# Voices on Reporting

## Yearly updates

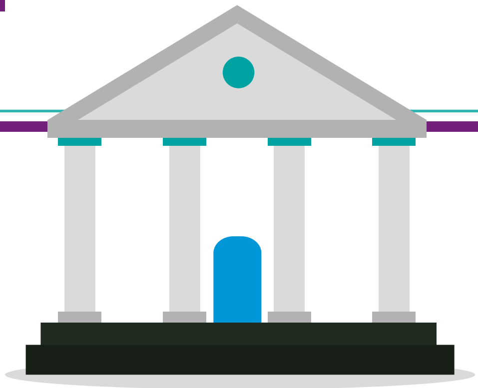
May 2016

## Contents



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 newsletter, we aim to summarise important topics relating to the year ending 31 March 2016 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) and the Insurance Regulatory and Development Authority of India (IRDA).



# Updates relating to Ind AS

## Timelines for Ind AS implementation

- **July 2014**
  Announcement to implement Ind AS by the Finance Minister in his Union Budget speech.
- **16 February 2015**
  The MCA issued a corporate road map for companies for implementation of Ind AS in two phases beginning 1 April 2016
- **29 September 2015**
  The RBI recommended a road map to MCA for banks and Non-Banking Financial Companies (NBFCs)
- **17 November 2015**
  The IRDA announced that the insurance sector is to converge with Ind AS
- **7 December 2015**
  The IRDA issued a Discussion Paper (DP) on Ind AS implementation for the insurance sector
- **18 January 2016**
  The MCA announced a road map for implementation of Ind AS for SCBs (excluding RRBs), insurance companies and NBFCs
- **11 February 2017**
  The RBI issued a circular requiring SCBs to comply with Ind AS in phases from accounting periods beginning 1 April 2018
- **1 March 2016**
  The IRDA issued a circular for Ind AS implementation for all insurers in phases from accounting periods beginning 1 April 2018
- **30 March 2016**
  The MCA notifies a road map for implementation of Ind AS by NBFCs in phases from accounting periods beginning on 1 April 2018

(Source: KPMG in India’s analysis, 2016 based on primary research)

# The Ind AS implementation journey so far:

Post the Finance Minister's announcement in the Union Budget speech in July 2014 on convergence with IFRS, regulators in India have in the past two years announced specific Ind AS implementation road maps across all sectors in India.

**Below is a table to illustrate the Ind AS implementation road map for corporates, banks, insurance companies, and NBFC**

| Corporate road map | | | |
|---|---|---|---|
| **Current requirements** | **Phase I** | **Phase II** | **Voluntary adoption** |
| Year of adoption | FY 2016 - 17 | FY 2017 - 18 | FY 2015 - 16 or thereafter |
| Comparative year | FY 2015 - 16 | FY 2016 - 17 | FY 2014 - 15 or thereafter |
| **Covered companies** | | | |
| (a) Listed companies | All companies with net worth >= INR500 crore | All companies listed or in the process of getting listed | Any company could voluntarily adopt Ind AS |
| (b) Unlisted companies | All companies with net worth >= INR500 crore | Companies having a net worth >= INR250 crore | |
| (c) Group companies | Applicable to holding, subsidiaries, joint ventures, or associates of companies covered in (a) and (b) above. This may also impact fellow subsidiary companies while preparing consolidated financial statements of the holding company. | | |

| Road map of Ind AS adoption: Banking, NBFCs and insurance entities | | | |
|---|---|---|---|
| | **Banking and insurance entities** | **NBFCs - Phase I** | **NBFCs - Phase II** |
| Year of adoption | FY 2018 - 19 | FY 2018 - 19 | FY 2019 - 20 |
| Comparative year | FY 2017 - 18 | FY 2017 - 18 | FY 2018 - 19 |
| Entities covered | Scheduled commercial banks (excluding RRBs) and Exim Bank/NABARD/NHB/ SIDBI and insurers | All NBFCs having net worth >= INR500 crore | Equity or debt listed NBFCs or NBFCs which are in the process of getting listed and having a net worth <INR 500 crores<br><br>Other NBFCs having a net worth >= INR250 crore but < INR500 crore |
| Group companies | Holding, subsidiaries, joint ventures or associates of banks to follow this banking road map even if covered under the corporate road map | Applicable to holding, subsidiaries, joint ventures, or associates of companies covered above, other than those covered under the corporate road map | |

(Source: KPMG in India's analysis, 2016 based on primary research)

## Key carve-outs in Ind AS

| Accounting area | Ind AS requirements | IFRS requirements |
|---|---|---|
| | **Mandatory carve outs** | |
| Law overrides accounting standards | Law would override accounting standards. It appears to imply that court schemes whereby expenses are charged to reserves may be grandfathered and also possibly for future schemes (subject to compliance with other regulatory requirements) | Not specifically covered |
| Previous GAAP | Ind AS 101, *First-time Adoption of Indian Accounting Standards*, specifies the previous GAAP as the one which is applied by companies to fulfil their reporting requirements in India immediately before Ind AS i.e. existing notified standards | Previous GAAP is the basis of accounting that a first-time adopter used immediately before adopting IFRS |
| Provides an additional option/ choice to determine the deemed cost on transition to Ind AS | Ind AS 101 allows an additional choice to consider previous GAAP carrying values as 'deemed cost' for property plant and equipment, intangibles asset, or investment property acquired prior to the transition date | IFRS 1, *First-time Adoption of International Accounting Standards* does not provide this option |
| Foreign currency convertible bonds - treatment of conversion option | Recognition of embedded foreign currency conversion option as 'equity' | Conversion option treated as derivative and carried at fair value |
| Employee benefits – discount rate | Mandatory use of government security yields for determining actuarial liabilities (except for foreign components) | Requires use of corporate bond rates as default |
| Business acquisitions – gain on bargain purchase | Recognition of 'bargain purchase gains' in a business combination as 'capital reserve' | 'Bargain purchase gains' in a business combination recognised as income in the statement of profit and loss |
| Classification of loan with covenant breaches | Entities to continue classifying loans as non-current even in case of breach of a material provision if, before the approval of the financial statements, the lender agreed not to demand payment | Loans reclassified as 'current liability' |
| Lease rental recognition | No straight-lining for escalation of lease rentals in line with expected general inflation | Requires straight-lining of lease rentals |
| Investment in associates – gain on bargain purchase | Excess of the investor's share of the net fair value of the investee's identifiable assets and liabilities over the cost of investment to be transferred to the capital reserve instead of in the statement of profit and loss | Excess recognised as income in the statement of profit and loss |
| Revenue recognition from sale of real estate | IFRIC 15, *Agreements for Construction of Real Estate* will not be applicable under Ind AS 18, *Revenue* for real estate developers. A guidance note is expected to be issued by the ICAI. | IFRIC 15 focusses on accounting for revenue and associated expenses by entities that undertake construction of real estate directly or through subcontractors. IFRIC 15 provides guidance on determining whether revenue from construction of real estate should be accounted for in accordance with IAS 11, *Construction Contracts* or IAS 18 and the timing of revenue recognition. |

| Accounting area | Ind AS requirements | IFRS requirements |
|---|---|---|
| **Optional carve-outs** | | |
| Amortisation of intangible assets arising from service concession arrangements related to toll roads | A first time adopter of Ind AS may apply the policy adopted for amortisation of intangible assets arising from service concession arrangements related to toll roads recognised in the financial statements for the period ending immediately before the beginning of the first Ind AS financial reporting period as per the previous GAAP | IFRS does not provide any such option |
| Foreign exchange fluctuations | Option to continue the policy adopted for accounting for exchange differences arising from translation of long-term foreign currency monetary items recognised in the financial statements for the period ending immediately before the beginning of the first Ind AS financial reporting period as per the previous GAAP | Requires recognition of exchange rate fluctuations on long-term foreign currency monetary items in the statement of profit and loss |
| Accounting policies of joint-ventures and associates | Option not to align the accounting policy of associates and joint ventures with that of the parent, if impracticable. | Requires alignment of accounting policies. |
| **Carve-ins** | | |
| Common control | Appendix C of Ind AS 103, *Business Combination*, provides specific guidance on common control and deals with accounting for business combinations of entities or businesses under common control. | IFRS 3, *Business Combination*, excludes from its scope business combination of entities under common control. |

(Source: KPMG in India's analysis, 2016 based on primary research)

## Key takeaways

- **Paradigm shift in accounting:** While implementing Ind AS standards, it is important to note that the devil is in the detail. One has to review all major contracts and understand how the detailed requirements of the contracts would be impacted on adoption of Ind AS. Adoption of Ind AS may lead to significant impact on the reported earnings (net income) and financial position (net worth) reported by entities across all industries/sectors in India. Some of the significant impact on transition are business combinations, consolidation, financial instruments, concept of embedded leases, mandatory use of fair value accounting for share based payment transactions, segment reporting disclosures, presentation of financial statements, changes in accounting policy and restatement of error, etc.
- **IFRS convergence, but not IFRS yet:** Ind AS has certain carve outs or deviations from IFRS. Even though these carve outs are relatively minor, Ind AS will not be considered as equivalent to IFRS. Some of these carve outs may prevent certain adopters of Ind AS from being able to state dual compliance with the IFRS as issued by the International Accounting Standards Board (IASB). Therefore, adopters of Ind AS would have to make right choices within Ind AS so that an adopter can equally comply with IFRS as issued by the IASB as well. Even with these efforts, a company may fall short of full compliance with IFRS.

## Key takeaways continued...

**Challenges of first time adoption of Ind AS:** Companies, banks, insurers, and NBFCs adopting Ind AS for the first time will need to evaluate the carve outs and understand the impact these will have on the financial statements in the short and long-term. New accounting policies may be required to be adopted and previous ones may need modifications. The basis of judgements and estimates would need to be disclosed.

**Implementing the new financial instruments standard:** This could pose significant challenges since Ind AS adopters in India will have the onus to be the first to understand and implement this new complex standard on financial instruments.

**Regulatory challenges:** With the issuance of Income Computation and Disclosure Standards (ICDS), some regulatory issues may have been addressed but a lot more needs to be done. To highlight a few, ICDS does not address the issue that while the tax liability will be based on ICDS, Minimum Alternate Tax (MAT) will be based on book profits and book profits are likely to be significantly impacted because of adoption of Ind AS.

**Types of NBFCs covered under the Ind AS implementation road map for NBFCs:** The MCA notification provides some clarity as it specifies that it applies to NBFCs as defined in clause (f) of Section 45-I of the Reserve Bank of India Act, 1934 (the RBI Act) and provides an inclusive list of the types of NBFCs covered. Therefore, companies 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 companies of banks covered in the Ind AS road map for banks:** Group companies (holding/ subsidiary/joint venture/associate company) of SCBs (excluding RRBs) would be required to prepare Ind AS based financial statements for accounting periods beginning from 1 April 2018 onwards with comparatives for the periods ending 31 March 2018 or thereafter. Early adoption of Ind AS on a voluntary basis is not permitted for these companies.

**Group companies of NBFCs not covered in corporate road map:** Group companies of NBFCs that are not covered by the corporate road map will prepare Ind AS based financial statements based on the road map applicable to those NBFCs.

**NBFCs that are subsidiaries, associates or joint ventures of a parent that are covered by the corporate road map for Ind AS:** Such companies will need to rapidly initiate efforts to determine the Ind AS financial statement impact in order to prepare financial information for consolidation by its parent. They will also have to determine the impact of Ind AS 109, Financial Instruments and credit loss model even though as per road map they are required to adopt Ind AS from 1 April 2018.

**NBFCs and group companies with different Ind AS adoption dates:** The notification clearly specifies that holding, subsidiary, joint venture and associate companies of NBFCs that are already covered under the corporate road map announced by MCA in February 2015, will apply Ind AS based on the timelines specified in the corporate road map.

