Chapter 4

Regulatory updates

SEBI streamlines the framework for schemes of arrangement for listed companies

Background

Companies with listed specified securities (i.e. equity shares and convertible securities) are required to comply with the provisions of the Securities and Exchange Board of India (SEBI) (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR) and the Companies Act, 2013 (2013 Act) while undertaking any scheme of arrangement including amalgamation, merger, reconstruction and reduction of capital.

Further, SEBI through its circular dated 10 March 2017 has laid down detailed requirements to be complied with by listed companies while undertaking schemes of arrangements.

New development

On 3 November 2020, SEBI has made certain amendments to the regulatory framework for schemes of arrangements by listed companies (laid down in its circular dated 10 March 2017). The amendments relate to the following areas:

- Documents to be submitted by the listed company to the stock exchanges before the scheme is submitted to the National Company Law Tribunal (NCLT)
- Obligations of the stock exchange(s) and processing of the draft scheme by SEBI
- Conditions for companies seeking relaxation under Rule 19(7) of the Securities Contracts (Regulation) Rules, 1957.

For a detailed read, please refer KPMG in India's First Notes on 'SEBI streamlines the framework for schemes of arrangement for listed companies' dated 19 November 2020.

(Source: SEBI circular no. SEBI/HO/CFD/DIL1/CIR/P/2020/215 dated 3 November 2020)

SEBI issues guidelines for due diligence and monitoring of charge by debenture trustees

Background

On 8 October 2020, SEBI issued certain amendments to the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (Debt Listing Regulations) and SEBI (Debenture Trustees) Regulations, 1993 (Debenture Trustees Regulations). The amendments, *inter alia*, required debenture trustee(s) to exercise independent due diligence before creating a charge on the security for the debentures to ensure that such security is free from any encumbrance or that it has obtained the necessary consent from other charge-holders if the security has an existing charge, in the manner as may be specified by SEBI.

New development

SEBI through its circulars dated 3 November 2020 and 12 November 2020 has issued guidelines with respect to performance of due diligence by debenture trustee(s) for creation of security at the time of issuance of debt securities and monitoring of security created/assets on which charge is created.

Key points to consider are as follows:

- **Due diligence by debenture trustee for creation of security:** The due diligence to be exercised by debenture trustee(s) with respect to creation of security should, *inter alia*, include the following:

  a. Verification of the assets provided by issuer for creation of security from registrar of companies, sub-registrar or other sources where charge is registered/disclosed.

  b. In case of personal guarantee, corporate guarantee and any other guarantees/form of security, verification of relevant filings available on websites of regulators and obtain appraisal report/necessary financial certificates.

  Debenture trustee(s) should also issue a 'due-diligence certificate' to the issuer as per the format specified in the circular, subject to the following conditions:

  a. Information on consents/permissions required for creation of further charge on assets are adequately disclosed in offer document or Private Placement Memorandum (PPM)/ Information Memorandum (IM).

  b. All disclosures made in the offer document or PPM/IM with respect to creation of security are in confirmation with the clauses of debenture trustee agreement.

  c. All covenants proposed to be included in debenture trust deed (including any side letter, accelerated payment clause, etc.) are disclosed in the offer document or PPM/IM.

  Effective date: The provisions would be effective from 1 January 2021 i.e. for new issues proposed to be listed on or after 1 January 2021.

- **Monitoring of security created/assets on which charge is created:** Debenture trustees(s) should incorporate the terms and conditions of periodical monitoring in the debenture trust deed. As per the terms, listed entity would be liable to provide relevant documents/information to enable the

debenture trustee(s) to submit the following reports/certification to stock exchange(s) within the timelines mentioned below:

Reports/certificate	Periodicity
Asset cover certificate	Quarterly basis within 60 days from end of each quarter
A statement of value of pledged securities	
A statement of value for Debt Service Reserve Account or any other form of security offered	
Net worth certificate of guarantor (secured by way of personal guarantee)	Half-yearly basis within 60 days from end of each half-year
Financials/value of guarantor prepared on the basis of audited financial statements, etc. of the guarantor (secured by way of corporate guarantee)	Annual basis within 75 days from end of each financial year.
Valuation report and title search report for the immovable/movable assets, as applicable.	

