

Newsletter for April, 2016
By Amita Desai & Co.



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MCA UPDATES:

A. COMPANIES (FILING OF DOCUMENTS AND FORMS IN EXTENSIBLE REPORTING LANGUAGE) AMMENDMENT RULES, 2016

- Ministry of Corporate Affairs (“MCA”) vide its notification dated 4th April, 2016 has amended the Companies (Filing of Documents and Forms In Extensible Reporting Language) Rules, 2015 and substituted the Proviso in Rule 3.
- As per Companies (Filing of Documents And Forms In Extensible Reporting Language) Rules, 2015, proviso to Rule 3 read as:
“Provided that the companies in Banking, Insurance, Power Sector and Non- Banking Financial companies are exempted from XBRL filing.”
- As per Companies (Filing of Documents And Forms In Extensible Reporting Language) Amendment Rules, 2016, proviso to Rule 3:
"Provided that the companies in banking, insurance, power sector, non-banking financial companies and housing finance companies need not file financial statements under this rule."
- The link of the above notification is as under:
http://www.mca.gov.in/Ministry/pdf/Rules_06042016.pdf

B. GENERAL INSTRUCTION FOR THE PREPARATION OF FINANCIAL STATEMENT OF A COMPANY REQUIRED TO COMPLY WITH INDIA ACCOUNTING STANDARD(AS)

- On 6th April, 2016, Ministry of Corporate Affairs has issued General Instruction for the preparation of financial statement of a Company required to comply with India Accounting Standard (AS).
- Schedule III of Companies Act, 2013 is amended to insert the “Division II” comprising General Instruction for the preparation of financial statement of a Company required to comply with India Accounting Standard (AS), Statement of Profit and Loss and Consolidated Financial Statements.

The Amendments incorporated with the above notification inter alia includes the following:

- The company, to which Indian Accounting Standards apply, shall prepare its financial statements in accordance with this Schedule or with such modification as may be required under certain circumstances.
- Where compliance with the requirements of the Act including Indian Accounting Standards (except the option of presenting assets and liabilities in the order of liquidity as provided by the relevant India AS) as applicable to the companies require any change in treatment or disclosure including addition, amendment substitution or deletion in the head or sub-head or any changes inter se, in the financial statements or statements forming part thereof, the same shall be made and the requirements under this Schedule shall stand modified accordingly.
- The disclosure requirements specified in this Schedule are in addition to and not in substitution of the disclosure requirements specified in the Indian Accounting Standards. Additional disclosures specified in the Indian Accounting Standards shall be made in the Notes or by way of additional statement or statements unless required to be disclosed on the face of the Financial Statements. Similarly, all other disclosures as required by the Companies Act, 2013 shall be made in the Notes in addition to the requirements set out in this Schedule.
- (i) Notes shall contain information in addition to that presented in the Financial Statements and shall provide where required-
 - (a) narrative descriptions or disaggregations of items recognised in those statements;
 - (b) information about items that do not qualify/ for recognition in those statements.
 (ii) Each item on the face of the Balance Sheet, Statement of Changes in Equity and Statement of Profit and Loss shall be cross-referenced to any related information in the Notes. In preparing the Financial Statements including the Notes, a balance shall be maintained between providing excessive detail that may not assist users of Financial Statements and not providing important information as a result of too much aggregation.
- Depending upon the turnover of the company the figures appearing in the Financial Statements shall be rounded off as below:

Turnover	Rounding off
(i) less than 100 (one hundred) crore rupees	To the nearest hundreds, thousands, lakhs or millions, or decimals thereof.
(ii) 100 (one hundred) crore rupees or more	To the nearest, lakhs, millions or crores, or decimals thereof.

Once a unit of measurement is used, it should be used uniformly in the Financial Statements.

- Financial Statements shall contain the corresponding amounts (comparatives) for the immediately preceding reporting period for all items shown in the Financial Statements including Notes except in the case of first Financial Statements laid before the company after incorporation.
- Financial Statements shall disclose all 'material' items, i.e the items if they could individually or collectively, influence the economic decisions that users make on the basis of the financial statements materiality depends on the size or nature of the item or a combination of both, to be judged in the particular circumstances.

