ACQUISORY

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FEBRUARY 2017

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DISCLAIMER

Success is not final; Failure is not fatal:

It is the courage to continue that counts,

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(Knowledge Manager with Acquisory)

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FEBRUARY 2017

HIGHLIGHTS

ARTICLE

FINTECH - A NEW CONCEPT IN THE ERA OF DIGITIZATION

FinTech describes a business that aims at utilizing modern technology and software to provide efficient and superior financial services platform to institutions and end users. FinTech companies are accelerating the pace of change and are reshaping the financial services industry radically. Financial service providers like banks are recognizing the potentials of the FinTech. It is clear, however, that the disruptive innovations of FinTech cannot wholly eliminate or completely decimate the traditional banking or finance, but is expected to go a long way in establishing a clear footprint towards a Digital India and a transparent and efficient financial ecosystem.

AFFORDABLE HOUSING – AN OPPORTUNITY FOR BOTH BUYER AND SELLER

In the recent Budget of 2017, the Government has accorded infrastructure status to affordable housing and taken other steps, including a pledge to build one crore rural homes in two years to help provide housing for all by 2022.
Accordance of infrastructure sector status to this segment of real estate will help increase the much needed supply of affordable homes. Developers are expected to have access to cheaper institutional funds (including ECBs, insurance and pension funds) and tax exemptions to improve margins, which may induce developers to provide such housing.
Buyers, especially for those in urban and semi urban areas, for whom home ownership is an expensive proposition, are expected to benefit from the supply of affordable housing units The Budget has also offered tax incentives for affordable housing based on carpet area and not built-up space, which will help buyers get bigger-sized homes.

LEGAL UPDATES

REMOVAL OF LIMITS ON WITHDRAWAL OF CASH FROM SAVING BANK ACCOUNTS

Reserve Bank of India (RBI) vide Notification dated 8th February, 2017 it has been decided to remove the restrictions on cash withdrawals from Saving Bank accounts (including accounts opened under PMJDY) in a two step process as under:
Effective February 20, 2017, the limits on cash withdrawals from the Savings Bank accounts will be enhanced to INR 50,000 per week (from the current limit of INR 24,000 per week); and Effective March 13, 2017, there will be no limits on cash withdrawals from Savings Bank accounts.

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (IBBI) - INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (VOLUNTARY LIQUIDATION) REGULATIONS, 2017

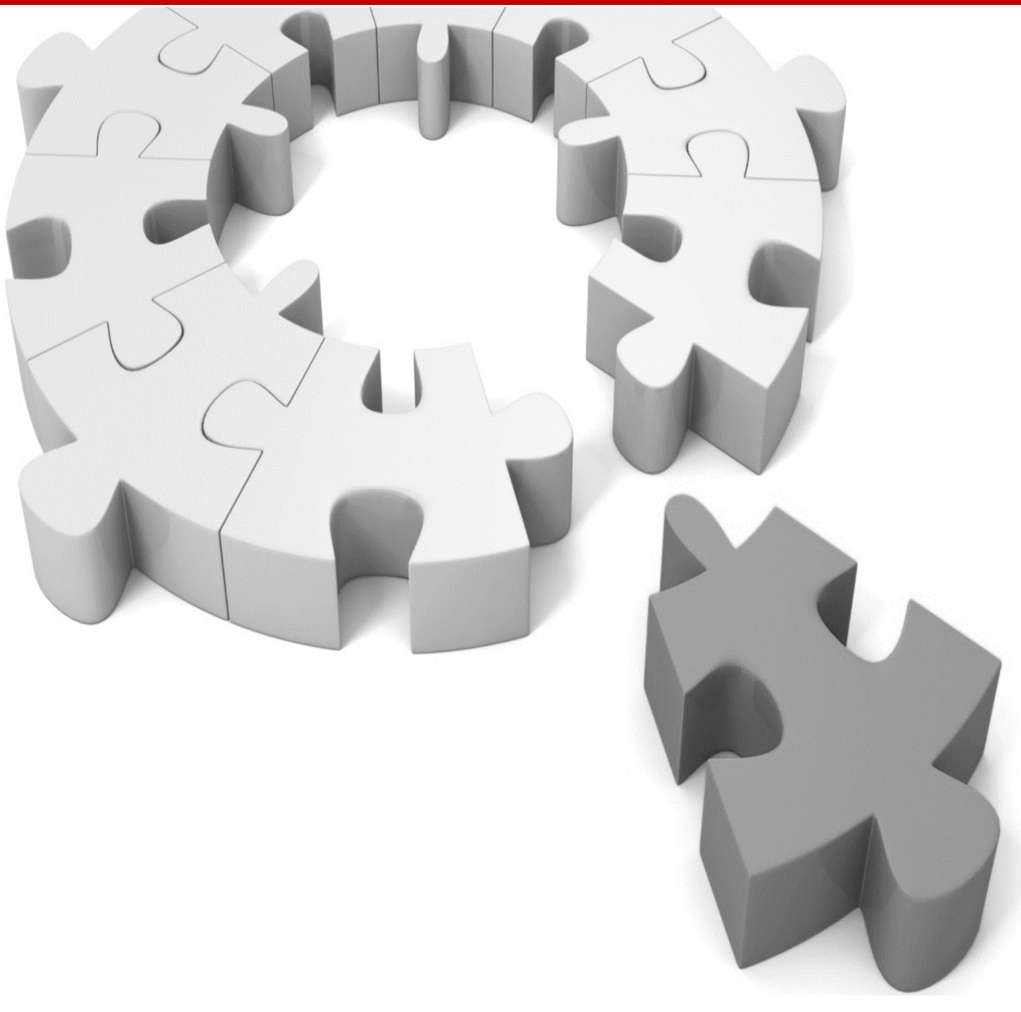
The Insolvency and Bankruptcy Board of India has released the draft of the IBBI (Voluntary Liquidation) Regulations, 2017 which shall come into force on the date of their publication in the Official Gazette. These Regulations shall apply to the voluntary liquidation of corporate persons under Chapter V of Part II of the Insolvency and Bankruptcy Code, 2016. Further, all pending applications and petitions relating to voluntary winding up of companies pending before a High Court, shall continue with and dealt with by the High Court in accordance with provisions of the Act till 1st April. 2017 and shall be then transferred to NCLT.