Effective date: The provisions would be effective from quarter ended 31 December 2020 for listed debt securities.

(Source: SEBI circular no. SEBI/HO/MIRSD/CRADT/CIR/P/2020/218 dated 3 November 2020 and circular no. SEBI/HO/MIRSD/CRADT/CIR/P/2020/230 dated 12 November 2020)

SEBI issues uniform structure for non-compliance with provisions related to continuous disclosures by issuers with listed NCDS/NCRPS/CPs

SEBI through a circular dated 13 November 2020 has issued a uniform structure for imposing fines and taking appropriate actions by the stock exchange(s) in respect of non-compliance with continuous disclosure requirements (as laid down in LODR and related SEBI circulars) by issuers of listed Non-Convertible Debt Securities (NCDS)/Non-Convertible Redeemable Preference Shares (NCRPS)/ Commercial Papers (CPs). Those, *inter alia*, includes the following:

Particulars	Fine payable and/or other action to be taken for non-compliance by an entity with listed NCDS/NCRPS/CPs
Non-submission of the financial results within the specified timeline by an issuer with listed NCDS/NCRPS/CPs	INR5,000 per day
Non-disclosure of extent, nature of security created and maintained with respect to secured listed NCDS in the financial statements	INR1,000 per day
Non-disclosure of information/submission of certificate regarding payment obligations.	INR1,000 per day per ISIN[1]

The fines specified in the structure would continue to accrue till the time of rectification of the non-compliance and to the satisfaction of the concerned recognised stock exchange. Such accrual would be irrespective of any other disciplinary/enforcement action(s) initiated by recognised stock exchange(s)/ SEBI.

Effective date: The provisions of the circular would be effective for compliance period ending on or after 31 December 2020.

(Source: SEBI circular no. SEBI/HO/DDHS/DDHS/CIR/P/2020/231 dated 13 November 2020)

1. International Securities Identification Number.

SEBI issues guidelines for rights issue of units by an unlisted InvIT

Currently, Chapter VIA of the of SEBI (Infrastructure Investment Trusts) Regulations, 2014 (InvIT Regulations) provides the framework for private placement of units by InvITs which are not eligible to be listed.

With a view to enable unlisted InvITs to raise further funds, SEBI through a circular dated 4 November 2020 has introduced a mechanism for raising of funds by unlisted InvITs through rights issue of units and has also issued related guidelines.

Key requirements for the rights issue are as follows:

- **Conditions for issuance:** An InvIT is required to comply with following conditions for making a rights issue of its units:
  a. A resolution of the board of directors of the investment manager approving the rights issue of the units and determining the record date should be passed.
  b. The units proposed to be issued must be of the same class as those already issued by the InvIT.
  c. None of the promoters, partners, or directors of the sponsor(s) or investment manager or trustee of the InvIT is a fugitive economic offender.
  d. None of the respective promoters, partners, or directors of the sponsor(s) or investment manager or trustee of the InvIT is:
     i. Debarred from accessing the securities market by SEBI
     ii. A promoter, director or person in control of any other company or a sponsor, investment manager or trustee of any other InvIT which is debarred from accessing the capital market under any order or directions made by SEBI.
- **Timeline:** The rights issue should open within three months from the record date. The subscription period would be minimum three working days and maximum 15 working days.
- **Pricing of units:** The investment manager should decide the issue price before determining the record date. Also, the issue price should be disclosed in the letter of offer.
- **Filing of the letter of offer:** The letter of offer is required to be filed by the investment manager with SEBI at least five days prior to opening of the rights issue.
- **Allotment:** The minimum allotment to any investor should be INR1 crore.
- **Restriction on further capital issues:** The InvIT is restricted from making any further issue of units between the date of filing of letter of offer and the allotment of units offered pursuant to the rights issue.