- For the purpose of this Schedule, the terms used herein shall have the same meaning assigned to them in Indian Accounting Standards.
- Where any Act or Regulation requires specific disclosures to be financial statements of a company, the said disclosures shall be made in addition to those required under this Schedule.
- For details notification please refer the below mentioned link:
http://www.mca.gov.in/Ministry/pdf/Notification_04072016.pdf

C. RELAXATION OF ADDITIONAL FEES AND EXTENSION OF LAST DATE OF FILING

- MCA vide its notification dated 12th April, 2016 has provided for relaxation of additional fees payable on e-forms due for filing between 25th March, 2016 to 30th April, 2016 as several issues were faced by various stakeholders due to the launch of V2R2 by MCA on 28th March, 2016.
- It was also clarified that no such relaxation will be allowed if the Forms are filed after 10th May, 2016.
- The link of the above notification is as under:
http://www.mca.gov.in/Ministry/pdf/General_circular_13042016.pdf

D. CLARIFICATION WITH REGARD TO COMPANIES (ACCOUNTING STANDARDS) AMMENDMENT RULES, 2016

- MCA vide its notification dated 27th April, 2016 has clarified that the amended Accounting Standards will be used for preparation of accounts for accounting periods commencing on or after the date of notification(i.e. 27th April, 2016).
- The link of the above notification is as under:
http://www.mca.gov.in/Ministry/pdf/General_Circular_27042016.pdf



RBI UPDATES:

A. FOREIGN EXCHANGE MANAGEMENT (ESTABLISHMENT IN INDIA OF A BRANCH OFFICE OR A LIAISON OFFICE OR A PROJECT OFFICE OR ANY OTHER PLACE OF BUSINESS) REGULATIONS, 2016

On 31st March 31, 2016, RBI had issued Foreign Exchange Management (Establishment of a Branch office or a liaison office or a Project office or any other place of business) Regulations, 2016 in supersession of existing Foreign Exchange Management (Establishment of a Branch office or a liaison office or a Project office or any other place of business) Regulations 2000 (the "Old Regulations") is replaced.

Key Highlights of the aforesaid regulation are as follows:

➤ **Prohibition against opening a branch office or a liaison office or a project office or any other place of business in India and exception thereof :**

No person resident outside India shall without prior approval of the Reserve Bank open in India a branch office or a liaison office or a project office or any other place of business by whatever name called except as laid down in these Regulations, provided----

- i. An insurance company resident outside India shall not require any approval under these Regulations for establishing any office in India if such company has obtained approval from the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999
- ii. A company resident outside India shall not require any approval under these Regulations to establish a branch office in the Special Economic Zones (SEZs) to undertake manufacturing and service activities, subject to certain conditions.

➤ **Approval for opening a branch office or a liaison office or a project office or any other place of business in India and time period :**

With the above mentioned Regulation a time period of Six (6) months is prescribed within which the branch / liaison/ project office is to be established. This time period can be extended further by 6 months subject to the Authorised Dealer (AD) discretion. An application will be required to be made to RBI for extension thereafter.

The validity period for a liaison office set up by entities engaged in construction and development sectors (other than infrastructure activities) and non-banking financial companies is for two (2) years.

Fresh application for setting up an each additional branch office or liaison office will be required to be made to the Authorised Dealer along with justification for setting such each additional office.

Above Regulation has introduced new requirement for persons from Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong or Macau, to register a branch / liaison/ project office established by them with the State Police Authority. A copy of such registration is required to be submitted to the AD who in turn shall be required to submit such registration with the Ministry of Home Affairs, Internal Security Division-1 < Government of India, New Delhi.

➤ **Approval of the Reserve Bank in certain cases for establishment of branch office, liaison office or project office or any other place of business in India**

Any application from a person resident outside for opening of a branch office or a liaison office or a project office or any other place of business in India shall require prior approval of Reserve Bank in the certain cases.

For detailed notification please refer below mentioned link:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10327&Mode=0>

B. FOREIGN EXCHANGE MANAGEMENT (REMITTANCE OF ASSET) REGULATIONS, 2016

➤ A citizen of foreign state, not being a Person of Indian origin (PIO) or a citizen of Nepal or Bhutan, who (i) has retired from an employment in India, or (ii) has inherited the assets from a person referred to in sub-section (5) of section 6 of the Act; or (iii) is a widow/ widower resident outside India and has inherited assets of the deceased spouse who was an Indian citizen resident in India, may remit through an authorised dealer an amount, **not exceeding USD 1,000,000 (US Dollar One million only)** per financial year on production of documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter.

