



NEWS CHRONICLE

September, 2018

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(Knowledge Manager with Acquisory)

ACQUISORY NEWS CHRONICLE SEPTEMBER, 2018

➤ **RBI notifies Reporting of Foreign Investments in India vide Single Master Form (SMF)**

RBI has notified that all new filings for Foreign inward remittance w.r.t FC-GPR, FC-TRS, LLP-I, LLP-II & CN will be through SMF only w.e.f 1st September, 2018 .

➤ **Compulsory dematerialization of Unlisted Public Companies shares by 2nd October, 2018**

MCA has notified Companies (Prospectus and Allotment of Securities) Third Amendment Rules, 2018 mandating Issue of securities in dematerialised form by unlisted public companies by 2nd October, 2018.

➤ **MCA Issues LLP (Second Amendment) Rules, 2018 - Centralized registration procedure introduced in the incorporation forms w.e.f. 2nd October, 2018**

- Specified LLP-RUN services (similar to RUN service for Company Incorporation) for Reservation of Name for the proposed LLP is now functional.
- MCA also introduced Form FiLLiP i.e. Form for Incorporation of LLP. Form FiLLiP is similar to form SPiCe for Company Incorporation.

➤ **MCA allows rendering of Valuation Services without Registration till 31st March 2019**

MCA has extended the last date for rendering of valuation services, without a Certificate of Registration under the Companies Act 2013, till 31st January 2019. According to the amended Companies (Registered Valuers and Valuation) Rules, 2018, the valuation services can be done till 31st march 2019 without a registration.

➤ **CBIC notifies Annual GST Return Forms**

- CBIC has notified Revised FORM GST REG-20- Order for dropping the proceedings for cancellation of registration and FORM GST ITC-04 – Details of

goods/capital goods sent to job worker and received back.

- Further it notified new FORM GSTR-9- Annual Return and FORM GSTR-9A- Annual Return (For Composition Taxpayer).

➤ **CBDT extends Tax Audit Due Date to 31st October, 2018**

CBDT further extends due date for filing of Income Tax Returns & Tax audit reports from 15th October, 2018 to 31st October, 2018 for all assesseees liable to file ITRs for AY 2018-19 by 30th September, 2018, after considering representations from stakeholders. Liability to pay interest u/s 234A of IT Act will remain.

➤ **Aadhaar Not Mandatory for Bank Account, Mobile Number but required for Allotment of PAN: Supreme Court**

Vide Order of Constitution bench, the Supreme Court has held that while Aadhaar would remain mandatory for filing of income tax returns and allotment of PAN, it would not be mandatory to link Aadhaar to bank accounts and also telecom service providers cannot seek linking of Aadhaar for mobile connections.

➤ **RBI notifies Reporting of Foreign Investments in India in Single Master Form**

With the objective of integrating extant reporting structure of various types of foreign investment in India the RBI has:

- Introduced a Single Master Form (SMF) which is available online from 1st September, 2018, replacing the ebiz portal.
- All the Banks are advised to do all filings pending for disposal in the e-biz portal at the earliest on or before 20th September 2018.
- For all cases which are pending at the company/ entity level for re-submission with clarification or additional documents, all such companies, are advised to ensure that cases where re-submission was to be done should be done within one week with complete documents failing which it would be treated as not filed.
- Further, where the entities have not been able to register for the Entity master, they may do so from 1st September, 2018. However, they may provide the reasons for not registering within the time period along with the authority letter.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11297&Mode=0>

➤ **RBI notifies the FEM (Transfer or Issue of Security by a Person Resident outside India) (Second Amendment) Regulations, 2018 w.r.t. downstream investment**

- RBI has notified the FEM (Transfer or Issue of Security by a Person Resident outside India) (Second Amendment) Regulations, 2018 which shall come into force with effect from the 1st September, 2018.
- For all downstream investments, an Indian entity or an investment vehicle making downstream investment in another Indian entity which is considered as indirect foreign investment for the investee Indian entity in terms of these Regulations, shall notify the Secretariat for Industrial Assistance, DIPP within 30 days of such investment, even if capital instruments have not been allotted, along with the modality of investment in new / existing ventures (with / without expansion programme).
- Further, an Indian entity or an investment Vehicle making downstream investment in another Indian entity shall file Form DI with the Reserve Bank within 30

days from the date of allotment of capital instruments and the Investment vehicle which has issued its units to a person resident outside India shall file Form InVi with the Reserve Bank within 30 days from the date of issue of units.