(Source: SEBI circular no. SEBI/HO/DDHS/DDHS/CIR/P/2020/223 dated 4 November 2020)

SEBI issues consultation paper on the applicability and role of a risk management committee

Background

Currently, LODR requires top 500 listed companies[2] to mandatorily constitute a Risk Management Committee (RMC). The majority of members of RMC should consist of members of the board of directors and in case of a listed company with outstanding SR equity shares[3], at least two thirds of the RMC should comprise of independent directors.

Further, the board of directors of the listed company is required to define the role and responsibility of the RMC.

New development

In view of the increasing importance of the risk management function, SEBI through its consultation paper dated 10 November 2020 has proposed certain amendments to LODR relating to the applicability and role of the RMC. Those are as follows:

- **Applicability:** SEBI proposed to extend the requirement of constituting RMC to top 1,000 listed entities on the basis of market capitalisation as at the end of the immediate previous financial year.
- **Role and responsibilities of RMC:** As per the proposals, the role and responsibility of the RMC should, *inter alia*, include the following:
  a. To formulate a detailed risk management policy which should include a framework for identification of internal and external risks specifically faced by the listed company, in particular including financial, operational, sectoral, sustainability information and cyber security risks

2. Determined on the basis of market capitalisation as at the end of the immediate previous financial year.
3. Equity shares of an issuer having superior voting rights compared to all other equity shares issued by that issuer.

b. To review the risk management policy on an annual basis, including consideration of the changing industry dynamics and evolving complexity

c. To keep the board informed about the nature and content of its discussions, recommendations and actions to be taken.

Further, the RMC should also coordinate its activities with the audit committee in instances where there is any overlap with audit activities.

- **Meeting of RMC and quorum:** The meetings of the RMC have been proposed to be held at least twice in a year (currently required once in a year). Further, the quorum for a meeting of the RMC would be either two members or one-third of the members of the committee, whichever is greater, including at least one member of the board of directors in attendance.

The consultation paper is open for public comments up to 10 December 2020.

(Source: SEBI 'Consultation Paper on the applicability and role of the Risk Management Committee' issued on 10 November 2020)

Consultation paper proposes changes to delisting of equity shares regulations

Background

On 10 June 2009, SEBI had notified the SEBI (Delisting of Equity Shares) Regulations, 2009 (delisting regulations), which provides delisting requirements of equity shares of a company from recognised stock exchanges, where such shares are listed. The delisting regulations have been amended from time to time as per the requirements in the securities market.

New development

On 20 November 2020, SEBI issued a consultation paper proposing amendments to delisting regulations. The objective of the proposed amendments is to further streamline and strengthen the delisting regulations/process.

Key areas of proposed amendments are as follows:

- **Disclosure of promoter/acquirer's intention to voluntarily delist the company:** Currently, promoter's/acquirer's proposal to voluntarily delist a company is disclosed to the recognised stock exchanges by the company's board of directors. It is proposed that the promoter/acquirer should make a public announcement of their intention to voluntarily delist the company to all the stock exchanges on which the company is listed on the same day when their said intention is intimated to the company.
- **Timeline for board's approval:** Currently, there is no prescribed time period for conducting a board meeting to consider and approve the delisting proposal. The proposal recommends that the board meeting for considering the delisting proposal should be held within 21 days from receipt of the delisting proposal.
- **Submission of reports:** To bring in transparency in the delisting process, it is proposed that the board of directors, while communicating their approval for delisting to the stock exchanges, should also submit a merchant banker's due diligence report and the audit report to the stock exchange.
- **Justification of delisting proposal:** In addition to the requirement of certification by the board of directors that the delisting is in the interest of the shareholders, the proposed amendment requires reasoned recommendations of the committee of independent directors and their voting pattern on the proposal for delisting.
- **Shareholders' approval by special resolution:** It is proposed that the shareholders' approval through special resolution may be obtained through postal ballot or through e-voting, as per the provisions of the Companies Act 2013. (Currently, special resolution only through postal ballot is permitted).
- **Indicative price:** In order to present the promoter's/acquirer's inclination to pay a higher price, it is proposed to allow promoter(s)/ acquirer(s) to specify an indicative price which should not be less than the floor price calculated in terms of Regulation 8 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011. Currently, there is no guidance with regard to indicative price.
- **Reverse book building:** The proposed amendment requires the outcome of reverse book building in terms of its success or failure to be disclosed within two hours of the closure of the tendering period. Unconfirmed bids should not be displayed in the reverse book building window.
- **Rationalising timelines:** The consultation paper proposes to rationalise the timelines pertaining to the delisting process.
- **Role of merchant banker:** It is proposed that the due-diligence work pertaining to the delisting process should be performed by an independent and peer-reviewed practicing company secretary. The merchant banker would continue to be appointed as the manager to the offer. The roles and responsibilities of the manager to the offer have also been outlined in the consultation paper.