➤ A Non-Resident Indian (NRI) or a Person of Indian Origin (PIO) may remit through an authorised dealer an amount, not exceeding USD 1,000,000 (US Dollar One million only) per financial year,

➤ Out of the balances held in the Non-Resident (Ordinary) Accounts (NRO accounts) opened in terms of Foreign Exchange Management (Deposit) Regulations, 2016/ sale proceeds of assets/ the assets acquired by him by way of inheritance/ legacy on production of documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter;

➤ Under a deed of settlement made by either of his parents or a relative (relative as defined in Section 2(77) of the Companies Act, 2013) and the settlement taking effect on the death of the settler, on production of the original deed of settlement; provided that where the remittance under Clause (i) and (ii) is made in more than one instalment, the remittance of all instalments shall be made through the same Authorised Dealer, provided further that where the remittance is to be made from the balances held in the NRO account, the account holder shall furnish an undertaking to the Authorised Dealer that “the said remittance is sought to be made out of the remitter’s balances held in the account arising from his/ her legitimate receivables in India and not by borrowing from any other person or a transfer from any other NRO account and if such is found to be the case, the account holder will render himself/ herself liable for penal action under FEMA.”

➤ An authorised dealer in India may, also allow remittance out of the assets of Indian companies under liquidation under the provisions of the Companies Act, 2013 subject to certain conditions.

A. Reserve Bank's prior permission in certain cases:

➤ A person who desires to make a remittance of assets in the following cases, may apply to the Reserve Bank, namely:

(i) Remittance exceeding USD 1,000,000 (US Dollar One million only) per financial year

– (a) on account of legacy, bequest or inheritance to a citizen of foreign state, resident outside India; and

(b) by a Non-Resident Indian (NRI) or Person of Indian Origin (PIO), out of the balances held in NRO accounts/ sale proceeds of assets/ the assets acquired by way of inheritance/ legacy.

(ii) Remittance to a person resident outside India on the ground that hardship will be caused to such a person if remittance from India is not made.

➤ On consideration of the application made under sub-regulation (1), the Reserve Bank may permit the remittance, subject to such terms and conditions as it deem necessary.

➤ A brief description of the above mentioned factors is available in the link as under:
<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10326&Mode=0>

C. FOREIGN EXCHANGE MANAGEMENT (DEPOSIT) REGULATIONS, 2016

On 1st April, 2016, RBI has issued Foreign Exchange Management (Deposit) Regulations, 2016, in supersession of Notification No. FEMA 5/2000-RB dated May 3, 2000. The aforesaid Regulations prescribes rules and directions for Deposits between a person resident in India and a person resident outside India.

The Amendments incorporated with the above notification inter alia includes the following:

A. Restrictions on deposits between a person resident in India and a person resident outside India:

➤ No person resident in India shall accept any deposit from, or make any deposit with, a person resident outside India; provided that the Reserve Bank may, on an application made to it and on being satisfied that it is necessary so to do, allow a person resident in India to accept or make deposit from or with a person resident outside India.

➤ For certain exemptions granted with respect to the aforesaid restrictions please refer the below pasted link.

B. Acceptance of deposits by an authorised dealer/ authorised bank from persons resident outside India:

➤ An authorised dealer in India may accept deposit under the under the Non-Resident (External) Account Scheme (NRE account), specified in Schedule 1, from a non-resident Indian; under the Foreign Currency (Non-Resident) Account Banks Scheme, (FCNR(B) account), specified in Schedule 2, from a non-resident Indian; under the Non-Resident (Ordinary) Account Scheme, (NRO account), specified in Schedule 3, from any person resident outside India.

➤ Without prejudice to sub-regulation (1), deposits under NRE and NRO Account Schemes referred to in clauses (i) and (iii) and deposits under FCNR (B) Account Schemes referred to in clause (ii) of that sub-regulation, may also be accepted by a Regional Rural Bank, in accordance

with the provisions contained in the Schedule, subject to the conditions prescribed by Reserve Bank in this regard.

