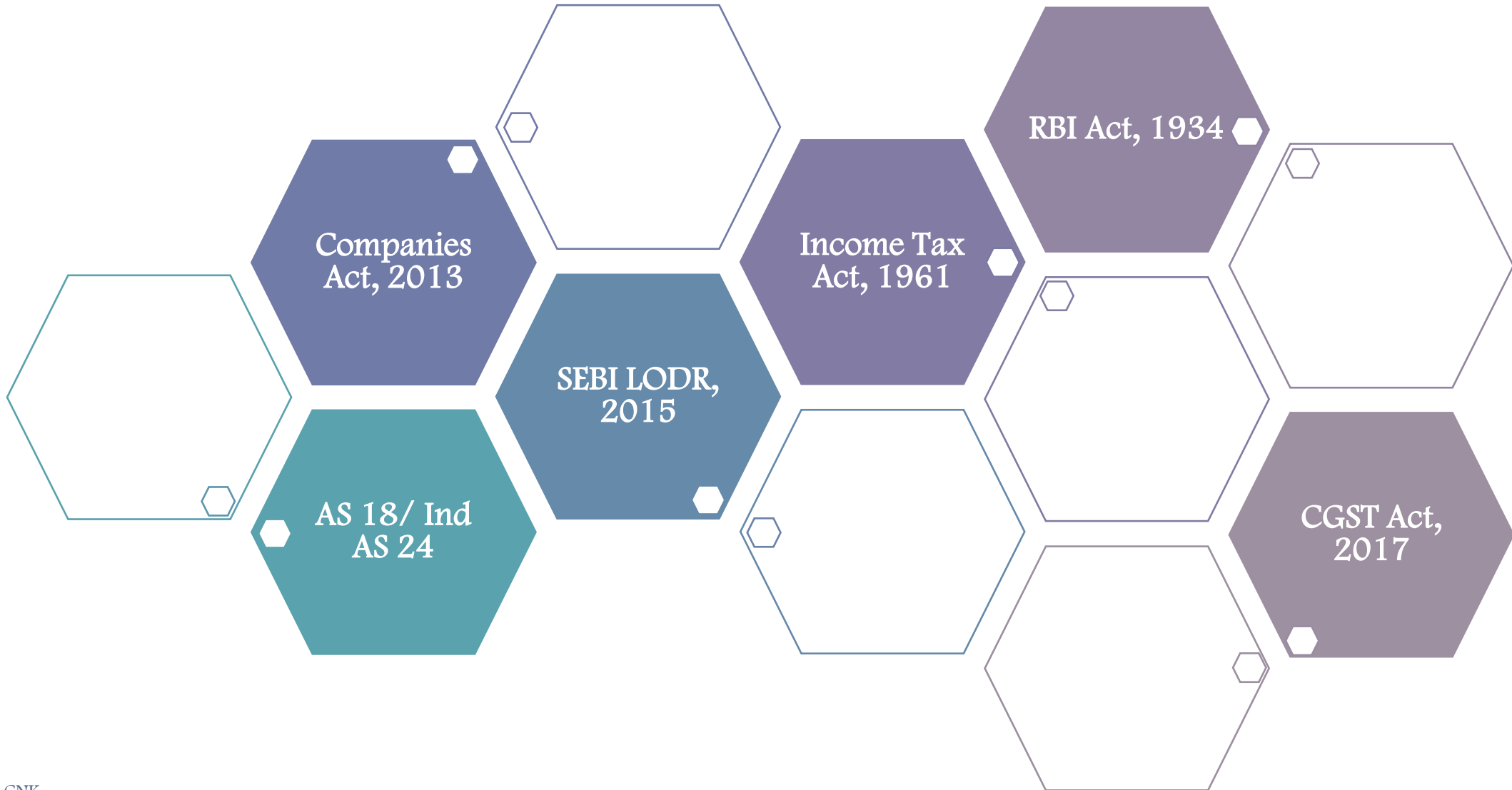




Related Party Transactions under
Companies Act 2013 vis-à-vis AS 18/
Ind AS 24 and other Acts

21st April 2023

~ Himanshu Kishnadwala



CA 2013

Sec 177, 188, Sch III

- Sale, purchase or supply of any goods or materials;
- Selling or otherwise disposing of, or buying, property of any kind;
- Leasing of property of any kind;
- Availing or rendering of any services;
- Appointment of any agent for purchase or sale of goods, materials, services or property;
- Underwriting subscription of any securities or derivatives thereof, of the company
- RPs appointment to any office or place of profit in the company, subsidiary or associate

AS 18

a transfer of resources or obligations between related parties, regardless of whether or not a price is charged

Ind AS 24

a transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged

SEBI LODR

transfer of resources, services or obligations between a listed entity and a related party, regardless of whether a price is charged (Amendment covered in Slide No. 6)

RBI Act

disclosures of RPT to be given as per AS 18/ Ind AS 24

Sec 40A(2)(b) of IT Act, 1961



any expenditure incurred to person as defined under proviso of section 40A(2)(b)

Sec 92B of IT Act, 1961 – Meaning of International Transaction (IT)



“International transaction“(IT) includes –

- purchase, sale, transfer, lease or use of tangible/ Intangible property;
- Capital financing;
- Provision of services;
- Transaction of business restructuring/ reorganisation, entered into by an enterprise with an associated enterprise, irrespective of the fact that it has bearing on the profit, income, losses or assets of such enterprises at the time of the transaction or at any future date;

Section 92BA of IT Act, 1961 ~ Specified Domestic Transaction (SDF) – Applicable if aggregate transactions > 20 Cr



Any of the following transactions, not being an international transaction (IT), namely:

- Transaction referred in section 80A;
- Any transfer of goods/ services referred u/s 80-IA (8)
- Any business transacted between the assessee and other person as referred to in section 80-IA(10);
- any transaction, referred to in any other section under Chapter VI-A or section 10AA, to which provisions of section 80-IA(8) or (10) are applicable; or
- any business transacted between the persons referred to in section 115BAB(6);
- any other transaction as may be prescribed

CGST Act,
2017

Activities treated as ‘Supply’ even if made without consideration:

- Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business
- Import of services by a person from a related person or from any of his other establishment outside India, in the course or furtherance of business

Value to be derived as per Rule 28 of CGST Rules, 2017



Companies Act 2013

- a director or his relative*
- key managerial personnel or his relative*
- a firm, in which a director, manager or his relative is a partner*
- a private company in which a director or manager or his relative is a member or director*
- a public company in which a director and manager is a director and holds along with relatives, more than two percent of its paid-up share capital*
- Any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager*

Any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager

any person on whose advice, directions or instructions a director or manager is accustomed to act

Any body corporate which is:

- A holding, subsidiary or an associate of such company;*
- A subsidiary of holding company to which it is also a subsidiary;*

Member of
HUF

Husband and
Wife

Father

Mother

Son

Son's wife

Daughter

Daughter's
husband

Brother

Sister

Directors and KMP's of Joint Ventures and Associates

Directors having holding of less than 2% in public companies

A person appointed as a senior managerial personnel in

- The company
- Its holding company
- Its subsidiary company
- Its associate company

Sale, purchase or supply of any goods or materials

Selling or otherwise disposing of, or buying, property of any kind

Leasing of property of any kind

Availing or rendering of any services

Appointment of any agent for purchase or sale of goods, materials, services or property

Such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company

Underwriting the subscription of any securities or derivatives thereof, of the company

A Company shall not enter into a transaction or transactions, where the transactions limits have exceeded to the following:

Nature of transaction	Threshold limit
Sale, purchase or supply of any goods or material, directly or through appointment of agent	10% or more of the turnover
Selling or otherwise disposing of or buying property of any kind, directly or through appointment of agent	10% or more of net worth
Leasing of property any kind	10% or more of turnover
Availing or rendering of any services, directly or through appointment of agent	10% or more of the turnover
Appointment of any related party to any office or place of profit in the company, its subsidiary company or associate company	at a monthly remuneration exceeding Rs. 2.5 Lakhs
Remuneration for underwriting the subscription of any securities or derivatives thereof, of the company	exceeding 1% of the net worth

In case the transaction exceeds the above mentioned limits, prior approval needs to be taken from the shareholder's through a resolution.

- i. Where such office or place is held by a director, if the director holding it receives from the company anything by way of remuneration over and above the remuneration to which he is entitled as director, by way of salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;
- ii. Where such office or place is held by an individual other than a director or by any firm, private company or other body corporate, if the individual, firm, private company or body corporate holding it receives from the company anything by way of remuneration, salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

- The term ‘ordinary course of business’ has not been specifically defined under CA 2013 or the Companies (Meetings of Board and its Powers) Rules, 2014 as amended from time to time
- **Standard of Auditing (SA) 550 – “Related Parties”** referred in the proviso to section 143 (10) of CA 2013 has provided few examples as guidance in respect of transactions outside the entity’s normal course of business which are as under:
 - Complex equity transactions, such as corporate restructuring and acquisition.
 - under contracts whose terms are changed before expiry.
 - Transaction with offshore entities in jurisdiction with weak corporate Laws.
 - The leasing of premises or the rendering of management services by the entity to another party if no consideration is exchanged.
 - Sales transactions with unusually large discount or returns
 - Transactions with circular arrangements, for example sales with a commitment to repurchase.
 - Transactions under contracts whose terms are changed before expiry

- **“Arm’s length transaction” means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.**
- From a common parlance perspective, it appears that to demonstrate the same, a company will need to show that the existence of special relationship between the contracting parties has not affected the transaction and its critical terms, including the price, quantity and other terms and conditions governing the transaction. Hence, terms of the transaction are comparable to those which unrelated parties would have agreed for a similar transaction.
- Establishment of arm’s length basis with related party can be any one of the following:
 - similar transaction entered with unrelated party at same terms and price and during the same period;
 - market quote for similar transactions;
 - prevailing market rate for the particular transaction

