

CORPORATE NEWSFLYER

QTR
JULY – SEPT 2023



RBI

RBI and Central Bank of UAE sign two MoUs to (i) establish a framework to promote the use of local currencies for Cross – border Transactions and (ii) cooperation for interlinking their payment and messaging systems.

RBI and Central Bank of UAE (CBUAE) signed two MOUs for (i) establishing a Framework to Promote the Use of Local Currencies viz. the Indian rupee (INR) and the UAE Dirham (AED) for cross border transactions; and (ii) cooperation for interlinking their payment and messaging systems.

Master Direction – RBI (Prudential Regulations on Basel III Capital Framework, Exposure norms, Significant Investments, Classification, Valuation and Operation of Investment portfolio norms and resource raising norms for All India Financial Institutions) Directions, 2023

RBI being satisfied that it is necessary and expedient in the public interest and in the interest of financial sector policy so to do, issued the Master Direction – Reserve Bank of India (Prudential Regulations on Basel III Capital Framework, Exposure norms, Significant Investments, Classification, Valuation and Operation of Investment Portfolio norms and resource raising norms for All India Financial Institutions) Directions, 2023.

SEBI

SEBI notifies SEBI (Alternative Dispute Resolution Mechanism) Amendment Regulations, 2023

The 'Dispute Resolution Mechanism' has been inserted in SEBI various Regulations viz. Merchant Bankers; Registrars to an Issue and Share Transfer Agents; Debenture Trustees; Mutual Funds; Custodian; Credit Rating Agencies; Collective Investment Schemes; KYC (Know Your Client) Registration Agency; Alternative Investment Funds; Investment Advisers; Research Analysts; Infrastructure Investment Trusts; Real Estate Investment Trusts; Listing Obligations and Disclosure Requirements; Foreign Portfolio Investors; Portfolio Managers; and Vault Managers.

Appointment of Director nominated by the Debenture Trustee on boards of issuers.

- SEBI provides clarification on the requirements for appointment of Directors by entities that have listed their debt securities.
- As per the existing SEBI norms pertaining to listing of non-convertible securities, an entity registered under Companies Act, 2013 has to ensure that a person nominated by the debenture trustee is appointed as a director.
- This obligation exists for issuers that are companies under the Companies Act 2013. SEBI has now clarified that issuers coming under certain categories can submit an undertaking to the debenture trustees instead of nominating a director.

Amendment to guidelines for institutional placement of units by InvITs, REITs

- SEBI in two separate but similarly – worded circulars issued for InvITs and REITs, SEBI has mentioned pricing for institutional placement of Units.
- The institutional placement should be made at a price not less than the average of the weekly high and low of the closing prices of the units of the same class quoted on the stock exchange during the two weeks preceding the relevant date.
- The relevant date for deciding the price would be the date of the meeting in which the board of directors of the manager decides to open the issue.

Disclosure of material events/information by listed entities under Regulations 30 and 30A of SEBI (LODR) Regulations, 2015

SEBI has come out with a regulatory framework for listed entities on ESG disclosures on supply chain and assurance. ESG refers to Environment, Social and Governance.

- In a bid to address the need for ESG disclosure assurance, SEBI introduced BRSR Core, a sub-set of the BRSR (Business Responsibility and Sustainability Report), comprising nine Key Performance Indicators (KPIs) for several E, S and G factors that need to be assured.
- Under the framework, large listed companies will have to make disclosures and obtain assurance as per 'BRSR Core' for their value chain. Further, for better global comparability, intensity ratios based on revenue adjusted for purchasing power parity have been included.

CORPORATE NEWSFLYER

QTR
JULY – SEPT 2023

Disclosure of material events/information by listed entities under Regulation 30 and 30A of SEBI (LODR) Regulations, 2015

SEBI prescribes amendment to Regulation 30 and 30A of SEBI (LODR) Regulations, 2015 w.r.t. Annexures:

- i. Annexure I – specifies the details that need to be provided while disclosing events given in Part A of Schedule III.
- ii. Annexure II – specifies the timeline for disclosing events given in Part A of Schedule III.
- iii. Annexure III – provides guidance on when an event / information can be said to have occurred.
- iv. Annexure IV – provides guidance on the criteria for determination of materiality of events/information.

Listed Entities to make all business deals public.