C. Acceptance of deposits by persons other than authorised dealer/ authorised bank:

➤ A company registered under Companies Act, 2013 or a body corporate created under an Act of Parliament or State Legislature shall not accept deposits on repatriation basis from a non-resident Indian or a person of Indian origin. The company may, however, renew the deposits which had been accepted on repatriation basis from an NRI or a PIO subject to terms and conditions mentioned in Schedule 6.

➤ A company registered under Companies Act, 2013 or a body corporate, a proprietary concern or a firm in India may accept deposits from a non-resident Indian or a person of Indian origin on non-repatriation basis, subject to the terms and conditions mentioned in Schedule 7.

➤ An Indian company may accept deposits by issue of Commercial Paper to a non-resident Indian or a person of Indian origin or a foreign portfolio investor registered with the Securities and Exchange Board of India subject to certain conditions.

D. Other deposits made or held by authorised dealer:

➤ A shipping or airline company incorporated outside India, may open, hold and maintain a Foreign Currency Account with an authorized dealer for meeting the local expenses in India of such airline or shipping company; provided that the credits to such accounts are only by way of freight or passage fare collections in India or by inward remittances through banking channels from its office outside India.

➤ An authorised dealer in India, may subject to the directions issued by the Reserve Bank, allow unincorporated joint ventures (UJV) of foreign companies/ entities, with Indian entities, executing a contract in India, to open and maintain non-interest bearing foreign currency account and a SNRR account as specified in schedule 4 for the purpose of undertaking transactions in the ordinary course of its business. The debits and credits in these accounts shall be incidental to the business requirement of the UJV; Provided that the tenure of the account is concurrent to the tenure of the contract/ period of operation of the UJV. Provided further that all operations in the account shall be in accordance with the provisions of the Act or the rules or regulations made or the directions issued there under.

➤ The link for the aforesaid features is as under:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10325&Mode=0>

D. Acceptance of deposits by Indian companies from a person resident outside India for nomination as Director

On April 13, 2016 vide circular no 59 RBI has issued clarification in continuation of notification no. FEMA 5(R)/2016-RB dated April 1, 2016 RBI has issued clarification for acceptance of deposit by Indian Companies with respect to person who intends to nominate himself or any other person as a director in an Indian company.

Under section 160 of the Companies Act, 2013, it is provided that a person who intends to nominate himself or any other person as a director in an Indian company is required to place a deposit with the said company. To remove ambiguity as to whether such deposits will require any specific approval from the Reserve Bank under Notification No. FEMA 5(R), in cases where the deposit is received from a person resident outside India.

It was clarified that keeping deposits with an Indian company by persons resident outside India, in accordance with section 160 of the Companies Act, 2013, is a **current account (payment) transaction and, as such, does not require any approval from Reserve Bank.** All refunds of

such deposits, arising in the event of selection of the person as director or getting more than twenty five percent votes, shall be treated similarly.

➤ The link for the aforesaid features is as under:

<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/AP5907BF9FAECD3F44D6835741528B46CAD6.PDF>

E. OVERSEAS DIRECT INVESTMENT – SUBMISSION OF ANNUAL PERFORMANCE REPORT

On April 13, 2016 vide circular no 61 RBI has provided greater capability to track submission of Annual Performance Report to be submitted by Indian party (IP)/ Resident Individual (RI) which has made an Overseas Direct Investment with Authorised Dealer Banks as it has been observed by RBI IP / RI are either not regular in submitting the APR or are submitting it with delay.

➤ The link for the aforesaid features is as under:

<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/AP61F8714A04A1E44643A42FBA92420BDA33.PDF>

F. OVERSEAS DIRECT INVESTMENT – RATIONALIZATION AND REPORTING OF ODI FORMS

On April 13, 2016 vide circular no 62 RBI has issued rationalized and revised format of Form ODI (Annex), Venture Capital Fund (VCF) / Alternate Investment Fund (AIF), Portfolio Investment and overseas investment by Mutual Funds.

Further Online OID application has been revamped to further reduce the traditional paper based filing system, to provide the AD banks fast and easy accessibility to data for reference purpose, to improve the coverage and ensure proper monitoring of the flows in a dynamic environment. Accordingly, modules in online OID application have been added, wherein all the ODI forms as mentioned in this circular may be reported.

