

Sl. No.	Regulation/Sub-regulation/Clause/ Proviso	Text of Regulation/ Sub-regulation/ Clause/ Proviso	Proposed/ Suggested Changes	Rationale for proposed changes
1.	Regulation 2(d)	“Associate” in relation to a Power Exchange or Trader Member or Proprietary Member or Facilitator Member of a Power Exchange, as the case may be, means associate company or related party as defined in sub-sections (6) and (76) of Section 2 of the Companies Act, 2013 (18 of 2013) respectively;	Associate” in relation to a Power Exchange or Trader Member or Proprietary Member or Facilitator Member of a Power Exchange, as the case may be, means <del>associate company</del> or related party as defined in sub-sections (6) and (76) of Section 2 of the Companies Act, 2013 (18 of 2013) respectively;	Suggested modification.  The definition of Related Party under Sec 2(76) includes the term related party.
2.	Regulation 2(a1)	“Net worth” means aggregate value of the paid-up equity share capital and compulsorily convertible preferential shares and free reserves (excluding reserves created out of revaluation and write back of depreciation) reduced by the aggregate value of accumulated losses, deferred expenditure (including miscellaneous expenses) not written off and loans and advances to and investment made in the Associates;	The Suggested definition is as under:  “Net Worth” means the aggregate value of the paid-up share capital and all reserves created out of the profits, securities premium account and <b>debit or credit balance of profit and loss account</b> , after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of	To align with definition of Net Worth given in section 2(57) of the Companies Act, 2013.

			depreciation and amalgamation.	
3.	Regulation 2(2)	Save as aforesaid and unless repugnant to the context or if the subject-matter otherwise requires, words and expressions used in these regulations and not defined, but defined in the Act or other regulations made thereunder by the Commission shall have the meaning assigned to them in the Act or other regulations made by the Commission.	The revised text is as under:  (2) Save as aforesaid and unless repugnant to the context or if the subject-matter otherwise requires, words and expressions used in these regulations and not defined, but defined in the Act or other regulations made thereunder by the Commission shall have the meanings assigned to them in the Act or other regulations made by the Commission <i>oras have been assigned to them under various statutes or notifications / instructions / rules / regulations / guidelines/directions issued under various statues or used in commercial parlance.</i> ”	Modification suggested.
4.	Regulation 9(4)	<b>Eligibility Criteria</b>  The applicant has a Net worth of minimum Rs. 50 crores as per the audited special balance sheet as on any date falling within 30 days immediately preceding the date of filing the application for grant of registration.	<b>A Company Secretary in Practice may be authorised to issue Net Worth Certificate</b> certifying net worth requirements as per the eligibility criteria for establishing a power exchange.	A Company Secretary in Practice (PCS) renders various services viz. certification/ attestation, compliance, advisory, representation and arbitration, conciliation services and the other services as prescribed under Section 2(2) of the Company Secretaries Act, 1980 to the corporations, body corporates, societies, trusts, associations, enterprises, undertakings, etc.

				<p>A Company Secretary in Practice is authorized:</p> <ul style="list-style-type: none"> <li>• To issue net worth certificate to be submitted by issuers at the time of admitting securities in CDSL and NSDL.</li> <li>• To issue net worth certificate to be submitted by the trading members / clearing members / company for the continuing membership norms as prescribed by NSE and BSE.</li> <li>• To issue net worth certificate for pre and post scheme like Demerger, Capital Reduction, Scheme of Arrangement under Sections 230-234 and Section 60 of the Companies Act, 2013, as per the criteria prescribed by BSE.</li> <li>• To certify paid-up equity capital and net-worth</li> </ul>
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				under Guidelines for Grant of Unified License (Virtual Network Operators) (Point viii & X of Para 1, Annexure I & II) Department of Telecommunications.
5.	Regulation 16(1) -	<p><b>Disclosure of information regarding ownership of the Power Exchange</b></p> <p>The Power Exchange shall disclose to the Commission by 30th April each year its category-wise shareholding pattern as on 31st March of that year, or when there is a significant change in the shareholding or as and when directed by the Commission.</p>	<p>A Company Secretary in Practice may be authorized to certify the shareholding pattern of a Power Exchange. The suggested text for the proposed change in regulation 16(1) is as under:</p> <p>“(1) The Power Exchange shall disclose to the Commission by 30th April each year its category-wise shareholding pattern <i>duly certified by a Company Secretary in Practice</i> as on 31st March of that year, or when there is a significant change in the shareholding or as and when directed by the Commission.”</p>	<p>A Company Secretary in Practice is authorized:</p> <ul style="list-style-type: none"> <li>• To issue Certificate in relation to Reconciliation of Share Capital i.e. reconciliation of total issued capital, listed capital and capital held by depositories in dematerialized form under Regulation 76 of the SEBI (Depositories and Participants) Regulations, 2018.</li> <li>• To issue Certificate Form PAS-6, for every unlisted public company in respect of Reconciliation of Share Capital. i.e. reconciliation of total issued capital, listed capital and capital</li> </ul>

