Voices on Reporting

Yearly updates

May 2017

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Voices on Reporting, is a series of knowledge sharing calls, organised by KPMG in India, which covers current and emerging reporting challenges and is usually scheduled towards the end of each month.

In this publication, we aim to summarise important topics relating to the year ended 31 March 2017 from the Ministry of Corporate Affairs (MCA), the Securities and Exchange Board of India (SEBI), the Reserve Bank of India (RBI), the Institute of Chartered Accountants of India (ICAI), the Insurance Regulatory and Development Authority of India (IRDAI) and the Central Board of Direct Taxes (CBDT).

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Updates relating to Ind AS

Ind AS reminder for corporates

Ind AS reminder for corporates

The MCA through a notification dated 16 February 2015 issued the Companies (Accounting Standards) Rules, 2015 (Ind AS Rules) which laid down a road map for entities (other insurance entities, banking entities and Non-Banking Financial Companies (NBFCs)) (corporate road map) for implementation of Ind AS converged with IFRS in a phased manner.

Phase I

Ind AS has become applicable to the following class of companies from FY2016-17 (comparative year ended 31 March 2016):

a. All entities listed or in the process of being listed with net worth of INR500 crore or more

b. All unlisted entities with net worth of INR500 crore or more

c. Holding, subsidiary, joint ventures or associate entities of (a) and (b) above.

Equity listed entities - SEBI disclosures

The following section provides an overview of the SEBI disclosure requirements for the year ended 31 March 2017 for equity listed entities covered under phase I of the corporate road map.

- **Formats for publishing financial results:** Equity listed entities are required to submit the following within 60 days of the end of the FY2016-17 (i.e. up to 30 May 2017):

  a. Annual audited stand - alone financial results - *as per Schedule III to the Companies Act, 2013 (2013 Act)*

  b. Annual audited consolidated financial results - *as per Schedule III to the 2013 Act*

  c. Audited financial results in respect of the last quarter, with a note stating that the figures of last quarter are the balancing figures between audited figures in respect of the full FY and the published YTD figures up to the third quarter of the current FY (if applicable).

  These results are mandatorily required to be audited.

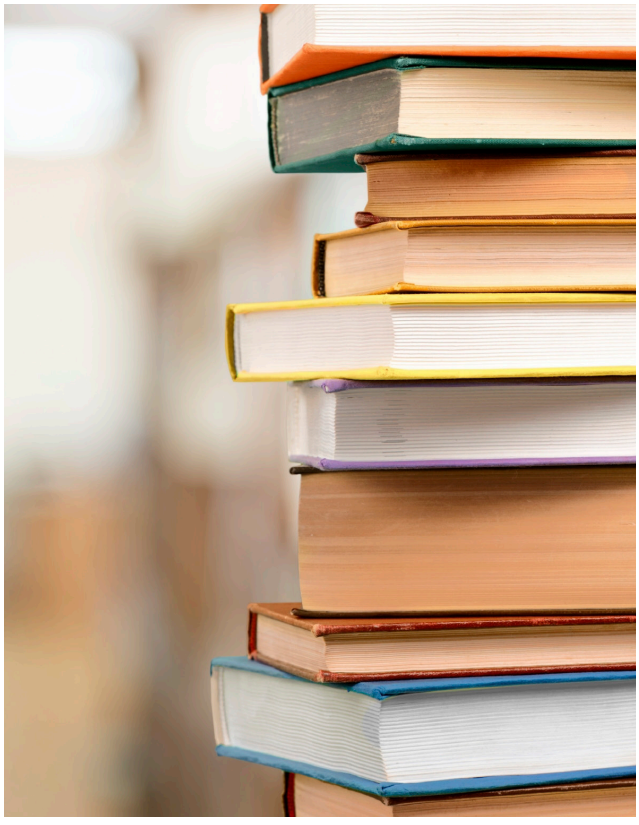
  Additionally, while submitting the annual financial results, equity listed entities are also required to submit the following:

  - For audit reports with a modified opinion - Statement on impact of audit qualifications
  - For audit reports with an unmodified opinion - Declaration to that effect.

- **Reconciliations:** Following reconciliations are also required to be submitted by an equity listed entity:

  a. Reconciliation of its equity for the previous year ended 31 March 2016 should be provided while submitting the audited yearly balance sheet for the period ended 31 March 2017

  b. Reconciliation of net profit/loss as mentioned in the unaudited/audited quarterly financial results to be provided only for the corresponding quarter of the PY. *(If presented).*



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Annual reporting, audit and disclosure of reserves requirements

The following table depicts the reporting requirements applicable to annual financial results of an equity listed entity:

Reporting requirements	3 months ended	Preceding 3 months ended*	Corresponding 3 months ended in the Previous Year (PY)*	Year-to-Date (YTD) figures for current period ended	YTD figures for the PY ended*	PY ended	Audit of PY comparative period	Audit of PY ended	Disclosure of reserves (excluding revaluation reserves)
31 March 2017	✔	✔	✔	✔	✔	✔	✔	✔	✔

**Figures relating to these columns may not be disclosed.*

(Source: KPMG in India's analysis, 2017)

(Source: SEBI circular no. CIR/CFD/CMD/15/2015 dated 30 November 2015, circular no. CIR/CFD/FAC/62/2016 dated 5 July 2016, Regulation 33 of the Listing Regulations and IFRS Notes released by KPMG in India on 13 July 2016)

Debt listed entities - SEBI disclosures

SEBI disclosures in financial results for the year ended 31 March 2017 are as follows:

- **Formats for publishing annual financial results:** Timelines for submission of annual financial results for year ended 31 March 2017 are as follows:
  - *Limited review* - Within 45 days of the end of the FY2016-17 (i.e. up to 14 May 2017) accompanied by a limited review report.
  - The entity is also required to submit audited financial results as soon as they are approved by the Board of Directors (BOD).

  or

  - *Audited financial statements* - Within 60 days (i.e. up to 30 May 2017), if prior intimation about submission of audited annual results given to stock exchange.

  The format of results should be as per the Schedule III to the 2013 Act (excluding notes/detailed sub-classification). Additionally, while submitting the annual financial results, debt listed entities are also required to submit the following:
  - For audit reports with a modified opinion- Statement on impact of audit qualifications
  - For audit reports with an unmodified opinion- Declaration to that effect.

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- **Disclosures required for annual financial results**

In the statement of profit and loss

Particulars	6 months (Current 6 months) ended (dd/mm/yyyy)	6 months (Corresponding 6 months in the PY) ended (dd/mm/yyyy)	YTD figures ended (dd/mm/yyyy)	PY ended (dd/mm/yyyy)
	Audited/unaudited*	Audited/unaudited*	Audited/unaudited*	Audited

**Clearly specify whether the figures are audited or reviewed.*

(Source: SEBI circular no. CIR/IMD/DF1/69/2016 dated 10 August 2016)

In the balance sheet

Particulars	As at (year end date) (dd/mm/yyyy)	As at (PY end date) (dd/mm/yyyy)
	Audited/unaudited*	Audited

**Clearly specify whether the figures are audited or reviewed.*

(Source: SEBI circular no. CIR/IMD/DF1/69/2016 dated 10 August 2016)

- **Reconciliations**

  a. Reconciliation of equity in accordance with previous GAAP for the PY i.e. year ended 31 March 2016, should be provided while submitting the annual financial results for the first year of adoption, i.e. year ended 31 March 2017

  b. Reconciliation of net profit/loss to be provided only for the corresponding half year in the preceding year.

Key takeaways

- **Communication with stakeholders:** Entities that have listed their equity or debt securities and/or non-cumulative redeemable preference shares should initiate and manage their communication with relevant stakeholders in order to enable a clear understanding of the impact of Ind AS on their financial position, financial performance and liquidity.
- **Finalisation of results:** Entities should carefully analyse the guidance issued by the respective regulatory bodies such as ICAI, SEBI, MCA, etc. while finalising its results and determine how far they are applicable to them.

(Source: SEBI circular no. CIR/IMD/DF1/69/2016 dated 10 August 2016, Regulation 52 of the Listing Regulations and IFRS Notes released by KPMG in India on 19 August 2016)

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Ind AS 101, *First-time Adoption of Indian Accounting Standards* disclosures

As per Ind AS 101, an entity's first Ind AS financial statements should include the following:

- Reconciliations of its equity reported in accordance with previous GAAP to its equity in accordance with Ind ASs for both of the following dates:
  - The date of transition to Ind ASs and
  - The end of the latest period presented in the entity's most recent annual financial statements in accordance with previous GAAP
- Reconciliations of statement of profit and loss under previous GAAP to statement of profit and loss under Ind AS for the comparative annual period ending 31 March 2016
- Explanation of significant adjustments to the statement of cash flows
- Explanation of errors made under previous GAAP, whether correction of errors should have been presented separately from changes in the accounting policies
- If the entity recognised or reversed any impairment losses for the first time in preparing its opening Ind AS balance sheet, the disclosures that Ind AS 36, *Impairment of Assets,* would have required if the entity had recognised those impairment losses or reversals in the period beginning with the date of transition to Ind ASs.

(Source: Ind AS 101 issued by the MCA)

Ind AS reminder for other entities

Following table provides an overview of the Ind AS requirements specified for other entities (other than covered under corporate road map):

Particulars	Banks and insurance companies	NBFCs	
		Phase I	Phase II
Date of transition	1 April 2017	1 April 2017	1 April 2018
Ind AS year	2018-19	2018-19	2019-20
Comparative year	2017-18	2017-18	2018-19
Covered companies	a. Scheduled Commercial Banks (excluding Regional Rural Banks) b. All-India Term Lending Refinancing Institutions and insurer/insurance companies* c. Holding, subsidiary, joint venture or associate entities of banks to follow this road map (even if covered under road map applicable for other entities).	a. NBFCs with net worth of INR500 crore or more, and a. Their holding, subsidiary, joint venture or associate entities, other than those entities already covered under the corporate road map.	a. NBFCs whose equity and/or debt securities are listed or are in the process of listing on any stock exchange in India or outside India and with net worth of less than INR500 crore b. NBFCs that are unlisted entities, with net worth of INR250 crore or more but less than INR500 crore c. Holding, subsidiary, joint venture or associate entities of the above class of entities, other than those already covered under the corporate road map.
	**Insurer or insurance company should provide Ind AS compliant financial statement data for the purposes of preparation of CFS by its parent, investor, or venturer, as required by the parent, investor, or venturer to comply with the requirements of Ind AS, based on corporate road map.*	*NBFCs with net worth below INR250 crore and not covered in phase I or phase II will continue to comply with the existing AS.*	

(Source: KPMG in India's analysis, 2017)

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Key takeaways

Banks

- **Pervasive impact on business:** The adoption of Ind AS by banks is expected to have a pervasive impact on all aspects of their business in addition to the financial reporting process. However, there will be several implications related to systems, business processes and regulatory aspects that banks need to evaluate and consider in detail. Some of these changes, especially those related to classification and measurement of financial assets, financial risk management and loan loss provisioning based on expected losses may prove challenging and require substantial time to implement.
- **Prepare in advance:** Given the timelines for Ind AS implementation, banks should commence preparing for this change well in advance.

Insurance companies

- **Submission of Ind AS compliant financial statements for CFS:** Insurance companies are required to comply with the Ind AS notified by the Insurance Regulatory Development Authority of India (IRDAI) from 1 April 2018 onwards. However, they are required to provide Ind AS compliant financial statement data for the purposes of preparation of CFS by its parent, investor, or venture based on corporate road map. This would lead to early initialisation of the process of transition by the insurance companies which would further help them in early identification and addressal of the key implementation changes.

NBFCs

- **Phase I entities to gear up:** The transition date to Ind AS for NBFCs (phase I) would be 1 April 2017. This is expected to have an organisation-wide impact due to the pervasive nature of the new standards. Therefore, entities covered under this road map should commence identifying necessary changes required in their financial reporting and regulatory policies, processes and systems to prepare for this change.
- **Applicability to various types of NBFCs:** The road map for NBFCs clearly specifies that it applies to NBFCs as defined in clause (f) of Section 45-I of the RBI Act, 1934 and provides an inclusive list of the types of NBFCs covered. Therefore, entities should carefully consider whether they meet the definition of NBFCs under the RBI Act to determine if the Ind AS road map for NBFCs applies to them.
- **Group entities not covered in corporate road map:** Group entities not covered by the corporate road map would prepare Ind AS based financial statements based on the road map applicable to those of NBFCs.

(Source: MCA notification no. G.S.R. 365 (E) dated 30 March 2016, RBI circular no. RBI/2016-17/34 dated 4 August 2016 and MCA notification no. G.S.R. 365 (E) dated 30 March 2016)

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Provisions of MAT for Ind AS compliant companies

The Finance Act, 2017 (the Act) notified on 31 March 2017 has introduced a separate formulae for computation of book profit for the entities that prepare financial statements under Ind AS. According to it, while computing book profits for the purpose of levy of Minimum Alternate Tax (MAT) under Section 115JB of the Income Tax Act, 1961 (the IT Act):

- No further adjustments should be made to the net profits of Ind AS compliant entities, other than those specified in Section 115JB of the IT Act
- Certain items included in Other Comprehensive Income (OCI) that are permanently recorded in reserves and never reclassified into the statement of profit and loss, be included in book profits for MAT at an appropriate point in time
- Certain adjustments relating to values of assets and liabilities transferred in a demerger to be made by both the demerged entity as well as the resulting entity
- Certain adjustments recorded in retained earnings (other equity) on first-time adoption of Ind AS that would never subsequently be reclassified into the statement of profit and loss should be included in book profits (for the purpose of levy of MAT) in a deferred manner.

Adjustments to book profits for MAT computation can be grouped into following two categories:

- Adjustments relating to annual Ind AS financial statements
- Adjustments relating to first-time adoption of Ind AS.

Adjustments relating to annual Ind AS financial statements

As per the Act, MAT would be calculated using the profits as per the statement of profit and loss before OCI as per Ind AS the starting point and only those adjustments as are specified in Section 115JB of the IT Act or for gains and losses recognised on accounting for demergers would be made.

Considering that Ind AS requires significant use of fair values, this would mean that several potentially large items of gains and losses that are recognised in the statement of profit and loss would now be considered for MAT calculations, thereby impacting cash outflows relating to MAT (even though the related gain or loss may still be unrealised or notional and that could potentially reverse in subsequent periods).

- **Components of OCI:** In the OCI section of the statement of profit and loss, items are classified by nature and grouped into those in accordance with other Ind AS:
  - Those that will be reclassified to profit or loss in the future when certain conditions are met, e.g. foreign operations-foreign currency translation differences, net investment hedge, etc.
  - Items of OCI which will never be subsequently reclassified to profit or loss are as follows:

In addition, the following adjustments would be made to compute the book profits:

Sr. no.	Items	Requirements of the Finance Act, 2017
1.	Changes in revaluation surplus (Ind AS 16, *Property, Plant and Equipment* and Ind AS 38, *Intangible Assets*)	To be included in book profits at the time of realisation/disposal/retirement/otherwise transferred.
2.	Remeasurements of defined benefit plans (Ind AS 19, *Employee Benefits*)	To be included in book profits every year as the remeasurements gains and losses arise.
3.	Gains and losses from investments in equity instruments designated at fair value through OCI (Ind AS 109, *Financial Instruments*)	To be included in book profits at the time of realisation/disposal/retirement/otherwise transferred.
4.	Any other item	To be included in book profits every year as the gains and losses arise.

(Source: KPMG in India's analysis, 2017)

- **Demerger:** In case of a demerger, the difference between the fair value and the costs of the assets transferred is required to be recognised as a gain or loss in the statement of profit and loss and correspondingly, the distribution to shareholders is reflected at the fair value of the assets transferred under Ind AS.

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Considering that demergers are generally tax neutral transactions, these adjustments essentially provide that such gains/losses should be excluded in the computation of book profit, so that the demerger still remains tax neutral even from a MAT perspective.

Sr. no.	Items	Requirements of the Finance Act, 2017
1.	In the case of a *demerged company,* any increase or decrease in profits due to gain or loss recognised on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Ind AS 10, *Events After The Reporting Period*	To be excluded in book profits in the year of demerger.
2.	In the case of a *resulting company,* any change in the recorded values of assets and liabilities taken over on a demerger, as compared to the values as per books of the demerged company	To be ignored in the books of the resulting company, i.e. the book profits of the resulting company are to be computed using the values of assets and liabilities as they appeared in the books of the demerged company.

(Source: KPMG in India's analysis, 2017)

Adjustments relating to first-time adoption of Ind AS

Ind AS financial statements contain comparative information of the preceding year. On first-time adoption of Ind AS, a series of adjustments relating to transition from AS to Ind AS would be recorded in retained earnings (other equity) in the opening Ind AS balance sheet. To compute book profits for the first year of adoption of Ind AS (convergence date), the amounts adjusted as on the opening date of the first year of adoption should be considered.

For the adjustments recorded in OCI and other equity based on the amounts reflected on the convergence date, following adjustments are required to be made to the book profits:

Sr. no.	Adjustments	Requirements of the Finance Act, 2017
1.	The adjustments recorded in OCI that would be subsequently reclassified to profit or loss	Adjust book profits in the year in which those adjustments are reclassified to profit or loss.
2.	The adjustments recorded in OCI that would never be reclassified to profit or loss (discussed below)	a. Deemed cost adjustment to Property, Plant and Equipment (PPE) and intangible assets b. Gains and losses from investments in equity instruments designated at fair value through OCI c. Cumulative translation differences of a foreign operation in accordance with para D13 of Ind AS 101 d. Investments in subsidiaries, joint ventures and associates.
3.	All other adjustments recorded in 'other equity' i.e. transition amount*. Certain exclusions have been specified.	Adjust book profits equally over a period of five years starting from the first-time adoption of Ind AS.