- Listed Companies must disclose to the public all information on business deals and arrangements that have a bearing on their prospects.
- The changes are aimed at ensuring that key criteria relevant for the market and investors are disclosed within specified timelines rather than a discretion-based approach.
- A noteworthy change is the implication on existing events or continuing events, which become material due to the objective parameters, will mandate that companies will now need to retrospectively look back at all those events to check if a disclosure is needed.
- The amendments that were effective July 15 will require companies to disclose to shareholders all deals without exception.

Only online mode to credit money to the investor protection and education fund.

Crediting funds to the SEBI Investor Protection and Education Fund (IPEF) can now only be done through online and via a link given on the regulator's website.

SEBI notifies Rule, give board representation to REITs unitholders'.

- To boost corporate governance norms, SEBI notifies rules introducing special rights to unitholders of REITs who can now nominate representative on board.
- Also, SEBI has introduced the concept of self-sponsored real estate investment trust (REIT).
- Principle of Stewardship code would apply to members, nominated by the unit holders, on the board of directors of investment managers of REIT.
- Further, the director so nominated would rescue from voting on any transaction in which such nominee director or the unit holder who nominated such nominee director is a party.

SEBI releases framework for unitholders of REITs, InvITs to nominate directors.

- Unitholders of Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) now have the framework to nominate directors on the boards of the investment manager of the trusts. The eligibility of the unitholders will be decided based on the unitholding pattern as on September 30, 2023.
- The eligibility of the nominee director will be confirmed by the investment manager, based on the evaluation done by the Nomination and Remuneration Committee and / or Board of Directors of the investment manager in line with the policy formulated for this and within 10 days of receipt of notice from eligible unitholders.

SEBI (LODR) Third Amendment Regulations, 2023

SEBI notifies the SEBI (Listing Obligations and Disclosure Requirements) Third Amendment Regulations, 2023, vide this notification a new chapter has been inserted which provides the framework for voluntary delisting of non-convertible debt securities or non-convertible redeemable preference shares and obligations of the listed entity on such delisting.

CORPORATE NEWSFLYER

QTR
JULY – SEPT 2023

Regulatory Reporting by AIFs

In order to enable the AIF Industry to have uniform compliance standards, ease compliance reporting and for regulatory and developmental purposes, the existing quarterly reporting format has been reviewed and the revised format has been prepared by SEBI. The report shall be submitted within 15 calendar days from the end of each quarter.

SEBI Board Meeting

SEBI in its Board Meeting approved the following:

1. Flexibility in the framework for Large Corporates (LCs) for meeting incremental financing needs through issuance of debt securities
 - A higher monetary threshold has been specified for defining LCs, thereby reducing the number of entities qualifying as LCs.
 - Removal of penalty on LCs which are not able to raise a certain percentage of incremental borrowing from the debt market; and
 - Introduction of incentives and moderated disincentives
2. Streamlining the Framework for credit of unclaimed amounts of investors in listed entities other than companies, REITs and INVTs to the investor Protection and Education Fund (IPEF) and process of refund from the IPEF.
3. SEBI extends timeline for compliance with enhanced qualification and experience requirements for Investment advisors till September 30, 2025.

Extension of timelines (i) for nomination in eligible demat accounts and (ii) for submission of PAN, Nomination and KYC details by physical security holders; and voluntary nomination for trading accounts

- SEBI vide circular dated July 23, 2021, stipulated that trading accounts and demat accounts which do not have 'choice of nomination' by September 30, 2023 shall be frozen. As a step of ease of doing business, SEBI has now prescribed that submission of 'choice of nomination' for trading accounts has been made voluntary.
- However, with respect to demat accounts, the last date for submission of 'choice of nomination' has been extended to December 31, 2023.

- Further, for physical security holders the last date for submission of PAN, Nomination, Contact details, Bank A/c details and Specimen signature for their corresponding folio numbers has been extended to December 31, 2023.

TAX

CBDT Extends due date for filing Form 10B/10BB and Form ITR 7 for the AY 2023-24

The due date of furnishing Audit Reports in Form 10B / Form 10BB for the Financial Year 2022-23, which is September 30, 2023, has now been extended to October 31, 2023. Further, the due date of furnishing of Return of Income in Form ITR-7 for Assessment Year 2023-24, which is October 31, 2023, is also extended to November 30, 2023.

