Regulatory updates

IRDAI has issued a ‘Report of the working group on new standard on Insurance Contracts (Equivalent to IFRS 17, Insurance Contracts)

Background
The International Accounting Standards Board (IASB) on 18 May 2017, issued IFRS 17 Insurance Contracts. IFRS 17 replaces IFRS 4, Insurance Contracts which was in the nature of an interim standard pending the completion of the project on insurance contracts by the IASB.

The release of IFRS 17 standard led Insurance and Regulatory Development Authority of India (IRDAI) to review its position in the matter of implementation of Ind AS in the insurance sector. Considering the peculiarities involved in implementing Ind AS in insurance sector, IRDAI deferred the implementation of Ind AS in the insurance sector in India for a period of two years. Accordingly, Ind AS for Indian insurance companies was made applicable from 1 April 2020 (instead of 1 April 2018).

In order to commence work on early adoption of new standard on insurance contracts in India, a working group was constituted by the IRDAI on 21 August 2017.

The role of the working group was to:

a. Review of the new standard IFRS 17 and to identify relevant areas/aspects, which require suitable adoption in the Indian context

b. Identify changes arising out of new standard on insurance contracts
   • To be carried out in the draft regulations/ formats recommended by the Implementation Group vide their report dated 29 December 2016
   • To be carried out in other regulations/ guidelines, etc.

c. Any other aspects that may arise in the course of implementation of the standard in the insurance sector.
New development

On 6 December 2018, the working group has released its report along with draft regulations on preparation of financial statements by insurance companies. The major recommendations are as follows:

a. Single format of financial statements without distinguishing between life and other than life insurance business has been recommended. The recommendation is made considering IFRS 17 differentiates measurement of insurance contracts based on duration of contracts and does not distinguish between life and general insurance business.

b. Cash flow statement under direct method has been recommended. The IRDAI may examine whether reinsurance companies can be permitted indirect method of preparing cash flow statement.

c. Information presently required to be disclosed in the management report may be presented along with the board of directors’ report in a manner similar to that of corporate governance report.

d. Information primarily relevant to policyholders like fund-wise revenue account, balance sheet and additional disclosures may be presented by insurers on their respective websites instead of annexing these to financial statements.

e. Ind AS compliant balance sheet of insurance companies may be used as a basis to carry out adjustments for solvency computations.

f. The IRDAI may request Institute of Chartered Accountants of India (ICAI) and Institute of Actuaries of India (IAI) to bring out/publish education material on application of Ind AS 117, Insurance Contracts. (Source: Report of the working group on new standard on Insurance Contracts (Equivalent to IFRS 17 issued by IRDAI)"

SEBI issues framework for fund raising by issuance of debt securities by large corporates

The Securities and Exchange Board of India (SEBI), through its circular dated 26 November 2018, has prescribed a framework for fund raising by listed entities qualifying as large corporates as per the prescribed criteria.

Applicability

The framework is applicable for prescribed large entities from the accounting period beginning on or after 1 April 2019.

Criteria to be considered as a large corporate

The framework would be applicable for all listed entities (except for scheduled commercial banks), which as on last day of the financial year (i.e. 31 March or 31 December) satisfying all of the following:

- Have their specified securities or debt securities or non-convertible redeemable preference shares, listed on a recognised stock exchange(s) in terms of SEBI Listing Regulations, 2015
- Have an outstanding long term borrowing of INR100 crore or above, where outstanding long-term borrowings shall mean any outstanding borrowing with original maturity of more than one year and shall exclude external commercial borrowings and inter-corporate borrowings between a parent and subsidiary(ies)
- Have a credit rating of ‘AA and above’, where credit rating shall be of the unsupported bank borrowing or plain vanilla bonds of an entity, which have no structuring/support built in; and in case, where an issuer has multiple ratings from multiple rating agencies, highest of such rating shall be considered for the purpose of applicability of this framework.

Framework

The framework *inter alia* provides as follows:

- A large corporate (as specified above) should raise not less than 25 per cent of its incremental borrowings (during the financial year subsequent to the financial year in which it is identified as a large corporate) by way of issuance of debt securities, as defined under SEBI (Issue and Listing of Debt Securities) Regulations, 2008.
- A large corporate should make prescribed disclosures to the stock exchanges. These disclosures should be certified both by the Company Secretary (CS) and the Chief Financial Officer (CFO). The disclosures are as follows:
  - Within 30 days from the beginning of the financial year, disclose the fact that it is identified as a large corporate
  - Within 45 days of the end of the financial year, the details of the incremental borrowings done during the financial year
- The above disclosures would also form part of audited annual financial results of the entity. (Source: SEBI circular SEBI/HO/DDHS/CIR/P/2018/144 dated 26 November 2018).
Disclosure of significant beneficial ownership in the shareholding pattern

Section 89 of the Companies Act, 2013 (2013 Act) requires every person who holds or acquires a beneficial interest in share of a company and the person registered as holder of shares but does not hold the beneficial interest in such shares, required to make a declaration to the company specifying the nature of his/her interest, particulars of beneficial interest as prescribed.

The 2013 Act defines significant beneficial owner as a person who is not a registered shareholder of the company but the person either individually or jointly owns at least 10 per cent stake in the company or directly or indirectly exercises significant control over the company.

Further, the Companies (Significant Beneficial Owners) Rules, 2018 specifies various requirements pertaining to disclosures regarding significant beneficial owners.

With an aim to increase transparency to investors, SEBI through its circular dated 7 December 2018 has prescribed the format for disclosure of significant beneficial owners. All listed entities would need to disclose details pertaining to significant beneficial owners in the format prescribed at Annexure to aforementioned circular.

The circular will come into force from the quarter ended 31 March 2019.