(Source: KPMG in India's analysis, 2017)

*The Finance Bill, 2017 (the Bill) introduced on 1 February 2017 had defined a new term 'transition amount' to mean the amount or aggregate of the amount adjusted in other equity (excluding equity component of compound financial instruments, capital reserve, and securities premium reserve) on the date of adoption of Ind AS but excluding certain specified exclusions such as amount or aggregate of the amounts adjusted in the OCI on the convergence date which would be subsequently re-classified to profit or loss, revaluation surplus for assets in accordance with Ind AS 16 and Ind AS 38 adjusted on the convergence date, etc.

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An amendment to the Bill was passed on 20 March 2017 by CBDT which changed the definition of transition amount and included the term 'equity component of compound financial instruments' in the definition of transition amount.

A brief overview of the adjustments to be recorded in OCI that would never be reclassified to profit or loss is given below:

- **PPE and intangible assets-adjustments to retained earnings (other equity)**

Particulars	Requirements of the Finance Act, 2017
When fair value as deemed cost (para D5 and D7 of Ind AS 101)	• The adjustment due to one-time fair value of the PPE and intangible assets on the date of transition to Ind AS would be included in book profits in the year in which the asset is retired/disposed/realised/otherwise transferred. • Other adjustments such as asset restoration obligations, foreign exchange capitalisation/decapitaliation, borrowing costs adjustments, etc. would be considered in the transition amount.
When revaluation model has been adopted as an accounting policy for PPE and intangible assets	One-time adjustment to retained earnings (other equity) on transition to revaluation policy should be included in the book profits at the time when the asset is realised/disposed/realised/ otherwise transferred.
When PPE and intangible asset carrying values recomputed retrospectively or previous GAAP deemed cost approach followed	Other adjustments such as asset restoration obligations, foreign exchange capitalisation/decapitalisation, borrowing costs adjustments, etc. would be considered in the transition amount.

(Source: KPMG in India's analysis, 2017)

- **Gains and losses from investments in equity instruments designated at fair value through OCI:** As per Ind AS 109, an entity may make an irrevocable election to present fair value changes in OCI for its investments in equity instruments on initial recognition. On first-time adoption of Ind AS, an adjustment would be made to retained earnings (other equity component) when such investment is recognised at fair value in the balance sheet on the date of transition to Ind AS.

  Requirement of the Act

  One-time adjustment to retained earnings (other equity) when an entity adopts the accounting policy to measure equity instruments at fair value through OCI would not be included in the transition amount (i.e. not included in book profits over a period of five years).

  The one-time adjustment due to application of such an accounting policy would be included in book profits at the time when the equity instrument is realised/disposed/otherwise transferred.

- **Cumulative translation differences of a foreign operation on the convergence date:** As per Ind AS 101, a first-time adopter may consider cumulative translation differences for all its foreign operations as zero at the date of transition. The gain/loss on a subsequent disposal of any foreign operation should exclude translation differences that arose before the date of transition to Ind AS and include only translation differences that arose after the date of transition to Ind AS.

  Requirement of the Act

  Translation differences that arose before the date of transition to Ind AS should be ignored in computation of book profits. Such adjustment should be included in book profits at the time of disposal/transferred in relation to such foreign operation.

- **Investments in subsidiaries, joint ventures and associates in Ind AS separate financial statements:** As per Ind AS 101, in separate financial statements, an entity can measure its investment in subsidiaries, associates and joint venture either at cost or at fair value. If a first-time adopter opts to measure such investments at cost then a first-time adopter of Ind AS may apply a 'deemed cost' exemption. The deemed cost of such an investment would be either:

  a. Fair value at the entity's date of transition to Ind AS in its separate financial statements or

  b. Previous GAAP carrying amount at that date.

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Requirement of the Act

Following the principles of Section 115JB of the IT Act, the adjustments in retained earnings (other equity) relating to investments in subsidiaries, associates and joint ventures, on first-time adoption of Ind AS, should be ignored for computation of book profits. Such adjustment would be included in book profits at the time of realisation/disposal/ retirement/ otherwise transfer of such an investment.

Key takeaways

- **Simplification of MAT implications:** An attempt has been made to simplify MAT implications rather than providing a complex formula, which could create permanent differences and reconciliations of first-time adoption matters.
- **Tax neutral transactions:** The Act considered the scenario of demergers both from the resulting entity and demerged entity's perspective, and made these tax neutral transactions even from a MAT perspective.
- **Date of adjustments to book profits:** Date of adoption of Ind AS would be the starting date for making adjustments to the book profits for a period of five years. However, the Act is silent on the method of computation of MAT for the early adopters of Ind AS who adopted Ind AS from 1 April 2015 with the transition date 1 April 2014.
- **Taxation of unrealised gains and losses:** The approach suggested by the Act for determining book profit without any adjustment for such unrealised gains and losses might result in cash outflows on account of MAT without any actual realisation of the related gains. This anomaly is largely driven by the approach adopted for dividend distribution where current year profits (without any adjustment for unrealised gains/losses) is available for distribution in its entirety.
- **Parallel records:** The recommendations of the Act, specifically relating to PPE and investments would require entities to maintain memorandum accounts to compute the depreciation charge, when determining book profits for levy of MAT. Further, in case of a demerger, a resulting entity would need to maintain parallel records on the basis of the carrying value in the books of the demerged entity.
- **PPE and intangible asset on revaluation model:** The treatment outlined in the Act indicated that the aggregate revaluation till the year of sale would be adjusted for computing book profit for the year in which the asset is retired/disposed/realised/transferred. The Act and the memorandum to the Bill suggested that the amount to be adjusted to book profit in the year of sale/disposal, etc. should be determined after considering the impact of the differential depreciation on account of such revaluation. A clarification is required in this matter.
- **Inconsistency between the memorandum and the Act:** There seems to be certain inconsistency between the requirements of the memorandum and the Act - for instance, on PPE adjustments where fair value is considered as deemed cost, the memorandum seems to suggest that all such adjustments would not be taken into account while computing book profits for MAT purposes neither at the time of depreciation nor at the time of disposal/ retirement/realisation/transfer.

(Source: The Finance Act, 2017 dated 31 March 2017 and IFRS Notes released by KPMG in India dated 7 February 2017)

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Ind AS Transition Facilitation Group (ITFG):

Summary of clarifications issued during the year

With Ind AS being applicable to large corporates from 1 April 2016, the ICAI on 11 January 2016 announced the formation of the Ind AS Transition Facilitation Group (ITFG) in order to provide clarifications on issues arising due to applicability and/or implementation of Ind AS under the Companies (Indian Accounting Standards) Rules, 2015 (Rules 2015).

Till now, ITFG has issued seven Bulletins to provide guidance on issues relating to the application of Ind AS. The ITFG held its eighth and ninth meetings on 1 April and 8 April 2017, respectively. In these meetings, the ITFG reconsidered certain issues that were part of ITFG Clarification Bulletin 5 (Bulletin 5), on the basis of the representations received from the stakeholders. Accordingly, on 17 April 2017, the ITFG issued a revised Clarification Bulletin 5 (revised Bulletin 5), wherein they withdrew Issue No. 2 (clarification on current and non-current classification of security deposits) and revised Issues No. 4 and 5 (pertaining to the deemed cost exemption for PPE.).

In addition, on 17 April 2017, the ICAI issued a Frequently Asked Question (FAQ) on treatment of the securities premium account under Ind AS on date of transition. This FAQ replaces Issue No. 7 of the ITFG Bulletin 2 that was previously released in May 2016. Key issues clarified in these Bulletins have been summarised under the following topics:

PPE-application of deemed cost exemption: The ITFG provided guidance on the issues relating to PPE when a first-time adopter at the date of transition has selected an option under Ind AS 101 to continue with the carrying value of all PPE measured as per previous GAAP as deemed cost. It laid out certain principles in the following situations:

- ***Reassessment of depreciation (Bulletin 3):*** Where a company does not elect to apply deemed cost exemption on first time adoption of Ind AS, it is required to apply Ind AS 16 retrospectively to its PPE. If such a company had applied depreciation rates specified under Schedule XIV to the Companies Act, 1956 (1956 Act) under previous GAAP (without considering the useful life of its PPE), on transition to Ind AS the company is required to recompute depreciation by assessing the useful life of each asset in accordance with requirement of Ind AS 16 and Schedule II to the 2013 Act.

  While the depreciation rates in Schedule XIV were intended to be minimum rates (and an estimate of useful life was required to be made), some companies may have applied these depreciation rates in order to comply with the 1956 Act requirements (without considering the useful life of its PPE). These companies would be required to recompute depreciation on a retrospective basis in order to comply with Ind AS 16.

- ***Accounting of spares (Bulletin 3 and 5)***

  * A company that has elected to continue with the carrying value under previous GAAP as the deemed cost for all of its PPE on transition to Ind AS may have capital spares that were recognised as inventory under previous GAAP but are eligible for capitalisation under Ind AS. On transition to Ind AS such capital spares should be recognised as a part of PPE if they meet the criteria under Ind AS and the previous GAAP carrying value of such spares can be considered as their deemed cost in accordance with paragraph D7AA of Ind AS 101.
  * In the case where spare parts are recognised as PPE in accordance with criteria under Ind AS 16, then depreciation on such items should begin from the date when the asset is available for use.
  * Capital work in progress is considered to be in the nature of PPE under construction and the provisions of Ind AS 16 apply to it. Accordingly, it can be recognised at the carrying value under previous GAAP as deemed cost under Ind AS 101 (the option under para D7AA).
  * Ind AS 16 should be applied retrospectively to determine the amount at which spare parts (recognised as part of inventory in previous GAAP) would be recognised in the first Ind AS financial statements. Depreciation on such spares should be provided when they are available for use.
  * Further, the exemption provided by paragraph D7AA of Ind AS 101 to continue the previous GAAP carrying values of all PPE at the date of transition as deemed cost under Ind AS cannot be used for spare parts that were not recognised as fixed assets, i.e. PPE, under the previous GAAP. While paragraph D7AA does not permit any further adjustments to be made to the previous GAAP carrying value on transition, it does not prevent recognition of an additional asset as PPE if so required by another Ind AS. Therefore, spares that meet the definition of PPE should be capitalised on transition by retrospectively applying Ind AS 16.

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- An entity should apply Ind AS 16 retrospectively to determine the amount at which spare parts (recognised as part of inventory in previous GAAP) would be recognised in the first Ind AS financial statements. Deemed cost exemption to continue with the previous GAAP carrying values cannot be used for spare parts that were not recognised as PPE under previous GAAP.
- Depreciation on such spares should be provided when they are available for use.
- Further, PPE has been defined under Ind AS 16 as 'tangible items that are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes and are expected to be used during more than one period'.
- The term 'more than one period' in the definition should be construed to mean annual period as per the ITFG.

– ***Loan processing fees capitalised as part of relevant fixed assets (revised Bulletin 5):*** In Bulletin 5, the ITFG considered a situation wherein a company had taken a loan prior to the date of transition to Ind AS and had capitalised the processing fees on the loan as part of the relevant fixed assets. The company chose to avail the deemed cost exemption provided in paragraph D 7AA of Ind AS 101 to continue with the carrying value of the PPE as per the previous GAAP.

Paragraph D7AA of Ind AS 101 requires that no further adjustments should be made to the deemed cost of the PPE for transition adjustments that may arise from the application of other Ind AS. On this basis, the ITFG had previously clarified that no adjustments would be made to the carrying amount of the PPE. However, since the company would need to apply the requirements of Ind AS 109, retrospectively for all loans outstanding on the transition date, the processing fees would be deducted from the loan amount to arrive at its amortised cost. Accordingly, this adjustment to the loan amount would have to be recognised in the retained earnings.

The ITFG revisited this issue and the revised Bulletin 5 clarifies that the processing fees should be adjusted in both the loan amount as well as in the carrying amount of the PPE. The ITFG clarified that adjustment to PPE would be in the nature of a consequential adjustment (to PPE) to enable an adjustment to the carrying amount of the loan as required by Ind AS. This would also reflect the correct economic reality and result in faithful representation of the effects of these transactions on transition to Ind AS. Hence, this consequential adjustment (to PPE) would not be considered as an adjustment to the deemed cost of PPE as envisaged in paragraph D 7AA of Ind AS 101.

Accordingly, the carrying amount of the PPE as at the date of transition should be reduced by the amount of processing cost (net of cumulative depreciation impact). The difference between the adjustments to the carrying amount of the loan and PPE, respectively should be recognised in retained earnings.

Government grant deducted from the carrying amount of the related fixed asset (revised Bulletin 5):

In Bulletin 5, the ITFG considered a situation wherein a company had received an asset related government grant prior to the date of transition to Ind AS and had deducted the grant received from the carrying amount of fixed assets, as permitted under previous GAAP. The company chose to avail of the deemed cost exemption provided in paragraph D 7AA of Ind AS 101, to continue with the carrying value of PPE as per the previous GAAP.

As per Ind AS 20, *Accounting for Government Grants and Disclosure of Government Assistance,* an asset related grant should not be deducted from the cost of PPE and instead, should be accounted for as a deferred income. Paragraph D7AA of Ind AS 101 requires that no further adjustments should be made to the deemed cost of PPE for transition adjustments that may arise from the application of other Ind AS. Therefore, the ITFG had previously clarified that no adjustments would be made to the carrying amount of PPE. In accordance with Ind AS 20, the company would however be required to account for deferred income in respect of the grant outstanding on the transition date. Accordingly, the corresponding adjustment would be recognised in the retained earnings.

The ITFG revisited this issue and the revised Bulletin 5 clarified that unamortised deferred income should be recognised and a corresponding adjustment should be recognised in PPE and retained earnings, respectively.

Accordingly, while there is no change in the accounting treatment for the deferred income (as per Bulltein 5), the carrying amount of the PPE as at the date of transition would be increased by the amount of government grant deducted as per previous GAAP (net of cumulative depreciation impact). The difference between the adjustments would be recognised in retained earnings as at the date of transition. The ITFG clarified that the adjustment to PPE would reflect the correct economic reality and result in faithful representation of the effects of these transactions on transition to Ind AS.

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Revenue

- **Toll roads and revenue-based amortisation (Bulletin 3):** The ITFG has clarified that in harmonisation of the Companies (Accounts) Rules, 2014, Ind AS 38, *Intangible Assets* and Ind AS 101, principles of Ind AS 38 should be followed for all intangible assets related to service concession arrangements including toll roads once Ind AS is applicable to an entity. Accordingly, revenue based amortisation is generally not expected to apply to such intangible assets.
- **Application of exemption related to service concession arrangements in Ind AS 101 to toll roads under construction at the beginning of the first Ind AS financial reporting period:** The ITFG has clarified that the exemption provided in paragraph D 22 of Ind AS 101 (permitting a first time adopter to continue the amortisation policy adopted under previous GAAP for toll road intangibles recognised in the financial statements for the period ending immediately before the beginning of the first Ind AS financial reporting period) would only apply to intangible assets (relating to service concessions for toll roads) recognised in the financial statements before the first Ind AS financial reporting period. The toll road which is under construction as on 1 April 2016 and have not been recognised as intangible asset under previous GAAP would not be eligible to apply the exemption in Ind AS 101.
- **Excise duty (Bulletin 4):** The ITFG considers excise duty to be a liability of the manufacturer, which forms part of the cost of production, irrespective of whether the goods are sold or not. The recovery of excise duty flows to the entity on its own account and should be included in the amount of revenue. Accordingly, the ITFG has recommended a consistent approach and clarified that revenue should be presented as a gross amount including excise duty in the statement of profit and loss prepared under Ind AS. The excise duty payable should be reflected as an expense.
- **Service tax (Bulletin 4):** Where an entity receives revenue from a customer inclusive of service tax, the ITFG has clarified that paragraph 8 of Ind AS 18, *Revenue* provides that amounts collected on behalf of third parties such as sales taxes, goods and services taxes and value added taxes are not economic benefits which flow to the entity and should be excluded from revenue. Since, service tax represents the amount collected on behalf of a third party i.e. the government, it should not be included in revenue. Accordingly, revenue should be recognised net of service tax collected.

Leases

- **Straight-lining of lease payments (Bulletin 5):** Para 33 of Ind AS 17, *Leases* requires operating lease payments to be expensed on a straight line basis over the period of lease unless the payments to the lessor are structured to increase in line with expected general inflation to compensate for the lessor's expected inflationary cost increases. However, if payments to the lessor vary because of factors other than general inflation, then lease payments should be straight-lined.

  The ITFG clarified that judgement would be required to be made as per facts and circumstances of each case to determine whether the payments to the lessor are structured to increase in line with expected general inflation. A careful evaluation of lease agreements is required to ascertain the real intention behind the escalation clause and attributes of escalation in lease payments. Accordingly, if the actual increase or decrease in the rate of inflation is not materially different as compared to the expected rate of inflation/escalation rate under the lease agreement, the lease payments are not required to be straight-lined. The purpose of such escalation should be to compensate for the expected general inflation rate to avoid straight-lining of lease rentals.
- **Classification of land lease (Bulletin 7):** Classification of a lease of land as an operating or finance lease requires exercise of judgement based on an evaluation of specific facts and circumstances while considering the indicators in Ind AS 17. The ITFG has provided the following factors which may be relevant in classifying a long-term lease of land:
  - A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership of an asset.
  - One of the indicators of a finance lease is that 'at the inception of the lease the present value of the minimum lease payments amounts to at least substantially all of the fair value of the leased asset.'
  - Another important indicator is that 'the lease term is for the major part of the economic life of the asset even if the title is not transferred.' Land normally has an indefinite useful economic life and it is expected that the value of land generally appreciates. Therefore, this could indicate that the lease is an operating lease.
  - Additional indicators to consider in an overall context of whether substantially all risks and rewards have been transferred, include the company's ability to renew the lease for another term at the substantially below market rent, option to purchase the land at a price significantly below fair value, etc.

