



Newsletter for April, 2019 By Team of Amita Desai & Co.



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



Mumbai Off :

1005, Hubtown Solaris
Off Western Express Highway
East End of Andheri Flyover

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

Fax: + 91-22-6678-7499

Mobile : + 91-982-017-7691

Greetings and a warm welcome to our April 19 Month's edition of Newsletter!

We are pleased to share our Newsletter for the month of April 2019. The newsletter covers the updates / amendments of Ministry of Corporate Affairs (MCA), Reserve Bank of India (RBI) and Securities and Exchange Board of India (SEBI) and Insolvency And Bankruptcy Code, 2016 (IBBI).

The Newsletter is part of our knowledge sharing initiative. Efforts have been made to share notifications and circulars issued by regulatory authorities during the month in concise and in simplified manner.

Our article of the month relates to **“Recent Amendments in SEBI (PIT) Regulations, 2015 and Recent Amendments in SEBI (LODR) Regulations, 2015.”**

We appreciate your support and are so happy to have you as a reader.

With warmest thanks,
Amita Desai & Team



DESAI & C

AM

A. EXTENSION OF LAST DATE OF FILING E-FORM CRA-2:

- Ministry of Corporate affairs (MCA) vide its General Circular no. 04/2019 has extended the last date for filing e-form CRA-2 for Intimation of appointment of cost auditor by the Company to Central Government without payment of additional fees upto **May 31, 2019**.
- This extension is allowed to those Companies which are **mandatory required to get its cost record audited** for the **first time** under Companies Act, 2013 on account of Companies (Cost Records and Audit) Amendment Rules, 2018.
- The link of the above circular is as under:
http://www.mca.gov.in/Ministry/pdf/GeneralCircular042019_05042019.pdf

B. THE COMPANIES (INCORPORATION) FOURTH AMENDMENT RULES, 2019:

- MCA vide its notification G.S.R. 332(E) dated April 25, 2019 has amended the Companies (Incorporation) Rules, 2014 and notified Companies (Incorporation) Fourth Amendment Rules, 2019. They shall come into force on April 25, 2019.
- In the Rule 25A of the Companies (Incorporation) Rules, 2014 the following has been substituted as follow:

In Sub-rule (1) for the words and figures ‘on or before 25.04.2019’, the words and figures ‘on or before 15.06.2019’ has been substituted.

In the third proviso of sub-rule (1) for the words and figures ‘on or after 26th April, 2019’, the words and figures ‘on or after 16th June, 2019’ shall be substituted.

In sub-rule (2) for the words and figures “on or after 26th April, 2019”, the words and figures “on or after 16th June, 2019” shall be substituted.
- MCA vide this notification has **extended** the due date for filing form INC-22A from **25th April, 2019 to 15th June, 2019** and if Company fails to file this form till 15th June, 2019 the Company shall be marked as “ACTIVE non-compliant” and such Company shall be marked “ACTIVE compliant” only after filing e-Form ACTIVE with payment of fee of Rs. 10,000.
- **Filing Fees**
 - a) On or before 15th June 2019 == No filing fee
 - b) On or after 16th June 2019 === Filing fees of Rs. 10,000
- The link of the above notification is as under:
<http://egazette.nic.in/WriteReadData/2019/203083.pdf>

C. THE COMPANIES (REGISTRATION OFFICES AND FEES) AMENDMENT RULES, 2019:

- MCA vide its notification G.S.R. 329(E) dated April 25, 2019 amended the Companies (Registration Office and Fees) Rules, 2014 and has notified Companies (Registration Office and Fees) Second Amendment Rules, 2019. It shall come into force from 25th April, 2019.
- In the Annexure of the Companies (Registration Office and Fees) Rules, 2014 following item namely “**VIII Fee for filing e-Form ACTIVE** under Rule 25A of Companies (Incorporation) Rules, 2014 **has been substituted** now read as:

(i) Fee payable till 15.06.2019 on e-form ACTIVE	----
(ii) Fee payable (in delayed case)	Rs.10,000

Earlier due date for filing e-Form ACTIVE without payment of fees was **25.04.2019**.

- The link of the above notification is as under:
<http://egazette.nic.in/WriteReadData/2019/202876.pdf>

D. THE COMPANIES (ACCEPTANCE OF DEPOSITS) SECOND AMENDMENT RULES, 2019:

- MCA vide Notification No. G.S.R 341 (E) dated April 30, 2019 MCA had amended Rule 16A (3) of the Companies (Acceptance of Deposits) Rules, 2014 , which reads that:

- (a) the due date of **data** of receipt of money or borrowings to be given by each company in Form DPT 3 **from 1st April, 2014 to 31st March 2019** (earlier the same was from 1st April, 2014 to 22nd January 2019) and
- (b) also amended the **date of filing** Form DPT 3 from 90 days from 22nd January 2019 to 90 days from 31st March 2019 that is **by 29th June 2019**

1. Details of all outstanding receipt of money or loan which are either Deposit or exempted Deposit.
2. Applicability to company: e-Form DPT-3 is required to be filed by all the companies (Private, Public, OPC, etc.) other than a Government Company, a Banking Company, a Non-Banking Financial Company and a Housing Finance Company.

Note: Company which has no outstanding receipt of money as on 31st March, 2019, is also required to file form DPT-3 as NIL Return of Deposit.

- The link of the above notification is as under:
<http://egazette.nic.in/WriteReadData/2019/203312.pdf>

E. E-FORM MSME-I:

- MCA vide General Circular No. 01/2019 dated February 21 2019 had extended the last date of **filing of** (Initial Return) in Form MSME-I as 30 days from the date of deployment of e-Form MSME-I on MCA website that is on or before **30th May 2019**.

(a) **Initial Return:** On 1st May 2019 Form MSME-I has been deployed on MCA website and hence all companies which has outstanding payment as on 22nd January 2019 to Small or Micro Enterprises, exceeding 45 days from the date of Acceptance or Deemed Acceptance of Goods or Services are required to file this Initial Return in MSME-I.

