

NEWS CHRONICLE

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June 2019, witnessed a flurry of activities by the Reserve Bank of India and the reelected government.

- ✓ **Easing of Liquidity:** The RBI in its Monetary Policy Committee Meeting on 6th June 2019, reduced the Repo rate by 25 basis points to 5.75% to ease liquidity in the capital market. This is the second cut in Repo rate in 2 months and is premised on a lower inflation as well as slower growth in the economy. It is expected to boost credit growth.
- ✓ **New Framework for Resolution of Stressed Assets:** Burgeoning Non Performing and Stressed Assets is a cause of concern for the economy. To streamline the process for timely identification, reporting and resolution of Stressed assets, RBI has notified a framework for resolution of stressed assets on . The idea is to enhance the on going momentum towards effective resolution of stressed assets.
- ✓ **Promotion of digital payments:** Digital payments and transactions have been continuously encouraged by the government. In order to further boost digital transactions, the RBI has removed levies it charges on NEFT and RTGS transactions.
- ✓ **Stricter norms for Independent Directors:** The Ministry of Corporate Affairs has, in light of recent corporate sector irregularities, suggested that independent directors on company boards must clear an examination on corporate literacy, their duties, roles and responsibilities in order to continue in their positions.
- ✓ **New stringent guidelines for Income Tax compounding** has also been notified by the CBDT.

In other updates:

- ✓ **Stricter Credit Rating Disclosures:** Recent large defaults have rattled the economy. To implement stricter norms on credit rating, SEBI has issued new enhanced guidelines for stricter disclosures of rating methodologies by the Credit Rating Agencies.
- ✓ **New stringent norms for disclosure of pledged shares:** The Securities and Exchange Board of India has tightened disclosure norms for pledged shares (details on page no. 6)

➤ REPO RATE REDUCED

The RBI MPC in its meeting held on 6th June, 2019 reduced the policy repo rate to 5.75% with immediate effect under Liquidity Adjustment Facility (LAF). Consequently, the reverse repo rate has been adjusted to 5.50% under LAF and the marginal standing facility (MSF) and Bank rate to 6.00%.

The MPC also changed the policy stance from neutral to accommodative. This move is to induce more liquidity in the system and more focus towards the growth of economy, without losing sight of stabilizing inflation.

➤ LEVY ON NEFT AND RTGS REMOVED

- ✓ RBI levies charges on Banks for transactions routed through RTGS and NEFT and Banks in turn, charges transactional fees from customers. In order to encourage digital payments system, RBI announced that these charges will be removed from 1st July, 2019.
- ✓ The Banks will have to pass on the benefit of the waiver to the customers undertaking RTGS and NEFT transactions w.e.f. 1st July, 2019.

➤ FRAMEWORK ON RESOLUTION OF STRESSED ASSETS

RBI has notified a new framework for Resolution of Stressed Assets (earlier notification dated 12th February, 2018 has been revised and the one-day default norm has been dropped).

RBI brought this notification to facilitate timely identification, reporting and resolution of Stressed assets.

The fundamental principles underlying the regulatory approach for resolution of stressed assets are as under:

- ✓ Early recognition and reporting of default in respect of large borrowers by banks, FIs and NBFCs;
- ✓ Complete discretion to lenders to design and implement resolution plans, subject to the specified timeline and independent credit evaluation;
- ✓ A system of disincentives in the form of additional provisioning for delay in implementation of resolution plan or initiation of insolvency proceedings;
- ✓ Withdrawal of asset classification dispensations on restructuring. Future upgrades to be contingent on a meaningful demonstration of satisfactory performance for a reasonable period;
- ✓ For the purpose of restructuring, the definition of 'financial difficulty' to be aligned with the guidelines issued by the Basel Committee on Banking Supervision; and,
- ✓ Signing of inter-creditor agreement (ICA) by all lenders to be mandatory, which will provide for a majority decision making criteria.

Notwithstanding anything contained in this framework, wherever necessary, RBI may issue directions to institutions for initiation of insolvency proceedings against borrowers for specific defaults so that the momentum towards effective resolution remains uncompromised.

➤ OPEN MARKET OPERATIONS TO PURCHASE GOVT. SECURITIES

This decision by the RBI to purchase Government Bonds has come in view of injecting more liquidity into the financial system. RBI has notified the details of the Govt. securities to be purchased by RBI on 13th June, 2019. There is an aggregate ceiling of ₹15,000 crores for all the securities together.