Criteria for omnibus approval - Under Rule 6A of Companies Act, 2013

AC to specify criteria after discussion with Board for omnibus approval which are as under:

Maximum value of transaction in aggregate in a year

Maximum value per transactions

Extent and manner of disclosures to AC for omnibus approval

Review at such interval

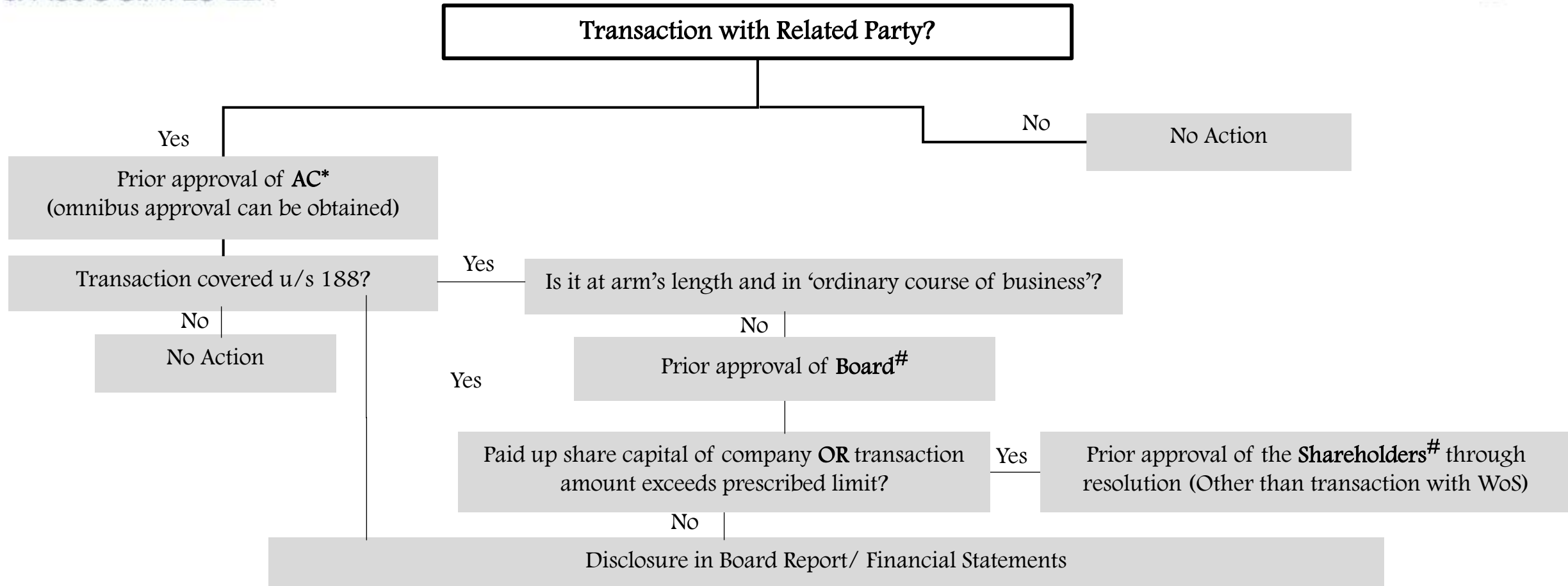
Transactions which cannot be subjected to omnibus approval

Approval without information

AC may make omnibus approval upto 1 crore rupees per transaction for RPT which cannot be foreseen and for which details are not available

Validity of Omnibus Approval

Valid for one financial year



*1. - In case any transaction is entered for an amount not exceeding Rs. 1 crores without obtaining the approval of AC, it can be ratified within 3 months from the date of transaction.

- Transactions with WoS which are referred u/s 188 only, shall be approved by the AC.

2. In case RPT cannot be foreseen and required details are not available, AC may grant omnibus approval, subject to their value not exceeding Rs. 1 crore per transaction.

In case any transaction is entered without obtaining the approval of Board or Shareholders, it can be ratified within 3 months from the date of transaction.

- Particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the prescribed form;
- Prescribed in Rule 8 (2) of Companies (Accounts) Rules, 2014:
 - The Report of the Board shall contain the particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the Form AOC-2.



Indian Accounting Standard (Ind AS) – 24

To ensure that an entity's financial statements contain the disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related parties and by transactions and outstanding balances.

This Standard shall be applied in:

identifying related party relationships and transactions;

identifying outstanding balances, including commitments, between an entity and its related parties;

identifying the circumstances in which disclosure of the items in (1) and (2) is required; and

determining the disclosures to be made about those items.

A **related party** is a person or entity that is related to the entity that is preparing its financial statements

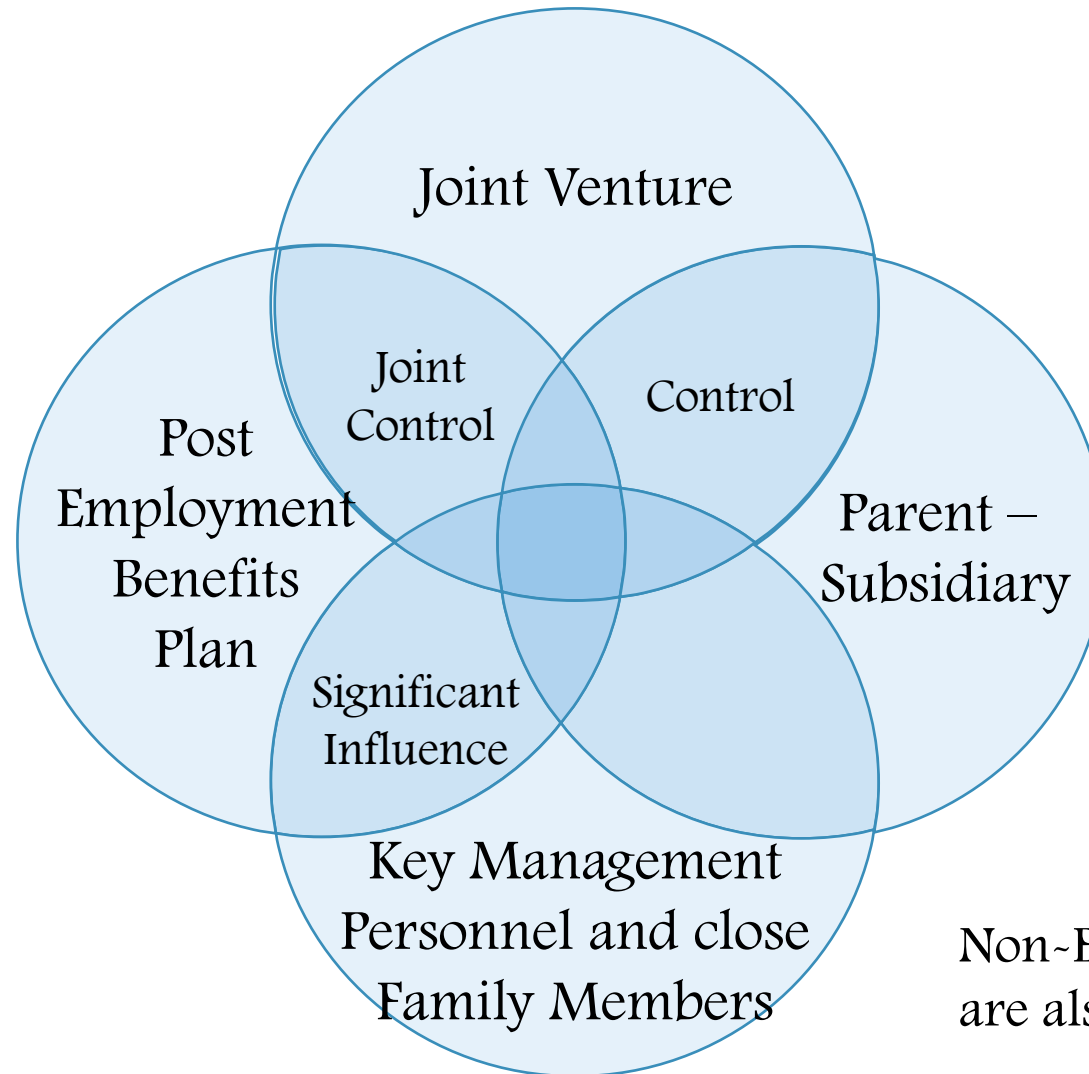
- a) A person or a close member of that person's family is related to a reporting entity if that person:
 - i. has control or joint control of the reporting entity;
 - ii. has significant influence over the reporting entity; or
 - iii. is a member of the key management personnel of the reporting entity or of a parent of the reporting entity.

- b) An entity is related to a reporting entity if any of the following conditions applies:
- i. The entity and the reporting entity are members of the same group.
 - ii. One entity is an associate or JV of the other entity
 - iii. Both entities are JV's of the same third party.
 - iv. One entity is a JV of a third entity and the other entity is an associate of the third entity.
 - v. The entity is a post-employment benefit plan for the benefit of employees of either the reporting entity or an entity related to the reporting entity. If the reporting entity is itself such a plan, the sponsoring employers are also related to the reporting entity.
 - vi. The entity is controlled or jointly controlled by a person identified in (a).
 - vii. A person identified in (a) (i) has significant influence over the entity or is a member of the KMP of the entity.
 - viii. The entity, or any member of a group of which it is a part, provides key management personnel services to the reporting entity or to the parent of the reporting entity.