(b) **Regular half yearly return** to be filed by every company which avails services or goods from Small or Micro Enterprises and whose payment remain outstanding beyond 45 days from the Date of Acceptance or Date of Deemed Acceptance

- (i) for the period April to September ----- on /before 31st October every year and
- (ii) for the period October to March----- on /before 30th April every year

Note: Company which has no outstanding payment toward any MSME exceeding 45 days as on 22nd January, 2019 is not required to file form MSME-I

- The link of the above circular is as under:

http://www.mca.gov.in/Ministry/pdf/InitialReturnInMSMEForm_21022019.pdf

F. E-FORM DIR-3 KYC (DIRECTOR KYC): *The said Form DIR – 3KYC is yet to be made available on the portal of MCA.*

- MCA vide Notification No. G.S.R 339(E) dated April 30, 2019 had amended Rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014, which reads that every individual who has been allotted a Director Identification Number (DIN) as on 31st March of a Financial Year shall submit e-Form DIR 3 KYC to MCA on or before 30th June of the immediate next financial year.

Hence, all Directors who have DIN as on 31st March 2019 need **to file DIR 3 KYC by 30th June 2019 and then every 30th June in next financial year.**

- The link of the above notification is as under:

<http://egazette.nic.in/WriteReadData/2019/203314.pdf>

G. E-FORM CHG 1, CHG 8 AND CHG -9 AND FILING FEES FOR THE SAME:

- MCA had also notified the Companies (Registration of Charges) Amendment Rule, 2019 and amended **Rule 3, 4 and 12** of the Companies (Registration of Charges) Rules, 2014 (hereinafter referred to as “Original Rules”).

1. **In Rule 3** of the Original Rules, Sub-rule (2) and (3) are substituted and details are as under:

(a) The Charge is required to be created in time as per section 77 (1) read with section 79, that is in 30 days of its creation or modification and with the approval of ROC the Charge can be filed in 300 days from the date of creation/ modification, if the Charge is created/ modified before the Companies (Amendment) Ordinance, 2018 (which was effective from 2nd Nov 2018) and if the same is filed after the Companies (Amendment) Ordinance, 2018 (that is after 2nd Nov 2018), it can be filed in 60 days from the date of creation/modification, by filing additional fees.

However, after 30th April, 2019 amendment by MCA, if there is delay in filing the Charge the same can be **filed with additional fees or advalorem fees** as prescribed in the Companies (Registration Offices and Fees) Rules, 2014 (mentioned in the table below in **Point 5** below)

- (b) Where the company fails to register the charge as referred above and the registration is effected **on the application of the charge-holder**, such charge-holder shall be entitled to recover from the company the amount of any fees or additional fees or **advalorem fees paid by him** 'to the Registrar for the purpose of registration of charge. This is in line with the provisions of section 78 of the CA 2013.

However, after 30th April, 2019 amendment by MCA, the Charge can be registered by Charge Holder by paying **any fees, additional fees or advalorem fees**.

2. **Rule 4** of the Original Rules is substituted as follow :

Application to Registrar.- (**earlier it was Condonation of Delay by Registrar**)

- (1) The Registrar may, on being satisfied that the company had sufficient cause for not filing the particulars and instrument of charge, if any, within a period of 30 days from the date of creation or modification or as per first proviso (30 or 60 days) and clause (b) of the second proviso to section 77 (1) (60 days with payment of advalorem fees), **allow the registration of Charge after 30 days** but within the period as specified in the said provisos, on **payment of fee, additional fee or advalorem fee**, as may be applicable, as prescribed in the Companies (Registration Offices and Fees) Rules, 2014. (mentioned in the table below in **Point 5** below)
- (2) The **application to RoC shall be made in Form No. CHG-1 & Form No.CHG-9** supported by a declaration from the company signed by its company secretary or a director that such belated filing shall not adversely affect the rights of any other intervening creditors of the company.

3. **Rule 12** of the Original Rules is substituted as follow :

Rectification in register of charges on account of omission or misstatement of particulars in charge previously recorded and extension of time in filing of satisfaction of charge.(**earlier it was condonation of delay and rectification of Register of Charges**)

The Central Government (powers are with Regional Director) may on an application filed in Form No. CHG-8 in accordance with section 87(**on such terms and conditions**)-

- (a) direct rectification of the omission or misstatement of any particulars, in any filing, previously recorded with the Registrar with respect to any charge or modification thereof, or with respect to any memorandum of satisfaction or other entry made in pursuance of section 82 or section 83,
- (b) direct extension of time for satisfaction of charge, if such filing is not made within a period of 300 days from the date of such payment or satisfaction." .

Note: Now the delay is not condoned by Central Government which was in Rule 12 earlier.

- The link of the above notification is as under:

http://www.mca.gov.in/Ministry/pdf/CompaniesRegistrationChargesAmendRule_01052019.pdf

H. FEES FOR FILING CHARGE DOCUMENTS (AS PER THE COMPANIES (REGISTRATION OFFICES AND FEES) THIRD AMENDMENT RULES, 2019):

➤ MCA vide Notification No. G.S.R.340 (E) dated April 30, 2019 has notified the Companies (Registration Offices and Fees) Third Amendment Rules, 2019) and amended the Original the Companies (Registration Offices and Fees) Rules 2014 as follow:

1. In the Companies (Registration Offices and Fees) Rules 2014, **in Annexure**, in **item I in sub-item (B)**, where additional fees are prescribed for delay in filing in third column, read as **“Forms including Charge Documents”**, now with this amendment, it will be read as **“Forms Excluding Charge Documents”**
2. In the Companies (Registration Offices and Fees) Rules 2014, **in Annexure**, after su-item **(D), sub-item (E) – Fees for filing charge documents** is inserted which is as follow :

E. – Fees for filing charge documents

(a) charges created or modified **before the 2nd November, 2018**, and allowed to be filed within a period of 300 days of such creation or 6 months from **the 2nd November, 2018**, as the case may be, the following additional fees shall be payable:-

Sl. No.	Period of delay	Additional Fee applicable
1.	Up to 30 days	2 times of normal fees
2.	More than 30 days and up to 60 days	4 times of normal fees
3.	More than 60 days and up to 90 days	6 times of normal fees
4.	More than 90 days and up to 180 days	10 time of normal fees
5.	More than 180 days	12 time of normal fees

(b) For the charges created or modified **on or after the 2nd November, 2018:-**

(A) The **following additional fees or advalorem fees**, as the case may be, shall be payable up to **31st July, 2019**, by all companies:-