SEBI ISSUES INTEGRATED REPORTING BY LISTED ENTITIES

Securities Exchange Board of India (SEBI) vide Circular dated 6th February, 2017 has prescribed Integrated Reporting by Listed Entities through which it has mandated the requirement of submission of Business Responsibility Report ('BRR') for top 500 listed entities under Regulation 34(2)(f) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 ("SEBI LODR"). Integrated Reporting may be adopted on a voluntary basis from the financial year 2017-18 by top 500 companies which are required to prepare BRR. The information related to Integrated Reporting may be provided in the annual report separately or by incorporating in Management Discussion & Analysis or by preparing a separate report (annual report prepared as per IR framework). As a green initiative, the companies may host the Integrated Report on their website and provide appropriate reference to the same in their Annual Report.

100 PER CENT FDI IN WHITE LABELLED ATM OPERATIONS

Ministry of Finance vide Press Release dated 3rd February, 2017 has allowed Foreign Investment upto 100% in White Label ATM (WLA) operations, subject to the following conditions :-
(i) Any non-bank entity intending to set up WLA should have minimum net worth of INR 100 crore as per latest financial year's audited balance sheet, which is to be maintained at all times.
(ii) In case the entity is also engaged in any other 18 Non-Banking Finance Company (NBFC) activities, then the foreign investment in the company setting up WLA, shall also comply with the minimum capitalization norms for foreign investment in NBFC activities.



ARTICLES

FINTECH

A NEW CONCEPT IN THE ERA OF DIGITIZATION

Technology and banking have a long and close association. Both have been benefitted immensely by this association. Technological developments have been changing the way the banks and financial institutions and their customers interact. These developments have created opportunities for new entrants, not necessarily new bankers, to disrupt traditional business models and penetrate new markets. The plethora of technological products and services have helped emergence of FinTech companies who offer different ways of performing traditional services, in more efficient ways.

The buzz around FinTech has gained substantial attention of traditional financial institutions, startups, venture capitalists and regulators. Banks and regulators are hard-pressed to revisit their operating model and policies respectively to create a conducive environment of collaboration and dynamism amidst the participants in the FinTech ecosystem.

'FinTech Defined' –

Financial Technology, nowadays better known under the term 'FinTech', describes a business that aims at providing financial services by making use of software and modern technology. It is observed that Innovation and technology have brought about a radical change in traditional financial services. The world has seen the emergence of more than 12000 start-ups and massive global environment of USD 19 billion in 2015 in the FinTech space.

Source- https://www.ashburnham-insurance.co.uk/blog/2015/11/what-is-fintech-a-simple-explanation/

FinTech start-ups firms engage in external partnerships with financial institutions, universities and research institutions, technology experts, government agencies, industry consultants and associations.
Also, the term can refer to startups, technology companies, or even legacy providers. The lines are blurring, and it's getting harder to know where technology ends and financial services begin. It is basically coming together of disruptive finance and pioneering technology. Since the time, it has made presence felt on the technological startup scene, it has consistently added newer dimensions to money transfer methodologies, fundraising campaigns, mobile payments and an array of other fiscal transactions.
FinTech covers diverse areas across banking and caters to new business models, including newer forms of currencies, which are known as cryptocurrencies. It encompasses the full gamut of innovations in financial services, where technology is the key enabler.

FinTech Sectors

- Payments and currencies – technology used to make payments in new ways. These may be online payment systems or mobile payments and emerging technology such as cryptocurrencies
- Software – new processes and programs designed to improve back and middle office processing for a variety of businesses, making them more efficient and effective

- Platforms – online systems designed to allow users to perform a variety of functions, such as peer-to-peer lending and comparing products through aggregators
- Data and analytics – technology which gathers and/or analyses data to produce usable information to improve business and target customers more effectively. Includes the use of telematics, biometrics and compliance.

Why FinTech?

India is transitioning into a dynamic ecosystem offering FinTech startups a platform to potentially grow into billion dollar unicorns. Thus, from tapping new segments to exploring foreign markets, FinTech start-ups in India are pursuing multiple aspirations. The traditionally cash driven Indian economy has responded well to the FinTech opportunity, primarily triggered by a surge in e-commerce, and smartphone penetration. From wallets to lending to insurance, the services of FinTech have redefined the way in which businesses and consumers carry out routine transactions. The increasing adoption of these trends is positioning India as an attractive market worldwide.

Lately, it has been observed an enhanced interest in FinTechs is mainly because of two of the key FinTech innovations viz. the Market Place financing and the Blockchain.

Market Place Financing is also known as 'Crowd Funding' and generally refers to a method of funding a project or venture through small amounts of money raised from a large number of people, typically through a portal acting as an intermediary. There are numerous forms of crowd funding: some are charitable donations that provide no financial returns; others, such as equity crowd funding would fall within the domain of financial markets. Person to Person (P2P) lending is a form of crowd-funding used to raise loans which are paid back with interest. This disruptive innovation has indeed caught the attention of many analysts, opinion makers and influential thinkers. They talk of bank-less economy or banks-free economy; as a consequent version thereof they dream of the death of regulators as well.

