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Company Law and Accountancy &  
Audit

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# Corporate Law Updates

## • The Companies (Amendment )Act, 2017

The Companies (Amendment) Bill, 2017 was passed by the Lok Sabha on 27<sup>th</sup> July 2017 and was approved by the Rajya Sabha on 19<sup>th</sup> December 2017. On 3<sup>rd</sup> January 2018, the Honorable President of India gave its assent and has been notified in the Official Gazette on the same date (to be called the Companies (Amendment) Act, 2017).

For details refer: <http://www.egazette.nic.in/WriteReadData/2018/181439.pdf>

A note giving synopsis of the above Act will be mailed separately

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## • Companies Act, 2013 – Rules and Amendment Rules

### ▪ Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Second Amendment Rules, 2017.

**Notification dated 13<sup>th</sup> October 2017- Amendments in Rule 6 (Manner of transfer of shares under Section 124 (6) to the Fund) and Rule 7 (Refund to claimants from Fund.)**

The MCA has amended Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules 2016. Amongst other matters, following amendments have been made –

- ♦ In cases where the period of 7 years provided under Section 124(5) (Unpaid dividend account) has been completed or being completed during the period from 7<sup>th</sup> September 2016 to 31<sup>st</sup> October 2017, the due date of transfer of such shares will be deemed to be **31<sup>st</sup> October 2017**.
- ♦ Transfer of shares by the companies to the Fund will be deemed to be transmission of shares and the procedure to be followed for transmission of shares should be followed by the companies while transferring the shares to the fund.

The above Rules came **into force from 13<sup>th</sup> October 2017**.

For details refer: [http://www.mca.gov.in/Ministry/pdf/IEPFNotification\\_13102017.pdf](http://www.mca.gov.in/Ministry/pdf/IEPFNotification_13102017.pdf)

## ■ **Companies (Filing of Documents and Forms in Extensible Business Reporting Language), Amendment, Rules, 2017**

### **Notification dated 6<sup>th</sup> November 2017-Substitution of Rule 3 - Filing of Financial Statement with Registrar and Form AOC -4 (XBRL)**

The Rules require the following classes of companies to file their Financial Statements (**FS**) and other documents under Section 137 (copy of FS to be filled with the Registrar) of the Companies Act, 2013 with the Registrar in e-form AOC-4 (XBRL)-

- ♦ Companies listed with stock exchanges in India and their Indian subsidiaries
- ♦ Companies having paid up capital of Rs. 5 crore or above
- ♦ Companies having turnover of Rs. 100 crore or above
- ♦ All companies that are required to prepare their FS in accordance with the Companies (Ind AS) Rules, 2015

Non-banking financial companies, housing finance companies and companies engaged in the business of banking and insurance are **exempted** from filing of FS under these Rules.

For details refer: [http://www.mca.gov.in/Ministry/pdf/Scan\\_XBRL\\_09112017.pdf](http://www.mca.gov.in/Ministry/pdf/Scan_XBRL_09112017.pdf)

Subsequently, **Companies (Filing of Documents and Forms in Extensible Business Reporting Language) 2<sup>nd</sup> Amendment Rules, 2017**, were notified vide **Notification dated 4<sup>th</sup> December 2017**. Annexure III of the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015 has been substituted.

For details refer: [http://www.mca.gov.in/Ministry/pdf/Scan\\_XBRL\\_05122017.pdf](http://www.mca.gov.in/Ministry/pdf/Scan_XBRL_05122017.pdf)

## ■ **Companies (Accounts) Amendment Rules, 2017**

### **Notification dated 7<sup>th</sup> November 2017-Substitution of Form AOC-4**

The MCA has notified the above Rules whereby Form AOC-4 has been substituted.

