

INTERFACE BETWEEN SECRETARIAL STANDARDS AND SEBI (LODR) REGULATIONS

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Introduction

Corporate governance in India operates through a layered framework of rules, regulations, and standards that collectively ensure transparency, accountability, and procedural discipline in company management. Among these, two frameworks stand out for their relevance to listed companies: the **Secretarial Standards (SS)** issued by the Institute of Company Secretaries of India (ICSI) and the **SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015**, popularly known as **SEBI (LODR)**. While each framework has its own origin, purpose, and scope, they are deeply intertwined in practice. Understanding how they interact — their interface — is essential for Company Secretaries, compliance officers, and corporate legal professionals.

Understanding Secretarial Standards

Secretarial Standards are normative guidelines issued by the ICSI with the objective of promoting uniformity and best practices in corporate procedural conduct. Their authority stems from Section 118(10) of the Companies Act, 2013, which provides that all companies shall observe the Secretarial Standards specified by the ICSI in respect of general meetings and board meetings.

The present Secretarial Standards are two in number:

SS-1 (Secretarial Standard on Board Meetings) prescribes the procedure for conducting Board Meetings. It covers aspects such as the giving of notice, preparation of agenda, quorum, voting, participation through video conferencing, passing of resolutions by circulation of notices, and maintenance of minutes.

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SS-2 (Secretarial Standard on General Meetings) prescribes the procedure for conducting Annual General Meetings (AGMs), Extraordinary General Meetings (EGMs), and other general meetings. It covers aspects such as giving of notice, quorum, proxies, voting procedures, role of the chairman, adjournment of meetings, and maintenance of minutes.

The philosophy behind the formulation of the Secretarial Standards is the integrity of procedure. Every meeting shall be conducted in a manner that is valid from a legal perspective and fair to all stakeholders.

Understanding the SEBI (LODR) Regulations, 2015

The SEBI (LODR) Regulations of 2015 are applicable only to those companies whose securities are listed on any of the recognized stock exchanges. The Regulations were brought out by the SEBI to consolidate and simplify the disclosure and corporate governance practices of listed companies. The earlier regulations were in the form of listing agreements between the stock exchanges and the listed companies.

The LODR Regulations function on the principles of protecting the interests of investors and maintaining the market integrity. The main requirements of the LODR Regulations are as follows:

1. Composition and independence of the Board of Directors of the company
2. Mandatory formation of various committees of the company
3. Disclosure of material information to the stock exchange
4. E-voting and disclosure of the voting results
5. Corporate governance reports and compliance reports
6. Disclosure of related party transactions
7. Annual report requirements for listed companies

While the Secretarial Standards emphasize the procedures that have to be followed while conducting the company's meetings, the LODR Regulations emphasize the disclosure requirements of listed companies and the structuring of their corporate governance practices.

The Interface: Where Both Frameworks Meet

The word "interface" means those areas of convergence, overlap, and mutual reinforcement of both the frameworks. In other words, for a listed company, both SS and LODR are

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applicable at the same time. The Company Secretary has to deal with both of them simultaneously.

1. Board Meetings

This is perhaps one of the most prominent areas of interface.

Under SS-1, notice of a meeting of the board of directors must be given at least seven days prior to the meeting; a copy of the agenda along with explanatory notes must be sent along; a quorum must be maintained; and minutes must be recorded within a time frame and confirmed at the next meeting.

Under SEBI's LODR regulation, a listed company is under an obligation to intimate the stock exchange at least two days prior to the meeting (excluding the date of intimation and the date of the meeting) if a meeting of the board is to be held for considering financial results, payment of dividends, or other important matters.

The interface is obvious: SS-1 deals with compliance at the internal level, while LODR deals with compliance at the external level. The Company Secretary is under an obligation to comply with both. The non-fulfilment of obligations under either of these two regulations independently amounts to a violation of compliance obligations.

2. General Meetings and Voting

Both SS-2 and LODR deal with meetings of shareholders, though from different perspectives.

SS-2 deals with procedural requirements such as content and despatch of notice (21 clear days for AGMs), quorum requirements, conduct of polls, preparation and signing of minutes, and responsibilities of the chairman.

SEBI's LODR deals with the requirement for listed companies to offer remote e-voting facility to all shareholders in respect of general meetings, to declare voting results within 48 hours of conclusion of the meeting, and to appoint a scrutiner to facilitate voting. LODR also deals with the requirement for listed companies to submit notice for AGM along with annual reports to stock exchanges.

In this regard, SS-2 deals with the physical and procedural aspects of meetings, whereas LODR deals with the voting rights of shareholders through remote e-voting.

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3. Minutes of Meetings

SS-1 and SS-2 prescribe detailed requirements for the drafting and finalization of minutes of meetings of the board and general meetings, respectively. The minutes must be a fair and accurate summary of discussions, note any dissenting views, and be finalized within a specified timeframe.

Under LODR, listed companies are required to submit to stock exchanges within 30 minutes of the conclusion of board meetings the outcome of such meetings. LODR does not prescribe the form or content of minutes to be maintained by listed companies. However, the outcome must disclose material decisions made during board meetings, and such decisions must be consistent with those minutes maintained under SS-1.

This is a critical requirement for ensuring internal consistency between minutes maintained under the SS standards and those required to be disclosed under LODR. Inconsistency between these two could result in regulatory scrutiny from both the Registrar of Companies under the Companies Act and SEBI.