➤ The link for the aforesaid features is as under:

<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/AP.PDF>

G. FOREIGN INVESTMENT IN UNITS ISSUED BY REAL ESTATE INVESTMENT TRUSTS, INFRASTRUCTURE INVESTMENT TRUSTS AND ALTERNATIVE INVESTMENT FUNDS GOVERNED BY SEBI REGULATIONS

On April 21, 2016 vide circular no 63 RBI has issued direction in continuation to Notification no. FEMA 1/2000-RB dated May 3, 2000 With a view to rationalize foreign investment regime for Alternative Investment vehicles and to facilitating foreign investment in collective investment vehicles for real estate and infrastructure sectors, it has been decided, in consultation with the Government of India, to allow foreign investment in the units of Investment Vehicles registered and regulated by SEBI or any other competent authority.

- Infrastructure Investment Trusts (InvITs) registered and regulated under the SEBI (InvITs) Regulations, 2014;
- Alternative Investment Funds (AIFs) registered and regulated under the SEBI (AIFs) Regulations 2012.

Further, unit shall mean beneficial interest of an investor in the Investment Vehicle and shall include shares or partnership interests.

- The link for the aforesaid features is as under:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT377D62BA8DB105543EA8CB5B2F26D805C24.PDF>

H. FOREIGN EXCHANGE MANAGEMENT (REMITTANCE OF ASSETS) REGULATIONS, 2016

The Reserve Bank of India, through its circular no 64 dated 1st April, 2016, replaced the Foreign Exchange Management (Remittance of Assets) Regulations, 2000 with Foreign Exchange Management (Remittance of Assets) Regulations, 2016.

- It lists out some of the key definitions namely non-resident Indian, person of Indian Origin, remittance of asset, expatriate staff and not permanently resident. It also sets out the salient features of the Regulations.
- The link of the above circular is as under:
<https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=10371&Mode=0>

I. IMPORT OF GOODS: IMPORT DATA PROCESSING AND MONITORING SYSTEM (IDPMS)

On April 28, 2016 vide circular no 65 RBI has issued notification with respect to constitution of a Working Group comprising of representatives from Customs, Directorate General of Foreign Trade (DGFT), Special Economic Zone (SEZ), Foreign Exchange Dealers Association of India (FEDAI) and select Authorised Dealer banks (AD banks), to suggest putting in place a comprehensive IT- based system to facilitate efficient processing of all import transactions and effective monitoring thereof. The Working Group had recommended development of a robust and effective IT- based system “Import Data Processing and Monitoring System” (IDPMS) on the lines of “Export Data Processing and Monitoring System” (EDPMS) in consultation with the Customs authorities and other stakeholders.

- The link of the above circular is as under:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT385141BDC320E7247C59EC979DDF50E6566.PDF>

J. OPENING AND MAINTENANCE OF RUPEE/ FOREIGN CURRENCY VOSTRO ACCOUNTS OF NON- RESIDENT EXCHANGE HOUSES: RUPEE DRAWING ARRANGEMENT

On April 28, 2016 vide circular no 66 RBI has issued notification to further streamline the remittance arrangement under the Speed Remittance Procedure and make remittances cost-effective, it has now been decided to do away with the mandated requirement of maintenance of collateral or cash deposits by the Exchange Houses with whom the banks have entered into the Rupee Drawing Arrangement.

The AD banks are free to determine the collateral requirement, if any, based on factors, such as, whether the remittances are pre-funded, the track record of the Exchange House, whether the remittances are effected on gross (real-time) or net (file transfer) basis, etc., and may frame their own policy in this regard.

- The link of the above circular is as under:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT386CF63335438DD46978C2237485F5A33F5.PDF>

K. APPLICABILITY OF CONCENTRATION OF CREDIT/ INVESTMENT

On April 7, 2016, RBI issued Circular No. 363 for Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) not accessing public funds, either directly or indirectly, or not issuing guarantees may make an application to the Bank for an appropriate dispensation from the concentration of credit/ investment norms.

