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Company Law and Accounting/Audit

July 2018

C N K & Associates LLP

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Corporate Law Updates

• The Companies (Amendment)Act, 2017

The Companies (Amendment) Bill, 2017, got assent from the Honourable President of India on **3rd January 2018** and was **notified in the Official Gazette of the same date** to be called as the **Companies (Amendment) Act, 2017 (Amendment Act)** . This Act is **an amendment to the Companies Act, 2013. (2013 Act)**

(http://www.mca.gov.in/Ministry/pdf/CAAct2017_05012018.pdf)

Commencement of the Amendment Act

Date of coming into force	Sections notified
26 th January 2018	Section 1 (Short title and commencement) and Section 4 (Memorandum)
9 th February 2018	43 provisions For details refer https://www.cnkindia.com/uploads/attachments/Audit/CoAct_Apl18.pdf http://www.mca.gov.in/Ministry/pdf/Commencementnotification_12022018.pdf
7 th May 2018 @	28 provisions For details refer: http://www.mca.gov.in/Ministry/pdf/CompaniesAmendmentNoti_07052018.pdf Also refer Annexure I
13 th June 2018 #	6 provisions For details refer: http://www.mca.gov.in/Ministry/pdf/CommNotificatio1306_14062018.pdf http://www.mca.gov.in/Ministry/pdf/Notification2106_22062018.pdf Also refer Annexure II
5 th July 2018 \$	Section 20 -corresponding to Section 82 (Company to report satisfaction of charge) For details refer: http://www.mca.gov.in/Ministry/pdf/CommencementNotification05_06072018.pdf

Date of coming into force	Sections notified
15 th August 2018 §	4 provisions For details refer: http://www.mca.gov.in/Ministry/pdf/CommencementNotification0507_06072018.pdf Also refer Annexure III

@ In the line of aforesaid Notification, MCA has also **amended** the following Rules which are **applicable from 7th May 2018:**

- ◆ Companies (Prospectus and Allotment of Securities) Amendment Rules, 2018
- ◆ Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2018
- ◆ Companies (Meetings of Board and its powers) Amendment Rules, 2018
- ◆ Companies (Audit and Auditors) Amendment Rules, 2018
- ◆ Companies (Share Capital and Debentures) Second Amendment Rules, 2018
- ◆ Companies (Specification of Definition Details) Amendment Rules, 2018
- ◆ Companies (Registration of Office and Fees) Second Amendment Rules, 2018

In the line of aforesaid Notification, MCA has also **amended** the following Rules:

- ◆ Companies (Management and Administration) 2nd Amendment Rules, 2018.
- ◆ Companies (Significant Beneficial Owners) Rules, 2018.
- ◆ Companies (Registered Valuers and Valuation) 2nd Amendment Rules, 2018.
- ◆ Companies (Appointment and Qualification of Directors) 3rd Amendment Rules

\$ In the line of aforesaid Notification, MCA has also **amended** the following Rules:

- ◆ Companies (Acceptance of Deposits) Amendment Rules, 2018.
- ◆ Companies (Appointment and Qualification of Directors) Fourth Amendment Rules, 2018
- ◆ Companies (Authorised to Register) Second Amendment Rules, 2018
- ◆ Companies (Registration of Charges) Amendment Rules, 2018
- ◆ Companies (Registration Offices and Fees) Third Amendment Rules, 2018

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● Companies Act, 2013 – Rules and Amendment Rules

■ Companies (Share Capital and Debentures) Amendment Rules, 2018 and Companies (Share Capital and Debentures) Second Amendment Rules, 2018

Notification dated 10th April 2018-Substitution of sub-rule 3 of Rule 5- Certificate of shares (where shares are not in demat form)

Companies (Share Capital and Debentures) Rules, 2014 has been amended and Rule 5, sub-rule (3) now requires that any share certificate issued should specify the shares to which it relates and the amount paid thereon and shall be signed by 2 Directors (any 2 Directors) or by a Director (any Director) and the Company Secretary, wherever the company has appointed Company Secretary

For details refer: http://www.mca.gov.in/Ministry/pdf/SharecapitalRule2018_11042018.pdf

Notification dated 7th May 2018- amendment of Rule 8- Issue of sweat equity shares

The MCA has amended Companies (Share Capital and Debentures) Rules, 2014. Among other matters, 'Employee' means a permanent employee of the company who has been working in India or outside India. Condition of '*at least last one year*' has been **deleted**.