For details refer:

[http://www.mca.gov.in/Ministry/pdf/CompaniesAccountsamendmentsRules\\_09112017.pdf](http://www.mca.gov.in/Ministry/pdf/CompaniesAccountsamendmentsRules_09112017.pdf)

## ■ **Companies (Cost Records and Audit) Amendment Rules, 2017**

### **Notification dated 7<sup>th</sup> December 2017- change of formats relating to 'Cost Record' and 'Cost Audit Report' and insertion of a new clause**

The MCA has amended Companies (Cost Records and Audit) Amendment Rules, 2014. The Amendment Rules,

- ♦ Substitutes existing Form CRA-1 (Particulars relating to the items of Costs to be included in the Books of Accounts) and Form CRA-3(Cost Audit Report) with new forms with effect from 1<sup>st</sup> April 2016

- ♦ Inserts a new clause (fa) in Rule 2-  
(fa) *Indian Accounting Standards' means Indian Accounting Standards as referred to in Companies (Indian Accounting Standards) Rules, 2015.*

These rules are **deemed to have been inserted with effect from 1<sup>st</sup> April 2016.**

For details refer:

[http://www.mca.gov.in/Ministry/pdf/CompaniesCostrecordsAuditRule\\_08122017.pdf](http://www.mca.gov.in/Ministry/pdf/CompaniesCostrecordsAuditRule_08122017.pdf)

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## ● **Circulars/Notifications/Orders from the Ministry of Corporate Affairs (MCA)**

### **Circulars**

- **Relaxation of additional fees and extension of last date of filing of AOC-4 XBRL e-forms using Ind AS under the Companies Act, 2013**

**Circular No. 13/2017 dated 26<sup>th</sup> October 2017**

Companies which have adopted Ind AS for the Financial Year (FY) 2016-17 are required to file their FS in XBRL formats only. Development of necessary tool for XBRL filling is expected to be completed by 28<sup>th</sup> February 2018.

The MCA has decided that the last date of filing of AOC-4 XBRL for such companies be **extended till 31<sup>st</sup> March 2018.**

For details refer: [http://www.mca.gov.in/Ministry/pdf/GeneralCircular13\\_26102017.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircular13_26102017.pdf)

- **Condonation of Delay Scheme, 2018**

**Circular No. 16/2017 dated 29<sup>th</sup> December 2017**

Directors associated with the companies that had failed to file FS or annual returns in the MCA21 online registry for a continuous period of 3 FYs 2013-14 to 2015-16 in terms of provisions of Section 164(2) r /w 167(1)(a) (disqualifications of Directors) of the Act are barred from accessing the online registry and a list of such directors is published on the website of MCA.

As a result of above action, representations have been received from industry, defaulting companies and their directors seeking an opportunity for the defaulting companies to become compliant and normalise operations.

With a view to giving an opportunity to the defaulting company to rectify the default, the Central Government (**CG**) has decided to introduce a Scheme namely 'Condonation of Delay Scheme 2018'.

The scheme shall **come into force** with effect **from 1<sup>st</sup> January 2018** and shall remain in force up to **31<sup>st</sup> March 2018**

This scheme is applicable to all defaulting companies (other than the companies which have been stuck off/ whose names have been removed from the register of companies under Section 248(5) of the Act). A defaulting company is permitted to file its overdue documents which were due for filing till 30<sup>th</sup> June 2017 in accordance with the provisions of this Scheme.

For details refer: [http://www.mca.gov.in/Ministry/pdf/Generalcircular16\\_29122017.pdf](http://www.mca.gov.in/Ministry/pdf/Generalcircular16_29122017.pdf)

## Notifications

### ■ **Commencement of Section 247 of the Companies Act, 2013**

**Notification dated 18<sup>th</sup> October 2017**

The CG has appointed **18<sup>th</sup> October 2017** as the date on which the provisions of Section 247 (Valuation by Registered Valuers) of the Act will come into force.