4. Independent Directors and Committee Meetings

LODR specifies that an Audit Committee, Nomination and Remuneration Committee, and other committees of specified compositions, which include a minimum number of independent directors, are to be formed.

SS-1, while dealing with the procedures for meetings of the boards of directors, is deemed applicable to committee meetings as well, as committee meetings are a part of board meetings, which are a part of corporate governance. The procedures specified in SS-1 for meetings of the boards of directors are thus deemed applicable to committee meetings as well.

In the case of a company secretary of a listed company, it would mean that all meetings of the Audit Committee, for example, would need to be held in accordance with the procedural requirements specified in SS-1, as well as the requirements specified in LODR.

5. Annual General Meeting – A Point of Convergence

The Annual General Meeting is a subject where both frameworks converge in a comprehensive manner.

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If one looks at it from the SS-2 point of view, the notice should be given at least 21 clear days in advance, should carry the necessary content including explanatory statements in regard to special resolutions, and should be supported by necessary documents. Similarly, the meeting itself should be conducted in accordance with the agenda, should have a quorum, and should conduct the ballot in a particular manner.

If one looks at it from the point of view of the LODR regulations, the notice and report should be sent to stock exchanges, e-voting should be facilitated, results should be disclosed after the meeting, and the report should carry a particular corporate governance report as specified in Schedule V of the LODR regulations.

It appears that both these conditions have to be fulfilled simultaneously, making the compliance of the Annual General Meeting a challenging task for secretaries of listed companies.

Harmonisation and Conflict Resolution

In most cases, SS and LODR are complementary and not in conflict with each other. However, in cases where there is a conflict, the general principle is:

For procedural matters, SS would prevail, being the governing standard under the Companies Act, 2013.

For disclosure and governance matters, LODR would prevail, being *lex specialis* for listed companies.

In cases where LODR is more stringent in its requirements, e.g., timelines for disclosures, requirements under LODR must be complied with in addition to the requirements under SS.

In fact, SEBI has over the years recognised the importance of Secretarial Standards and has specifically referred to SS in its circulars and guidance notes.

Conclusion

The interface between Secretarial Standards and SEBI LODR Regulations, therefore, represents the dual framework of corporate governance applicable to listed companies in our country. SS provides the internal skeleton of procedural discipline, while LODR provides the external framework of accountability and transparency. Neither can exist in isolation, and a company that is meticulous in complying with SS but fails in LODR disclosure, or one that is

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diligent in making timely disclosures under LODR but has conducted meetings in violation of SS-1 and SS-2, would invite liability under the CA. It is, therefore, not the internal framework or the external framework that represents good governance, but an integration that blends both, and that is where the onus lies on the Company Secretary. As regulatory standards evolve and SEBI continues to strengthen standards of corporate governance applicable to listed companies, an appreciation of this interface would remain one of the most critical areas in the profession.

1. ICSI SS-1 — Secretarial Standard-1 on Meetings of the Board of Directors (Revised edn, ICSI 2017).
2. ICSI SS-2 — Secretarial Standard-2 on General Meetings (Revised edn, ICSI 2017).
3. Section 118(10), Companies Act 2013 (India) — mandatory force of Secretarial Standards; every company shall observe Secretarial Standards specified by the ICSI and approved by the Central Government.
4. SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 (India) — notified vide SEBI Extraordinary Gazette Notification No LAD-NRO/GN/2015-16/013, 2 September 2015, effective 1 December 2015.
5. Regulation 29, SEBI (LODR) Regulations 2015 — prior intimation to stock exchange about board meeting agenda items including financial results, dividends, buyback, and rights issues.
6. Regulation 30 read with Schedule III, SEBI (LODR) Regulations, 2015 — disclosure of material events or information.
Regulation 33 — submission of financial results to stock exchanges.
7. Regulation 30(6), SEBI (LODR) Regulations, 2015 — disclosure of board meeting outcomes within prescribed timelines.
8. SS-2, cl 1.2 — notice of a General Meeting shall be given at least twenty-one clear days before the date of the meeting, either in writing or through electronic mode.
9. Regulation 44, SEBI (LODR) Regulations 2015 — e-voting facility to be provided to all shareholders; voting results to be disclosed to stock exchanges within 48 hours of conclusion of the meeting.
10. SS-1, cl 7 (Minutes of Board Meetings); SS-2, cl 14 (Minutes of General Meetings) — provisions governing preparation, circulation, signing, and confirmation of minutes.
11. Regulation 30(6), SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 — disclosure of outcomes of Board Meetings to stock exchanges within thirty minutes of conclusion of the meeting.
12. Regulations 18, 19 and 20, SEBI (LODR) Regulations 2015 — mandatory constitution of Audit Committee, Nomination and Remuneration Committee, and Stakeholders Relationship Committee respectively.

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13. Regulation 34 read with Schedule V, SEBI (LODR) Regulations 2015 — annual report requirements including corporate governance report and compliance certificate from Company Secretary in practice or Statutory Auditor.

14. Institute of Company Secretaries of India, Guidance Note on Secretarial Standards (ICSI 2019) — clarifies that SS-1 procedures apply, by analogy and best practice, to committee meetings of the Board.

15. Regulations 30 and 44, SEBI (LODR) Regulations, 2015 — disclosure of AGM outcomes and voting results to stock exchanges.



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