- **Revisiting public shareholder's definition:** It is proposed to modify the public shareholding definition in line with the Securities Contracts (Regulations) Rules, 1957.
- **Computing book value of shares:** For the purpose of computing book value of the equity shares, the consultation paper clarifies, the consolidated or standalone financial results (whichever is higher) may be considered. Further, the latest quarterly financial results filed by the company on the stock exchanges, as on the date of public announcement for counter-offer should be referred.
- **Cooling-off period:** It is proposed that the cooling off period for relisting post delisting prescribed under the delisting regulations may be reduced to three years from five years. Cooling off period for voluntary delisting is proposed as a period of six months from completion of the last buy back or preferential allotment. (Currently the time period has not been prescribed).

The consultation paper is open for comments up to 21 December 2020.

(Source: SEBI-"Consultation paper on review of SEBI (Delisting of Equity Shares) Regulations, 2009" dated 20 November 2020)

Consultation paper on requirement of minimum public offer for large issuers

On 20 November 2020, SEBI issued a consultation paper on requirements of minimum public offer for large issuers and proposed amendment to the Securities Contracts (Regulation) Rules, 1957 (SCRR) on the basis of the representations and feedback from market participants. SCRR prescribes threshold limit of the minimum offer and allotment to public in terms of an offer document.

Key highlights of the proposal:

- It is proposed to reduce the requirement of minimum offer to public for large issuers (i.e. issuers with post issue paid up capital calculated at offer price (post issue MCap) exceeding INR10,000 crore) to sum total of INR 1,000 crore and 5 per cent of post issue MCap exceeding INR 10,000 crore. (Currently, all issuers with post issue MCap of INR4,000 crore and above are required to have a minimum public offer of 10 per cent of post issue MCap.)
- As part of continuous listing requirement, issuers are required to achieve Minimum Public Shareholding (MPS) of at least 25 per cent within three years from date of listing. In the event large issuers and very large issuers (explained in table below) fail to comply with 10 per cent MPS at the time of listing, the amendment has proposed revised thresholds and timelines as under:

Post issue MCap (INR crore)	Existing provision	Proposed
Large issuers INR10,000 < MCap ≤ INR 1,00,000	MPS of 25 per cent to be achieved in three years from date of listing	MPS of 10 per cent to be achieved in 18 months and 25 per cent within three years from the date of listing
Very large issuers MCap > INR1,00,000	MPS of 25 per cent to be achieved in three years from date of listing	MPS of 10 per cent to be achieved in two years and 25 per cent within 5 years from the date of listing

The consultation paper is open for comments up to 7 December 2020.

(Source: SEBI-" Consultation Paper-Review of requirement of Minimum Public Offer for large issuers in terms of Securities Contracts (Regulation) Rules, 1957" dated 20 November 2020)

Consultation paper on revision of provisions relating to re-classification of promoter/promoter group entities

Currently, Regulation 31A of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR regulations) permits reclassification of promoters of listed entities as public shareholders in different scenarios, subject to the specified conditions. The reclassification scenarios, *inter alia*, include the following:

- When a promoter is replaced by a new promoter
- Where a company ceases to have any promoters (i.e. becomes professionally managed).

SEBI has received feedback regarding cases where promoters have desired re-classification but have found it difficult under current regulatory regime.

Relaxation from existing requirement on a case to case basis was given by SEBI.

Accordingly, on 23 November 2020, SEBI issued a consultation paper and proposed revision to the existing provisions of Regulation 31A of the LODR Regulations.