Sl. No.	Period of delay	Additional/Advalorem Fees applicable
1.	Up to 30 days	2 times of normal fees
2.	More than 30 days and up to 60 days	4 times of normal fees
3.	More than 60 days and up to 90 days	6 times of normal fees

(B) The following **additional fees or advalorem fees** as the case may be, shall be payable **with effect from 1st August, 2019:-**

Sl. No.	Period of delay	Small Companies and One Person Company	Other than Small Companies and One Person Company
1.	Up to 30 days	3 times of normal fees	6 times of normal fees
2.	More than 30 days and up to 90 days	3 times of normal fees plus an ad valorem fee of 0.025% of the amount secured by the charge, subject to the maximum of Rs.1 Lac.	6 times of normal fees, plus an ad valorem fee of 0.05% of the amount secured by the charge, subject to the maximum of Rs.5 Lacs

➤ The link of the above notification is as under:

<http://egazette.nic.in/WriteReadData/2019/203309.pdf>

A. SEBI (APPOINTMENT OF ADMINISTRATOR AND PROCEDURE FOR REFUNDING TO THE INVESTORS) REGULATIONS, 2018.

- SEBI vide circular no. SEBI/HO/RRD/RD1/CIR/P/2019/46 dated April 02, 2019 which relates to empanelment of insolvency professionals to be appointed as administrators under the regulator's framework. As per the circular on empanelment of insolvency professionals to be appointed as administrator, remuneration and other incidental and connected matters under its norms.
- Under regulation 4 of the Administrator Regulations, the Board after attachments of the properties of the defaulter, SEBI shall appoint the Administrator which is registered with IBBI as an Insolvency Professional. **The Administrator shall be a person registered with the Insolvency and Bankruptcy Board of India ("IBBI") as an Insolvency Professional ("IP") and empanelled with the Board from time to time.**
- Under regulation 5,6 and 17 of the Administrator Regulations, SEBI has empowered to fix the eligibility criteria, the terms of appointment including remuneration of Administrator and issue clarifications and guidelines in respect of the application of the Administrator Regulations.
- As per the Administrator Regulations, the administrator would be selected from the panel of IPs prepared by IBBI and details of such appointments would be share with IBBI.
- During the pendency of the insolvency assignment, the appointed administrator shall neither withdraw consent nor surrender registration to the IBBI Board or membership to the Insolvency Professional Agency (IPA).
- The administrator can also appoint an independent chartered accountant to verify the details of money raised including payment already made to investors. SEBI appoints administrators in case of entities where investors' money has to be refunded.
- The remuneration payable to administrator shall be in accordance with IBBI's Liquidation Process norms.
- The link of this press release is as under:
<https://www.sebi.gov.in/legal/circulars/apr-2019/empanelment-of-insolvency-professionals-ips-to-be-appointed-as-administrator-remuneration-and-other-incidental-and-connected-matters-under-the-securities-and-exchange-board-of-india-appointment-of-42592.html>

B. EXTENTION OF TIME FOR IMPLEMENTATION OF PHASE I OF UNIFIED PAYMENTS INTERFACE WITH APPLICATION SUPPORTED BY BLOCK AMOUNT:

- SEBI vide circular no. SEBI/HO/CFD/DIL2/CIR/P/2019/50 dated April 3, 2019 has extended the timeline for the implementation of phase 1 of Unified Payments Interface (UPI) as an alternative payment mechanism for retail investors buying shares in a public issue.

- It is based on the representations received from the various market intermediaries, to extend the time line for implementation of aforesaid circular by 3 months i.e. till June 30, 2019.
- The timeline for implementing Phase II and Phase III shall remain unchanged from the date of completion of Phase I.
- The link of this circular is as under:
<https://www.sebi.gov.in/legal/circulars/apr-2019/streamlining-the-process-of-public-issue-of-equity-shares-and-convertibles-extension-of-time-lime-for-implementation-of-phase-i-of-unified-payments-interface-with-application-supported-by-block-amoun-42597.html>

C. AMENDMENT IN ISSUE AND DISCLOSURE REQUIREMENT REGULATION (ICDR), 2019:

- SEBI vide Notification no. SEBI/LAD-NRO/GN/2019/08 dated April 5, 2019, these regulations may be called the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2019. It shall come into force on the date of their publication in the Official Gazette.
- Amendments in issue and disclosure requirements regulation (ICDR) 2019

Regulation	Before Amendments	Amendment	After Amendments	Stands for Amendment
2 (1)	Institutional trading platform	Substitute with the word	Innovator growth platform	Definition
3 (1)	Institutional trading platform	Substitute with the word	Innovator growth platform	Applicability of regulation
284 (6)	Institutional trading platform	Substitute with the word	Innovator growth platform	Listing without public issue
290	Institutional trading platform	Substitute with the word	Innovator growth platform	Exit of issuers whose securities are trading without making a public offer
291 (2)	Institutional trading platform	Substitute with the word	Innovator growth platform	Withdrawal of approval by the stock exchange
Schedule V	Institutional trading platform	Substitute with the word	Innovator growth platform	Formats of due diligence certificate
Form A in para (13)	Institutional trading platform	Substitute with the word	Innovator growth platform	
Chapter X	Institutional trading platform	Substitute with the word	Innovator growth platform	Institutional trading platform
282 (3)	and not to retail individual investor	Omitted	-	Chap X- Institutional trading platform- Part I-Applicability

283 (3)	Sub Regulation (3)	Renumbered	Sub Regulation (2)	Elegibility criteria for listing on Innovator growth platform
286	Ten lakhs rupees	Substitute with the word	Two lakhs rupees	Minimum application Size
287 (1)	Two hundred	Substitute with the word	fifty	No. of allottees
287 (2)	The allotment to institutional investors may be on a discretionary or a proportionate basis whereas the allotment to non-institutional investors shall be on a proportionate basis	Substitute with the word	The allotment to institutional investors as well as non-institutional investors shall be on a proportionate basis	Allotment to institutional investor
287 (3)(4)and (5)		Shall be omitted	-	
287 (6)	287 (6)	Renumbered	287 (3)	Any under-subscription in the non-institutional investor category shall be available for subscription under the institutional investors' category.
289	Ten lakhs rupees	Substitute with the word	Two lakhs rupees	The minimum trading lot on the stock exchange