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- **Recognition of deferred tax on freehold land (Bulletin 7):** The ITFG considered a situation where a company holds freehold land which it expects to sell on a slump-sale basis and not individually. The issue is whether the company would not recognise a deferred tax asset on a slump sale basis and hence a temporary tax difference would not arise.

  In this case the ITFG clarified that the company would be required to exercise judgment to determine whether the freehold land will be sold through a slump sale. If so, then the tax base of the land would be the same as its carrying amount as an indexation benefit is not available in case of slump sale as under the Income Tax Act, 1961. Therefore, there would be no temporary difference and no deferred tax asset would be recognised.

Long-term foreign currency loans

- **Option to continue with the accounting policy under para 46A of AS 11 (Bulletin 2):** Application of the option (under Ind AS 101) to continue with the accounting policy under para 46A of AS 11, *The Effects of Changes in Foreign Exchange Rates,* would be available for those long-term foreign currency loans which were taken before the beginning of the first Ind AS reporting period.
  - The balance of Foreign Currency Monetary Item Translation Difference Account (FCMITDA) should be amortised over the balance period of such long-term liability and be routed through profit or loss and not through OCI.
  - Upfront cost/processing fee incurred for a foreign currency loan may have been initially charged to the statement of profit and loss. However, on first-time application of Ind AS, the principles of Ind AS 109 should be applied.
- **Application of the hedge accounting where company avails option under para 46A of AS 11 (Bulletin 3):** A company may continue to avail its option under paragraph 46/46A of AS 11, under previous GAAP and capitalise the exchange gain/loss on such foreign currency loans into the cost of the related asset. If the company has also entered into a foreign currency swap transaction for hedging such a long-term foreign currency loan, it will not be permitted to apply hedge accounting to these swaps. This is because the company has no corresponding foreign exchange exposure that affects profit or loss, as it capitalises the exchange differences.
- **Application of the exemption to an undrawn portion of a foreign currency loan (Bulletin 7):** Under Indian GAAP, an entity was permitted by paragraph 46/46A of AS 11 to capitalise foreign exchange gains or losses on long-term foreign currency monetary items. On availing of this option, such exchange gains/losses would be capitalised into the cost of a related item of PPE or accumulated in a reserve (FCMITDA).

  Paragraph D13AA of Ind AS 101, permits an entity that is transitioning to Ind AS to continue to apply the above mentioned accounting treatment to exchange differences arising on long-term foreign currency monetary items that have been recognised in the financial statements for the period ending immediately before the beginning of the first Ind AS financial reporting period, i.e. 1 April 2016 for companies transitioning to Ind AS in phase 1.

  The ITFG considered a situation where a company had availed the option to capitalise exchange differences under AS 11 to a foreign currency loan that was partially drawn down as at 31 March 2016. The issue under consideration was whether the exemption under Ind AS 101 would also be available for the balance undrawn portion of the loan, which was expected to be drawn after 1 April 2016.

  The ITFG clarified that the exemption under paragraph D13AA of Ind AS 101 is available only for exchange differences arising on long-term foreign currency loans that have been recognised in the financial statements prior to the first Ind AS financial reporting period. Therefore, the exemption would not apply to the undrawn portion of the foreign currency loan and the company would be required to recognise exchange differences on this portion of the loan in accordance with the applicable Ind AS, as and when the loan is drawn down.
- **Application of the exemption to long-term forward exchange contracts (Bulletin 7):** Exemption in Ind AS 101 (as given under paragraph D13AA) relates only to foreign exchange differences on long term foreign currency monetary items recognised in the financial statements prior to the first Ind AS financial reporting period and would not apply to long-term forward exchange contracts. Long-term forward exchange contracts would generally meet the definition of a 'derivative' and are within the scope of Ind AS 109.
- **Reversal of the effects of paragraph 46/46A of AS 11 from the previous GAAP carrying amount of PPE on transition to Ind AS (Bulletin 7):** Paragraph D7AA of Ind AS 101 permits a company transitioning to Ind AS to elect to continue with the carrying value for all of its PPE as recognised in its financial statements under previous GAAP on the date of transition to Ind AS, as its deemed cost under Ind AS. The ITFG considered a situation where a company had availed of the option under paragraph 46 of AS 11 to capitalise foreign exchange differences on long-term foreign currency items to the cost of the related PPE.

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The issue analysed by the ITFG was whether the company would be permitted to reverse the impact of paragraph 46 of AS 11 (i.e. reverse the impact of the capitalised exchange differences) when applying the deemed cost exemption in paragraph D7AA of Ind AS 101. The ITFG clarified that a company that avails of this deemed cost exemption would be required to carry forward the entire previous GAAP carrying amount for all of its PPE on transition to Ind AS. Ind AS 101 does not permit any further adjustments to the deemed cost of PPE. Therefore, the company would not be permitted to reverse the impact of paragraph 46/46A of AS 11 from the deemed cost of PPE on transition to Ind AS.

Others

- **Date of applicability of Ind AS for an unlisted NBFC and its subsidiary (Bulletin 6):** As per Rule 4(1)(iv)(b) of Ind AS Rules, NBFC's with net worth less than 500 crore are required to apply Ind AS from 1 April 2019. Further, the holding, subsidiary, joint venture or associate company of such an NBFC, other than those covered by the corporate road map are also required to apply Ind AS from 1 April 2019 onwards.

  ITFG considered a scenario where a subsidiary of an NBFC falling within Phase II of the corporate road map, is required to comply with Ind AS from 1 April 2017 onwards, but the NBFC parent is required to implement Ind AS from 1 April 2019 onwards.

  The ITFG clarified that in accordance with the explanation to Rule 4(1)(iv) of the Companies (Indian Accounting Standards) Rules, 2015 (Ind AS Rules) the subsidiary would be required to provide relevant financial statement data in accordance with:

  a. *NBFC parent's accounting policies:* For preparation of CFS under the Companies (Accounting Standards) Rules, 2006, and

  b. *Ind AS in its individual financial statements:* From the accounting period commencing 1 April 2017 onwards.

The requirement is illustrated in the table below (on the basis that the NBFC parent falls within phase II of the NBFC road map):

NBFC parent with subsidiary within Ind AS road map (Phase II)

Financial year	NBFC parent		Subsidiary/associate/joint venture	
	Stand-alone	Consolidated	Stand-alone	For consolidation
2017-18	Indian GAAP	Indian GAAP	Ind AS	Indian GAAP
2018-19	Indian GAAP	Indian GAAP	Ind AS	Indian GAAP
2019-20	Ind AS	Ind AS	Ind AS	Ind AS

(Source: KPMG in India's analysis, 2017)

Following table depicts the requirements in case a parent entity that falls within the corporate road map has an NBFC subsidiary, associate or joint venture:

NBFC subsidiary with parent entity within Ind AS road map (Phase I)

Financial year	NBFC subsidiary/associate/joint venture		Parent company	
	Stand-alone	For consolidation	Stand-alone	Consolidated
2016-17	Indian GAAP	Ind AS	Ind AS	Ind AS
2017-18	Indian GAAP	Ind AS	Ind AS	Ind AS
2018-19	Ind AS	Ind AS	Ind AS	Ind AS

(Source: KPMG in India's analysis, 2017)

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- **Classification of a liability as current/non-current (revised Bulletin 5):**

  In Bulletin 5, the ITFG considered a situation wherein an electricity distribution company collected security deposits at the time of issue of electricity connection, which was refundable when the connection was surrendered. The ITFG had previously clarified that although most customers would not surrender their connection, the electricity company did not have an unconditional right to defer the settlement of the deposit. Therefore, it would be classified as a 'current liability'.

  In its revised Bulletin 5, the ITFG has withdrawn this issue, since the concept of current and non-current classification of assets and liabilities already existed under previous GAAP and is included in the 'General Instruction for Preparation of Balance Sheet' in Schedule III of the 2013 Act (Schedule III). Hence, this issue does not pertain to transition from previous GAAP to Ind AS. Companies should therefore apply the principles for current and non-current classification based on the definitions provided in Ind AS and in Schedule III tot he 2013 Act.

- **Deemed cost of an investment in a subsidiary (Bulletin 3):** A company that has used fair value as the measurement basis for deemed cost on transition, may continue to carry its investment in the subsidiary at the transition date fair value in its separate financial statements, which is deemed to be its cost in accordance with Ind AS 27, *Separate Financial Statements.*

- **Investment in debentures of a subsidiary (Bulletin 7)**

  a. **Requirements of Ind AS 27:** Permits an entity, in its separate financial statements to account for its investments in subsidiaries, associates or joint ventures at either cost, or in accordance with Ind AS 109

  b. **Exemption in Ind AS 101:** Measure the cost of such an investment at either the cost determined in accordance with Ind AS 27 or at a deemed cost based on its fair value at the date of transition to Ind AS or its previous GAAP carrying amount.

     The ITFG clarified that the requirements of Ind AS 27 and exemption in Ind AS 101 (as given above) would only apply to those investments in a subsidiary, which meet the definition of an equity instrument under Ind AS 32, *Financial Instruments: Presentation* (from the issuer, i.e. the subsidiary's perspective). Accordingly, if the debentures are classified as a financial liability by the subsidiary, the entity would have to classify its investment as a financial asset and account for it under Ind AS 109.

- **Applicability of Ind AS to Core Investment Companies (CICs) (Bulletin 3):** All CICs should be regarded as NBFCs as they are specifically included in the definition of NBFCs as per Rule 2 of the Companies (Indian Accounting Standards) Rules, 2015). Therefore, CICs should comply with the road map specified for NBFCs, even if the RBI may have exempted a class of CICs from complying with certain regulations/directions governing CICs in India.

- **Functional currency (Bulletin 3):** Where a company has two or more distinct businesses with different functional currencies, the company should identify the functional currency at the entity level, considering the economic environment in which the entity operates and not at the business or division level.

- **Presentation currency for CFS of an Indian company which does not have INR as its functional currency (Bulletin 7):** The ITFG considered an issue where an Indian company (company X) that has USD as its functional currency, is a wholly owned subsidiary of an Indian parent company (company Y) that has INR as its functional currency. Company X in turn has subsidiaries and joint ventures outside India and prepared stand-alone as well as consolidated financial statements. The CFS are to be provided to the parent, company Y, in INR for consolidation and statutory financial reporting at the ultimate parent level.

  The ITFG considered whether company X would present its annual financial statements in its functional currency, being USD, or in INR, being the functional and presentation currency of the parent.

  The ITFG clarified that Ind AS 21, *The Effects of Changes in Foreign Exchange Rates* requires each entity to determine its functional currency and translate foreign currency items into functional currency and report the effects of such translation in the financial statements. Ind AS 21 also permits an entity to use a presentation currency for reporting its financial statements that differs from its functional currency.

  Ind AS 21 provides specific guidance on translating the results and financial position of an entity into a different presentation currency. Therefore, company X is permitted to use INR as the presentation currency for its CFS in accordance with the statutory requirements. Further, the audit report for company X would be given by the auditors on the financial statements prepared in INR.

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- **Accrual of dividend on a financial instrument classified as a liability (Bulletin 7):** The ITFG considered a situation where a company has declared dividend on a financial instrument that has been correctly classified as a financial liability in accordance with Ind AS. If such financial instrument is classified as a liability then para 35 of Ind AS 32 would be applicable. This paragraph states that 'interest, dividends, losses and gains relating to a financial instrument or a component that is a financial liability shall be recognised as income or expense in profit or loss. Distributions to holders of an equity shall be recognised by the entity directly in equity. Transaction costs of an equity transaction shall be accounted for as a deduction from equity'.

  ITFG further clarified that even if dividend on an instrument classified as a financial liability has been declared after the end of the reporting period, the company would be required to accrue such dividends in the financial statements for the year.

  The ITFG clarified that the requirements of Ind AS 10, *Events after the reporting period* relating to dividends declared to holders of equity instruments after the reporting period, apply only to those financial instruments that are classified as equity instruments. Accounting for dividends on financial instruments classified as liabilities is based on the guidance in Ind AS 109. If the financial liability is classified as measured at amortised cost in accordance with Ind AS 109, dividend would have to be accrued as part of interest expense based on the effective interest method.

Key takeaway

- The clarification Bulletins issued by the ITFG are expected to assist companies transitioning to Ind AS by resolving diversity in practice and enabling a more consistent interpretation of Ind AS requirements. Companies should be careful while implementing these clarifications as some of the issues may require exercise of judgement based on consideration of facts and circumstances while analysing each individual situation.

(Source: ICAI- ITFG clarification Bulletins 2, 3, 4, 5, 6 and 7 dated 12 April 2016, 2 July 2016, 19 August 2016, 1 October 2016, 29 November 2016 and 31 March 2017 and IFRS Notes released by KPMG in India on 5 July 2016, 13 July 2016, 26 August 2016, 13 October 2016, 2 December 2016,4 April 2017, ICAI notifications dated 17 April 2017 on revised Bulletin 5 and FAQ on treatment of the securities premium account under Ind AS on date of transition and IFRS Notes released by KPMG in India on 28 April 2017)

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FAQs issued by ICAI

During the year ended 31 March 2017, ICAI has issued following clarifications addressing Ind AS implementation issues in the form of FAQs:

Application of the deemed cost exemption

Ind AS 101, permits an entity (in situations where there is no change in functional currency) on the date of transition to Ind AS, to continue with the carrying value for all of its PPE, measured as per its previous GAAP, and use that carrying value as its 'deemed cost' at the date of transition.

'Deemed cost' is defined as 'an amount used as a surrogate for cost or depreciated cost at a given date. Subsequent depreciation or amortisation assumes that the entity had initially recognised the asset or liability at the given date and that its cost was equal to the deemed cost'.

The issue being clarified by the ICAI was whether, on application of the exemption above and in view of the definition of deemed cost, the accumulated depreciation and provision for impairment under previous GAAP would be treated as 'nil' on the date of transition and how would the impact-in case of reversal of impairment losses (recognised prior to the date of transition)-be recognised.

Since 'deemed cost' is a surrogate for the cost or depreciated cost, for the purpose of subsequent depreciation or amortisation, deemed cost become the starting point for subsequent measurement under Ind AS. Therefore, the deemed cost, which on the basis of this exemption is the carrying amount of PPE on the date of transition under previous GAAP, is the new cost and any accumulated depreciation or provision for impairment under previous GAAP would have no relevance. Accordingly, provision for impairment recognised prior to the date of transition cannot be reversed in later years.

An additional disclosure of the gross block of assets, accumulated depreciation and provision for impairment under previous GAAP may be voluntarily provided in the notes forming part of the Ind AS financial statements.

Premium on redemption of non-convertible debentures (FAQ issued by ICAI dated 17 April 2017): In this FAQ, the ICAI considered a situation wherein a company had issued (prior to the date of transition to Ind AS) non-convertible debentures redeemable at a premium. In the past, the company had utilised the securities premium account to provide for debenture redemption premium and for writing off debenture issue expenses as per Section 78 of the 1956 Act and Section 53 of the 2013 Act.

On transition to Ind AS, these debentures are classified and measured at amortised cost in accordance with Ind AS 109. Accordingly, the company would have to apply the Effective Interest method (EIM) with retrospective effect from the date of issue of debentures to arrive at their amortised cost on the date of transition. Since the company had previously adjusted the entire amount of debenture redemption premium payable from the securities premium account, the carrying amount of the non-convertible debentures as per Indian GAAP would be higher as compared to the amortised cost on the date of transition.

Ind AS 101 states that where the accounting policies that an entity uses in its Ind AS opening balance sheet differ from those that it used for the same date as per its previous GAAP, the adjustment on account of the difference in the accounting policies would be recognised directly in retained earnings or another category of equity at the date of transition to Ind AS. Accordingly, the FAQ clarifies that the appropriate component of equity in this scenario, is the securities premium account. Accordingly on transition to Ind AS, the excess carrying value of the financial liability as per Indian GAAP over the amortised cost based on the EIM as per Ind AS 109 would be reversed by crediting the securities premium account with corresponding debit to the relevant account which was credited earlier (i.e. the debenture liability).

Consolidation

- **Consolidation of subsidiaries in the legal form of an LLP or partnership firm:** Ind AS 110, *Consolidated Financial Statements* requires an entity that controls one or more other entities to consolidate all controlled entities. Since 'entities' include those in the form of a company or other forms, a parent entity is required to consolidate subsidiaries that are in the form of a Limited Liability Partnership (LLP) or a partnership firm under Ind AS. Consolidation under the relevant standards will also be required by the parent, if the LLP or partnership firm is an associate or joint venture of the parent entity. A parent entity is required to consolidate subsidiaries that are in the form of a LLP or a partnership firm under Ind AS.
- **Requirement to prepare CFS with no subsidiaries but has an investment in an associate or joint venture:** Section 129(3) of the 2013 Act requires a company with one or more subsidiaries to prepare CFS of the company and all subsidiaries.

  'Subsidiary' has been defined to include associate companies and joint ventures. Therefore, a company that does not have any subsidiaries would still be required to prepare CFS that include its associate and joint venture companies in accordance with AS 23, *Accounting for Investments in Associates in Consolidated Financial Statements* and AS 27, *Financial Reporting of Interests in Joint Ventures* respectively.