				held by depositories in dematerialized form under sub-rule (8) of rule 9A of the Companies (Prospectus and Allotment of Securities) Rules, 2014.
6.	Regulation 17	<b>Governance structure of Power Exchange</b>	<p>In the proposed draft Regulations, the Composition of Board of Director is silent about the representation of Woman Director on the Board.</p> <p>Therefore it is suggested that the Board shall comprise of Woman Director in the optimum combination.</p>	To ensure gender diversity and to follow better Corporate Governance Norms, it is suggested that the provision for appointment of Woman Director in the Board be aligned with the Companies Act, 2013 & SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.
7.	Regulation 17	<b>Governance structure of Power Exchange</b>	<p>The draft regulations, the constitution and composition of certain statutory committees i.e. Nomination and Remuneration Committee, Audit Committee etc. are not mentioned.</p> <p>Accordingly it is suggested to make provisions for the same in these draft regulations.</p>	Statutory committees play an important role in any kind of the governance structure of an organisation. So the draft regulations may align the constitution of these committees at par with the Companies Act 2013.
8.	Regulation 17(9)	<b>Governance structure of Power Exchange</b>  The names of persons to be appointed as	<p>The revised text is as under:</p> <p>(9) The names of persons to be appointed as Shareholder Directors shall be</p>	Board is defined in the regulations.

		Shareholder Directors shall be approved by the Board of Directors of the Power Exchange, followed by shareholders' approval and thereafter shall be submitted to the Commission for information.	approved by the Board <del>of Directors of the Power Exchange</del> , followed by shareholders' approval and thereafter shall be submitted to the Commission for information.					
9.	Regulation 21	<p><b>Management of Power Exchange</b></p> <p>The senior management of the Power Exchange shall comprise of at least three fulltime professionals having qualifications and experience in the following areas:-</p> <table border="1"> <tr> <td>Finance, Commerce, Economics and Accounts</td> <td>CA/ ICWA/ MBA (in Finance)/Post graduate degree in Economics with at least 10 years of experience in the field</td> </tr> </table>	Finance, Commerce, Economics and Accounts	CA/ ICWA/ MBA (in Finance)/Post graduate degree in Economics with at least 10 years of experience in the field	<p><b>The revised text is as under:</b></p> <p>The senior management of the Power Exchange shall comprise of at least three fulltime professionals having qualifications and experience in the following areas:-</p> <table border="1"> <tr> <td>Finance, Commerce, Economics and Accounts</td> <td>CS/ CA/ ICWA/ MBA (in Finance)/Post graduate degree in Economics with at least 10 years of experience in the field</td> </tr> </table>	Finance, Commerce, Economics and Accounts	CS/ CA/ ICWA/ MBA (in Finance)/Post graduate degree in Economics with at least 10 years of experience in the field	<p><b>A Company Secretary is defined as Senior Management' under Regulation 16 (1) (d) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 as given below:</b></p> <p>"senior management" shall mean officers/personnel of the listed entity who are members of its core management team excluding board of directors and normally this shall comprise all members of management one level below the chief executive officer/ managing director/ whole time director/ manager (including chief executive officer/ manager, in case they are not part of the board) <i>and shall specifically include company secretary and</i> chief financial</p>
Finance, Commerce, Economics and Accounts	CA/ ICWA/ MBA (in Finance)/Post graduate degree in Economics with at least 10 years of experience in the field							
Finance, Commerce, Economics and Accounts	CS/ CA/ ICWA/ MBA (in Finance)/Post graduate degree in Economics with at least 10 years of experience in the field							

