

Audit Committee update

Quarter ended 31 March 2019



Agenda

- Amendment to deposit rules
- SEBI updates – Insider trading regulations
- Supreme Court's decision on Provident Fund
- Notification of Ind AS 116
- Other key updates and reminders



Scope of return of deposits widened

(1/2)



- **Annual return of deposits continues but scope widened.** Every company in receipt of money by way of deposit/loan/any other form has to file annual return by 30 June 2019 containing:

- receipts of money qualifying as 'deposits' **or**
- receipts of money not qualifying as 'deposits' **or**
- both

This return is required to be "certified" by the auditor

- In addition, new Rule 16A requires filing of an one- time Return by every company (other than a government company) for disclosure of details of money/ loan outstanding as at 22 January 2019 which were received from 1 April 2014 to 22 January 2019 but have not been considered as deposits as per Rule 2(1)(c).
 - Reporting is to be made in Form DPT – 3 within 90 days from 22 January 2019
(by 22 April 2019)
 - This return is also to be certified by the auditor





The amendments do not apply to:

- Banking companies
- NBFCs registered with RBI/
Housing Finance Company
registered with National
Housing Bank

since the main provisions of the 2013 Act are not applicable to these companies

- Whether a receipt of money qualifies as deposit or not might involve significant legal interpretations
- Appropriate legal advice may need to be sought

On time Return – key aspects

Single one time Return is required to be filed

- No separate return for amount received in each year during the period 1 April 2014 to 22 January 2019

Item No 14 of DPT – 3 is relevant as it has a clear reference to the newly introduced one time return [Rule 16(A)(3)]

SEBI revamps insider trading norms



Enhanced provisions in the new regulation regime

Amendments effective from 1 April 2019

01
Inclusion of definitions for the terms “**financial literacy**”, “**proposed to be listed**”. “**Legitimate purposes**” explained

03
Board approved policies and procedures for inquiries on leak or suspected leak of UPSI. Whistle-blower policies for employees to report instances of leak of UPSI

02
During the preliminary stages of a proposed transaction, **responsibility cast on Board of Directors** to evaluate whether sharing of the UPSI for due diligence is in the best interests of the company.

04
Code of conduct applicable only to “designated person(s)”. Two separate codes of conduct required; one for listed companies and the other for intermediaries, fiduciaries

05
Ambit of designated person widened and introduction of concept of “Material Financial Relationship”

06
Maintenance of electronic details of designated persons/others with whom UPSI is shared

Additional defences for Insiders



Disclosures for Trading by Insiders:

- Disclosures of trades in excess of INR1 million is now applicable to designated persons only, unlike all employees previously (in addition to promoters and directors).
- Off-market trades (inter-se transfers between insiders who were in possession of same UPSI) shall be reported by the insiders to the company within two working days. Company in turn shall notify the particulars of such trades to the stock exchange on which the securities are listed within two trading days from receipt of the disclosure or from becoming aware of such information

Compliance by Audit Committee

- Audit Committee/other analogous body for intermediary/fiduciary to:
 - Review compliance with PIT Regulations at least once in a FY
 - Verify that internal control systems are adequate and operating effectively

Code of Conduct



- Two separate codes of conduct, one for listed companies and the other for intermediaries, fiduciaries and every other person required to handle UPSI in the course of business operations
- BOD shall approve and ensure that the CEO or MD formulates a code of conduct to regulate, monitor and report trading by its designated persons and immediate relatives of designated persons
- Code of Fair Disclosure and Conduct to include a policy for determination of legitimate purposes



Fiduciaries : Professional firms advising listed companies





Trading restriction period

- from the **end of every quarter**
- **till 48 hours after** the declaration of financial results.

To avoid leakage of material information :

- Gap between clearance of accounts by audit committee and board meeting should be **as narrow as possible,**
- **preferably on the same day**

Basic wages for Provident Fund to include special allowance



- The Employees Provident Funds and Miscellaneous Provisions Act, 1952 provides that contribution towards Provident Fund should be calculated on monthly pay comprising basic wages and other prescribed components
- Multiple appeals before the Supreme Court raised a common question of law – whether special allowances would fall within the expression ‘basic wages’ for contribution of Provident Fund

The Supreme Court on 28 February 2019 held as follows:

- Test adopted to determine if any payment was to be excluded from basic wage is that the payment must have a direct access and linkage to the payment of such special allowance as not being common to all. The crucial test is one of universality.
- No material had been placed to demonstrate that the allowances in question were either variable/were linked to any incentive for production resulting in greater output by an employee.
- There was nothing to show that the allowances in question were not paid across the board to all employees in a particular category. The wage structure and the components of salary were essentially a part of the basic wage camouflaged as part of an allowance so as to avoid deduction and contribution of Provident Fund