### Situation 1

*When NBFC is a parent entity while subsidiaries, associates and joint ventures are covered under the corporate road map.*

Subsidiaries, associates and joint ventures that would apply Ind AS in their stand-alone financial statements as per corporate road map for accounting periods prior to 2018-19, would also be required to provide relevant financial statement information in accordance with the accounting policies followed by the parent NBFC (based on existing accounting standards) for consolidation purposes at the NBFC parent entity level.

This is illustrated in the table below:

| Financial year | NBFC parent | | Subsidiary/associate/joint venture | |
|---|---|---|---|---|
| | Stand-alone | Consolidated | Stand-alone | Consolidated |
| 2016-17 | Indian GAAP | Indian GAAP | Ind AS | Indian GAAP |
| 2017-18 | Indian GAAP | Indian GAAP | Ind AS | Indian GAAP |
| 2018-19 | Ind AS | Ind AS | Ind AS | Ind AS |

(Source: KPMG in India IFRS Notes dated 1 April 2016)

This is expected to necessitate significant additional effort and costs since parallel financial information needs to be maintained and generated by the group companies.

### Situation 2

*Parent entity covered in corporate road map and NBFC being either subsidiary, associate or joint venture covered under the NBFC road map.*

NBFCs shall apply Ind AS in preparing their financial statements only if they meet the criteria specified in this notification and are not permitted to voluntarily adopt Ind AS. However, the notification clarifies that NBFCs that are subsidiaries, associates or joint ventures of a parent company, that is required to prepare consolidated Ind AS financial statements under the corporate road map, will be required to provide relevant financial information based on the parent's accounting policies for consolidation purposes. The table below illustrates this requirement:

| Financial year | NBFC parent | | Subsidiary/associate/joint venture | |
|---|---|---|---|---|
| | Stand-alone | Consolidated | 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 IFRS Notes dated 1 April 2016)

This means that such NBFCs would have to determine the financial statement impact related to Ind AS transition at a much earlier date, which can involve substantial efforts and cost.

**Insurance companies**: The IRDA has stated that the boards of the insurers will have the ultimate responsibility in determining the Ind AS direction and strategy and in overseeing the development and execution of the implementation plan. Beginning with the financial year 2015-2016, until implementation, insurers are required to disclose in the annual report, the strategy for Ind AS implementation, including the progress made in this regard. The adoption of Ind AS by insurers is expected to have a pervasive impact on several aspects of their business in addition to the financial reporting process. There are several implications related to systems, business processes and regulatory aspects that insurers need to evaluate and consider in detail. Given the timelines for Ind AS implementation, insurers should commence preparing for this change well in advance.

(Source: Ministry of Corporate Affairs (MCA) notification dated 16 February 2015, MCA Press Release dated 18 January 2016, The MCA notification on a road map for Ind AS implementation by Non-Banking Financial Companies (NBCFs) and provides clarifications on the same for banks and insurance companies, The Reserve Bank of India (RBI) issues directions to banks on Ind AS implementation vide circular RBI/2015-16/315 dated 11 February 2016, The Insurance Regulatory and Development Authority of India (IRDA) circular IRDA/F&A/CIR/IFRS/038/03/2016 dated 1 March 2016, KPMG in India IFRS Notes dated 23 February 2015, 1 April 2016, 4 March 2016, 12 February 2016, 20 January 2016, 14 December 2015, 20 November 2015).

## Applicability of Ind AS in the offer documents

The SEBI (Issue of Capital and Disclosure Requirements (ICDR)) Regulations, 2009 require issuer companies to disclose financial information for each of the five financial years immediately preceding the filing of their offer document, while following uniform accounting policies for each of the financial years. Therefore, there was uncertainty on the accounting framework to be applied by companies that are transitioning to reporting under Ind AS.

On 31 March 2016, the Securities and Exchange Board of India (SEBI) issued a circular (reference no. SEBI/HO/CFD/DIL/CIR/P/2016/47) clarifying the applicability of the Ind AS to the financial information disclosed by issuer companies in their offer document.

This circular specifies the accounting framework to be applied while disclosing financial information for each of the five financial years immediately preceding the filing of the offer document, based on the period in which it is filed.

This circular is applicable to companies that are covered in either of the phases of the corporate road map for Ind AS implementation, and file their offer document with SEBI on or after 1 April 2016.

## Phase I companies

For companies that will implement Ind AS in phase I, i.e. from accounting periods beginning on 1 April 2016, the accounting framework applicable for disclosing financial information in their offer document is illustrated in the table below:

| Period of filing of Offer document | Accounting framework for preceding five Financial Years (FYs) | | | | |
|---|---|---|---|---|---|
| | Latest FY | Second latest FY | Third FY | Second earliest FY | Earliest FY |
| **Upto 31 March 2017** | Indian GAAP (2015-16) | Indian GAAP (2014-15) | Indian GAAP (2013-14) | Indian GAAP (2012-13) | Indian GAAP (2011-12) |
| **1 April 2017 to 31 March 2018** | Ind AS (2016-17) | Ind AS (2015-16) | Indian GAAP (2013-14) | Indian GAAP (2012-13) | Indian GAAP (2011-12) |
| **1 April 2018 to 31 March 2019** | Ind AS (2017-18) | Ind AS (2016-17) | Ind AS * (2014-15) | Indian GAAP (2013-14) | Indian GAAP (2012-13) |
| **1 April 2019 to 31 March 2020** | Ind AS (2018-19) | Ind AS (2017-18) | Ind AS (2015-16) | Indian GAAP (2014-15) | Indian GAAP (2013-14) |
| **On or after 1 April 2020** | Ind AS (2019-20) | Ind AS (2018-19) | Ind AS (2016-17) | Ind AS (2015-16) | Indian GAAP (2014-15) |

*To be disclosed by making suitable restatement adjustments to the accounting heads from their values as on the date of transition following accounting policies consistent with that used at the date of transition to Ind AS.

(Source: KPMG in India IFRS Notes dated 1 April 2016)

The accounting framework applicable to companies in phase II of the Ind AS corporate road map would be followed with time lag of one year.

### Voluntary use of Ind AS framework

The SEBI has also permitted companies to voluntarily present financial information for all five financial years preceding the filing in accordance with the Ind AS framework. All the financial information disclosed in the offer document for any particular year should be in accordance with consistent accounting policies (whether Ind AS or Indian GAAP).

All other requirements for disclosure of financial information in the offer document, including the audit requirements shall remain the same.

### Disclosure of interim financial information

Disclosures of interim period in the offer document, if any, shall be made in line with the accounting policies followed for latest financial year.

### Additional disclosures

Once an issuer company transitions to reporting under Ind AS, it is required to clearly disclose the fact that the financial information disclosed is in accordance with Ind AS, while suitably explaining the difference between Ind AS and the previously applicable accounting standards along with the impact on transition.

The SEBI has mandated compliance with the following requirements of Ind AS 101 for this purpose:

- When historical summaries or comparative financial information in accordance with the previous GAAP is presented in any Ind AS financial statements, the issuer company is required to:
  - Label the previous GAAP information prominently as not being prepared in accordance with Ind AS, and
  - Disclose the nature of the main adjustments that would make it compliant with Ind AS, although quantification of such adjustments is not required.
- The issuer company is required to explain how the transition from previous GAAP to Ind AS affected its reported balance sheet, financial performance and cash flows, including providing the following transitional disclosures in the annual financial statements presented in the offer document:
  - Reconciliations of its equity reported in accordance with the previous GAAP to its equity in accordance with Ind AS
  - Reconciliation of its total comprehensive income/ profit or loss under the previous GAAP to its total comprehensive income in accordance with Ind AS, and
  - Explanation of material adjustments to the statement of cash flows if presented under the previous GAAP.
  - Similar transitional disclosures are required in the interim financial statements presented in the offer document.

## Key takeaways

- Companies that are planning to file their offer document with SEBI and are covered by the corporate road map for Ind AS implementation should consider the requirement to disclose Ind AS financial information based on this circular. Where additional effort may be required to determine Ind AS adjustments or prepare transition disclosures, companies should initiate efforts well in advance due to the significant time involved in compiling this information.

(Source: SEBI circular dated 31 March 2016 and KPMG in India IFRS Notes dated 11 April 2016)

# Constitution of Ind AS transition facilitation group by ICAI and clarification bulletin 1

### Background

With the impending Ind AS convergence that will be applicable to large corporates, the ICAI on 11 January 2016 formed the Ind AS Transition Facilitation Group (ITFG) in order to provide certain clarifications on issues arising due to applicability and/or implementation of Ind AS.

The ITFG is expected to address:

- Issues which need clarifications on the application/ implementation of Ind AS
- Issues pertaining to interpretation of Ind AS

### Overview of Bulletin I

The ITFG held its first meeting on 16 January 2016 and has issued its first bulletin (Bulletin I) on 11 February 2016 which provides guidance on five issues relating to the application of Ind AS. These issues relate to following topics:

- The year from which a company would be required to comply with Ind AS based on the thresholds of net worth as defined in the Ind AS road map i.e. if a company meets the threshold of net worth in a particular financial year, then Ind AS would be applicable to such a company immediately in the next financial year. We have summarised the applicable dates for adoption of Ind AS:

| Companies meeting the net worth criterion of INR500 crore on the balance sheet date as at | Ind AS would be applicable from the financial year |
|---|---|
| 31 March 2014 | 2016-17 |
| 31 March 2015 | 2016-17 |
| 31 March 2016 | 2016-17 |
| 31 March 2017 | 2017-18 |
| Companies meeting the net worth criterion of INR250 crore or more as at 31 March 2017 | 2017-18 |

- In case of a group with subsidiaries, if a subsidiary ceases to be the subsidiary (of a parent that is covered under the Ind AS road map) before the date of adoption of Ind AS, then depending on the subsidiary's net worth threshold, the subsidiary would fall in the road map of Ind AS. Additionally, if a subsidiary is sold off after the adoption of Ind AS, then the subsidiary would continue to prepare financial statements under the Ind AS road map.
- 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 that were taken before the beginning of the first Ind AS reporting period i.e. 1 April 2016 for a company falling in phase I of the Ind AS adoption road map.
- When the functional currency of a company changes from INR to any other currency (e.g. USD), then any loans taken in the functional currency (USD) would not be considered as long-term foreign currency monetary items under para 46A of AS 11 even though the company could be recognising such loans under para 46A of AS 11 under the current Indian GAAP.
- A company would have to determine its functional currency retrospectively on application of Ind AS in light of no specific exception or exemption provided in Ind AS 101.

## Key takeaways

- Companies should raise implementation issues (that they come across while transitioning to Ind AS) to the ITFG to help with the consistent application of Ind AS.
- Companies should consider the interpretations issued by ITFG while transitioning to Ind AS.

(Source: ICAI - ITFG clarification bulletin 1 dated 11 February 2016, KPMG IFRS Notes dated 26 February 2016)

## MCA issues Ind AS 11, *Construction Contracts* and Ind AS 18, *Revenue*

The MCA through its notification dated 30 March 2016 issued the following Ind AS standards on revenue:

- Ind AS 11, along with the appendices corresponding to IFRIC 12, *Service Concession Arrangements*, SIC-29, *Service Concession Arrangements: Disclosures*
- Ind AS 18*, along with the appendices corresponding to IFRIC 13, *Customer Loyalty Programmes*, IFRIC 18, *Transfers of Assets from Customers*, SIC-31 *Revenue-Barter Transactions Involving Advertising Services*.

IFRS guidance (IFRIC 15) relating to revenue recognition from sale of real estate will not be applicable under Ind AS. A guidance note on accounting of real estate transactions is expected to be issued by the ICAI.