				<p>officer.</p> <p>A Company Secretary in employment acts as Compliance Officer, Advisor, Key Managerial Personnel, Corporate Risk Manager, Chief Governance Officer, Corporate Planner and Strategic Manager, etc.</p> <p>Company Secretaries in employment are recognized as under:</p> <ol style="list-style-type: none"> <li>1. Designated as Compliance Officer under Regulation 6 of SEBI {Listing Obligations and Disclosure Requirements (LODR)} Regulations, 2015.</li> <li>2. Designated as Compliance Officer under IRDAI (Corporate Governance) Guidelines for Insurers in India [Clause 11.4.2]</li> <li>3. Recognized as a Key Managerial Personnel</li> </ol>
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				<p>(KMP) as per section 2(51) of the Companies Act, 2013.</p> <p>4. Appointment as whole-time KMP in every listed company or every other company having a paid-up share capital of 10 crore rupees or more as per the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014.</p> <p>5. Appointed as KMP under IRDA (Registration of Indian Insurance Companies) Regulation, 2000 [Regulation 2(1)(i)]</p> <p>Therefore, the proposed modifications have been suggested.</p>
<b>General Suggestions</b>				
10.		<p><b>The draft regulation is silent about the appointment of Compliance Officer.</b></p> <p><b>As a Good governance measure, Appointment of Compliance Officer in the Governance structure of a power Exchange is the most important step.</b></p>	<p>The proposed changes are as under:</p> <p><b>Appointment of Compliance Officer</b></p> <p>(1) Every Power Exchange shall appoint a compliance officer who shall be <i>aCompany Secretary and shall be</i> responsible for</p>	<p>Regulation 6 of the SEBI (LODR) Regulations, 2015, mandates the appointment of Company Secretary as Compliance Officer for listed entities.</p>