Overview of the proposed norms

- **Modification in conditions pertaining to minimum threshold of voting rights:** The re-classification condition on share-holding, may be amended such that the promoter(s) seeking re-classification and persons related to the promoter(s) seeking re-classification should not together hold 15 per cent or more of the total voting rights in the listed entity. (Currently, the threshold is 10 per cent.)
- **Reduction in time period between board and shareholders meeting:** Current time gap of a minimum of three months between the date of board meeting and the shareholders' meeting for considering the request of the promoter(s) seeking re-classification is proposed to be reduced to a minimum of one month.
- **Reclassification pursuant to an order/direction of Government/regulator:** The current relaxations applicable to the companies whose resolution plans have been approved under section 31 of the Insolvency and Bankruptcy Code, 2016 would be extended to re-classification pursuant to an order/direction of the Government/regulator and/or as a consequence of operation of law subject to the condition that such promoter(s) seeking re-classification should not remain in control of the listed entity.
- **Reclassification of existing promoter pursuant to open offer:** Exemption from the procedure for re-classification would be granted in cases where re-classification is pursuant to an open offer made in accordance with the provisions of SEBI (Substantial Acquisition of Shares and Takeover) Regulations 2011 (SAST Regulations) subject to the prescribed conditions.
- **Timeline for request before board:** The listed entity would be required to place the reclassification request before its board within one month of receiving the reclassification request from its promoter(s)/promoter group entities. Currently, no definitive timeline has been prescribed.
- **Disclosure for 'nil' shareholding:** All entities falling under promoter and promoter group would need to be disclosed separately even in case of 'nil' shareholding.
- **Quarterly declaration:** The listed entities would have to obtain a declaration on a quarterly basis from their promoters on the entities/persons that form part of the 'promoter group'.

The consultation paper is open for comments up to 24 December 2020.

(Source: SEBI-" Consultative paper on re-classification of promoter/ promoter group entities and disclosure of the promoter group entities in the shareholding pattern" dated 23 November 2020)

SEBI invites comments on report on disclosures pertaining to analyst meets, investor meets and conference calls

With a view to deal with issues concerning sharing of information with select investors and strengthening the disclosure framework, Primary Markets Advisory Committee (PMAC) in its meeting held in July 2020 deliberated on the issue and decided to form a sub-group under the chairmanship of Mr. Keki Mistry.

The sub-group deliberated various aspects with respect to information imbalance amongst various classes of stakeholders, best practices in Indian securities market, regulatory regimes in various overseas jurisdictions and the way forward to bridge the gaps of aforesaid information irregularity.

On 20 November 2020, SEBI issued the report on disclosures pertaining to analyst meets, investor meets and conference calls for public comment, in order to obtain views of various stakeholders on the subject.

Summary of key recommendations of the sub-group:

- The audio/video recordings should be made available on the website of the listed entity immediately after the post-earnings conference call/quarterly call before the next trading day or within 24 hours from the occurrence of event. Written transcripts of such calls should be made available on the website within five working days after the earnings call.
- The audio/video recordings and the written transcripts should be available on the websites of the listed companies for a period of at least eight years.

- Listed companies would be permitted to decide as to whether conference calls are open to everyone to attend or limit such calls to their existing shareholders.
- Listed companies would be required to provide number of one-to-one meetings with select investors as part of corporate governance report submitted by them to stock exchanges on a quarterly basis along with affirmation that no UPSI[4] was shared by any official of the company in such meetings. Such record would be required to be maintained for period of eight years.

It is proposed that the aforementioned recommendations be made applicable in a phased manner. The requirements would initially be recommendatory for a period of one year and mandatory thereafter for all listed companies.

The report is open for comments up to 21 December 2020.

(Source: SEBI-" Report on disclosures pertaining to analyst meets, investor meets and conference calls" dated 20 November 2020)

RBI issued regulatory framework for HFCs

Background

The provisions of the National Housing Bank (NHB) Act, 1987 were amended with effect from 9 August 2019 pursuant to the Finance (No. 2) Act, 2019 and conferred certain powers for regulation of Housing Finance Companies (HFCs) with the Reserve Bank of India (RBI).