- In regulation 283(1), eligibility for listing on Innovator Growth platform shall be substitute with the following
1. An issuer which is intensive in the use of technology, information technology, intellectual property, data analytics, bio-technology or Nano-technology to provide products, services or business platforms with substantial value addition shall be eligible for listing on the innovators growth platform, provided that as on the date of filing of draft information document or draft offer document with the Board, 25% of the pre-issue capital of the Issuer Company for at least a period of two years, should have been held by
 - I] Qualified institutional Buyers
 - II] Family trust with net worth of more than 500 Crore Rupees, as per the latest Balance Sheet

III] Accredited Investor for the purpose of investors growth platform

1. Following shall be considered as Accredible investor:
 - i. Any individual whose total income of Rs 50 lakhs and min liquid net worth of Rs 5 Crore.
 - ii. Any Corporate with net worth of Rs. 25 Crore.
2. Not more than 10% of pre issue capital may be held by accredited investor

IV] The following regulated entities:

1. Category III foreign portfolio investor
 2. An entity meeting all the following criteria
 - i. Pooled investment fund with min asset of 150 million USD.
 - ii. Registered with financial sector regulators
 - iii. It is resident of a country whose securities market regulatory is a signatory to the International Organization of Securities Commission's multilateral memorandum of understanding or bilateral memorandum of understanding with the board.
 - iv. It is not resident in country identified in the public statement of financial action task force as
 - a.a jurisdiction having a strategic Anti- Money Laundering or combating the financing of terrorism deficiencies to which counter measures apply
 - b.a jurisdiction that has not made sufficient progress in addressing the deficiency or has not committed to an action plan developed with the financial action task force to address the deficiency.
- The new regulation shall be inserted i.e. regulation 285A namely Minimum public shareholding norms and minimum offer size.
1. The issuer shall be in compliance with minimum public shareholding requirements specified in the Securities Contracts (Regulation) Rules, 1957.
 2. The minimum offer size shall be **Ten Crore Rupees.**"
- The link of this Circular is as under:
<https://www.sebi.gov.in/legal/regulations/apr-2019/securities-and-exchange-board-of-india-issue-of-capital-and-disclosure-requirements-second-amendment-regulations-2019-42644.html>

D. SEPARATE BSDA LIMIT FOR DEBT SECURITIES :

- SEBI vide its circular no. MRD/DoP2DSA2/CIR/P/2019/51 dated April 10, 2019, provides the separate Basic Service Demat Account (BSDA) limit for Debt Securities. BSDA offers limited services at a lower cost for retail investors.

- The revised structure of charges of debts securities as defined in SEBI (ICDR) Regulation 2008 as follows:
 - a. No AMC shall be levied in case the value of holdings of debt securities is up to Rs. 1,00,000 and a maximum AMC of Rs. 100 shall be levied if the value of holdings of debt securities is between Rs. 1,00,001 and Rs.2,00,000.
 - b. No AMC shall be levied in case the value of holdings other than debt securities is below Rs. 50,000 and a maximum AMC of Rs. 100 shall be levied if the value of holdings other than debt securities is between Rs.50, 001 and Rs.2,00,000.
- In 2012, SEBI directed depository participants to make BSDA available for retail individual investors as part of efforts to reduce the cost of maintaining securities in demat accounts.
- This circular shall come into effect from June 1, 2019.
- The link of this Circular is as under:
https://www.sebi.gov.in/legal/circulars/apr-2019/separate-bsda-limit-for-debt-segment_42667.html

RISK BASED CAPITAL AND NET WORTH REQUIREMENTS FOR CLEARING CORPORATION UNDER SECURITIES CONTRACTS (REGULATION) (STOCK EXCHANGES AND CLEARING CORPORATIONS) REGULATIONS, 2018:

- SEBI vide circular no. SEBI/HO/MRD/DRMNP/CIR/P/2019/55 dated April 10, 2019, in consultation with the recognized Clearing Corporations, has issued norms related to computation of risk-based capital and net worth requirements for Clearing Corporations (CCP) under Securities Contracts (Regulation)(Stock Exchanges and Clearing Corporations) Regulations, 2018.
- SEBI adopted risk-based approach towards computation of capital and net worth requirements for CCPs according to regulation 14(3) of SECC Regulation 2018. The same states as under:
 - a. Every recognised clearing corporation shall maintain capital including retain earnings and reserves to adequately cover counterparty credit risk, business risk, legal and operational risk.
 - b. Every recognized clearing corporation shall hold additional capital to cover costs for wind-down or recovery of operations.
 - c. Every recognized clearing corporation shall maintain minimum net worth of 100 Crore or Capital as determined as aforesaid in (a) and (b) whichever higher.
- Computation of risk based capital and net worth requirement for CCPs as under:

For Credit Risk (“A”)

1. The credit risk from default of clearing member is being captured through the core SGF framework on “core settlement Guarantee fund, Default waterfall and stress test”. The CCP contribution to core SGF shall be at least 50% of Minimum Required Corpus (MRC).
2. Minimum contribution towards core SGF shall be considered for computing capital requirements towards credit risk required to be made by the CCPs.

For Business Risk (“B”)

1. Capital requirement shall be based on a CCPs own estimate as it is dependent on factors specific to each CCP.
2. Capital requirement for business risk shall be subject to a minimum of 25% of annual gross operational expenses.

For orderly wind –down (“C”)

1. CCP shall have wind down plan and hold sufficient liquid net asset for implement such plan.
2. These asset shall determine by the general business risk profile of the CCP
3. While computing the capital requirement for winding down, a minimum time span of six months shall be considered for ensuring an orderly winding down or restructuring of its activities and thus, hold liquid net assets equal to at least six months of gross operational expenses.