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Elaboration of terms 'infrequent number of sales' or 'insignificant in value' used in Ind AS 109

- No rule of thumb in terms of indicative percentage can be provided to determine 'infrequent number of sales' or 'insignificant in value', since it may not be applicable in all cases considering the differing quantum, configuration and nature of financial assets in different entities. Entity's management should, therefore, exercise judgement in determining the situations in which sales of financial assets occurring before the maturity date may not be considered inconsistent with the 'held to collect' business model. In doing so, it may specify certain guiding criteria-for example, sale of a security initially rated as AAA and subsequently rated as BB may not be considered inconsistent with the entity's business model as the intent is for the entity to rebalance its portfolio rather than waiting till the maturity date.
- *Relation between the terms 'immaterial'* and *'insignificant':* The ASB clarified that the term 'materiality' is already present in Ind AS which also does not lay down any criteria based on indicative fixed percentages. The term 'insignificant' has not been defined and can be interpreted to mean 'less than material' or almost 'negligible'.

Presentation of dividend and Dividend Distribution Tax (DDT) under Ind AS

The ASB considered the presentation requirements for dividend and DDT on financial instruments classified as equity or as compound instruments by the issuer and provided following response against each of them:

- Dividends on each category of financial instruments to be presented as follows:
  - *Financial instrument classified as debt:* Charge dividend/interest paid on it to the statement of profit and loss.
  - *Financial instrument classified as equity:* Recognise dividend/interest paid on it in the statement of changes in equity.
  - *Compound financial instrument:* Charge dividend or interest allocated to debt portion to the statement of profit and loss and recognise the portion of dividend or interest pertaining to equity in the statement of changes in equity.
- Presentation of DDT paid on dividends should be consistent with the presentation of the transaction that creates those income tax consequences, as follows:
  - *Dividend charged to statement of profit and loss:* Charge DDT to the statement of profit and loss.
  - *Dividend recognised in statement of changes in equity:* Recognise DDT in the statement of changes in equity.
  - *Dividend on compound financial instruments:* Recognise the portion of DDT related to dividend/ interest on the debt component in the statement of profit and loss and the portion of DDT related to the equity component in the statement of changes in equity.

Key takeaways

- **Application of deemed cost exemption:** The components of deemed cost prior to transition are of no relevance since this amount is merely a surrogate for cost, as if the PPE had been initially recognised at this cost on the date of transition. Entities transitioning to Ind AS should carefully consider the impact of this exemption and should also evaluate the Information Technology (IT) system changes to reflect the new gross block from the date of transition to Ind AS.
- **Consolidation:** The clarifications are on the lines of the guidance being followed under current Indian GAAP and IFRS.
- **Business model:** The determination of the business model within which financial assets are held is a matter of fact based on the way in which the entity manages its business, and is not based on management's intention. Ind AS 109 allows for the use of judgement, including consideration of past sales and expectations about future sales, along with reasons for those sales and whether they reflect a change in the entity's business model.

  Following are some of the factors that could be considered by management in developing its guiding criteria:
  - The frequency and significance of sales activity that is considered integral or incidental to the business model, and
  - Reasons for sales-for example, sales in response to an increase in the investment's credit risk in accordance with a documented investment policy, or sales close to maturity may be consistent with a 'held to collect' business model.

(Source: ICAI's FAQ on requirements to prepare CFS dated 24 June 2016, FAQ on deemed cost of PPE under Ind AS 101 dated 30 June 2016, FAQ regarding DDT and FAQ on elaboration of terms 'infrequent number of sales' or 'insignificant in value' used in Ind AS 109 dated 3 November 2016 and IFRS Notes released by KPMG in India on 5 July 2016 and 10 November 2016)

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Forthcoming requirements

Amendments to Ind AS 102 and Ind AS 7

In order to align Ind AS with IFRS, the MCA on 17 March 2017, notified the Companies (Ind AS) (Amendment) Rules, 2017, amending Ind AS 102, *Share-based Payment* and Ind AS 7, *Statement of Cash Flows.*

Effective date and transition: These amendments are effective for annual periods beginning on or after 1 April 2017. Comparative figures for preceding periods are not required on first-time application of these amendments.

Amendments to Ind AS 102

Amendments cover the following three accounting areas:

a. Measurement of cash-settled share-based payments: Ind AS 102 does not provide guidance on the impact of market conditions and other vesting conditions on the number of cash settled awards to be included in the measurement of the liability (as is the case for equity settled share-based payment transactions), or on the measurement of the fair value of the liability incurred in a cash-settled share-based payment transaction.

   Amendments

   - While computing the number of awards to be included in the measurement of the liability arising from the transaction, the best available estimate of the number of awards expected to vest would be considered and re-estimated on a periodical basis (where necessary)
   - Vesting conditions, *other than market conditions* would be taken into account while adjusting these number of awards
   - Market and non-vesting conditions would be considered in measuring the fair value of the cash settled share-based payment transactions.

b. Classification of share-based payments settled net of tax withholdings: An entity may be required to collect or withhold an amount for an employee's tax obligation on a share-based payment transaction (or withhold a portion of the shares equal to the value of the employee's tax obligation from the shares that would have been issued to the employee on vesting) and make this payment to the tax authorities on the employee's behalf (referred as 'net settlement feature'). Ind AS 102 is unclear on whether the portion withheld should be recognised as an equity-settled or a cash-settled component.

   Amendment

   An exception has been introduced which stated that for classification purposes, a share-based payment transaction with employees is accounted for as equity-settled if:

   - The terms of the arrangement permit or require an entity to settle the transaction net by withholding a specified portion of the equity instruments to meet the statutory tax withholding requirement (the net settlement feature) and
   - The entire share-based payment transaction would otherwise be classified as equity-settled in the absence of the net settlement feature.

   The shares withheld in respect of the employee's tax obligation associated with the share-based payment would be accounted for as a deduction from equity, except to the extent that the payment exceeds the fair value at the net settlement date of the equity instruments withheld, in which case, the excess amount would be recognised as an expense.

c. Modification of a share-based payment from cash-settled to equity-settled: No specific guidance is present in Ind AS 102 that addresses the accounting when a share-based payment is modified from cash-settled to equity-settled.

   Amendments

   If the terms and conditions of a cash-settled share-based payment transaction are modified, with the result that it becomes an equity-settled share-based payment transaction, the transaction is accounted for as an equity-settled transaction from the date of the modification.

   Entities are required to apply the following approach:

   - At the modification date:
     - The liability for the original cash-settled share-based payment is derecognised
     - The equity-settled share-based payment is measured by reference to the fair value of the equity instruments granted as at the modification date, and recognised in equity to the extent that goods or services have been received up to that date
   - The difference between the carrying amount of the liability derecognised as at the modification date, and the amount recognised in equity as at that date, is recognised in the statement of profit and loss immediately.

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Amendments to Ind AS 7

- Entities are required to disclose changes arising thereon from non-cash transactions in addition to changes from financing cash flows. These changes may include:
  - Changes arising from obtaining or losing control of subsidiaries or other businesses
  - The effect of changes in foreign exchange rates
  - Changes in fair values and
  - Other changes.
- The disclosure also applies to changes in financial assets (for example, assets that hedge liabilities arising from financing activities) if cash flows from those financial assets were, or future cash flows will be, included in cash flows from financing activities.
- Entities may provide a reconciliation between the opening and closing balances in the balance sheet for liabilities and financial assets arising from financing activities.

Key takeaways

- Entities that have transitioned to Ind AS or are in the process of implementing Ind AS should carefully consider the impact of the revised guidance in preparing their financial information for periods beginning on or after 1 April 2017.
- Amendments do not explicitly permit early adoption, entities may consider if early adoption would result in presentation of more relevant and useful financial information.

(Source: MCA notification no. G.S.R. 258(E) dated 17 March 2017 and IFRS Notes released by KPMG in India on 30 March 2017)

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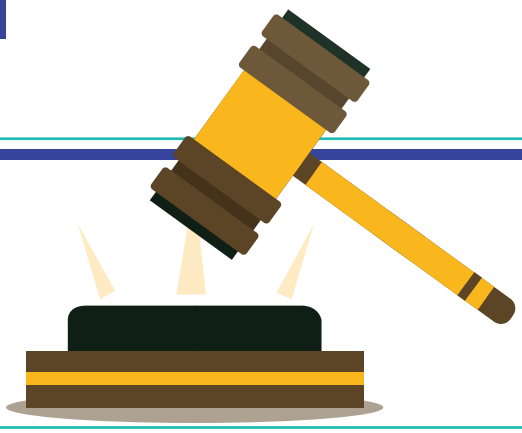

Updates relating to the Companies Act, 2013

Important developments in the Companies Act, 2013 (2013 Act) and the related Rules applicable to FY2016-17

A. Financial reporting

Summary of key sections of the 2013 Act notified during the FY2016-17

Sections notified	Overview of the sections notified	Effective date
Section 48	Variation of shareholders' rights	15 December 2016
Section 66	Reduction of share capital	15 December 2016
Sections 97, 98 and 99	Powers of NCLT to call annual general meeting and meeting of members	1 June 2016
Section 124(1) to 124(4)	Provisions relating to transfer of unpaid dividend to unpaid dividend account	7 September 2016
Section 125(6) and 125(8) to 125(11)	Provisions relating to administration, preparation and audit of accounts of the amount transferred to investor education and protection fund	7 September 2016
Sections 130 and 131	Reopening of accounts/voluntary revision of financial statements or Board's report	1 June 2016
Section 140(5)	Powers of NCLT to order removal of an auditor of a company either through suo moto or an application made by central government or any other person concerned if he had committed any fraud	1 June 2016
Section 227	Legal advisers and bankers not to disclose certain information	9 September 2016
Section 230 (except sub-section (11) and (12))	Power to compromise or make arrangements with creditors and members	15 December 2016
Section 232	Merger and amalgamation of companies	15 December 2016
Section 233	Merger or amalgamation of certain companies	15 December 2016
Section 242(1)(b) and 242(2)(c) and (g)]	Powers of tribunal	9 September 2016

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Sections notified	Overview of the sections notified	Effective date
Section 245	Members or depositors could initiate class action suits through which they can seek to restrain the company from committing an act which is ultra vires the articles or memorandum	1 June 2016
Section 246	Application of certain provisions to proceedings under Section 241 or 245	9 September 2016
Section 248 to Section 252	Provisions relating to removal of name of the company from the Register of Companies	26 December 2016
Section 337	Penalty for frauds by officers	9 September 2016
Section 338	Liability where proper accounts not kept	9 September 2016
Section 339	Liability for fraudulent conduct of business	9 September 2016
Section 340	Power of Tribunal to assess damages against delinquent directors, etc.	9 September 2016
Section 341	Liability under sections 339 and 340 to extend to partners or directors in firms or companies	9 September 2016
Section 435 to 438	Provisions relating to the establishment of special courts, offences triable by special court, appeal and revision and application of Code of Criminal Procedure, 1973 to the proceedings before a special court	18 May 2016
Section 440	Offences triable under a special court to be tried by a court of session until its establishment	18 May 2016

(Source: MCA notification dated 18 May 2016, notification no. S.O. 1934(E) dated 1 June 2016, notification no. S.O. 2866(E) dated 5 September 2016, notification no. S.O. 2912 (E) dated 9 September 2016, notification no. S.O. 3677(E) dated 7 December 2016 and notification no. S.O. 4167(E) dated 26 December 2016)

Exemption from CFS extended to wholly-owned and partially-owned subsidiaries

Rule 6 pertains to Section 129(3) of the 2013 Act which prescribes the requirements for preparation of CFS. A new proviso to Rule 6 has been inserted which provides relief from preparation of CFS to a wholly-owned and/or a partially-owned subsidiary of another company provided:

- All its other members (including those not otherwise entitled to vote) having been intimated in writing and for which the proof of delivery of such an intimation is available with the company, do not object to the entity not presenting CFS.
- It is a company whose securities are not listed or are not in the process of listing on any stock exchange, whether in India or outside India, and
- Its ultimate or any intermediate holding company files CFS with the Registrar of Companies (ROC) which are in compliance with the applicable accounting standards.

However, this Rule does not grant exemption to subsidiaries of foreign companies in India from the preparation of CFS.

Key takeaway

- The amendment broadens the scope of relief to unlisted subsidiary entities (wholly-owned and partially-owned of Indian parents) in line with the requirements of Ind AS 110.

(Source: MCA notification dated 27 July 2016 and First Notes released by KPMG in India on 16 August 2016)

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Disclosure of specified bank notes in balance sheet and auditor's report

MCA through its notifications dated 30 March 2017 have issued the following:

* **Amendments to Schedule III to the 2013 Act:** Every company is required to disclose the details of Specified Bank Notes (SBN) held and transacted during the period 8 November 2016 to 30 December 2016 in the following format:

	SBNs	Other denomination notes	Total
Closing cash in hand as on 8 November 2016			
(+) Permitted receipts			
(-) Permitted payments			
(-) Amount deposited in banks			
Closing cash in hand as on 30 December 2016			

(Source: MCA notification no.G.S.R. 308(E) dated 30 March 2017)

Further, MCA has also clarified that the SBNs should have the same meaning as given under notification no. S.O. 3407(E) of the Ministry of Finance dated 8 November 2016. Accordingly, SBNs would mean bank notes of denominations of the existing series of the value of INR500 and INR1,000.

* **Companies (Audit and Auditors) Amendment Rules, 2017:** The auditor's report should, *inter alia,* include auditor's views and comments on the following matter:
  - Whether the company had provided requisite disclosures in its financial statements as to holdings as well as dealings in SBN during the period from 8 November 2016 to 30 December 2016 and if so, whether these are in accordance with the books of accounts maintained by the company.

Key takeaway

- The amendments are aimed at ensuring that the companies should also furnish details of the transactions during the demonetisation period.

(Source: MCA notifications no. G.S.R. 308(E), G.S.R. 307(E) dated 30 March 2017 and Ministry of Finance notification no. S.O. 3407(E) dated 8 November 2016)

Amendment to Schedule II of the 2013 Act in relation to intangible assets

On 31 March 2014, the MCA amended provisions relating to determination of useful lives of intangible assets prescribed in Schedule II to the 2013 Act (Schedule II). The amendment permitted companies to apply revenue-based amortisation, based on the proportion of actual revenue for the year as compared to the total projected revenue from the intangible asset during the concession period for such 'toll road' intangible assets.

However, Ind AS 38 specifies that an amortisation method based on revenue generated by an activity that includes the use of an intangible asset is presumed to be inappropriate, except in very limited circumstances.

In order to transition to Ind AS, Ind AS 101 permits companies to apply a previously used amortisation method for such toll-road intangibles only to assets existing at the beginning of the first year of adoption of Ind AS.

This represented an inconsistency between the guidance in Schedule II and in Ind AS.

Accordingly, the MCA amended Schedule II replacing a part of the provision relating to intangible assets and provides the following:

- **Companies following Ind AS:** Companies following Ind AS would be unable to apply revenue-based amortisation method to toll road related intangible assets that are recognised after the beginning of the first year of adoption of Ind AS.

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- **Companies following AS:** Companies that continue to follow AS are permitted to continue applying the exception in Schedule II and use a revenue-based amortisation method for their toll road intangibles.

(Source: MCA notifications G.S.R. 237(E) dated 31 March 2014, G.S.R 1075(E) dated 17 November 2016 and corrigendum dated 9 December 2016 and IFRS Notes released by KPMG in India on 30 November 2016)

MCA issues revised limits for certain related party transactions

Existing requirements

- First proviso to Section 188 of the 2013 Act requires prior approval of the shareholders by an ordinary resolution for Related Party Transactions (RPTs) prescribed under Section 188(1) of the 2013 Act that are neither in the ordinary course of business nor at an arm's length basis.
- Rule 15(3) of the Companies (Meetings of Board and its Powers) Rules, 2014 (the Rules) specifies the limits for transactions beyond which the RPTs would require shareholders' approval.

Amendment

The MCA through an amendment to the Rules made revisions to the prescribed limits of the transactions beyond which the RPTs would require shareholders' approval.

Following table provides a comparison between the existing requirements and amended Rule 15(3) of the Rules with regard to shareholders' approval in relation to RPTs which are neither in the ordinary course of business nor at an arm's length basis:

Prescribed transaction categories	Existing requirements	Amended Rules
Sale, purchase or supply of any goods or material (directly or through an agent)	Exceeding 10 per cent of turnover or INR1 billion, whichever is lower*	**Amounting to 10 per cent or more** of turnover or INR1 billion, whichever is lower* *(Emphasis added to present changes)*
Selling or otherwise disposing of, or buying, property of any kind (directly or through an agent)	Exceeding 10 per cent of net worth or INR1 billion, whichever is lower*	**Amounting to 10 per cent or more** of net worth or INR1 billion, whichever is lower* *(Emphasis added to present changes)*
Leasing of property of any kind	Exceeding 10 per cent of net worth or 10 per cent of turnover or INR1 billion, whichever is lower*	**Amounting to 10 per cent or more** of net worth or **10 per cent or more of turnover** or INR1 billion, whichever is lower* *(Emphasis added to present changes)*
Availing or rendering of any services (directly or through an agent)	Exceeding 10 per cent of turnover or INR500 million, whichever is lower*	**Amounting to 10 per cent or more** of turnover or INR500 million, whichever is lower* *(Emphasis added to present changes)*
Appointment to any office or place of profit in the company, subsidiary company or associate company	Remuneration exceeding INR0.25 million per month	No change
Underwriting the subscription of any securities or derivatives of the company	Remuneration exceeding one per cent of net worth	No change

*(*Applies to transaction or transactions to be entered into either individually or taken together with the previous transactions during a financial year.)*

(Source: KPMG in India's analysis, 2017)

Key takeaways

- The MCA has lowered the limit for transactions to 10 per cent or more beyond which the RPTs would require shareholders' approval (that are neither in the ordinary course of business nor at an arm's length basis) while the earlier limit was exceeding 10 per cent. Therefore, the amendment has made the approval of shareholders more rigorous and narrowed the scope of RPTs.
- While under the SEBI requirements, all RPTs are required to be approved by an audit committee including grant of an omnibus approval on the conditions similar to Section 188 of the 2013 Act. However, all material RPTs are required to be approved by the shareholders through an ordinary resolution.