### Key takeaways

- Under Ind AS 18, revenue would be measured at the fair value of the consideration received or receivable, taking into account any trade discounts, volume discounts or cash rebate.
- Revenue would include excise duty.
- If a transaction includes a financing element, then revenue is measured by discounting all future cash receipts at an imputed rate of interest.
- When an arrangement includes more than one component, it is necessary to account for the revenue attributable to each component separately (including customer loyalty programmes).
- Additionally, the standard also requires linking of transactions when individual transactions have no commercial meaning on their own, and occurrence of one is dependent on the occurrence of another. In such cases, the transactions would be evaluated on a combined basis.
- The standard provides guidance for barter transactions, transfers of assets from customers, and service concession arrangements.
- Revenue from service contracts would be recognised with reference to the stage of completion method. The completed contract method would not be allowed.

(Source: MCA notification dated 30 March 2016 and KPMG IFRS Notes dated 1 April 2016)

# Schedule III for financial statements as per Ind AS

## Background

The Schedule III to the 2013 Act provides general instructions for preparation of the balance sheet and the statement of profit and loss of a company.

## Amendments

The MCA on 6 April 2016, amended Schedule III to include general instructions for preparation of financial statements of a company whose financial statements are required to comply with Ind AS. The amendment divides Schedule III into two parts i.e. Division I and II:

- Division I is applicable to a company whose financial statements are required to comply with the current accounting standards
- Division II is applicable to a company whose financial statements are drawn up in compliance with Ind AS.

## Overview of Division II

The following is an overview of the Division II of the Schedule III:

### Applicability

- It is applicable to every company to which Ind AS apply in preparation of its financial statements.
- The provisions of Schedule III also apply when a company is required to prepare consolidated financial statements, in addition to the disclosure requirements specified under Ind AS.

### Balance sheet

- Schedule III provides a format of the balance sheet and sets out the minimum requirements of disclosure on the face of the balance sheet.
- Items presented in the balance sheet are to be classified as current and non-current.
- Schedule III does not permit companies to avail of the option of presenting assets and liabilities in the order of liquidity, as provided by Ind AS 1, *Presentation of Financial Statements*.

### Statement of profit and loss

- Schedule III provides a format of the statement of profit and loss and sets out the minimum requirements of disclosure on the face of the statement of profit and loss.
- The statement of profit and loss is to be presented in accordance with the nature of expenses and would include profit or loss for the period and other comprehensive income for the period.

### Statement of changes in equity

- This is a new component for preparers of financial statements that have historically prepared financial statements under Indian GAAP.
- The statement of changes in equity would reconcile opening to closing amounts for each component of equity including reserves and surplus and items of other comprehensive income.
- The format also includes disclosure of the equity component of compound financial instruments in 'other equity', which is in accordance with Ind AS 32, *Financial Instruments: Presentation*.

### Notes

- Notes containing information in addition to that which is presented in the financial statements would be provided, including, where required, narrative descriptions or disaggregation of items recognised in the financial statements and information about items that do not qualify for such recognition.

### Compliance with Ind AS and 2013 Act

- In situations where compliance with the requirements of the 2013 Act including Ind AS requires any change in treatment or disclosure (including addition, amendment, substitution or deletion in the head/ sub-head or any changes in the financial statements or statements forming part thereof) in the formats given in Schedule III, then Schedule III permits such changes to be made and the requirements of Schedule III would stand modified accordinglywhen required in accordance with Ind AS 7, *Statement of Cash Flows*.
- It further mentions that disclosure requirements specified in Schedule III would be in addition to and not in substitution of the disclosure requirements specified in Ind AS. Companies would be required to make additional disclosures specified in Ind AS either in the notes or by way of additional statement(s) unless required to be disclosed on the face of financial statements. Similarly, all other disclosures as required by the 2013 Act should be made in the notes in addition to the requirements of Schedule III.

### Materiality

- It requires financial statements to disclose all 'material' items, i.e., the items if they could, individually or collectively, influence the economic decisions that users make on the basis of financial statements. Materiality depends on the size and nature of the item judged in particular circumstances. The definition of what is material is similar to that given in Ind AS 8, *Accounting Policies, Changes in Accounting Estimates and Errors*. However, while preparing the statement of profit and loss, it specifies that a company should disclose a note for any item of income or expenditure which exceeds 1 per cent of the revenue from operations or INR10,00,000, whichever is higher, in addition to the consideration of materiality.

### Other key points

- It does not permit disclosure of extraordinary items (in line with Ind AS). However, the format for the statement of profit and loss does provide for separate disclosure of exceptional items, if any.
- It requires a separate disclosure of the Earning Per Share (EPS) for continuing and discontinued operations.

# Key takeaways

- The presentation of financial statements is one of the key impact areas on implementation of Ind AS when compared to the reporting under current Indian GAAP. Companies in India should start evaluating the potential impact of the revised Schedule III and assessing the detailed requirements made available for presentation of financial statements.
- The requirements under Schedule III (relating to Ind AS financial statements) are to a large extent similar to those of the IFRS financial statements except for the fact that it specifies a bright-line to disclose a note for any item of income or expenditure which exceeds 1 per cent of the revenue from operations or INR10,00,000, whichever is higher, and also eliminates certain options on the presentation of the statement of profit and loss and the balance sheet.
- The revised Schedule III also provides flexibility in presentation of the financial statements as it states that the prescribed disclosure requirements are in addition to and not in substitution of the disclosure requirements specified in Ind AS. Further, where compliance with Ind AS requires any change in treatment or disclosure, including any addition, amendment, substitution or deletion, in the format of the financial statements, a company is permitted to make such changes and the requirements of Schedule III would stand modified accordingly. This is an important provision, as it clarifies that in situations where an accounting treatment or disclosure in an Ind AS is in conflict with the requirements of Schedule III, companies are required to comply with the relevant Ind AS.

(Source: MCA notification dated 6 April 2016 and KPMG in India IFRS Notes dated 18 April 2016)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# Updates relating to the Companies Act, 2013

## Important clarifications/amendments in the 2013 Act applicable to FY 2015-16

### Preliminary[1]

- Definition of private/public company amended:
  The Companies (Amendment) Act, 2015 omitted the minimum paid-up share capital requirement for a private or public company.  Therefore, there is no minimum paid-up capital requirement in the 2013 Act any more.

### Acceptance of deposits by companies

- Severe punishment prescribed for contravention of deposit acceptance norms[1]:
  No specific punishment was prescribed under the 2013 Act in case a company accepts deposits in contravention of the provisions related to acceptance of deposits or where a company fails to repay the deposit/interest due within the due date. Through the Companies (Amendment) Act, 2015, the MCA inserted Section 76A in the 2013 Act which provide that:
  - Where a company accepts/invites/allows/causes any other person to accept or invite on its behalf any deposit in contravention to the manner or conditions prescribed under Section 73 or Section 76 of the 2013 Act or Rules made thereunder, or
  - Fails to repay the deposit or part thereof or any interest due thereon within the time specified under Section 73 or Section 76 of the 2013 Act or Rules made thereunder or such further time as may be allowed by the National Company Law Tribunal under Section 73 of the 2013 Act.

  The consequences of the above non-compliances are as follows:
  - The company would, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with a fine which would not be less than INR1 crore but which may extend to INR10 crore, and
  - Every officer of the company who is in default would be punishable with imprisonment which may extend to seven years or with a fine which should not be less than INR25 lakh but which may extend to INR2 crore, or with both.

    Where it is proved that the officer of the company who is in default, has contravened such provisions knowingly or wilfully with the intention to deceive the company, its shareholders, depositors, creditors or tax authorities, he/she would be liable for action under Section 447 of the 2013 Act which deals with punishment for fraud.
- Clarifications on repayment of deposits accepted before commencement of the provisions of the 2013 Act[2]:
  Following are the clarifications:
  - Company may file an application with the Company Law Board (CLB) for extension of time in making repayment of deposits accepted by it before commencement of provisions of the 2013 Act [Section 74(2)]
  - A depositor may also file an application with CLB if company fails to repay the deposits accepted by it [Section 73(4)]
  - Companies may continue to repay the deposits accepted prior to 1 April 2014 as per the terms and conditions for which deposits had been accepted (Explanation to Rule 19 of the Companies (Acceptance of Deposits) Rules, 2015)
  - The Registrar of Companies (ROC) can file a prosecution against a company for failure to repay the  deposits accepted under the provisions of the 1956 Act/2013 Act.

1. MCA circular dated 29 May 2015 and KPMG in India First Notes dated 2 June 2015
2. Circular 09/2015 by the MCA dated 18 June 2015

## Management and Administration

- Strategic business decisions protected[1]:
  In order to protect strategic business decisions, Section 117(3)(g) of the 2013 Act has been amended by the Companies (Amendment) Act, 2015 to provide that no person will be entitled under Section 399 to inspect or obtain copies of the resolutions passed under Section 179(3) of the 2013 Act.

  The proviso to Rule 15 of the Companies (Registration Offices and Fees) Rules, 2014 has been inserted to provide that no person should be entitled to inspect/obtain copies of resolution referred to in Section 117(3)(g) of the 2013 Act.

- Clarification regarding a shorter notice for circulation of financial statements[3]:
  A company holding a general meeting at a shorter notice (less than 21 days) can also circulate its financial statements as such ashorter notice would require consent of not less than 95 per cent of the members. (Section 101 and 136)

## Declaration and Payment of Dividend

- Transfer of shares to the Investor Education and Protection Fund (IEPF)[1]:
  Section 124(6) of the 2013 Act has been amended to rectify that in case any dividends are paid or claimed for any year during the period of seven consecutive years, the shares shall not be transferred to IEPF.

## Accounts of Companies

- Clarification regarding filing of unaudited financial statements of a foreign subsidiary[3]:
  If an audit of a foreign subsidiary is not mandatory in its country of incorporation and such an audit has not been conducted, then its unaudited financial statements can be hosted on the parent company's website and can be filed with the ROC. Additionally such unaudited financial statements should be in the English language and the format should be as far as possible be in accordance with the 2013 Act. In case this is not possible, a statement indicating the reasons for any deviations should be filed with the ROC.

*(However, if the foreign subsidiary is material to the CFS of the group, audit of its financial statements would be necessary to avoid modification in the auditor's report.)*

## Audit and Auditors

- Threshold prescribed for reporting of frauds by auditors[1]:
  The MCA through the Companies (Amendment) Act, 2015 amended Section 143(12) of the 2013 Act to provide as follows:
  - Reporting to the central government by the auditors would be required only if the amount involved exceeds the threshold that would be prescribed (INR1 crore and above). In case of a fraud involving lesser than the specified amount, the auditor is required to report the matter to the audit committee (if constituted) or to the board within such time and in such manner as may be prescribed. The companies whose auditors have reported frauds to the audit committee or to the board but the company has not reported it to the central government, should disclose the details about such frauds in the board's report in the manner that would be prescribed. Due to the above amendment, consequential amendments have been made in Section 134(3)(c) of the 2013 Act which deals with the board's report.

