



**Private Circulation Only*

Newsletter for March, 2015 **By Amita Desai & Co.**



We love to serve and add value to business of our clients



Mumbai Off :

404 | Flyover Apt | Andheri Flyover,
Opp Telli Galli | Next to HUB Town
Andheri (East) | Mumbai - 400 069 | India

Landline : +91-22- 2684-5920/21

Fax : +91-22- 6678-7499

Mobile : +91-982-017-7691

Hyderabad Off :

My Home Hub, 4th Floor, C Block, Madhupur,
Hi-Tech City, Hyderabad, AP 500 081

Amita Desai & Co. Company Secretaries, Mumbai, India

Preview:

	Page No.
1. Regulatory Updates	
i. MCA	1 - 7
ii. RBI	8 - 16
2. SEBI	17 - 23
3. Article of the Month	24 - 27
4. Inspirational Quotes	27 - 28





MCA UPDATES:

A. Clarification relating to filing of e-form DIR-11 & DIR-12 under the Companies Act, 2013:

- MCA vide Circular 3 dated 3rd March, 2015 issued clarification relating to filing of e-form DIR-11 & DIR-12 under the Companies Act, 2013.
- The stakeholders faced difficulties due to deactivation of Digital signature certificate (DSC) following *en masse* resignation of all the directors of a company before appointment of new directors in their places. The difficulty arose because of automatic deactivation of DSC on filing of DIR-11 (Notice of resignation of a Director to the Registrar) by the resigned/resigning Director (s), and none of the new Director's details having been filed. As a result, Form-DIR-12 (Particulars of appointment of Directors and the key managerial personnel and the changes among them) cannot be filed by a company due to lack of an authorized signatory Director.
- The Ministry of Corporate Affairs (MCA) clarified that the Registrar of Companies within their respective jurisdictions are authorized, on request from the stakeholders, and after due examination, to allow anyone of the resigned director who was an authorized signatory Director for the purpose of filing DIR-12 only along with additional fees, as applicable and subject to compliance of other provisions of Companies Act, 2013.
- The link of the Circular is as follows:
http://www.mca.gov.in/Ministry/pdf/General_Circular_03_2015.pdf

B. Clarification with regards to section 185 and 186 of the Companies Act 2013 - loans and advances to employees:

- MCA vide General Circular No. 04/2015 dated March 10 2015, issued Clarification with regards to section 185 and 186 of the Companies Act, 2013. The key highlights of the said Circular are as follows:
- The Ministry of the Corporate affairs (MCA) received a number of references seeking clarification on the applicability of provisions of section 186 of the Companies Act, 2013 relating to grant of loans and advances by Companies to their employees.
- Therefore, the MCA clarified that loans and/or advances made by the Companies to their employees, other than the Managing or Whole Time Directors (WTD) (which is governed by section 185) are not governed by the requirements of section 186 of the Companies Act, 2013.
- The MCA further clarified that it will be applicable if the loans/advances to employees are in accordance with the terms and conditions of service applicable to employees and are also in accordance with the remuneration policy if any required to be formulated.
- Hence it is concluded that the Company can grant the loans and advances to the employee of the Company as per the terms and conditions prescribed in service agreement.
- The link of the said circular is as follows:
http://www.mca.gov.in/Ministry/pdf/Circular_04_10032015.pdf

C. Companies (Share Capital and Debenture) Amendment Rules, 2014.

- MCA vide Notification dated 18th March 2015 made certain amendments in Rules made under the Companies (Share Capital and Debenture) Rules, 2014.
- Issue of Duplicate Share Certificates by listed Company the time limit is extended from 15 days to 45 days from the date of submission of complete documents with the Company.
- ESOP cannot be granted to employee of an Associate Company. Associate Company means any Company in which the other Company has control of at least 20% of total share capital or of business decisions under an agreement.

- Private Placement Offer in PAS 4 is not required if the Preferential offer is made by the Company to one or more existing members only.
- Debentures can be secured against movable property (including pledge) and charge may be created by NBFC Company and also by holding Company if the loan is taken by subsidiary Company from Bank or Financial Institutions created on the properties of holding Companies.
- Debenture Trust Deed can be created in 3 months from the closure of the issue or offer instead of in 60 days of Allotment of Debentures.
- New Sub Rule No. 9 and 10 is added under Rule No. 8 of giving exemption from the Rules of Debenture, for any amount received by the Company against commercial paper or other instrument and for FCCB and FCB issued in accordance with the guidelines or regulation or notifications issued by the RBI.
- Form SH - 13 is substituted for SH - 14 for the purpose of nomination by securities holders.
- The link of the said notification is as follows:
http://www.mca.gov.in/Ministry/pdf/Chapter4_Rules_19032015.pdf

D. Companies (Meetings of Board and its Powers) Amendment Rules, 2014.

- MCA vide Notification dated 18th March 2015 made certain amendments in Rules made under the Companies (Meetings of Board and its Powers) Rules, 2014.
- As per Rule No. 8 of the Companies (Meetings of Board and its Powers) Rules, 2014 following resolutions were required to be passed at the meeting of the Board and Form MGT- 14 need to be filed in 30 days from the date of meeting.

The same is amended as follow by omitting the following pt 2 and 5 to 9 (Red Marked)

1. To make political contributions;
2. To appoint or remove key managerial personnel (KMP);
3. To take note of appointment(s) or removal(s) of one level below the Key Management Personnel;

4. To appoint internal auditors and secretarial auditor;
5. To take note of the disclosure of director's interest and shareholding;
6. To buy, sell investments held by the Company (other than trade investments), constituting five percent or more of the paid up share capital and free reserves of the investee Company;
7. To invite or accept or renew public deposits and related matters;
8. To review or change the terms and conditions of public deposit;
9. To approve quarterly, half yearly and annual financial statements or financial results as the case may be.

