



# GENICON CS LEGAL MUSINGS

The Fortnightly Legal Updates !!!

**#MUSINGS 1**  
December 2024

**EDITORIAL:**  
Team Genicon CS

[www.geniconcs.com](http://www.geniconcs.com)

FROM THE EDITORIAL DESK OF

*Team Genicon CS*



Dear Readers,

In our constant endeavour to disseminate knowledge, we are delighted to introduce our FIRST Fortnightly Newsletter titled “Genicon CS Legal Musings” which will touch your attention on the 1st and 16th of every month.

Taking the words of Shri Ramana Maharishi “whatever one gives to another, gives to himself” (பிறர்க்கொருவன் கொடுப்பதெல்லாம், தனக்கே கொடுத்துக் கொள்கிறான்), we always feel that by disseminating knowledge to others, we enrich ourselves, and we continue to enrich both you and us.

With your wishes and support, this new born baby will grow and glow well in the corporate world.

Please feel free to give your inputs to improve this Newsletter further in the coming months at [connect@geniconcs.com](mailto:connect@geniconcs.com).

With best regards,

Team Genicon CS





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# MINISTRY OF CORPORATE AFFAIRS

## ROC ADJUDICATION ORDERS

S.No.	Nature of Non-Compliance	Sections/Rules under the Companies Act, 2013 (the Act)	Penalty
1	Default in Appointment of Key Managerial Personnel	Section 203 (5) of the Act read with Rule 84 of the Companies (Appointment and Remuneration of Key Managerial Personnel Rules, 2014)	Penalty imposed for Company and Officers in default for noncompliance of Appointment of Company Secretary and Chief Financial Officer is Rs. 39,70,000/- each.
2	Failure to spend CSR amount and non filling the e-form CSR 2 within stipulated time.	Section 135 of the Act - Corporate Social Responsibility	Penalty imposed for Company for Non-Compliance is Rs.10,18,296/-  Penalty imposed for each Officer in default for non-compliance is Rs. 50,915/-
3	Failure to disclose the change in the disclosure already made or then at the first Board meeting disclose his Interest or his interest in any other companies, which shall include the shareholding in such manner as may be prescribed.	Section 184 of the Act	As the Company is a Small Company, Penalty imposed for each Officer in default for non compliance is assessed under Section 4446B of the Act, read with Rule 3(12) & 3(13) of Companies (Adjudication of Penalties) Rules, 2014 is Rs. 50,000/- - to be paid from their personal resources.





# SECURITIES AND EXCHANGE BOARD OF INDIA

## Amendment to SEBI (Buy Back) Regulations, 2018

SEBI vide its Notification dated November 20, 2024, has issued the SEBI (Buy Back) Regulations (Second Amendment) Regulations 2024. The Key provisions of the Second Amendment Regulations are summarised below.:

Key Provision	Amendment
Calculation of Entitlement Ratio in Buyback by way of Tender Offer Route. (Reg 4 (iv))	In the event that any promoter / promoter group has communicated its intention to not participate in the buy-back, the shareholding of such promoter / promoter group will not be considered for computing the entitlement ratio.
Issue of Securities Before Completion of Buy-Back. (Reg 24)	<p>Issuance of securities of the company, until the expiry of the buy-back period, are permitted if such issuance is towards discharge of a subsisting obligation of the company in the nature of warrants, stock option schemes, sweat equity or conversion of preference shares / debentures into equity shares.</p> <p>However, the details and potential impact of such issuance of such subsisting obligations are required to be disclosed in the public announcement.</p>
Adding disclosures to the Letter of Offer. (Schedule III)	The cover page of the Letter of Offer must include additional disclosures about the entitlement ratio for general and small shareholders and a weblink for shareholders to check their entitlement.



# SECURITIES AND EXCHANGE BOARD OF INDIA

## Impact:

This amendment aims to enhance transparency, ensure stakeholders are informed of material changes and entitlements and streamline buyback regulations.

## **SEBI discard 1% mandatory security deposit rule for IPOs**

SEBI vide its Circular dated November 21, 2024, has withdrawn the Master Circular on issuance of No Objection Certificate (NOC) for release of 1% of Issue Amount.

In order to facilitate ease of doing business to Issuer Company, the requirement to deposit 1% of the issue size available for subscription to the public with the designated stock exchange by the Issuer Company under Regulation 38 (1) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations) has been dispensed with.