RBI UPDATES

➤ COMPLAINT MANAGEMENT SYSTEM (CMS) LAUNCHED

RBI has launched a “Complaint Management System (CMS)” to facilitate its grievance redressal processes. This facility will enable public to lodge their complaints against any of the entities regulated by the RBI: commercial banks, urban co-operative banks, NBFCs, etc.

All complaints lodged on this portal would be directed to the appropriate office of the ombudsman/ regional office of the RBI. CMS will enable easy access and tracking of complaints for the public through following features:

- ✓ Acknowledgement through SMS/ Email notification(s).
- ✓ Status tracking through unique registration number.
- ✓ Receipt of closure advises and filing of appeals, wherever applicable.

- ✓ Voluntary feedback on customer’s experience. The CMS portal can be accessed through Complaints Section on RBI website.

➤ FLA ANNUAL RETURN TO BE WEB-BASED

To enhance security – level in transmission of data, RBI vide its notification dated 28th June 2019 has introduced a web – based system for filing Annual return of Foreign Liabilities and Assets (FLA). This is an annual compliance by Companies which have received FDI and/or made FDI abroad in the previous year (s) including the current year.

At present, the return is filed in soft-form and mailed to RBI on or before 15th July every year.

As per the notification, the return can be filed by registering the entity on <https://flair.rbi.org.in/>.

Any failure to comply with the above will be treated as non – compliance under the provisions of FEMA 1999 and regulations made thereunder.

SEBI UPDATES

➤ STRICTER GUIDELINES FOR ENHANCED DISCLOSURE BY CREDIT RATINGS AGENCIES (CRA)

SEBI has issued guidelines for credit rating agencies for enhanced disclosures.

Features of the guidelines issued by SEBI are:

- ✓ Aligning the methodology of calculation of default rates with globally accepted norms and in partial modification to its circular dated May 3rd 2010.
- ✓ Introduction of preparation and disclosure of Probability of Default (PD) through computation of cumulative default rates (CDR).
- ✓ The benchmarks to be set for each rating category and disclosed on CRA website for one-year, two-year and three-year cumulative default rates, for short and long run.
- ✓ Uniform Standard Operating Procedure

(SOP) in respect of tracking and timely recognition of default,

- ✓ Rating symbol for instruments having explicit credit enhancement feature,
- ✓ Disclosure of rating sensitivities in a press release; CRA shall have a specific section on ‘Rating sensitivities’ in the Press release which shall explain broad level of performance levels that could trigger a rating change, upward or downward.
- ✓ Disclosure on liquidity indicators using standardized terminology and
- ✓ Tracking deviations in bond spreads.

This circular has been issued by SEBI in the light of the increasing instances of debt defaults and the raising concerns over the role of credit rating agencies in identifying probable risks.

➤ **CIRCULAR ISSUED FOR ASSURING CONFIDENTIALITY IN A SETTLEMENT APPLICATION FILED**

SEBI vide its circular dated 18th June 2019 has issued factors which may assure confidentiality to an applicant who files his plea under Chapter IX of the SEBI (Settlement Proceedings) Regulations, 2018.

The circular extends the confidentiality to an applicant who aids in examination proceedings based on several factors, few of which are as follows:

- ✓ Nature of co – operation,
- ✓ Whether applicant was the first person to report the misconduct to the Board,
- ✓ Voluntary co-operation or bound by agreement,
- ✓ Gravity of the subject matter, etc.

The circular also states factors which may adversely affect the applicant's claim to confidentiality such as:

- ✓ Past history of violation of securities law,
- ✓ The degree to which the applicant tolerated illegal activity,
- ✓ The reasonability of delayed reporting of the violations of the law, etc.

➤ **HANDLING OF CLIENT'S SECURITIES BY TM/ CMs**

SEBI vide its circular dated 20th June 2019 has issued directives regarding handling of client's securities by trading members (TM)/ clearing members (CM). As per the directives, the TM/CM:

- ✓ Are required to keep separate accounts for client's securities and separate books of account as may be necessary to distinguish such securities from his/ her own securities.
- ✓ Should ensure that the client's collateral is used only for purpose of meeting respective client's margin requirements/pay-in.
- ✓ TM/ CM should transfer the client's securities received in pay – out to client's demat account within one working day, etc.

Other features of the circular include:

- ✓ W.e.f. 1st Sept 2019, the securities lying with TM/CM in "CCA", "CMTS account" cannot be pledged to Banks/ NBFCs for raising funds, even if authorized by client.
- ✓ Client's securities already pledged should be unpledged and returned to the client(s) upon fulfilment of pay-in obligation or disposed off after giving 5 days' notice to the client.