➤ The link of the said notification is as follows:

http://www.mca.gov.in/Ministry/pdf/Chapter12_Rules_19032015.pdf

E. Companies (Management and Administration) Amendment Rules, 2014

- MCA has vide notification dated 19th March 2015 amended Rule 20 of the Companies (Management and Administration) Rules, 2014.
- MCA has substituted Rule No. 20 with the revised Rule on E Voting facilities to be given to shareholders for voting in general meetings for every listed Company and companies having more than 1000 shareholders.
- The link of the said notification is as follows:
http://www.mca.gov.in/Ministry/pdf/Chapter7_Rules_19032015.pdf

F. Appointment of Registrars of Companies as Adjudicating Officers

- The Central Government vide notification dated 24th March, 2015 appointed Registrars of Companies as adjudicating officers for the purposes of Companies Act, 2013 in respect of jurisdictions indicated against each Registrar as detailed in the notification.
- The link of the Notification is as follows:
http://www.mca.gov.in/Ministry/pdf/Notification_26032015.pdf

G. Companies (Acceptance of Deposits) Rules, 2014

- MCA vide Circular dated 30th March, 2015 gave clarifications with reference to amounts received by private companies from their members, directors or their relatives before 1st April, 2014.
- Clarifications were sought as to whether amounts received by private companies from their members, directors or their relatives prior to 1st April, 2014 shall be considered as deposits under the Companies Act, 2013 as such amounts were not treated as 'deposits' under section 58A of the Companies Act, 1956 and rules made there under.
- MCA clarified that such amounts received by private companies prior to 1st April, 2014 shall not be treated as 'deposits' under the Companies Act, 2013 and Companies (Acceptance of Deposits) Rules, 2014, subject to the condition that relevant private company shall disclose, in the notes to its financial statement for the financial year commencing on or after 1st April, 2014 the figure of such amounts and the accounting head in which such amounts have been shown in the financial statement.
- The MCA further clarified that any renewal or acceptance of fresh deposits on or after 1st April, 2014 shall, however, be in accordance with the provisions of Companies Act, 2013 and rules made there under.
- The link of the notification is as below:
http://www.mca.gov.in/Ministry/pdf/General_Circular_5-2015.pdf

H. Delegation of Powers to Regional Directors.

- MCA vide Draft Notification dated 31st March, 2015 delegated powers to Regional Directors.
- In exercise of the powers conferred by section 458 of the Companies Act, 2013 (18 of 2013), the Central Government delegated to the Regional Directors at Mumbai, Kolkata, Chennai, Noida, Ahmedabad, Hyderabad and Shillong, the powers and functions vested in it under sub-section (5) of section 94 of the Companies Act, 2013, subject to the condition that the Central Government may revoke such delegation of powers or may itself exercise the powers under the said sub-section, if in its opinion such a course of action is necessary in the public interest.
- The link of the notification is as below:
<http://www.mca.gov.in/Ministry/pdf/DelegationPowersNotification01042015.pdf>

I. Companies (Acceptance of Deposits) Amendment Rules, 2015.

➤ MCA vide Draft Notification dated 31st March, 2015 issued the Companies (Acceptance of Deposits) Amendment Rules, 2015.

➤ In the Companies (Acceptance of Deposits) Rules, 2014, -

(1) In rule 2, in sub-rule (I), in clause (c),-

(a) In sub-clause (vii), in Explanation (a), the following proviso shall be inserted, namely:-

“Provided that unless otherwise required under the Companies Act, 1956 (I of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or rules or regulations made there under to allot any share, stock, bond, or debenture within a specified period, if a company receives any amount by way of subscriptions to any shares, stock, bonds or debentures before the 1st April, 2014 and disclosed in the balance sheet for the financial year ending on or before the 31st March, 2014 against which the allotment is pending on the 31st March, 2015, the company shall, by the 1st June 2015, either return such amounts to the persons from whom these were received or allot shares, stock, bonds or debentures or comply with these rules.”

(b) In sub-clause (xii), in item (b),

(A) for the words "**consideration for property**", the words "**consideration for an immovable property**" shall be substituted;

(B) for the words "**against the property**", the words "**against such property**" shall be substituted;

(c) In sub-clause (xii), in the Explanation, for the words "**referred to in the first proviso**", the words "**referred to in the proviso**" shall be substituted;

(2) In rule 3, after sub-rule (7), the following sub-rule shall be inserted, namely:-

"(8) Every eligible company shall obtain, at least once in a year, credit rating for deposits accepted by it in the manner specified herein below and a copy or the rating shall be sent to the Registrar of Companies along with the return of deposits in Form DPT-3;

Name of the Agency	Minimum Investment Grade Rating
(a) The Credit Rating Information Services of India Ltd	FA- (FA Minus)
(b) ICRA Ltd.	MA- (MA Minus)
(c) Credit Analysis and Research Ltd.	CARE BBB(FD)
(d) Fitch Ratings India Private Ltd.	tA-(ind)(FD)
(e) Brickwork Ratings India Pvt. Ltd.	BWR F A
(f) SME Rating Agency of India Ltd.	SMERA A"

(3) In rule 5, in sub-rule (I), for the proviso, the following proviso shall be substituted, namely:-

"Provided that the companies may accept deposits without deposit insurance contract till the 31st March, 2016 or till the availability or a deposit insurance product, whichever is earlier,

- The Form DPT-3 is attached to the Notification.
- The link of the notification is as below:
<http://www.mca.gov.in/Ministry/pdf/AcceptanceDepositsAmendmentRules01042015.pdf>



RBI UPDATES:

A. External Commercial Borrowing (ECB) Policy — Review of all-in-cost ceiling:

- The Reserve Bank of India (RBI) vide Circular No.80 dated March 3, 2015 issued clarification for Foreign Direct Investment in Pharmaceuticals sector.
- On a review of A.P. (DIR Series) Circular No. 17 dated July 28, 2014 relating to the all-in-cost ceiling for ECB it was decided that the all-in-cost ceiling as specified under paragraph 2 of A.P. (DIR Series) Circular No. 99 dated March 30, 2012 will continue to be applicable till March 31, 2015 and is subject to review thereafter. All other aspects of ECB policy remained unchanged.
- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/APDIR80NT0315.pdf>

B. Liquidity Adjustment Facility – Repo and Reverse Repo Rates:

- The Reserve Bank of India (RBI) vide Circular No.487 dated March 4, 2015 specified Repo and Reverse Repo Rates Liquidity Adjustment Facility.
- As announced by the Governor, it was decided to reduce the Repo rate under the Liquidity Adjustment Facility (LAF) by 25 basis points from 7.75 per cent to 7.50 per cent with immediate effect.
- Consequent to the change in the Repo rate, the Reverse Repo rate under the LAF was adjusted to 6.50 per cent with immediate effect.

- All other terms and conditions of the current LAF Scheme were kept unchanged.
- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/487LAFRR04032015.pdf>

C. Marginal Standing Facility:

- The Reserve Bank of India (RBI) vide Circular No.488 dated March 4, 2015 announced criteria for Marginal Standing Facility.
- As announced by the Governor, it was decided to reduce the Repo rate under the Liquidity Adjustment Facility (LAF) by 25 basis points from 7.75 per cent to 7.50 per cent with immediate effect.
- Consequent to the change in the Repo rate, the Marginal Standing Facility (MSF) rate was adjusted to **8.50 per cent** with immediate effect.
- All other terms and conditions of the current MSF scheme were kept unchanged.
- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/MSFRR04032015.pdf>

D. Acquisition/transfer of immovable property – Prohibition on citizens of certain countries:

- The Reserve Bank of India (RBI) vide Circular No.83 dated March 11, 2015 gave clarifications in respect of Prohibition on citizens of certain countries for Acquisition/transfer of immovable property.
- According to Regulation 7 of Foreign Exchange Management (Acquisition and Transfer of immovable property in India) Regulations, 2000 notified vide Notification No. FEMA 21/2000-RB dated 3rd May 2000 in terms of which no person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan without prior permission of the Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding five years.
- It was observed that Macau and Hong Kong are the two Special Administrative Regions of China. As they are notified separately, it was decided, in consultation with the Government of India, that citizens of Macau and Hong Kong will also be included in the list of countries which are prohibited to acquire/transfer immovable property in India in terms of Regulation 7 of FEMA *ibid*.

