

ACQUISORY



# NEWS CHRONICLE

August, 2018

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**Editor: Sunaina Jhingan**  
(Knowledge Manager with Acquisory)

## ACQUISORY NEWS CHRONICLE AUGUST, 2018

### ➤ **Common Application Form for FPI Registration**

The Government has notified Common Application Form for registration of Foreign portfolio Investor (FPI) with SEBI, Know Your Customer (KYC) for opening bank and Demat account and application for PAN by FPIs in India.

### ➤ **MCA extends due date of DIR 3KYC / E-KYC of Directors upto 15<sup>th</sup> September, 2018**

MCA extends the last date of filing DIR -3KYC without any filing fees upto 15<sup>th</sup> September, 2018. The fees of INR 5,000/- shall be applicable & payable on all delayed filings w.e.f 16<sup>th</sup> September, 2018.

### ➤ **CBDT Amends Form No. 3CD w.e.f. 20<sup>th</sup> August, 2018**

CBDT has Amended Income Tax Audit Form No. 3CD with effect from 20th August, 2018 to incorporate further reporting requirement related to

- Goods and Service Tax (GST) ,
- Transfer pricing,
- Statement of Financial Transactions, Section 32AD,
- Income from other sources as referred to in clause (x) of sub-section (2) of section 56,
- Secondary adjustment to transfer price – section 92CE,

- Limitation of Interest deduction u/s 94B, section 269ST-
- Cash Receipt / Payment of More than 2 Lakh from a single person in a day,
- Deemed Dividend- Section 2(22)(e),
- General anti-avoidance rule – chapter X-A,
- Furnishing of report in respect of international group etc.

### ➤ **CBDT Notifies Rule 11UAB - FMV for inventory**

CBDT Notifies Income Tax Rule 11UAB Determination of fair market value for inventory and amended Rule 11U related to Meaning of expressions used in determination of fair market value.

### ➤ **Digital Signature not required for submitting Online IEC applications**

Digital signature for submitting applications for fresh Importer-Exporter Code (IEC) or amendment of IEC not required w.e.f. 9<sup>th</sup> August, 2018.

## ➤ **MCA notifies 31<sup>st</sup> July, 2018 on which the provision of Section of the Companies Amendment Act, 2017 shall come into force**

MCA notifies 31<sup>st</sup> July, 2018 on which the provision of Section 36 (Section 134 of the Companies Act, 2013 – Financial Statement and Board's Report etc.) of the Companies Amendment Act, 2017 shall come into force. According to amendments,

1. the financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors shall also be signed by the Chief Executive Officer, the Chief Financial Officer and the Company Secretary of the Company along with the Director of the Company, and in the case of One Person Company, only by one director, for submission to the auditor for his report thereon.
2. Where any of the disclosures as referred have been included and made part of the financial statements, such disclosures shall be referred to instead of being repeated in the Board's report.
3. Further, provisions of Abridged Board's report by One Person Company or Small Company have been notified.

<http://www.mca.gov.in/Ministry/pdf/CommencementNot310706082018.pdf>

## ➤ **MCA notifies the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2018**

MCA notifies the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2018, to come into force on 07<sup>th</sup> August, 2018.

1. Amendments made in the revised section 42 and its corresponding rules such as the requirement of the value of offer or invitation per person of INR 20,000/- of face value of the securities has been done away with.
2. Company is no longer permitted to utilize the share application money received by it unless (i) allotment is made; and (ii) the return of allotment, in e-form PAS – 3, is filed with the Registrar of Companies.
3. Further, time period for filing e-form PAS – 3 is now required to file within 15 days of allotment instead of 30 days.

4. Separate penal provisions for non-filing of e-form PAS – 3 introduced, the company, its promoters and directors shall be liable with a penalty INR 1,000/- per day but not exceeding INR 25,00,000/- for delayed filings.
5. Further, the penal provision has been revised from ‘the amount involved in the offer or invitation or Rupees Two Crore, whichever is higher’ to ‘the amount involved in the offer or invitation or Rupees Two Crore, whichever is lower’.

[http://www.mca.gov.in/Ministry/pdf/RuleProspectusSecurities07\\_08082018.pdf](http://www.mca.gov.in/Ministry/pdf/RuleProspectusSecurities07_08082018.pdf)

## ➤ **Disclosure of Compliance with Sexual Harassment Act made Mandatory**

Ministry of Corporate Affairs has amended Companies (Accounts) Rules, 2014 to mandate the disclosure regarding the implementation of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act in the Directors' Report of every company.

## ➤ **Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 notified**

Government notifies Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 vide notification No. 26 of 2018 dated 17<sup>th</sup> August, 2018. It shall be deemed to have come into force on the 6<sup>th</sup> June, 2018.

## ➤ **MCA issues clarification w.r.t. individuals who are in possession of Duplicate/Multiple DINs, can retain the Oldest DIN only. DINs obtained later have to be surrendered**

1. In case of multiple DINs, oldest DIN to continue.
2. DIN cannot be automatically surrendered but through filing of eForm DIR – 5 for valid reasons.