For details refer:

http://www.mca.gov.in/Ministry/pdf/CompaniesShareCapitalRules_07052018.pdf

■ Companies (Prospectus and Allotment of Securities) Amendment Rules, 2018

Notification dated 7th May 2018-Omission of Rule 3 to Rule 6

In the Companies (Prospectus and Allotment of securities) Rules, 2014, following **Rules have been omitted**

- ◆ **Rule 3**-Information to be stated in Prospectus
- ◆ **Rule 4**- Reports to be set out in Prospectus
- ◆ **Rule 5** –Other matters to be stated in Prospectus
- ◆ **Rule 6** –Period for which information to be provided in certain cases

For details refer:

http://www.mca.gov.in/Ministry/pdf/CompaniesProspectusRules_07052018.pdf

■ Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2018

Notification dated 7th May 2018-Amendment of Rule 5 and Rule 16

Companies (Appointment and Qualification of Directors) Rules, 2014 has been amended. The amendments pertain to the following-

♦ Rule 5-Qualification of Independent Director (ID)

Sub-rule 2 has been inserted which states that none of the relatives of an ID for the purposes of Section 149(6)(d)(ii) and (ii)

▲ is indebted to the company, its holding, subsidiary or associate company or their promoters, or directors; or

▲ has given a guarantee or provided any security in connection with the indebtedness of any 3rd person to the company, its holding, subsidiary or associate company or their promoters, or directors of such holding company,

for an amount of Rs. 50 lakhs , at any time during the 2 immediately preceding Financial Years (FYs) or during the current FY

♦ Rule 16- Copy of resignation of Director to be forwarded by him

Where a director resigns from his office, he has an option to forward to the Registrar a copy of his resignation along with the reasons for the resignation within a period of 30 days from the date of resignation.

For details refer:

http://www.mca.gov.in/Ministry/pdf/AppointmentDirectorsRules_07052018.pdf

■ Companies (Meetings of Board and its powers) Amendment Rules, 2018

Notification dated 7th May 2018- Insertion of a proviso in Rule 4, amendment in Rule 6- and substitution of Rule 13

The MCA has amended the Companies (Meetings of Board and its powers) Rules, 2014. The amendments pertain to -

♦ Rule 4- Matters not to be dealt with in a meeting through video conferencing or other audio visual means

A proviso has been inserted to the effect that where there is a quorum through physical presence of directors, any other director can participate through video conferencing or other audio visual means and discuss the matters.

♦ Rule 6- Committees of the Board

The Board of Directors(BoD) of every listed public company (earlier every listed company) and a company covered under Rule 4 of the Companies (Appointment and Qualification of Directors) Rules, 2014 is required to constitute an 'Audit Committee' and a 'Nomination and Remuneration Committee of the Board'

♦ **Rule 13-Special Resolution**

A special resolution passed at a general meeting to give any loan or guarantee or investment or providing any security or the acquisition should specify the total amount up to which the BoDs are authorised to give such loan or guarantee, to provide such security or make such acquisition and the full particulars should be disclosed in the Financial Statement (**FS**).

For details refer:

http://www.mca.gov.in/Ministry/pdf/CompaniesBoardsPowersRules_07052018.pdf

■ **Companies (Audit and Auditors) Amendment Rules, 2018**

Notification dated 7th May 2018- amendments of Rule 3, 9, 10A, 14 etc.

The MCA has amended Companies (Auditors & Audit) Rules 2014. Among other matters, the amendment includes the following-

♦ **Rule 3- Manner and procedure of selection and appointment of auditors etc.**

The requirement of ratification of appointment of statutory auditors at every Annual General Meeting (**AGM**) till the 6th meeting has been done away with.

♦ **Rule 9- Liability to devolve on concerned partners only**

This Rule has been omitted

♦ **Rule 10A**

Statutory Auditors Report should, instead of ‘adequate internal financial control systems’, state about the existence of ‘internal financial controls with reference to FSs’

♦ **Rule 14- Remuneration of the Cost Auditor**

Instead “Cost accountant in practice”, the words “Cost accountant” has been substituted

For details refer: http://www.mca.gov.in/Ministry/pdf/AuditAuditorsRules_07052018.pdf

■ **Companies (Specification of Definition Details) Amendment Rules, 2018**

Notification dated 7th May 2018- omission in Rule 2

MCA has amended Companies (Specification of Definition Details) Rules, 2014. Rule 2(1)(r) defining ‘Total Share Capital’ as aggregate of paid up equity share capital and convertible preference share capital has been **omitted**.

For details refer:

http://www.mca.gov.in/Ministry/pdf/CompaniesSpecificationRules_07052018.pdf

■ **Companies (Registration of Office and Fees) Second Amendment Rules, 2018**

Notification dated 7th May 2018- miscellaneous amendments

The MCA has amended Companies (Registration of Office and Fees) Rules, 2014. Among other matters, amendments relate to the following-

- ♦ Additional fee payable for delay in filing of forms other than for increase in Nominal Share capital or forms under Section 92 (Annual Return) or Section 137 (Copy of FS to be filed with the Registrar).
- ♦ Additional fees @ Rs. 100 per day is payable in case due date for filing Annual Return or FS expires after 30th June 2018.