For details refer:

[http://www.mca.gov.in/Ministry/pdf/CommencementNotification\\_20102017.pdf](http://www.mca.gov.in/Ministry/pdf/CommencementNotification_20102017.pdf)

Consequent to the above, the MCA has also issued the **Companies (Registered Valuers and Valuation) Rules, 2017**. These Rules, *inter alia*, prescribe the norms of eligibility, qualifications and registration of valuers, recognition of registered valuers organisation and cancellation or suspension of certificate of registration or recognition.

**The Rules are effective from 18<sup>th</sup> October 2017**

For details refer: [http://www.mca.gov.in/Ministry/pdf/RegisteredValues\\_19102017.pdf](http://www.mca.gov.in/Ministry/pdf/RegisteredValues_19102017.pdf)

### ■ **Delegation of powers under Section 247 of the Companies Act, 2013**

**Notification dated 23<sup>rd</sup> October 2017**

The MCA has also issued a notification to delegate the powers and functions vested in Section 247 of the Act to the **Insolvency and Bankruptcy Board of India**.

For details refer:

[http://www.mca.gov.in/Ministry/pdf/delegationOfPowers\\_Section247\\_24102017.pdf](http://www.mca.gov.in/Ministry/pdf/delegationOfPowers_Section247_24102017.pdf)

## Orders

### ■ **Companies (Removal of Difficulties) Second Order, 2017**

**Order dated 23<sup>rd</sup> October 2017**

Section 247 of the Act provides for valuation to be made by a person having such qualifications and experience and registered as a valuer in such manner, on such terms and conditions as may be prescribed. Accordingly, to provide clarity and remove the difficulty of having no reference to an organisation to which the valuer may belong, the MCA has issued the above Order. This Order has amended Section 247(1) of the Act.

This order has come into **force from 23<sup>rd</sup> October 2017**

For details refer:

[http://www.mca.gov.in/Ministry/pdf/companiesROD\\_2ndOrder\\_2410207.pdf](http://www.mca.gov.in/Ministry/pdf/companiesROD_2ndOrder_2410207.pdf)

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## ● **Circulars/Notifications/Press Release and Reports from Securities and Exchange Board of India (SEBI)** **Circulars**

### ■ **Enhancing fund governance for mutual funds**

**Circular No.SEBI/HO/IMD/DF2/CIR/P/2017/125 dated 30<sup>th</sup> November 2017**

SEBI has issued circular enhancing fund governance for mutual funds. The circular requires, amongst other things, that-

- ♦ No mutual fund should **appoint an auditor for more than 2 terms of maximum 5 consecutive years** and such auditor may be reappointed after **a cooling off period of 5 years**.
- ♦ An independent trustee and independent director shall hold office for a **maximum of 2 terms with each term not exceeding a period of 5 consecutive years** and such trustee and director may be reappointed after **a cooling off period of 5 years**.

For details refer: [http://www.sebi.gov.in/legal/circulars/nov-2017/enhancing-fund-governance-for-mutual-funds\\_36778.html](http://www.sebi.gov.in/legal/circulars/nov-2017/enhancing-fund-governance-for-mutual-funds_36778.html)

- **Circular on Schemes of Arrangement by Listed Entities and (ii) Relaxation under Sub-rule (7) of rule 19 of the Securities Contracts (Regulation) Rules, 1957”**

**Circular No.CFD/DIL3/CIR/2018/2 dated 3<sup>rd</sup> January 2018**

SEBI had earlier laid down the framework for Schemes of arrangement by listed entities and relaxation under Rule 19 (7) of the Securities Contracts (Regulation) Rules, 1957. In order to expedite the processing of draft schemes and to prevent the misuse of schemes to bypass regulatory requirements, SEBI has now decided to make certain amendments to the framework, which, among other matters, requires that the valuation report and the fairness opinion referred in the Framework should be provided by an **independent Chartered Accountant** and independent SEBI registered merchant banker respectively. The Chartered Accountant and the merchant banker referred herein should not be treated as independent in case of existence of any material conflict of interest among themselves or with the company, including that of common directorships or partnerships