		<p><b>Accordingly, the draft regulations shall include provisions for the same.</b></p>	<p>monitoring the compliance of the Act, regulations, or directions issued thereunder and for redressal of members' grievances.</p> <p>(2) The compliance officer shall immediately and independently, report to the Commission any non-compliance of any provision stated in sub-regulation (1) observed by him.</p>	<p>The Company Secretary has important fiduciary and Company Law responsibilities. The Company Secretary is the nodal point for the Board to get feedback on the status of compliance by the organisation in regard to provisions of the Company Law, SEBI regulations, shareholder grievances, etc. In view of the important role performed by the Company Secretary the Board shall appoint a Company Secretary as Compliance Officer for ensuring compliance with various regulatory / accounting requirements”.</p> <p>Further, A Company Secretary acts as adviser to the Board in various matters relating to disclosure, compliances, risk management, business policy, strategy and planning, IPR and taxation matters.</p> <p>A Company Secretary is a competent professional and possesses exhaustive exposure in</p>
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				<p>the Companies Act, SEBI laws, FEMA, corporate funding, mergers and acquisitions, management, accounting, finance, resolution of corporate disputes, etc. He is thoroughly conversant with the technicalities and substantive provisions of the law.</p> <p>Company Secretary in employment acts as Compliance Officer, Advisor, KMP, Corporate Risk Manager, Chief Governance Officer, Corporate Planner and Strategic Manager, etc.</p> <p>Company Secretaries are recognized for employment as under:</p> <p>Designated as Compliance Officer under Regulation 6 of SEBI {Listing Obligations and Disclosure Requirements (LODR)} Regulations, 2015.</p> <p>Designated as</p>
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				<p>Compliance Officer under IRDAI (Corporate Governance) Guidelines for Insurers in India [Clause 11.4.2]</p> <p>As per Regulation 16(1)(d) of SEBI (LODR) Regulations 'Senior management' shall specifically include Company Secretary excluding board of director.</p> <p>Recognized as a Key Managerial Personnel (KMP) as per section 2(51) of the Companies Act, 2013.</p> <p>Appointment as whole-time KMP in every listed company or every other company having a paid-up share capital of 10 crore rupees or more as per the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014.</p>
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				<p>6. Appointed as KMP under IRDA (Registration of Indian Insurance Companies) Regulation, 2000 [Regulation 2(1)(i)]</p> <p>Therefore, the proposed modifications have been suggested.</p>
11.		<b>Compliance Certificate</b>	<p>The Commission may introduce a '<b>Certificate of Compliance</b>' to be issued by a <b>Company Secretary in Practice (PCS)</b> certifying that an applicant seeking authorisation as a power exchange has complied with the conditions laid down in regulation 9 &amp; 11 and is eligible for setting-up and operate a power exchange governed by the provisions of these regulations and any other regulations that have been formulated by the Commission.</p> <p><i>The ICSI may provide the draft format of the Certificate of Compliance upon hearing from your good self.</i></p>	<p>The introduction of the 'Certificate of Compliance' will give necessary assurance to the Commission during grant of authorization to an applicant seeking authorisation as a power exchange.</p> <p>This will reduce burden of the Commission to review each aspect threadbare and will speed up the process of approval of power exchange.</p> <p><b>Rationale for authorising Company Secretary in Practice:</b></p> <p>A Company Secretary in</p>