<http://www.egazette.nic.in/WriteReadData/2018/189100.pdf>

➤ **RBI liberalises ECB policy on Rupee denominated bonds**

RBI has liberalized the ECB regime w.r.t,

- a. **ECBs by companies in manufacturing sector:** It has been decided to allow eligible ECB borrowers who are into manufacturing sector to raise ECB up to USD 50 million or its equivalent with minimum average maturity period of 1 year.
- b. **Underwriting and market making by Indian banks for Rupee denominated bonds (RDB) issued overseas:** It has now been decided to permit Indian banks to participate as arrangers/underwriters/market makers/traders in RDBs issued overseas subject to applicable prudential norms.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11375&Mode=0>

MCA Update

➤ **MCA extends last date of filing of Form BEN-2 without additional fees**

- On the basis of the representations received from the stakeholders regarding extension of the last date for filing of e-Form BEN-2 without additional fees on account of Companies (Significant Beneficial Owners) Rules, 2018, the MCA has decided to extend the time limit for filing the BEN-2 form.
- The last of filing of Form BEN-2 would be 30 days from the date of deployment of Form BEN-2 on the MCA-21 portal and no additional fee shall be levied if the same is filed within 30 days from the date of deployment of the said e-form. The form is yet to be made available on the MCA portal.

http://www.mca.gov.in/ministry/pdf/generalcircularno_7_06082018.pdf

➤ **MCA issues clarification in filing BEN-1 under Companies Act, 2013**

- MCA has issued clarification w.r.t. stakeholders expressing certain difficulties in filing a declaration in Form No. BEN-1 in respect of Companies (Significant Beneficial Owners) Rules, 2018.
- RBI has informed that in view stakeholders concerns, Form No. BEN-1 would be revised. As such, the due date of 10th September, 2018 for filing BEN-1 declaration would be revised and a revised BEN-1 form would be notified shortly. Stakeholders are advised to file declaration as per the revised form only and adhere to the timelines which will be specified therein.

http://www.mca.gov.in/ministry/pdf/gccircularben_10092018.pdf

➤ **MCA notifies sections 66 - 70 of Companies (Amendment) Act, 2017**

MCA vide notification dated 12th September, 2018 has notified sections 66 to 70 (both inclusive) of Companies (Amendment) Act, 2017 w.r.t. Appointment and Remuneration of Managerial Personnel.

http://www.mca.gov.in/Ministry/pdf/commencementnoti_13092018.pdf

➤ **Companies (appointment and remuneration of managerial personnel) Amendment Rules 2018**

MCA has notified Revised Form No. MR-2-Form of application to the Central Government for approval of appointment of managing director or whole time director or manager by notifying Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2018.

http://www.mca.gov.in/ministry/pdf/companiesamendrules_13092018.pdf

➤ **MCA Amends Schedule V of Companies Act, 2013**

Central Government has amended Schedule V of Companies Act, 2013 vide Notification dated 12th September, 2018 and amends Part I and Part II related to Conditions To Be Fulfilled For The Appointment Of A Managing Or Whole-Time Director Or A Manager Without The Approval Of The Central Government Appointments and Remuneration.

http://www.mca.gov.in/ministry/pdf/schedulevcompact_13092018.pdf

MCA Update

➤ **MCA Issues LLP (Second Amendment) Rules, 2018 - Centralized registration procedure certain changes introduced in the incorporation forms w.e.f. 2nd October, 2018**

Major highlights

- The introduction of specified LLP-RUN services (similar to RUN service for Company Incorporation) for Reservation of Name for the proposed LLP.
- MCA also introduced Form FiLLiP i.e. Form for Incorporation of LLP. Form FiLLiP is similar to form SPiCe for Company Incorporation.
- Form – 5 (Notice for change of name), Form – 17 (Application and statement for the conversion of a firm into LLP) & Form – 18 (Application and Statement for conversion of a Private Company/Unlisted Public Company into LLP) shall remain same with minor modifications. In the above forms, RUN-LLP SRN to be substituted for Form 1 SRN in relevant field & PAN is allowed to be entered in DSC section.