(Source: MCA notification no. G.S.R. 309(E) dated 30 March 2017 and First Notes released by KPMG in India on 4 April 2017)

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Amendment in share capital and debenture rules and documents to be submitted by airline companies

On 19 July 2016, MCA through its notifications issued the following:

- **Companies (Share Capital and Debentures) Third Amendment Rules, 2016 (the Rules):** Some of the significant amendments are as follows:
  - Start-up companies may issue sweat equity shares not exceeding 50 per cent of its paid-up capital up to five years from the date of its incorporation or registration.
  - A start-up company can offer shares to an employee who is a promoter or a person belonging to the promoter group, or a director who either himself or through his relative or through any body corporate, directly or indirectly, holds more than 10 per cent of the outstanding equity shares of the company up to five years from the date of its incorporation or registration.
  - An unlisted company can now issue partly paid-up securities on preferential basis at the time of allotment.
  - In case of convertible securities offered on a preferential basis with an option to apply for and get equity shares allotted, the price of the resultant shares pursuant to conversion would be determined in either of the following ways:
    i. Upfront at the time when the offer of convertible securities is made, on the basis of valuation report of a registered valuer given at the stage of such offer, or
    ii. At the time, which shall not be earlier than 30 days to the date when a holder of security becomes entitled to apply for shares, on the basis of valuation report of a registered valuer given not earlier than 60 days of the date when the holder of convertible security becomes entitled to apply for shares.

    The decision on the options to be taken at the time of offer of convertible securities and make required disclosures.

- **Modification/exception to Section 381 of the 2013 Act-Accounts of foreign company (airlines):** The Central Government (CG) by notification, direct that, in case of airline companies, the requirement of maintaining a balance sheet and statement of profit and loss (as per Section 381) would apply subject to specified exceptions and modifications which are as follows:
  - Submission of prescribed documents by an airlines company in respect of the period on or after the 31 March 2016 to the appropriate ROC in India shall be deemed to be sufficient compliance with the above mentioned provisions.
  - The company should furnish to the CG such information with regard to its accounts as required by the CG.

Key takeaway

- The amendment/modification to Section 381 of the 2013 Act is significant for the foreign airline companies as they relax the requirements for submitting financial statements under Indian GAAP to the ROC and allow them to submit their group's CFS instead.

(Source: MCA notifications dated 19 July 2016 and First Notes released by KPMG in India on 8 August 2016)

Amendment to Companies (Acceptance of Deposits) Rules

On 29 June 2016, the MCA issued the Companies (Acceptance of Deposits) Amendment Rules, 2016 and made certain amendments to the Companies (Acceptance of Deposits) Rules, 2014 (the Rules).

Key amendments are as follows:

- **Amendment in the definition of deposit:** Items such as advances for future warranty/maintenance services, amounts received from any collective investment scheme registered with SEBI, amount equal to or greater than INR25 lakh received as convertible note by start-up company, etc. have been excluded from the definition of deposits.
- **Disclosure in the notes to financial statements:** A new Rule has been inserted which requires every company (other than a private company) to disclose in its financial statements by way of notes about the money received from the directors. Private companies have to disclose it by way of a note.
- **Increase in base for accepting deposits:** No company is allowed to accept or renew any deposits from its members, if the amount of such deposits along with the amount of other deposits outstanding as on the date of acceptance or renewal of such deposits exceed 35 per cent (earlier 25 per cent) of the aggregate of the paid-up share capital, free reserves and securities premium account of the company.
- **Deposit insurance:** Companies could accept deposits without a deposit insurance contract till 31 March 2017 or till the availability of a deposit insurance product, whichever is earlier.
- **New definitions:** Definition of 'start-up company' and 'convertible notes' have been added.

(Source: MCA notification dated 29 June 2016 and First Notes released by KPMG in India on 20 July 2016)

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B. Corporate governance

Managerial remuneration

MCA through its circular dated 30 June 2016 made some key amendments to the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 (Managerial Rules) which are as follows:

- **Filing of return of appointment:** A company is no longer required to file a return of appointment of Chief Executive Officer (CEO), Company Secretary and Chief Financial Officer (CFO).
- **Disclosures in board's report:** Number of disclosures in the board's report has been reduced. For example, number of permanent employees on the rolls of company, variations in the market capitalisation of the company, etc. have been omitted.
- **Disclosure regarding employee remuneration:** Disclosure of names of the top 10 employees in terms of remuneration drawn and the name of every employee, who:
  - If employed throughout the financial year, was in receipt of remuneration for that year which, in the aggregate, was not less than INR1.02 crore (instead of INR60 lakh)
  - If employed for a part of the financial year, was in receipt of remuneration for any part of that year, at a rate which, in the aggregate, was not less than INR8.50 lakh per month (instead of INR5 lakh per month).
- **Return of appointment of managerial personnel:** This form has been revised to include a declaration/ certificate by a practicing professional (Chartered accountant/Cost accountant/ Company secretary) to state that the information contained in this form is true, correct and complete and no information material to this form has been suppressed.

Additionally, on 12 September 2016, the CG notified the following amendments to Schedule V to the 2013 Act relating to remuneration payable by companies having no profit or inadequate profit without CG approval.

a. Revised managerial remuneration limits for companies (having inadequate/no profit to pay remuneration to the managerial personnel (without CG approval))

Sr. no.	Where the effective capital is	Limit of yearly remuneration payable shall not exceed*
1.	Negative or less than INR5 crore	INR60 lakh (earlier INR30 lakh)
2.	INR5 crore and above but less than INR100 crore	INR84 lakh (earlier INR42 lakh)
3.	INR100 crore and above but less than INR250 crore	INR120 lakh (earlier INR60 lakh)
4.	INR250 crore and above	INR120 lakh plus 0.01 per cent of the effective capital in excess of INR250 crore (earlier INR60 lakh).

** Limits specified can be doubled if a special resolution is passed.*

(Source: KPMG in India's analysis, 2017)

b. New provision for the managerial personnel functioning in a professional capacity

Managerial personnel functioning in a professional capacity and possessing an expertise and specialised knowledge in the field in which a company operates, approval of CG is not required if such person, at any time during the last two years before or on after the date of appointment, does not have:

- Any direct/indirect interest* in the capital of the company/its holding company/any of its subsidiaries
- Any direct/indirect interest* or related to the directors/promoters of the company or its holding company/any of its subsidiaries.

**Any employee holding shares of the company not exceeding 0.5 per cent of its paid-up share capital under any scheme formulated for allotment of shares including Employee Stock Option Plan (ESOP) shall be deemed to be a person not having any interest in the capital of the company.*

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c. **Other conditions to be fulfilled to apply the above limits:** Following conditions need to be fulfilled to apply the above mentioned limits:

- Payment of remuneration to be approved by a board resolution; also by Nomination and Remuneration Committee in case of companies covered under Section 178(1) of the 2013 Act.
- No default in payment of any debt by the company for a period of 30 days in preceding FY before the date of appointment of such managerial person. In case of default, obtain prior approval from secured creditors for proposed remuneration and disclose the fact in the notice of general meeting.
- *For payment of remuneration given in (a) above-* Ordinary resolution if remuneration within the specified limits. Special resolution if limits are to be doubled.

  For payment of remuneration given in (b) above- Special resolution to be passed.
- Statement of notice calling the general meeting with prescribed information to be given to shareholders.

Key takeaways

- **Approval from secured creditors in case of default in repayment of debt:** The revised Schedule V added a new requirement for payment of managerial remuneration i.e. a company with no profits or inadequate profits has to obtain approval from secured creditors if the company defaults in repayment of its debts or interest payable, for a continuous period of 30 days in the preceding financial year before the date of appointment of such managerial person.
- **Special resolution required only in two cases:** Before amendment, managerial remuneration could be paid by a company that does not have any profit or inadequate profit, within the limits specified in Schedule V if a special resolution was passed.

  Now managerial remuneration within the limits specified can be paid by passing an ordinary resolution. However, to double the limit specified in Schedule V, the company would have to pass a special resolution.

  In case a managerial personnel is functioning in a professional capacity, then to pay managerial remuneration to such an individual, when company has no profits or inadequate profits, a special resolution has to be passed.

(Source: MCA notifications dated 30 June 2016 and 12 September 2016 and First Notes released by KPMG in India on 8 July 2016 and 20 September 2016)

C. Corporate Social Responsibility

On 23 May 2016, MCA amended the Companies (Corporate Social Responsibility Policy) Rules, 2014 (CSR Rules) and widened the scope of the entities through which CSR activities could be undertaken.

Accordingly, the amended CSR Rules provide that companies can now undertake its CSR activities through the following:

- **Established by the company or with any other company:** A company established under Section 8 of the 2013 Act or a registered trust or a registered society established by the company along with any other company.
- **Established by the central or state government:** Section 8 company or a registered trust or a registered society established by the central or state government or any company established under an Act of Parliament or a state legislature.
- **Established by others:** Any other Section 8 company, registered trust or a registered society.

Further, if a company decides to undertake CSR activities through a company established under Section 8 of the 2013 Act or a registered trust or a registered society (which are neither established by it or central/ state government), then such Section 8 company should have an established track record of three years in undertaking similar projects or programmes.

Additionally, MCA, through a general circular dated 16 May 2016, has also clarified that the companies while undertaking CSR activities under the provisions of the 2013 Act, should not contravene any other prevailing laws of the land including Cigarettes and Other Tobacco Products Act, 2003.

(Source: MCA notification dated 23 May 2016 and general circular no. 05/2016 dated 16 May 2016)

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D. Others

Constitution of the NCLT/NCLAT and notification of related Rules

On 1 June 2016, the MCA notified the following:

- The constitution of the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) to exercise and discharge the powers and functions as conferred on it under the 2013 Act.
- Certain sections of the 2013 Act enabling the exercise of power by the NCLT and NCLAT.
- With the constitution of the NCLT, the Company Law Board (CLB) constituted under the 1956 Act stands dissolved and all matters or proceedings pending before the CLB should be transferred to NCLT, which shall dispose such matters or proceedings in accordance with the provisions of 2013 Act or 1956 Act.

Further, on 21 July 2016, MCA notified the following rules corresponding to the sections relating to NCLT/ NCLAT:

- National Company Law Tribunal Rules, 2016 (NCLT Rules) and
- National Company Law Appellate Tribunal Rules, 2016 (NCLAT Rules).

The Rules came into force from the date of their notification in the official gazette i.e. 22 July 2016 and provide the procedures that companies would be required to follow while making an application to the NCLT/NCLAT along with the manner in which the cases would be disposed of by the NCLT/NCLAT.

Key takeaways

- **Faster dispute resolution:** The constitution of the NCLT/NCLAT is a welcome step which signifies government's efforts to reduce the burden of the courts and streamline efforts for a faster resolution of corporate disputes.
- **The Insolvency and Bankruptcy Code 2016 (the Code):** The Code creates a framework to help resolve insolvency in India and applies to companies, partnerships, limited liability partnerships, individuals and any other body specified by the central government. The Code has revamped the insolvency resolution processes for companies and identifies NCLT as the Tribunal that will adjudicate cases for companies. The Code has been passed by both houses of Parliament and received Presidential assent on 28 May 2016.

(Source: MCA notifications dated 1 June 2016 and 21 July 2016 and First Notes released by KPMG in India on 22 June 2016 and 8 August 2016)

Auditors' rotation

Every company is required to comply with the auditor rotation requirements within three years from 1 April 2014 as per Section 139 of the 2013 Act.

MCA has clarified that the companies should ensure compliance with the new provisions of Section 139 within a period which shall not be later than the date of the first Annual General Meeting of the company held after 1 April 2017. Accordingly, companies with 31 March as the year end should hold AGM latest by September 2017 to appoint auditors.

(Source: The Companies (Removal of Difficulties) Third Order, 2016 dated 30 June 2016)

Notification of Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016

On 5 September 2016, MCA notified the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016 (IEPF Rules).

IEPF Rules, *inter alia,* provide for the manner of administration of the IEPF established under Section 125 of the 2013 Act, maintenance of accounts and its audit, returns/reports/statements to be furnished and power to direct payment of amount due to the IEPF.

Further, on 28 February 2017, MCA made amendments to the IEPF Rules which, *inter alia,* provide that where the period of seven years for transfer of unclaimed dividend to the IEPF falls due during 7 September 2016 to 31 May 2017, the due date of such transfer would be deemed to be 31 May 2017.

(Source: MCA notification no. G.S.R. 854(E) dated 5 September 2016 and notification no. G.S.R. 178(E) dated 28 February 2017)

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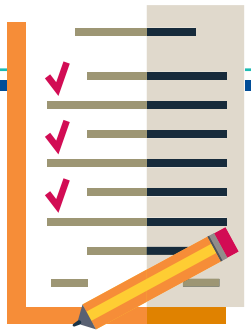

Updates relating to SEBI regulations

Updates relating to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations)

Revision in process to disclose the impact of audit qualifications

SEBI, in consultation with SEBI Advisory Committees, the ICAI, stock exchanges and industry bodies, revised the process to disclose the impact of audit qualifications. It had issued two notifications, one on 25 May 2016 and second on 27 May 2016.

The notifications prescribe the following operational details for implementing the revised procedure as per the amendment to the Listing Regulations:

- Listed entities need to disseminate the cumulative impact of the audit qualifications in a separate format called 'Statement on Impact of Audit Qualifications', simultaneously, while submitting the annual audited financial results to the stock exchanges.

  This is expected to ensure that the information is available to investors, without delay, enabling them to take well-informed investment decisions.
- The existing requirement of filing Form A or Form B for audit reports with unmodified or modified opinions respectively has been dispensed with.
- For audit reports with an *unmodified opinion,* the listed entity shall furnish a declaration to that effect to the stock exchange(s) while submitting the annual audited financial results.
- For audit reports with a *modified opinion,* a statement showing the impact of audit qualifications shall be filed with the stock exchanges (separately for standalone and consolidated financial statements) in the format specified in Annexure I to the SEBI Circular. Following are important points to be noted:
  - Schedule VIII of the Listing Regulations, providing the manner to review Form B has been deleted.
  - The requirement of making adjustments relating to the qualification in the books of accounts of the subsequent year has been removed.
  - The management of the listed entity shall have the option to explain its views on each audit qualification.
  - Where the impact of the audit qualification is not quantified by the auditor, the management shall make an estimate. In case the management is unable to make an estimate, it is required to provide reasons for the same. In both the scenarios, the auditor shall review and provide comments on the management's response.
- The statements on the impact of audit qualifications filed by the listed entities shall be a part of regular monitoring by the stock exchanges as specified in Regulation 97 of the Listing Regulations. In case of non-compliance, the stock exchanges are required to take action against such entities as deemed fit and report to SEBI on a regular basis.

  The stock exchanges need to coordinate with one another in case the scrip is listed on more than one stock exchange.

  The revised procedures are applicable for all the annual audited standalone/consolidated financial results (as applicable) submitted by the listed entities for the period ending on or after 31 March 2016.

Key takeaways

- The disclosure of the impact of audit qualifications, along with the management's views, is expected to provide timely and relevant information to users of financial reports and enable them to make informed investment decisions.
- The quantification of the impact of audit qualifications will assist users in their evaluation of the financial results.

(Source: SEBI circular no. CIR/CFD/CMD/56/2016 dated 27 May 2016 and First Notes released by KPMG in India on 7 June 2016)

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Revision in regulatory framework for schemes of arrangements by listed entities

Listing Regulations provide the procedure (through a circular dated 30 November 2015) to be followed by listed entities for undertaking schemes of arrangements such as amalgamations, mergers, reconstruction, etc.

Following related developments took place during the year ended 31 March 2017:

a. **Notification of sections:** On 7 December 2016, MCA notified certain sections of the 2013 Act including sections relating to compromises, arrangements, amalgamation, reduction of capital and variations of shareholders' rights.

b. **Approval for revised regulatory framework:** On 14 January 2017, SEBI gave an in-principle approval for the revised regulatory framework for the schemes of arrangements in order to align SEBI requirements with the 2013 Act.

c. **Merger of a wholly owned subsidiary with the parent entity:** The schemes of arrangement for merger of a wholly owned subsidiary with the parent entity would not be required to be filed with SEBI (under the Listing Regulations). Such schemes would be filed with stock exchanges for the purpose of disclosures (circular issued on 15 February 2017)

d. **Allotment of shares only to a select group of shareholders or shareholders of unlisted companies:** If under a scheme of arrangement allotment of shares takes place only to a select group of shareholders of unlisted companies then the pricing provisions of Chapter VII of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 would be applicable (circular issued on 15 February 2017).