**Impact:** This circular is effective immediately and aims to ease the compliance burden on issuers while ensuring regulatory clarity.

For more detailed information, kindly refer to the link given below:

[https://www.sebi.gov.in/legal/circulars/nov-2024/withdrawal-of-master-circular-on-issuance-of-no-objection-certificate-noc-for-release-of-1-of-issue-amount\\_88655.html](https://www.sebi.gov.in/legal/circulars/nov-2024/withdrawal-of-master-circular-on-issuance-of-no-objection-certificate-noc-for-release-of-1-of-issue-amount_88655.html)







# GUIDELINES

## SECURITIES AND EXCHANGE BOARD OF INDIA- INFORMAL GUIDELINES

### **SEBI Denies Glenmark Life Sciences' request on MPS Compliance**

The Securities and Exchange Board of India (SEBI) issued an informal guidance letter to Glenmark Life Sciences Limited (GLS). The letter addressed GLS's request for clarification on trading restrictions under the SEBI (Prohibition of Insider Trading) Regulations, 2015 (PIT Regulations).

#### **Facts of the case:**

GLS is a publicly listed company, with its shares available on stock exchanges since August 2021. Nirma Limited acquired 75% of GLS's shares from Glenmark Pharmaceuticals Limited through a Share Purchase Agreement (SPA) dated September 21, 2023. Following this acquisition, Nirma made an open offer in compliance with the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (SAST Regulations), officially assuming promoter status on March 6, 2024. As a result, Nirma now holds 82.85% of GLS's shares, exceeding SEBI's public shareholding cap. Under Rule 19A of the Securities Contracts (Regulation) Rules, 1957, GLS is required to reduce promoter holdings to 75% within a stipulated period to meet the MPS norms. The deadline for this compliance is August 5, 2024, prompting Nirma's proposal to sell part of its shares via an Offer for Sale (OFS) to comply with MPS requirements.

#### **SEBI's Assessment and Response to Queries**

In a letter dated June 3, 2024, GLS submitted that the SPA's date, September 21, 2023, should serve as the relevant date for calculating the six-month "contra trade" period, rather than the March acquisition date. Contra trade restrictions under SEBI



# **GUIDELINES**

## **SECURITIES AND EXCHANGE BOARD OF INDIA- INFORMAL GUIDELINES**

PIT Regulations prohibit trades that effectively reverse prior transactions within six months, aiming to prevent speculative trading by those in possession of sensitive information. GLS contended that since the OFS was required to comply with MPS regulations, it should be exempt from contra trade restrictions. GLS further argued that the transaction's details had been publicly disclosed, thereby eliminating concerns of information asymmetry and insider advantage. In their view, the planned share sale would merely facilitate regulatory compliance without any speculative intent.

### **SEBI's Stance on Contra Trade Timing and Restrictions**

In its response, SEBI clarified that contra trade restrictions for GLS began on March 6, 2024—the date when Nirma was formally designated as a promoter. Consequently, SEBI determined March 12, 2024, as the acquisition's official date for calculating the six-month contra trade period. This timeline means any sale of GLS shares by Nirma within six months from March 12 would be subject to contra trade prohibitions

Regarding GLS's query about exemptions for regulatory compliance sales, SEBI referenced Regulation 4(1) of the PIT Regulations, which generally prohibits insiders from trading while in possession of unpublished price-sensitive information. Although certain regulatory-mandated transactions are exempted from insider trading restrictions, SEBI clarified that MPS compliance requirements do not qualify as new regulatory obligations triggered by Nirma's promoter status.





# SECURITIES AND EXCHANGE BOARD OF INDIA- INFORMAL GUIDELINES

The MPS requirements predate the acquisition, meaning Nirma was aware of this obligation when it assumed control. Therefore, SEBI found no basis to grant exemption for the sale under the PIT contra trade rules.