http://www.mca.gov.in/ministry/pdf/llpsecondamendment_19092018.pdf

➤ **MCA reduces DIR-3 KYC fees to Rupees 500 for 15 days**

- The last date for filing form DIR-3 KYC without fee has expired on 15th September 2018.
- The process of deactivating the non-compliant DINs has since been completed and their status has been updated as 'Deactivated due to non-filing of DIR-3 KYC'.
- However, the non-compliant DIN holders may file DIR-3 KYC with a fee of Rs.500 (Rupees Five Hundred Only) from 21st September till 5th October 2018(both days inclusive) to get their DINs reactivated.
- From 6th October 2018 onwards, a fee of Rs.5000 (Rupees Five Thousand Only) becomes payable for reactivation.

➤ **MCA issues Companies IND-AS Second Amendment 2018**

MCA issues Companies (Ind AS) Second Amendment Rules, 2018. The amendment has been made w.r.t. substitution of certain paragraphs related to Government grants.

http://www.mca.gov.in/Ministry/pdf/CompaniesIASsecondAmendment_21092018.pdf

➤ **MCA allows rendering of Valuation Services without Registration till 31st March 2019**

- MCA has extended the last date for rendering the valuation services without a Certificate of Registration under the Companies Act 2013 till 31st January 2019.
- According to the amended Companies (Registered Valuers and Valuation) Rules, 2018, the valuation services can be done till 31st March, 2019 without a registration.
- Further, if a Valuer has accepted a Valuation assignment prior to 31st January 2019, the same can be completed up to 30th April 2019.

http://www.mca.gov.in/ministry/pdf/companiesthirdamendment_25092018.pdf

➤ SEBI Board Meeting

SEBI in its Board Meeting held on 19th September, 2018 took following decisions-

A. KYC requirement for FPIs -

The proposed KYC requirements and eligibility conditions for FPIs were discussed and a revised circular will be issued by SEBI.

B. Reducing the time period for listing of issues

The Board has approved the proposal of introducing the use of Unified Payment Interface (UPI) with facility of blocking the funds (ASBA facility), as a new payment mechanism for retail investor applications submitted through intermediaries. The time period for listing of issues reduced from T+6 days to T+3 days.

C. Amendment of regulations relating to Re-classification of promoter / public

The board has decided to revise the provisions relating to re-classification of Promoter / Public in a listed Company.

The revised provisions enable one of Promoters and persons related to such promoters to seek reclassification as Public shareholder subject to certain conditions and processes to be followed. The promoter(s) seeking re-classification and persons related to them should not:

- I. hold more than 10% of the total voting power or exercise control over the listed entity or have special rights in the company
- II. be represented on the board of the listed entity or act as key managerial persons for a period of 3 years from such re-classification
- III. be willful defaulters

The revised process provides for application for reclassification by the promoter seeking, review by the company's Board and approval by the shareholders, with exiting promoters and related persons not allowed to vote.

D. Amendments to SEBI (Delisting of Equity Shares) Regulations, 2009

The board has approved the following amendments:

- i. In case of voluntary delisting, if the price discovered through the reverse book building process is not accepted by the promoters, a counter offer can be given by the promoters. However, the price through the counter offer should not be less than the book value and delisting will be successful only if such counter offer is accepted by such number of public shareholders that the post offer promoter shareholding reaches at least 90%.
- ii. Promoters to give the exit to public shareholders within 3 months of delisting from recognized stock exchange.
- iii. The review has been done with aim to simplify the language, updating the references to the Companies Act, 2013/other new SEBI Regulations, incorporating the relevant circulars , FAQs in the Delisting Regulations, without making any substantive policy change.