- Companies (Auditor's Report) Order, 2016 (CARO 2016)[4]:
  The MCA vide its order dated 29 March 2016 has issued the CARO 2016. The MCA has relaxed the scope/application of CARO on private companies by increasing the applicability thresholds. Thus, it would be applicable to less number of private companies. CARO 2016 would not be applicable to the auditor's report on the consolidated financial statements. The following are important points of the CARO 2016:

  **Increase in the reporting requirements:** CARO 2016 enhances the reporting requirements and thereby, would increase the reporting responsibility of the auditors relating to the following important clauses:
  - Utilisation of loans/initial public offer/further public offer term loans (including, debt instruments)
  - Compliance of Section 42 of the 2013 Act (offer or invitation for subscription of securities on private placement)
  - Report in relation to default in payment of loans and borrowing to the government. Also requires to provide lender wise details in case of default of payment of dues to banks, financial institutions and the government
  - Additional requirement to report in case of loans granted to LLPs covered under Section 189 of the 2013 Act (i.e. section on register of contracts or arrangements in which directors are interested)
  - Report whether the terms and conditions are prejudicial to the company's interest and limit of overdue for more than 90 days instead of reporting of overdue of more than the threshold of INR1 lakh
  - Related party transactions (all transactions) under Section 188 and 177 of the 2013 Act

3. General circular no. 11/2015 by the MCA dated 21 July 2015, KPMG's First Notes dated 24 July 2015

4. MCA Notification dated 30 March 2016

- Loans, investments and guarantees comply with Section 185 and 186 of the 2013 Act
- Nature and amount of frauds by officers and employees
- Non-cash transactions with directors or persons connected with him/her under Section 192 of the 2013 Act
- Managerial remuneration has been paid/provided in accordance with the requisite approvals mandated by the provisions of Section 197 read with Schedule V of the 2013 Act
- Requirement to report in relation to registration of NBFCs
- Whether the Nidhi company has complied with the net owned fund in the ratio of 1:20 to meet the liability and whether it is maintaining 10 per cent liquid assets to meet out the unencumbered liability.

**Obligations removed:** The MCA has excused the auditor from obligation to report on timely transfer of amounts to the IEPF whereas Rule 11(c) of the Companies (Audit and Auditors) Rules, 2014 requires reporting of delays by auditors. Additionally, an auditor is not required to report under CARO on third party frauds in relation to the company.

### Meeting of the board and its powers

- Norms for Related Party Transactions (RPTs) eased[1]: The MCA through the Companies (Amendment) Act, 2015 amended:
  - Proviso to Section 177(4)(iv) of the 2013 Act and inserted to permit an omnibus approval for proposed RPTs subject to such conditions as would be prescribed. (Refer below section for consequential amendment to Rules)
  - Section 188 of the 2013 Act provides that a company would now approve certain RPTs through a resolution instead of a special resolution
  - Approval for transactions between the holding company and its wholly-owned subsidiary by non-related shareholders is done away with provided the accounts of the wholly-owned subsidiary are consolidated with the holding company and placed before the shareholders at the general meeting for approval.
- Clarification under Section 186(7) of the 2013 Act[5]: The MCA clarified that if the effective yield (effective rate of return) on tax free bonds is greater than the prevailing yield of one year, three years, five years or 10 years government security closest to tenor of loan, it would not be in violation of Section 186(7) of the 2013 Act.

  (Similar clarification was available for Section 372(A)(3) of the Companies Act, 1956)

### Companies (Share Capital and Debentures) Rules[6]

- The Companies (Share Capital and Debentures) Rules, 2014 relating to buy-back of shares and securities by private companies and unlisted public companies provides that the audited accounts on the basis of which calculation with reference to buy-back is done is not more than six months old from the date of the offer document. The MCA has recently provided two amendments to these Rules which are as follows:
  - Where the audited accounts are more than six months old, calculations with reference to buy back should be on the basis of un-audited accounts not older than six months from the date of offer document which is subject to limited review by the auditors of the company.
  - If all members of a company agree, the offer for buy back may remain open for a period of less than 15 days.

### The Companies (Acceptance of Deposits) Rules, 2014[7]

- Deposits norms relaxed:
  Under the amended Rules, 'deposit', inter alia, excludes any amount received from a person who at the time of the receipt of the amount, is a director of the company **or a relative of the director of the private company**
- However, an amount received from a director of the company **or a relative of the director of the private company,** as the case may be, would be excluded from the ambit of 'deposits' if the director of the company or relative of the director of the private company from whom money is received, furnishes to the company at the time of giving the money, a declaration in writing that the amount is not being given out of funds acquired by him/her by borrowing or accepting loans or deposits from others.

  Additionally, the company would be required to disclose the details of the money so accepted in the **board's report.**
- Increase in base for accepting deposits:
  For companies accepting deposits from members under Section 73(2) of the 2013 Act, following points should be noted:
  - The amended Rules have increased the base for acceptance of deposits.
  - Accordingly, now the Rules state that a company may accept or renew deposits earlier than six months from the date of deposit or renewal for the purpose of meeting any of its short- term requirements provided that:
    a. Such deposits should not exceed 10 per cent of the aggregate of the paid-up share capital, free reserves **and securities premium account** of the company, and

5. General circular no. 06/2015 issued by the MCA dated 9 April 2016
6. Companies (Share Capital and Debentures) Amendment Rules, 2016 dated 10 March 2016 and 29 March 2016)
7. Companies (Acceptance of Deposit) Second Amendment Rules, 2015 dated 15 September 2015

b. Such deposits are repayable not earlier than three months from the date of such deposits or renewal thereof.

- Similarly, no company (referred to under Section 73(2) of the 2013 Act) is allowed to accept or renew any deposit from its members, if the amount of such deposits together with the amount of other deposits outstanding as on the date of acceptance or renewal of such deposits exceeds 25 per cent of the aggregate of the paid-up share capital, free reserves and securities premium account of the company.

- For eligible companies (covered under Section 76 of the 2013 Act):
  The amended Rules now provide that no eligible company can accept or renew:
  - *any deposit from its members*, if the amount of such deposit together with the amount of deposits outstanding as on the date of acceptance or renewal of such deposits from members exceeds 10 per cent of the aggregate of the paid-up share capital, free reserves and securities premium account of the company
  - *any other deposit*, if the amount of such deposit together with the amount of such other deposits, other than the deposit referred to in clause (a), outstanding on the date of acceptance or renewal exceeds 25 per cent of aggregate of the paid-up share capital, free reserves **and securities premium account** of the company.

  (Emphasis added to present changes)

### Companies (Accounts) Rules, 2014[8]

- The MCA amended the norms relating to preparation of financial statements:
  The MCA has addressed the conflict in definition in standards and 2013 Act (e.g. control, associate, subsidiary) by inserting a new Rule 4A which states that the financial statements should be in the form specified in Schedule III to the 2013 Act and should comply with the accounting standards or Ind AS, as applicable.
- Disclosure of outstanding dues of micro and small enterprises to be disclosed separately:
  - For total outstanding dues of Micro, Small and Medium Enterprises (MSME), a separate disclosure is required under trade payables in Schedule III to the 2013 Act.
  - Specific details (similar to 1956 Act) are required in the notes to accounts.

### Companies (Audit and Auditors) Amendment Rules, 2014[9]

- Amended Rule 13 relating to reporting of frauds by auditors and other matters (the Companies (Audit and Auditors) Amendment Rules, 2015):
  The amendment specifies that an auditor would report a fraud of an amount of INR1 crore or above to the central government after following a specified process detailed in the Rules.

### Companies (Meetings of Board and its Powers) Rules,2014[9]

- Inserted Rule 6A relating to an omnibus approval for related party transactions on an annual basis (the Companies (Meetings of Board and its Powers) Second Amendment Rules, 2015):
  An audit committee may provide an omnibus approval for related party transactions after following certain specified conditions.
- Omitted Rule 10 relating to a loan to directors, etc. under Section 185 of the 2013 Act (the Companies (Meetings of Board and its Powers) Second Amendment Rules, 2015:
  This omission aligns Rules with the Companies (Amendment) Act, 2015.
- Amended Rule 15 relating to a contract or arrangement with a related party (the Companies (Meetings of Board and its Powers) Second Amendment Rules, 2015:
  This amendment aligns Rules with the Companies (Amendment) Act, 2015.

### MCA issued relaxations for private companies from certain provisions of the 2013 Act[10]

#### A. Sections/sub-sections that are amended for private companies

- Further issue of share capital:
  - Section 62(1) deals with the rights issue. Section 62(1)(a) provides the time limit for rights offer that is 'not less than 15 days and not exceeding 30 days' from the date of offer. It further states that an offer not accepted within the specified time period would be deemed to have been declined.

    The MCA has now added a proviso to Section 62(1)(a)(i) which requires that in case a private company wants to reduce the time period for the rights issue less than the period prescribed in Section 62(1)(a) and Section 62(2), it can do so provided 90 per cent of its members have given their consent in writing or in electronic mode.

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8. MCA Notification dated 4 September 2015 and KPMG in India First notes dated 9 September 2015
9. MCA Notification dated 14 December 2015KPMG in India's First Notes: MCA notifies sections in the Companies Act relating to reporting of offences involving fraud by auditors and an omnibus approval for related party transactions and issues the corresponding rules dated 24 December 2015
10. Notification dated 5 June 2015 and KPMG in India First Notes dated 11 June 2015

- Section 62(1)(b) deals with a situation when a company proposes to increase its subscribed capital by the issue of further shares, and the shares are offered to employees under a scheme of employees' stock option. Currently, the 2013 Act requires that such an offer is subject to, inter alia, a special resolution being passed by the company.

  The MCA has now modified Section 62(1)(b) and provides that for private companies passing of an ordinary resolution would be sufficient.

- Eligibility/qualifications/disqualifications of auditors: Section 141(3)(g) stated that a person who is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment, holding appointment as auditor of more than 20 companies.

  The MCA has now modified the limit of 20 companies and has excluded the following category of companies for calculating the limit of 20 companies

  - One person company
  - Dormant companies
  - Small companies, and
  - Private companies having a paid-up share capital of less than INR100 crores.

**B. Sections/sub-sections that would not apply to any private company**

As per the MCA notification, certain sections/sub-sections will not apply to a private company. They are as follows

- Related party transactions:

  Section 2(76)(viii) provides the definition of a 'related party'. Section 188 requires that specific transactions with related parties that are not in the ordinary course of business and which are not at an arm's length would require the consent of the Board of Directors of the company.

  The MCA has modified the definition of a related party under Section 2(76)(viii) and made the following transactions outside the scope of the related party transactions under Section 188:

  - Any company which is a holding, subsidiary or an associate company of such company, or
  - Any company which is a subsidiary of a holding company to which it is also a subsidiary.

  Further, the second proviso to Section 188(1) restricts a member to vote on a special resolution, or approve any contract or arrangement entered into by a company, if such a member is a related party. The second proviso to Section 188(1) will not apply to private companies.

- Resolution and agreements to be filled:

  Section 117 pertains to resolutions and agreements to be filed with the ROC. Section 117(3)(g) states that resolutions passed in pursuance of Section 179(3), should follow the requirements of Section 117.

  Private companies are no longer required to file with the ROC resolution passed by the board which are covered under Section 179(3) of the 2013 Act which are as follows:

  - To make calls on shareholders in respect of money unpaid on their shares
  - To authorise buy-back of securities under Section 68
  - To issue securities, including debentures, whether in or outside India
  - To borrow monies
  - To invest the funds of the company
  - To grant loans or give guarantee or provide security in respect of loans
  - To approve financial statements and the Board's report
  - To diversify the business of the company
  - To approve amalgamation, merger or reconstruction
  - To take over a company or acquire a controlling or substantial stake in another company,
  - Any other matter which may be prescribed.

- Rights of persons other than retiring directors to stand for directorship:

  Section 160 relates to the right of persons other than retiring directors to stand for directorship. This section will not apply to private companies.

- Appointment of directors to be voted individually:

  Section 162 on the manner of appointing two or more persons as directors of a company by a single resolution will not apply to private companies.

- Restrictions on the powers of the Board:

  Section 180 deals with the restrictions on the powers of the Board. This section will not apply to private companies.

- Related party transactions:

  The second proviso to Section 188(1) restricts a member to vote on a special resolution, or approve any contract or arrangement entered into by a company, if such a member is a related party. The second proviso to Section 188(1) will not apply to private companies.