Consequently, RBI on 17 June 2020[5] issued a draft regulatory framework for HFCs for public comments.

New development

Basis the comments received, on 22 October 2020, RBI through a circular issued a revised regulatory framework applicable to all HFCs. HFCs will continue to comply with all extant instructions issued by NHB, which are not covered in the framework.

Some of the key features of the framework are as follows:

- **Definition of HFC:** HFC shall mean a company incorporated under the 2013 Act that fulfils following conditions:
  a. It is an NBFC whose financial assets, in the business of providing finance for housing, constitute at least 60 per cent of its total assets (netted off by intangible assets).
  b. Out of the total assets (netted off by intangible assets), not less than 50 per cent should be by way of housing financing for individuals.
- **Transition:** Registered HFCs which do not currently fulfil the above criteria but wish to continue as HFCs, will be provided with the following timeline for transition:

Timeline	Minimum percentage of total assets towards housing finance	Minimum percentage of total assets towards housing finance for individuals
31 March 2022	50 per cent	40 per cent
31 March 2023	55 per cent	45 per cent
31 March 2024	60 per cent	50 per cent

HFCs which are unable to fulfil the above criteria as per the timeline would be treated as NBFC-Investment and Credit Companies (NBFC-ICC) and they would be required to approach RBI for conversion of their Certificate of Registration (CoR) from HFC to NBFC-ICC. Application for such conversion should be submitted with all supporting documents meant for new registration together with an auditor's certificate on principal business criteria and necessary board resolution approving the conversion.

- **Minimum NOF for HFCs:** RBI specified INR20 crore as the minimum Net Owned Fund (NOF) for a company to commence or carry on housing finance as its principal business. HFC which hold a CoR with NOF of less than INR20 crore, may continue to carry on the business of housing finance, if such a company achieves NOF of INR15 crore by 31 March 2022 and INR20 crore by 31 March 2023.

  HFCs whose NOF stands below INR20 crore would be required to submit a statutory auditor's certificate with RBI within a period of one month evidencing compliance with the prescribed levels as at the end of the period indicated above.

4. Unpublished Price Sensitive Information
5. Press release on proposed changes in regulations applicable to HFCs for public comments

Co-lending by banks and NBFCs to priority sector

Background

On 21 September 2018, RBI had introduced a Co-Origination Model between banks and Non-Banking Financial Companies-Non-Deposit taking-Systemically Important (NBFC-ND-SIs) for providing competitive credit to priority sector. As per the model, all scheduled commercial banks (excluding regional rural banks and small finance banks) may engage with NBFC-ND-SIs to co-originate loans for the creation of priority sector assets subject to prescribed guidelines.

New development

RBI through a circular dated 5 November 2020 has revised the Co-Origination Model and reintroduced it as 'Co-Lending Model' (CLM). The primary focus of the revised scheme is to improve the flow of credit to the unserved and underserved sector and make available funds to the ultimate beneficiary at an affordable cost, considering the lower cost of funds from banks and greater reach of the NBFCs.

Key features of the CLM are as follows:

- Under CLM, banks are permitted to co-lend with all registered NBFCs (including HFCs) based on a prior agreement. The co-lending banks would take their share of the individual loans on a back-to-back basis in their books. However, NBFCs would be required to retain a minimum of 20 per cent share of the individual loans on their books.
- The banks can claim priority sector status in respect of their share of credit while engaging in the CLM adhering to the specified conditions.
- The banks and NBFCs would be required to formulate board approved policies for entering into the CLM and place the approved policies on their websites.
- The NBFC would be the single point of interface for the customers. It would enter into a loan agreement with the borrower, which should clearly contain the features of the arrangement and the roles and responsibilities of the NBFC and banks.
- The loans under CLM would be included in the scope of internal/statutory audit within the banks and NBFCs to ensure adherence to their respective internal guidelines, terms of the agreement and extant regulatory requirements.
- The CLM will not be applicable to foreign banks (including wholly-owned subsidiaries) with less than 20 branches. Further, banks will not be allowed to enter into co-lending arrangement with an NBFC belonging to the promoter group.
- The CLM scheme supersedes Co-Origination Model. However, outstanding loans under Co-Origination Model would continue to be classified under priority sector till their repayment or maturity whichever is earlier.