E. Review of Requirement of 1% security deposit – Public Issue of debt securities, non-convertible redeemable preference shares (NCRPS) and securitized debt Instruments (SDI)

The Board has approved the proposal for deleting the requirement of 1% security deposit from the following SEBI Regulations-

1. SEBI (Issue and Listing of Debt Securities) Regulations, 2008
2. SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013 and
3. SEBI (Public Offer and Listing of Securitized Debt Instruments) 2008

F. Framework for Enhanced Market Borrowings by Large Corporates

The Board approved the following framework for operationalizing the budget announcement-

- a) The instant framework to come into effect from April 1, 2019.
- b) Any large Corporate, covered under the framework shall intimate to the stock exchange that they are covered under the framework and shall raise 25% of their incremental borrowings for that year through bond market.

SEBI Update

- c) Any Corporate, other than scheduled Commercial Bank, which has listed its specified securities or debt securities or non-convertible redeemable preference shares, and fulfills following criteria as on 31st March of a Financial Year, shall be categorized as large corporate under the instant framework.
- i. outstanding borrowing of Rs 100 Crores or above; and
 - ii. credit rating of "AA and above"; and
 - iii. intends to finance itself with long - term borrowings (i.e. borrowings above 1year).
- G. Extending disclosure requirements pertaining to Sexual Harassment of Women to all listed Companies

The Board has approved to insert the following disclosure requirement with respect to complaints under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in the corporate governance report as part of Annual reports of listed entities:

1. No. of complaints filed during the financial year
2. No. of complaints disposed off during the financial year
3. No. of complaints pending as at end of the financial year.

https://www.sebi.gov.in/media/press-releases/sep-2018/sebi-board-meeting_40347.html

➤ **CBIC extends time limit for making declaration in FORM GST ITC-01**

CBIC has extended the time limit for making the declaration in FORM GST ITC-01 for specified classes of taxpayers by registered persons who have filed the application in FORM GST-CMP-04 of the said rules between the 2nd March, 2018 and the 31st March, 2018, for a period of thirty days from the date of publication of this notification in the Official Gazette vide Notification No. 42/2018 – Central Tax Dated 4th September 2018.

http://www.cbic.gov.in/resources/htdocs-cbec/gst/notification-42-2018-central_tax-english.pdf;jsessionid=81691d0449798049e5cb7c73464f442b

➤ **CBIC waives late fee for specified classes of taxpayers for Form GSTR-3B, GSTR-4 & GSTR-6**

CBIC has waived the late fee paid for specified classes of taxpayers for FORM GSTR-3B, FORM GSTR-4 and FORM GSTR-6 vide Notification No. 41/2018 – Central Tax dated 4th September, 2018.

http://www.cbic.gov.in/resources/htdocs-cbec/gst/notification-41-2018-central_tax-english.pdf;jsessionid=59e0d8f5795e6d1476bdc98021beeb85

➤ **CBIC extends time limit for making declaration in FORM GST ITC-04 till 30th September, 2018**

CBIC has extended time limit for making the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to June, 2018 till the 30th September, 2018 vide Notification No. 40/2018 – Central Tax dated 4th September, 2018.

http://www.cbic.gov.in/resources/htdocs-cbec/gst/notification-40-2018-central_tax-english.pdf;jsessionid=52e78a20a835c83e4d5e8e7b0afa37b3

➤ **CBIC notifies Annual GST Return Forms**

- CBIC has notified annual return of GST for the period 01st July, 2017 to 31st March, 2018 which is required to be filed along with statutory GST audit report till 31st December, 2018 vide Notification No. 39/2018 – Central Tax Dated 4th September, 2018.

- It notified Revised FORM GST REG-20- Order for dropping the proceedings for cancellation of registration and FORM GST ITC-04 – Details of goods/capital goods sent to job worker and received back.
- Further it notified new FORM GSTR-9- Annual Return and FORM GSTR-9A- Annual Return (For Composition Taxpayer).

http://www.cbic.gov.in/resources/htdocs-cbec/gst/notification-39-2018-central_tax-english.pdf;jsessionid=52e78a20a835c83e4d5e8e7b0afa37b3

➤ **CBDT notifies the Income-tax (9th Amendment), Rules, 2018 which shall come into force from the 1st April, 2019 and shall apply in relation to assessment year 2019-20 and subsequent years w.r.t. Determination of Fair Market Value (FMV)**