- Appointment and remuneration of managerial personnel:
  - Section 196(4), inter alia, states that subject to the provisions of Section 197 and Schedule V, a managing director, whole-time director or manager should be appointed and the terms and conditions of such appointment and remuneration payable be approved by the Board of Directors at a meeting which should be subject to approval by a resolution at the next general meeting of the company and by the central government in case such appointment is at variance to the conditions specified in Schedule V
  - Section 196(5) states that where the appointment of a managing director, whole-time director or manager is not approved by the company at a general meeting, any act done by him/her before such an approval should not be deemed to be invalid.

  Section 196(4) and (5) will not apply to private companies.

**C. Sections/sub-sections that would apply to certain class of private companies**

- Kinds of share capital:

  Section 43 with respect to the kinds of share capital namely equity and preference shares will not apply to a private company if the memorandum or articles ofassociation of the private company provide that Section 43 does not apply.

- Voting rights:

  Section 47 on voting rights attached to shares would not apply to a private company if the memorandum or articles of association of the private company provides that Section 47 does not apply.

- Restrictions on purchase by company or giving of loans for purchase of its shares:

  Section 67 provides certain restrictions on companies for buyback of its shares or giving loans topurchase its shares.

  The MCA notification provides certain exemptions for private companies to apply this section provided that:
  - No other body corporate has invested in its share capital
  - If the borrowings of such a company from banks or financial institutions or any body corporate is less than twice its paid-up share capital or INR50 crores, whichever is lower, and
  - If such a company is not in default in repayment of such borrowings subsisting at the time of making transactions under this section.

- Prohibition on acceptance of deposits from public:

  Clauses (a) to (e) of Section 73 deals with the conditions to be fulfilled for accepting public deposits.

  The MCA notification provides that clauses (a) to (e) of Section 73 will not apply to private companies:
  - \- If they accept monies from their members not exceeding 100 per cent of the aggregate of the paid-up share capital and free reserves and
  - \- Inform the details of such monies to the Registrar in the prescribed manner.

- Management and administration:

  The following sections will apply to private companies unless otherwise specified in respective Sections, or unless the articles of the private company otherwise provide:
  - Section 101 – notice of meeting
  - Section 102 – statement to be annexed to notice
  - Section 103 – quorum for meetings
  - Section 104 – chairman of meetings
  - Section 105 – proxies
  - Section 106 – restriction on voting rights
  - Section 107 – voting by show of hands
  - Section 109 – demand for poll.

- Disclosure of interest by a director:

  Section 184(2) relates to disclosure of interest by a director.

  The MCA notification provides that an interested director of a private company could participate in the board meeting after disclosure of his/her interest, wherein the contract, arrangement, proposed contract or arrangement entered into/to be entered into would be discussed.

- Loans to directors, etc:

  Section 185 deals with loans to directors and companies in which directors are interested. This section will not apply to private companies:
  - No other body corporate has invested in its share capital,
  - Where the borrowings from banks or other financial institutions or any body corporate is less than twice of their paid-up share capital or INR50 crore, whichever is lower, and
  - Such a company has not defaulted in repayment of such borrowings subsisting at the time of carrying out transactions under this section.

## Companies (Accounting Standards) Amendment Rules, 2016

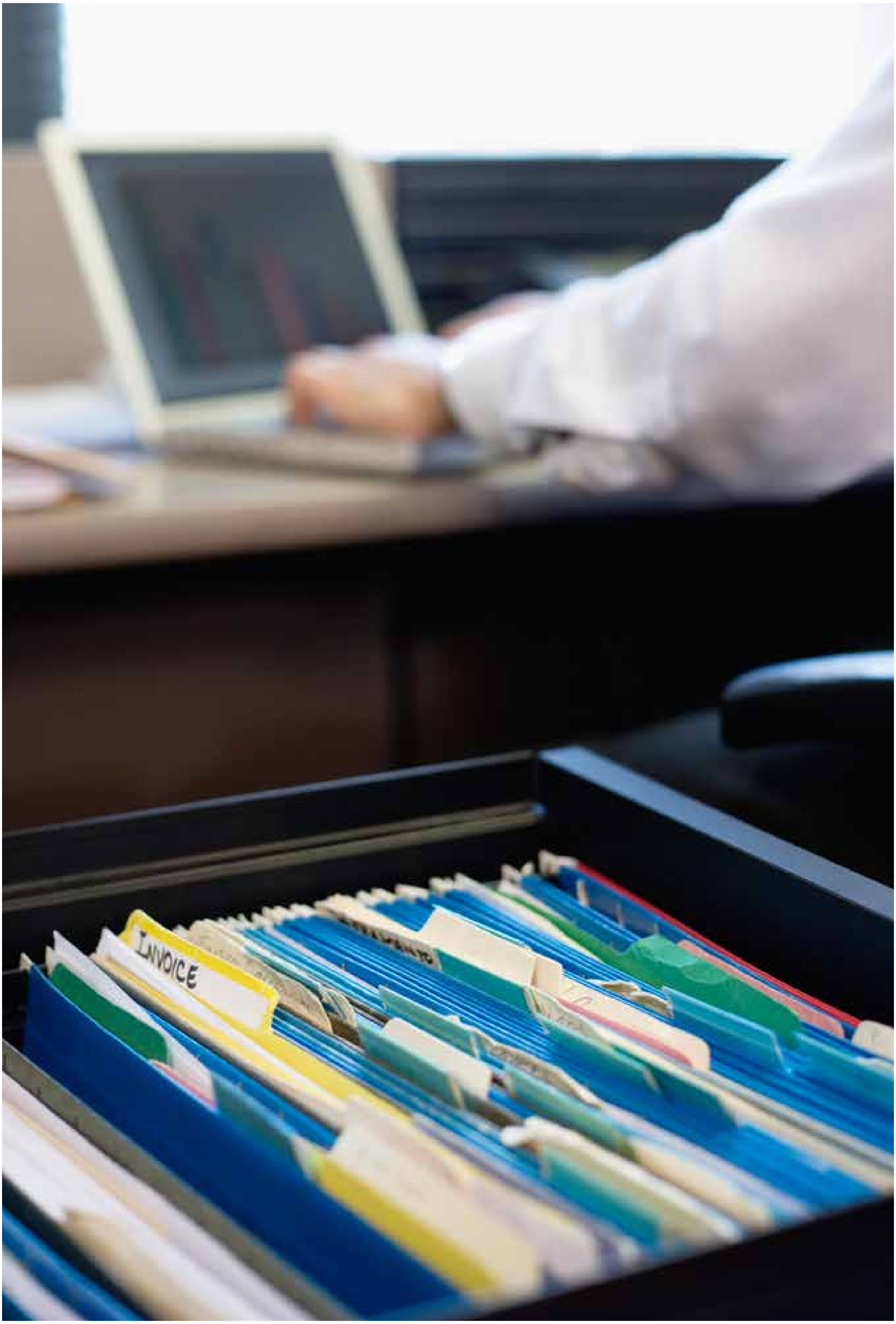
On 30 March 2016, MCA issued the Companies (Accounting Standards) Amendment Rules, 2016 to amend the Accounting Standards (ASs) as notified under the Companies (Accounting Standard) Rules, 2006. The key amendments are as follows:

| Name of the AS | Key revision |
|---|---|
| AS 2, *Valuation of Inventories* | • Aligned spare parts accounting with revised AS 10, *Property, Plant and Equipment* |
| AS 4, *Contingencies and Events Occurring After the Balance Sheet Date* | • Dividend declared after the balance sheet would be a non-adjusting item |
| AS 6, *Depreciation Accounting* | • Replaced by AS 10 |
| AS 10, *Property, Plant and Equipment* | • The standard is in line with Ind AS 16, *Property, Plant and Equipment*<br>• Component accounting is mandatory (as required under Schedule II to the 2013 Act)<br>• Clarity on spare parts accounting<br>• Decommissioning liability on a discounted basis |
| AS 13, *Accounting for Investments* | • Accounting for investment property would be in accordance with the cost model as prescribed in the revised AS 10 |
| AS 14, *Accounting for Amalgamations* | • Limited revision to include a reference to the 2013 Act |
| AS 21, *Consolidated Financial Statements* | • A company which does not have an investment in a subsidiary but has an investment in the associates and joint ventures would be required to prepare CFS |
| AS 29, *Provisions, Contingent Liabilities and Contingent Asset* | • Decommissioning the liability provision would be discounted to its present value |

### Application

The ICAI and MCA issued notifications to clarify the applicability date of the amended ASs. The ICAI issued a notification on 26 April 2016 to clarify that the amended AS should be used for preparation of financial statements for accounting periods commencing on or after the date of notification. Subsequently, MCA through its circular dated 27 April 2016 issued a similar clarification.

(Source: MCA notification dated 30 March 2016)


INVOICE

# Updates relating to SEBI regulations

## Synopsis of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations)

### Introduction

The SEBI on 2 September 2015 notified the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations). For ease of reference, the SEBI has consolidated all requirements of the listing agreements relating to different segments of the capital market in a single document.

These include:

- Equity (including convertibles) issued by entities listed on the main board of the stock exchanges
- Small and medium enterprises (SME) listed on the SME exchange and institutional trading platform
- Non-convertible debt securities
- Non-convertible redeemable preference shares
- Indian depository receipts
- Securitised debt instruments
- Units issued by mutual fund schemes.

The Listing Regulations have been sub–divided into two parts:

- substantive provisions incorporated in the main body of the regulations, and
- procedural requirements in the form of schedules to the regulations.

The SEBI notified Listing Regulations on 2 September 2015 with the time period of 90 days (i.e. with effect from 1 December 2015) for its implementation. However, two provisions of the regulations which are facilitating in nature are applicable with immediate effect. The following table describes the application dates:

| | |
|---|---|
| Immediate effect | Passing of ordinary resolution instead of special resolution in case of all material related party subject to related parties abstaining from voting on such resolutions, mostly in line with the provisions of the 2013 Act.<br>Re-classification of promoters as public shareholders under various circumstances. |
| 1 December 2015 | Rest all the provisions |

(Source: SEBI Listing Regulations dated 2 September 2015)

### Formats prescribed by SEBI under Listing Regulations

**Compliance report on corporate governance[1]:**

Clause 27(2) of the Listing Regulations requires listed entities to submit quarterly compliance report on corporate governance in the format specified by SEBI from time to time to recognised stock exchange(s) within 15 days from the close of the quarter. The SEBI in accordance with the above clause prescribe formats for compliance report through a circular dated 24 September 2015. The listed entities are required to submit prescribed Annexures I, II and III. The timelines prescribed by the circular are:

- Annexure - I - on a quarterly basis,
- Annexure - II - at the end of the financial year (for the whole of financial year),
- Annexure - III - within six months from the end of the financial year. This may be submitted along with second quarter report.

**Uniform listing agreement[2]:**

The SEBI through its circular dated 13 October 2015 issued a simplified listing agreement which is uniform across all types of securities/listed entities.

The listing agreement requires listed entities to submit company specific information and details of its securities with the stock exchange in the prescribed format. Listed entities are also required to intimate stock exchange of any change in information/details disclosed by them.

This listing agreement is a two page shortened version of the listing agreement as stated by SEBI in its press release dated 3 September 2015. A listed entity which has previously entered into agreement(s) with a recognised stock exchange(s) to list its securities should execute a fresh listing agreement with such a stock exchange within six months of the date of notification of the Listing Regulations.

1. Circular CIR/CFD/CMD/5/2015 dated 24 September 2015
2. Circular CIR/CFD/CMD/6/2015 dated 13 October 2015

**Business Responsibility Report (BRR)[3]:**

Clause 34(2)(f) requires BRR for the top 100 listed entities based on market capitalisation (calculated as on 31 March every year). The BRR should describe the initiatives taken by such entities from an environmental, social and governance perspective, in the format as specified by SEBI from time to time.

