

LOVI MEHROTRA & ASSOCIATES

CHARTERED ACCOUNTANTS

MONTHLY UPDATE NOVEMBER 2018

(Circulars/ Notifications released during the month of November 2018)

[RBI](#)

[SEBI](#)

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29th November, 2018

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I. RBI

S.NO.	CIRCULAR/ NOTIFICATION NO.	PARTICULARS	SHORT SUMMARY
1.	RBI/2018-19/71 A.P. (DIR Series) Circular No.11 Dated 6 th November, 2018	External Commercial Borrowings (ECB) Policy - Review of Minimum Average Maturity and Hedging Provisions	<p>RBI has decided to amend the ECB Policy with respect to minimum average maturity and hedging provisions.</p> <p>Following amendments have been made:</p> <ul style="list-style-type: none"> ✚ Minimum average maturity - Minimum average maturity requirement for ECBs in the infrastructure space reduced from 5 years to 3 years. ✚ Hedging requirements - Average maturity requirement for exemption from mandatory hedging provision reduced from 10 years to 5 years. <p>Accordingly, ECBs with minimum average maturity period of 3 to 5 years in the infrastructure space will have to meet 100% mandatory hedging requirement.</p> <p>All other provisions of the extant ECB policy shall remain unchanged.</p> <p>Notification</p>
2.	RBI/2018-19/79 A.P. (DIR Series) Circular No.15 Dated 26 th November, 2018	External Commercial Borrowings (ECB) Policy - Review of Hedging Provision	<p>In view of the aforesaid amendments in the ECB Policy vide RBI circular dated 6th November, 2018, RBI has decided to further amend the applicable hedging provisions.</p> <p>The mandatory hedging requirement has been reduced from 100% to 70% for ECBs raised under Track I of the ECB framework for a maturity period between 3 and 5 years.</p> <p>ECBs raised prior to the date of this circular will be required to mandatorily roll-over their existing hedge(s) only to the extent of 70 per cent of outstanding ECB exposure.</p> <p>Notification</p>

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II. SEBI

S.NO.	CIRCULAR/ NOTIFICATION NO.	PARTICULARS	SHORT SUMMARY
1.	Circular No.: SEBI/HO/CFD/DI L2/CIR/P/2018/ 138 Dated 1 st November, 2018	Streamlining the Process of Public Issue of Equity Shares and convertibles	<p>In an endeavor to streamline the fund raising process, SEBI has decided to introduce the use of Unified Payments Interface (UPI) as a payment mechanism with Application Supported by Block Amount (ASBA) by retail individual investors for applications in public issues through intermediaries (Syndicate members, Registered Stock Brokers, Registrar and Transfer agent and Depository Participants).</p> <p>Time duration between issue closure to listing reduced by up to 3 working days.</p> <p>The proposed alternate payment mechanism and consequent reduction in timelines between issue closure and listing is proposed to be introduced in three Phases.</p> <p>Circular</p>
2.	Circular No.: SEBI/HO/MIRSD /DOS3/CIR/P/20 18/139/2018 Dated 6 th November, 2018	Standardised norms for transfer of securities in physical mode	<p>In view of the difficulties faced by the transferees in providing various documents for effecting transfer of securities, SEBI has prescribed a standardised procedure for transfer of securities in physical mode modifying the documentation/procedure mentioned in SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.</p> <p>Circular</p>
3.	Circular No.: SEBI/ HO/ MIRSD/ DOS3/ CIR/ P/ 2018/ 140 Dated 13 th November, 2018	Guidelines for Enhanced Disclosures by Credit Rating Agencies (CRAs)	<p>In order to bring about greater transparency. SEBI has prescribed enhanced disclosures to be made by Credit Rating Agencies (CRAs) in the following areas:</p> <ul style="list-style-type: none"> ✚ Press Release regarding Rating Actions ✚ Review of Rating Criteria ✚ Average Rating Transition Rates for long-term instruments ✚ Performance of CRAs on Stock Exchange and Depository website ✚ Internal Audit of CRAs <p>Circular</p>