For details refer:

http://www.mca.gov.in/Ministry/pdf/CompaniesOfficesFeesRules_07052018.pdf

■ **Companies (Significant Beneficial Owners) Rules, 2018**

Notification dated 13th June 2018

The MCA has notified the above Rules for meeting the requirements under Section 90 (Investigation of Beneficial Ownership of shares in certain cases) of the Act. The Rules state that “significant beneficial owner” means an individual referred to in Section 90 holding ultimate beneficial interest of not less than 10% but whose name is not entered in the register of members of a company as the holder of such shares.

The Rules provide procedure for filing declaration of beneficial interest by the significant owner, for filing of return and maintenance of register of companies on such declaration. Rules also provide the forms for filing the aforementioned declaration and return.

These rules are **not applicable** to the holding of shares of companies/body corporates, in case of pooled investment vehicles/investment funds such as Mutual Funds, Alternative Investment Funds (AIFs), Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) regulated under SEBI Act.

For details refer:

http://www.mca.gov.in/Ministry/pdf/CompaniesSignificantBeneficial1306_14062018.pdf

■ **Companies (Management and Administration) Second Amendment Rules, 2018.**

Notification dated 13th June 2018 – Omission of Rule 13 and 15, amendment of Rule 22 etc.

The MCA has amended Companies (Management and Administration) Rules, 2014. Among other matters, amendments relate to the following-

- ♦ **Rule 13- Return of changes in shareholding position of promoters and top ten shareholders**
This Rule has been omitted
- ♦ **Rule 15- Preservation of register of members etc. and annual return.**
This Rule has been omitted

- ♦ **Rule 22- Procedure to be followed for conducting business through postal ballot.-**
Any items of business under sub-rule (6), required to be transacted by means of postal ballot, may be transacted at a general meeting by a company which is required to provide the facility to members to vote by electronic means under Section 108, in the prescribed manner.

For details refer:

http://www.mca.gov.in/Ministry/pdf/Company2ndAmndRule13062018_14062018.pdf

- **Companies (Registered Valuers and Valuation) 2nd Amendment Rules, 2018.**

Notification dated 13th June 2018–Insertion on new sub-rule in Rule 19- Committee to advise on valuation matters.

Companies (Registered Valuers and Valuation) Rules, 2017 has been amended and the Committee formed to advise on valuation matters will also include the Presidents of the Institute of Chartered Accountants of India, the Institute of Company Secretaries of India, the Institute of Cost Accountants of India as ex-officio members.

For details refer:

http://www.mca.gov.in/Ministry/pdf/CompaniesRegisteredRule1306_14062018.pdf

- **Companies (Appointment and Qualification of Directors) 3rd Amendment Rules, 2018.**

Notification dated 13th June 2018 –Substitution of Form DIR-3 and DIR-6

In the Companies (Appointment and Qualification of Directors) Rules, 2014, following Forms have been substituted-

- ♦ **Form DIR 3-** Application for allotment of Director Identification Number before appointment in an existing company or Limited Liability Partnership (LLP)
- ♦ **Form DIR-6** – Intimation of change in particulars of a director/designated partner to be given to the Central Government

For details refer: http://www.mca.gov.in/Ministry/pdf/Cmp3rdAmndRul31206_13062018.pdf

- **Companies (Accounting Standards) Amendments Rules, 2018**

Notification dated 18th June 2018 –Substitution of Paragraph 32 of AS 11

The MCA has amended the Companies (Accounting Standards) Rules, 2006. It has substituted paragraph 32 of AS 11 *The effects of changes in foreign exchange rates.* The amendment states that remittance from a non-integral foreign operation by way of repatriation of accumulated profits does not form part of a disposal unless it constitutes return of the investment.

The amendment is effective from 1st April 2018

For details refer:

http://www.mca.gov.in/Ministry/pdf/CompanyAmendmentRule1806_19062018.pdf

■ **Companies (Acceptance of Deposits) Amendment Rules, 2018.**

Notification dated 5th July 2018 –Amendment of Rule 4 and 13, omission of Rule 5 etc.

The MCA has amended Companies (Acceptance of Deposits) Rules, 2014. Among other matters, amendments relate to the following-

♦ **Rule 4- Form and particulars of advertisements or circulars.**

A certificate of the statutory auditor of the company is required to be attached in Form DPT-1, stating that the company has not committed default in the repayment of deposits or in the payment of interest on deposits accepted either before or after payment of interest on deposits accepted and in case a company had committed a default in the repayment of deposits accepted or in the payment of interest on such deposits, a certificate of the statutory auditor of the company is required to be attached in Form DPT-1, stating that the company had made good the default and a period of 5 years has lapsed since the date of making good the default as the case may be.