For details refer:

<https://www.sebi.gov.in/legal/circulars/jan-2018/circular-on-schemes-of-arrangement-by-listed-entities-and-ii-relaxation-under-sub-rule-7-of-rule-19-of-the-securities-contracts-regulation-rules-1957-37265.html>

## Notifications

- **SEBI has amended the following Regulations**

- ♦ **SEBI (Real Estate Investment Trusts)(Amendment) Regulation, 2017**

**Notification No. SEBI/LAD-NRO/GN/2017-18/022 dated 15<sup>th</sup> December 2017**

For details refer: <https://www.sebi.gov.in/legal/regulations/dec-2017/securities-and-exchange-board-of-india-real-estate-investment-trusts-amendment-regulations-2017-37117.html>

- ♦ **SEBI (Infrastructure Investment Trusts)(Amendment) Regulation, 2017**

**Notification No. SEBI/LAD-NRO/GN/2017-18/024 dated 15<sup>th</sup> December 2017**

For details refer: <https://www.sebi.gov.in/legal/regulations/dec-2017/securities-and-exchange-board-of-india-infrastructure-investment-trusts-amendment-regulations-2017-37118.html>



- ♦ **SEBI (Issue and Listing of Debt Securities)(Second Amendment) Regulation, 2017**  
**Notification No. SEBI/LAD-NRO/GN/2017-18/023 dated 15<sup>th</sup> December 2017**

For details refer: [https://www.sebi.gov.in/legal/regulations/dec-2017/securities-and-exchange-board-of-india-issue-and-listing-of-debt-securities-second-amendment-regulations-2017\\_37119.html](https://www.sebi.gov.in/legal/regulations/dec-2017/securities-and-exchange-board-of-india-issue-and-listing-of-debt-securities-second-amendment-regulations-2017_37119.html)

## **Press Release**

- **SEBI may put 10% cross-shareholding cap in mutual funds**

To avoid the potential conflict of interest, markets regulator SEBI is considering to put a 10 per cent cross-shareholding cap in mutual funds, senior officials said.

Under the proposal, any shareholder owning at least 10 per cent stake in an AMC will not be allowed to have 10 per cent or more stake in another mutual fund house operating in the country.

For details refer: <http://www.thehindubusinessline.com/markets/sebi-may-put-10-crossshareholding-cap-in-mutual-funds/article10003518.ece>

- **Amendments to the SEBI (Credit Rating Agencies) Regulations, 1999 and SEBI (Listing Obligations and Disclosure Requirements), 2015**  
**PR No. 68/2017 dated 28<sup>th</sup> December 2017**

The SEBI in its board meeting held on 28<sup>th</sup> December 2017, among other matters, decided to amend the SEBI (Listing Obligations and Disclosure Requirements), 2015. Debt listed entities will now require;

- ♦ Disclosure of financial results on the Exchange(s) in line with the corresponding requirements for issuers of listed equity:
  - ▲ Issuers of listed debt will disclose financial results within 45 days of end of the first 3 quarters and 60days of end of the last quarter.
  - ▲ The financial results will be disclosed in the format as prescribed in Schedule III to the Companies Act, 2013 to include (i) Statement of P&L on a quarterly and year-to-date basis and (ii) Statement of Assets and Liabilities/ Balance Sheet on a half-yearly basis.
- ♦ Disclosure of annual consolidated financial results to the Exchange(s) in case of issuers having only listed debt:
  - ▲ Issuers of listed debt will disclose their audited annual consolidated financial results on the Exchange(s) within 60 days from the end of the FY

Other key decisions at the SEBI meeting relate to:

- ♦ Amendments to the SEBI (Credit Rating Agencies) Regulations, 1999 for augmenting the governance of Credit Rating Agencies registered with SEBI and mitigating the issues of conflict of interest
- ♦ Allowing additional methods for listed entities to achieve minimum public shareholding (MPS) requirements
- ♦ Issuance of refund orders/ allotment letters/share certificates through electronic mode under SEBI (Issue of Capital and Disclosure Requirements Regulations), 2009
- ♦ Norms for Shareholding and Governance in Mutual Fund
- ♦ Proposed framework for listing of Security Receipts issued by ARCs under SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008
- ♦ Amendments to the SEBI (Infrastructure Investment Trusts) Regulations, 2014 and SEBI (Real Estate Investment Trusts) Regulations, 2014
- ♦ Easing of Access Norms for Investment by Foreign Portfolio Investors (FPIs)

For details refer: [https://www.sebi.gov.in/media/press-releases/dec-2017/sebi-board-meeting\\_37183.html](https://www.sebi.gov.in/media/press-releases/dec-2017/sebi-board-meeting_37183.html)

## Report

### ▪ **Report of the Committee on Corporate Governance for public comments** **Report dated 5<sup>th</sup> October 2017**

The Committee on Corporate Governance, formed by SEBI in June 2017 to enhance the standards of corporate governance of listed entities in India, has submitted its report for public comments.

The terms of reference of the Committee were to make recommendations to SEBI on the following issues:

- ♦ Ensuring independence in spirit of independent directors and their active participation in the functioning of the company
- ♦ Improving safeguards and disclosures pertaining to related party transactions
- ♦ Issues in accounting and auditing practices by listed companies
- ♦ Improving effectiveness of board evaluation practices
- ♦ Addressing issues faced by investors on voting and participation in general meetings
- ♦ Disclosure and transparency related issues, if any
- ♦ Any other matter as the Committee deems fit pertaining to corporate governance in India

For details refer: [http://www.sebi.gov.in/reports/reports/oct-2017/report-of-the-committee-on-corporate-governance-for-public-comments\\_36178.html](http://www.sebi.gov.in/reports/reports/oct-2017/report-of-the-committee-on-corporate-governance-for-public-comments_36178.html)

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- **Circulars from Insurance Regulatory and Development Authority (IRDA)**

- **Working group on new standard on Insurance Contracts (equivalent to IFRS 17 – *Insurance Contracts*)**

**Dated-13<sup>th</sup> December 2017**

The IRDAI had constituted a working group on a new standard equivalent to IFRS 17- *Insurance Contracts*. In order to enable a more detailed examination of the provisions contained in IFRS 17 by the working group, the IRDAI has decided to extend the time limit for review of the new standard (IFRS 17) up to 30<sup>th</sup> June 2018

For details refer:

[https://www.irdai.gov.in/ADMINCMS/cms/frmOrders\\_Layout.aspx?page=PageNo3336](https://www.irdai.gov.in/ADMINCMS/cms/frmOrders_Layout.aspx?page=PageNo3336)

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# Accountancy and Audit

- **Guidance Notes**

- **Guidance Note on Report under Section 92E of the Income Tax Act, 1961 (Transfer Pricing) ( Revised 2017)**

The ICAI has issued the above revised Guidance Note including changes effected by the Finance Act, 2017 and OECD Transfer Pricing Guidelines (2017)

For details refer: <https://resource.cdn.icaai.org/47758citax37682.pdf>

- **ICAI Publications**

- **Report on Audit Quality Review (2016-17)**

The Quality Review Board has released a Report on Audit Quality Review providing analysis and summary of observations made by technical reviewers in review reports completed during the period (2016-17)

For details refer: <http://www.qrbca.in/wp-content/uploads/2017/11/qrb37506.pdf>

- **Ind AS**

For developments in Ind AS refer *CNK IFRS/ Ind AS Updates, January 2018*

For details refer: <http://www.cnkindia.com/C%20N%20K%20IFRS%20-Ind%20AS%20%20Update%20January%202018.pdf>

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