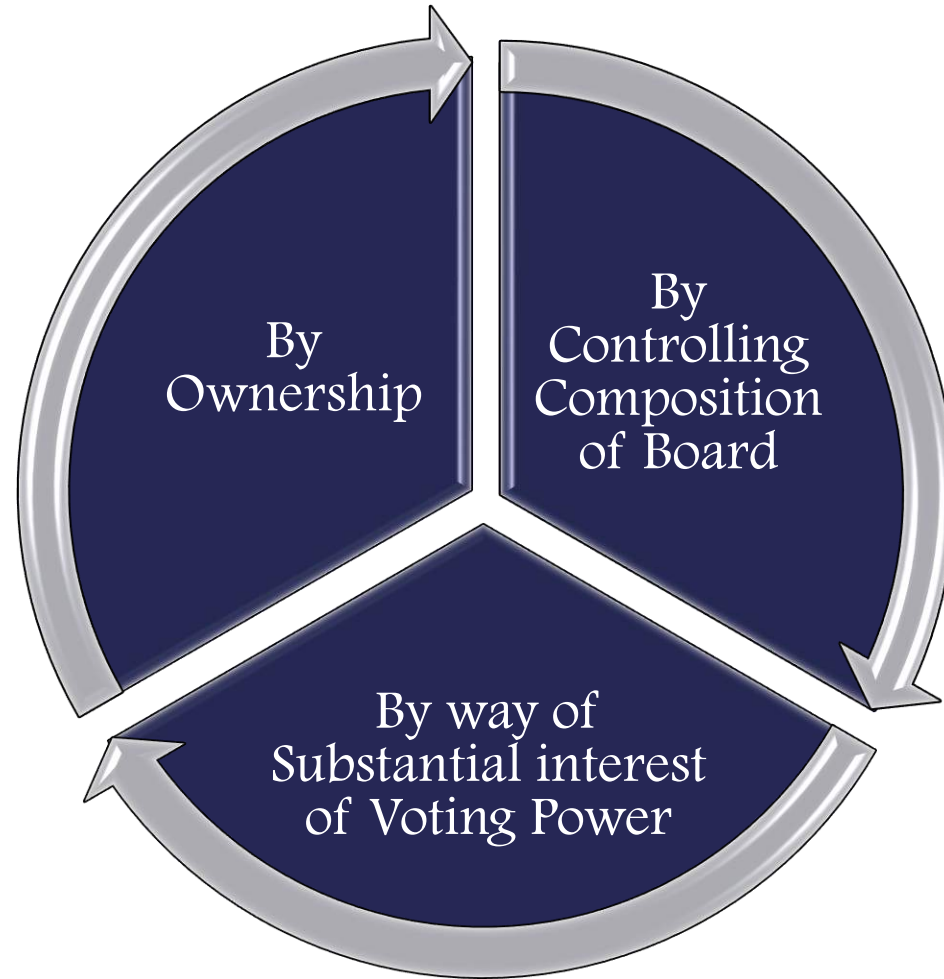
Key Management Personnel Are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.

Related Party Transaction A related party transaction is a transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.

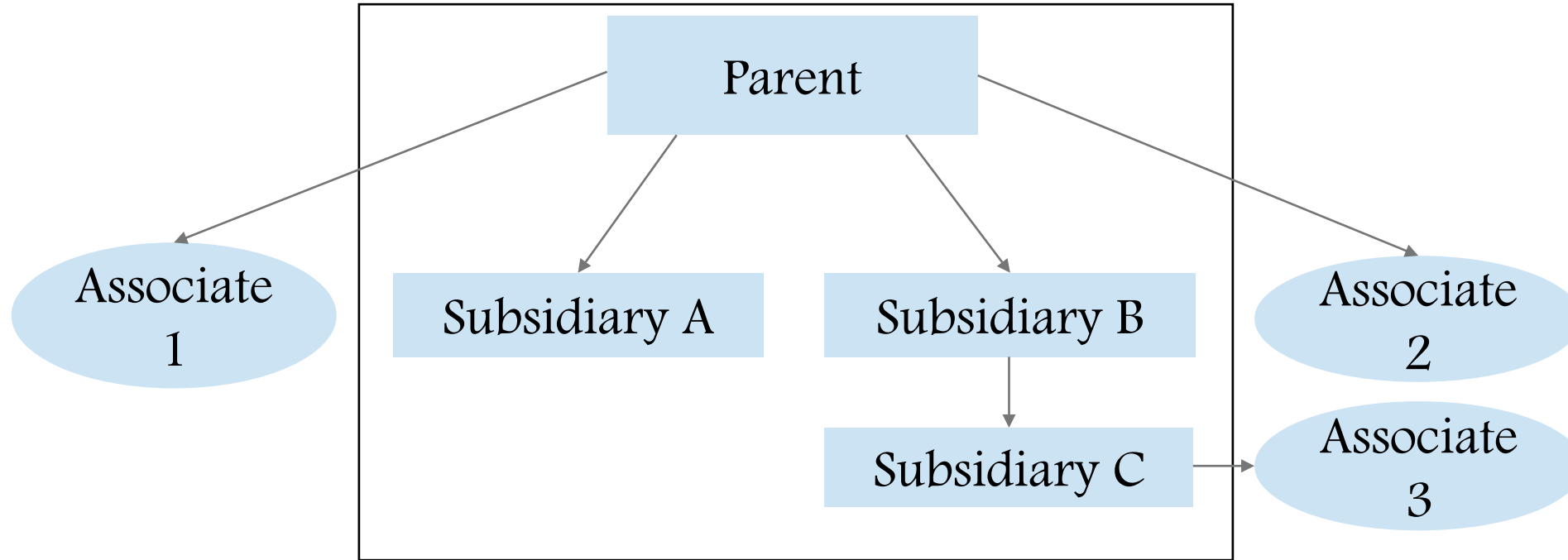
- Close members of the family of a person** *Close members of the family of a person* are those family members who may be expected to influence, or be influenced by, that person in their dealings with the entity including:
- a) that person's children, spouse or domestic partner, brother, sister, father and mother;
 - b) children of that person's spouse or domestic partner; and
 - c) dependents of that person or that person's spouse or domestic partner.



Non-Executive Directors
are also deemed as KMP



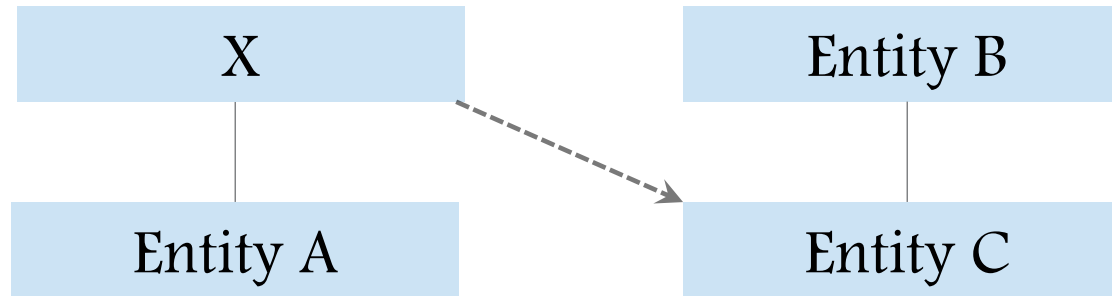
Associate and Subsidiary



Associates 1, 2 and 3 are not related to each other.

Parent, Subsidiary A, B and C are related to each other and to Associates 1, 2 and 3.

Key Managerial Personnel



Person X has 100% investment in Entity A and is a member of the KMP of Entity C.

For Entity C

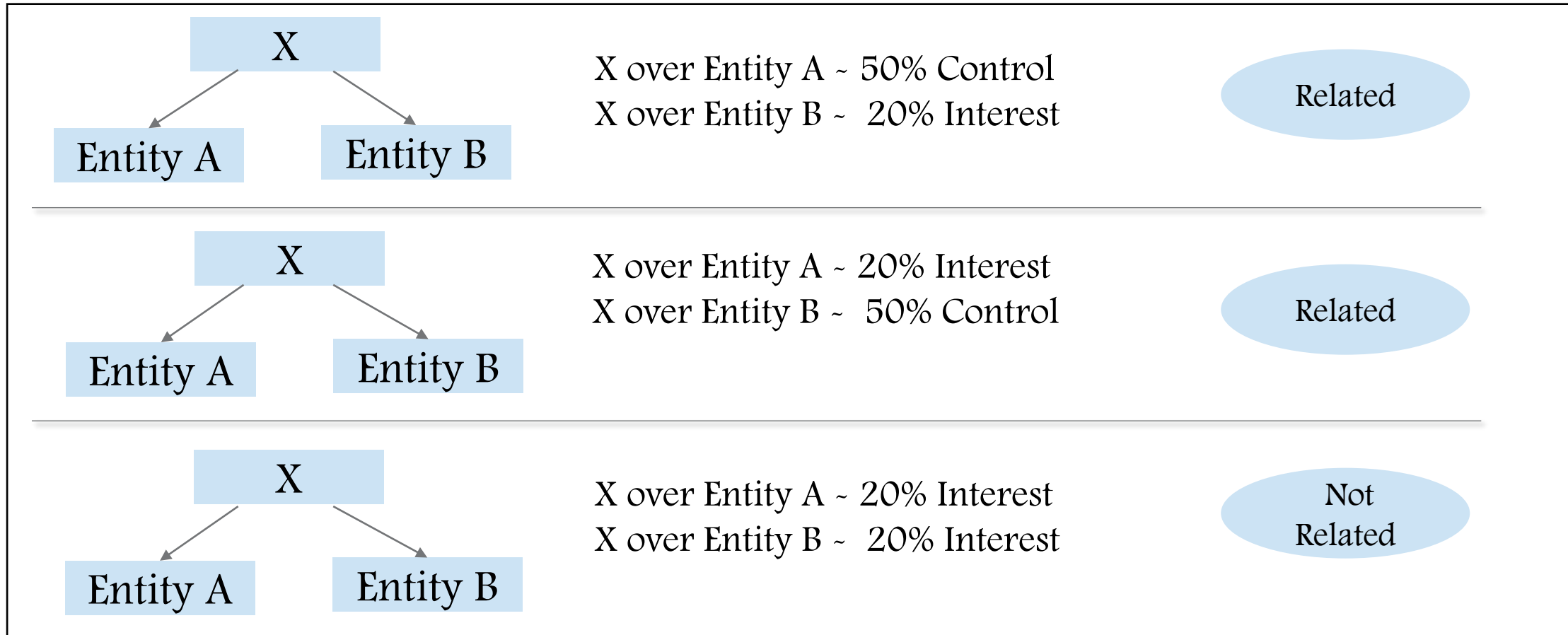
- A is related as X controls Entity A
- A is also related if X is a KMP of Entity B and not C

For Entity A, Entity C is related.

