

LOVI MEHROTRA & ASSOCIATES

CHARTERED ACCOUNTANTS

MONTHLY UPDATE SEPTEMBER 2018

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

[RBI](#)

[SEBI](#)

[MCA](#)

30th September, 2018

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I. RBI

S.NO.	CIRCULAR/ NOTIFICATION NO.	PARTICULARS	SHORT SUMMARY
1.	Notification No. FEMA.20(R) (3)/2018-RB Dated 30 th August, 2018; Effective Date – 1 st September, 2018	Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Second Amendment) Regulations, 2018	RBI has deleted the provisions for filing of Advance Remittance Form (ARF) for reporting of foreign remittances received from outside India. Reporting requirement for Downstream Investment has been modified with the introduction of Form DI and Form InVi. Notification
2.	RBI/2018-19/48 A.P. (DIR Series) Circular No.9 Dated 19 th September, 2018	External Commercial Borrowings (ECB) Policy – Liberalisation	Government of India has decided to liberalise ECB Policy for certain eligible borrowers. Eligible ECB borrowers in manufacturing sector can raise ECB up to USD 50 million with minimum average maturity period of 1 year (previously 3 years) Indian banks can participate as arrangers/underwriters/market makers/traders in RDBs (Rupee Denominated Bonds) issued overseas subject to applicable prudential norms. All other provisions of the extant ECB policy shall remain unchanged. Notification

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II. SEBI

S.NO.	CIRCULAR/ NOTIFICATION NO.	PARTICULARS	SHORT SUMMARY
1.	SEBI/LAD- NRO/GN/2018/30 Dated 6 th September, 2018	Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements)(Fifth Amendment) Regulations, 2018	<p>SEBI has amended the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 regarding:</p> <ul style="list-style-type: none"> Obligations of entity which has listed its security receipts Disclosure of events or information to stock exchanges in respect of security receipts <p>Regulation</p>
2.	CDMRD/DMP/CI R/P/2018/126 Dated 7 th September, 2018	Master Circular for Commodity Derivatives Market	<p>SEBI has issued a Master Circular for Commodity Derivatives Market</p> <p>This is a compilation of the circulars issued till the date of this Master circular by Commodity Derivatives Market Regulation Department (CDMRD) pertaining to domestic commodity derivatives segment.</p> <p>In case of any inconsistency between the Master Circular and the applicable circulars, the contents of the relevant circular shall prevail.</p> <p>Circular</p>
3.	SEBI/LAD- NRO/GN/2018/32 Dated 11 th September, 2018	Securities and Exchange Board of India (Buy-back of Securities) Regulations, 2018	<p>SEBI has notified the Securities and Exchange Board of India (Buy-back of Securities) Regulations, 2018 in respect of:</p> <ul style="list-style-type: none"> Conditions for buy-back Buy-back through tender offer Buy-back from the open market General obligations of the company for buy-back procedure and Obligations of the merchant banker <p>The regulations are applicable to buy-back of shares or other specified securities of a company in accordance with the applicable provisions of the Companies Act 2013.</p> <p>Regulation</p>

4.	SEBI/LAD-NRO/GN/2018/3 1 Dated 11 th September, 2018	Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018	SEBI has notified the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018. They shall come into force from November 10, 2018. Regulation
5.	SEBI/LAD-NRO/GN/2018/3 6 Dated 11 th September, 2018	Securities and Exchange Board of India (Credit Rating Agencies)(Second Amendment) Regulations, 2018	SEBI has amended the Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999. As per the amended regulations, a Credit rating agency (CRA) shall not carry out any activity other than the rating of securities offered by way of public or rights issue. CRA can however continue with rating of financial instruments under the respective guidelines of a financial sector regulator or any authority as may be specified by SEBI. Regulation
6.	SEBI/LAD-NRO/GN/2018/3 3 Dated 11 th September, 2018	Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2018	SEBI has amended the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011. Definitions of “fugitive economic offender”, “listing regulations” and “postal ballot” have been inserted. A fugitive economic offender cannot make a public announcement for an open offer/competing offer under these regulations. Norms in respect of delisting after acquisition of shares made more stringent Regulation
7.	CIR/IMD/FPIC/CIR/P/2018/131 Dated 21 st September, 2018	Know Your Client Requirements for Foreign Portfolio Investors (FPIs)	SEBI has modified the KYC requirements for FPIs. It has been decided that Beneficial ownership criteria in Prevention of Money-laundering (Maintenance of Records) Rules, 2005 should be made applicable for purpose of KYC and not for determining eligibility of FPIs. This circular supersedes the directions contained in SEBI circular No CIR/IMD/FPIC/CIR/P/2018/64 dated April 10, 2018.

			Circular
8.	<p>CIR/IMD/FPIC/CIR/P/2018/132</p> <p>Dated 21st September, 2018</p>	<p>Eligibility conditions for Foreign Portfolio Investors (FPIs)</p>	<p>SEBI has notified eligibility conditions for FPIs for compliance with the KYC circular dated 21-09-18 (as aforesaid).</p> <p>For ascertaining eligibility, the investment limits for FPIs shall not be clubbed on the basis of beneficial owner (BO) as per Prevention of Money-laundering (Maintenance of Records) Rules, 2005.</p> <p>A separate set of norms for determining conditions where Non Resident Indians (NRIs) and Overseas Citizens of India (OCIs) and Resident Indians (RIs) are constituents will be notified.</p> <p>Circular</p>
9.	<p>SEBI/HO/CDMR D/DMP/CIR/P/2018/133</p> <p>Dated 28th September, 2018</p> <p>Effective Date – 1st October, 2018</p>	<p>Applicability of Circulars issued for Commodity Derivatives Markets</p>	<p>SEBI has issued a clarification with respect to the applicability of circulars issued for Commodity Derivatives Markets.</p> <p>As per the amendments in Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 as notified on April 02, 2018, there would be no separate category of 'Commodity Derivatives Exchanges' w.e.f. October 1, 2018.</p> <p>Accordingly, it is clarified that all the norms issued for Commodity Derivatives Exchanges shall be applicable to Commodity Derivatives Segments of Recognized Stock Exchanges/Recognized Clearing Corporations</p> <p>Circular</p>