4.	<p>Circular No.: SEBI/HO/CFD/CMD1/CIR/P/2018/0000000141</p> <p>Dated 15th November, 2018</p>	Disclosures regarding commodity risks by listed entities	<p>SEBI by way of amendment in SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, has mandated listed entities to make disclosures regarding commodity price risk and hedging activities in the Corporate Governance Report section of the Annual Report of a listed entity.</p> <p>All listed entities are now required to make following disclosures in the Annual Report:</p> <ul style="list-style-type: none"> ✚ Risk management policy ✚ Exposure to commodity and commodity risks faced by the entity throughout the year <p>Circular</p>
5.	<p>No.: SEBI/LAD-NRO/GN/2018/46</p> <p>Dated 14th November, 2018</p>	Securities and Exchange Board of India (Delisting of Equity Shares) (Second Amendment) Regulations, 2018	<p>SEBI has amended the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009.</p> <p>As per the amended regulations, changes have been made in the following chapters:</p> <ul style="list-style-type: none"> ✚ Definition - Insertion of definition of 'Acquirer' and substitution of definitions of company, public shareholders etc. ✚ Delisting of equity shares ✚ Voluntary Delisting ✚ Exit Opportunity ✚ Compulsory delisting ✚ Special provisions in case of small companies <p>Regulation</p>
6.	<p>No.: SEBI/LAD-NRO/GN/2018/47.</p> <p>Dated 16th November, 2018</p>	Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Sixth Amendment) Regulations, 2018	<p>SEBI has amended the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.</p> <p>Following changes have been made:</p> <ul style="list-style-type: none"> ✚ Insertion of definition of 'Fugitive Economic Offender' ✚ Substitution of existing clause – Regulation 31A dealing with conditions for re-classification of a person as promoter / public <p>Regulation</p>
7.	<p>Circular No.: CIR/CFD/CMD-1/142/2018</p>	Disclosure of reasons for delay in submission of financial results by	SEBI by way of amendment in SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 has specified timelines for submission of financial results by listed

	Dated 19 th November, 2018	listed entities	<p>entities. Accordingly, the quarterly and annual financial results are to be submitted by listed entities to stock exchanges within forty-five/sixty days from the end of the quarter/financial year.</p> <p>If any listed entity does not submit its financial results within the prescribed time period, then it shall disclose detailed reasons for such delay to the stock exchanges within one working day of the due date of submission for the results.</p> <p>Circular</p>
8.	<p>Circular No.: SEBI/HO/DDHS/ CIR/P/2018/144</p> <p>Dated 26th November, 2018</p>	Fund raising by issuance of Debt Securities by Large Entities	<p>The Union Budget 2018-19 announced that SEBI will consider mandating, beginning with large entities to meet about one fourth of their financing needs from the debt market.</p> <p>To operationalize this, SEBI has now prescribed a framework with detailed guidelines for certain listed entities meeting the applicable criterion to meet a specified percentage of their financing needs (one fourth of incremental borrowings) through the debt market.</p> <p>For entities following April-March as their financial year, the framework shall come into effect from April 01, 2019 and for the entities which follow calendar year as their financial year, the framework shall become applicable from January 01, 2020.</p> <p>Framework also prescribes the disclosures required to be made by listed entities identified as Large Corporate (LC) to the stock exchanges.</p> <p>Circular</p>