Recommendations of 50th meeting of GST Council

- GST Council recommends Casino, Horse racing and Online gaming to be taxed at the uniform rate of 28% on full face value.
- GST council recommends notification of GST appellate tribunal by the Centre with effect from Aug 1, 2023.
- GST council recommends exemption of cancer related drugs, medicines for rare diseases and food products for special medical purposes from GST tax.
- Recommends bringing down rates from 18% to 5% on 4 items – Uncooked, unfried, & extruded snack palettes, fish soluble paste, LD slag to be at par with blast furnace slag, and imitation zari thread. GST Council also recommends several measures for streamlining compliances in GST.

Recommendations of 51st meeting of GST Council

- GST Council in its 51st meeting recommended certain amendments in the CGST Act, 2017 and IGST Act, 2017, including amendment in Schedule III of CGST Act, 2017, to provide clarity on the taxation of supplies in Casinos, horse racing and online gaming.

CORPORATE NEWSFLYER

QTR
JULY – SEPT 2023

- GST Council also recommends inserting a specific provision in IGST Act, 2017 to provide for liability to pay GST on supplier located outside India supplying online money gaming to a person in India.
- GST Council also recommends GST on valuation of supply of online gaming and actionable claims in casinos at entry level.

New Income Tax Rule 6ABBB (Form 3AF) for Amortization of External Preliminary Expenditure u/s 35D

- CBDT notifies new Income Tax Rule 6ABBB on 'Form of Statement to be furnished regarding preliminary expenses incurred under Section 35D' which prescribes e-filing of the statement in Form 3AF one month before the ITR due date specified under Section 139 (1) using DSC or EVC.
- Prior to amendment in Section 35D, preliminary activities were required to be performed by the assessee in house or by a CBDT approved external company, which posed numerous challenges to the successful implementation of new projects.
- To simplify the process of claiming amortization for these preliminary expenses, Finance Act, 2023 has amended Section 35D of the Income Tax Act to remove the requirement of incurring expenses on conducting such activities through CBDT approved companies, as part of the measures to ease compliance.
- The assessee will now only be required to provide a statement containing the specifics of this expenditure in the prescribed Form 3AF.

Classification of NBFC for Section 43B and 43D of the Income Tax Act, 1961

To implement the amendment introduced by the Finance Act, 2023, the CBDT has issued notification. These notifications have classified all Non-Banking Financial Companies (NBFCs) into Top Layer, Upper Layer and Middle Layers for the purpose of complying with Section 43B and Section 43D of the Income Tax Act, 1961.

<https://incometaxindia.gov.in/communications/notification/notification-79-2023.pdf>

<https://incometaxindia.gov.in/communications/notification/notification-80-2023.pdf>

Life Insurance Policy Proceeds to be made taxable.

- The CBDT has issued the Income Tax Amendment (Sixth Amendment), Rules, 2023.

- The amendment provides that where a sum is received by an assessee for the first time under the life insurance policy during the previous year, the income chargeable to tax in the first previous year shall be computed in accordance with the formula A-B, where,

A = the sum or aggregate of sum received under the life insurance policy during the first previous year; and

B = the aggregate of the premium paid during the term of the life insurance policy till the date of receipt of the sum in the first previous year that has not been claimed as deduction under any other provision of the Act.

- Where the sum is received under the life insurance policy during the previous year subsequent to the first previous year, the income chargeable to tax in the subsequent previous year shall be computed in accordance with the formula C-D, where;

C = the sum or aggregate of sum received under the life insurance policy during the subsequent previous year;

D = the aggregate of the premium paid during the term of the life insurance policy till the date of receipt of the sum in the subsequent previous year not being premium which,

- a. Has been claimed as deduction under any other provision of the Act; or
- b. Is included in amount B or amount D of this rule any of the previous years.

CBDT notifies changes to Rule 11UA in respect of Angel Tax

The Finance Act, 2023, brought an amendment to bring the consideration received from non-residents for issue of shares by an unlisted company within the ambit of Section 56(2)(viib) of the Income Tax Act, 1961 (the Act), which provides that if such consideration for issue of shares exceeds the Fair Market Value (FMV) of the shares, it shall be chargeable to income tax under the head 'Income from other sources'.