For Operational and Legal Risk (“D”)

1. A CCP shall identify the plausible sources of operational risk, both internal and external, and mitigate their impact through the use of appropriate systems, policies, and control measures and maintains adequate financial resources to mitigate any losses in the foreseeable future.
 2. The capital requirement for legal and operational risks shall at least be 20% of the aggregate of capital requirements for counterparty credit risk, business risk and orderly wind-down or recovery of operations, i.e. 20% of (A+B+C).
- The risk based net worth for CCPs shall be computed as the aggregate of capital requirements each for counterparty credit risk, business risk, orderly winding down or recovery of operations and legal and operational risks i.e. (A+B+C+D) or, 1.20 (A+B+C). Thus, the CCPs shall be required to maintain, at all times, in the form of liquid assets, a net worth of either INR 100 crore or as determined in the manner specified above, whichever is higher.
 - CCP shall submit the quarterly certificate of Net Worth signed by MD of the CCP to the SEBI **within 15 days from the end of the every quarter.**
 - The link of this press release is as under:
https://www.sebi.gov.in/legal/circulars/apr-2019/risk-based-capital-and-net-worth-requirements-for-clearing-corporations-under-securities-contracts-regulation-stock-exchanges-and-clearing-corporations-regulations-2018_42675.html

E. SECURITIES AND EXCHANGE BOARD OF INDIA (INFRASTRUCTURE INVESTMENT TRUSTS) (AMENDMENT) REGULATION 2019:

- SEBI vide Notification No SEBI/LAD-NRO/GN/2019/10 dated April 22, 2019, Published the Securities and Exchange Board Of India (Infrastructure Investment Trusts) (Amendments) Regulation 2019
- They shall come into force on 22nd April, 2019.

- In regulation 14 (4) (c), which relates to the minimum subscription from investor, the ‘ten’ shall be substitute with the word ‘one’.
- In regulation 16 (9) (b), which relates to trading lot for the purpose of trading of units on the designated stock exchange:

the word ‘be five lakh rupees’ substitute with ‘consist of 100 units’.

- In regulation 17 which relates to application for delisting of units of the InvIT by the investment manager to the Board and the designated stock exchanges if: (e) the **sponsor(s) or** trustee requests such delisting and such request has been approved by unit holders in accordance with regulation 22

the amendment is as follows:

1. Sub regulation (e)
 - i. The word ‘Sponsor(s) or’ shall be omitted.
 - ii. The words ‘and investment manager’ shall be inserted after the word ‘trustee’ and before the word ‘request’.

2. New clause shall be inserted (ea) after the (e) and before the (f), as follows,

“(ea) the trustee and the Investment Manager of a privately placed and listed InvIT chooses to convert InvIT to a privately placed unlisted InvIT and such request has been approved by unit holders in accordance with regulation 22: Provided that exit shall be provided to dissenting unit holders.”

3. In subregulation (6) following non- obstante clause shall be inserted,

“Notwithstanding the above, in case the delisting is done in terms of clause (ea) of sub-regulation (1),the InvIT may retain its certificate of registration and continue to undertake the activity of a privately placed and unlisted InvIT as specified in Chapter VIA.”

- In regulation 20, the amendments as follows
 1. In sub regulation (2), which reads as - The aggregate consolidated borrowings and deferred payments of the InvIT [, holdco and the SPV(s),] net of cash and cash equivalents shall **never** exceed **forty nine** per cent of the value of the InvIT assets
 - i. The word ‘never’ substituted with ‘not’.
 - ii. The word ‘forty nine’ substituted with ‘seventy’.
 2. In sub regulation (3), existing clause (a) and (b) shall be substitute with following clauses
 - a. Upto 49%, an investment shall
 - i. Obtain credit rating
 - ii. Approval from unit holder
 - b. Above 49%, an investment shall
 - i. Obtain credit rating of AAA
 - ii. Utilization of fund for acquisition and development of infrastructure project.
 - iii. Have track record of six distribution as per regulation 18 (6), on continuous basis, Post listing, in the year preceding financial year.
 - iv. Obtain approval from unit holder.

- In regulation 21 (5) following proviso shall be inserted,

“Provided that in case the consolidated borrowings and deferred payments of an InvIT, in terms of Regulation 20, is above forty nine per cent, the valuation of the assets of such InvIT shall be conducted by the valuer for quarter ending June, September and December, for incorporating any key changes in the previous quarter and such quarterly report shall be prepared within one month from the date of the end of such quarter.”

- In regulation 22 the amendments are as follows

1. Sub-regulation (4) (c) shall be substitute with the following

“(c) any borrowing in terms of the limit specified under clause (a) of sub-regulation (3) of regulation 20;”

2. In sub regulation 5 (c),

i. The word “sponsor(s) or ” shall be omitted

ii. The words “trustee and” shall be inserted after the word “the” and before the words “investment manager”.

iii. after the word “InvIT”, the words “under clause (e) of sub-regulation (1) of regulation 17” shall be inserted

3. the new sub regulation (5A) and (5B) shall be inserted after sub regulation (5) and before sub regulation (6) as follows:

“(5A) In case of any borrowing by an InvIT in terms of the limit specified in clause (b) of sub-regulation 3 of regulation 20, the approval from seventy five per cent. of the unit holders by value shall be obtained.

(5B) For delisting of units of InvIT in terms of clause (ea) of sub-regulation (1) of regulation 17, approval from not less than ninety per cent. of the unit holders by value shall be required and exit shall be provided to dissenting unit holders.”

- In regulation 23 the amendments as follows:

1. In sub regulation (4), which reads as- The investment manager of shall submit a half yearly report to the designated stock exchange within forty five days from the end of **the every** half year ending **March 31st and** September 30th

i. The word the every shall be omitted appearing after the word “the end of ” and before the words “half year ending”.

ii. The word and number “March 31st and ” shall be omitted

iii. The following provision shall be inserted

“Provided that for any InvIT, whose units are listed and whose consolidated borrowings and deferred payments, in terms of regulation 20, is above forty nine per cent., such InvIT shall also submit a quarterly report to the designated stock exchange within thirty days from the end of every quarter ending June and December.”

2. Sub regulation (5) shall substitute with following.

Annual/ half yearly /quarterly reports shall contain disclosures as specified under Part-A, Part-B and Part-C, respectively, of Schedule IV

- Chapter VIA shall be inserted after Chapter VI.