For Entity B, Entity A is related.

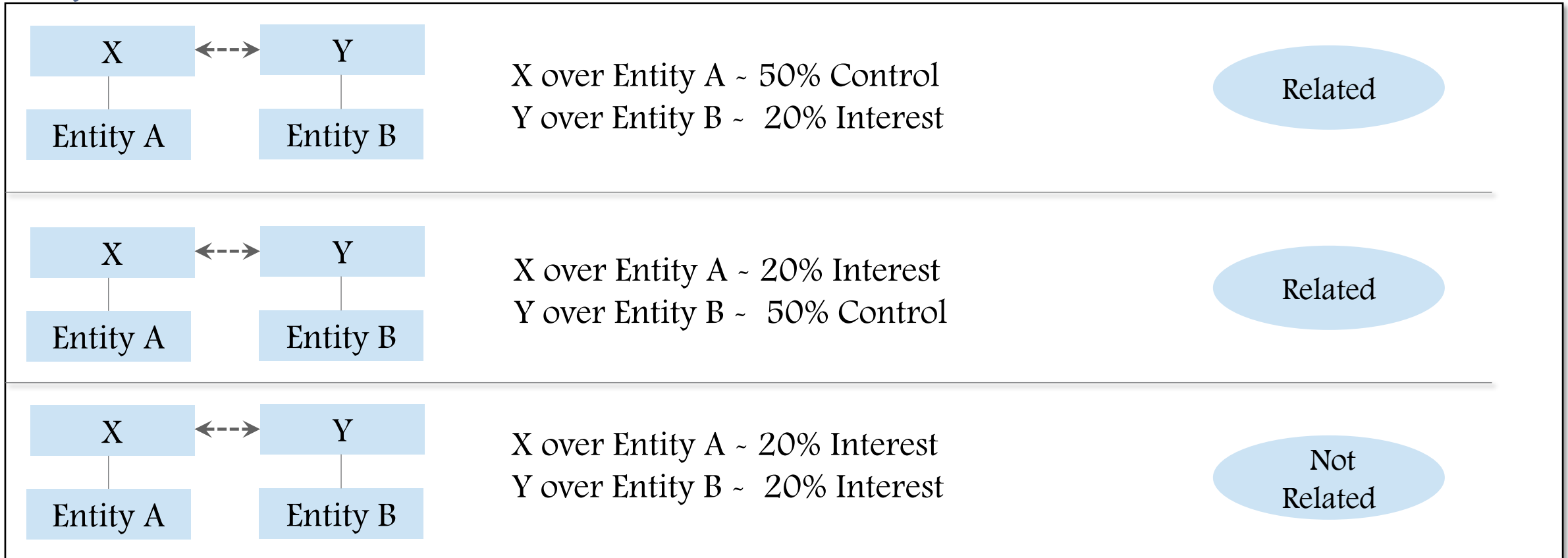
Person as Investor

Person X has an investment in Entity A and Entity B.

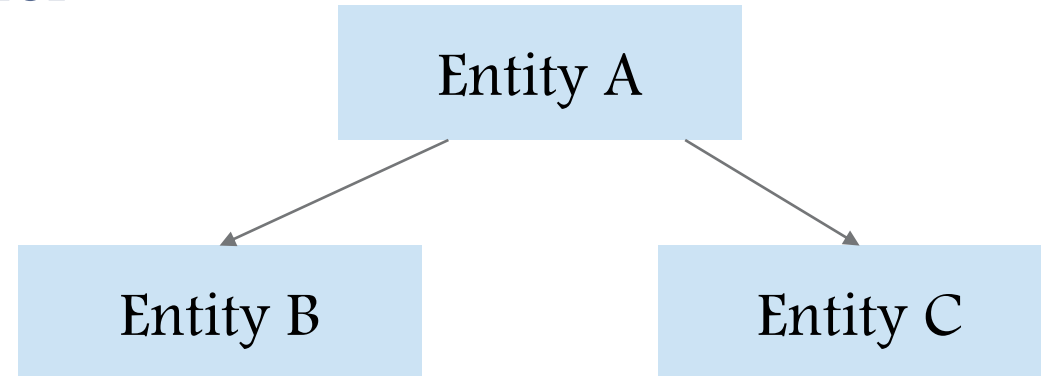


Close member of the family holding investment

Person X is the domestic partner of Person Y. X has an investment in Entity A and Y has an investment in Entity B.



Entity with joint control



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

Government related entities

A reporting entity is exempt from the disclosure requirement in relation to related party transactions and outstanding balances, including commitments, with:

a government that has control or joint control of, or significant influence over, the reporting entity; and

another entity that is a related party because the same government has control or joint control of, or significant influence over, both the reporting entity and the other entity.

Government related entities

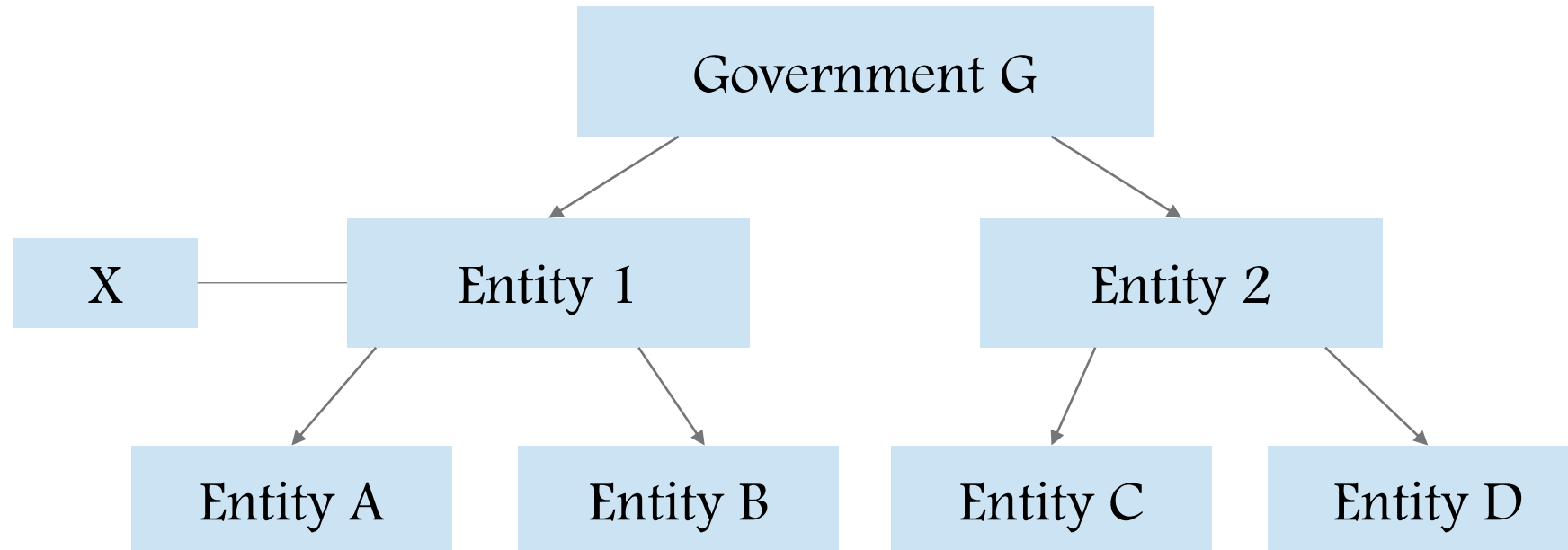
If a reporting entity applies the exemption, it shall disclose the following about the transactions and related outstanding balances:

the name of the government and the nature of its relationship with the reporting entity

the nature and amount of each individually significant transaction; and

for other transactions that are collectively, but not individually, significant, a qualitative or quantitative indication of their extent.

Government related entities



Exemption applies to –

- ~ Transactions with Govt. G
- ~ Transactions with Entities 1 and 2 and Entities B, C and D

However, exemption does not apply to transactions with Person X

- Relationships between a parent and its subsidiaries shall be disclosed irrespective of whether there have been transactions between them.

- If neither the entity's parent nor the ultimate controlling party produces consolidated financial statements available for public use, the name of the next most senior parent that does so shall also be disclosed.

An entity shall disclose KMP compensation in total and for each of the following categories:

- a) short-term employee benefits;
- b) post-employment benefits;
- c) other long-term benefits;
- d) termination benefits; and
- e) share-based payment.

If an entity obtains KMP services from another entity, the entity is not required to apply the requirements to the compensation paid or payable by the management entity to the management entity's employees or directors.

The disclosures required, like the amount of the transaction, outstanding balances, provision for doubtful debts and expense recognized as bad or doubtful debts shall be made separately for each of the following categories:


- a) the parent;
- b) subsidiaries;
- c) associates;
- d) joint ventures in which the entity is a joint venturer;
- e) KMP of the entity or its parent; and
- f) others.