   Further, SEBI through a notification dated 23 March 2017 clarified that 'relevant date' for the purpose of computing pricing shall be the date of board of directors' meeting in which the above scheme is approved.

e. **Revision in the Listing Regulations:** On 10 March 2017, SEBI made revisions to certain obligations of the Listing Regulations (given in circular dated 30 November 2015) with respect to the schemes of arrangements. Following are the key changes made:

   - **Conditions to be complied in schemes of arrangement between a listed and an unlisted company:** In case of schemes of arrangements between a listed and an unlisted entity, following conditions need to be satisfied:
     - Listed entity to include applicable information pertaining to the unlisted entity involved in the scheme as per the format specified in the abridged prospectus (Part D of the Schedule VIII of the ICDR Regulations)
     - Certificate from a SEBI registered merchant banker is required to certify the accuracy and adequacy of the above disclosures
     - Disclosures to be submitted to the stock exchanges for uploading on their websites
     - Percentage of shareholding of pre-scheme public shareholders of the listed entity and the Qualified Institutional Buyers (QIBs) of the unlisted entity, in the post scheme shareholding pattern of the 'merged' entity not to be less than 25 per cent
     - Unlisted entities can be merged with a listed entity only if the listed entity is listed on a stock exchange having nationwide trading terminals.
   - **Approval of shareholders to a scheme of arrangements:** The process for approval of shareholders to the scheme of arrangement has following key changes:
     - Voting for approval of the scheme valid only through e-voting. SEBI has removed the requirement through postal ballot. The listed entity would disclose all the material facts in the explanatory statement that would be sent to the shareholders in relation to the resolution of the scheme of arrangement
     - Approval of public shareholders has been extended to the following schemes:
       - Where additional shares have been allotted to promoter/promoter group and its related parties, associates of promoter/promoter group, subsidiary/(s) of promoter/promoter group of the listed entity
       - Where the scheme of arrangement involves the listed entity and any other entity involving promoter/promoter group and its related parties, associates of promoter/promoter group, subsidiary/(s) of promoter/promoter group
       - Where the parent listed entity has acquired, either directly or indirectly, the equity shares of the subsidiary from any of the shareholders of the subsidiary who may be promoter/promoter group and its related parties, associates of promoter/promoter group, subsidiary/(s) of promoter/promoter group of the parent listed entity, and if that subsidiary is being merged with the parent listed entity under the scheme
       - Merger of an unlisted entity resulting in reduction in the voting share percentage of pre-scheme public shareholders by more than five per cent of the total capital of merged entity
       - Transfer of whole or substantially the whole of the undertaking of a listed entity and consideration of such transfer is not in the form of the listed equity shares.

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- **Scheme involving hiving-off of a division from a listed company into an unlisted entity:** In such a case, the pre-scheme share capital of the unlisted issuer would be locked-in in the following manner:
  - *Shares held by promoters up to 20 per cent of the post-merger paid-up capital of the unlisted issuer:* For a period of three years from the date of listing of the shares of the unlisted issuer
  - *Remaining shares:* For a period of one year from the date of listing of the shares of the unlisted issuer.

  No additional lock-in should be applicable if the post scheme shareholding pattern of the unlisted entity is exactly similar to the shareholding pattern of the listed entity.
- **Detailed compliance report:** The listed entities need to submit a compliance report certified by the company secretary, CFO and the managing director of the entity.

Applicability

- **Schemes post 10 March 2017:** The draft schemes of arrangements filed with the stock exchange after the date of this circular i.e. 10 March 2017 to be governed under this circular.
- **Schemes pre 10 March 2017:** The draft schemes of arrangements already submitted to the stock exchange in terms of SEBI Circular No. CIR/CFD/CMD/16/2015 dated 30 November 2015 to be governed by the requirements specified in that circular.

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Key takeaways

The amendments are expected to make the regulatory framework relating to the schemes of arrangements by listed entities more robust. Some of the important revisions/relaxations in the revised framework are as follows:

- **Enhanced disclosures:** The amendments regarding merger of an unlisted entity with a listed entity have been made with a view to improving the disclosure standards and providing more information to shareholders of the listed entities, and is certainly a welcome move. These changes are directionally similar to the disclosure standards relating to material acquisitions in other major markets. However, from an Indian entity's standpoint, these changes could bring in a fair amount of additional work in preparing for these mergers, as the process to be followed by the unlisted entity in preparing its abridged prospectus could be in many respects similar to that followed for an IPO, including the due diligence by a SEBI registered merchant banker, preparation of restated financial statements for a five year period and the audit of those financial statements, etc. This activity of preparing the abridged prospectus could therefore, be an elaborate and time consuming exercise and is likely to impact timelines involved in the preparation for merger filings and approvals.
- **Increased filing requirements:** This point is connected with the point on 'enhanced disclosures' above and highlights additional filing requirements for a scheme of merger of listed and unlisted entity. As per clause 1.A.2.(f) of Annexure I, a listed entity is required to file 'audited financials of last three years (financials not being more than six months old) of the unlisted entity' with the stock exchange to obtain 'observation letter' or 'no-objection letter' subject to certain more criteria prescribed. While sending notice to the shareholders, clause 1.A.3(a) is applicable. According to this clause, ICDR requirements in relation to abridged prospectus have to followed and unlisted entity, therefore, would be required to provide financial information (both stand-alone and consolidated) for the latest five years as well as latest stub period (if applicable).
- **Voting by public shareholders:** The revised circular (10 March 2017) seeks to widen the percentage of public shareholding and therefore, requires the shareholding of pre-scheme public shareholders of the listed entity and the QIBs of the unlisted company, in the post scheme shareholding pattern of the 'merged' entity to be not less than 25 per cent. This will also help prevent a very large unlisted entity to get listed by merging with a very small listed entity.
- Additionally, the requirement to obtain approval of public shareholders through e-voting has been extended to more situations:
  - The schemes involving merger of an unlisted entity resulting in reduction in the voting share percentage of pre-scheme public shareholders by more than five per cent of the total capital of merged entity.
  - Schemes involving transfer of whole or substantially the whole of the undertaking of a listed entity and consideration of such transfer is not in the form of the listed equity shares.
  - Schemes involving merger of unlisted subsidiary with listed holding entity where the share of the unlisted subsidiary have been acquired by the holding entity directly or indirectly from promoters/promoter group.

(Source: SEBI press release PR No. 5/2017 dated 14 January 2017, circular no. CIR/CFD/CMD/ 16/2015 dated 30 November 2015, circular no. CFD/DIL3/CIR/2017/21 dated 10 March 2017, circular no. CFD/DIL3/CIR/2017/26 dated 23 March 2017 and First Notes released by KPMG in India on 27 March 2017)

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Dividend distribution policy for listed entities

SEBI, through a notification dated 8 July 2016 made certain amendments to the Listing Regulations which, *inter alia,* provide the following with respect to dividend distribution policy of listed entities:

- New regulation 43A has been introduced, which requires top 500 listed entities based on market capitalisation (as on 31 March of every financial year) to formulate a dividend distribution policy, which should be disclosed in the annual reports and on their websites.
- The dividend distribution policy should include certain parameters. The parameters are as following:
  - The circumstances under which the shareholders of the listed entities may or may not expect dividend
  - The financial parameters that should be considered while declaring dividend
  - Internal and external factors that should be considered for declaration of dividend
  - Policy as to how the retained earnings should be utilised
  - Parameters that should be adopted with regard to various classes of shares.

  If the listed entity proposes to declare dividend based on parameters in addition to the above prescribed parameters or proposes to change any of the additional parameters or the dividend distribution policy contained in any of the parameters, it should disclose such changes along with the rationale for the same in its annual report and on its website.

Other listed entities may disclose their dividend distribution policy on a voluntary basis in their annual reports and websites.

(Source: SEBI notification no. SEBI/ LAD-NRO/GN/2016-17/008 dated 8 July 2016)

Corporate governance issues in compensation agreements

Background

SEBI observed that certain Private Equity (PE) firms have entered into side agreements with top personnel and Key Managerial Personnel (KMPs) of listed entities by which such PE firms (who were allotted shares on a preferential basis) would share a certain portion of the gains above a certain threshold limit made by them at the time of selling the shares and also subject to the conditions that the entity achieves certain performance criteria and the employee continues with the entity for a certain period. Entering into such agreements without any prior approval of the shareholders seemed undesirable as it could lead to unfair trade practices.

New development

On 4 January 2017, SEBI amended the Listing Regulations to provide stricter norms for compensation agreements. These include the following:

- No employee including KMP, director or promoter of a listed entity should enter into any agreement for himself or on behalf of any other person, with any shareholder or any other third party with regard to compensation or profit sharing unless prior approval has been obtained from the board of directors as well as public shareholders by way of an ordinary resolution.
- All such agreements entered during the past three years from the date of notification should be informed to the stock exchanges for public dissemination including those which may not be currently valid.
- Existing agreements entered into prior to the date of notification and which may continue to be valid beyond such date should be informed to the stock exchanges and approval should be obtained from public shareholders by way of an ordinary resolution in the forthcoming general meeting. *(Interested persons involved in the transactions should abstain from voting on the said resolution).*

Key takeaways

- The amendment is a welcome step as it is expected to curb the practice of entering into compensation agreements to incentivise promoters, directors and KMP of listed investee companies.
- Mandatory approval from shareholders through a resolution (excluding interested persons) can ensure legitimacy of such agreements.

(Source: SEBI notification no. SEBI/LAD/NRO/GN/2016-17/025 dated 4 January 2017)

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Voluntary adoption of Integrated Reporting (IR)

Clause 34(2)(f) of the Listing Regulations requires mandatory submission of Business Responsibility Report (BRR) for top 500 listed entities based on market capitalisation (calculated as on 31 March of every year). The BRR should describe the initiatives taken by the entities from an environmental, social and governance perspective, in the format as specified by SEBI from time to time.

On 7 February 2017, SEBI issued a circular advising top 500 listed entities, which are required to prepare BRR to adopt IR on a voluntary basis from the financial year 2017-18. Entities are required to take note of the following points while disclosing IR:

- **Placement of IR**
  - As part of annual report with a separate section on IR
  - Incorporate in management discussion and analysis, or
  - Prepare a separate report (annual report prepared as per IR framework).

  In case the entity has already provided the relevant information in any other report prepared in accordance with national/international requirement/ framework, it may provide appropriate reference to the same in its integrated report so as to avoid duplication of information.
- **Hosting on entity's website:** Entities may host the integrated report on their website and provide appropriate reference to the same in their annual report.

Key takeaways

- While some Indian entities have already been following IR on a voluntary basis, SEBI's recent circular is likely to encourage other listed entities to include non-financial disclosures in their annual report, hereby adopting international best practices.
- It would also be useful if SEBI provides additional guidance for entities to facilitate the adoption of IR and pre-empt questions that entities may have as they evaluate moves to present their IR.

(Source: SEBI circular no. SEBI/HO/CFD/CMD/CIR/P/2017/10 dated 6 February 2017 and First Notes released by KPMG in India on 9 February 2017)

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Other updates

Clarification on revenue recognition inclusive of excise duty

Background

SEBI, in its circular dated 5 July 2016 (CIR/CFD/FAC/62/2016) provided certain relaxations to listed entities that were transitioning to Ind AS from 1 April 2016. As part of this circular, SEBI requires listed entities to comply with the following:

- *Formats up to 31 December 2016:* Comply with existing formats prescribed under the SEBI circular dated 30 November 2015
- *Formats for the period ended on or after 31 March 2017:* Comply with formats prescribed in the Schedule III of the 2013 Act.

The format prescribed by SEBI permits 'income from operations' to be disclosed net of excise duty. However, Schedule III of the 2013 Act requires 'revenue from operations' to be disclosed inclusive of excise duty.

As a result, there was a divergence in practice with some entities disclosing 'revenue from operations' excluding excise duty and others disclosing revenue inclusive of excise duty in their financial results.

New development

To avoid the ambiguity, the Bombay Stock Exchange (BSE) and the National Stock Exchange (NSE) through a notification on behalf of SEBI clarified that entities should follow a uniform approach in their revenue disclosures. Accordingly, 'income from operations' may be disclosed inclusive of excise duty, instead of net of excise duty, as specified in the 2013 Act.

Key takeaways

- The notifications issued by the BSE and NSE state that 'income from operations' may be disclosed inclusive of excise duty, which brings in some ambiguity and could be interpreted as being optional. However, SEBI's intent is to ensure that entities follow a uniform approach.
- In addition, the notification requires listed entities to take note of the clarification provided and comply accordingly. This indicates that the notification is probably more prescriptive in nature and entities are required to present income from operations inclusive of excise duty.

(Source: BSE notification no. DCS/COMP/10/2016-17 and NSE notification no. NSE/CML/ 2016/12 dated 20 September 2016 and IFRS Notes released by KPMG in India on 22 September 2016)

Guidance Note on board evaluation

Background

The 2013 Act and the Listing Regulations contain broad provisions on Board of Directors' (BOD) evaluation i.e. evaluation of the performance of:

- The BOD as a whole
- Individual directors (including independent directors and chairperson) and
- Various committees of the BOD.

The provisions also specify responsibilities of various persons/committees for conduct of such evaluation and certain disclosure requirements as a part of the listed entity's corporate governance obligations.

It has been brought to SEBI's notice by market participants that as the number of listed entities in India is very large, many of them may not have much clarity on the process of BOD evaluation and hence, may need further guidance.

New development

Accordingly, on 5 January 2017, SEBI issued a 'Guidance Note on Board Evaluation' (GN). The purpose of the GN is to educate the listed entities and their board about various aspects involved in the board evaluation process and improve their overall performance as well as corporate governance standards to benefit all stakeholders.

This would serve as a guide for listed entities and may be adopted by them as considered appropriate.

The GN covers all major aspects of board evaluation including the following:

a. Subject of evaluation
b. Process of evaluation including laying down of objectives and criteria to be adopted for evaluation of different persons
c. Feedback
d. Action plan based on the results of the evaluation process
e. Disclosure to stakeholders on various aspects
f. Frequency of board evaluation
g. Responsibility of board evaluation and
h. Review of the entire evaluation process periodically.

Key takeaway

- Entities should carefully consider the guidelines given in the GN for effective evaluation of its board.

(Source: SEBI circular no. SEBI/HO/CFD/CMD/CIR/P/2017/004 dated 5 January 2017)

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Disclosure in case of listed insurance entities

SEBI provided certain relaxation to the entities transitioning to Ind AS from 1 April 2016 (circular No. CIR/CFD/FAC/62/2016 dated July 05, 2016). The circular, *inter alia,* prescribe that entities are required to comply with the formats of financial results specified in the Schedule III to the 2013 Act for the period ending on or after 31 March 2017. However, banking entities and insurance entities have to follow the formats as prescribed under the respective Acts/Regulations as specified by their regulators.

Accordingly, SEBI after consultation with IRDAI (through a circular dated 24 October 2016) provided certain clarifications relating to disclosure requirements for listed insurance entities (life/non-life). Following are the clarifications:

- Submit following disclosures for the quarter ended 30 September 2016 and quarter ended 31 December 2016 in the formats as specified by IRDAI:
  - Format for quarterly financial results
  - Format for reporting of segment wise revenue, results and capital employed along with the quarterly results.
- With respect to the format for newspaper publishing purpose (stand-alone/consolidated), the insurance entities should continue to follow the format specified by SEBI. Additional disclosures may also be made as prescribed by IRDAI.

Further, IRDAI, through a circular dated 25 October 2016, prescribed the formats for the following to ensure compliance with the above mentioned SEBI Regulations:

- Format for quarterly financial results
- Format for reporting of segment wise revenue, results and capital employed along with the quarterly results.
- Format of limited review reports
- Format of the audit report, in case of audited financial reports
- Format for publishing the financial results in the newspapers.

Key takeaway

- With the notifications, SEBI and IRDAI have tried to ensure smooth transition to Ind AS by the insurance entities (with effect from 1 April 2018).

(Source: SEBI circular no. CIR/CFD/DIL/115/2016 dated 24 October 2016 and IRDAI circular no. IRDA/F&I/REG/CIR/208/10/2016 dated 25 October 2016)

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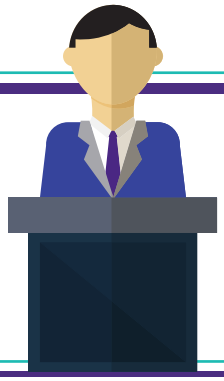

Updates relating to RBI regulations

Relaxation in prudential norms related to advances

RBI through a circular dated 21 November 2016 decided to provide an additional 60 days beyond what is applicable for the concerned Regulated Entity (RE) for recognition of a loan account as sub-standard in certain specified cases.

On 28 December 2016, RBI reviewed the earlier policy and decided as follows:

- If the amount becomes payable between 1 November 2016 and 31 December 2016, an additional 30 days may be provided in addition to the 60 days vide the abovementioned circular for the specified categories of advances.
- Permitted all REs to defer the down grade of an advance that was standard as on 1 November 2016 but would have become a Non-Performing Asset (NPA) for any reason during the period 1 November 2016 to 31 December 2016, by 90 days from the date of such downgrade in the specified categories of advances.
- Dues payable after 1 January 2017 will be covered by the extant instructions for the respective REs.

Key takeaways

- The interim relaxation is only available to the RE i.e. banks, NBFCs, etc. This circular does not affect the contractual obligations of the borrowers.
- The relaxation covers only certain kind of advances that would have become an NPA during the period 1 November 2016 to 31 December 2016.

(Source: RBI circular no. DBR.No.BP.BC.49/21.04.048/2016-17 dated 28 December 2016 and circular no. RBI/2016-17/143, DBR.No.BP. BC.37/21.04.048/2016-17 dated 21 November 2016)

RBI issues NBFCs Auditor's Report Directions, 2016

On 29 September 2016, RBI issued NBFCs Auditor's Report Directions, 2016 (Auditor's report directions, 2016) to every auditor of an NBFC and directed matters to be reported under the given reports:

- **Additional auditor's report to the board:** As per the Auditor's report directions, 2016, every auditor of an NBFC is required to report separately on the matters specified in the report directed to the board. This report is in addition to the report made by auditors under Section 143 of the 2013 Act on the accounts of the NBFCs and the same is termed as 'Additional Auditor's Report'.
- **Auditor's exception report to RBI:** An auditor is required to make a report comprising any unfavourable/qualified statement issued with respect to any of the matters stated in the additional auditor's report or about the non-compliance with the following:
  - The provisions of Chapter III B of the RBI Act (Provisions relating to non-banking institutions receiving deposits and financial institutions)
  - NBFCs Acceptance of Public Deposits (Reserve Bank) Directions, 2016, or
  - NBFC-Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016.