The circular further deals with guidelines related to opening and reporting of demat accounts by TM/CM, monitoring w.r.t. handling of clients securities, etc.

These latest requirements have been notified by SEBI in the light of on-going crisis in the NBFC sector.

➤ **KEY DECISIONS OF SEBI BOARD MEET**

✓ **TIGHTENS DISCLOSURE NORMS FOR PLEDGED SHARES**

As per the new directions issued by SEBI in its Board Meeting on 27th June 2019:

- A direct or indirect lien on shares will qualify as encumbered shares.
- Promoters of the company will be required to furnish detailed reasons when combined encumbrance of promoters and PAC crosses 20% of the total share capital or 50% of their shareholding in the Company.

✓ **FRAMEWORK FOR ISSUANCE OF DIFFERENTIAL VOTING RIGHTS (DVR) SHARES**

SEBI also approved a framework for issuance of DVR shares. The key highlights are:

- Only tech firms to be allowed to issue superior rights shares (SRs).
- SR shares to be issued only to promoters/ founders who hold an executive position in the Company.
- SR shares to be authorized by special resolution in the general meeting.
- SR shares to have voting rights in the ratio of minimum 2:1 to maximum 10:1 compared to ordinary shares.
- SR shares to have a sunset clause of 5 years.

➤ **CBDT EXTENDS DUE DATE FOR FILING FORM 24Q AND ISSUANCE OF FORM 16.**

- ✓ CBDT Extended the last date of filing TDS return in Form 24Q for FY 2018 – 19 from 31st May, 2019 to 30th June, 2019.
- ✓ Extended the last date of issuing TDS certificate in Form 16 for FY 2018 – 19 from 15th June, 2019 to 10th July, 2019.

➤ **CBDT ISSUES NEW INCOME TAX COMPOUNDING GUIDELINES**

CBDT has issued new guidelines for compounding of offences under Direct Tax Laws 2016, which will be executed under IT Act 1961. The new guidelines came into effect from 17th June, 2019 and applies to all cases of compounding received on or after 17th June 2019.

The revised guidelines state certain offences as “generally not be compounded” and also groups the offences in two categories - A and B.

A. Category ‘A’ include:

- ✓ failure to pay tax deducted at source under Chapter XVII-B or
- ✓ tax payable under section 115-O.
- ✓ Failure to pay tax collected at source.

Offences in category ‘A’ are open to compounding, but an offence under this category which happens on more than three occasions will not be compounded.

B. Offences under category ‘B’ which will not be generally compounded are as follows:

- ✓ Person found guilty of any anti – national or terrorist activities;
- ✓ Any person convicted by the Court of law under Direct Taxes laws, where it was proved that he/ she helped others to evade tax through malpractices or has provided for accommodation entries in any manner,
- ✓ Any proven offence under anti – black money law of 2015 and/ or under Benami Act of 1988,
- ✓ Any offences booked under:
 - Section 276C (willful attempt to evade tax)

- 277A (falsification of Books of Account or documents among others)

C. Offences under section 275A and 275B of the Income Tax Act 1961 (deals with failure to comply with search and seizure action) and Section 276 (removal, concealment, transfer or delivery of property to thwart tax recovery) will not be compounded.

The guidelines also state that the Finance Minister will have the sole discretion to relax these guidelines in a “deserving case” after obtaining report from the CBDT on the petition of an applicant.

➤ **HIGHLIGHTS OF 35th GST COUNCIL MEETING (held on 21.06.2019)**

- ✓ Last date extended till 31.08.2019 for filing of:
 - Annual return in Form GSTR-9, Form GSTR-9A and reconciliation statement in Form GSTR-9C for the FY 2017 – 18.
 - Declaration in Form GST ITC – 04 relating to job work from July 2017 to June 2019.
- ✓ E-bill generation was to be blocked for those taxpayers who did not file their returns in GST form GSTR-3B/ GSTR-4 for 2 consecutive months. This date has been extended for 2 months till 21.08.2019.
- ✓ New returns system (Forms GST ANX-1 and GST ANX-2) to be made available to taxpayers between July to September 2019 (present system of Form GSTR-1 and GSTR 3B to be continued for now).
- ✓ Last date to file intimation in Form GST CMP-02 to opt for composition scheme extended till 31.07.2019.
- ✓ Form GST ANX-1 to be made compulsory from October 2019:
 - Large taxpayers (having aggregate turnover of more than ₹5 crores in previous year) to file Form GST ANX-1 on monthly basis.
 - Small taxpayers to file Form GST ANX-1 on quarterly basis beginning from January 2020 (for quarter Oct – Dec 2019).