“FinTech is usually applied to the segment of the technology startup scene that is disrupting sectors such as mobile payments, money transfers, loans, fundraising and even asset management.”

Likewise, the Blockchain Technology is also another disruptive innovation. The blockchain is an incorruptible digital ledger of economic transactions that can be programmed to record not just financial transactions but virtually everything of value. Blockchains are an open, distributed ledger that can record transactions between two parties efficiently and in a verifiable and permanent way.

India’s FinTech firms are focusing more on untapped customer segments and are certainly fulfilling the needs of the customers. Businesses with unfavorable financing requirements from traditional banks have turned to unconventional lenders for funding. This under-developed consumer banking system has paved the way for FinTech firms to approach the unbanked population who are seeking better offerings elsewhere.
Further, the developing technology infrastructure in the country has also given FinTech firms an impetus to flourish. Omnipresent connectivity in major cities and unprecedented changes in the government policies have translated to mature digital penetration in payment methods. With payment cards to digital wallets, FinTech firms have led the way in retail disruption.

Regulations Governing The FinTech

The government of India along with regulators such as Securities Exchange Board of India (SEBI) and Reserve Bank of India (RBI) are in the mode of transforming the Indian economy in to digital cashless economy that will emerge as strong FinTech ecosystem via both funding and promotional initiatives.

In India, we have seen that RBI has been instrumental in enabling the development of FinTech sector and adopting a cautious approach in addressing concerns around consumer protection and law enforcement. The key objective of the regulator has been found creating an environment for unhindered innovations by FinTech, expanding the reach of banking services for unbanked population, regulating an efficient electronic payment and providing alternative options to the consumers.

The significant approaches that have been seen in the recent past made by RBI for encouraging FinTech preparations - Introduction of “Unified Payment Interface” with NPCI, which holds the potential to revolutionize digital payments and take India closer to objective of “Less-Cash” society, Approval to 11 entities for setting up Payments Bank and approval to 10 entities for setting up Small Finance Banks that can significantly run in favour of cause for Financial Inclusion.

Global Impact of Fintech

FinTech has gained significant attention across the globe - with hubs evolving across Americas, Asia Pacific (APAC) and Europe. Different countries are making substantial efforts to build a robust environment for FinTech for different reasons. Emerging economies in Asia are aiming at a high level of financial inclusion of the unbanked and under-banked, while developed economies like the U.S. and the U.K. are more focused on efficiency, cost-savings and personalized customer services.

A right mix of numerous factors are driving growth in these FinTech hubs. The availability of right technical skills, significant growth in capital investments, emergence of government policies, and an entrepreneurial and innovative mind-set are the driving forces to eastablish FinTech as an enabler.

Conclusion

FinTech companies are accelerating the pace of change and are reshaping the financial services industry radically. Financial service providers like banks are recognizing the potentials of the FinTech. It is clear that the disruptive innovations of the FinTech cannot wholly eliminate or completely decimate the traditional banking or finance. However, there are immense ways in which the FinTechs can collaborate with BFSI entities to usher in efficient and transparent platforms and best value for the financial service customers.

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AFFORDABLE HOUSING – AN OPPORTUNITY FOR BOTH BUYER AND SELLER

Affordable housing is housing deemed affordable to those with a median household income as rated by country, State (province), region or municipality by a recognized Housing Affordability Index. In India, it is estimated that a large population is living below the poverty line and there is huge demand for affordable housing. Some developers are developing low cost and affordable housing for this population. The Government of India has taken up various initiatives for developing properties in low cost and affordable segment. They have also looked at PPP model for development of these properties.

The Budget 2017 provided Infrastructure Status to Affordable Housing. The budget also announced a range of policies regarding the housing sector aimed at providing demand side as well as supply side stimulus to affordable housing. Along with this, there was much needed focus on the infrastructure, digitization of transactions and rural housing.

Infrastructure Status to Affordable Housing

With the government announcing the Infrastructure status to Affordable Housing, the Indian realty sector has seen a makeover wherein now it has made easy availability of funding for affordable housing. From the Developers point of view it has made much easy for them to access funds at a lower interest rates and for longer terms, which also implies more investment from External Commercial Borrowings (ECBs) and Insurance Funds.

The demand for affordable housing in India is huge and with such a move, it can be seen that there will be more supply of affordable housing to bridge the gap. The Infrastructure status also means speedier sanctions and approvals. Thus, this will have a more positive impact on the Indian realty sector.

As per definition of RBI of Affordable housing - “Affordable segment means in the non-metros, the loan amount would be INR 40 lacs for the property value of INR 50. lacs and in the metros the loan amount would be INR 50 lacs for the property value of INR 65 lacs. There are six metros in the country: Mumbai, Chennai, Kolkata, Delhi, Hyderabad and Bangalore.”

Affordable Housing and Real Estate – Budget 2017

One of the sector which gained a lot in the Budget 2017 is the real estate sector. A Swerve of measures from those on taxation to availability of capital for developers, were announced in the Budget.

Accordance of infrastructure sector status to this segment of real estate will help increase the much needed supply of affordable homes.