Key takeaway

- This circular enhances the reporting requirements for auditors in the additional auditor's report and exception report (where applicable) that are expected to be relevant to the board and RBI respectively.

(Source: RBI notification no. RBI/DNBS/2016-17/48 dated 29 September 2016 and First Notes released by KPMG in India on 12 October 2016)

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Format of Statutory Auditors' Certificate (SAC) to be submitted by NBFCs

NBFCs are required to submit a certificate from their statutory auditors every year to the effect that they continue to engage in the business of non-banking financial institution requiring it to hold a Certificate of Registration under Section 45-IA of the RBI Act.

With a view to ensure consistency in the manner in which the information is received from the auditors, RBI, through a circular dated 23 June 2016, prescribed a uniform format of the SAC.

(Source: RBI circular no. RBI/2015-16/433 dated 23 June 2016)

Review of framework for revitalising distressed assets in the economy

RBI has issued various guidelines aimed at revitalising the stressed assets in the economy. These measures include Strategic Debt Restructuring (SDR) mechanism, framework to revitalise the distressed assets in the economy (the framework) and revisions to the guidelines on restructuring of advances by RBI.

RBI, through a notification dated 26 May 2016, decided that the modifications made in the guidelines on joint lenders' forum and corrective action plan (on 25 February 2016) as included in the framework would mutatis mutandis, apply to NBFCs with immediate effect.

(Source: RBI notification no. RBI/2015-16/408 dated 26 May 2016)

Issue of equity and convertible instruments against pre-incorporation and pre-operative expenses

RBI, through a notification dated 24 October 2016, has permitted issue of equity shares, preference shares, convertible debentures, or warrants by a wholly owned subsidiary set up in India by a non-resident company, operating in a sector where 100 per cent foreign investment is allowed in the automatic route and there are no FDI linked conditionalities, subject to conditions. Such instruments would be issued against the pre-incorporation and pre-operative expenses up to a limit of five per cent of capital or USD500,000 whichever is less.

(Source: RBI notification no. FEMA. 373/ 2016-RB dated 24 October 2016)

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Other regulatory updates

Income Computation and Disclosure Standards (ICDS): Summary of developments during the FY2016-17

On 31 March 2015, the Ministry of Finance (MoF) issued 10 ICDS operationalising a new framework for computation of taxable income by all assessees in relation to their income under the heads 'Profit and Gains of Business or Profession' (PGBP) and 'Income from other sources'. The ICDS were applicable to the specified assessees from financial year beginning 1 April 2016 (AY2017-18).

During the year ended 31 March 2017, following changes have been made to ICDS:

- **Revised ICDS issued:** On 29 September 2016, the CBDT notified revised ICDS and repealed its earlier notification no. 32/2015, dated 31 March 2015. These revised ICDS are applicable to all assessees other than an individual or a Hindu undivided family who is not required to get his/her accounts of the PY audited in accordance with the provisions of Section 44AB of the IT Act.
- **Revised Tax Audit Report (Form No. 3CD):** On 29 September 2016, the CBDT also amended Tax Audit Report in Form No. 3CD in the Income-tax Rules, 1962 (IT Rules) and inserted a new sub-clause in the Form No. 3CD to provide details of adjustments with respect to ICDS and disclosures as per ICDS.
- **FAQs on ICDS:** The CBDT received a number of queries on various aspects of ICDS. Therefore, on 23 March 2017, CBDT issued clarifications in the form of Frequently Asked Questions (FAQs) on issues relating to the application of ICDS.

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Following table provides an overview of the key issues clarified by the CBDT:

Topic	Clarifications
General clarifications	
Basic provisions of ICDS	• **Maintenance of books of accounts** – Additional books of accounts not required to be maintained using ICDS – Maintain books of accounts and prepare financial statements as per the requirements of the 2013 Act – Apply accounting policies mentioned in ICDS I for computing income under the heads PGBP or income from other sources. • **Hierarchy of IT Rules, judicial rulings and ICDS** – The ICDS have been notified after due deliberation and after examining judicial views for bringing certainty on the issues covered by it. Certain judicial pronouncements were in absence of the authoritative guidance on these issues under the IT Act for computing income under the head PGBP or income from other sources. Since certainty is now provided by notifying ICDS under Section 145(2) of the IT Act, the provisions of ICDS would be applicable to the transactional issues dealt therein in relation to AY2017-18 and subsequent years – In case of any conflict between a specific IT Rule and ICDS, the provisions of IT Rules which deal with specific circumstances would prevail over ICDS. • **Changes in accounting policy** – Accounting policy should not be changed without 'reasonable cause' (ICDS I, *Accounting policies*) – Reasonable cause is an existing concept under the IT Act which has evolved over a period of time conferring desired flexibility to the tax payer in deserving cases – Assessee to judge if a change in accounting policy meets the criteria for reasonable cause. • **Place of disclosure** – Net effect on the income due to application of ICDS to be disclosed in the return of income – Disclosures required in ICDS to be made in the tax audit report in Form No.3CD – No separate disclosure requirements for persons not liable to tax audit.
Applicability of ICDS	• **Ind AS compliant entities:** ICDS to apply for computation of taxable income under the IT Act irrespective of the GAAP followed (AS or Ind AS) for preparation of financial statements. • **Banks, NBFCs, insurance companies, power sector, etc.:** General provisions of ICDS apply to all specified persons i.e. banks, NBFCs, insurance companies, power sector, etc. unless there are sector specific provisions contained in the ICDS or the IT Act. For example, ICDS VIII, *Securities* specifically contains provisions for banks and certain financial institutions and Schedule I of the IT Act contains specific provisions for insurance business. • **Income from presumptive heads:** Certain assessees might not be required to maintain detailed books of accounts as per the IT Act. However, their accounting policy, disclosures and taxes should be based on the ICDS to the extent applicable. Therefore, the relevant provisions of ICDS shall apply to the persons computing income under the relevant taxation scheme. • **Computation of MAT:** ICDS will not apply for computation of book profit for MAT computation. • **Employee benefit provisions:** ICDS will not apply to the employee benefit provisions recognised under AS 15, *Employee Benefits*. The IT Act provides guidance on such provisions (Section 43B, 40A(7) of the IT Act). • **Computation of AMT:** ICDS to apply for computation of AMT. • **Taxation of income computed on gross basis:** In the case of foreign companies generating income in relation to interest, royalty and fees for technical services, ICDS would be applicable for computation of these incomes on gross basis for accruing at the amount chargeable to tax. • **ICDS for real estate developers/Build, Operate and Transfer operators/leases:** At present there is no specific ICDS notified for real estate developers, Build, Operate and Transfer (BOT) operators and leases. Therefore, relevant provisions of the IT Act and ICDS shall apply to these transactions as may be applicable.

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Topic	Clarifications
Specific clarifications	
Revenue recognition	• **Recognition of retention money:** As per paragraph 9 of ICDS III, *Construction Contracts,* 'contract revenue should be recognised when there is reasonable certainty of its ultimate collection'. On similar grounds, it has been clarified that the retention money being part of overall contract should be recognised as revenue subject to reasonable certainty of its ultimate collection. • **Recognition of interest/royalty/dividend:** The notified ICDS on revenue included the condition of reasonable certainty of ultimate collection for recognition of revenue for sale of goods and rendering of services. However, the same condition has not been included for recognition of interest income, royalty income and dividend income. CBDT has issued the following clarifications this regard: – Interest income to be accrued on time basis – Royalty to be accrued on the basis of contractual terms – Subsequent non-recovery in either of the above cases can be claimed as deduction in view of amendment to Section 36(1)(vii) of the IT Act. Additionally, FAQ address a situation where a security has been sold on 30 April 2017 with due date of interest payments being December and June. If the amount of interest would be received on 30 June 2017 but the interest has been recognised as income on accrual basis on 31 March 2017, then it has been clarified that such an amount of interest taxed on accrual basis should be appropriately adjusted and considered while computing income from such sale.
Financial Instruments	• **Recognition of MTM gain:** As per paragraph 4(ii) of the ICDS I, Marked to Market (MTM) loss or an expected loss should not be recognised unless the recognition of such loss is in accordance with the provisions of any other ICDS. Accordingly, it has been clarified that similar provisions should be applied *mutatis mutandis* to MTM gains or an expected profit. • **Guidance on derivative instruments:** ICDS VI, *Effects of changes in foreign exchange rate*s provides guidance on accounting for certain derivative contracts such as forward contracts and other similar contracts. Derivatives which are not in the scope of ICDS VI would be governed by provisions of ICDS I.
Recognition of opening FCTR balance	The revised ICDS remove the classification requirements of a foreign operation into integral and non-integral operations. Accordingly, an issue was raised regarding taxability of opening balance as on 1 April 2016 of Foreign Currency Translation Reserve (FCTR) relating to non-integral foreign operation recognised as per AS 11, *The Effects of Changes in Foreign Exchange Rates.* The CBDT clarified that the FCTR balance as on 1 April 2016 pertaining to exchange differences on monetary items for non-integral operations, should be recognised in the PY2016-17 to the extent not recognised in the income computation in the past.
Treatment of expenditure before commercial production	• All expenditure incurred till the plant has begun commercial production i.e. production intended for sale or captive consumption, should be treated as capital expenditure.
Government grants	Government grants should not be recognised until there is reasonable assurance that: • The person shall comply with the conditions attached to them, and • The grants shall be received. However, recognition should not be postponed beyond the date of actual receipt. The FAQs address the situations of government grants received pre 1 April 2016 and post 1 April 2016 in the following manner: • *Government grants fulfilling above mentioned criteria on or after 1 April 2016:* Recognise as per ICDS VII. • *Government grants received prior to 1 April 2016, pending satisfaction of above mentioned criteria:* Amount deemed to have been recognised on its receipt, continue to be recognised as per the law prevalent prior to 1 April 2016.

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Topic	Clarifications
Securities held as stock-in-trade	Securities held as stock-in-trade should be subsequently measured at lower of the actual cost initially recognised or Net Realisable Value (NRV) at the end of that PY. The FAQs clarify that comparison of actual cost initially recognised and NRV should be done category-wise and not for each individual security.
Borrowing costs	• **Definition of borrowing cost:** Borrowing cost is defined as the interest and other costs incurred by a person in connection with the borrowing of funds and include following: – Commitment charges on borrowings – Amortised amount of discounts or premiums relating to borrowings – Amortised amount of ancillary costs incurred in connection with the arrangement of borrowings – Finance charges in respect of assets acquired under finance leases or under other similar arrangements. CBDT clarified that borrowing cost definition is an inclusive definition and accordingly, the definition would include bill discounting charges and other similar charges. • **Disallowed borrowing cost:** Capitalisation of the borrowing cost should take place for that portion of the borrowing cost which is otherwise allowable as deduction under the IT Act. • **Method of allocation of borrowing cost:** General borrowing cost computed as per ICDS IX , *Borrowing costs* should be allocated on asset-by-asset basis and not on class of assets for the purpose of capitalisation.
Transitional provisions	ICDS X, *Provisions, contingent liabilities and contingent assets,* explains the method to compute the amount of provisions as at 1 April 2016. Such computation could lead to taxation of the previously taxed items (hence double taxation). The CBDT clarified that the intent of transitional provision is that there should be neither 'double taxation' of income due to application of ICDS nor there should be escape of any income due to application of ICDS from a particular date.

(Source: KPMG in India's analysis, 2017)

For detailed overview of the clarifications, please refer to KPMG in India's First Notes on 'CBDT issues FAQs on ICDS' dated 28 March 2017.

Key takeaways

- **Revised ICDS:** The revised ICDS have brought consistency with the existing accounting practices prescribed under Ind AS and AS on certain issues, diversity still exists between AS and ICDS.
  - Net profit as per financial statements need to be adjusted for specific requirements of ICDS for determining taxable income
  - Entities are required to perform impact assessment on tax liabilities
  - Entities that have already adopted ICDS may need to re-perform impact assessment of revised ICDS
  - The amendments to Form No. 3CD provide sufficient time to the taxpayers who are required to file Tax Audit Report to analyse the requirement and prepare accordingly.
- **FAQs on ICDS:** CBDT has attempted to provide clarity and certainty and dealt with the issues faced by the assessees in a proactive manner. Such clarifications before the year end would help the assessees to compute their taxable income appropriately in a timely manner.

(Source: CBDT circular no. 86/2016, 87/2016 and 88/2016 dated 29 September 2016, circular no. 10/2017 dated 23 March 2017 and First Notes released by KPMG in India on 5 October 2016 and 28 March 2017)

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ICAI defers applicability of new/revised standards on auditing to 1 April 2018

Background

On 15 January 2017, the International Auditing and Assurance Standards Board (IAASB) issued new and revised auditor reporting standards and related conforming amendments (International Auditing Standards (ISAs)). These became effective for audits of financial statements for periods ending on or after 15 December 2016.

In line with international requirements, the ICAI revised its Standards on Auditing (SAs) relating to auditor reporting on 17 May 2016. The new requirements aim at enhancing the informational value of the auditor's report. These standards were to become applicable for audits of financial statements for periods beginning on or after 1 April 2017.

Following table provides the suite of SAs that are new/revised:

New and revised SAs	Description of changes and scope
SA 700 (Revised), *Forming an Opinion and Reporting on Financial Statements*	Revisions to establish new required reporting elements, and to illustrate these new elements through an example in the auditor's report.
SA 701, *Communicating Key Audit Matters in the Independent Auditor's Report*	New standard to establish requirements and guidance for the auditor's determination and communication of Key Audit Matters (KAMs). The KAMs which are selected from matters communicated to those charged with governance, are required to be communicated in the auditor's reports for audits of financial statements of listed entities.
SA 705 (Revised), *Modifications to the Opinion in the Independent Auditor's Report*	Clarification of how the new reporting elements are affected when expressing a modified opinion.
SA 706 (Revised), *Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report*	Clarification of the relationship between the emphasis of matter and other matter paragraphs and KAM section of the auditor's report.

(Source: KPMG in India's analysis, 2017)

New development

Concerns were raised by the members of ICAI over the practical implementation of SAs and therefore, requested ICAI to consider the deferment of applicability of these SAs by a period of one year.

The ICAI considered the matter and concluded that there is a need to provide adequate training and implementation guidance to the members of ICAI on these SAs in order to equip them with the requirement and to implement these SAs appropriately. Additionally, it took note of the fact that the issue of Implementation Guide and training programmes may take considerable time.

Accordingly, ICAI deferred the effective date/applicability date of SAs by one year (through its announcement dated 1 April 2017). These SAs would be effective/applicable for audits of financial statements for periods beginning on or after 1 April 2018.

The extant SAs 700, 705 and 706 will continue to apply.

Key takeaways

- The announcement by ICAI is quite timely as many entities would be in a process of finalising their annual financial results and getting them audited by the auditors.
- The ICAI has not deferred SA, 260 (revised), *Communication with Those Charged with Governance* and SA 570 (revised), *Going Concern.* Accordingly, these two SAs would be applicable from 1 April 2017.
- It is important to note that the entities which are listed abroad and required to follow ISAs would still be covered by the amended ISAs.

(Source: ICAI announcement dated 1 April 2017 and First Notes released by KPMG in India on 5 April 2017)

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Amendment to certain Accounting Standards (AS)

On 30 March 2016, MCA issued the Companies (Accounting Standards) Amendment Rules, 2016 and aligned AS with Ind AS. The table below summarises key amendments to the following ASs:

AS	Description of amendments
AS 2, *Valuation of Inventories*	• Aligned spare parts accounting with the revised AS 10.
AS 4, *Contingencies and Events Occurring After Balance Sheet Date*	• In case a company declares dividend to shareholders after the balance sheet date but before the financial statements are approved for issue, then the dividend should not be recognised as a liability at the balance sheet. • Disclosure in the notes to the financial statements to be provided.
AS 6, *Depreciation Accounting*	• AS 6 is withdrawn. • Requirements for depreciation incorporated in the revised AS 10.
AS 10, *Property, Plant and Equipment*	• Cost of an item of PPE would be cash price equivalent at the recognition date. If payment is deferred beyond normal credit terms, the difference between the cash price equivalent and the total payment is recognised as interest over the period of credit unless such interest is capitalised in accordance with AS 16, *Borrowing Costs.* • Component accounting would be mandatory (in line with the Schedule II to the 2013 Act). • The depreciation method applied to an asset would be required to be reviewed at least at each financial year-end. If there is a change in the method, then such change would be accounted for as a change in accounting estimate in accordance with AS 5, *Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies.* • Definition and recognition principles applicable to PPE would be applied to determine classification of spare parts as PPE or inventory. • Decommissioning liability to be part of cost of PPE (in line with AS 29) but on a discounted basis.
AS 13, *Accounting for Investments*	• Accounting for investment property would be in accordance with a cost model as prescribed in revised AS 10.
AS 14, *Accounting for Amalgamations*	• A limited revision has been made to include reference to 2013 Act.
AS 21, *Consolidated Financial Statements*	• Where an entity does not have a subsidiary but has an associate and/or joint venture, then such a company is required to prepare CFS. This amendment aligns the requirements of AS with the 2013 Act.
AS 29, *Provisions, Contingent Liabilities and Contingent Assets*	• An exception has been included in the case of recognition of a provision in relation to decommissioning, restoration and similar liabilities. The amendment requires the use of discounted basis in case of decommissioning, restoration and similar liabilities that are recognised as cost of PPE.

(Source: KPMG in India's analysis, 2017)

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Transitional provisions

For the revisions where specific transitional provisions have not been prescribed, the requirements of AS 5 for changes in accounting policies should apply i.e. entities would be required to apply the changes retrospectively.