- Reserve Bank has since amended the Principal Regulations through the Foreign Exchange Management (Acquisition and Transfer of immovable property in India) (Amendment) Regulations, 2015 notified vide Notification No. FEMA.335/2015-RB dated February 4, 2015 c.f. G.S.R. No.120 (E) dated February 24, 2015.
- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/83APDIR032015.pdf>

E. Designated Director- Amendment to section 13(2) of Prevention of Money laundering Act (PMLA) 2002:

- The Reserve Bank of India (RBI) vide Circular No. 501 dated March 16, 2015 issued clarifications for appointment of Designated Director to ensure compliance with the obligations under the Prevention of Money Laundering (Amendment) Act, 2012.
- As per Circular DNBS (PD).CC.No.378/03.10.42/2013-14 dated May 29, 2014 wherein NBFCs were advised to nominate a Director on their Boards as “Designated Director” to ensure compliance with the obligations under the Prevention of Money Laundering (Amendment) Act, 2012.
- In this connection, it was clarified that NBFCs can also designate a person who holds the position of senior management or equivalent as a “Designated Director”. However, in no case, the Principal Officer should be nominated as the “Designated Director”.
- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/22DNBRPD160315.pdf>

F. T+2 settlements for outright secondary market transactions in Government Securities undertaken by Foreign Portfolio Investors and reported on NDS-OM:

- The Reserve Bank of India (RBI) issued Circular No.507 dated March 20, 2015 for T+2 settlements for outright secondary market transactions in Government Securities undertaken by Foreign Portfolio Investors and reported on NDS-OM.
- As per paragraph 27 of the fourth bi-monthly Monetary Policy Statement 2014-15 wherein it was announced that in order to address operational issues faced by foreign portfolio investors (FPIs) and long term foreign investors, they will be provided extended reporting timings on trade date and an option for T+2 settlements for secondary market OTC trades in government securities.

- In this connection, a reference was invited to RBI circular IDMD.PDRS./4783/10.02.01/2004-05 dated May 11, 2005 on T+1 settlement in Government securities market.
- It was decided in consultation with market participants, to permit settlements on T+2 basis for outright secondary market transactions in Government Securities undertaken by FPIs and reported on NDS-OM, subject to following conditions:
 1. All sale and purchase transactions in Government securities, where at least one of the parties is an FPI, will be settled only on T+2 basis. These will include deals between a domestic entity and an FPI, deals between two FPIs of different custodians, deals between a custodian and its FPI Gilt Account Holder, and deals between two FPI Gilt account Holders of the same custodian.
 2. All other trades not involving an FPI will continue to settle on T+1 basis.
 3. Custodian bank of the FPI selling the security or the counterparty entity selling the security to the FPI will have to report the deal on trade date itself within the prescribed reporting time.
 4. Custodian bank of the FPI buying the security can report the deal till next business day upto prescribed reporting time.
- Guidelines on DVP III settlement issued vide circular IDMD.PDRS.05/10.02.01/2003-04 dated March 29, 2004 and as updated from time to time shall continue to apply for such transactions settled on T+2 basis.
- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/507CT2SSMT0315.pdf>

G. Guidelines on Sale of Financial Assets to Securitisation Company / Reconstruction Company and Related Issues:

- The Reserve Bank of India (RBI) vide Circular No.508 dated March 20, 2015 issued guidelines on Sale of Financial Assets to Securitisation Company /Reconstruction Company and Related Issues.
- As per paragraph 6 of the circular DBOD.BP.BC.No.96/21.04.048/2002-03 dated April 23, 2003, wherein disclosure requirements relating to sale of non-performing assets (NPAs) to Securitisation Companies (SCs)/Reconstruction Companies (RCs) have been specified. In this connection, to enhance transparency, it has been decided that in addition to the disclosure requirements quoted in the above paragraph, banks shall make the following disclosures in the Notes to Accounts in their Annual Financial Statements:

(In Rs. Crore)						
Particulars	Backed by NPAs sold by the bank as underlying		Backed by NPAs sold by other banks/ financial institutions/ non-banking financial companies as underlying		Total	
	Previous Year	Current Year	Previous Year	Current Year	Previous Year	Current Year
Book value of investments in security receipts						

- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/GSFAS20032015.pdf>

H. Revised Regulatory Framework for NBFCs:

- The Reserve Bank of India (RBI) vide Circular No.520 dated March 27, 2015 issued notifications for Revised Regulatory Framework for NBFCs.
- As per revised regulatory framework issued vide DNBR (PD) CC.No. 002/ 03.10.001/ 2014-15 dated November 10, 2014 (the circular) at Para 14 of the circular it was mentioned that the Notifications in this regard shall follow.
- In this connection, the following Notifications were enclosed for meticulous compliance:-
 - i. Notification No. DNBR. 007/ CGM (CDS) -2015 dated March 27, 2015 amending the Net Owned Fund requirements.
 - ii. Non-Systemically Important Non-Banking financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 issued vide Notification No. DNBR. 008/ CGM (CDS) - 2015 dated March 27, 2015.
 - iii. Systemically Important Non-Banking financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 issued vide Notification No. DNBR. 009/ CGM (CDS) -2015 dated March 27, 2015.