♦ **Rule 5- Manner and extent of deposit insurance**

This Rule has been omitted

♦ **Rule 13- Maintenance of liquid assets and creation of Deposit Repayment Reserve (DRR) Account.**

The amount in DRR cannot be below 20%, of the amount of deposits maturing during the FY

These Rules will **come into force on 15th August 2018**

For details refer:

http://www.mca.gov.in/Ministry/pdf/CompaniesAcceptanceDepositsAmendmentRules_06072018.pdf

■ **Companies (Appointment and Qualification of Directors) Fourth Amendment Rules, 2018**

Notification dated 5th July 2018 –Amendment of Rule 11, insertion of new Rule 12A

The MCA has amended Companies (Appointment and Qualification of Directors) Rules, 2014. The amendments relate to the following-

♦ **Rule 11- Cancellation or surrender or Deactivation of DIN**

The Central Government or any officer authorised by the Central Government will deactivate the Director Identification Number (**DIN**), of an individual who does not

intimate his particulars in e-form DIR-3-KYC within stipulated time in accordance with rule 12A. The de-activated DIN will be re-activated only after e-form DIR-3-KYC is filed along with the prescribed fee.

♦ **Rule 12A- Directors KYC**

Every individual who has been allotted a DIN as on 31st March of a FY as per these Rules is required to submit e-form DIR-3-KYC to the Central Government on or before 30th April of immediate next FY. However, if DIN has been allotted as on 31st March 2018, e- form DIR-3 KYC has to be **submitted on or before 31st August 2018**

These Rules will **come into force from 10th July 2018**.

For details refer:

http://www.mca.gov.in/Ministry/pdf/CompaniesAppointmentQualificationRules_06072018.pdf

■ **Companies (Authorised to Register) Second Amendment Rules, 2018**

Notification dated 5th July 2018 –Amendment of Rule 2, Substitution of Rule 3 etc.

The MCA has amended Companies (Authorised to Register) Rules, 2014. Among other matters, amendments relate to the following-

♦ **Rule 2-Definitions**

Definitions of ‘Society’, ‘Trust’, ‘Register of Firms’, ‘Register of Trusts’ has been inserted

♦ **Rule 3-entire Rule has been substituted**

This Rule requires that there should be 2 or more members for the purposes of registration of a company under this sub-rule and a company with less than 7 members will register as a private company.

These Rules will **come into force on 15th August 2018**

For details refer:

http://www.mca.gov.in/Ministry/pdf/CompaniesAuthorisedRegister_06072018.pdf

■ **Companies (Registration of Charges) Amendment Rules, 2018**

Notification dated 5th July 2018 –Amendment of Rule 8, 12 etc.

The MCA has amended Companies (Registration of Charges) Rules, 2014. Among other matters, amendments relate to the following-

♦ **Rule 8- Satisfaction of charge**

A company or charge holder should within a period of 300 days from the date of the payment or satisfaction in full of any charge registered under Chapter VI, give intimation of the same to the Registrar in Form No.CHG-4 along with the fee.

♦ **Rule 12- Condonation of delay and rectification of register of charges**

Where the satisfaction of the charge is not filed within a period of 300 days (*earlier 30 days*) from the date on which such payment of satisfaction, the Registrar will not register the same unless the delay is condoned by the Central Government.

For details refer

http://www.mca.gov.in/Ministry/pdf/CompaniesRegistrationChargesRules_06072018.pdf

■ **Companies (Registration Offices and Fees) Third Amendment Rules, 2018
Notification dated 5th July 2018 –Amendment of Annexure**

The MCA has amended Companies (Registration Offices and Fees) Rules, 2014. The amendments states that for the current FY (2018-2019), no fee for filing DIR-3 KYC will be chargeable till the 31st August, 2018 and fee of Rs.5,000 will be payable on or after the 1st September 2018

These Rules will **come into force on 10th July 2018**

For details refer

http://www.mca.gov.in/Ministry/pdf/CompaniesRegistrationOfficesFeesRle_06072018.pdf

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● **Circulars/Other Updates from the Ministry of
Corporate Affairs (MCA)**

Circulars

■ **Clarification with regard to provisions under Section 135 (5) of the
Companies Act, 2013.**

Circular No. 06/2018 dated 28th May 2018

The first proviso to Section 135(5) (CSR) of the Companies Act, 2013, requires that the company will give preference to the local areas around which it operates, for spending the amount earmarked for Corporate Social Responsibilities (**CSR**) activities. The MCA has reiterated that these provisions have to be followed in letter and spirit

For details refer: http://www.mca.gov.in/Ministry/pdf/GeneralCircular2805_29052018.pdf

Other Updates

■ **KYC of all Directors**

As part of updating its registry, MCA would be conducting **KYC of all Directors** of all companies annually through a new e-form viz. **DIR-3 KYC** to be notified and deployed shortly. Accordingly, every Director who has been allotted DIN on or before 31st March, 2018 and whose DIN is in 'Approved' status would be mandatorily required to file form DIR-3 KYC **on or before 31st August 2018**. While filing the form, the **Unique Personal Mobile Number and Personal Email ID** would have to be mandatorily indicated and would be duly verified by **One Time Password (OTP)**. The form should be filed by every Director using his own DSC and should be duly certified by a practicing professional (CA/CS/CMA). Filing of DIR-3 KYC would be **mandatory for Disqualified Directors also**.