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III. MCA

S.NO.	CIRCULAR/ NOTIFICATION NO.	PARTICULARS	SHORT SUMMARY
1.	Notification Dated: 2 nd November, 2018	Companies (Amendment) Ordinance, 2018	<p>The Companies Act 2013 was amended vide an Ordinance dated November 2, 2018. The amendments effective the same date, are discussed briefly in “Annexure A” to this Newsletter.</p> <p>Notification</p>
2.	Notification No. G.S.R.1108(E). Dated 13 th November, 2018	Companies (Registered Valuers and Valuation) Fourth Amendment Rules, 2018	<p>MCA has notified amendments to the Companies (Registered Valuers and Valuation) Rules, 2017. Following are the key highlights of the changes notified:</p> <ol style="list-style-type: none"> Applicability of rules have been specified for valuation in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets or net worth of a company or its liabilities. Modification of Annexure IV regarding ‘Eligibility Qualification and Experience for registration as Valuer’. <p>Notification</p>
3.	Notification No. G.S.R. 1111(E). Dated 13 th November, 2018	National Financial Reporting Authority Rules, 2018	<p>Pursuant to the constitution of National Financial Reporting Authority (NFRA) MCA has notified the NFRA Rules, 2018. These rules deal with the following:</p> <ol style="list-style-type: none"> Classes of companies and bodies corporate governed by the Authority Functions and duties of the Authority Annual return required to be filed by the auditors Recommendation of accounting standards and auditing standards Monitoring and enforcing compliance with accounting and auditing standards Overseeing the quality of service and suggesting measures for improvement Investigation powers, disciplinary proceedings, manner of enforcement of orders passed in such disciplinary proceedings, punishment in case of non-compliance etc. <p>Notification</p>

Annexure A

S. No.	Section of the Companies Act, 2013	Particulars of Change	Earlier Provisions
1.	Section 2(41) – Definition of Financial Year	Change in Financial Year to be done by Central Government (C.G.)	The power was vested with the Tribunal.
2.	Section 10A – Commencement of business etc.	Re-introduction of the requirement of obtaining Certificate of Commencement of Business. Non-obtaining of the same to be a ground of Striking Off.	Insertion of new provision. No such provision existed earlier.
3.	Section 12 - Registered Office of Company	Non-Maintenance of Registered Office to be a ground for striking off of the Company	Insertion of new provision. No such provision existed earlier.
4.	Section 14 - Alteration of Articles	Conversion of Public Company to Private Company to be with C.G. approval.	The power was vested with the Tribunal.
5.	Section 53 - Prohibition on Issue of Shares at Discount	Company and Officer in default liable for penalty of an amount equivalent to the amount raised through issue or Rs.500,000 whichever is less; Company is also liable to refund the amount along with interest @12% P.A.	Company and Officer in default liable for penalty: Minimum 1 lakh and Maximum 5 lakhs; Officer in default also liable for imprisonment up to 6 months or with fine or both.
6.	Section 77,86 & 87 – Registration of Charges	<ul style="list-style-type: none"> Maximum time period for registration/modification of charges to be 30 days and additional 30 days with additional fees. Condonation to be done in next 60 days along with payment of advalorem fees. After the expiry of total period of 120 days, charge cannot be registered. 	<ul style="list-style-type: none"> Maximum time period for registration/modification of charges to be 30 days and additional 300 days with additional fees. Condonation to be done after expiry of 300 days.
7.	Sub Section 9 of Section 90 - Register of significant beneficial owners in a company	Time period for making application to the Tribunal for relaxation or lifting of restrictions placed on the rights attached with the shares is 1 year. After the expiry of 1 year, shares shall be transferred to Investor Education and Protection Fund.	The limitation period of 1 year was not prescribed earlier.
8.	Sub Section 10 of Section 90 - Register of significant beneficial owners in a company	Failure to make declaration by significant beneficial owner may attract imprisonment upto 1 year.	Only a fine was prescribed for not making such declaration.
9.	Section-92 – Annual Return	In case MGT-7 is filed after 60 days from the date of AGM, every company and officer in default shall be liable to penalty Rs. 50,000 and Rs. 100/day subject to maximum penalty of Rs. 500,000.	Imprisonment for a term upto 6 months was also prescribed earlier.
10.	Section 102 – Statement to be Annexed to Notice	In case of default in explanatory statement, every promoter, director, manager or other KMP shall be liable to penalty of Rs. 50,000 or 5 times the amount of benefit accruing thereof, whichever is higher. Apart from the aforesaid penalty, liability under sub-section 4 towards the Company shall also be applicable.	Apart from penal provisions prescribed under sub-section 5, liabilities prescribed under sub-section 4 applicable to the company will also be applicable after the amendment.
11.	Section 117 – Resolutions and Agreements to be filed	In case MGT-14 is not filed within 30 days then following penalties are attracted: Company - Rs. 1 lakh + 500/day (Max Rs. 25 lakhs) Officer in default - Rs. 50,000 + 500/day (Max Rs. 5 lakhs)	Penalties prescribed earlier: Company – Min. Rs. 1 lakh and Max. 25 lakhs Officer in default - Min. Rs. 50,000 and Max. Rs. 5 lakhs
12.	Section 121 – Report on Annual General Meeting	If MGT-15 is not filed within 30 days then following penalties are attracted:	Penalties prescribed earlier: Company – Min. Rs. 1 lakh and Max. 5 lakhs