HIGHLIGHTS FOR REAL ESTATE SECTOR IN BUDGET 2017

- Affordable Housing given the Infrastructure status
- Pradhan Mantri Awas Yojana to get ₹23,000 crore; 1 crore rural houses will be created by 2019
- National Housing Bank to refinance ₹20,000 crore loans
- Real estate developers to get tax relief on unsold stock as liability to pay capital gains will arise only in the year a project is completed
- Instead of built up area of 30 and 60 sq m, the carpet area of 30 and 60 sq m will be applicable for affordable housing
- Holding period for capital gains tax for immovable property reduced from 3 years to 2 years
- No cash transaction above ₹3 lakh will be allowed

Source- http://outskirtspress.com/webpage?isbn=9781432799441

AFFORDABLE HOUSING – AN OPPORTUNITY FOR BOTH BUYER AND SELLER

For Individual Home Buyers

- Affordable Homes to get more spacious – the area measure for affordable homes eligible for property developers' tax exemption has been enhanced. Instead of built-up area, now carpet area of 30 sq.mtrs and 60 sq.mtrs. will be considered. The 30 sq.mtr area limit applies in case of houses within the municipal limits of the four metropolitan cities while for the rest of the country the limit 60 sq.mtr will apply. Further, for taking tax exemption the period for completion of project has been enhanced from three years to five years.

  With this move, the home buyers can expect the new launch of 1&2 BHK flats more spacious, up by size 20-30%, considering these changes as builders get to pass on the benefit of tax exemption on the profits from projects conforming to the area norms. It is observed that affordable sectors contributes nearly 90% of the demand for new homes.

- Change in holding period for long term capital gains – It has been decided in the budget to reduce the holding period for considering gain from immovable property to be long term from the present 3 years to 2 years and the base year shall be shifted from 01.04.1981 to 01.04.2001.

  This can be observed as an investor friendly move, which will reduce the capital gain tax liability while encouraging the mobility of assets. Also, the financial instruments such as infrastructure bonds are also suggested in the budget in which capital gains can be invested and tax liability can be avoided.

- TDS on rental payments – until now only the persons who are carrying on business or profession having turnover above a certain amount, were required to deduct TDS on payment of rent made. However, the budget has proposed that any individual or an HUF, who pay any rent above INR 50,000/- in a month, will have to deduct tax at source at the rate of 5% of the rent, either at the time of payment or credit. Under this provision, the tax payer will not have to obtain the tax deduction number. However, in case the owner does not furnish his PAN number, the tenant will have to deduct tax at the rate of 20%.

For Developers

- Affordable housing to get Infrastructure Status – by adding affordable housing to the 32 sub sectors under infrastructure, accommodating real estate developers' long standing demand for the same, these projects will have easy and low cost access to funding. Thus, this whole phenomenon can lower the cost of borrowing for builders.

- Extension for consideration period for tax on unoccupied houses – Presently, the houses which are unoccupied after getting completion certificates are subject to tax on notional rental income. The notional rent in respect of the flats which remain unsold, shall have to be offered for tax, even if the developer has not received any rent on such flats, only after one year of completion of the project.

- For income tax purposes, such flats shall be treated as self-occupied and as a tax payer is allowed to have only one house property as self-occupied, so, the other flats in possession of the developer will be deemed to have been let out and thus, notional rentals will become taxable. This provision will force developers to dispose of the flats quickly, so as to avoid paying tax on rent which he has not received.

AFFORDABLE HOUSING – AN OPPORTUNITY FOR BOTH BUYER AND SELLER

Other Major Developments

The new credit-linked subsidy scheme for middle income groups with INR 1,000 crore allocation is expected to enable access to cheaper capital. Given the government 's thrust, flow of institutional funding to affordable housing is likely to rise. With 80IB benefits continued for next five years commercially, projects are more viable." National Housing Bank has been allocated INR 20,000 crore to refinance home loans while Pradhan Mantri Awas Yojana gets INR 23,000 crore.

Conclusion

With the proposed infrastructure status for affordable housing and other steps, including a pledge to build one crore rural homes in two years to help provide housing for all by 2022 will help affordable home developers access cheaper institutional funds and tax exemptions to improve margins, along with increasing supply. The Budget has also offered tax incentives for affordable housing based on carpet area and not built-up space, which will help buyers get bigger-sized homes.

While there are quite a few reasons to cheer, there are some aspects on which the Budget was silent. There was no further clarity on Goods and Service Tax (GST) or tax norms for Real Estate Investment Trusts (REITs). It is indeed laudable that second-time home buyers have been discouraged, but it would have been even better if the first-time home buyers had been given interest exemption to a greater limit. Another issue which demanded some attention was the Land Acquisition bill. Exorbitant rate of land is the biggest issue plaguing real estate and ensuring its productivity would bring greater efficiency in the real estate sector. It can only be hoped that the next budget will see some of these issues being brought to light and addressed effectively.

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LEGAL UPDATES

RBI UPDATES

1. Review of Guidelines on "Pricing of Credit"

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/219 DNBR.CC.PD.No. 084/22.10.038/2016-17 dated 2nd February, 2017 has issued modified the guidelines for pricing of credit as - "NBFC-MFIs shall ensure that the average interest rate on loans sanctioned during a quarter does not exceed the average borrowing cost during the preceding quarter plus the margin, within the prescribed cap."
https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10846&Mode=0

2. Foreign Exchange Management Act, 1999 (FEMA) Foreign Exchange (Compounding Proceedings) Rules, 2000 (the Rules) - Compounding of Contraventions under FEMA, 1999

Reserve Bank of India (RBI) vide Circular no. 29 dated 2nd February, 2017 has amended the Foreign Exchange (Compounding Proceedings) Rules, 2000 (the Rules) - Compounding of Contraventions under FEMA, 1999 regarding delegation of powers to the Regional Offices of the Reserve Bank of India to compound the contraventions of FEMA. It has now been decided delegate further powers to Regional Offices for Delay in filing the Annual Return on Foreign Liabilities and Assets (FLA return), by all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year.
https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10847&Mode=0