-
- It was noted that a subsidiary company had received borrowings from financial institutions, but the **details and terms of the borrowings were not available in the financial statements** of that subsidiary company. Further, financial statements of the holding company were referred for additional details.
 - As per the financial statements of holding company, it was noted that holding company had issued corporate guarantees as a security for loan availed by the subsidiary company from financial institutions. However, neither the guaranteed commission was recognized as per Ind AS 109 nor the disclosures required by Ind AS 24 were made in the financial statements of subsidiary company.
-

-
- It was viewed that expense on account of waiver of an interest receivable is a bad debt.
 - As the expense pertains to a related party, it requires disclosure under Related Party Disclosure as per paragraph 18 (d) of Ind AS 24. However, under related party disclosure, no disclosure was given in this regard.
 - Further, an item can be classified as an exceptional item only if the criteria mentioned in paragraphs 97 and 98 of Ind AS 1 has been met.
-



Accounting Standards (AS) – 18



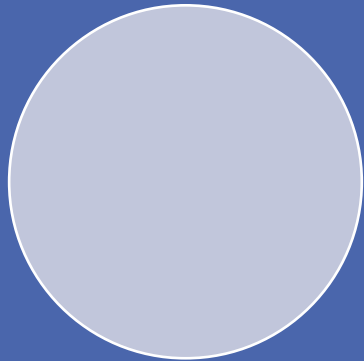
Enterprises that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the reporting enterprise

Associates and joint ventures of the reporting enterprise and the investing party or venture in respect of which the reporting enterprise is an associate or a joint venture

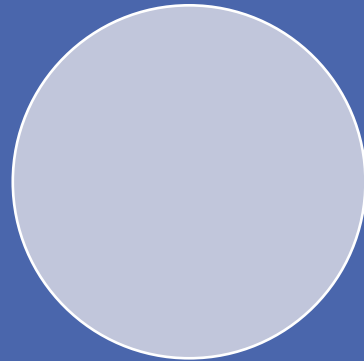
Individuals owning, directly or indirectly, an interest in the voting power of the reporting enterprise that gives them control or significant influence over the enterprise, and relatives of any such individual

Key management personnel and relatives of such personnel

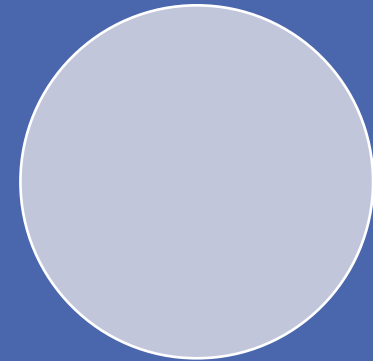
Enterprises over which any person described above is able to exercise significant influence.



2 companies having a common director



A single customer, supplier, franchiser, distributor, or general agent with whom an enterprise



Parties listed below, in the normal dealings:

- ~ Providers of finance
- ~ Trade unions
- ~ Public utilities

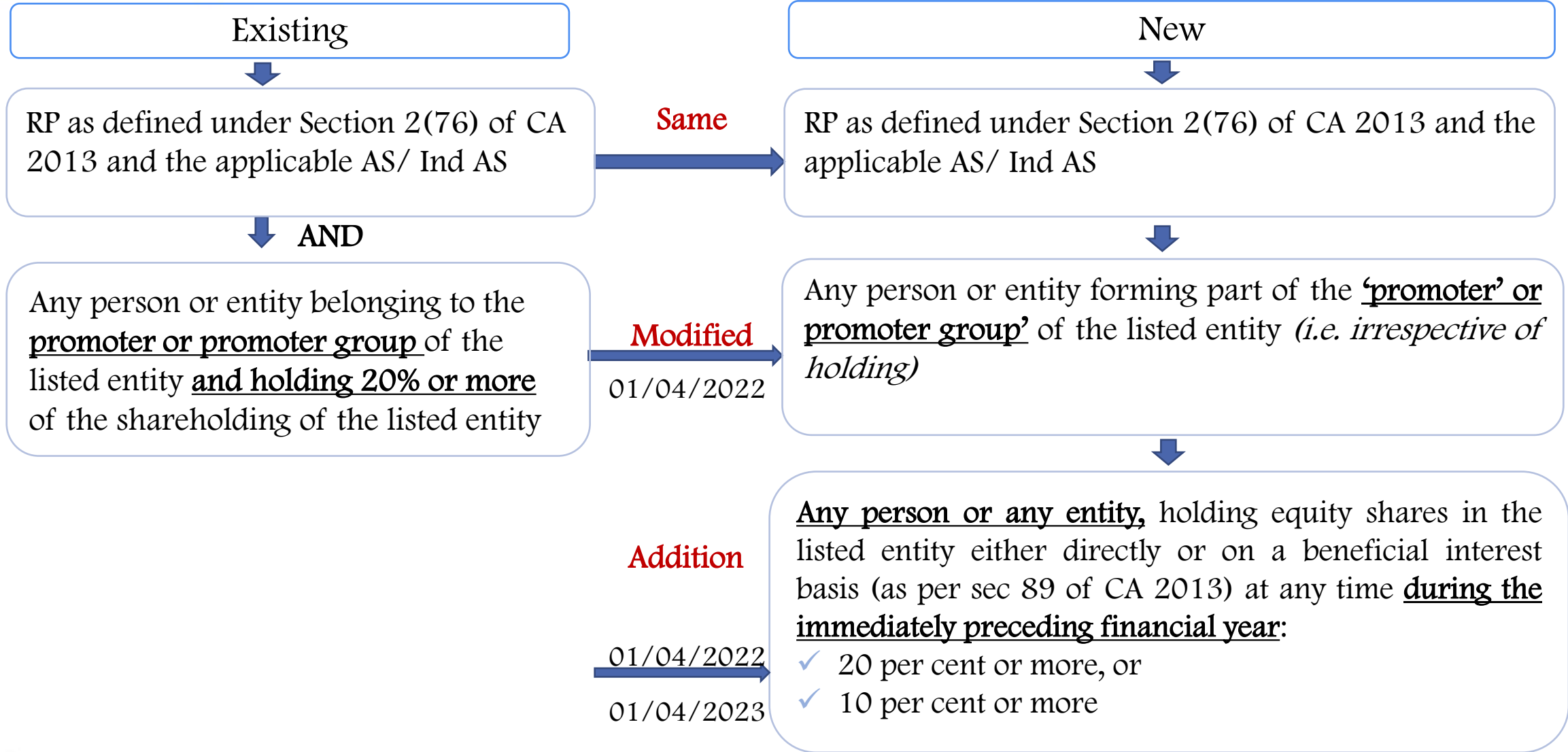


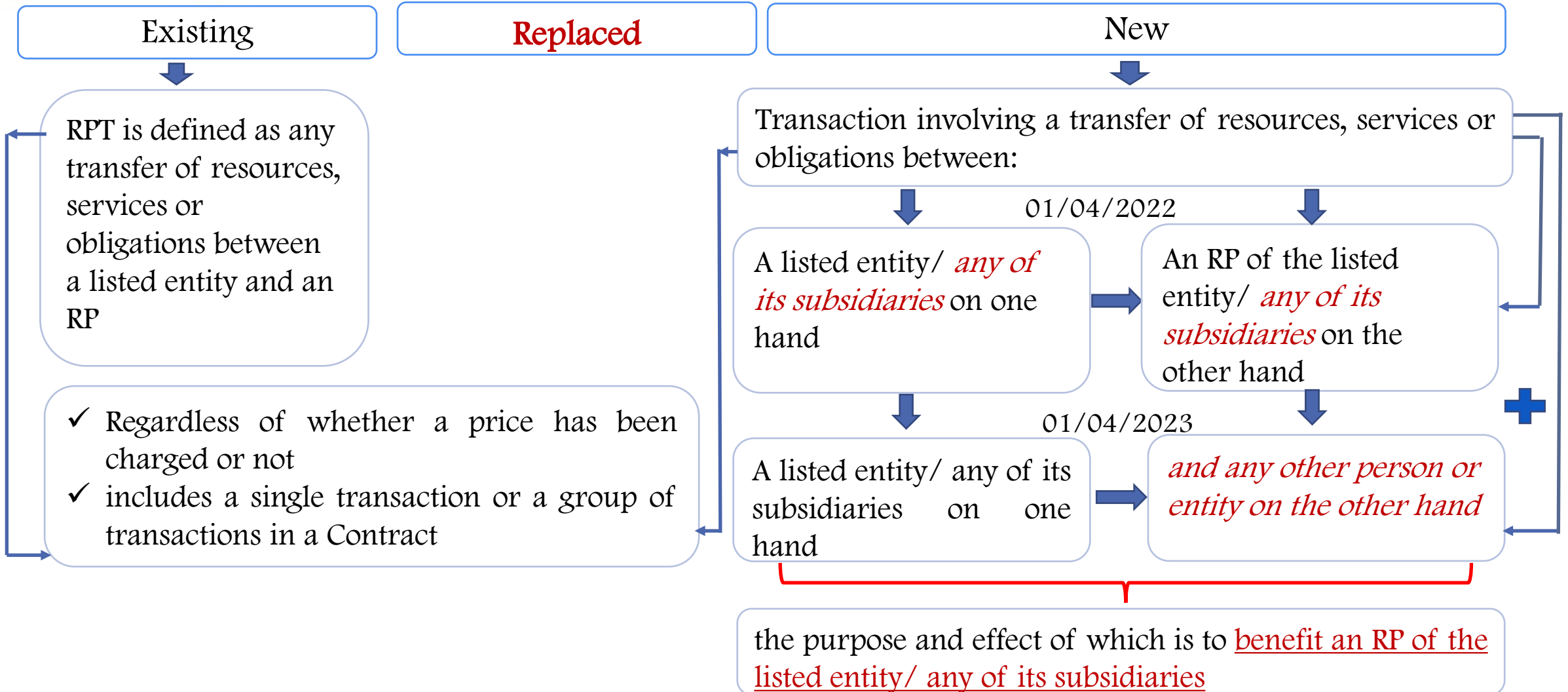
- Name of the related party and nature of the related party relationship where control exists irrespective of whether or not there have been transactions between the related parties.
- If there have been transactions between related parties, during the existence of a related party relationship, the reporting enterprise should disclose the following:
 - i. The name of the transacting related party;
 - ii. A description of the relationship between the parties;
 - iii. A description of the nature of transactions
 - iv. Volume of the transactions either as an amount or as an appropriate proportion;
 - v. Any other elements of the related party transactions necessary for an understanding of the financial statements;
 - vi. The amounts or appropriate proportions of outstanding items pertaining to related parties at the balance sheet date and provisions for doubtful debts due from such parties at that date; and
 - vii. Amounts written off or written back in the period in respect of debts due from or to related parties.