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		Company - Rs. 1 lakh + 500/day (Max 5 lakhs) Officer in default - Rs. 25,000 + 500/day (Max Rs. 1 lakh)	Officer in default - Min. Rs. 25,000 and Max. Rs. 1 lakh.
13.	Section 137 - Copy of Financial Statement to be Filed with Registrar	Penalty for Officer in default - Rs. 1 lakh + 100/day (Max Rs. 5 lakhs).	Penalty prescribed earlier – Fine: Min. Rs. 1 lakh and Max. Rs. 5 lakhs or with imprisonment upto 6 months or both.
14.	Section 140 - Removal, Resignation of Auditor and Giving of Special Notice	Penalty for failure to file resignation with the Company: Rs. 50,000 or remuneration (whichever is less) + 500/day (Max 5 lakhs).	Penalty prescribed earlier: Min. Rs. 50,000 or remuneration (whichever is less) and Max. 5 lakhs.
15.	Section 157 - Company to Inform Director Identification Number to Registrar	Penalty for Non-Furnishing of DIN to ROC: Company - Rs. 25,000 + 500/day (Max 1 lakhs) Officer in default - Rs. 25,000 + 100/day (Max 1 lakh)	Penalty prescribed earlier – Min. Rs. 25,000 and Max. 1 lakh Officer in default - Min. Rs. 25,000 and Max. 1 lakhs
16.	Section 159 - Punishment for Contravention	Penalty for contravention of Section 152, 155 and 156: Rs. 50,000 + 500/day	Penalty prescribed earlier: Fine: Rs. 50,000 + 500/day or Imprisonment upto 6 months or both.
17.	Section 164 -	Breach in maximum number of Directorships to be a ground for disqualification.	Insertion of new provision. No such provision existed earlier.
18.	Section 165 - Number of Directorships	Penalty for contravention in number of Directorships: Min. Rs. 5,000 for every day	Penalty prescribed earlier: Min. Rs. 5,000 and Max. Rs. 25,000 for every day
19.	Section 191 - Payment to Director for Loss of Office, etc., in Connection with Transfer of Undertaking, Property or Shares	Penalty for contravention: Director in default – Rs. 1 lakh	Penalty for contravention: Director in default – Min. Rs. 25,000 and Max. Rs. 1 lakh
20.	Section 203 – Appointment of Key Managerial Personnel	Penalty for breach of Section 203: Company - Rs. 5 lakhs Directors & KMPs - Rs. 50,000 + 1000/day (Max 5 lakhs)	Penalty prescribed earlier: Company - Min. Rs. 1 lakh and Max. 5 lakhs Directors & KMPs - Rs. 50,000 + 1000/day
21.	Section 238 - Registration of Offer of Schemes Involving Transfer of Shares	Penalty on director for issuing circular which has not been presented for registration/not registered: Min. Rs. 1 lakh and Max. 5 lakhs	Penalty prescribed earlier: Rs. 1 lakh
22.	Section 248 - Power of Registrar to Remove Name of Company From Register of Companies	Non-obtaining of Certificate of Commencement of Business and non-maintenance of Registered Office to be a ground for striking off by ROC.	Insertion of new provision. No such provision existed earlier.
23.	Section 441 - Compounding of Certain Offences	Compounding threshold limit for going to NCLT has been revised to Rs. 25 lakhs. Also, any offence which is punishable under Companies Act, with imprisonment only or with imprisonment and fine shall not be compoundable.	Earlier the compounding threshold limit for going to NCLT was more than Rs. 5 Lakhs.

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Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month.

Instead it is only a listing of some of the circulars/notifications that we considered important.