## Specific Clarifications by SEBI



SEBI addressed each of GLS's key points:

1. **Relevant Date for Contra Trade:** SEBI maintained that March 12, 2024, remains the reference date for calculating the six-month period, aligning with the conclusion of Nirma's share purchase process. This renders any OFS by Nirma before September 12, 2024, subject to contra trade restrictions.
2. **Exemption for Regulatory Compliance Sales:** SEBI noted that PIT Regulation 4(1) does not automatically exempt sales for regulatory compliance. In particular, MPS requirements are pre-existing obligations, and the SPA itself does not constitute a new regulatory mandate warranting special treatment. The agency underscored that FAQ 39 on PIT Regulations, cited by GLS, does not apply to contra trade exemptions for OFS transactions.
3. **Information Disclosure and Insider Trading:** SEBI acknowledged that GLS had disclosed the transaction publicly but reiterated that public information does not override insider trading safeguards or regulatory interpretations.



# LABOUR LAWS

## **EPFO issued new direction on UAN activation and Aadhar Seeding for availing benefits under ELI Scheme.**

The Employees' Provident Fund Organisation (EPFO) has issued a notification on November 22, 2024, outlining new guidelines for employees to avail benefits under the Employment Linked Incentive (ELI) Scheme. The Ministry of Labour & Employment has made it mandatory for all eligible employees to complete a few critical tasks in order to receive benefits under the ELI Scheme:

### **1. UAN Activation via Aadhaar-based OTP**

Employees must activate their Universal Account Number (UAN) through an Aadhaar-based One-Time Password (OTP). This step is crucial as the UAN serves as a unique identifier for all EPF-related transactions.

### **2. Aadhaar Seeding with Bank Accounts**

To ensure the benefits are transferred directly into employees' bank accounts, it is necessary to link their Aadhaar number to their respective bank accounts. This will enable Direct Benefit Transfer (DBT) under the ELI Scheme, making the process smoother and more efficient.





# LABOURS LAWS

## Employers' Role in the Process

Employers play a crucial role in ensuring that all employees who have joined the organization in the current financial year comply with these requirements. The deadline for employers to complete UAN activation and Aadhaar seeding is November 30, 2024. Employers must ensure that their employees' UANs are activated, and their bank accounts are linked with Aadhaar for seamless transfer of benefits.

EPFO's push for UAN activation and Aadhaar seeding is a step toward modernization and efficiency. These digital initiatives will make benefit transfers more transparent, faster, and secure. Employees and employers must work together to ensure that all necessary actions are completed before the deadline of November 30, 2024.

Note: This due date is not yet extended as on publication of this Newsletter.

## **Amendment in Employees' Deposit-Linked Insurance Scheme**

The Ministry of Labour and Employment Notification dated November 18, 2024, has made amendments to the Employees' Deposit-Linked Insurance Scheme, 1976 under the powers conferred by the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

The amended scheme is referred to as the Employees' Deposit-Linked Insurance (Second Amendment) Scheme 2024.





# LABOUR LAWS

## Key Changes in the Scheme:

The major change is related to the benefit amount payable to the nominees in case of the death of a member. The details of the amendment are as follows:

### 1. New Provision for Death Benefits:

In the case of the death of an employee who has been a member of the Provident Fund or a provident fund exempted under Section 17 of the Act, and who has been in continuous employment for a period of twelve months preceding the month of death, the following will apply:

The nominee(s) will be entitled to receive the Provident Fund accumulations of the deceased member, along with an additional amount calculated as:

- Thirty-five times the average monthly wages drawn by the employee (subject to a ceiling of ₹15,000), during the twelve months preceding the month of death.
- Fifty percent of the average balance in the employee's provident fund account (or an exempted provident fund account) during the preceding twelve months, subject to a ceiling of ₹1,75,000.

**Minimum Benefit:** The insurance benefit provided will not be less than ₹2,50,000.

**Maximum Benefit:** The insurance benefit will not exceed ₹7,00,000.







# LABOUR LAWS

## 2. Provision for Part-Time Employees:

In the case of part-time employees who are members of the Provident Fund or an exempted provident fund under section 17 of the Act, and have worked in more than one establishment for a continuous period of twelve months preceding the month of death, the benefit will be calculated based on the aggregate average wages from all the establishments where the employee has been working for more than twelve months, subject to the ₹15,000 wage ceiling.