SEBI proposes norms for direct listing of equity shares within and outside India

On 12 June 2018, SEBI formed an ‘Expert committee for listing of equity shares of companies incorporated in India on foreign stock exchanges and of companies incorporated outside India on Indian stock exchanges’ (the committee). The role of the committee, inter alia, was to make recommendations for a suitable framework to facilitate direct listing of equity shares of Indian companies on foreign stock exchanges and of foreign companies on Indian stock exchanges.

Accordingly, on 4 December 2018, SEBI released the report of the committee with a proposed framework for such direct listing.

The key recommendations in the report can be summarised under the following heads:

Preparation of Consolidated Financial Statements (CFS)

The framework suggested following with respect to preparation and presentation of financial results by a company in the respective cases:

- **Indian companies listing on foreign stock exchanges:** The relevant accounting standards of the country of listing would be applicable to the Indian companies which may require preparation/presentation of CFS either in accordance with accounting/auditing standards applicable to domestic companies in such jurisdiction or comparable global standards.

  However, for statutory reporting purposes, such Indian companies would be required to prepare its CFS as per the applicable Ind AS

- **Foreign companies listing on Indian stock exchanges:** Foreign companies listing on Indian stock exchanges would be required to prepare and disclose CFS (in English language) in accordance with one of the given accounting standards
  a. Ind AS
  b. IFRS
  c. US GAAP or
  d. Local GAAP of country of incorporation

  Accordingly, if CFS have been prepared in accordance with IFRS or US GAAP, the foreign company would be required to annex a summary of significant differences between IFRS/US GAAP and Ind AS (without quantification).

  If the foreign company opts to prepare and disclose the CFS as per country of incorporation’s local GAAP, then it would have to present a quantitative reconciliation statement between country of incorporation’s local GAAP and Ind AS for the periods presented. Additionally, a summary of significant differences between the country of incorporation’s local GAAP and Ind AS would be required.

Minimum float for listing

The proposed framework requires that at least 10 per cent of the paid-up capital of the foreign company should be listed on Indian stock exchange(s). Also, the issue size of a foreign company (for listing in India) should be at least INR1,000 crore with allotment to at least 200 investors.

Identification of promoter(s)/promoter group not required

The committee proposed that the norms relating to identification of promoter(s)/promoter group would not be applicable to a foreign company listing on Indian stock exchange(s).
Norms relating to prospectus and private placement not applicable

The committee in its report has proposed to request MCA to issue a clarification to the fact that provisions of Chapter III of the 2013 Act (i.e. prospectus, allotment of securities and private placement) would not apply to listing of equity shares by an Indian company on foreign stock exchange(s).


ICAI has issued an exposure draft on revised Guidance Note on reports in the company’s prospectus

The SEBI has issued the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 which amended the SEBI ICDR, 2009 with the aim of simplifying the law, eliminating redundancies and inconsistencies and updating references to the 2013 Act. The revised regulations have been reorganised for various issues of securities issues like Initial Public Offer (IPO), further public offers, rights issues, etc.

In view of the revised ICDR Regulations, 2018, ICAI has issued an exposure draft on revised Guidance Note on reports in the company’s prospectus (Guidance Note).

The exposure draft provides guidance relating to reporting requirements in relation to financial information to be included in the prospectus in case of IPO in accordance with SEBI ICDR, 2018. This Guidance Note would also be applicable to other types of filings for the issue of securities (equity shares, debentures and notes, etc.) such as:

- Letter of offer (in case of right issue)
- Placement document (in case of Qualified Institutional Buyers (QIBs))

The Guidance Note also includes guidance relating to offer or sale of the securities in India.

The period to provide comments is up to 21 December 2018.

(Source: Exposure draft - Guidance Note on Reports in Company Prospectuses (Revised 2018) issued by ICAI).

ICAI issued standard on internal audit

The ICAI issued revised preface to the framework, basic principles and standards on internal audit. The standards on internal audit are a set of minimum requirements that apply to all members while performing internal audit of any entity or body corporate. The non-members performing internal audit, the standards are recommendatory in nature.

Further, the revised standards on internal audit would be made mandatory in a phased manner. The standards would be applicable for all internal audits beginning on or after a date to be notified by ICAI.

(Source: Standards on Internal Audit (SIAs) as issued by ICAI dated 27 November 2018).

Implementation guides issued by ICAI

Recently ICAI has issued following implementation guides:

- **Resignation/withdrawal from an engagement to perform audit of financial statements**

  The implementation guide provides guidance on various aspects of auditors’ resignation like circumstances leading to withdrawal/resignation, procedure to be followed by auditors in case of resignation, auditor’s responsibilities and professional obligations to be complied with by auditors.

  The appendix to the implementation guide also contains references to Standard on Auditing, SQC 1 and ICAI’s Code of Ethics which deal with auditors’ resignation.

  The implementation guide is applicable in case of audits of all listed entities. In case of audits of banks, insurance companies and other corporate entities, the guidance given in this implementation guide is to be followed, wherever applicable.

- **Implementation guide on SA 230 (Revised)**

  SA 230, Audit Documentation provides the basic principles of audit documentations which is to be considered by auditors while complying with requirements of SA 230 and specific documentation requirements of other SAs.

  In 2013, AASB of ICAI had issued the Implementation Guide to SA 230 to provide practical implementation guidance relating to SA 230. Recently, ICAI issued the revised implementation guide on SA 230 since audit documentation is an essential element of audit quality and has always been a critical component of an audit process as it evidences the work done by the auditor. The implementation guide explains the requirements of the SA 230 and also contains Frequently Asked Questions (FAQs) on SA 230.

  (Source: Implementation guides issued by ICAI).