The SEBI on 4 November 2015 through circular CIR/CFD/CMD/10/2015, prescribed the format for the BRR to be submitted to the stock exchange. The circular further states that those listed entities which have been submitting sustainability reports to overseas regulatory agencies/stakeholders based on internationally accepted reporting frameworks need not prepare a separate report for the purpose of the above mentioned guidelines but only furnish the same to their stakeholders along with the details of the framework under which their BRR has been prepared and a mapping of the principles contained in these guidelines to the disclosures made in their sustainability reports.

**Financial results – Equity[4]:**

The SEBI through its circular dated 30 November 2015 has prescribed the following formats for listed entities for publishing their financial results which are largely similar to the requirements of the earlier Listing Agreement:

- Formats for presenting the quarterly financial results including segment reporting by:
  - Companies other than bank,
  - Banks,
- Half-yearly statement of assets and liabilities,
- Format for limited review report and audit report.

However, information regarding 'public shareholding' and 'promoter and promoter group shareholding' is no longer required to be included as part of the financial results. Also, investor complaints pending at beginning and end of the quarter including the movement to be disclosed to the stock exchange separately from the results.

Additionally, some of the revised disclosure requirements as per the new circular are as follows:

- It provides format of financial results to be published in the newspapers. Information to be published in the newspaper now limited to key parameters e.g. total income, Profit Before Tax (PBT), Profit After Tax (PAT), equity share capital, reserves, Earning Per Share (EPS)
- Ind AS specific disclosures introduced:
  - Results for the period covered by first Ind AS financial statements to include disclosures as per Ind AS 101 (to the extent applicable for interim financial reports)
  - Comparatives for quarterly/annual results should be Ind AS compliant.

**Financial results – Debt and Preference shares[5]:**

The SEBI through its circular dated 27 November 2015 prescribed the format for financial results for listed entities which have listed their debt securities and/or non- convertible redeemable preference shares. The Listed Regulations specifies the requirement to submit results on a half-yearly basis for both (debt and preference shares). The Listing Regulations also brought listed non-convertible redeemable preference shares under the purview of requirement of submission of financial results.

In the case of debt securities, detailed information relevant for lenders e.g., credit rating, asset cover, debt service coverage ratio, debenture redemption reserve, debt equity ratio, etc. are required to be given in the half yearly/annual results.

In the case of listed non-convertible redeemable preference shares, apart from information for lenders (as mentioned above), further information relevant for holders/investors are also required e.g. capital redemption reserve, track record of dividends, free reserves, etc.

3. Circular CIR/CFD/CMD/10/2015 dated 4 November 2015
4. SEBI circular CIR/CFD/CMD/15/2015 dated 30 November 2015
5. SEBI circular no. CIR/IMD/DF1/9/2015 dated 27 November 2015

## Other clarifications/amendments/relaxations

**Relaxation for filing of financial results under IFRS[6]:**

The SEBI, through its letter dated 6 November 2015 has provided following relaxation to the listed entities:

- The financial results for the quarters ending 31 December 2015 and 31 March 2016 and year ending 31 March 2016 may be filed under IFRS by listed entities which had exercised the option of preparing consolidated financial statements under IFRS for the first quarter of FY 2015-16, as per the dates specified in the Listing Regulations.
- The relaxation granted is without any prejudice to the requirements of the 2013 Act with respect to reporting of financial statements.

**Scheme of arrangement by listed entities and relaxation under Rule 19(7) of the Securities Contracts (Regulation) Rules, 1957 (SCRR)[7]:**

The Regulations 11, 37 and 94 of the Listing Regulations place obligations with respect to the scheme of arrangement on listed entities and stock exchanges. The requirements under these regulations are largely similar to the erstwhile circulars prescribed under the earlier Listing Agreement. However, there are certain additional requirements which are as follows:

- All valuation reports to be considered by Audit Committee before finalising its report recommending scheme
- No time limit has been fixed for giving 'no objection letter/objection' by the stock exchanges to SEBI (earlier it was within 30 days from the date of application).

The circular is applicable from 1 December 2015 and schemes submitted to stock exchanges upto 30 November 2015 will be governed by the requirements of the erstwhile circulars.

**Penal provisions for non-compliance with certain provisions of the Listing Regulations and Standard Operating Procedures (SOP) for suspension/ evocation of trading of specified securities[8]:**

The SEBI has issued directions to stock exchanges to monitor compliance by listed entities with the provisions of the Listing Regulations. The circular of SEBI dated 30 November 2015 states that recognised stock exchanges should use imposition of fines as action of first resort in case of non-compliance with the provisions of the Listing Regulations and invoke suspension of trading in case of subsequent and consecutive defaults. Following procedure has been prescribed in order to maintain consistency and uniformity of approach:

- Uniform structure to implement 'fines'.
- Depositories may freeze/unfreeze the entire shareholding of the promoter and promoter group on receipt of intimation.
- Two or more consecutive defaults of the prescribed provisions of the Listing Regulations, the scrip of the listed entities could move to 'Z' category wherein trades should take place on 'Trade for Trade' basis.

Specific SOP for suspension of trading and revocation of suspension of trading laid down for stock exchange.

**Disclosure of material events/information[9]:**

Clause 30 of the Listing Regulation requires disclosure of material events or information. The disclosure is divided into two broad categories:

- Events to be disclosed without applying test of materiality. For example, acquisition, issuance or forfeiture of securities, revision in rating, etc.
- Disclosures based on materiality determined by a listed entity: For example, expected default in timely payment of interests/preference dividend, any action which result in redemption, conversion of non-convertible debt securities, etc.

Detailed guidance indicating details to be provided while disclosing above mentioned events have also been provided in the 'Annexure I' and 'Annexure II' of the Listing Regulations and circular CIR/CFD/CMD/4/2015 dated 9 September 2015.

**SEBI approves revised procedure for dealing with qualified audit reports[10]:**

The revised procedure is as follows:

- The listed entities shall be required to disclose the cumulative impact of all the audit qualifications on relevant financial items in a separate form called 'Statement on Impact of Audit Qualifications' instead of present Form B.
- Such disclosure would be in a tabular form along with the annual audited financial results filed in terms of the Listing Regulations.
- In cases where there are no audit qualifications, the existing requirement of filing Form A signed by top officials/directors of the company and auditors shall not be necessary.
- The management shall have the right to give its views on the audit qualifications in the new form.
- The existing requirement of adjustment in the books of accounts (as per Schedule VIII of the Listing Regulations) of the subsequent year shall not be necessary.

The new mechanism is applicable from the financial year ended 31 March 2016, as well as for the earlier cases.

6. SEBI notice no. CFD/CMD/HB/MT/ 31333/2015 released on ICAI site and KPMG FIRST Notes: SEBI provides relaxation to listed entities for filing financial results under IFRS dated 1 December 2015
7. SEBI Circular CIR/CFD/CMD/16/2015 dated 30 November 2015
8. SEBI Circular CIR/CFD/CMD/12/2015 dated 30 November 2015
9. Listing Regulations and circular CIR/CFD/CMD/4/2015 dated 9 September 2015
10. SEBI press release - PR No. 56/2016 dated 12 March 2016

### SEBI FAQs on certain provisions of the Listing Regulations, 2015

The SEBI on 29 January 2016 issued FAQs on the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations. The key highlights of the FAQs are as follows:

- The SEBI clarified that for assessing an 'associate company' and a 'Related Party (RP)', definitions under 2013 Act and the applicable accounting standards need to be examined. If either of the two are met with, such an entity would be classified as an associate company/RP.
- All material RP transactions require an approval of the shareholders through a resolution and the RPs would abstain from voting on such resolutions, whether or not entity is a RP for the particular transaction.
- Wherever 'unlisted material subsidiary' and 'unlisted subsidiaries' have been distinctly mentioned in a particular sub-regulation, such a sub-regulation should be applicable to material unlisted subsidiaries or all unlisted subsidiaries, as the case may be.
- All unlisted subsidiaries (as opposed to only material subsidiaries) to periodically bring to the notice of the board of directors of a listed entity, a statement of all significant transactions/arrangements entered into by the unlisted subsidiary.
- A director of a listed entity can be member of maximum 10 committees and a chairperson of more than five committees of listed entities and unlisted public limited companies put together (chairmanship and membership of the audit committee and the stakeholders' relationship committee).
- Entities to disclose on their website details of agreements entered into with media companies/or their associates which are not in the normal course of business.
- 'Working days' for the purpose of these regulations means working days of the stock exchange where securities of the entity are listed.

(Source: SEBI FAQs dated 29 January 2016)

## Updates on SEBI (Share Based Employee Benefits) Regulations, 2014

### Requirements specified under the Share Based Employee Benefits Regulations, 2014 (ESOP Regulations)

The SEBI vide circular dated 16 June 2015 has issued necessary guidelines for certain processes/disclosure requirements under the SEBI ESOP Regulations, 2014 notified on 28 October 2014. This, inter alia, includes:

- Terms and conditions of schemes to be formulated by the compensation committee.
- Minimum provisions in the trust deed.
- Information required in the statement to be filed with the stock exchange(s).
- Contents of the explanatory statement to the notice and resolution for shareholders' meeting.
- Disclosures by the board of directors.

(Source: Circular CIR/CFD/POLICY CELL/2/2015 by the SEBI dated 16 June 2015)

### SEBI ESOP (Amendment) Regulations 2015

The SEBI through its notification dated 18 September 2015 amended ESOP Regulations 2014. Following are the amendments issued by SEBI:

- Regulations amended to prohibit share based benefits to employees of 'associate company.
- Provided requirement of minimum public shareholding should be satisfied within three years of classification of shareholding of employee benefit trust as 'non-promoter and non-public category instead of requirement of period of five years.
- Provided exemption to trustees of a trust to continue to vote in respect of shares held by such trust for a period of three years commencing from 28 October 2014.

(Source: SEBI notification SEBI/LAD-NRO/GN/2015-16/021 dated 18 September 2015)

### FAQs on SEBI ESOP Regulations, 2014

The SEBI through its FAQs dated 20 November 2015 and 3 March 2016 clarified the following:

| Topic | Clarification |
|---|---|
| Grant of ESOP to independent directors | • Independent directors can exercise Employee Stock Options (ESOPs) granted prior to commencement of 2013 Act/ESOP Regulations subject to terms and conditions of the ESOP scheme framed in terms of the relevant Regulations<br>• Restriction is on fresh grant of ESOPs to independent directors after commencement of the 2013 Act. |
| Classification of un-appropriated inventory of shares | Unappropriated inventory of shares (i.e. shares acquired through secondary acquisition by ESOP Trust) should within five years from notification of Revised ESOP Regulations be disposed of through following modes either through:<br>• Appropriation towards Employee Stock Purchase Scheme (ESPS)/ESOP, etc to employees as per the scheme, or<br>• Sell in secondary market. |
| Lock-in-shares | SEBI ESOP Regulations prescribes that shares issued under ESPS should be locked-in for a minimum period of one year from the date of allotment. However, 'lock-in' requirement is not applicable to the trust even if an ESPS scheme is implemented through a trust. Lock-in requirements shall be applicable from the day shares are received by the employees. |
| Other clarifications | SEBI ESOP Regulations prescribes that shares issued under ESPS should be locked-in for a minimum period of one year from the date of allotment. However, 'lock-in' requirement is not applicable to the trust even if an ESPS scheme is implemented through a trust. Lock-in requirements shall be applicable from the day shares are received by the employees. |

(Source: SEBI notification dated 28 October 2014 and SEBI FAQ dated 20 November 2015 and 3 March 2016)

## Updates to SEBI (Issue of Capital and Disclosure Requirements) Regulations(ICDR Regulations), 2009 and SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

### SEBI ICDR (Second Amendment) Regulations, 2015

The SEBI vide its notification dated 5 May 2015 has issued the SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2015. New sub regulation (5) to Regulation 70 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 been added. As per the amendment, Provisions relating to the 'preferential issue of securities' not applicable to:

- preferential issue of equity shares made to consortium of banks and financial institutions pursuant to conversion of their debt as part of a strategic debt restructuring scheme, subject to specified conditions
- any other secured lender opting to join the strategic debt restructuring scheme
- Consequential amendment made to SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011: Obligation to make an open offer in case of 'substantial acquisition' or 'acquisition of control' will not apply in the aforesaid cases provided the conditions specified in SEBI (ICDR) Regulations, 2009 are met.