**Effective Date:** It shall come and deemed to be effective from April 28,2024.



**"Hard work beats talent when talent doesn't work hard."**

**— Tim Notke**





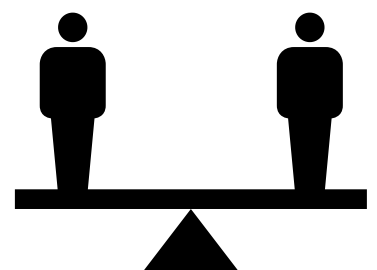
## TEAM'S CORNER

### **Is it permissible for the same individual to serve as Managing Director in two distinct companies?**

In the context of legal definitions, a Managing Director is recognized as an employee of the company. As such, it stands to reason that an individual cannot simultaneously hold employee status in two separate companies. The term "moonlighting" has even been introduced to describe individuals who engage in employment with multiple companies concurrently, and this practice has sparked ongoing debates regarding its ethical implications.

**To rephrase our inquiry: Is it legally permissible for a Managing Director to engage in moonlighting by assuming the same role in two companies?**

A thorough examination of Section 203 of the Companies Act reveals noteworthy insights. Sub-section 3 specifies that a whole-time Key Managerial Personnel (KMP) of a company is prohibited from working for other companies, with the exception of subsidiaries of the company in which they are employed. However, the first proviso indicates that, with the approval of the company's board of directors, they may serve as a director in any other company.

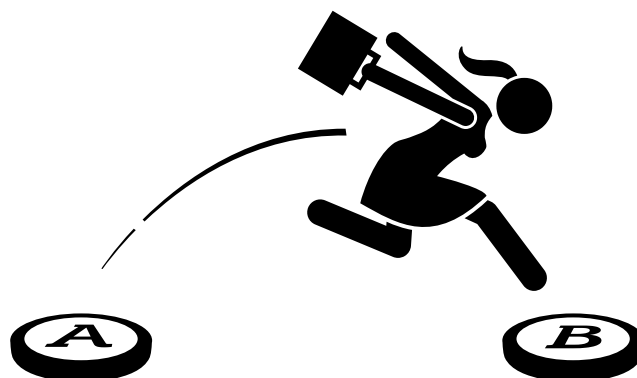


A large, light blue hand is cupped over a group of business silhouettes. The silhouettes are standing on a floor made of puzzle pieces. Some puzzle pieces have icons like a target, a dollar sign, and a lightbulb. Dotted lines connect the silhouettes, suggesting a network or communication. The background is a light blue gradient.

## TEAM'S CORNER

This distinction clarifies that while Chief Financial Officers (CFOs) and Company Secretaries (CSs) are limited to serving as directors in other companies, a Managing Director has the capacity to hold a directorial position in additional companies. The pertinent question then arises: can a Managing Director also assume the title of Managing Director in a second company? The third proviso specifies that such an individual may be appointed as Managing Director in another company through a straightforward board resolution, provided there is consent from all directors present at the meeting.

So, absolutely yes! A Managing Director totally has all the time in the world to juggle two companies, as long as the first company's board graciously allows them to dabble in other ventures and the second company rolls out the red carpet for their royal appointment. Because, you know, who wouldn't want to moonlight while running the first company into the ground? **Clearly, being a Managing Director is all about multitasking—what could possibly go wrong?**





# WISDOM CORNER

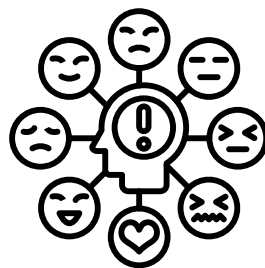
## Wit and Wisdom by Osho- “The same potatoes, the same chapatis”!

Whatever you have done, whatever you are doing, whatever you will do, is not separate and apart from you. It is your own game. If you are suffering, it is your own choice. If you are blissful, it is your own choice. No one else is responsible.

I was a newly appointed professor in a college. As the college was a good distance away from the town the professors used to bring their lunch with them and sit together at one table during lunchtime. It was by chance that when the person sitting next to me opened his box and looked in, he said, "Again it is potatoes and chapatis!" I thought may be he doesn't like potatoes and chapatis. But as I was new there, I didn't say anything. Next day the same thing happened. He opened his lunch box, looked in and sighed, "The same potatoes, the same chapatis!"

So I said to him, "If you don't like potatoes why don't you tell your wife to make something else?"

He said, "Wife! What wife?  
I make my lunch myself?"



**This is your life. There is nobody else. If you laugh, you laugh; if you cry, you cry. No one else is responsible.**



*Thank  
you*

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Limited**

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