➤ STRICT NORMS FOR APPOINTMENT OF INDEPENDENT DIRECTORS

In the light of recent irregularities which have surfaced in the corporate sector, independent directors may soon have to clear an exam before they are appointed on the Board. The Objective is to propagate corporate literacy amongst the directors and to make them aware of their duties, roles and responsibilities. The exams:

- ✓ It will be online, covering topics related to corporate laws, ethics, capital market norms and other areas.
- ✓ Unlimited number of attempts for Directors to clear the exam.

Experienced directors who have been on the Board for several years will be exempt from such test, however they will be required to register themselves on the portal which the Government is preparing.

➤ ESI CONTRIBUTION RATE REDUCED

The Government of India has notified the reduction in the rate of ESI contribution from 6.5% to 4% w.e.f. 01.07.2019. Notable points of the notification are as follows:

- ✓ Reduction in employer's contribution from 4.75% to 3.25%.
- ✓ Reduction in employee's contribution from 1.75% to 0.75%.
- ✓ Expected to bring in more workforce into the formal sector.
- ✓ Expected to increase the take home salary of the industrial workers.
- ✓ Reduction in financial liabilities of the establishments and improved viability of these establishments.

Benefits such as medical, cash, maternity and for disability are provided to the persons insured under this Act and are extended to their dependents.

➤ WAIVING OFF REQUIREMENT OF DESTRUCTION CERTIFICATE

The Directorate General of Foreign Trade (DGFT) has made amendment in the Hand Book of Procedures (HBP) 2015-20.

As per the amendment, the Authorization holder will now be required to submit:

- ✓ a self – declaration,
- ✓ a certificate from a Chartered Accountant regarding destruction of unutilized duty-free imported material and
- ✓ an affidavit – cum – indemnity bond indemnifying the Government for any harm/ loss which may occur due to diversion of such imported material from unregistered sources into the domestic market.

The amendment waives off the requirement of destruction certificate from Jurisdictional Central Excise/ Customs Authority for the unutilized duty-free imported material from unregistered sources with pre-import condition.

➤ CIRCULAR ON FORM DIR-3 KYC

MCA vide its circular dated 27th June 2019 has proposed new mechanism for fulfilling the KYC norms by Directors. As per the circular:

- ✓ DIR-3 KYC compliant DIN holders can complete KYC formalities through a simple web-based verification service.
- ✓ Any director who wishes to update his/ her data in the records (like phone number, address, etc), will need to do so through eform DIR-3 KYC only.
- ✓ Alternatively, updation of records can also be done by filing eForm DIR-6 before completing the KYC process through web-based service.
- ✓ The amendment in relevant rules w.r.t. extension of time for completing of KYC formalities through eForm or web-based service will be notified by the Ministry shortly.

GLOSSARY

ATM	Automated Teller Machine	KYC	Know Your Customer
CBDT	Central Board of Direct Taxes	LAF	Liquidity Adjustment Facility
CCA	Client Collateral Account	MPC	Monetary Policy Committee
CDR	Cumulative Default Rates	MSF	Marginal Standing Facility
CM	Clearing Members	NBFC	Non - Banking Financial Company
CMS	Complaint Management System	NEFT	National Electronic Funds Transfer
CMTS	Client Margin Trading Securities	NPA	Non - Performing Assets
CRA	Credit Rating Agencies	OMO	Open Market Operations
DIN	Director Identification Number	PAC	Person(s) Acting in Concert
DGFT	Directorate General of Foreign Trade	PD	Probability of Default
DVR	Differential Voting Rights	RBI	Reserve Bank of India
ESI	Employees' State Insurance	RTGS	Real Time Goss Settlement
FDI	Foreign Direct Investment	SEBI	Securities Exchange Board of India
FEMA	Foreign Exchange Management Act	SOP	Standard Operating Procedure
FI	Financial Institutions	SR	Superior Rights
FLA	Foreign Liabilities and Assets	TDS	Tax Deducted at Source
GST	Goods and Services Tax	TM	Trading Members
HBP	hand Book of Procedures	W.E.F.	With Effect From
ICA	Inter - Creditor Agreement	W.R.T	With Respect to

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