				<p>Practice (PCS) renders various services viz. certification/ attestation, compliance, advisory, representation and arbitration, conciliation services and the other services as prescribed under Section 2(2) of the Company Secretaries Act, 1980 to the corporations, body corporates, societies, trusts, associations, enterprises, undertakings, etc.</p> <p>A Company Secretary(CS) advises companies on compliance of legal and procedural aspects on matters relating to Companies Act, SEBI laws, FEMA, Competition laws, Environmental laws, labour laws, cyber laws, mergers and acquisitions, takeovers, joint ventures, strategic alliances, etc.</p> <p>A CS is widely acclaimed for his understanding of laws not only from a legal perspective</p>
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				<p>but also from a management and technical perspective.</p> <p>CS is provided with exhaustive exposure by the ICSI through coaching, examination, rigorous training and continuing professional development programmes and is governed by the Code of Conduct as prescribed in the Company Secretaries Act, 1980.</p> <p>A PCS is authorised to undertake the following certification and audit services:</p> <ul style="list-style-type: none"> <li>• To certify Registration along with Article of Association, Memorandum of Understanding, Details of Promoters/ Partner/ Shareholder, Net worth, Paid up Capital, Foreign Direct Investment in the company for the purpose of Application to Department of</li> </ul>
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				<p>Telecommunications for Grant of Unified License (Virtual Network Operators)/ Authorisation for Additional Services under Department of Tele-communications (Access Service Cell) [Notification No. 800-23/2011-VAS (Vol. II)].</p> <ul style="list-style-type: none"> <li>• To certify that the applicant has complied with all the requirements relating to registration fees, share capital, deposits and other requirements of the Insurance Regulatory and Development Authority Act, 1999. [IRDA (Registration of Indian Insurance Companies) Regulations, 2016 (Regulation 10)]</li> <li>• To issue Certificate in case of the Indian company accepting the investment from a foreign</li> </ul>
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				<p>investor, thereby confirming compliance of Companies Act, 2013 and other matters. [As per Para 9 (1) (B) (i) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000].</p> <ul style="list-style-type: none"> <li>• To certify that all transfers have been completed within stipulated time under Regulations 40(9) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.</li> <li>• To certify compliance of conditions of Corporate Governance under Schedule V, Clause E of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.</li> <li>• To conduct Secretarial Audit under Regulation 24A of the SEBI (Listing Obligations and Disclosure Requirements)</li> </ul>
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				<p>Regulations, 2015 certifying that the company has complied with all the applicable laws.</p> <ul style="list-style-type: none"> <li>• To provide Annual Secretarial Compliance Report to all the listed entities on compliance of all applicable SEBI Regulations and circulars/ guidelines issued thereunder. [SEBI Circular No. CIR/CFD/CMD1/27/2019 dated February 8, 2019</li> <li>• To issue certifications under the Foreign Trade Policy 2015-20.</li> <li>• To issue valuation reports as a Registered Valuer for asset class of Securities or Financial Assets under the Companies (Registered Valuers and Valuation) Rules, 2017.</li> <li>• To issue a half yearly certificate regarding</li> </ul>
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				<p>maintenance of hundred percent asset cover in respect of listed non-convertible debt securities as per Regulation 56(1)(d) of the SEBI (LODR) Regulations, 2015.</p> <ul style="list-style-type: none"> <li>• To conduct internal audit under section 138 of the Companies Act, 2013.</li> <li>• To oversee all the compliances relating to issue of depository receipts and to provide compliance report to be placed at the Board meeting to be held immediately after closure of all formalities of the issue of depository receipts (Rule 4 of the Companies (Issue of Global Depository Receipts) Rules, 2014.</li> <li>• To conduct internal audit of Portfolio managers, Registrar to an Issue and Share Transfer</li> </ul>
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				<p>Agent, Stock Brokers/Trading Members/ Clearing Members, Credit Rating Agencies, Investment Advisers, Research Analysts.</p> <ul style="list-style-type: none"> <li>• To certify e-Form BEN-2 relating to significant beneficial owners of the company disclosing their interest in the company by way of shareholding or voting rights.</li> <li>• To issue third party certification under the Audit Scheme Department of Labour, Government of Haryana [Clause 2 (ii)].</li> </ul> <p>A Company Secretary is covered under the definition of an 'expert' under section 2(38) of the Companies Act, 2013, who along with other professionals under this section has the power or authority to issue a certificate</p>
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				<p>in pursuance of any law for the time being in force.</p> <ul style="list-style-type: none"> <li>• Report of an ‘expert’ with regard to valuation is required to be annexed for the meeting ordered by NCLT under section 232(2)(d) of the Companies Act, 2013.</li> </ul> <p>A Company Secretary in practice may be appointed as an ‘expert’:</p> <ul style="list-style-type: none"> <li>• in the Serious Fraud Investigation Office (SFIO) under section 211(2) of the Companies Act, 2013.</li> <li>• in the Mediation and Conciliation Panel maintained by the Central Government under section 442(1) of the Companies Act, 2013.</li> <li>• in IEPF Authority, as and when required to assist it on any specific issue under Rule 10 of the</li> </ul>
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				Investor Education and Protection Fund Authority (Appointment of Chairperson and Members, Holding Meetings and Provision for Offices and Officers) Rules 2016.
12.		<b>Whistle Blowers' Policy</b>	The draft regulations do not mention any kind of vigil mechanism in case of unscrupulous activity, wrongdoing or violation of law.	For any kind of Organisation, being a Self-Regulatory Organisation it is crucial to have a well-defined vigil mechanism policy. Accordingly, the Provisions for the same shall be included in the Draft regulations for better Corporate Governance Norms and ensuring Transparency in case of any wrong doing.
13.		<b>Insider Trading Policy</b>	The Draft Regulations define Insider, Insider Trading and unpublished Price Sensitive Information. Further, at various places in the draft regulations, reference has been made to insider trading for various purposes.  In the absence of an Insider trading Policy, if circumstances arise during certain course of action, it is inevitable to establish the occurrence of Insider	For the purposes of implementation of these regulations and matters incidental thereto, the draft Regulations may specify norms, procedures, processes, manners or guidelines with respect to Insider Trading.

			Trading. Therefore, the regulation shall draft a clear cut Insider Trading Policy for any future litigation.	
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