- iv. Notification No. DNBR. 011/ CGM (CDS) -2015 dated March 27, 2015 amending the Non-Banking Financial (Deposit Accepting or Holding) Prudential Norms (Reserve Bank) Directions, 2007.
 - v. Notification No. DNBR. 012/ CGM (CDS) -2015 dated March 27, 2015 amending the Non-Banking Financial Company – Factor (Reserve Bank) Directions, 2012.
- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/RRCCIN270315.pdf>

I. Utilisation of Floating Provisions/Counter Cyclical Provisioning Buffer:

- The Reserve Bank of India (RBI) vide Circular No.522 dated March 30, 2015 gave clarifications for Utilisation of Floating Provisions/Counter Cyclical Provisioning Buffer.
- With reference to circular DBOD.No.BP.BC.89/21.04.048/2005-06 dated June 22, 2006 and DBOD.No.BP.BC.68/21.04.048/2006-07 dated March 13, 2007 on creation, accounting, disclosures and utilisation of floating provisions by banks. Banks may also required to refer circular No.DBOD.No.BP.BC.87/21.04.048/2010-11 dated April 21, 2011 on creation and utilisation of ‘countercyclical provisioning buffer’, wherein RBI had advised that the buffer will be allowed to be used by banks for making specific provisions for non-performing assets, inter alia, during periods of system wide downturn, with the prior approval of RBI.
- Accordingly, in terms of our circular dated February 7, 2014, banks were allowed to utilise upto 33 per cent of countercyclical provisioning buffer/floating provisions held by them as on March 31, 2013, for making specific provisions for non-performing assets, as per the policy approved by their Board of Directors.
- Further to this, it has now been decided, as a counter cyclical measure, to allow banks to utilise upto 50 per cent of countercyclical provisioning buffer/floating provisions held by them as at the end of December 31, 2014, for making specific provisions for non-performing assets, as per the policy approved by their Board of Directors.
- Utilisation of countercyclical provisioning buffer/floating provisions under this measure would be over and above the utilisation of countercyclical provisioning buffer/floating provisions as permitted vide circular DBOD.BP.BC.No.98 / 21.04.132 / 2013-14 dated February 26, 2014 on ‘Framework for Revitalising Distressed Assets in the Economy - Refinancing of Project Loans, Sale of NPA and Other Regulatory Measures’.
- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/DBR79NTF300315L.pdf>

J. Risk Management and Inter-bank Dealings: Revised Guidelines relating to participation of Residents in the Exchange Traded Currency Derivatives (ETCD) market:

- The Reserve Bank of India (RBI) vide Circular No.90 dated March 31, 2015 for issued revised Guidelines relating to participation of Residents in the Exchange Traded Currency Derivatives (ETCD) market.
- The RBI gave clarifications in respect to the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 dated May 3, 2000 (Notification No. FEMA. 25/RB-2000 dated May 3, 2000), as amended from time to time and A.P. (DIR Series) Circular No. 147 dated June 20, 2014 relating to participation of residents in the ETCD market.
- Increase in position limits not requiring establishment of underlying exposure:-

Presently, domestic participants are allowed to take a long (bought) as well as short (sold) position upto USD 10 million per exchange. As a measure of further liberalisation, it has now been decided to increase the limit (long as well as short) in USD-INR pair upto USD 15 million per exchange. In addition, domestic participants shall be allowed to take long as well as short positions in EUR-INR, GBP-INR and JPY-INR pairs, all put together, upto USD 5 million equivalent per exchange. These limits shall be monitored by the exchanges and breaches, if any, may be reported. For the convenience of monitoring, exchanges may prescribe fixed limits for the contracts in currencies other than USD such that these limits are within the equivalent of USD 5 million.

• Rationalisation of documentation requirements for both Importers and Exporters

At present, in terms of paragraphs (2) (b) (iii) and (2) (b) (v) respectively, of the above circular, market participants have to produce a certificate from the statutory auditors as indicated therein. As a measure of liberalisation in the ETCD market, it has now been decided that, instead of the statutory auditor's certificate, a signed undertaking to the same effect from the Chief Financial Officer (CFO) or the senior most functionary responsible for company's finance and accounts and the Company Secretary (CS) may be produced. In the absence of a CS, the Chief Executive Officer (CEO) or the Chief Operating Officer (COO) shall co-sign the undertaking along with the CFO.

• Increase in eligible limit for Importers hedging contracted exposure:-

At present, importers are permitted to hedge their contracted exposures in the ETCD market upto 50 per cent of their eligible limit as defined in para (2)(b)(i) of the above circular. With a view to bringing at par both exporters and importers, it has now been decided to allow importers to take appropriate hedging positions up to Rationalisation of documentation requirements for both Importers and Exporters:-

- At present, in terms of paragraphs (2) (b) (iii) and (2) (b) (v) respectively, of the above circular, market participants have to produce a certificate from the statutory auditors as indicated therein. As a measure of liberalisation in the ETCD market, it has now been decided that, instead of the statutory auditor's certificate, a signed undertaking to the same effect from the Chief Financial Officer (CFO) or the senior most functionary responsible for company's finance and accounts and the Company Secretary (CS) may be produced. In the absence of a CS, the Chief Executive Officer (CEO) or the Chief Operating 100 per cent of the eligible limit.
- All other operational guidelines, terms and conditions including the requirement of certificate(s) from the Statutory Auditor regarding the eligible limit up to which domestic participants can take appropriate hedging positions in the ETCD market and the necessary undertaking from the CFO or senior most functionary responsible for company's finance and accounts as indicated in para (2)(b)(ii) of the above circular remain unchanged.
- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/90APDIR31032015.pdf>

K. Risk Management and Inter-bank Dealings: Revised Position Limits for Foreign Portfolio Investors (FPIs) in the Exchange Traded Currency Derivatives (ETCD) market:

- The Reserve Bank of India (RBI) vide Circular No.91 dated March 31, 2015 revised Position Limits for Foreign Portfolio Investors (FPIs) in the Exchange Traded Currency Derivatives (ETCD) market.
- Banks are invited to the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 dated May 3, 2000 (Notification No. FEMA. 25/RB-2000 dated May 3, 2000), as amended from time to time and A.P. (DIR Series) Circular 148 dated June 20, 2014 relating to participation of Foreign Portfolio Investors (FPIs) in the ETCD market.

Increase in limits without establishing underlying exposure:-

- Presently, FPIs can take position – both long (bought) as well as short(sold) – in foreign currency up to USD 10 million or equivalent per exchange . As a measure of further liberalisation, it has now been decided to increase the limit (long as well as short) for FPIs in USD-INR pair upto USD 15 million per exchange. In addition, FPIs shall be allowed to take long (bought) as well as short (sold) positions in EUR-INR, GBP-INR and JPY-INR pairs, all put together, upto USD 5 million equivalent per exchange. These limits shall be monitored by the exchanges and breaches, if any, may be reported. For the convenience of monitoring, exchanges may prescribe fixed limits for the contracts in currencies other than USD such that these limits are within the equivalent of USD 5 million.
- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/91APDIR310315.pdf>