FRAMEWORK FOR PRIVATE PLACEMENT OF UNITS OF INVITS WHICH ARE NOT LISTED

26A Applicability:

1. Provision of chapter shall apply to infrastructure investment trust, which propose to issue units or has issued units on private placement basis.
2. The unit shall not be eligible to be listed on recognized stock exchange
3. Following regulation of Securities And Exchange Board Of India (Infrastructure Investment Trusts) (Amendment) Regulations, 2019 shall not be applicable to Infrastructure Investment Trusts issuing units/ who has issued under the provision of this chapter
 - (a) Regulation 10 Sub-regulation (4), (9),(10) and (22)
 - (b) Regulation 14 Sub-regulation (1A) and (2)
 - (c) Regulation 16;
 - (d) Regulation 17;
 - (e) Regulation 20;
 - (f) Regulation 21 sub-regulation (6)
 - (g) Regulation 22 (5) (f) (iv)
 - (h) Regulation 23;
 - (i) Regulation 9 (15) in respect of obtaining prior approval of the Board for any change in the investment manager;
 - (j) Regulation 9 (17) in respect of obtaining prior approval of the Board in case of change in control of the investment manager.

26B. Raising of funds and investments

1. Raising fund by way of private placement basis in terms of the provision of this chapter by an InvIT shall, :
 - a. Do it through private memorandum
 - b. Raise fund from institutional investor and body corporate whether Indian or foreign
 - c. Not accept investment of value less than 1 Crore rupees
 - d. Not raise fund from more than 20 investors
 - e. File Placement memorandum with board alongwith the fee atleast 5 days prior to the opening issue
 - f. File final placement memorandum with board within 10 working days from the date of allotment of the units to the investor
 - g. Not invest less than 80% of total value of asset of infrastructure investment trust in eligible infrastructure projects
2. Provided that un-invested funds may be invested in instruments as provided under sub-clause (ii), (iii), (iv) and (v) of clause (b) of sub-regulation 5 of Regulation 18 of Infrastructure investment trust.
3. Infrastructure investment trust may extent the borrowing as per trust deed after seeking approval from investors.

26C. Disclosure

1. Ensure that while issuing units under this chapter, disclosures in the placement memorandum are there in accordance with the regulation 15(4).
2. Investment manager shall submit annual report, half yearly report and valuation report to the trustee and unit holder, either electronically or physically.
3. The annual and half yearly reports shall contain disclosures as specified under Schedule IV, to the extent applicable.
4. Investment manager shall disclose to the trustee and unit holder information on the operation and performance of the infrastructure investment trust which may include the following:
 - a. Acquisition or disposal of any project of which the value exceeds 5% of the value of the infrastructure investment trust assets, whether directly or through holding company or SPV.
 - b. Additional issue of units by the Infrastructure investment trust.
 - c. Details of credit rating obtain and any change in such rating.
 - d. Any issue which requires unit holders' approval.
 - e. Any legal proceedings which may have significant bearing on the functioning of the Infrastructure investment trust.
 - f. Notices and results of meetings of unit holders.
 - g. Any instance of non- compliance under these regulations.
 - h. Any material issue that need to be disclosed to the unit holder.

26D.General

1. The investment manager shall be responsible for all the activities relating to the issue of the units.
2. The investment manager shall ensure that disclosures made in placement memorandum are in accordance with the regulations and guidelines issued by the Board.
3. The investment manager shall ensure that the investments are made in accordance with the investment conditions specified in chapters and strategy of the infrastructure investment trust.
4. The investment manager shall ensure that the audit of the account of trust is done atleast one in a year and such report is submitted to the trustee and unit holders, either electronically or physically.

26E.Surrender of certificate

1. An infrastructure investment trust may surrender its certificate of registration to the board and on acceptance of surrender, it shall no longer undertake the activity of infrastructure investment trust.
2. The infrastructure investment trust and parties to it, shall continue to be liable for the act of omission and commission even after the surrender of registration to the Board.

26 Listing of units

Infrastructure investment trust may list their units on recognised stock exchange, subject to compliance of the requirements specified under these regulations and of the provisions specified by the Board from time to time.

- In Schedule IV the amendments are as follows:
 1. The word “Part A” shall be inserted before the title Mandatory disclosure in the Annual Report.
 2. The word Part B shall be inserted before the title Mandatory disclosure in the Half Yearly report.
 3. New Part-C shall be inserted after Part-B as follows
“Part -C Mandatory disclosures in the quarterly report
(A privately placed InvIT may only disclose the items, as may be applicable to its structure and activities)
 - a. Financial statements for the quarter; (Standalone and consolidated)
 - b. Updated valuation report by the valuer taking into account any material developments during the previous quarter
 - c. Any other material events during the quarter”

F. SEBI (REAL ESTATE INVESTMENT TRUSTS) (REITs) (AMENDMENT) REGULATIONS, 2019:

- SEBI vide its Notification no. SEBI/LAD-NRO/GN/2019/09 dated April 22, 2019 has amended SEBI (Real Estate Investment Trusts), Regulation, 2014 and has notified SEBI (Real Estate Investment Trusts) Amendment Regulations, 2019.
- SEBI vide circular has made two amendments as follows:
 - I. Regulation 14 which relates to issue and allotment of units has been substituted with the following:

“The minimum subscription from any investor in initial and/or public offer shall be Rupees Fifty thousand.”
 - II. In regulation 16 which relates to listing and trading of units, the words “be one lakh rupees” has be substituted with words and figures “consist of 100 units”.
- The link of the aforesaid Notification is as under:

https://www.sebi.gov.in/legal/regulations/apr-2019/securities-and-exchange-board-of-india-real-estate-investment-trusts-amendment-regulations-2019_42773.html

G. GUIDELINES FOR DETERMINATION OF ALLOTMENT AND TRADING LOT SIZE FOR REAL ESTATE INVESTMENT TRUSTS (REITS) AND INFRASTRUCTURE INVESTMENT TRUSTS (INVITS)

- SEBI vide Circular no. SEBI/HO/DDHS/DDHS/CIR/P/2019/59 dated April 23, 2019 has issued guidelines for determination of allotment and trading of lot size for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs).
- The amendments under REITs regulation and InvITs regulation has reduced the minimum subscription requirement and defined the trading lot in terms of number of units. The limits for aggregate consolidated borrowings and deferred payments, net of cash and cash equivalents, have been increased to seventy percent of the value of the InvIT assets.
- The guidelines for determining the allotment of an initial offer are as below:

Sr. No.	Particulars	InvITs	REITs
1	Allotment in an initial offer	Not less than Rs. 1 Lakh	Not less than Rs. 50,000
2	Allotment in follow on offer	Minimum allotment shall be of such number of lots where value of such shares not less than Rs. 1 Lakh	Minimum allotment shall be of such number of lots where value of such shares not less than Rs. 50,000

- Recognized Stock Exchange shall determine the number of units in the trading lots within a period of 6 months from the date of this notification.
- InvITs having their aggregate consolidated borrowings and deferred payments more than 49% shall disclose additional financial disclosures which are as follows:
 1. Asset cover available;
 2. Debt-equity ratio;
 3. Debt service coverage ratio;
 4. Interest service coverage ratio; and
 5. Net worth
- The link of the aforesaid Circular is as under:
https://www.sebi.gov.in/legal/circulars/apr-2019/guidelines-for-determination-of-bidding-allotment-and-trading-lot-size-for-real-estate-investment-trusts-reits-and-infrastructure-investment-trusts-invits-_42772.html

H. NET WORTH REQUIREMENTS FOR CLEARING CORPORATIONS IN INTERNATIONAL FINANCIAL SERVICES CENTRE (IFSC)

- SEBI vide Circular no. SEBI/HO/MRD/DRMNP/CIR/P/2019/60 dated April 26, 2019 has prescribed net worth requirements for Clearing Corporations operating in IFSC.

- Every Recognized Clearing Corporation shall maintain minimum Rs. 100 Crores or Capital as determined under Regulation 14(3)(a) and 14(3)(b), whichever is higher and shall regularly review their net worth and ensure that the net worth does not fall below the prescribed threshold. The certificate to this effect shall be submitted to SEBI within 15 days from the end of every quarter. The first submission shall be made for quarter ending **30th June, 2019**.
- Clause 5(2) of SEBI (IFSC) Guidelines, 2015 is being amended as follows:
 - “(2) (a) Every applicant seeking recognition as a clearing corporation shall have a minimum net worth equivalent of Rs. 50 Crores.
 - (b) Every RCC shall have a minimum net worth equivalent of Rs. 50 Crores or capital as determined in accordance with SEBI circular dated April 10, 2019.
 - (c) Further, every RCC shall enhance, over a period of 3 years from commencement of operations, its net worth, to be maintained in the form of liquid assets, to a minimum equivalent of Rs. 100 Crores or capital as determined in accordance with SEBI circular dated April 10, 2019.”
- The link of the aforesaid Circular is as under:
<https://www.sebi.gov.in/legal/circulars/apr-2019/net-worth-requirements-for-clearing-corporations-in-international-financial-services-centre-ifsc-42849.html>

RBI UPDATES

A. FOREIGN EXCHANGE MANAGEMENT (TRANSFER OR ISSUE OF SECURITY BY A PERSON RESIDENT OUTSIDE INDIA) (THIRD AMENDMENT) REGULATIONS, 2019:

- RBI vide its notification dated April 18, 2019 has amended the principle regulation i.e. Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulation, 2017 and these rule shall be called as Foreign Exchange Management (Transfer or issue of Security By a person resident outside India) (Third amendment) Regulation, 2019 and shall be effective from the date of its publication in the Official Gazette.
- Amendment is as follow:

In the Regulation 2

The Following new clause has been **added** after clause (xlvii):

“(xlvii) ‘Municipal Bonds’ mean debt instruments issued by municipalities constituted under Article 243Q of the Constitution of India.”

and the existing clause (xlvii) re-numbered as **clause (xlviii)**.

Schedule 5 (Purchase and sale of securities other than capital instruments by a person resident outside India)

In point no.1 Permission to persons resident outside India under sub point A new Clause “(m) **Municipal bonds.**” has been added after clause (l).

- The link of the above notification is as under:
<http://egazette.nic.in/WriteReadData/2019/202491.pdf>

B. INVESTMENT BY FOREIGN PORTFOLIO INVESTORS (FPI) IN DEBT – REVIEW:

- RBI vide its circular RBI/2018-19/176 A.P. (DIR Series) Circular No. 33 dated April 25, 2019 with reference to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2017 notified vide Notification No. FEMA 20(R)/2017-RB dated November 07, 2017, as amended from time to time and the relevant directions issued thereunder. A reference is also invited to AP (DIR Series) Circular No. 22 dated April 6, 2018, AP (DIR Series) Circular No.31 dated June 15, 2018, and AP (DIR Series) Circular No. 26 dated March 27, 2019 on FPI investments in debt instruments.
- Foreign Portfolio Investors (FPI) is now permitted to invest in municipal bonds as a measure to broaden access of non-resident investors to debt instruments in India.
- FPI investment in municipal bonds shall be reckoned within the limits set for FPI investment in State Development Loans (SDLs).
- All other existing conditions for investment by FPIs in the debt market remain unchanged.
- The link of the above circular is as under:
<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NOTI17632250E0B16FF499893CB9D2A55359D93.PDF>

C. OMBUDSMAN SCHEME FOR NON-BANKING FINANCIAL COMPANIES, 2018:

➤ **Introduction**

RBI vide its notification dated February 23, 2018 had implemented the Ombudsman Scheme for NBFCs as defined in Section 45-I(f) of RBI Act, 1934 and registered with the RBI under section 45-IA of RBI Act, 1934 which are authorised to accept deposits.

➤ **Extension of Scheme**

RBI vide its notification dated April 26, 2019 has extended the Ombudsman scheme to remaining identified categories of NBFCs which:

- (a) are authorised to accept deposits;
- (b) are Non-Deposit Taking NBFCs having customer interface, with **assets size of Rupees 100 Crore or above**, as on the date of the **audited balance sheet** of the **previous financial year**, or of any such asset size as the RBI may prescribe,

➤ **Exclusion**

The following Companies shall be excluded from the ambit of the Scheme:

- (a) Non-Banking Financial Company - Infrastructure Finance Company (NBFC-IFC);
- (b) Core Investment Company (CIC);
- (c) Infrastructure Debt Fund-Non-Banking Financial Company (IDF-NBFC); and
- (d) NBFC under liquidation.

➤ **Administered Offices of the Non-Banking Financial Companies Ombudsman for handling Complaints from respective zones**

- (a) Chennai,
- (b) Kolkata,
- (c) Mumbai and
- (d) New Delhi.