3. Risk Management and Inter-bank Dealings: Permitting Non Resident Indians (NRIs) access to Exchange Traded Currency Derivatives (ETCD) market

Reserve Bank of India (RBI) vide Circular No. 30 dated 2nd February, 2017 it has now been decided to allow Non Resident Indians (NRIs) access to Exchange Traded Currency Derivatives (ETCD) market to hedge the currency risk arising out of their investments in India under FEMA, 1999.
https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10849&Mode=0

4. Issue of ` 100 banknotes with the inset letter 'R'

Reserve Bank of India (RBI) vide Press Release dated 3rd February, 2017 has stated that RBI will shortly issue 100 denomination banknotes in the Mahatma Gandhi Series-2005, with the inset letter 'R' in both the number panels, bearing the signature of Dr. Urjit R. Patel, Governor, Reserve Bank of India, and the year of printing '2017' printed on the reverse of the banknote. All the banknotes in the denomination of 100 issued by the Bank in the past will continue to be legal tender.
https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR2086175694DB968F40ED85D06C6039A3EB59.PDF

5. Removal of limits on withdrawal of cash from Saving Bank Accounts

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/224 DCM (Plg) 3107/10.27.00/2016-17 dated 8th February, 2017 it has been decided to remove the restrictions on cash withdrawals from Saving Bank accounts (including accounts opened under PMJDY) in a two step process as under:
Effective February 20, 2017, the limits on cash withdrawals from the Savings Bank accounts will be enhanced to INR 50,000 per week (from the current limit of INr 24,000 per week); and Effective March 13, 2017, there will be no limits on cash withdrawals from Savings Bank accounts.
https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10856&Mode=0

RBI UPDATES

6. *Reimbursement of Merchant Discount Rate*

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/228 DGBA.GAD.No.2128/44.02.001/2016-17 dated 16th February, 2017 has decided to absorb the Merchant Discount Rate (MDR) charges in respect of debit card transactions while making payments to Government of India (GoI). In order to operationalize the above, RBI will reimburse banks the MDR on debit cards used for payment of tax and non-tax dues to the Government of India with effect from January 1, 2017.
https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10860&Mode=0

7. *Repayment of Gold Loan*

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/229 DBR.RRB.BC.No. 53/31.01.001/2016-17 dated 16th February, 2017 it has been decided to increase the quantum of loan that could be granted under the scheme, from INR 1.00 lakh to INR 2.00 lakh subject to the following conditions:
(i) The period of the loan shall not exceed 12 months from the date of sanction.
(ii) Interest will be charged to the account at monthly rests but will become due for payment along with principal only at the end of 12 months from the date of sanction.
(iii) RRBs should maintain a Loan to Value (LTV) ratio of 75% on the outstanding amount of loan including the interest on an ongoing basis, failing which the loan will be treated as a Non Performing Asset (NPA).
https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10861&Mode=0

8. *Forward Rate Agreement (FRA) and Interest Rate Swap (IRS) - Withdrawal of Fortnightly return*

Reserve Bank of India (RBI) vide Notification No. RBI/2016-17/232 FMRD.DIRD.13/14.01.019/2016-17 dated 16th February, 2017 it has been decided to withdraw fortnightly return on Forward Rate Agreement (FRA)/Interest Rate Swap(IRS) with immediate effect.
https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10864&Mode=0

9. *Issuance of Rupee denominated bonds overseas – Multilateral and Regional Financial Institutions as Investors*

Reserve Bank of India (RBI) vide Circular No. A. P. (DIR Series) Circular No.31 dated 16th February, 2017 it has been decided to also permit Multilateral and Regional Financial Institutions where India is a member country, to invest in these Rupee denominated bonds.
https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10865&Mode=0

10. *Master Direction – Money Transfer Service Scheme (MTSS)*

Reserve Bank of India (RBI) vide Notification No. RBI/FED/2016-17/52 FED Master Direction No.1/2016-17 dated 22nd February, 2017 has issued a Master direction on Money Transfer Service Scheme (MTSS) of transferring personal remittances from abroad to beneficiaries in India. Only inward personal remittances into India such as remittances towards family maintenance and remittances favouring foreign tourists visiting India are permissible. No outward remittance from India is permissible under MTSS. The upper limit for movement of cash in INR would be INR 10,00,000/- and in Foreign Currency equivalent of USD 1,00,000 except the transactions where the imported foreign currency is being transported to the offices/ branch of the Authorised Persons who are Indian Agents under the Money Transfer Service Scheme (AP).
https://rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10868

MCA UPDATES

1. NCLT

MCA has altered the Territorial Jurisdiction of National Company Law Tribunal Bench. In exercise of the powers conferred by sub-section (1) of section 419 of the Companies Act, 2013 (18 of 2013), the Central Government hereby amends the notification of the Ministry of Corporate Affairs. Accordingly, all cases pertaining to State of Haryana, shall be omitted from the Jurisdiction of National Company Law Tribunal, New Delhi Bench and shall be a under the jurisdiction of National Company Law Tribunal, Chandigarh Bench.