After expiry of the due date by which the KYC form is to be filed, the MCA21 system will mark all approved DINs (allotted on or before 31st March 2018) against which DIR-3 KYC form has not been filed as **'Deactivated'** with reason as *'Non-filing of DIR-3 KYC'*. After the due date filing of DIR-3 KYC in respect of such deactivated DINs shall be allowed upon payment of a specified fee only, without prejudice to any other action that may be taken

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

Circulars

■ Guidelines for issuance of debt securities by Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs)

Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2018/71 dated 13th April 2018

The SEBI has issued Guidelines for the issuance of debt securities by REITs and InvITs. Some key points for the issuance of debt securities as required by the guidelines are as follows:

- ◆ REITs/InvITs will follow provisions of SEBI (Issue and Listing of Debt Securities Regulations), 2008, subject to certain conditions.
- ◆ REITs/InvITs will appoint 1 or more debenture trustee(s) registered with the SEBI under SEBI (Debenture Trustees) Regulations, 1993.
- ◆ In addition to the disclosure and compliances prescribed under circular on **Continuous disclosures and compliances by REIT dated 29th December 2016** and **Continuous disclosures and compliances by InvITs dated 29th November 2016**, REITs/InvITs will be required to comply with following continuous disclosure requirements:
 - ▲ Regulations 50, 51, 54, 55, 56, 57, 58, 59 and 60 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) and any other provisions of the aforesaid regulations as may be applicable to REITs/InvITs.
 - ▲ Additional line items, which include certain ratios, will be disclosed by REITs/InvITs as stated in the guidelines.
 - ▲ Modified opinion(s) in audit reports having a bearing on the interest payment or redemption or principal repayment capacity of the REITs/InvITs will be appropriately and adequately addressed by the board of the manager while publishing the accounts for the said period.
- ◆ REITs/InvITs will submit to the stock exchange on a half-yearly basis along with the half-yearly financial results, a statement indicating material deviations, if any, in the use of proceeds from the issue of debt securities from the objects stated in the offer document.

For details refer:

<https://www.sebi.gov.in/legal/circulars/apr-2018/guidelines-for-issuance-of-debt-securities-by-real-estate-investment-trusts-reits-and-infrastructure-investment-trusts-invits-38693.html>

For details of circular dated 29th December 2016 refer:

<https://www.sebi.gov.in/legal/circulars/dec-2016/continuous-disclosures-and-compliances-by-reits-33918.html>

For details of circular dated 29th November 2016 refer:

https://www.sebi.gov.in/legal/circulars/nov-2016/continuous-disclosures-and-compliances-by-invits_33736.html

■ **Total Expense Ratio (TER) for Mutual Funds**

Circular No. SEBI/HO/IMD/DF2/CIR/P/2018/91 dated 5th June 2018

SEBI Circular No. SEBI/HO/IMD/DF2/CIR/P/2018/18 dated 5th February 2018 on ‘Total Expense Ratio – Change and Disclosure’ (https://www.sebi.gov.in/legal/circulars/feb-2018/total-expense-ratio-change-and-disclosure_37707.html) has been modified. Amongst other matters, it states that-

AMCs should prominently disclose on a daily basis, the TER (scheme-wise, date-wise) of all schemes under a separate head – “Total Expense Ratio of Mutual Fund Schemes” on their website and on the website of AMFI in downloadable spreadsheet format as specified

For details refer: https://www.sebi.gov.in/legal/circulars/jun-2018/total-expense-ratio-for-mutual-funds_39187.html

Notifications

■ **SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations)**

SEBI has issued certain amendments to the Listing Regulations. These amendments give effect to the approved recommendations of the Kotak Committee on Corporate Governance. **(Committee)**. This Committee under the Chairmanship of Shri Uday Kotak aims in improving corporate governance standards of listed companies in India.

The Amendment Regulations contain significant changes related to matters such as the composition, role and functioning of the board and its committees including independent directors, corporate governance, related party transactions, promoter-related arrangements, enhancing transparency and disclosures, strengthening the financial reporting and audit oversight functions and submission/ publication of quarterly and other periodic information to the stock exchanges.