New Lease Standard brings all leases on balance sheet



- Effective from financial periods beginning on or after 1 April 2019 for companies applying Ind AS
- Financial statements for FY 2018-19 to contain disclosures (as required by Ind AS 8) including
 - A discussion of impact that initial application of Ind AS 116 is expected to have on financial statements or
 - If that impact is not known/reasonably estimable, a statement to that effect
- Company should study specific implications of detailed requirements



Ind AS 116: Single lease model for lessees



Balance sheet

Asset
= 'Right-of-use' (ROU) of underlying asset

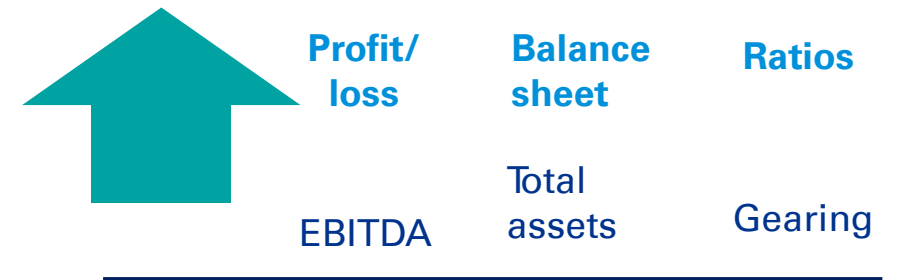
Liability
= Obligation to make lease payments

Balance sheet



Lessees appear to be more asset-rich, but also more heavily indebted

Impact on financial ratios



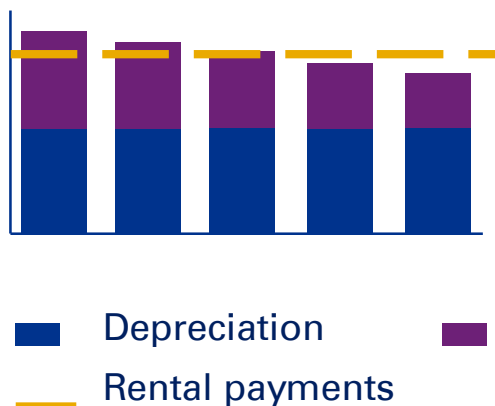
Profit and Loss

Lease expense
Depreciation

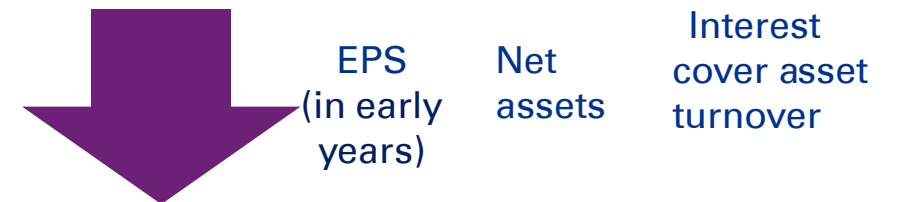
+ Interest

= Front-loaded total lease expense

Profit/loss



Total lease expense is front-loaded even when cash rentals are constant



Ind AS 116: Transition options



Approach	31 March 2019	31 March 2020	Date of equity adjustment
Full retrospective	Ind AS116 Ind AS 17	Ind AS116	1 April 2018
Modified retrospective	Ind AS 17	Ind AS116	1 April 2019

- Option to grandfather assessment of leases under Ind AS 17 available for both approaches
- Modified retrospective approach: additional practical expedients



Statutory Audit Report – Changed format



- Reordering of auditor's report, audit opinion at the beginning, followed by basis for opinion paragraph-
- Enhanced description of the responsibilities of management and the auditors including assessment of going concern assumption
- Separate section on material inconsistencies between information in financial statements and that in other parts of Annual Report
- Inclusion of a statement of required independence by the auditors



Consistency between financial statements and other financial/non-financial information in annual report (SA 720)

- Management/Board should ensure that financial or non-financial information given in the Annual Report (other than financial statements and auditor's report) is in consonance with the information in financial statements and auditor's report
- To ensure the above the auditor is also required to read and consider the other information - financial or non financial - to identify inconsistencies with financial statements and auditors' report
- Standard on Auditing (SA 720) has been strengthened and for audits of financial statements for periods beginning on or after 1 April 2018, auditor should
 - consider whether there is a material inconsistency between the other information and the financial statements; and
 - consider whether there is a material inconsistency between the other information and the auditor's knowledge obtained in the audit and
 - respond/report in his/her audit report appropriately



Consistency between financial statements and other financial/non-financial information in annual report (SA 720)

- The reporting on the auditor's work relating to other information to be as below:
 - The auditor's report will include a separate other Information section when the auditor has obtained at least some of the other information as of the date of the auditor's report of unlisted corporate entities
 - For audits of financial statements of listed entities, other Information section will be included even if the auditor expects to obtain the entire other information after the date of the auditor's report
- Reading/considering 'other information' as above does not mean that auditor has audited the same i.e. the other information does not qualify as being 'audited'

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