(Source: SEBI notification dated 5 May 2015 SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2015 and SEBI (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2015)

## SEBI ICDR (Third and Fourth Amendment) Regulations 2015

The SEBI in August 2015 through its notification issued ICDR (Third and Furth Amendment) Regulations 2015 and amended Schedule VIII (relating to disclosures in offer document, abridged prospectus and abridged letter of offer) of ICDR Regulations. The key amendments are as follows:

- Group companies should include companies as covered under applicable accounting standards and also other companies as considered material by the board of the issuer
- Policy on materiality to be disclosed in offer document
- Disclosures relating to legal and other information amended.
- Imposed restriction om interim use of issue proceeds and provided that.
  - In case of public and rights issue – Net issue proceeds pending utilisation (for stated objects) to be deposited only in the scheduled commercial banks included in the second schedule of the RBI Act 1934
  - In case of public and rights issue of International Depository Receipts (IDRs) – Net issue proceeds pending utilisation should be kept only in a bank having a credit rating of A or above by an international credit rating agency.

(Source: SEBI (ICDR) (Third Amendment) Regulations, 2015 dated 11 August 2015 and SEBI (ICDR) (Fourth Amendment) Regulations, 2015 dated 14 August 2015)

## SEBI (ICDR) (Second Amendment) Regulations 2016

The SEBI through its notification dated 17 February 2016 issued SEBI (ICDR) (second amendment) Regulations 2016 (amended regulations) to provide framework of exit opportunity to dissenting shareholders. The amended regulations inserted Chapter VI-A to provide detailed guidance on conditions and manner of providing exit opportunity to dissenting shareholders.

The chapter VI-A, inter alia, provides following:

- Applicability: The provisions of this chapter will be applicable to an exit offer made by the promoters or shareholders in control of an issuer to the dissenting shareholders in terms of Section 13(8) and Section 27(2) of the 2013 Act, in case of change in objects or variation in the terms of contract referred to in the prospectus.
- Definitions: The chapter provides definition of dissenting shareholders, frequently traded shares and relevant date for the purpose of these provisions.
- Conditions for an exit offer: The chapter provides conditions which are required to be fulfilled for providing an exit offer to dissenting shareholders.
- Eligibility of shareholders for availing the exit offer: The chapter provides that only those dissenting shareholders of the issuer who are holding shares as on the relevant date shall be eligible to avail the exit offer made under this chapter.
- Exit offer price: The chapter provides conditions for calculating exit price payable to the dissenting shareholders.
- Manner of providing exit to dissenting shareholders.
- The chapter provides that pursuant to completion of the exit offer, resultant shareholding should not exceed the maximum permissible non-public shareholding.

Also consequential amendments have been made in Regulation 3 of SEBI (Substantial acquisition of shares and takeovers) Regulations, 2011.

(Source: SEBI Board meeting dated 30 November 2015 and SEBI Discussion Paper on "Exit Offer to Dissenting Shareholders" dated 1 December 2015, SEBI (ICDR) (Second Amendment) Regulations 2016 and SEBI (Substantial acquisition of shares and takeovers) (Amendment) Regulations, 2016 dated 17 February 2016)

# Updates on insider trading

## Disclosures under the SEBI (Prohibition of Insider Trading) Regulations, 2015:

The SEBI issued the Prohibition of Insider Trading Regulations, 2015 (PIT Regulations) in January 2015. These regulations came into effect on 15 May 2015 and replaced the SEBI (Prohibition of Insider Trading) Regulations, 1992. These regulations have far reaching impact on the way the companies disclose such information and deal with the various stakeholders who deal with the corporate ecosystem. The regulations are meant to strengthen the laws related to insider trading in line with those in some of the more developed capital markets. Adoption of the new regulations in letter and spirit, thus could potentially affect a much larger set of stakeholders. Following key changes have been introduced by the new Regulations:

- Expansion of definition of 'connected persons' and 'trading'
- Restrictions on communication of Unpublished Price Sensitive Information (UPSI)
- Introduction of the concept of 'generally available information' to determine the basis of UPSI
- Burden of proof on the accused to establish non-possession of UPSI
- Expansion of the applicability of 'trading window' to include persons having contractual or fiduciary relationship with the company
- Introduction of 'trading plans' to enable insiders to trade even when in possession of UPSI
- Introduction of codes of fair disclosure and conduct.

(Source: Notification dated 15 January 2015 and Circular CIR/SD/01/2015 dated 11 May 2015)

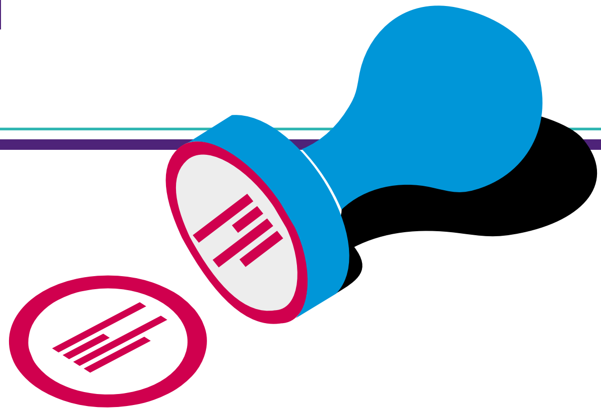
## Guidance note on SEBI PIT Regulations, 2015:

The SEBI on 24 August 2015, issued a guidance note to remove difficulties in the interpretation or application of SEBI PIT Regulations, 2015. The guidance note, *inter alia*, clarifies that exercise of ESOPs is not considered as 'trading' for the purpose of the above Regulations, except provisions relating to disclosures.

Subsequently, the SEBI ICDR Regulations, 2009 were amended with effect from 17 February 2016 to provide for exit opportunity to dissenting shareholders in terms of Sections 13 and 27 of the 2013 Act.

Consequently the Guidance Note on SEBI PIT Regulations, 2015 has been amended with effect from 17 February 2016 to clarify that exit offer is also exempted from the restriction on contra trade under the PIT Regulations.

(Source: Guidance Note on SEBI (Prohibition of Insider Trading) Regulations, 2015 dated 12 April 2016)



# Updates from RBI regulations

## Review of guidelines on corporate governance for NBFCs

In order to address the concerns raised by the industry participants and the difficulties faced by them in the effective implementation of the Revised Regulatory Framework for NBFCs (the framework) issued by the RBI on 10 November 2014, the RBI vide notification dated 10 April 2015, has issued the NBFC- Corporate Governance (Reserve Bank) Directions, 2015. The directions, inter alia provide the following changes/ clarifications:

- With regard to the quarterly statements of changes of directors, the certification that fit, and proper criteria in selection of directors can be given by the managing director. Unlike the earlier framework where it had to be certified by both, the managing director as well as the auditor. However, it should be noted that the statement pertaining to the quarter ended 31 March need to be necessarily certified by the auditors.
- The age limit of 35 to 70 years for independent/non-executive directors of an NBFC has been done away with and provisions in the 2013 Act, in this regard should be applied.
- Certification of minutes of the meeting of the board of directors within the two business days is not mandatory and provisions in the 2013 Act in this regard should apply.

These directions are effective from 10 April 2015.

(Source: Notification by the RBI dated 10 April 2015)

## Provisioning pertaining to frauds and revises the threshold for reporting of frauds by NBFCs

The RBI, vide notification dated 1 April 2015 has prescribed a uniform provisioning norm in respect of advances where there are potential threats of recovery on account of fraud, as follows:

- The entire amount due to banks (irrespective of the quantum of security held against such assets), or for which the bank is liable (including in case of deposit accounts), is to be provided for over a period not exceeding four quarters commencing with the quarter in which the fraud has been detected.
- However, where there has been delay, beyond the prescribed period, in reporting the fraud to the RBI, the entire provisioning is required to be made at once. In addition, the RBI may also initiate appropriate supervisory action where there has been a delay by the bank in reporting a fraud, or provisioning there against.

Further, the RBI through its circular dated 18 February 2016 has decided to:

- Revise the threshold limit for reporting of frauds and submission of quarterly progress reports on frauds to the Central Fraud Monitoring Cell, RBI, Department of Banking Supervision, from INR25 lakh as on date to INR1 crore with immediate effect.
- As regard reporting of frauds and submission of quarterly progress reports on frauds below the revised threshold, NBFCs will have to furnish the same to the Regional Office of the RBI, Department of Non-Banking Supervision, under whose jurisdiction the Registered Office of the NBFC falls.

(Source: Notification by the RBI dated 1 April 2015, RBI circular RBI/2015-16/327 dated 18 February 2016)

## Applicability of credit concentration corms

### Background

As per Section 45IA(7)(I) of the RBI Act, 1934, following, inter alia, should be deducted while calculating Net Owned Fund (NOF):

i. Investments of NBFCs in shares of its subsidiaries and companies in the same group.

ii. The book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with subsidiaries of NBFCs and companies in the same group.

to the extent such amount exceeds 10 per cent of the aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance sheet of the company.

### New development

The RBI vide notification dated 2 July 2015, decided that in determining concentration of credit/investment, the following should be excluded:

i. Investments of NBFC in shares of its subsidiaries and companies in the same group.

ii. The book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with subsidiaries of the NBFC and companies in the same group.

to the extent that they have been reduced from owned funds for the calculation of NOF.

(Source: Notification RBI/2015-16/114 by the RBI dated 2 July 2015)

## Revised format of annual return for all non-deposit taking NBFCs

On 10 November 2014, the RBI issued revised regulatory framework for NBFCs that required, all non-deposit taking NBFCs (NBFCs-ND) with assets less than INR500 crore, to submit an annual return.

The RBI through its notification dated 9 July 2015 prescribed the format of annual return to be filed by all non-deposit taking NBFCs meeting the following criteria:

- NBFCs-ND with assets size between INR100-500 crore (NBS 8), and
- NBFCs-ND with assets size below INR100 crore (NBS 9).

The annual return should be submitted within 30 days of closing of the financial year. However, considering that most of these NBFCs will be filing such return for the first time, the annual return for the year ended 31 March 2015 may be filed by 30 September 2015. The NBFCs that have already submitted the prescribed return for the quarter ending 31 March 2015 are not required to submit the annual return for the year ended 31 March 2015.

(Source: Notification RBI/2015-16/119 by the RBI dated 9 July 2015)

## Risk management and interbank dealings: Booking of forward contracts – Liberalisation

The RBI through its circular dated 29 October 2007 provided that resident individuals can manage/hedge their foreign exchange exposures arising out of actual or anticipated remittances, both inward and outward and are allowed to book forward contracts, without production of underlying documents, up to a limit of USD100,000 based on self- declaration The said limit of USD100,000 was further increased to USD250,000 through a notification dated 7 April 2014.

Recently, the RBI further increased this limit and provided that all resident individuals, firms and companies, who have actual or anticipated foreign exchange exposures are permitted to book foreign exchange forward contracts and foreign currency INR options contracts up to USD1,000,000 on the basis of a simple declaration and without the requirement of any kind of documentation.