Except for the matters specifically provided in the amendment regulations, these changes will **come into force with effect from 1st April 2019.**

Regulations notified are-

- ♦ **SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018**
Notification No. SEBI/LAD-NRO/GN/2018/06 dated 9th May 2018
https://www.sebi.gov.in/legal/regulations/may-2018/sebi-listing-obligations-and-disclosure-requirement-amendment-regulations-2018_38898.html
- ♦ **SEBI (Listing Obligations and Disclosure Requirements) (2nd Amendment) Regulations, 2018**
Notification No. SEBI/LAD-NRO/GN/2018/13 dated 29th May 2018
https://www.sebi.gov.in/legal/regulations/may-2018/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-second-amendment-regulations-2018_39188.html
- ♦ **SEBI (Listing Obligations and Disclosure Requirements) (3rd Amendment) Regulations, 2018**
Notification No. SEBI/LAD-NRO/GN/2018/21 dated 31st May 2018
https://www.sebi.gov.in/legal/regulations/jun-2018/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-third-amendment-regulations-2018_39204.html
- ♦ **Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (4th Amendment) Regulations, 2018**
Notification No. SEBI/LAD-NRO/GN/2018/24 dated 4th June 2018
https://www.sebi.gov.in/legal/regulations/jun-2018/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-fourth-amendment-regulations-2018_39263.html

There are a few recommendations as accepted by SEBI, which are to be implemented through issue of a **Circular No. SEBI/HO/CFD/CMD/CIR/P/2018/79 dated 10th May 2018** (https://www.sebi.gov.in/legal/circulars/may-2018/circular-for-implementation-of-certain-recommendations-of-the-committee-on-corporate-governance-under-the-chairmanship-of-shri-uday-kotak_38905.html)

Accordingly, the following provisions will apply to entities whose equity shares are listed on a recognised stock exchange-

- ▲ Disclosures on Board Evaluation:
- ▲ Group Governance Unit:
- ▲ Medium-term and long-term strategy:

Clause 4.4 of the SEBI **Circular No. CIR/CFD/CMD/56/2016 dated 27th May 2016**, pertaining to impact of audit qualifications not quantified by the auditor has been deleted. (https://www.nseindia.com/content/equities/SEBI_Circular_27052016.pdf)

▪ **Amendment to SEBI (REIT) (Amendment) Regulations, 2018 and SEBI (InvITs) (Amendment) Regulations, 2018**

The SEBI has notified the following amendments:

♦ **SEBI (REIT) (Amendment) Regulations, 2018**

Notification No. SEBI/LAD-NRO/GN/2018/06 dated 10th April 2018

Some of the significant amendments introduced are-

▲ Definition of real estate assets and REIT assets clarified

The definition of 'real estate assets' and 'REIT assets' has been amended to clarify that such assets held on a freehold or leasehold basis, whether directly or through a holding company and/or a special purpose vehicle. .

▲ Amendment to the meaning of a 'sponsor group' with respect to eligibility while applying for a certificate of registration

While considering the eligibility of the entities categorised as the sponsor group, only the following persons or entities shall be considered:

- (i) a person or entity who is directly or indirectly holding an interest or shareholding in any of the assets or special purpose vehicles or holding companies proposed to be transferred to the REIT,
- (ii) a person or entity who is directly or indirectly holding units of the REIT on post-issue basis and
- (iii) a person or entity whose experience is being utilised by the sponsor for meeting with the eligibility conditions required under the SEBI REIT Regulation 4(2)(d)(iii).

For details refer:

https://www.sebi.gov.in/legal/regulations/apr-2018/securities-and-exchange-board-of-india-real-estate-investment-trusts-amendment-regulations-2018_38638.html

♦ **SEBI (InvITs) (Amendment) Regulations, 2018.**

Notification No. SEBI/LAD-NRO/GN/2018/06 dated 10th April 2018

Some of the significant amendments introduced are-

▲ Definition of 'institutional investor'

An institutional investor has been defined to mean a (a) qualified institutional buyer or (b) family trust or systematically important NBFCs registered with the RBI or intermediaries registered with SEBI, all with net-worth of more than Rs. 500 crore, as per their last audited FS.

▲ Requirement to file a 'final placement document'

There is a requirement to file a final placement memorandum with SEBI within 10 working days of listing of the units.