2. Insolvency and Bankruptcy Board of India (IBBI) - Insolvency and Bankruptcy Board of India (Voluntary Liquidation) Regulations, 2017

The Insolvency and Bankruptcy Board of India has released the draft of the IBBI (Voluntary Liquidation) Regulations, 2017 which shall come into force on the date of their publication in the Official Gazette. These Regulations shall apply to the voluntary liquidation of corporate persons under Chapter V of Part II of the Insolvency and Bankruptcy Code, 2016. Further, all pending applications and petitions relating to voluntary winding up of companies pending before a High Court, shall continue with and dealt with by the High Court in accordance with provisions of the Act till 1st April. 2017 and shall be then transferred to NCLT.
http://ibbi.gov.in/IBBI%20(Voluntary%20Liquidation)%20Regulations%202017.pdf

3. MCA – Revision of E-Forms

MCA has revised the versions of eForms - Form AOC-4 (Form for filing financial statement and other documents with the Registrar), Form AOC-4 XBRL (Form for filing XBRL document in respect of financial statement and other documents with the Registrar), Form GNL-2 (Form for submission of documents with the Registrar). The revised forms will be available on the portal on the portal of MCA w.e.f 17th February, 2017. Stakeholders are advised to download the latest version before filing. Form- wise date of last version change is available at on the website of MCA.

3. MCA Issues Clarification on the applicability of Provisions u/s 391(2) of Companies Act 2013 in the case of Closure of Place of Business in India of a Foreign Company

MCA vide Circular No. 1/2017 dated 22nd February, 2017 has issued Clarification on applicability of Provisions u/s 391(2) of Companies Act 2013 in the case of Closure of Place of Business in India of a Foreign Company. After reviewing the provisions of Section 391(2) of the Companies Act 2013 which stipulates Chapter XX shall apply mutatis mutandis, to closure of place of business of a foreign company in India, w.e.f. 15 Dec. 2016, as if it were a company incorporated in India. MCA has noted that provisions of Section 391(1) and 391(2) need to be read harmoniously and has clarified that provisions of Section 391(2) shall apply to only those foreign companies which have issued prospectus or IDRs pursuant to provisions of Chapter XXII of the Companies Act, 2013.
http://www.mca.gov.in/Ministry/pdf/GeneralCircular1_2017_23022017.pdf

SEBI UPDATES

1. SEBI Issues Integrated Reporting by Listed Entities

Securities Exchange Board of India (SEBI) vide Circular No. SEBI/HO/CFD/CMD/CIR/P/2017/10 dated 6th February, 2017 has prescribed Integrated Reporting by Listed Entities through which it has mandated the requirement of submission of Business Responsibility Report ('BRR') for top 500 listed entities under Regulation 34(2)(f) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 ("SEBI LODR"). Integrated Reporting may be adopted on a voluntary basis from the financial year 2017-18 by top 500 companies which are required to prepare BRR. The information related to Integrated Reporting may be provided in the annual report separately or by incorporating in Management Discussion & Analysis or by preparing a separate report (annual report prepared as per IR framework). As a green initiative, the companies may host the Integrated Report on their website and provide appropriate reference to the same in their Annual Report.
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1486375066836.pdf

2. SEBI Issues consultation paper for Consolidation and re-issuance of debt securities issued under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008.

Securities Exchange Board of India (SEBI) has issued consultation paper for Consolidation and re-issuance of debt securities issued under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008. The Section 121 of the erstwhile Companies Act 1956 had provisions of consolidation and reissuance. However, the recently notified Companies Act 2013 is silent regarding the company's power to reissue their bonds. In this regard, the Ministry of Corporate Affairs (MCA) has clarified that since Companies Act 2013 is silent on the issue, it may be assumed that such reissuance is possible if there is enabling provision in this behalf in the articles of the company. In view of the clarification provided by MCA, SEBI provided an enabling framework for consolidation and re-issuance. An amendment was made to the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (ILDS) in the year 2015, wherein regulation 20A was inserted, to provide for consolidation and re-issuance of debt securities. In the light of the above, public comments are invited on the consultation paper latest by February 28, 2017.

3. SEBI issues guidelines for providing dedicated debt segment in the stock exchange

Securities Exchange Board of India (SEBI) vide Circular No. SEBI/HO/MRD/DP/CIR/P/2017/11 dated 10th February, 2017 has issued guidelines for providing dedicated debt segment in the stock exchange for trading, clearing and settlement of debt securities including trading, clearing and settlement of corporate bonds. Further stock exchanges are directed to take necessary steps and put in place necessary systems for implementation of this circular immediately, make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision; bring the provisions of this circular to the notice of the member brokers of the stock exchange and also to disseminate the same on the website.
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1486726008558.pdf

4. SEBI Board Meeting

Securities Exchange Board of India (SEBI) in its last meeting held on 11th February, 2017 has taken various decisions' to improve the facilities being offered to the stakeholders. The SEBI Board discussed the budget for the financial year 2017-18 was considered and approved by the Board. The Board also discussed the plan of action for FY 2017-18 which includes some major initiatives like Reducing the listing time gap by bringing down the issue timing from the existing requirement of T+6; Allowing, in consultation with Stakeholders and Regulators, institutional participation in commodity derivatives markets in phased manner;

SEBI UPDATES

Designing a system of Risk Based Supervision for commodity brokers; Setting up a Cyber Security Lab for the securities market; Facilitating the objective of "Ease of doing Business", introduction of common application form for registration, opening of bank and demat accounts, and issue of PAN for Foreign Portfolio Investors (FPIs) and Setting up a facility for online registration of intermediaries.
http://www.sebi.gov.in/sebiweb/home/detail/35745/yes/PR-SEBI-Board-Meeting

5. Submission of Monthly Reports by Custodians of Securities

Securities Exchange Board of India (SEBI) vide Circular No. IMD/FPIC/CIR/P/2017/12 dated 14th February, 2017 it has been decided that the custodians shall submit the monthly reports latest by either the end of the third working day of the succeeding month or the 5th of the succeeding month, whichever is later.
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1487070339017.pdf