- Items of a similar nature may be disclosed in aggregate by type of related party except when separate disclosure is necessary for an understanding of the effects of the related party transactions on the financial statements of the reporting enterprise.
- Related party disclosure requirements as laid down in this Standard do not apply in circumstances where providing such disclosures would conflict with the reporting enterprise's duties of confidentiality as specifically required in terms of a statute or by any regulator or similar competent authority.



SEBI – Amendment to RPT (wef 1st April 2022)





NEW PROVISION

Issue of specified securities on preferential basis

↓ Condition

To comply with the requirements of the SEBI (Issue of Capital and disclosure requirements) Regulations, 2018

Corporate actions by the listed entity

↓ Condition

uniformly applicable/ offered to all shareholders in proportion to their shareholding

↓

- ✓ payment of dividend;
- ✓ Subdivision/consolidation of securities;
- ✓ issuance of securities by way of a rights issue/ bonus issue;
- ✓ buy-back of securities

Acceptance of fixed deposits by Banks/ NBFCs

↓ Conditions

- ✓ at the terms uniformly applicable/ offered to all shareholders/ public;
- ✓ subject to disclosure of the same along with disclosure of RPTs every six months to the stock exchanges in specified format

Existing – Prior approval for all RPT

New – Prior Approval

Modified ↓ 01/04/2022

for all RPT and *subsequent material Modifications*

Entity to define material modification and disclose as part of the policy on Materiality of RPT

- ✓ 01/01/2022 – Only those members of the AC, who are independent directors, shall approve RPT

Addition ↓

An RPT to which a subsidiary of a listed entity is a party, but the listed entity is not a party if:

the value of such transaction whether entered into individually or taken together with previous transactions during a FY exceeds threshold of:

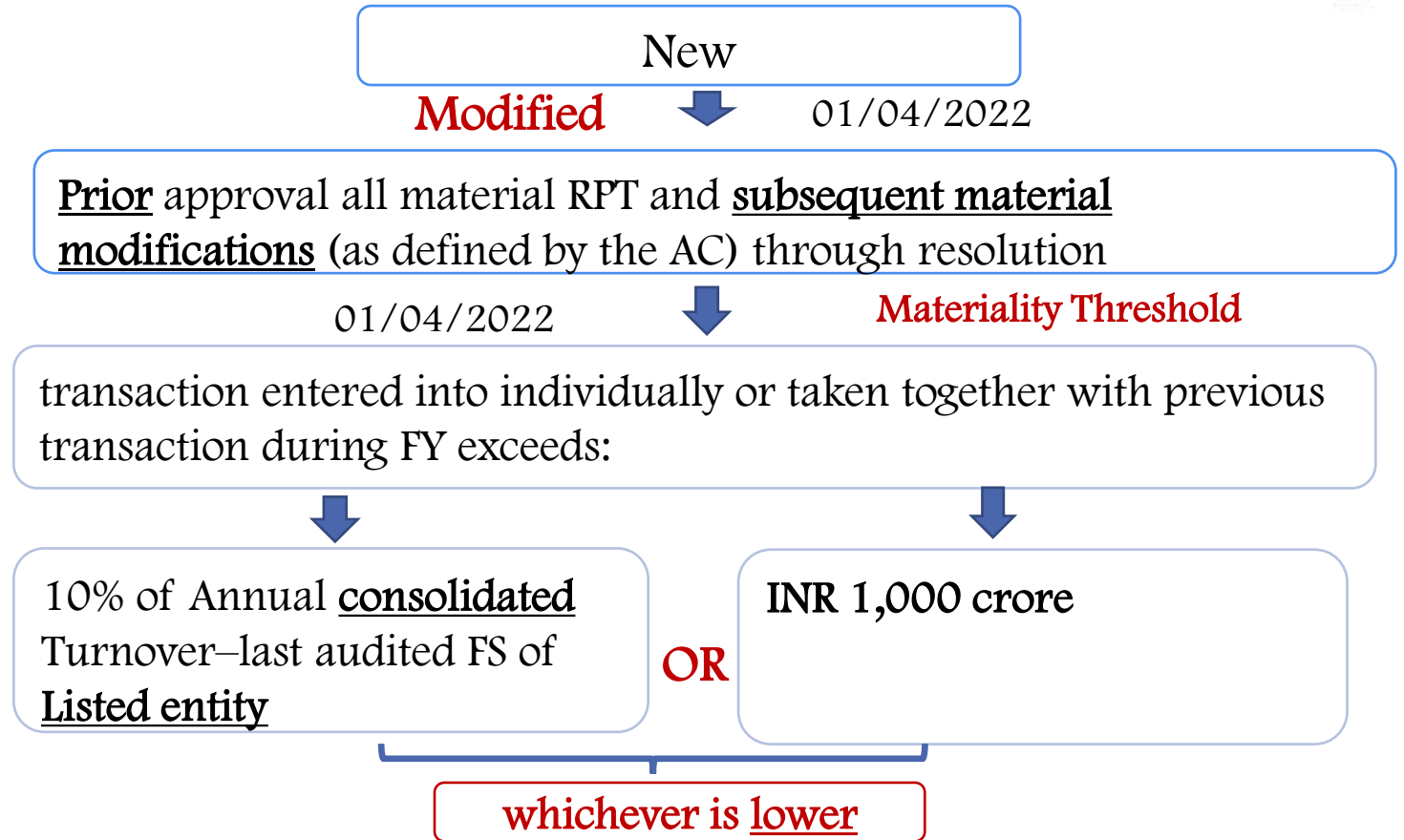
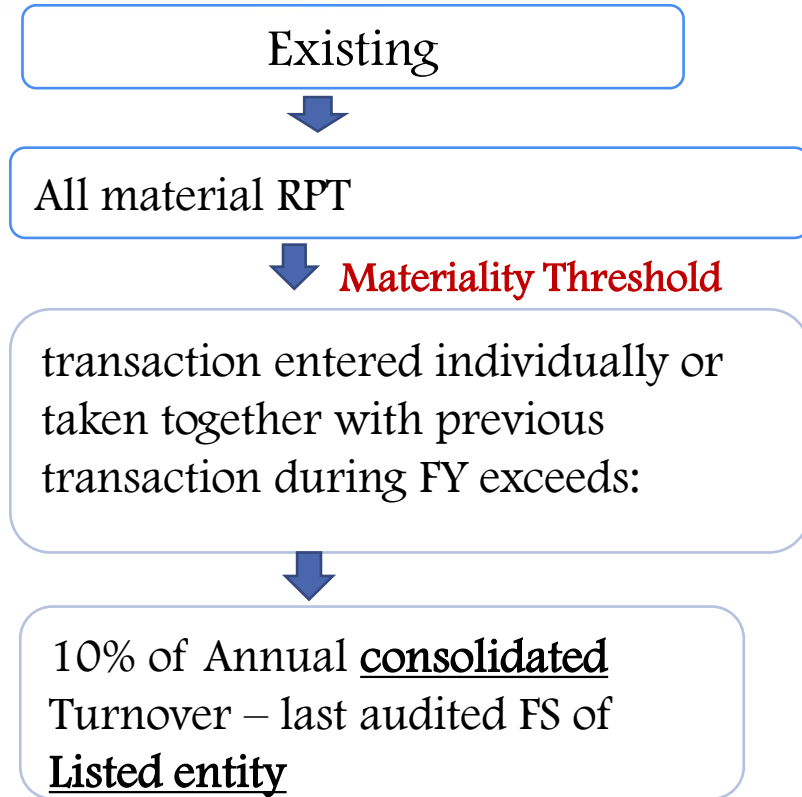
↓ 01/04/2022