With aforesaid circular RBI has decided that concentration of credit/ investment norms shall not apply to a systemically important non-banking financial company not accessing public funds in India, either directly or indirectly, and not issuing guarantees.

- The link of the above circular is as under:
<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10336&Mode=0>

L. INFRASTRUCTURE DEBT FUNDS (IDFS)

On April 21, 2016, RBI in continuation of Notification No.DNBS.233/CGM(US)-2011 dated November 21, 2011 (the Directions) prescribing detailed guidelines on the regulatory framework for NBFCs to sponsor IDFs which are to be set up as NBFCs. In terms of the extant instructions, IDF-NBFCs are allowed to raise resources through issue of bonds of minimum five year maturity.

On a review, with a view to facilitate better ALM, it has been decided by RBI in consultation with the Government of India, to allow IDF-NBFCs to raise funds through shorter tenor bonds and commercial papers (CPs) from the domestic market to the extent of upto 10 % of their total outstanding borrowings.

- The link of the above circular is as under:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT3811039AAA1DBE544B99A484041AAEF1A8C.PDF>

M. F-TRAC – COUNTERPARTY CONFIRMATION

On April 28, 2016, RBI in continuation to the circular FMRD.FMID.01/14.01.02/2014-15 dated December 19, 2014 waiving the requirement of exchange of physical confirmation of trades matched on the Financial Market Trade Reporting and Confirmation Platform (“F- TRAC”) of the Clearcorp Dealing Systems (India) Ltd. subject to certain conditions.

It has been decided by RBI to allow entities reporting trades on F-TRAC to enter into multilateral agreement drafted by the Fixed Income Money Market and Derivatives Association (“FIMMDA”) for waiving physical exchange of confirmation for the deals in Commercial Papers (CPs), Certificates of Deposit (CDs), Non-Convertible Debentures (NCDs) of original maturity up to one year and repo trades in corporate debt securities, CPs and CDs.

- The link of the above circular is as under:
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT38757935C2B08214F1989E4A9C083F406AE.PDF>

N. AMALGAMATION OF PRIVATE SECTOR BANKS

- RBI vide Master Direction dated April 21, 2016 issued Direction pursuant to Amalgamation of private sector banks and NBFC registered with RBI
- The Reserve Bank has discretionary powers to approve the voluntary amalgamation of two banking companies under the provisions of Section 44A of the Banking Regulation Act, 1949
- While according this approval, the Boards of the banks shall give some consideration to the matters prescribed.
- The link for the above Master Direction is as under :

<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/MD229CB20F27183D442C9F27C6BD29075463.PDF>

O. ISSUE AND PRICING OF SHARES BY PRIVATE SECTOR BANKS, DIRECTIONS, 2016

- RBI vide Master Direction dated April 21, 2016 issued Direction pursuant to issue and pricing of shares by private sector banks
- Private sector bank, both listed and unlisted, has general permission for issue of shares through all the routes mentioned in Section 4 above subject to the certain conditions
- The link for the above Master Direction is as under :

<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/MD216AECA1E90A764A27B9378DC0AFDB9A08.PDF>



SEBI UPDATES:

A. ELECTRONIC BOOK MECHANISM FOR ISSUANCE OF DEBT SECURITIES ON PRIVATE PLACEMENT BASIS

- SEBI vide Circular No 48 dated April 21, 2016 issued circular on Electronic Book mechanism for Issuance of Debt Securities on private placement basis.
- SEBI (Issue and Listing of Debt Securities) Regulations, 2008, governs public issue of debt securities and listing of debt securities issued through public issue or on private placement basis, on a recognized stock exchange.
- In order to streamline procedures for issuance of debt securities on private placement basis and enhance transparency, it is decided to lay down framework for issuance of debt securities on private placement basis through an electronic Book Mechanism.
- Companies coming up with private placement of debt securities in primary market with issue size of Rs 500 crore and above, inclusive of Green Shoe Option mandatorily need to follow Electronic Book Mechanism.
- The Link of above Circular is given below :

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1461236399007.pdf

B. CLARIFICATION REGARDING APPLICABILITY OF INDIAN ACCOUNTING STANDARDS TO DISCLOSURES IN OFFER DOCUMENTS UNDER SEBI (ICDR) REGULATIONS, 2009

- SEBI vide Circular No 47 dated March 31, 2016 issued circular on applicability of Indian Accounting Standards to disclosures in offer documents
- Disclosure of financial information in offer documents shall be in accordance with the Indian Accounting Standards as specified under MCA Roadmap
- The Link of above Circular is given below :

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1459418165606.pdf

ARTICLE OF THE MONTH

REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016



INTRODUCTION:

The much awaited Real Estate (Regulation and Development) Act, received Presidential assent on March 25, 2016. The Act will come into force from May 01, 2016. The act is passed with an intention to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector.