6. Amendment pursuant to comprehensive review of Investor Grievance Redressal Mechanism

Securities Exchange Board of India (SEBI) vide Circular No. SEBI/HO/DMS/CIR/P/2017/15 dated 23rd February, 2017 has made amendment pursuant to comprehensive review of Investor Grievance Redressal Mechanism. It has been decided to revamp the grievance redressal mechanism at Stock Exchanges and Depositories (wherever applicable).
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1487844022702.pdf

7. Securities and Exchange Board of India (Foreign Portfolio Investors) (Second Amendment) Regulations, 2017

Securities Exchange Board of India (SEBI) vide Notification No. SEBI/LAD/NRO/GN/2016-17/035 dated 27th February, 2017 has made amendment to Securities Exchange Board of India (Foreign Portfolio Investor) Regulations, 2014. The amendment has been made with regard to definition of securitized debt instruments, which now includes any certificate or instrument issued by a special purpose vehicle set up for securitization of assets with banks, financial institutions or non -banking financial institutions as originators.
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1488197031529.pdf

8. Investments by Foreign Portfolio Investments (FPIs) in corporate debt securities

Securities Exchange Board of India (SEBI) vide Circular No. SEBI/HO/IMD/FPIC/CIR/P/2017/16 dated 28th February, 2017, It has been decided to permit Foreign Portfolio Investors (FPIs) to invest in Unlisted corporate debt securities in the form of non-convertible debentures/bonds issued by public or private Indian companies subject to the guidelines issued by the Ministry of Corporate Affairs, Government of India from time to time and also subject to minimum residual maturity of three years and end use-restriction on investment in real estate business, capital market and purchase of land. Further, it has also been decided to permit Foreign Portfolio Investors (FPIs) to invest in Securitised debt instruments like any certificate or instrument issued by a special purpose vehicle (SPV) set up for securitisation of asset/s where banks, FIs or NBFCs are originators; and/or any certificate or instrument issued and listed in terms of the SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008. However, this Investment by FPIs shall not exceed INR 35,000 crore.
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1488277921324.pdf

SEBI UPDATES

9. Amendment to SEBI (Mutual Funds) Regulations, 1996

Securities Exchange Board of India (SEBI) vide Circular No. SEBI/HO/IMD/DF2/CIR/P/2017/17 dated 28th February, 2017 has made amendment to SEBI (Mutual Funds) Regulations, 1996. The amendments relate to investments by Mutual Funds in hybrid securities such as units of REITs/InvITs, for investment in units of REITs/InvITs by an existing Mutual Fund scheme, unitholders of the scheme shall be given a time period of at least 15 days for the purpose of exercising the exit option.

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1488277217293.pdf

TAXATION UPDATES

1. CBDT enters into four unilateral Adavnce Pricing Agreements (APAs)

The Central Board of Direct Taxes (CBDT) has entered into four more unilateral Advance Pricing Agreements (APAs) on 6th February, 2017. The four APAs signed pertain to the Manufacturing, Financial and Information Technology sectors of the economy. The international transactions covered in these agreements include Contract Manufacturing, IT Enabled Services and Software Development Services. With this, the total number of APAs entered into by the CBDT has reached 130. The CBDT expects more APAs to be concluded and signed before the end of the current fiscal. The APA Scheme was introduced in the Income-tax Act in 2012 and the “Rollback” provisions were introduced in 2014. The scheme endeavours to provide certainty to taxpayers in the domain of transfer pricing by specifying the methods of pricing and determining the prices of international transactions in advance.
http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/593/Press-Release-Signing-of-APAs-07-02-2017.pdf

2. Extension of Filing date of Online return for 3rd Quarter of 2016-17

Department of Trade and Taxes vide Circular No. 23 dated 13th February, 2017 has extended the last date of filing of online/hard copy of third quarter return for the year 2016-17, in Form DVAT – 16, DVAT – 17 and DVAT – 48 along with required annexures/enclosures to 28th February, 2017.

3. CBDT - Income–tax (2nd Amendment) Rules, 2017.

The Central Board of Direct Taxes has notified the Income Tax (2nd Amendment) Rules, 2017 which shall come into force on the date of their publication in the Official Gazette. The Amendment has been made to provide new procedure and common application form for allotment of PAN & TAN. Accordingly, an applicant may apply for allotment of PAN or TAN through a common application form notified by the Central Government in the Official Gazette, and the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall specify the classes of persons, forms and formats along with procedure for safe and secure transmission of such forms and formats in relation to furnishing of PAN or TAN.

4. Central Board of Excise and Customs (CBEC) launches a Mobile Application for Goods and Services Tax (GST) to inform the taxpayers of the latest updates on GST among others.

Ministry of Finance vide Press Release dated 23rd February, 2017 has announced that the Central Board of Excise and Customs (CBEC) has launched a mobile application for Goods and Services Tax. Taxpayers can readily access a host of GST information such as:

- Migration to GST-Approach and guidelines for migration
- Draft Law-Model GST Law, IGST Law and GST Compensation Law
- Draft Rules-Rules related to Registration, Returns, Payment, Refund and Invoice
- Frequently Asked Questions (FAQs) on GST
- Various resources on GST such a videos, articles etc.
- Related Website Links
- Helpdesk/Email Contact

The Mobile Application enables taxpayers to be well informed of the latest updates on GST. Taxpayers can also provide feedback and contact CBEC’s 24x7 helpdesk “CBEC Mitra” through a toll-free number or email, at the touch of a button.
The mobile application can be downloaded free of cost on Android platforms. The iOS version will be made available shortly. With its elegant and easy-to-use interface, the GST Mobile Application is a yet another initiative by CBEC towards improving ease of doing business and providing outstanding taxpayer services.