10% of Annual consolidated Turnover – last audited FS of Listed entity

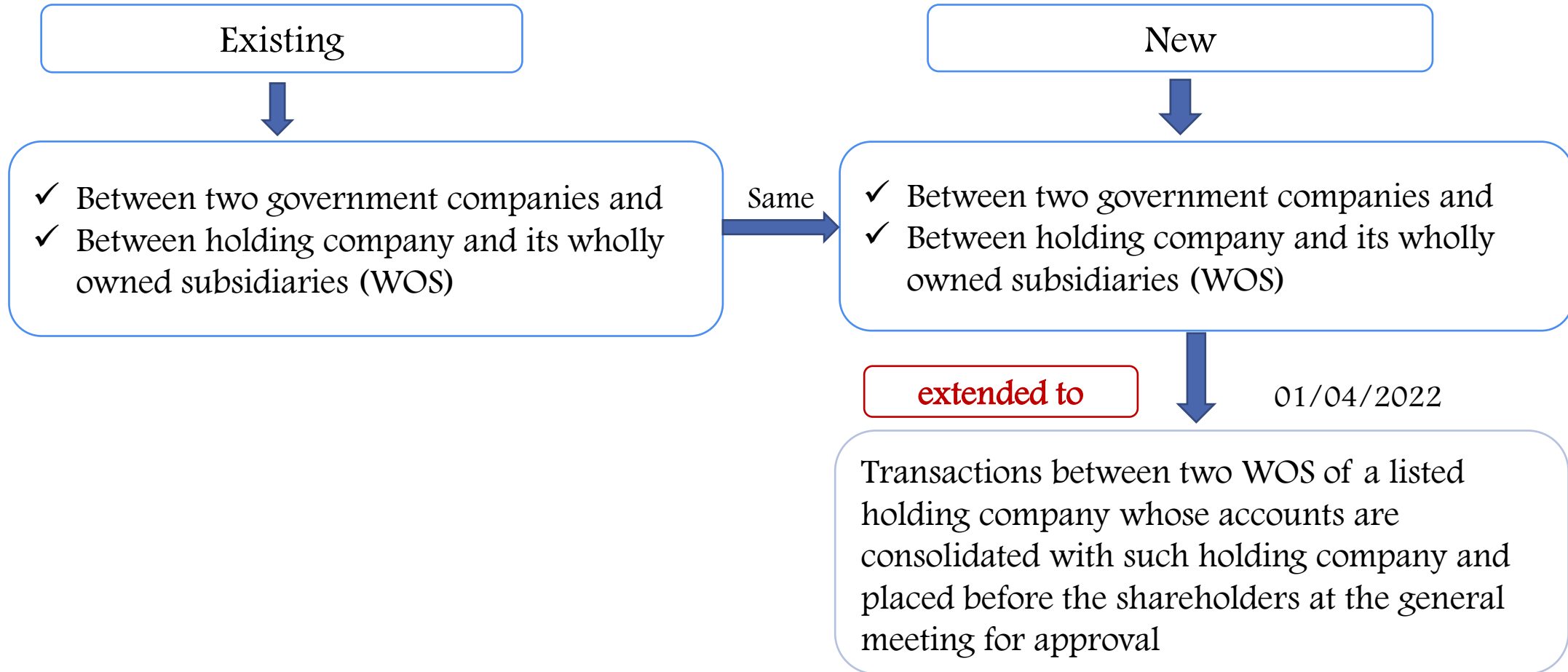
↓ 01/04/2023

10% of Annual standalone Turnover – last audited FS of Subsidiary

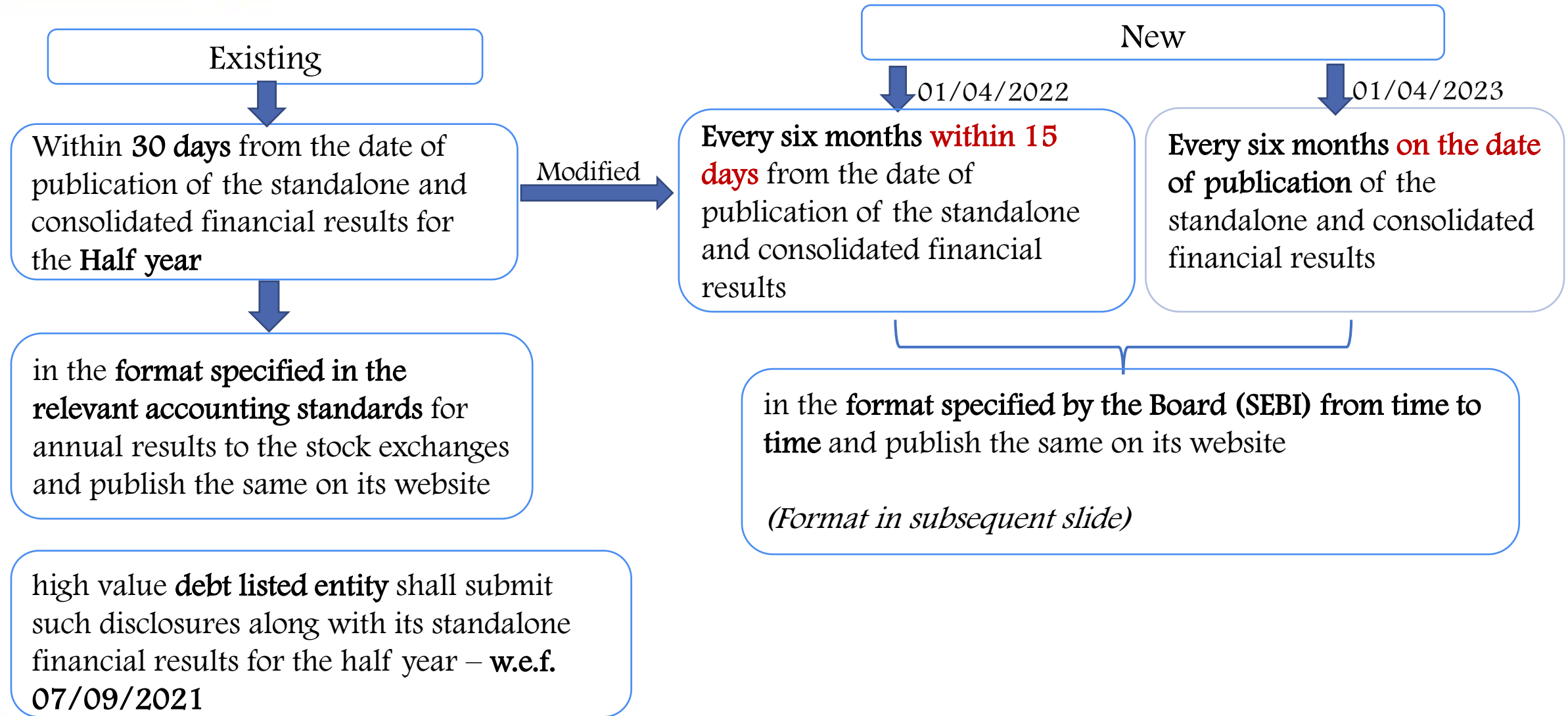
- ✓ **Not Required:** Listed Subsidiary – if subject to compliance with regulation 23 and 15(2) of SEBI – LODR
- ✓ **Clarification:** RPT of unlisted subsidiaries of a listed subsidiary - prior approval of the AC of the listed subsidiary shall suffice

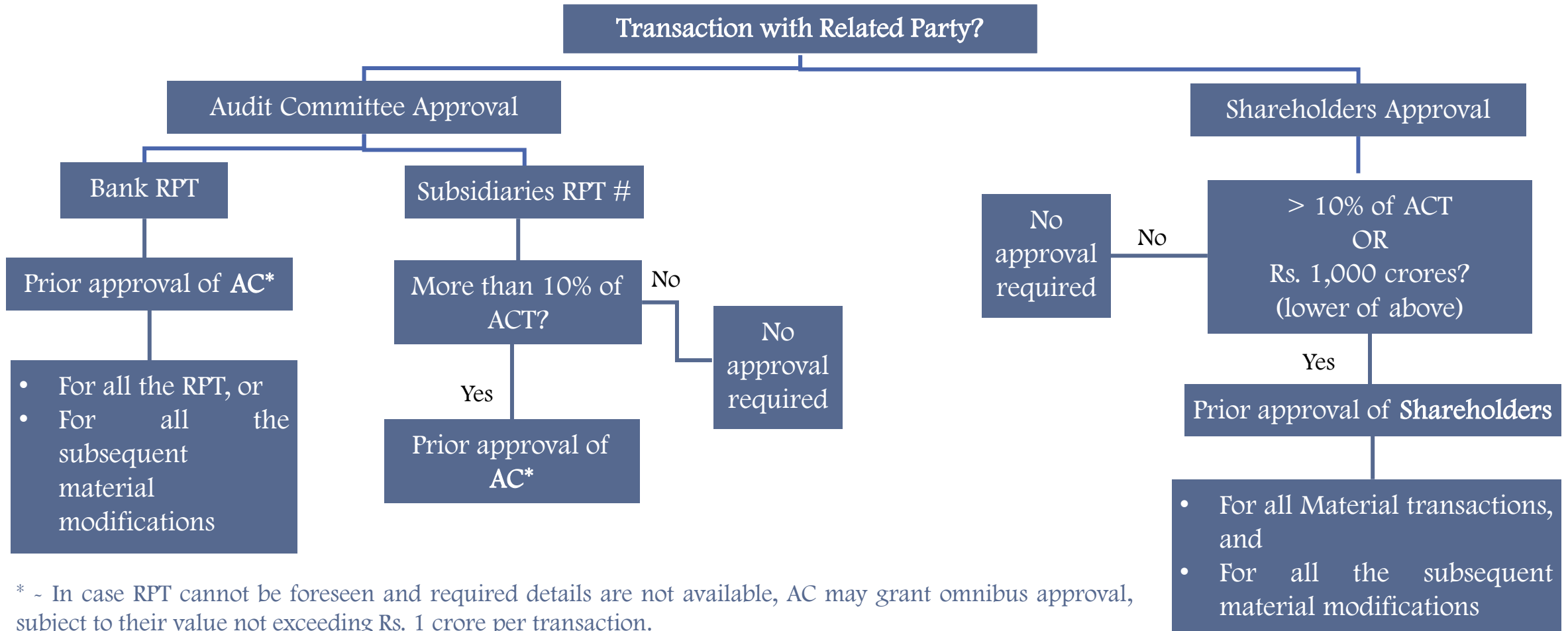


- ✓ **Not Required:** Listed Subsidiary – if subject to compliance with regulation 23 and 15(2) of SEBI – LODR
- ✓ **Clarification:** RPT of unlisted subsidiaries of a listed subsidiary – prior approval of the shareholders of the listed subsidiary shall suffice