CBDT has notified the Income-tax (9th Amendment), Rules, 2018 which shall come into force from the 1st April, 2019 and shall apply in relation to assessment year 2019-20 and subsequent years. The amendments are carried out to amend the meaning of the term 'Balance Sheet' as defined under Income Tax Rule 11U(b) and inserts new Income Tax Rule 11UAB on 'Determination of Fair Market Value (FMV) for Inventory' for the purpose of the Income Tax. Further, the method has been prescribed for inventory being and

immovable property, being land or building or both, being jewellery, archaeological collections, drawings, paintings, sculptures, any work of art, shares or securities and for any other property.

https://www.incometaxindia.gov.in/communication/s/notification/notification42_2018.pdf

➤ **Extension of Due date of TRAN-1 and TRAN-2**

CBIC to extend the date for submitting the declaration electronically in FORM GST TRAN-1 by a further period not beyond 31st March, 2019, in respect of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council has made a recommendation for such extension.

CBIC further provided that the registered persons filing the declaration in FORM GST TRAN-1 in accordance with sub-rule (1A), may submit the statement in FORM GST TRAN-2 by 30th April, 2019.

➤ **TCS provisions under GST effective from 01.10.2018**

CBIC notifies that Section 52 of the CGST Act (provisions related to TCS) will come into force w.e.f 01st October, 2018. Section 52 of CGST Act, 2017 speaks about Collection of tax at source (TCS)

Every electronic commerce operator (hereafter in this section referred to as the “operator”), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

➤ **TDS provisions under GST effective from 01st October, 2018**

CBIC notifies that Section 51 of the CGST Act (provisions related to TDS) will come into force w.e.f 01st October, 2018. Section 51 of CGST Act, 2017 – Tax deduction at source (TDS)

The Government may mandate,—

(a) a department or establishment of the Central Government or State Government; or

(b) local authority; or

(c) Governmental agencies; or

(d) such persons or category of persons as may be notified by the Government on the recommendations of the Council, (hereafter in this section referred to as “the deductor”), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees: Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

➤ **CBIC notifies FORM GSTR – 9C – Reconciliation Statement & Certification**

CBIC notifies FORM GSTR – 9C – Reconciliation Statement & Certification in cases where the reconciliation statement (FORM GSTR-9C) is drawn up by the person who had conducted the audit.

➤ **Not Only Chartered Accountants, Cost Accountants Can Also Certify IGST Refund Claims: CBIC**

Central Board of Indirect Taxes and Customs has authorized the Cost Accountants to certify the 'IGST Refund Claims' of exporters whose records were not transmitted from GSTN to Customs due to the mismatch in GSTR 1 and GSTR 3B.

➤ ***Aadhaar Not Mandatory for Bank Account, Mobile Number but Must for Allotment of PAN: SC***

Supreme Court has held that while Aadhaar would remain mandatory for filing of income tax returns and allotment of PAN, it would not be mandatory to link Aadhaar to bank accounts and also telecom service providers cannot seek linking of Aadhaar for mobile connections.

➤ ***Cabinet Approves New Telecom Policy***

Cabinet has approved new telecom policy named, National Digital Communications Policy (NDCP) 2018, which aims to attract \$100 billion investment and create 4 million jobs in the sector by 2022.

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
FEM	Foreign Exchange Management	OTP	One Time Password
GST	Goods and Services Tax	OCI	Overseas Citizens of India
GIC	GST Implementation Committee	PAN	Permanent Account Number
ICDS	Income Computation and Disclosure Standards	PIO	Person of Indian Origin
IGST	Integrated Goods and Services Tax	RBI	Reserve Bank Of India
ITC	Input tax Credit	ROC	Registrar of Companies
IFRS	International Financial Reporting Standards	SEBI	Securities and Exchange Board of India
ITR	Income Tax Return	TAN	Tax Account Number
IBC	Insolvency and Bankruptcy Code	UTGST	Union Territory Goods and Service Tax
IPs	Insolvency Professionals	VAT	Value Added Tax
Ind AS	Indian Accounting Standards	IEPF	Investor Education and Protection Fund
IBBI	Insolvency and Bankruptcy Board of India	ISD	Input Service Distributer

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