(Source: RBI circular no. RBI/2020-21/63 dated 5 November 2020)

Extension of due date of submitting IT returns and audit reports

The Ministry of Finance through a press release dated 24 October 2020 has extended the due dates for submission of Income-Tax (IT) returns and audit reports under the IT Act, 1961 (IT Act) as follows:

a. The due date for furnishing IT returns for the taxpayers (including their partners) who are required to get their accounts audited has been extended up to 31 January 2021 (due date as per IT Act is 31 October 2020).

b. The due date for furnishing IT returns for the taxpayers who are required to furnish report in respect of international/specified domestic transactions has been extended up to 31 January 2021 (due date as per IT Act is 30 November 2020).

c. The due date for furnishing IT returns for other taxpayers (for whom the due date as per the IT Act is 31 July 2020) has been extended up to 31 December 2020.

d. The date for furnishing tax audit reports under the IT Act including tax audit report and report in respect of international/specified domestic transaction has also been extended to 31 December 2020.

(Source: Ministry of Finance press release dated 24 October 2020)

ICAI publications

Guidance Notes

On 4 November 2020, the Institute of Chartered Accountants of India (ICAI) has issued guidance notes on the following topics:

- **Applicability of AS 25 and measurement of income tax expense for interim financial reporting (revised 2020):** The guidance note deals with the following issues:

  a. Whether AS 25 is applicable to interim financial results presented by an enterprise pursuant to the requirements of a statute/regulator, for example, quarterly financial results presented under LODR entered into between stock exchanges and the listed enterprises and

  b. The measurement of income tax expense for the purpose of inclusion in the interim financial reports.

  Pursuant to the issue of revised guidance note, 'guidance note on applicability of AS 25 to interim financial results' issued in 2008 and 'guidance note on measurement of income tax expense for interim financial reporting in the context of AS 25' issued in 2006 have been withdrawn.

  (Source: Guidance note on applicability of AS 25 and measurement of income tax expense for interim financial reporting (revised 2020) issued by ICAI on 4 November 2020)

- **Accounting for share based payments (revised 2020):** The guidance note deals with the share-based payment transactions with employees as well as non-employees with a focus on group-wide share-based payment transactions (e.g., grants by the parent company to employees of a subsidiary company). The guidance note is applicable to companies following AS under Companies (Accounting Standards) Rules, 2006, as amended under Section 133 of the 2013 Act.

  It would be applicable to share-based payment plans the grant date in respect of which falls on or after 1 April 2021. An enterprise is not required to apply the guidance note to share-based payment to equity instruments that are not fully vested as at 1 April 2021.

  Pursuant to the issue of the guidance note, 'guidance note on accounting for employee share-based payments' issued in 2005 stands withdrawn.

  (Source: Guidance Note on accounting for share-based payments (revised 2020) issued by ICAI on 4 November 2020)

Tax audit checklist

In October 2020, the ICAI has issued a checklist on 'Approach to Tax Audit under Section 44AB of the IT Act'. The checklist is broadly based on the text of the guidance note on tax audit under Section 44AB of the IT Act, implementation guide and technical guide on Income Computation and Disclosure Standards (ICDS) issued by ICAI. It also includes certain commonly found errors/non -compliances observed by the Taxation Audits Quality Review Board of ICAI while conducting review of tax audit reports.

(Source: Approach to tax audit under Section 44AB of the IT Act (checklist) issued by ICAI in October 2020)

Exposure draft on AS 21

On 3 November 2020, ICAI has issued an Exposure Draft (ED) of AS 21, *The Effects of Changes in Foreign Exchange Differences* which is formulated on the basis of AS 11, The Effects of Changes in Foreign Exchange Rates. The ED also includes major differences between draft AS 21, Ind AS 21, *The Effects of Changes in Foreign Exchange Rates* and AS 11.

Comments on the ED have been invited up to 3 December 2020.

(Source: Exposure draft on AS 21 issued by ICAI on 3 November 2020)