Enhanced disclosures to Stock Exchange





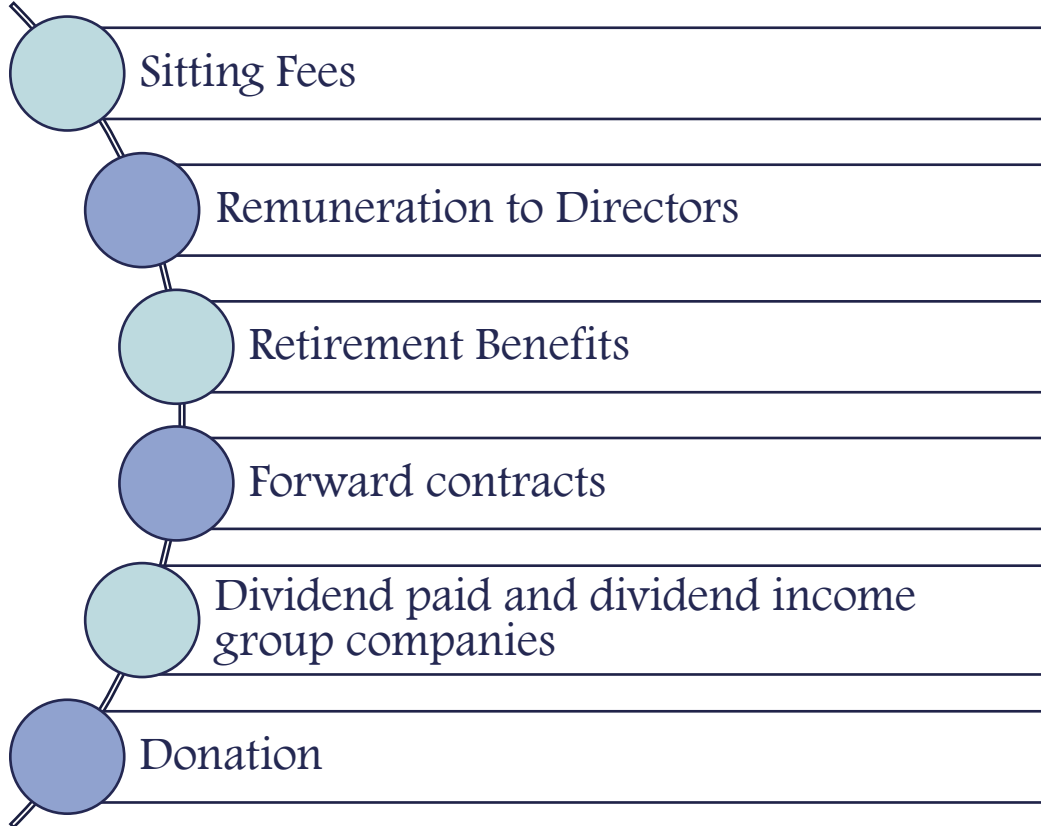
* - In case RPT cannot be foreseen and required details are not available, AC may grant omnibus approval, subject to their value not exceeding Rs. 1 crore per transaction.

~ No approval is required if it is with WoS

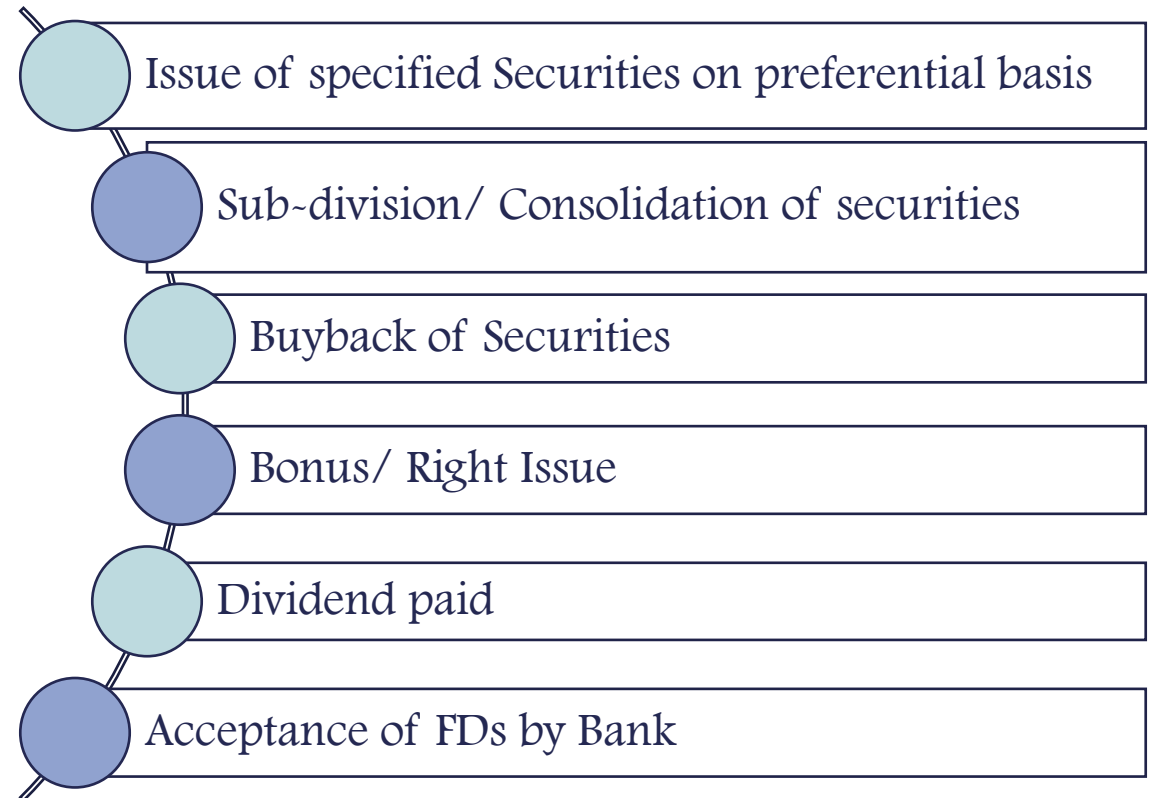
Does not included transactions within fellow subsidiaries

Transactions excluded – a comparison

Transactions outside the purview of section 188(1) of the CA 2013



Transactions excluded by SEBI LODR - *As amended*



No such exclusions under AS 18/ Ind AS 24

Approvals required from Audit Committee:

Reporting Entity	Other Entity	CA 2013	SEBI LODR
ABC	WoS	Yes#	No
ABC	Promoters/ Directors/ Relatives of Directors/ KMPs	Yes	Yes
ABC	Associates and entities Significantly Influenced (including Employee Trusts)	Yes	Yes
WoS of ABC	WoS of ABC	No	No
Subsidiaries	Other entities of fellow subsidiaries	No	Yes*
Subsidiaries	Subsidiaries directors/ KMP and their relatives	No	Yes*

for transactions covered under section 188 of CA 2013

** No approval of AC is required if the value of such transaction and subsequent material modifications whether entered into individually or taken together with previous transactions **DOES NOT** exceeds threshold of 10% of Annual Consolidated Turnover (ACT).*

Approvals required from Shareholders:

Reporting Entity	Other Entity	CA 2013	SEBI LODR	
ABC	WoS		Not required	
ABC	Promoters/ Directors/ Directors/ KMPs	Directors/ Relatives of	Yes#	Yes*
ABC	Associates and Significant Influences (including Employee Trusts)		Yes#	Yes*
Wholly Owned Subsidiaries	Wholly Owned Subsidiaries		NA	Not required
Subsidiaries	Other entities of fellow subsidiaries		NA	Yes*
Subsidiaries	Subsidiaries directors/ KMP and their relatives		NA	Yes*

** No Prior approval is required for all material RPT and subsequent material modifications if the transactions entered into individually or taken together with previous transactions **DOES NOT** exceed 10% of the Annual Consolidated Turnover (ACT) or Rs. 1,000 crores whichever is lower.*

Disclosures **every six months** (Annex to SEBI notification)

Disclosure Requirement	AS/ Ind AS	SEBI LODR	Notes to SEBI Annex
Name of RP entering into the transaction: ~ listed entity ~ Subsidiary	✓ NA	✓ ✓	
Details of counter party	✓	✓	
PAN of RP and counter party	x	✓	Will not be displayed on website
Description relationship of counterparty with: ~ Listed entity ~ Subsidiary	✓ NA	✓ ✓	RPT (between the listed entity and its subsidiary or between subsidiaries) ~ may be reported once
Value of the RPT as approved by the AC	x	✓	Multi year–aggregate value of RPT
Nature/ type of RPT	✓	✓	~ Listed Banks – Loans/ ICD/ Advances and Investment made/ given – No disclosure ~ Party wise – No aggregation/ net – off
Value of transaction during the period	✓	✓	Multi year– RPT for the period
Opening/ closing balance – if monies are due to either party (including commitments)	✓	✓	Even if no RPT during the period

Additional Disclosures – once in the reporting period in which transaction (Loans/ ICDS/ Advances or investment made/ given) is undertaken by the listed entity/ subsidiary (Annex – to SEBI notification)

Disclosure Requirement	Remarks – SEBI Note
In case financial Indebtedness incurred to make/ give ~ loans, ICDs, advances or investments:	Listed Banks – No disclosure with respect to ~ Loans/ ICD/ Advances and Investment made/ given
~ Nature of Indebtedness ((loan/ issuance of debt/ any other etc.)	
~ Cost and Tenure	Refers to the cost of borrowed funds for the listed entity
Details of the loans, inter-corporate deposits, advances or investments	
~ Nature (Loans/ ICDS/ Advances or investment)	
~ Interest Rate, Tenure, Secured/ Unsecured	
Purpose for which the funds will be utilised by the ultimate recipient of funds (end-usage)	Multi year–RPT for the period

Transactions – Acceptance of fixed deposits by Banks/ NBFCs with RP at the terms uniformly applicable / offered to all shareholders/ public shall also be reported

1

Whether name of all RPs need to be disclosed even if 'no transactions' during the period?

2

Exemption for disclosure of Dividend paid by the company to their RPs from which FY?

3

Whether company needs to disclose CSR Trust/ Provident Fund/ Gratuity Trust/ Public charitable funds controlled by promoter family as their RP?

4

What if services rendered without any consideration or at nominal consideration?

5

For the disclosure purpose whether comparative figures are needed to be given?

6

Can arm's length pricing definition be different under different statutes?

7

Is there any penalty for non-compliance of disclosure and reporting requirements?

// THANK YOU //