HISTORY:

- The Real Estate bill was introduced in the Rajya Sabha on August 14, 2013
- The Standing Committee on Urban Development submitted its report on February 13, 2014
- Presidential assent March 25, 2016

OBJECTIVE:

- To regulate this unorganized sector
- To protect the consumer
- To standardize practice in this sector
- To make defaulter accountable and responsible
- To have transparency and fair play in the deal

KEY HIGHLIGHTS:

- For ongoing projects, for which the completion certificate **(CC) has not** been issued, the promoter need to apply for registration with RERA within **three (3) months** from the date of notification of this Act
- The Act establishes state level regulatory authorities called Real Estate Regulatory Authorities (RERAs)
- Establishment of **state level** tribunals called **Real Estate Appellate Tribunals**
- Decisions of RERAs can be appealed in these Tribunals
- Promoter to get the accounts audited within 6 months after every FY

- **Real Estate Agents** dealing in these projects also need to register with RERAs ;
- **70%** of the amount collected for a project must be maintained in a **Separate Bank account** in Scheduled Bank and must only be used for land and construction of the project ;
- Amount can withdrawn from the Bank only on receipt of **certificate** from Engineer, Architect and CA in practice ;
- **70%** of the amount collected for a project must be maintained in a **Separate Bank account** in Scheduled Bank and must only be used for land and construction of the project ;
- Amount can withdrawn from the Bank only on receipt of **certificate** from Engineer, Architect and CA in practice ;
- Land proposed to be developed which does not exceed **500 square meters**
- Number of apartments proposed to be developed **does not exceed 8** inclusive of all phases

EXEMPTED PROJECT:

- **CC** for a real estate project has been received prior to commencement of this Act
- Project of **Renovation / Repair /Redevelopment** which does not involve marketing, advertising, selling or new allotment of any apartment, plot or building

THE REAL ESTATE REGULATORY AUTHORITY (RERA)

- Each State or Union Territory (UT) to establish RERA within **one year** from the notification of the Act
- Two or more States may establish one single authority
- Until established, the State to designate any **Regulatory Authority** or the Secretary of the department dealing with Housing
- Any person aggrieved by any direction or decision or order made by the Authority or by an adjudicating officer may prefer an appeal before the Appellate Tribunal
- Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the High Court, within a period of 60 days

DUTIES OF PROMOTER

- Promoter to **Register** project with RERA
- After registration, promoter to create webpage on website of the RERA and provide details as follows:
 - ✓ Details of registration
 - ✓ Quarterly update the **list of apartments** or plot , and garages booked
 - ✓ Quarterly update the **list of approvals** taken and approval pending
 - ✓ Quarterly update the **status of project**

- At the time of booking or issue of allotment letter, promoter to make available to allottee the following:
 - ✓ Sanction **plan**, layout plan
 - ✓ Stage wise **time schedule** of completion of project like infrastructure, water, sanitation and electricity

RESPONSIBILITIES OF PROMOTER

- To obtain **OC and CC**
- To provide and maintain the **essential services** till the project is taken over by allottees
- To obtain the **Insurance** of the Land and Project
- To enable the formation of an association or **society** or co-operative society
- To execute a registered **conveyance** deed
- To **pay all outgoings** until the physical possession is transferred to allottee
- Not to accept more than **10% of the cost** of apartment as an advance payment or an application fee, **without entering into a agreement for sale and register the same**

OBLIGATION OF PROMOTER

- If he **fails to complete the project** or unable to give possession (i)As per the terms of Agreement of sale or (ii) Discontinuance of business or suspension of registration, Then the Promoter shall return the amount to allottee with interest including compensation
- He shall compensate the allottees in case of any loss caused to allottee due to **defective title** of the land
- To **protect interest** of the all stakeholders like allottees, promoter and real estate agent
- To create **single window system** for ensuring time bound project approvals and clearances
- To create transparent and robust **grievance redressal mechanism**
- To develop measures **to encourage investment in the real estate sector**