L. Prudential Guidelines on Capital Adequacy and Liquidity Standards - Amendments:

- The Reserve Bank of India (RBI) vide Circular No.529 dated March 31, 2015 issued Prudential Guidelines on Capital Adequacy and Liquidity Standards - Amendments.
- The Reserve Bank has issued and implemented prudential guidelines on capital adequacy framework and liquidity standards for banks operating in India. These guidelines have been framed based on the internationally accepted reform package, as agreed to by the Basel Committee on Banking Supervision (BCBS) and endorsed by the G20 Leaders post-crisis. Accordingly, it is important to adopt and implement these minimum prudential standards in a manner which is consistent across all member jurisdictions. Such consistent implementation not only provides a level playing field for banks but also reduces regulatory arbitrage and promotes financial stability to a great extent.
- In this context, it was considered desirable to make certain modifications / amendments to the guidelines on Basel III capital and liquidity regulations, implementation of advanced model-based approaches for credit, market and operational risk, guidelines on compensation and securitisation exposures, etc., with a view to more closely align our regulatory framework with the internationally agreed standards.
- Accordingly, the above modifications / amendments were given by the RBI. These changes become applicable with effect from April 1, 2015.
- The link for the same is as follows:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/CIRWEB310315.pdf>



SEBI UPDATES:

A. Companies eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement

- SEBI vide circular No. 03 issued guidelines for Establishment of connectivity with both the Depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement.
- It was prescribed vide SEBI circular no D&CC/FITTC/CIR-05/2001 dated December 26, 2001 that "the scrips of such companies which have not signed agreements and established connectivity with both the Depositories by September 30, 2001 shall be traded on Trade for Trade Settlement (TFTS) mode in the Rolling Settlement from December 31, 2001. These scrips will be moved into normal Rolling Settlement once they have established connectivity with both the Depositories as per the procedure laid down by SEBI"
- SEBI provided the following procedure for the purpose of shifting of trading in securities from TFTS to Normal Rolling Settlement:
 - a) A company, after establishment of connectivity with both the Depositories, shall approach the stock exchange(s) having nationwide terminals for shifting the trading of its securities from TFTS to Rolling settlement.
 - b) The stock exchange(s) shall verify the establishment of connectivity of the company with both the Depositories.
 - c) The stock exchange upon verification of status of establishment of connectivity by the company with both the Depositories may consider shifting the trading in these securities to Rolling Settlement subject to the following:

- i. At least 50% of other than promoter holdings as per clause 35 of Listing Agreement are in dematerialized mode before shifting the trading in the securities of the company from TFTS to Rolling Settlement. For this purpose, the companies shall obtain a certificate from its Registrar and Transfer Agent (RTA) and submit the same to the stock exchange/s. However, if an issuer-company does not have a separate RTA, it may obtain a certificate in this regard from a practicing Company Secretary/Chartered Accountant and submit the same to the stock exchange/s.
 - ii. There are no other grounds/reasons for continuation of the trading in TFTS.
- d) SEBI directed the stock exchanges to inform the market of the names of companies which have been shifted from TFTS to Rolling Settlement.
- The link of the Circular is as below:
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1427200216888.pdf

B. (BUY-BACK OF SECURITIES) (AMENDMENT) REGULATIONS, 2015

- SEBI issued the Securities and Exchange Board of India (Buy-back of Securities) (Amendment) Regulations, 2015.
- It was specified that in the Securities and Exchange Board of (Buy-back of Securities) Regulations, 1998, in regulation 9, after sub-regulation (3), the following sub-regulation shall be inserted, namely,-

"3A. The acquirer or promoter shall facilitate tendering of shares by the shareholders and settlement of the same, through the stock exchange mechanism as specified by the Board."

➤ The link of the Circular is as below:
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1427261741142.pdf

C. (DELISTING OF EQUITY SHARES) (AMENDMENT) REGULATIONS, 2015

- SEBI issued the Securities and Exchange Board of India (Delisting of Equity Shares) (Amendment) Regulations, 2015.
- The link of the Circular is as below:
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1427261684807.pdf

D. (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) (AMENDMENT) REGULATIONS, 2015

- SEBI issued the SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2015.
- In the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, –
 - (i) in regulation 4, in sub-regulation (3), -
 - A. in clause (a), the word “twelve” shall be substituted with the word “eighteen”;
 - B. in clause (b), the symbol "." shall be substituted with symbol " " ;
 - C. after clause (b), the following new clauses shall be inserted, namely:-
 - “(c) the price or conversion formula of the warrants shall be determined upfront and at least 25% of the consideration amount shall also be received upfront;
 - (d) in case the warrant holder does not exercise the option to take equity shares against any of the warrants held by him, the consideration paid in respect of such warrant shall be forfeited by the issuer.”
 - (ii) in regulation 54, in sub-regulation (7), in the proviso, the words, numbers and symbol “the part payment on application shall not be less than 25% of the issue price and” shall be inserted after the word and symbol “investors,”.
- The link of the Circular is as below:
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1427273950402.pdf

E. SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE AND LISTING OF DEBT SECURITIES) (AMENDMENT) REGULATIONS, 2015

- SEBI issued the Securities and Exchange Board of India (Issue and Listing of Debt Securities) (Amendment) Regulations, 2015.
- In the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008, -

(i) after regulation 17, the following regulation shall be inserted, namely,-

"Right to recall or redeem prior to maturity

17A. An issuer making public issue of debt securities may recall such securities prior to maturity date at his option (call) or provide such right of redemption prior to maturity date (put) to all the investors or only to retail investors, at their option, subject to the following:

(a) Such right to recall or redeem debt securities prior to maturity date is exercised in accordance with the terms of issue and detailed disclosure in this regard is made in the offer document including date from which such right is exercisable, period of exercise (which shall not be less than three working days), redemption amount (including the premium or discount at which such redemption shall take place);

(b) The issuer or investor may exercise such right with respect to all the debt securities issued or held by them respectively or with respect to a part of the securities so issued or held ;

(c) In case of partial exercise of such right in accordance with the terms of the issue by the issuer, it shall be done on proportionate basis only;

(d) No such right shall be exercisable before expiry of twenty four months from the date of issue of such debt securities;

(e) Issuer shall send notice to all the eligible holders of such debt securities at least twenty one days before the date from which such right is exercisable;

(f) Issuer shall also provide a copy of such notice to the stock exchange where the such debt securities are listed for wider dissemination and shall make an advertisement in the national daily having wide circulation indicating the details of such right and eligibility of the holders who are entitled to avail such right;

(g) Issuer shall pay the redemption proceeds to the investors along with the interest due to the investors within fifteen days from the last day within which such right can be exercised;

(h) Issuer shall pay interest at the rate of fifteen per cent. per annum for the period of delay, if any,

(i) After the completion of the exercise of such right, the issuer shall submit a detailed report to the stock exchange for public dissemination regarding the debt securities redeemed during the exercise period and details of redemption thereof.

Explanation:- For the purpose of this regulation, retail investor shall mean the holder of debt securities having face value not more than rupees two Lakh."