## ➤ **SEBI issues Circular w.r.t. discontinuance of registration of Sub-Brokers as a Market Intermediary**

1. SEBI has decided to discontinue with the registration of Sub-Brokers as a market intermediary.
2. The registered Sub-Brokers shall have time till 31<sup>st</sup> March, 2019 in order to migrate to act as an AP and / or Trading Member (TM).
3. The Sub-Brokers, who do not choose to migrate into AP and /or TM, shall deemed to have surrendered their registration with SEBI as Sub-Broker, w.e.f. 31<sup>st</sup> March, 2019.
4. Stock Exchanges are directed to bring the provisions of this circular to the notice of the Stock Brokers and Sub-Brokers, and make amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision in co-ordination with one another, as considered necessary.

<https://www.sebi.gov.in/legal/circulars/aug-2018/role-of-sub-broker-sb-vis-a-vis-authorized-person-ap-39825.html>

## ➤ **SEBI issues Clarification w.r.t. Electronic Book Mechanism for issuance of Securities on private placement basis**

With a view to further rationalise and ease the process of issuance of securities on EBP platform and in consultation with the market participants, it has been decided to provide for the facilities like

- Closed bidding in addition to the current system of open bidding, closed bidding shall also be permitted on EBP platform subject to the issuer disclosing the mode of bidding in the PPM/IM;
- Multiple yield allotment through which an issuer can choose either uniform yield or multiple yield allotment, provided the same is disclosed in the PPM/IM.
- Further, Multiple bids by an investor Investors are now permitted to place multiple bids in an issue.
- Depositories to act as EBP In addition to the Stock Exchanges, Depositories can also act as EBP. The contents of this circular will come in effect from 1<sup>st</sup> October, 2018.

<https://www.sebi.gov.in/legal/circulars/aug-2018/electronic-book-mechanism-for-issuance-of-securities-on-private-placement-basis-clarifications-40007.html>

## ➤ **SEBI Extends Deadline for FPIs to Provide List of Beneficial Owners**

SEBI has extended the deadline by two months till December for providing a list of beneficial owners by Foreign Portfolio Investors (FPIs), and assured them that issues raised will be looked into by an expert panel.

## ➤ **SEBI issues Circular for Extension of Trading Hours of Securities Lending and Borrowing (SLB) Segment**

1. SEBI has extended the trading timings in the securities lending and borrowing (SLB) segment till 5 pm every trading day.
2. The move is aimed at facilitating physical settlement of equity derivatives contracts.
3. The decision comes after the markets watchdog in May permitted exchanges to extend the trading time in equity derivatives contracts by more than eight hours till almost midnight from 1<sup>st</sup> October 2018.
4. The move was part of SEBI's efforts to enable integration of stocks and commodities trading on a single exchange.

[https://www.sebi.gov.in/legal/circulars/aug-2018/extension-of-trading-hours-of-securities-lending-and-borrowing-slb-segment\\_40091.html](https://www.sebi.gov.in/legal/circulars/aug-2018/extension-of-trading-hours-of-securities-lending-and-borrowing-slb-segment_40091.html)

## ➤ ***GST Council Approves Cashback for Digital Payment***

GST Council has approved the decision to give incentives on digital payments using BHIM app. The Council approved 20% cashback for the transaction via BHIM app.

## ➤ ***CBIC Exempts GST on Ambulance Services***

Central Board of Indirect Taxes and Customs (CBIC) has exempted Goods and Services Tax (GST) on Ambulance Services provided to Government by Private Service Providers (PSP) under the National Health Mission (NHM).

## ➤ ***President Gives Assent to Fugitive Economic Offenders Act 2018***

Fugitive Economic Offenders Act 2018 of Parliament has received the assent of the President and has been notified in the official gazette.

## ➤ ***No need to report clause 30C (GAAR) & 44 (GST) of Revised 3CD Report till 31<sup>st</sup> March, 2019***

It has been decided by the CBDT that reporting under the proposed clause 30C and proposed clause 44 of the Tax Audit Report shall be kept in abeyance till 31<sup>st</sup> March, 2019. Therefore, for Tax Audit Reports to be furnished on or after 20<sup>th</sup> August, 2018 but before 1<sup>st</sup> April, 2019, the tax auditors will not be required to furnish details called for under the said clause 30C and clause 44 of the Tax Audit Report.

## ➤ ***CBDT proposes online issue of certificate for no / lower deduction of tax***

1. CBDT has felt that the existing Form No. 13 and relevant rules are required to be rationalised.
2. Hence, in order to rationalise and make the process of issuance of certificate for no deduction of tax or deduction/collection of tax at lower rate electronic / Online, the existing Form No.13 and relevant rules are required to be amended.
3. Accordingly, certain amendments in Form No. 13, and rules 28, 28AA, 28AB, 37G and 37H of the Income-tax Rules, 1962 are proposed.