➤ The link of the above notification is as under:

<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT26042019294F56B92B08472480921375779C3547.PDF>

D. LEGAL ENTITY IDENTIFIER: EXTENSION OF DEADLINE:

- RBI vide its notification dated April 26, 2019 has issued notification on Legal Entity Identifier (LEI) for Extension of Deadline to enable smoother implementation of the LEI system in non-derivative markets.
- Timelines for implementation (Phase I and Phase II) are extended as under:

Phase	Net worth of Entities	Current deadline	Extended Deadline
Phase I	Above Rs. 10000 Million (Above Rs. 1000 Crore)	April 30, 2019	December 31, 2019
Phase II	Between Rs. 2000 Million and Rs. 10000 Million (Between Rs. 200 Crore and 1000 Crore)	August 31, 2019	December 31, 2019
Phase III	Upto Rs. 2000 Million (Upto Rs. 200 Crore)	March 31, 2020	March 31, 2020

➤ The link of the above notification is as under:

<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NOTI1770EA1DB41CD8A4567BBC6E71114F7E5BE.PDF>

A. COMPLIANCE WITH REGULATIONS OF IBBI (INSOLVENCY PROFESSIONALS) REGULATIONS, 2016:

- Insolvency and Bankruptcy Board of India (Board) issued a Circular dated April 12, 2019 which deals with compliance of Regulation 7 (2) (ca) of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (“IP Regulations”) by an Insolvency Professional (IP) and Regulations 13 (2) (ca) of the IP Regulations by an Insolvency Professional Entity (IPE).
- The aforesaid Regulations deals with the requirement and manner of payment of fees by an IP and IPE to the Board.
- As per Regulation 7 (2) (ca) of the IP Regulations the registration of Insolvency Professional shall be subject to the conditions that the insolvency professional shall pay to the Board, a fee calculated at the rate of 0.25 percent of the professional fee earned for the services rendered by him as an insolvency professional in the preceding financial year, on or before the 30th of April every year, along with a statement in Form E of the Second Schedule.
- As per Regulation 13 (2) (ca) of the IP Regulations the recognition of Insolvency Professional Entities shall be subject to the conditions that the insolvency professional entity shall pay to the Board, a fee calculated at the rate of 0.25 percent of the turnover from the services rendered by it in the preceding financial year, on or before the 30th of April every year, along with a statement in Form G of the Second Schedule.
- The Board has enabled a facility for electronic submission of Form E or G, as the case may be, and details of login in this regard have already been shared with IPs and IPEs.
- The Circular further clarifies the following:
 - (a) Form E / Form G for the year 2018-19 shall be submitted electronically by an IP / IPE before 30th April, 2019; and
 - (b) Form E / Form G shall be submitted by every IP / IPE even if he has not earned any professional fee or does not have turnover during 2018-19.
- The link of the above notification is as under:
https://ibbi.gov.in/webadmin/pdf/legalframework/2019/Apr/IBBI%20Circular%20No.%20IBBI-IP-020-2019%20dated%2012th%20April%202019_2019-04-12%2019:40:26.pdf

ARTICLE OF THE MONTH

➤ **RECENT AMENDMENT IN SEBI (PIT) REGULATIONS, 2015**

Kindly refer the below link for the above article:

[https://www.amitadesai.com/uploads/Recent%20Amendments%20in%20SEBI%20\(PIT\)%20Regulations,%202015.pdf](https://www.amitadesai.com/uploads/Recent%20Amendments%20in%20SEBI%20(PIT)%20Regulations,%202015.pdf)

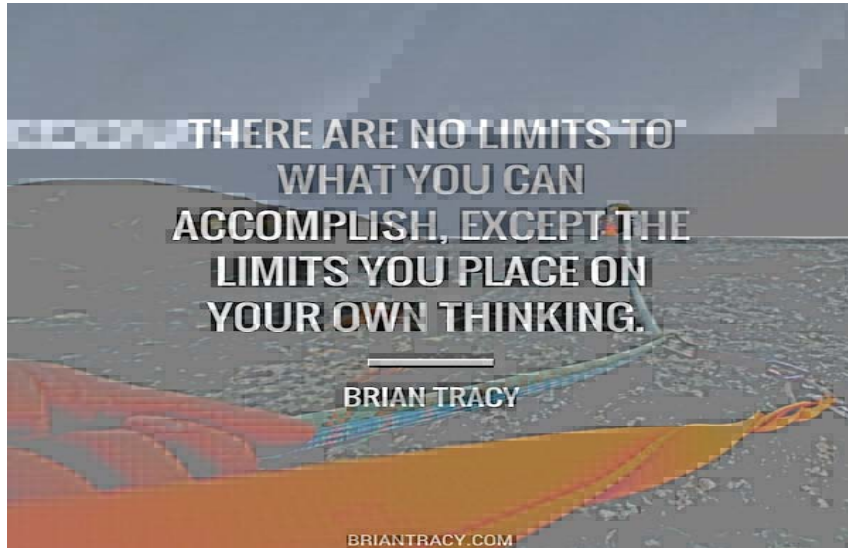
➤ **RECENT AMENDMENTS IN SEBI (LODR) REGULATIONS, 2015**

Kindly refer the below link for the above article:

[https://www.amitadesai.com/uploads/SEBI%20\(LODR\)%202015-%202014%20April%202019-%20Amita%20Desai-.pdf](https://www.amitadesai.com/uploads/SEBI%20(LODR)%202015-%202014%20April%202019-%20Amita%20Desai-.pdf)

AMITA DESAI & CO.

INSPIRATIONAL QUOTES



Disclaimer

**This legal update is not intended to be a form of solicitation or advertising for any purpose. 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. The views expressed in this article are solely of the authors of this article*

Amita Desai & Co. Company Secretaries

Mumbai Off :

1005, Hubtown Solaris
Prof N S Phadke Marg
Andheri Flyover, Andheri (East)
Mumbai-400069

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

Editor: For Amita Desai and Company

- Mr. Arvind Nalekar
- Mr. Jigar Oza
- Ms. Jinali Shah
- Ms. Khushbu Hemani
- Mrs. Shilpa Agrawal
- Ms. Sneha Bajaj