FUNCTIONS OF AUTHORITY

- To **protect interest** of the all stakeholders like allottees, promoter and real estate agent
- To create **single window system** for ensuring time bound project approvals and clearances
- To create transparent and robust **grievance redressal mechanism**
- To develop measures **to encourage investment in the real estate sector**
- To develop measures to encourage construction of environment all **sustainable and affordable housing**
- To devise measures to facilitate amicable **settlement of disputes** between the promoters and the allottees

- To render advice to the Government in matters relating to the **development of real estate sector**

OFFENCES, PENALTIES AND ADJUDICATION

- For any wrong disclosure, the Penalty shall be not exceeding **10 % of the total estimated cost** of the Project and
- If promoter does not comply with the orders, decisions or directions, Punishment with **imprisonment for maximum 3 years or fine of maximum 10% of the estimated cost of the Project**

BENEFITS

- It is expected to ease the concerns related to **'delay in project execution, change in project layout without any disclosure** etc.
- It is beneficial to real estate Companies or promoters too as it will ensure transparency and accountability of the promoters, which in turn may **attract investments into the sector.**

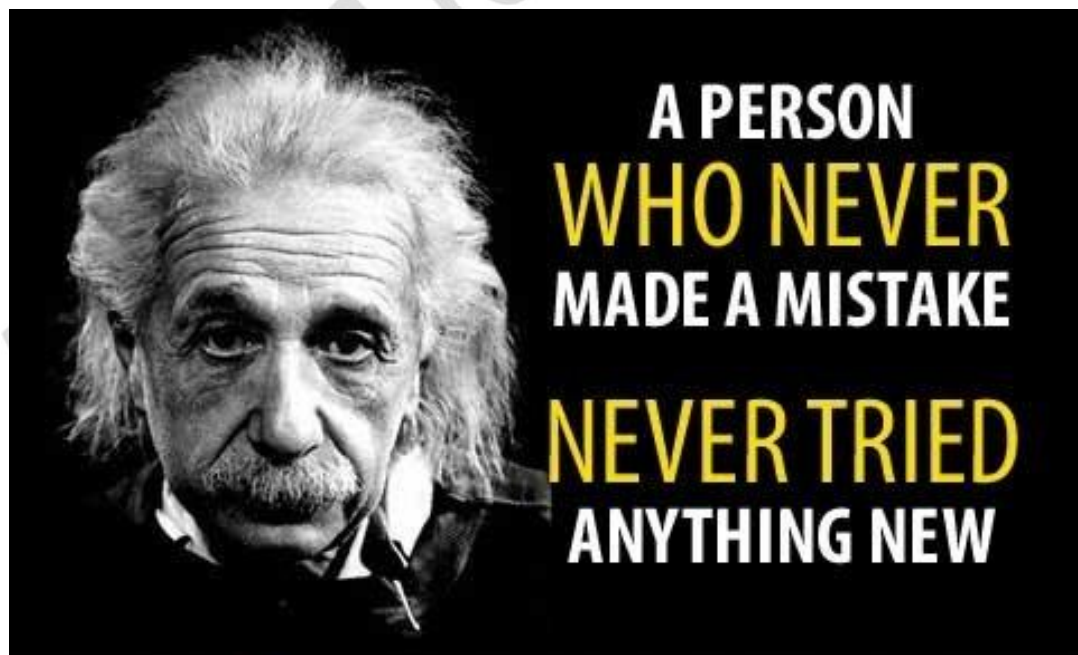
SHORT COMINGS IN THE ACT

- 70 % fund in the Bank cannot be used which may **increase the cost of project**
- **Launch may get delayed** because of approval
- No mention or process for **One Window clearance**
- **Business Risk and Return** are not matched to make it organized
- **No distinction** of each size o project
- No mention of any **non cash transaction**

INSPIRATIONAL QUOTES

LIFE BEGINS
AT THE END
OF YOUR
COMFORT ZONE.

Art Roy Remy



Disclaimer

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