TAXATION UPDATES

5. Clarifications for determination of Place of Effective Management (POEM) of a company, other than an Indian company

Central Board of Direct Taxes (CBDT) vide Circular No. 08 of 2017 dated 23rd February, 2017 has provided clarifications for determination of Place of Effective Management (POEM) of a company, other than an Indian company. The existing provisions of clause (ii) of sub section (3) of section 6 of the income tax act 1961, shall come into effect from April 1, 2017 and shall be applicable for assessment year 2017-18 and subsequent years. Further, it is clarified that existing provisions of above clauses are not applicable to a company having a turnover or gross receipts of 50 crores or less, in a financial year.

http://www.incometaxindia.gov.in/communications/circular/circular-8-2017-clarification-on-place-of-effective-management.pdf

OTHER LEGAL UPDATES

1. 100 per cent FDI in White Labelled ATM operations

Ministry of Finance vide Press Release dated 3rd February, 2017 has allowed Foreign Investment upto 100% in White Label ATM (WLA) operations, subject to the following conditions :-

(i) Any non-bank entity intending to set up WLA should have minimum net worth of INR 100 crore as per latest financial year's audited balance sheet, which is to be maintained at all times.

(ii) In case the entity is also engaged in any other 18 Non-Banking Finance Company (NBFC) activities, then the foreign investment in the company setting up WLA, shall also comply with the minimum capitalization norms for foreign investment in NBFC activities.

2. India and Austria Sign a Protocol amending the India-Austria Double Taxation Avoidance Convention

Ministry of Finance vide Press Release dated 6th February, 2017 has amended the existing Convention between the two countries for Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income here today. The Protocol was signed by Shri. Sushil Chandra, Chairman CBDT on behalf of India and Mr. Georg Zehetner, Charge d' Affaires, Embassy of Austria on behalf of Austria.

The Protocol will broaden the scope of the existing framework of exchange of tax related information which will help curb tax evasion and tax avoidance between the two countries and will also enable mutual assistance in collection of taxes.

3. Reforms in Labour Laws

Ministry of Labour & Employment vide Press Release dated 8th February, 2017 have taken several reform initiatives, both legislative reforms as well as Governance reforms through use of technology, to reduce the complexity in compliance and bringing transparency and accountability leading to better enforcement of the Labour Laws. These initiatives, inter-alia, include:

(i) Enhancing the ceiling of wage limit for the purpose of eligibility for Bonus and for the purpose of calculation of Bonus as INR 21,000/- per month and INR 7,000/- per month respectively by amending the Payment of Bonus Act 1965.

(ii) Prohibition of employment of children below 14 years in all occupations and processes through amendment in the Child Labour (Prohibition & Regulation) Act, 1986.

(iii) Extending the coverage of Employees State Insurance by increase in the wage ceiling from INR 15000/- per month to INR 21000/- per month.

(iv) Enabling provision under the Payment of Wages Act 1936 for payment of wages through Bank accounts.

(v) Launching of unified Shram Suvidha Portal for allotment of a Unique Labour Identification Number (LIN) for establishments, filing of self-certified and simplified Online Annual Return and a transparent Labour Inspection Scheme through computerized system.

(vi) Portability of Employees Provident Fund accounts through Universal Account Number (UAN)

4. Agreement between India and Croatia on Economic Cooperation

Ministry of Commerce & Industry vide Press Release dated 15th February, 2017 has announced the signing of agreement between the Government of the Republic of India and the Government of the Republic of Croatia on Economic Cooperation.

India and Croatia had earlier signed an Agreement on Trade and Economic Cooperation in September, 1994 with an aim to promote and develop bilateral trade and economic relations. The present Agreement between India and Croatia would be a step-in continuity as the last one expired in November, 2009.

OTHER LEGAL UPDATES

5. Employees Enrolment Campaign 2017 offers opportunity to employers to voluntarily declare details of all employees.

Ministry of Labour & Employment vide Press Release dated 15th February, 2017 EPFO has launched the Employees Enrolment Campaign 2017 offering opportunity to the employers to voluntarily declare details of all employees hitherto deprived of social security benefits under EPFO. The declaration scheme is operational between January 1st 2017 to March 31st 2017. Under the Scheme: The employees' share of contributions if declared by the employer as not deducted shall stand waived. The damages to be paid by the employer in respect of the employer in respect of the employees for whom declaration has been made under this campaign shall be at the rate of Rupee One per annum. No administrative charges shall be collected from the employer in respect of the contribution made under the declaration. A declaration can be made under the Campaign for the period for which no inquiry under Section 7A has been initiated.

EPFO has provided facility for online declaration under the Principal Employer section of EPFO portal which facilities the implementation of the Employees' Enrolment Campaign. After declaration, the payments are to be remitted by the employer through month-wise

6. ECRs for the entire past period of enrolments.

Ministry of Labour and Employment - The Ease of Compliance to Maintain Registers under various Labour Laws Rules, 2017 Ministry of Labour and Employment, with an intent to ease of, and for the expedient compliance of the requirement of the various labour related laws and for the purpose of maintaining combined registers for all such laws, has notified the separate rules for the said purpose. These rules may be called the Ease of Compliance to Maintain Registers under various Labour Laws Rules, 2017 which shall come into force on the date of their publication in the Official Gazette. The combined registers in the Forms specified in the Schedule to these rules shall be maintained either electronically or otherwise and used for the purposes, of the aforesaid enactments and the rules made there under, as specified therein. Necessary amendments to the Relevant rules governing the provisions of maintenance of the registers, are also being made through this Rule.

http://www.egazette.nic.in/WriteReadData/2017/174327.pdf

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