For details refer:

https://www.sebi.gov.in/legal/regulations/apr-2018/sebi-infrastructure-investment-trusts-amendment-regulations-2018_38637.html

Press Release

■ **The SEBI board decision on Review of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009**

PR No.20/2018 Report dated 21st June 2018

The SEBI in its board meeting held on 21st June 2018, among other matters, approved the proposed *SEBI (Issue of Capital and Disclosure Requirements) Regulations, ("ICDR Regulations") 2018*. Some of the other key proposals approved by the Board were as follows-

- ◆ Financial Disclosures in case of public issues/ rights issues:
 - ▲ Financial disclosures to be made for 3 years as against the present duration of 5 years
 - ▲ Restated and **audited** financial disclosures in the offer document to be made on consolidated basis only. **Audited** standalone financials of the issuer and material subsidiaries to be disclosed on the website of the issuer company.
 - ▲ Incorporation of the principles governing disclosures of Indian Accounting Standards (Ind AS) in Indian GAAP (IGAAP) Financials.
- ◆ Disclosures of group companies:

Definition of group companies has been made more specific by clarifying that group company/ies, should include such companies (other than promoter(s) and subsidiary (ies)) with which there were related party transactions, during the period for which financial information is disclosed (3 years), as covered under the applicable accounting standards and also other companies as considered material by the board of the issuer

For details refer: https://www.sebi.gov.in/media/press-releases/jun-2018/sebi-board-meeting_39324.html

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● Others

■ Limited Liability Partnership (Amendment) Rules, 2018.

The MCA has issued the above Rules to amend Limited Liability Partnership Rules, 2009. The amended Rules require that-

- ◆ Every individual, who intends to be appointed as a designated partner of an existing LLP should make an application electronically in Form DIR-3 under the Companies (Appointment and Qualifications of Directors) Rules, 2014 for obtaining DPIN under the LLP Act, 2008 and such DIN will be sufficient for being appointed as designated partner under the LLP Act, 2008.
- ◆ Every individual who has been allotted a DPIN or DIN under these rules, should in the event of any change in his particulars, make an application in Form DIR-6 under Companies (Appointment and Qualifications of Directors) Rules, 2014 to intimate such change to the Central Government within a period of 30 days of such change

For details refer: http://www.mca.gov.in/Ministry/pdf/LLPAmndRule1206_13062018.pdf

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Accountancy and Audit

● Indian Valuation Standards

The ICAI issues Valuation Standards as a benchmark for Valuation Practices applicable for Chartered Accountants

Recognising the need to have the consistent, uniform and transparent valuation policies and harmonise the diverse practices in use in India, the Council of the ICAI has issued Valuation Standards as a benchmark for valuation practices applicable to Chartered Accountants.

The following Valuation Standards have been issued by ICAI:

- ◆ Preface to the Indian Valuation Standards
- ◆ Framework for the Preparation of Valuation Report in accordance with the Indian Valuation Standards
- ◆ Indian Valuation Standard 101 – *Definitions*
- ◆ Indian Valuation Standard 102 - *Valuation Bases*
- ◆ Indian Valuation Standard 103 - *Valuation Approaches and Methods*
- ◆ Indian Valuation Standard 201 - *Scope of Work, Analyses and Evaluation*
- ◆ Indian Valuation Standard 202 - *Reporting and Documentation*
- ◆ Indian Valuation Standard 301 - *Business Valuation*
- ◆ Indian Valuation Standard 302 - *Intangible Assets*
- ◆ Indian Valuation Standard 303 - *Financial Instruments*

The Valuation Standards have been issued by the ICAI to set up concepts, principles and procedures which are generally accepted internationally having regard to legal framework and practices prevalent in India.

Applicability of Valuation Standards:

These Indian Valuation Standards will be **applicable for all valuation engagements on mandatory basis under the Companies Act 2013**. In respect of **valuation engagements under other statutes like Income Tax, SEBI, FEMA etc. it will be on recommendatory basis** for the members of the Institute.

These **Valuation Standards are effective for the valuation reports issued on or after 1st July 2018**.

Note: These Indian Valuation Standards **will be effective till** Valuation Standards are notified

by the Central Government under Rule 18 of the Companies (Registered Valuers and Valuation) Rules, 2018.

For details refer: <https://resource.cdn.icai.org/50484clcg100618.pdf>

● ICAI Publications/Announcements

■ Implementation Guide (IG) (on Reporting Standards (Revised SA 700, Revised SA 705 and Revised SA 706))

The scope of this IG is limited to SA 700 (Revised), *Forming and Opinion and Reporting on Financial Statements*, SA 705 (Revised), *Modifications to the Opinion in the Independent Auditor's Report* and SA 706 (Revised), *Emphasis of Matter Paragraph and Other Matter Paragraph in the Independent Auditor's Report* that deal with how to form an audit opinion, reach audit conclusions and issue different types of auditor's reports

To provide guidance to the members on these standards so that they can discharge their reporting responsibilities under these standards effectively, the Auditing and Assurance Standards Board of the ICAI has issued the above IG.

These standards are **effective for audits** of FS for **periods beginning on or after 1st April 2018**.