(Source: Circular no. RBI/2015-16/201 dated 8 October 2015 by the RBI)

## The RBI revises prudential guidelines on revitalising stressed assets

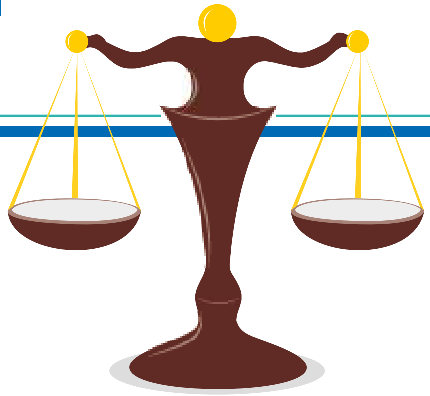
The RBI through its notification DBR.BP.BC. No.82/21.04.132/2015-16 dated 25 February 2016, issued certain revisions and clarifications to its prudential guidelines on Strategic Debt Restructuring (SDR). It reiterates the requirement for banks to stringently adhere to previously-issued guidelines including those relating to:

- triggers for invoking SDR
- effecting a change in the management of borrower companies
- invoking personal guarantees obtained from existing promoters and
- conversion of debt into equity shares of the borrower within the specified timeframe.

In addition, the notification prospectively modifies some of the previously-issued guidelines on SDR as described below:

- Minimum equity divestment to obtain asset classification benefit
- Timelines for conversion of debt into equity
- Additional provisioning requirements.

(Source: RBI notification DBR.BP.BC. No.82/21.04.132/2015-16 dated 25 February and KPMG in India First Notes: The RBI revises prudential guidelines on revitalising stressed asset dated 1 March 2016)



# Other Updates

## Bonus Amendment Act

On 7 December 2015, the Ministry of State for Labour and Employment introduced the Payment of Bonus (Amendment) Bill, 2015. The Bill proposes amendments in the Payment of Bonus Act, 1965. Further on 31 December 2015 the bill received an assent of the president and is called the Payment of Bonus (Amendment) Act 2015.

The amended Act provides the following amendments to the principal Act:

- Employee eligible for bonus- The eligibility limit for applicability of the Act increased from INR10,000 per month to INR21,000 per month. The Amended Act states that every employee of an entity on which the principal Act is applicable having a salary or wage not exceeding INR21,000 per month will be covered under the purview of the Act and will be eligible for receiving bonus under the said Act. Earlier the limit for receiving bonus was INR10,000.
- Salary or wage ceiling for calculation of bonus – The Act provides that every employee will be paid bonus in proportion to his salary or wage. However, if the salary or wage of an employee exceeds INR3,500 per month the bonus payable to such employee will be calculated as if his/ her salary or wage were INR3,500 only. The amended act increased the limit for the purpose of calculation of bonus. It provides that the limit will be higher of:
  - salary or wage of INR7,000 per month (earlier limit: INR3,500 per month), or
  - minimum wage for scheduled employment fixed by Government.

The Act will be applicable with retrospective effect from 1 April 2014.

(Source: The Payment of Bonus (Amendment) Act 1965 published in The Gazette of India on 1 January 2016)

## EPFO removed five days grace period for PF contribution by employers

The EPFO through its circular dated 8 January 2016 withdrew the concession of grace period of five days provided to the employers for depositing the PF contribution and other charges. The amendment is effective from February 2016 and employers are required to deposit contribution for the month of January 2016 by 15 February 2016.

(Source: EPFO Circular No. WSU/9(1)2013/ Settlement/35031, dated 8 January 2016)

## Important Guidance Notes(GN) issued by the ICAI in FY 2015-16

| | |
|---|---|
| Guidance note on accounting for derivative contracts | • Provides guidance on recognition, measurement, presentation and disclosure for derivative contracts so as to bring uniformity in their accounting and presentation in the financial statements. |
| Guidance note on accounting for expenditure on corporate social responsibility activities | • Provides guidance on recognition, measurement, presentation and disclosure of expenditure on activities relating to corporate social responsibility. |
| Revised guidance on Internal Financial Controls Over Financial Reporting (IFC) | • The GN covers aspects such as scope of reporting on internal financial controls under the 2013 Act, essential components of internal controls, technical guidance on audit of IFC, implementation guidance on audit of IFC. The GN also provides guidance on the reporting responsibility of the management, criteria to be considered for developing, establishing and reporting on IFC, reporting by auditors, how to audit IFC, IFC reporting on consolidated financial statements, etc. |
| GN on accounting for depreciation in companies in the context of Schedule II to the Companies Act, 2013 | • Provides guidance on certain significant issues that may arise when companies practically implement Schedule II. The GN provides new guidance such as multiple shift depreciation, revaluation of assets, component approach, estimation of the residual value, etc The GN will be applicable for accounting periods beginning on or after 1 April 2016, earlier application is encouraged. |
| GN on reporting of frauds under Section 143(12) of the Companies Act, 2013 (Revised) | • This revised GN aims to provide guidance to auditors on matters that may arise pursuant to the reporting requirements on fraud. |
| GN on audit of banks (Revised 2016) | • The GN is updated every year to reflect the important developments that have taken place in the banking sector, warranting attention of the statutory auditors, for example, RBI's master circulars, general circulars of relevance, consequential updation of guidance for the auditors, where required, various pronouncements of ICAI, etc. |

(Source: Various guidance notes issued by ICAI during the year ending 31 March 2016)

## EAC Opinions issued by ICAI in FY 2015-16

| | | |
|---|---|---|
| **1.** | Accounting treatment of exchange variation in respect of foreign operations of the company as per AS 11 | April 2015 |
| **2.** | Accounting treatment of interest earned on surplus equity funds | May 2015 |
| **3.** | Accounting treatment of interest on deposits made out of equity share capital and interest free subordinate debt funded by Government | June 2015 |
| **4.** | Treatment of foreign exchange fluctuations and interest cost on issuance of Foreign Currency Convertible Bonds (FCCBs) | July 2015 |
| **5.** | Accounting treatment of income from credit card membership and joining fees and credit card acquisition/ sourcing costs | August 2015 |
| **6.** | Provisioning for doubtful receivables | September 2015 |
| **7.** | Requirement of preparation of complete/condensed set of financial statements for interim financial reporting | October 2015 |
| **8.** | Amortisation of SAP license and accounting for annual renewal fee | November 2015 |
| **9.** | Accounting treatment of pension liability post-separation | December 2015 |
| **10.** | Netting off interest income against interest cost in standalone books of parent company | January 2016 |
| **11.** | Method of depreciation as per requirements of the Companies Act, 2013 | February 2016 |
| **12.** | Amortisation of SAP license and accounting for annual renewal fee | March 2016 |

(Source: The Chartered Accountant, the ICAI Journals of the period April 2015 to March 2016)

## Glossary

| | |
|---|---|
| MCA | The Ministry of Corporate Affairs |
| NBFC | Non Banking Financial Company |
| IRDA | The Insurance Regulatory and Development Authority of India |
| DP | Discussion Paper |
| IFRS | International Financial Reporting Standards |
| Ind AS | Indian Accounting Standard |
| RRB | Regional Rural Banks |
| SCBs | Scheduled Commercial Banks |
| NABARD | National Bank for Agriculture and Rural Development |
| NHB | The National Housing Bank |
| SIDBI | Small Industries Development Bank of India |
| GAAP | General Accepted Accounting Practices |
| IASB | International Accounting Standards Board |
| SEBI | The Securities and Exchange Board of India |
| RBI | The Reserve Bank of India |
| ICAI | The Institute of Chartered Accountants of India |
| ICDS | Income Computation and Disclosure Standards |
| MOF | Minimum Alternate Tax |
| ICDR | Issue of Capital and Disclosure Requirements |
| FY | Financial Year |
| ITFG | Ind AS Transition Facilitation Group |
| EPS | Earning Per Share |
| CLC | Company Law Board |
| ROC | Registrar of Companies |
| IEPF | Investor Education and Protection Fund |
| CFS | Consolidated Financial Statements |
| CARO | Companies (Auditor's Report) Order |
| RPT | Related Party Transactions |
| PBT | Profit Before Tax |
| PAT | Profit After Tax |
| SOP | Standard Operating Procedures |
| ESO | Employee Stock Option |
| ESPS | Employee Stock Purchase Scheme |
| PIT | Prohibition of Insider Trading |
| UPSI | Unpublished Price Sensitive Information |
| SEBI Takeover Regulations | SEBI (Substantial Acquisition of Shares and Takeovers) Regulations |
| NOF | Net Owned Fund |
| FIPB | Foreign Investment Promotion Board |
| GOI | Government of India |
| LLP | Limited Liability Partnerships |
| ICSI | Institute of Company Secretaries of India |
| MOF | Ministry of Finance |
| PF | Provident Fund |
| CLC | Companies Law Committee |
| CSR | Corporate Social Responsibility |
| IFC | Internal Financial Controls |
| FCCB | Foreign Currency Convertible Bonds |
| SAP | Systems, Application and Products |
| XBRL | Extensive Business Reporting Language |
| The Rules | The Rules to the 2013 Act |
| 1956 Act | The Companies Act, 1956 |
| 2013 Act | The Companies Act, 2013 |
| GAAP | Generally Accepted Accounting Practices |

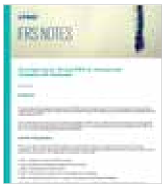
## KPMG in India's IFRS institute

KPMG in India is pleased to re-launch its IFRS institute - a web-based platform, which seeks to act as a wide-ranging site for information and updates on IFRS implementation in India.

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

**First Impressions: Revised IFRS 15, *Revenue from Contracts with Customers***



20 April 2016

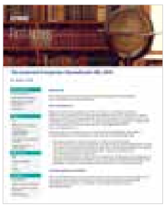
The International Accounting Standards Board (IASB) issued amendments to IFRS 15, *Revenue from Contracts with Customers* on 12 April 2016, to clarify some requirements and provide additional transitional relief to companies that are implementing IFRS 15.

The amendments do not change the underlying principles of IFRS 15 but clarify how these principles are to be applied. This was a result of the discussions of the Transition Resource Group (TRG) which was set up jointly by the IASB and the U.S. Financial Accounting Standards Board (FASB).

Our IFRS Notes provides overview of the guidance.

KPMG IFRG Limited also released its publication First Impressions: IFRS 15 Revenue in April 2016. This publication has been fully revised and updated to provide a digestible introduction to the clarified version of IFRS 15.

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



**The proposed Companies (Amendment) Bill 2016**

31 March 2016

Based on the recommendations of the CLC report, on 16 March 2016, the government proposed the Companies (Amendment) Bill 2016, (the Bill) on issues arising on account of implementation of the Companies Act, 2013 (2013 Act) in the Lok Sabha to amend the 2013 Act. The Bill considered the suggestions made by the CLC as well as the comments received from the stakeholders and ministries/departments.

The recommendations cover significant areas of the 2013 Act, including definitions, raising of capital, accounts and audit, Corporate Social Responsibility (CSR), managerial remuneration, companies incorporated outside India and offences/penalties.

Our issue of First Notes summarises key recommendations of the Bill.

**Accounting and Auditing Update**

**Issue no. 8/2016 | Financial Services**

This month the Accounting and Auditing Update focusses on the financial services sector and highlights key matters relating to accounting, financial reporting and regulatory areas relevant to this sector. The Indian financial services sector comprises commercial banks, Non-Banking Finance Companies (NBFCs), insurance companies, mutual fund, Asset Management Companies (AMCs) and broking companies.

The issue includes articles on the following topics:

- Ind AS impact on the financial services sector
- Impact of new adjustments on derivative valuation
- Conversation with Mr. Keki Mistry
- Private equity/venture capital funds
- The Reserve Bank of India's framework for revitalising distressed assets in the economy
- Non-performing assets recognition for banks in India
- Financial statement ratios: Are they always comparable?
- Deferred tax liability on special reserve under the Income Tax Act, 1961
- Impact of ICDS on the financial services sector
- Impact of GST on the financial services sector
- Regulatory updates.

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