- (ii) after regulation 20, the following regulation shall be inserted, namely,-
"Consolidation and re-issuance

20A. An issuer may carry out consolidation and re-issuance of its debt securities, subject to the fulfillment of the following conditions:

- (a) there is such an enabling provision in its articles under which it has been incorporated;
- (b) the issue is through private placement;
- (c) the issuer has obtained fresh credit rating for each re-issuance from at least one credit rating agency registered with the Board and is disclosed;
- (d) such ratings shall be revalidated on a periodic basis and the change, if any, shall be disclosed;
- (e) appropriate disclosures are made with regard to consolidation and reissuance in the Term Sheet."

- (iii) in Schedule I, in paragraph 3, in sub-paragraph B, in clause (a), in the table,-

- (a) the words "call option" wherever appearing shall be substituted with the word "call";
- (b) the words "put option" wherever appearing shall be substituted with the word "put".

- The link of the Circular is as below:

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1427273618413.pdf

F. (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) (AMENDMENT) REGULATIONS, 2015

- SEBI issued the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2015.
- In the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 —

- (I) After regulation 5, the following regulation shall be inserted, namely:-

Delisting offer.

"5A. (1) Notwithstanding anything contained in these regulations, in the event the acquirer makes a public announcement of an open offer for acquiring shares of a target company in terms of regulations 3, 4 or 5, he may delist the company in accordance with provisions of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009:

Provided that the acquirer shall have declared upfront his intention to so delist at the time of making the detailed public statement.

(2) Where an offer made under sub-regulation (1) is not successful,-

(i) on account of non-receipt of prior approval of shareholders in terms of clause (b) of sub-regulation (1) of regulation 8 of Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009; or

(ii) in terms of regulation 17 of Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009; or

(iii) on account of the acquirer rejecting the discovered price determined by the book building process in terms of sub-regulation (1) of regulation 16 of Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009,

the acquirer shall make an announcement within two working days in respect of such failure in all the newspapers in which the detailed public statement was made and shall comply with all applicable provisions of these regulations.

(3) In the event of the failure of the delisting offer made under subregulation (1), the acquirer, through the manager to the open offer, shall within five working days from the date of the announcement under subregulation (2), file with the Board, a draft of the letter of offer as specified in sub-regulation (1) of regulation 16 and shall comply with all other applicable provisions of these regulations:

Provided that the offer price shall stand enhanced by an amount equal to a sum determined at the rate of ten per cent per annum for the period between the scheduled date of payment of consideration to the shareholders and the actual date of payment of consideration to the shareholders.

Explanation: For the purpose of this sub-regulation, scheduled date shall be the date on which the payment of consideration ought to have been made to the shareholders in terms of the timelines in these regulations.

(4) Where a competing offer is made in terms of sub-regulation (1) of regulation 20,-

(a) the acquirer shall not be entitled to delist the company;

(b) the acquirer shall not be liable to pay interest to the shareholders on account of delay due to competing offer;

(c) the acquirer shall comply with all the applicable provisions of these regulations and make an announcement in this regard, within two working days from the date of public announcement made in terms of sub-regulation (1) of regulation 20, in all the newspapers in which the detailed public statement was made.

(5) Shareholders who have tendered shares in acceptance of the offer made under sub-regulation (1), shall be entitled to withdraw such shares tendered, within 10 working days from the date of the announcement under subregulation (2).

(6) Shareholders who have not tendered their shares in acceptance of the offer made under sub-regulation (1) shall be entitled to tender their shares in acceptance of the offer made under these regulations."

(II) After sub-regulation (6) of regulation 18, the following sub-regulation shall be inserted, namely:

"(6A) The acquirer shall facilitate tendering of shares by the shareholders and settlement of the same, through the stock exchange mechanism as specified by the Board."

(III) In sub-regulation (1) of regulation 22, after the first proviso, the following proviso shall be inserted, namely:-

"Provided further that in case of a delisting offer made under regulation 5A, the acquirer shall complete the acquisition of shares attracting the obligation to make an offer for acquiring shares in terms of regulations 3, 4 or 5, only after making the public announcement regarding the success of the delisting proposal made in terms of sub-regulation (1) regulation 18 of Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009."

➤ The link of the Circular is as below:

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1427261613075.pdf

G. SECURITIES AND EXCHANGE BOARD OF INDIA (INTERNATIONAL FINANCIAL SERVICES CENTRES) GUIDELINES, 2015

➤ SEBI issued guidelines to facilitate and regulate financial services relating to securities market in an International Financial Services Centre set up under Section 18(1) of Special Economic Zones Act, 2005 and matters connected therewith or incidental thereto.

➤ The link of the Circular is as below:

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1427450911533.pdf

ARTICLE OF THE MONTH

LIMITED LIABILITY PARTNERSHIP

A Limited Liability Partnership (LLP) is a body corporate formed and incorporated under the **Limited Liability Partnership Act, 2008** (“**The Act**”) and is a legal entity separate from that of its Partner. It operates much like a limited partnership, but gives each member of the LLP protection from personal liability, except to the extent of their investment in the LLP. Analyzing the various advantages of a LLP many existing Companies have shown interest for the conversion of Companies into LLP. The detailed procedure for conversion of a Private Company into LLP is illustrated below:

PROCEDURE FOR THE CONVERSION OF PRIVATE COMPANY INTO LLP

- Apply for DSC and also apply for DIN of designated partners if not obtained.
- A Board resolution passed by the Company approving the conversion into LLP.
- Making application for name availability in the Form- INC-1 and attaching Board resolution passed by the Company for conversion.
- File E Form 2 with Incorporation documents, subscription sheet and statement of partners.
- File an application in the Form 18 together with the statement of shareholders within 15 days of conversion with latest statements of assets and liabilities certified by a Chartered Accountant/Auditor.
- Consent of all shareholders is attached with Form 18.
- NOC from unsecured creditors, sundry creditors and trade creditors is obtained and newspaper Advertisement should be published in English and regional newspaper. However if the consent of all creditors are obtained then newspaper advertisement is not necessary. However if consent of 75% of the creditors are obtained then it depends upon the Registrar if he wants the Company to publish the advertisement
- Draft LLP Agreement and consent letter and obtain signatures of the proposed designated partners.
- File details of LLP Agreement in Form 3 within 30 days of conversion.
- The Registrar will issue Certificate of Registration under his seal.
- On conversion Registrar of Companies has to be informed in Form 14 within 15 days from the date of conversion.

In order to sustain in the dynamic environment and for the smooth functioning of the organization the Company needs to perform the post compliances as required by the Statutory Provisions of the Act. A brief description of the compliances to be carried out by the LLP is given below:

POST INCORPORATION REQUIREMENTS AND OBLIGATIONS OF LIMITED LIABILITY PARTNERSHIP FIRM

1. OBLIGATION OF LLP:

Every Limited Liability Partnership (“LLP”) shall be under obligation to maintain annual accounts reflecting true and fair view of its state of affairs. Even if LLP does not do any business, it has to comply with statutory requirement such as Annual Return, Balance Sheet, Profit and loss Account, Income tax return every year.