For details refer: <https://resource.cdn.icai.org/50035aasb39630.pdf>

■ Frequently Asked Questions (FAQ) on accounting treatment of increase in liability due to enhancement of the gratuity ceiling

The Accounting Standard Board of the ICAI has issued the FAQ on accounting treatment of increase in liability on account of enhancement of the gratuity ceiling from Rs. 10 lakhs to Rs.20 Lakhs due to the Payment of Gratuity (Amendment) Act 2018. The purpose of this FAQ is to clarify the accounting treatment of increase in liability due to enhancement of the gratuity ceiling.

The FAQ states that increase in the liability arising due to enhancement of the gratuity ceiling is a past service cost. Accordingly, it should be accounted for as an expense as per the requirements of the relevant applicable standard i.e. Ind AS 19-*Employee Benefits* or AS 15-*Employee Benefits*.

For details refer: <https://resource.cdn.icai.org/50220asb39816.pdf>

- **FAQ on SA 570 (Revised) - Going Concern (Applicable for audits of FY 2017-18)**

SA 570 (Revised) is applicable for audits of financial statements for periods beginning on or after 1st April 2017. To clarify the implementation issues of SA 570 (Revised) for the audit of Financial Year (FY) 2017-18, ICAI has issued the above FAQs

For details refer: <https://resource.cdn.icai.org/50282aasb39914.pdf>

- **Technical guide on understanding Income Tax Return Forms for AY 2018-19**

The CBDT has recently notified the new ITR Forms applicable for AY 2018- 19. These ITR Forms contain significant changes which need due analysis. The Direct Taxes Committee of ICAI has issued captioned Technical Guide. This publication covers key changes made in the ITR Forms, their implications and procedural aspects concerned with filling in various columns of such returns

For details refer: <https://resource.cdn.icai.org/50544dte150618.pdf>

- **Ind AS**

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

For details refer:

<https://www.cnkindia.com/uploads/attachments/IFRS/IndASUpdateJuly2018.pdf>

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Annexure I

Provisions of the Amendment Act which have come into force on 7th May 2018

Sr. No.	Sections of the Amendment Act	Corresponding Sections of the 2013 Act	Nomenclature of Sections of 2013 Act
1	2 [clauses (i) and (xiii)]	2(6) 2(87)	Definition of Associate Company Definition of Subsidiary Company
2	8	26	Matters to be stated in the prospectus
3	13	54	Issue of sweat equity shares
4	18	77	Duty to register charges, etc.
5	19	78	Application for registration of charge
6	21 [clauses (i) and (ii)]	89	Declaration in respect of beneficial interest in any share
7	23 [clauses (iii) and (iv)]	92	Annual Return
8	30	117	Resolutions and agreements to be filed.
9	31	121	Report on AGM
10	33	129	Financial Statement (FS)
11	39	137	Copy of FS to be filed with Registrar
12	40	139	Appointment of auditors
13	46	149	Company to have Board of Directors
14	49	157	Company to inform Directors
15	52	164	Disqualifications for appointment of director
16	54	167	Vacation of office of director
17	55	168	Resignation of director
18	56	173	Meeting of Board
19	57	177	Audit Committee
20	58	178	Nomination and remuneration committee and stakeholders relationship committee
21	61	185	Loan to Directors etc.
22	62	186	Loan and Investment by company
23	80 [1 st proviso to clause (i) and clause (ii)]	403	Fee for filing etc.

Sr. No.	Sections of the Amendment Act	Corresponding Sections of the 2013 Act	Nomenclature of Sections of 2013 Act
24	83	410	Constitution of Appellate Tribunal
25	86	435	Establishment of Special Courts
26	87	438	Application of Code to proceedings before a special court
27	88	439	Offences to be non-cognizable
28	89	440	Transitional provisions

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Annexure II

Provisions of the Amendment Act which have come into force on 13th June 2018

Sr. No.	Sections of the Amendment Act	Corresponding Sections of the 2013 Act	Nomenclature of Sections of 2013 Act
1	22	90	Register of significant beneficial owners in a company
2	21(iii)	89(10)	Declaration in respect of beneficial interest in any share
3	24	93	Return to be Filed with Registrar in Case Promoters' Stake Changes (Omitted)
4	25	94	Place of keeping and Inspection of Registers, Returns, etc.
5	26	96	AGM
6	71	216	Investigation of Ownership of Company

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Annexure III

Provisions of the Amendment Act which will come into force on 15th August 2018

Sr. No.	Sections of the Amendment Act	Corresponding Sections of the 2013 Act	Nomenclature of Sections of 2013 Act
1	15	73	Prohibition on Acceptance of Deposits from Public
2	16	74	Repayment of Deposits etc. accepted before the Commencement of this Act
3	75	366	Companies capable of being registered
4	76	374	Obligations of companies registering under this Part

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