The table provides transitional provisions given in the standards:

AS	Transitional provisions
AS 10	• Where an entity has in the past recognised an expenditure in the statement of profit and loss, which is eligible to be included as a part of the cost of a project for construction of PPE in accordance with the requirements of paragraph 9 of AS 10, it may do so retrospectively for such a project. The effect of such retrospective application of this requirement should be recognised net-of-tax in revenue reserves. • When one or more items of PPE have been acquired in exchange for a non-monetary asset or assets, or a combination of monetary and non-monetary assets, then the initial measurement of an item of PPE acquired in an exchange of assets transaction should be applied prospectively only to transactions entered into after AS 10 becomes mandatory. • On the date of AS 10 becoming mandatory, the spare parts, which hitherto were being treated as inventory under AS 2 and are now required to be capitalised in accordance with the requirements of AS 10, should be capitalised at their respective carrying amounts. The spare parts so capitalised should be depreciated over their remaining useful lives prospectively as per the requirements of AS 10. • The revaluation model should be applied prospectively as per the revised guidance. In case a company does not adopt the revaluation model as its accounting policy but the carrying amount of item(s) of PPE reflects any previous revaluation, then it should adjust the amount outstanding in the revaluation reserve against the carrying amount of that item. However, the carrying amount of that item should never be less than residual value and any excess of the amount outstanding as revaluation reserve over the carrying amount of that item should be adjusted in revenue reserves.
AS 29	• In case of existing provision for decommissioning, restoration and similar liabilities the company should discount it prospectively with the corresponding effect to the related item of PPE.

(Source: KPMG in India's analysis, 2017)

Applicability

The amended AS to be used for preparation of financial statements for accounting periods commencing on or after 30 March 2016.

Key takeaways

- The amendments will enable to bridge the gap between AS and Ind AS and will therefore, facilitate a smooth transition for entities who are required to adopt Ind AS.
- Some of the transitional provisions for adoption of new ASs are not similar to the transition requirements mentioned in Ind AS 101. This may specifically pose a challenge for entities covered under phase II of the corporate road map as they may be first required to implement the amendments to existing standards with reference to the transitional provisions and may have to recompute some of them while preparing Ind AS financial statements for the comparative period.

(Source: MCA notification dated 30 March 2016 and First Notes released by KPMG in India on 13 May 2016)

Employees' State Insurance (Central) Third Amendment Rules, 2016

The Ministry of Labour and Employment, through a notification dated 22 December 2016, has amended Rule 50 of the Employees' State Insurance (ESI) (Central) Rules, 1950, whereby the wage limit for inclusion of an employee under the ESI Act, 1948 has been increased from INR15,000 per month to INR21,000 per month.

The amendment came into force from 1 January 2017.

(Source: Ministry of Labour and Employment notification no. G.S.R. 1166(E) and ESI Corporation circular No. X-14/11/1/2015-P&D dated 22 December 2016)

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Corporate governance guidelines for insurance entities

The 2013 Act has brought in extensive changes to the governance regime. Therefore, on 18 May 2016, IRDAI issued revised guidelines for corporate governance for insurance entities. These are applicable to all insurers that have been granted registration by IRDAI except for the following:

- *Reinsurance entities:* Such companies may not be required to have the policyholder's protection committee.
- *Branches of foreign reinsurers in India:* Such branches may not be required to constitute the Board and its mandatory committees as required by the guidelines.

The objective of the guidelines is to ensure that the structure, responsibilities and functions of Board of Directors and the management of the company recognise the expectations of all stakeholders as well as those of the regulator. The structure should take steps required to adopt sound and prudent principles and practices for the governance of the company, and should have the ability to quickly address issues of non-compliance or weak oversight and controls. These guidelines therefore amplify on certain issues which are covered in the Insurance Act, 1938 and the regulations framed thereunder and include measures which are additionally considered essential by IRDAI for adoption by insurers.

The guidelines broadly cover the following major structural elements of corporate governance in insurance companies:

- Governance structure
- Board of Directors
- CEO
- Key management functions
- Role of appointed actuaries
- External audit – appointment of statutory auditors
- Disclosures
- Relationship with stakeholders
- Interaction with the supervisor
- Whistle blower policy.

Further, on 6 June 2016, IRDAI issued an addendum to the above guidelines in relation to appointment of auditors as under:

- The guidelines issued on 18 May 2016, *inter-alia,* prescribed that an audit firm which completes the tenure of five years at the first instance in respect of an insurer may be reappointed as statutory auditors of that insurer for another term of five years. Thus, an audit firm may be appointed as statutory auditors by an insurer for a continuous period of up to 10 years. Thereafter, there should be a cooling-off period of five years. The incoming auditor during the cooling-off period should not include other associate/affiliate firm(s) which are under the same network or whose name or trade mark or brand is used by the firm or any of the partners of the retiring auditor.
- The retiring/outgoing statutory auditor or its associate/affiliate should not undertake the investment risk management, or concurrent audit of the insurer during the cooling-off period .The period for which the auditors have already served as on the date of effect of these guidelines should be counted towards determining the term of appointment of statutory auditors for five years.
- The guidelines issued on 18 May 2016 mentioned that the period for which the auditors have already served as on the date of effect of these guidelines would be counted towards determining the term of appointment of statutory auditors for five years.
- The guidelines also stipulate a ceiling on the total number of audit assignments of insurers that can be undertaken by audit firms at a time. Due to network firms' guidelines, the addendum mentions that certain insurers may need to change their auditors. In order to allow smooth transition to those insurers where change of auditors may be required due to network firms' guidelines, the addendum allows such insurers to continue with their existing auditors for one more year, i.e. FY2016-17. Such insurers should ensure adherence to the stipulations regarding appointment of auditors from FY2017-18 onwards.

Key takeaways

- Insurance entities should carefully evaluate the requirements prescribed in the guidelines.
- The guidelines, *inter alia,* provide relaxations to certain insurance entities for one year i.e. FY2016-17 from appointment of an auditor on cessation of its term (10 years). Entities should adhere to the requirements from FY2017-18, if availed the exemption in FY2016-17.

(Source: IRDAI circular no. IRDA/F&A/GDL/CG/100/05/2016 dated 18 May 2016 and circular no. IRDA/FM/GDL/CG/100/05/2016 dated 6 June 2016)

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Important Guidance Notes (GN) issued by the ICAI in FY2016-17

Topics	Particulars
GN on Accounting for Real Estate Transactions	• The GN lays down the accounting treatment for entities dealing in real estate as sellers or developers. It provides guidance on: – Application of the principles of Ind AS 18, *Revenue* in respect of sale of goods to a real estate project when the revenue recognition process is completed – Application of the percentage completion method based on Ind AS 11, *Construction Contracts* methodology where economic substance of the transaction is similar to construction contracts. • The GN covers all forms of transactions in real estate. However, real estate transactions of the nature covered by Ind AS 16, *Property, Plant and Equipment,* Ind AS 20, *Accounting for Government Grants and Disclosure of Government Assistance,* Ind AS 38, *Intangible Assets* and Ind AS 40, *Investment Property* are outside the scope of this GN.
GN on Schedule III to the Companies Act, 2013 (Division I)	• The objective of this GN is to provide guidance in the preparation and presentation of financial statements of companies in accordance with various aspects of the Schedule III to the 2013 Act. However, it does not provide guidance on disclosure requirements under AS, other pronouncements of the ICAI, other statutes, etc. • The primary focus of the GN has been to lay down broad guidelines to deal with practical issues that may arise in the implementation of the Schedule III to the 2013 Act.
GN on Combined and Carve-Out Financial Statements	• The GN applies in the preparation and presentation of combined/carve-out financial statements. However, the GN is not applicable to the general purpose financial statements, since the combined/ carve-out financial statements are 'special purpose financial statements'. • The preparation of combined/carve-out financial statements would involve areas of judgement based on the purpose for which the financial statements are prepared. • The procedures for preparing combined financial statements of the combining entities is the same as that for CFS as per the applicable AS. Additionally, the GN provides specific guidance on impairment, taxation, transaction costs, exceptional items, capital, cash flow statements and disclosures.
GN on Reports in Company Prospectuses (Revised 2016)	• The GN provides guidance in reporting financial information to be included in the prospectus in case of an initial public offer, other types of filings for the issue of securities, etc. • This GN will be applicable in relation to initial offer documents, which are filed on or after 1 January 2017. Earlier application is voluntary.
GN on Reports or Certificates for Special Purposes (Revised 2016)	• The purpose of this GN is to provide guidance on engagements which require a 'professional accountant in public practice' to issue reports other than those which are issued in audits or reviews of historical financial information. • It caters to the reports or certificates in support of statements or other information provided by a company, such as reports or certificates to fulfil a contractual reporting obligation, required by those charged with governance of a company, or required by laws and regulations. For example; practitioner's report for turnover/net worth/net profit/working capital/similar engagement pursuant to a tender requirement, auditors annual activity certificate for Indian branch liaison office/ liaison office of a foreign company, etc.
GN on Audit of Consolidated Financial Statements (Revised 2016)	• The GN provides guidance on the specific issues and audit procedures to be applied in an audit of CFS and supersedes the earlier Guidance Note on Audit of CFS, issued by the ICAI in 2003. • It can also be used while auditing CFS prepared for special purpose, to the extent applicable, but does not deal with the accounting matters arising on consolidation of financial statements.
GN on Report under Section 92E of the Income-tax Act, 1961 (Transfer Pricing)	• The objective of this GN is to provide guidance to accountants in discharging their responsibilities under Section 92E of the IT Act.

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Topics	Particulars
GN on Accounting for Oil and Gas Producing Activities	• The GN provides guidance on the accounting principles contained in Ind AS for accounting for costs incurred on activities relating to acquisition of interests in properties, exploration, development and production of oil and gas. • The GN also deals with other accounting aspects such as accounting for abandonment costs and impairment of assets that are peculiar to the entities carrying on oil and gas producing activities. However, it does not address accounting and reporting issues relating to the transporting, refining and marketing of oil and gas and also does not apply to accounting for: a. Activities relating to the production of natural resources other than oil and gas, and b. The production of geothermal resources or the extraction of hydrocarbons as a by-product of the production of geothermal and associated resources.
GN on Audit of Banks (2017 edition)	• The GN, *inter alia,* discusses the manner of disclosure and peculiarities of important items on the financial statements of banks, the RBI prudential directions thereon, audit procedures, reporting on Long Form Audit Reports, special purpose reports, certificates, etc.
Implementation Guide (IG) on Auditor's Reports under Ind AS for transition phase	• The IG provides guidance on reporting responsibilities of the auditors for the audit of: – Ind AS financial statements prepared for the first year in which Ind AS are applicable to the company – Ind AS financial results prepared by a listed company under Listing Regulations during the first year of adoption of Ind AS – Special purpose financial statements for the corresponding period and opening balance sheet as per Ind AS, which will be presented by the company as part of its first Ind AS financial statements.

(Source: Guidance notes and IG issued by the ICAI during the year ended 31 March 2016)

EAC opinions issued by ICAI in FY2016-17

Sr. no.	Topic	Month
1.	Accounting for expenditure incurred as a pre-condition to obtaining environmental clearance for setting up power project and coal mines	April 2016
2.	Treatment of royalty paid in dispute pending the final decision of the court	May 2016
3.	Application of paragraph 21 of AS 22, *Accounting for Taxes on Income*	June 2016
4.	Accounting treatment for the project assets under construction	July 2016
5.	Treatment of expenditure incurred by the company on roads for transportation of coal	August 2016
6.	Accounting treatment of machinery/capital spares on replacement of worn out parts	September 2016
7.	Accounting treatment of exchange variation arising on loan taken by foreign operations of the company held through a wholly owned foreign subsidiary company for the purposes of CFS as per AS 11, *The Effects of Changes in Foreign Exchange Rates*	October 2016
8.	Accounting treatment of unutilised spare parts to be used on renovation and modernisation of power plant	November 2016
9.	Recognition of deferred tax asset/liability in respect of depreciation on held-to-maturity category investments as per AS 22	December 2016
10.	Adjustment of the effect of first recognition of group gratuity liability against opening balance of reserves and surplus as an appropriation in the current financial year	January 2017
11.	Capitalisation of cost incurred towards replacement of economiser coil in a boiler of a thermal power plant	February 2017
12.	Depreciation for separate unit of refinery on the basis of an estimate of Its own useful life	March 2017

(Source: The ICAI Journal, The Chartered Accountant, for the period April 2016 to March 2017)

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Glossary

1956 Act	Companies Act, 1956
2013 Act	Companies Act, 2013
AIFI	All India Term Lending and Refinancing Institutions
AS	Accounting Standard
AY	Assessment Year
CBDT	The Central Board of Direct Taxes
CFO	Chief Financial Officer
CFS	Consolidated Financial Statements
CG	Central Government
CLC	Company Law Committee
CS	Company Secretary
DDT	Dividend Distribution Tax
FAQ	Frequently Asked Questions
FCMITDA	Foreign Currency Monetary Item Translation Difference Account
FVTPL	Fair Value Through Profit or Loss
FY	Financial Year
GAAP	Generally Accepted Accounting Principles
IASB	International Accounting Standards Board
ICAI	The Institute of Chartered Accountants of India
ICDR Regulations	SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009
ICDS	Income Computation and Disclosure Standards
IFRS	International Financial Reporting Standards
Ind AS	Indian Accounting Standards
Ind AS Rules	Companies (Indian Accounting Standards) Rules, 2015
IRDAI	The Insurance Regulatory and Development Authority of India
IT Act	Income-tax Act, 1961
ITFG	Ind AS Transition Facilitation Group
KMP	Key Managerial Personnel
Listing Regulations	SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015
LLP	Limited Liability Partnership
MAT	Minimum Alternate Tax
MCA	Ministry of Corporate Affairs
MTM	Mark-to-Market
NABARD	National Bank for Agriculture and Rural Development
NBFC	Non-Banking Financial Company
NCLAT	National Company Law Appellate Tribunal
NCLT	National Company Law Tribunal
NHB	National Housing Bank
OCI	Other Comprehensive Income
PE	Private Equity
PPE	Property, Plant and Equipment
PY	Previous Year
QIB	Qualified Institutional Buyer
RBI	The Reserve Bank of India
RPT	Related Party Transaction
SAC	Statutory Auditors' Certificate
SBN	Specified Bank Note
SEBI	The Securities and Exchange Board of India
SEZ	Special Economic Zone
SIDBI	Small Industries Development Bank of India
YTD	Year To Date

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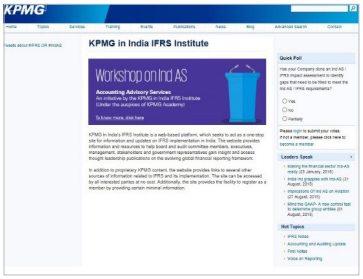

KPMG in India's IFRS institute

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The website provides information and resources to help board and audit committee members, executives, management, stakeholders and government representatives gain insight and access to thought leadership publications that are based on the evolving global financial reporting framework.

IFRS Notes

ICAI revises ITFG Bulletin 5 and issues FAQ on treatment of securities premium account on transition to Ind AS

28 April 2017

The Ind AS Transition Facilitation Group (ITFG) held its eighth and ninth meetings on 1 April and 8 April 2017, respectively. In these meetings, the ITFG reconsidered certain issues that were part of ITFG Clarification Bulletin 5 (Bulletin 5), on the basis of the representations received from the stakeholders. Accordingly, on 17 April 2017, the ITFG issued a revised Clarification Bulletin 5 (revised Bulletin 5), wherein they withdrew Issue No. 2 (clarification on current and non-current classification of security deposits) and revised Issues No. 4 and 5 (pertaining to the deemed cost exemption for property, plant and equipment).

In addition, on 17 April 2017, the ICAI issued a frequently asked question (FAQ) on treatment of the securities premium account under Ind AS on date of transition. This FAQ replaces Issue No. 7 of the ITFG Bulletin 2 that was previously released in May 2016.

This issue of IFRS Notes provides an overview of clarifications provided by ICAI.

Missed an issue of Accounting and Auditing Update or First Notes?

Issuance of draft regulations for fast track insolvency of corporate persons covered under the Insolvency and Bankruptcy Code

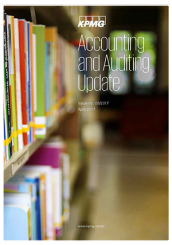
28 April 2017

On 18 April 2017, the Insolvency and Bankruptcy Board of India has issued the below rules for public comments:

- Draft Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017 (draft Insolvency Regulations, 2017)
- Draft notification for eligible corporate debtors under Section 55(2) of the Code.

To enhance the stability of the financial sector, RBI issued a circular advising banks to ensure that they have adequate provisions for loans and advances at all times. It encouraged banks to consider higher provisioning rates for standard assets (as compared to the minimum rates prescribed in the Master Circular) and review the provisions made for advances to stressed sectors of the economy.

This issue of First Notes provides an overview of the draft provisions.



Accounting and Auditing Update

Issue no. 9 | April 2017

This edition of Accounting and Auditing Update (AAU) covers an article on accounting of prior period errors and explains the guidance with the help of illustrative examples. Ind AS 8, *Accounting policies, Changes in Accounting Estimates* and *Errors* covers guidance on accounting for accounting of changes in accounting policies, estimates and prior period errors. The guidance on accounting of errors under Ind AS is wider than current Indian GAAP (Accounting Standards) and requires an entity to adjust material prior period errors retrospectively by restating the comparative amounts and opening retained earnings at the beginning of the earliest period presented in the balance sheet.

The issue includes articles on the following topics:

- Accounting for prior period errors in Ind AS financial statements
- Accounting for foreign currency translation reserve under Ind AS
- Acceptance of deposits-regulatory requirements under the Companies Act, 2013
- IASB proposed amendment to IFRS 8, *Operating Segments*
- Regulatory updates.

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aaupdate@kpmg.com

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