CORPORATE NEWSFLYER

QTR
JULY – SEPT 2023

Key highlights

- In addition to the two methods for valuation of shares, namely, Discounted Cash Flow (DCF) and Net Asset Value (NAV) method, available to residents under Rule 11UA, five more valuation methods have been made available for non-resident investors, namely, Comparable Company Multiple Method, Probability Weighted Expected Return Method, Option Pricing Method, Milestone Analysis Method, Replacement Cost Method.
- Where any consideration is received for issue of shares from any non-resident entity notified by the Central Govt., the price of the equity shares corresponding to such consideration may be taken as the FMV of the equity shares for resident and non-resident investors, subject to the following:
 - a. To the extent the consideration from such FMV does not exceed the aggregate consideration that is received from the notified entity, and
 - b. The consideration has been received by the company from the notified entity within a period of ninety days before or after the date of issue of shares which are the subject matter of valuation.
- Price matching for resident and non-resident investors would be available with reference to investment by Venture Capital Funds or Specified Funds.
- Valuation methods for calculating the FMV of Compulsorily Convertible Preference Shares (CCPS) have also been provided.
- A safe harbor of 10% variation in value has been provided.

MCA

The Limited Liability Partnership (Second Amendment) Rules, 2023

MCA notifies the Limited Liability Partnership (Second Amendment) Rules, 2023, according to the amendment the LLP Form No. 3 (Information with regard to Limited Liability Agreement and changes, if any, made therein) and LLP form no. 4 (Notice of appointment, cessation, change in name / address / designation of designated partner and consent to become a partner /designated partner) are substituted.

Condonation of delay in filing Form – 3, Form – 4 and Form – 11 under Section 67 of Limited Liability Partnership Act, 2008 read with Section 460 of the Companies Act, 2013.

MCA grants one time relaxation in additional fees to those LLPs who could not file Form 3, Form 4 and Form 11 within the due date and provided an opportunity to update their filings and details in Master data for future compliances.

Salient features as mentioned below: -

1. Form 3 and Form 4 will be processed under STP mode, except for cases involving changes in business activities. Further, stakeholders are advised to file these forms sequentially.
2. These forms provide a facility to edit the pre-filled master data which is available as the existing master database of the LLP. However, the onus of filing the correct data would be on stakeholders.
3. The filing of Form 3 and Form 4 without additional fees shall be applicable for the event dates January 1, 2021, onwards. For the events prior to the aforesaid period, these forms can be filed with two times and four times of normal fees as additional fee for small LLPs and other than small LLPs respectively.
4. The filing of Form 11 without additional fee shall be applicable for the financial year 2021-22 onwards.
5. These forms shall be available for filing from September 1, 2023, onwards till November 30, 2023.



CORPORATE NEWSFLYER

QTR
JULY – SEPT 2023



6. The LLPs availing the scheme shall not be liable for any action for the delayed filing of aforesaid forms.

MCA issues clarification on extension of holding General Meetings through VC or OAVM till September 30, 2024

MCA issues clarification regarding extension of timeline of holding of Annual General Meeting (AGM) and EGM through Video Conference (VC) or Other Audio-Visual Means (OAVM) and passing of Ordinary and Special resolutions by the companies under the Companies Act, 2013 read with rules made thereunder until September 30, 2024.

OTHERS

NGOs to mandatorily disclose the details of Assets created out of Foreign Contributions

The Ministry of Home Affairs (MHA) has implemented significant changes to the Foreign Contribution (Regulation) Rules, requiring non-governmental organizations (NGOs) to furnish comprehensive information regarding both moveable and immovable assets funded by Foreign contribution as March 31 of the Financial Year.

As per the notification,

- NGOs will have to provide the details like description of the assets, Value as of the beginning of the Financial Year (in INR), value of assets acquired during the Financial Year (in INR), value of assets disposed of during the Financial year (in INR), value as per the balance sheet at the end of Financial Year (in INR).
- They will also be required to reveal details immovable properties acquired out of Foreign contribution (as on March 31 of Financial Year), details of immovable asset (Land /Buildings etc.), Size, Location (Complete address), Value as per the balance sheet (in INR).

Extension of the validity of FCRA registration certificates

Ministry of Home Affairs (MHA) extend the validity of FCRA registration certificates for the specific categories of entities, as mentioned below:

- Entities with pending renewal applications – Entities whose registration certificates were extended until September 30, 2023, based on the public notice dated March 24, 2023 and having pending renewal applications will have their validity extended until March 31, 2024 or until the renewal application is disposed of, whichever comes earlier.
- Entities with expiring 5-year validity – Entities with FCRA certificates expiring between October 1, 2023 and March 31, 2024, and have applied or will apply for renewal before the expiry of their 5 year validity period will have their validity extended until March 31, 2024 or until the renewal application is disposed of, whichever comes earlier.