## ➤ ***CBDT Extends date for filing of Income Tax Returns for taxpayers in Kerala to 15<sup>th</sup> September, 2018***

CBDT extends the due date for furnishing return of income, from 31<sup>st</sup> August, 2018 to 15<sup>th</sup> September, 2018, in case of Income-tax assesseees in the State of Kerala, who are liable to file their Income-tax returns by 31<sup>st</sup> August, 2018.

➤ ***Government notifies The Specific Relief (Amendment) Act, 2018 – the act brings out the amendment in order to curtail discretionary powers of the Court while making an order for specific performance of contract***

The Key features of the Amendment includes

1. Substitution of Section 10 of the Act providing for Cases in which specific performance of contract is enforceable with a new Section 10 which states that specific performance of a contract shall be enforced by the court subject to the provisions contained in sub-section (2) of section 11, section 14 and section 16.
2. The amended Section 22 states where the contract is broken due to non-performance of promise by any party, the party who suffers by such breach shall have the option of substituted performance through a third party or by his own agency, and, recover the expenses and other costs actually incurred, spent or suffered by him, from the party committing such breach.
3. The Amendment incorporates Section 20A which enumerates provision for contract relating to infrastructure project. Section 20A provides that the Court shall not grant any injunction in a suit under this Act involving a contract relating to an infrastructure project, where granting injunction would cause impediment or delay in the progress or completion of such infrastructure project.

<http://www.egazette.nic.in/WriteReadData/2018/187919.pdf>

➤ ***The Negotiable Instruments (Amendment) Act, 2018 has been notified to primarily address issues of dishonour of cheques and to deal with unnecessary delay in disposal of such cases***

1. The Negotiable Instruments (Amendment) Act aims to amend the Negotiable Instruments Act, 1881, asking the drawer of a cheque that has been dishonoured to pay interim compensation to the complainant.
2. In case the drawer of the cheque is acquitted in the case, the complainant has to repay the drawer the interim compensation with interest.
3. The repayment has to be made within 60 days from the date of the court order.

<http://www.egazette.nic.in/WriteReadData/2018/188048.pdf>

➤ ***President Gives Assent to Criminal Law (Amendment) Act***

The Amendment provides for stringent punishment, including death penalty for those convicted of raping girls below the age of 12 years.

➤ ***Cabinet approves Memorandum of Understanding (MoU) between India and USA in insurance regulatory sector***

1. The Union Cabinet has approved the signing of a MoU between IRDAI and the Federal Insurance Office, USA.
2. The MoU provides a framework for cooperation and coordination, including for the exchange of information and research assistance with respect to each Authority's overview and other lawful responsibilities.
3. Under the agreement, both the countries intend to share their experiences on various regulatory functions and
4. to provide mutual assistance including training activities.
5. India and USA have also agreed to continue to facilitate cooperation on international standard-setting activities, financial stability and the development and implementation of consumer protection through sound prudential regulation of the insurance sector.

➤ ***Cabinet approves additional 2 percent Dearness Allowance (DA) for Central Government employees and Dearness Relief (DR) to pensioners w.e.f. 1st July, 2018***

The Union Cabinet has approved to release an additional instalment of Dearness Allowance (DA) to Central Government employees and Dearness Relief (DR) to pensioners w.e.f. 01.07.2018 representing an increase of 2% over the existing rate of 7% of the Basic Pay/Pension, to compensate for price rise.

# Glossary

CBDT	Central Board of Direct Taxes	MCA	Ministry of Corporate Affairs
CGST	Central Goods and Service Tax	MoU	Memorandum of Understanding
CA 2013	Companies Act 2013	MSME	Micro Small and Medium Enterprises
DIN	Director Identification Number	NCLAT	National Company Law Appellate Tribunal
ETF	Exchange Traded Fund	NCLT	National Company Law Tribunal
FPI	Foreign Portfolio Investors	NBFC	Non Banking Financial Company
FRDI	Financial Resolution & Deposit Insurance	NPA	Non-Performing Assets
FDI	Foreign Direct Investment	NRI	Non resident Indian
GST	Goods and Services Tax	OTP	One Time Password
GIC	GST Implementation Committee	OCI	Overseas Citizens of India
ICDS	Income Computation and Disclosure Standards	PAN	Permanent Account Number
IGST	Integrated Goods and Services Tax	PIO	Person of Indian Origin
ITC	Input tax Credit	RBI	Reserve Bank Of India
IFRS	International Financial Reporting Standards	ROC	Registrar of Companies
ITR	Income Tax Return	SEBI	Securities and Exchange Board of India
IBC	Insolvency and Bankruptcy Code	TAN	Tax Account Number
IPs	Insolvency Professionals	UTGST	Union Territory Goods and Service Tax
Ind AS	Indian Accounting Standards	VAT	Value Added Tax
IBBI	Insolvency and Bankruptcy Board of India	IEPF	Investor Education and Protection Fund
IUs	Information Utilities	ISD	Input Service Distributer



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- Solution

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