2. STATUTORY FEES:

The statutory fees will be depend upon the capital contribution of LLP.

3. STATEMENT OF ACCOUNTS AND SOLVENCY:

Every LLP shall be required to file a “Statement of Accounts and Solvency” in Form LLP-8 within a period of thirty days from the end of six months of the financial year (i.e. 30th October) to which the Statement of Account and Solvency relates with the Registrar every year as per sub section (3) of section 34 of Limited Liability Partnership Act 2008 (“Act”) read with Rule 24(4) of Chapter VII of Limited Liability Partnership Rule 2009 (“Rules”).

Content of Form LLP-8

Part A- Statement of Solvency:

It is declaration given by all the Designated Partners of LLP that whether they are able to pay its debts in full as they become due in the normal course of business or not.

Part- B- Statement of Account, Statement of Income & Expenditure

Form- 8 is to be signed by two Designated Partners and certified by Practising CS/ CA/CWA.

4. ANNUAL RETURN:

Every LLP would be required to file Annual Return in Form LLP-11 with ROC within 60 days of closure of its financial year (i.e. by 30th May) as per sub-section (1) of section 35 of Limited Liability Partnership Act 2008 (“Act”) and read with Rule 25(1) of Chapter VII of Rules.

Form LLP-11:

Form- LLP-11 is Annual Return containing number of partners, total contribution received by all partners, details of partners, detail of body corporate as partner, summary of partners.

5. PENALTY:

If LLP fail to file Form- 11 within prescribe time, the designated partners shall be liable to be punishable with fine which shall not be less then Rs. 25000 but which may be extend to Rs. 5,00,000/-.

It has been provided that in case LLPs file relevant documents after their due dates with additional fees up to 300 days, no action for prosecution will be taken against them. In case there is delay of 300 days or more, the LLP will be required to pay Normal fees, Additional fees and shall also liable to be prosecuted.

The Act also contains provisions for compounding of offence which are punishable with fine only.

6. REQUIREMENT OF AUDIT OF ACCOUNTS UNDER LLP ACT 2008:

Required to Audit of Accounts (if any one condition applicable)

- Turnover exceeds Rs. 40 Lacs **OR**
- Contribution of Partner exceeds Rs. 25 Lacs

Not Required to Audit of Accounts (if both condition does not applicable)

- Turnover does not exceeds Rs. 40 Lacs OR
- Contribution of Partner does not exceeds Rs. 25 Lacs

7. INCOME TAX RETURN:

Every LLP have to file the Income Tax return with the Income Tax Authorities. Filing of Return is mandatory whether the LLP has started any business or not.

8. INVESTMENTS / BORROWING:

The LLP agreement shall govern the investment/ borrowing powers of the partners/ Designated Partners as the Act/ Rules are silent.

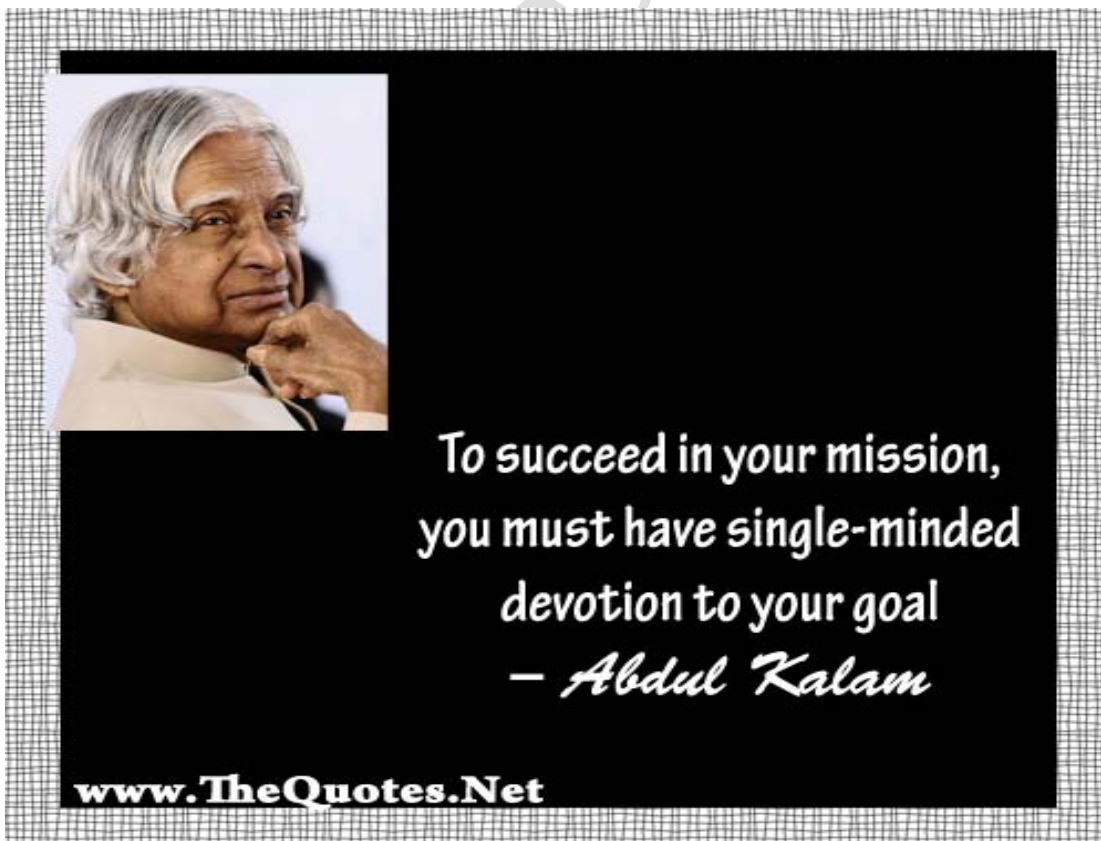
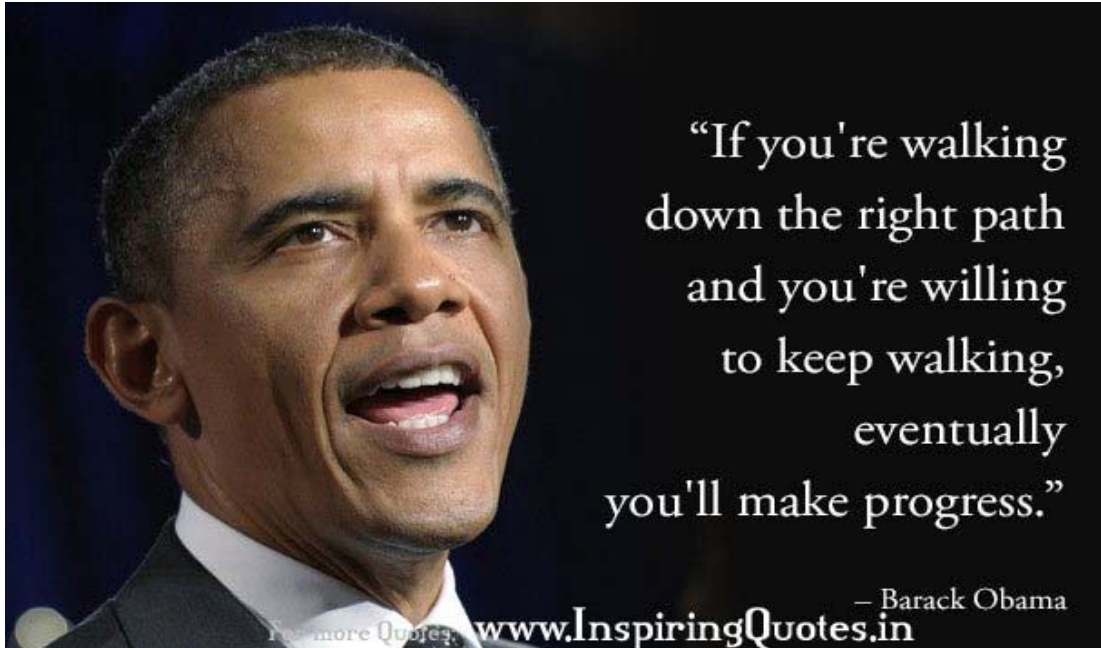
9. REMUNERATION TO PARTNERS/ DESIGNATED PARTNERS:

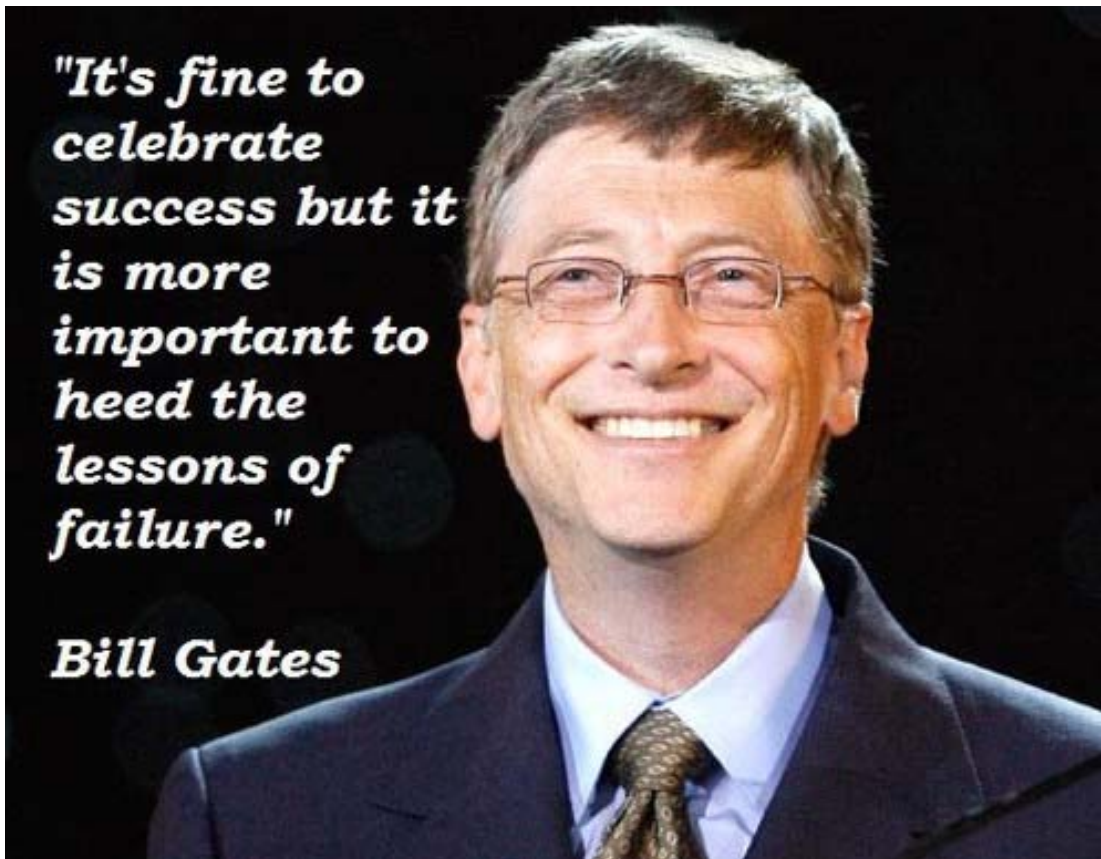
The LLP Act and Rules are silent in this regards. The Partners/ Designated Partner may get the remuneration as mentioned in the LLP agreement or as discussed among Partners/ Designated Partner.

10. RETURNS AND RECORDS REQUIRED BY LLP:

Sr. No.	Agenda	Particulars	E-forms
1.	Books of Account	LLP should Maintain proper Books of Account.	N.A.
2.	Minutes Book	Minute's book should be maintained to record minutes of meeting of partner and managing/ executive Committee of partners	N.A.
3.	Change in Partner	Any change in partner and designated partner (admission, resignation, cessation, death, expulsion) should be filed electronically within 30 days of change.	Form- 4
4.	Supplementary LLP Agreement	Such admission and cessation will alter mutual right and duties of partner shall change. Hence, supplementary LLP Agreement will be required to file within 30 days of change.	Form-3
5.	Heavy Penalty	Heavy penalty of Rs. 100/- per day late filling of Return	N.A.
6.	Change in Name	Any change in Name of LLP should be filed electronically within 30 days of change.	Form-5
7.	Change in Registered Office	Any change in place of registered office of LLP should be filed electronically within 30 days of change.	Form- 15

INSPIRATIONAL QUOTES





Disclaimer

**This legal update is not intended to be a form of solicitation or advertising. The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate thereafter. No person should act on such information without appropriate professional advice based on the circumstances of a particular situation. This update is intended for private circulation only.*

Amita Desai & Co.
Company Secretaries

Mumbai Off:

404 | Flyover Apt | Andheri Flyover,
Opp Telli Galli | Next to Hub Town)
Andheri (East) | Mumbai - 400 069 | India

Landline : +91-22- 2684-5920/21
Fax : +91-22- 6678-7499
Mobile : +91-982-017-7691

Hyderabad Off:

My Home Hub, 4th Floor, C Block, Madhupur,
Hi-Tech City, Hyderabad, AP 500 081

Chief Editor: Mrs. Amita Desai
Editor: Ms. Priti Tater
Ms. Ayushi Singhal