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III. MCA

S.NO.	CIRCULAR/ NOTIFICATION NO.	PARTICULARS	SHORT SUMMARY
1.	General Circular No. 07/2018 Dated: 6 th September, 2018 And General Circular No. 08/2018 Dated: 10 th September, 2018	Clarification in filing BEN-1 & BEN-2 under the Companies Act, 2013	MCA has received feedback from stakeholders expressing difficulties in filing declaration in Form No. BEN-1 in respect of Companies (Significant Beneficial Owners) Rules, 2018. Based on the same, MCA has decided to issue the revised, Form No. BEN-1. The time limit for filing the BEN-2 form would be 30 days from the date of deployment of Form BEN-2 on the MCA-21 portal. Circular
2.	G.S.R. ____ (E). Dated: 10 th September, 2018	Companies (Prospectus and allotment of securities) Third Amendment Rules, 2018	MCA has made it mandatory for all Unlisted Public Companies to issue securities in dematerialized form only Every such company should ensure that the entire holding of securities of its promoters, directors and key managerial personals has been dematerialized before issue of any new securities. The Shareholder of any such company would be able to transfer shares only in dematerialized form on or after 02-10-2018. Notification
3.	S.O. 4823(E). Dated: 12 th September, 2018	Commencement Notification for amendment of the provisions relating to Appointment and Remuneration of Managerial Personnel	MCA has amended the provisions of Section 196 to Section 201 of the Companies Act, 2013 pertaining to Appointment and Remuneration of Managerial Personnel. Corresponding rules and Schedule V have also been amended to be in line with the aforesaid provisions. <i>A key highlight of the amended provisions is are discussed in Annexure A to this Newsletter.</i> Notification
4.	S.O. 896(E). Dated: 12 th September, 2018	LLP Second Amendment Rules, 2018	<u>The amended provisions of the rules are discussed as under:</u>

	Effective Date: 2 nd October, 2018		<p>1. LLP Form 1 used for reservation of Name to be replaced with 'RUN-LLP web-form' for which one resubmission is allowed within 15 days from intimation.</p> <p>2. Two names can be applied for in Form LLP-RUN.</p> <p>3. LLP Form 2 used for registration / incorporation of LLP to be replaced with 'Form FiLLiP' for which two resubmission are allowed within 15 days from intimation subject to maximum 30 days resubmission period. Reservation of Name for LLP can also be done through Form FiLLiP.</p> <p>4. Certificate of Incorporation of LLP to be given by CRC in Form 16.</p> <p>Notification</p>
5.	S.O. 4907(E). Dated: 19 th September, 2018	Commencement Notification for amendment of the provisions relating to Corporate Social Responsibility	<p>MCA has amended the provisions of Section 135 of the Companies Act, 2013 pertaining to Corporate Social Responsibility.</p> <p>As per the amended provisions, applicability of CSR will depend upon the net worth/turnover/net profits of the immediately preceding financial year instead of any of the preceding financial year.</p> <p>Further, Companies which are not required to appoint an independent director can have two or more directors in its Corporate Social Responsibility Committee.</p> <p>Notification</p>
6.	G.S.R. 904(E) & 905(E). Dated: 20 th September, 2018	Companies (Appointment and Qualification of Directors) Sixth Amendment Rules, 2018 read with Companies (Registration Offices and Fees) Fifth Amendment Rules, 2018	<p>Time limit for filing of Form DIR-3 KYC with reduced fees extended.</p> <p>Time period for filing with reduced fees of Rs. 500 has been extended to 05.10.2018.</p> <p>Fees of Rs. 5,000 shall be payable on after 06.10.2018.</p> <p>Notification</p>
7.	G.S.R. 903(E). Dated: 20 th September, 2018	The Companies (Indian Accounting Standards) Rules, 2015	<p>MCA has amended the provisions of Indian Accounting Standard (Ind AS) 20 pertaining to Accounting for Government Grants and Disclosure of Government Assistance.</p>

			Notification
8.	G.S.R. 925(E) Dated: 25 th September, 2018	Companies (Registered Valuers and Valuation) Third Amendment Rules, 2018	<p>MCA has amended the Companies (Registered Valuers and Valuation) Rules, 2017.</p> <p>As per the amendment, the transitional provisions for rendering of valuation services without certificate of registration has been extended from September 30, 2018 to January 31, 2019.</p> <p>Notification</p>

Annexure A

Provisions for Appointment and Remuneration of Managerial Personnel under Section 196, 197, 198, 200 and 201 read with Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 and Schedule V of the Companies Act, 2013

Effective from – 12th September, 2018

Key Highlights –

1. Appointment of person as a Managing Director, Whole-time Director or Manager who has attained the age of seventy years can be made even if the special resolution is not passed by making an application to the C.G. The approval of the C.G. for payment of remuneration to Directors, Managing Directors or Managers in excess of 11% of the net profits of the Company is omitted.
2. Special Resolution (Earlier Ordinary Resolution) is required for payment of remuneration in excess of the limit specified in second proviso to sub-section 1 of Section 197.
3. In case the company has defaulted in payment of dues to any bank or public financial institution etc. then prior approval of such bank or public financial institution etc. will be required for payment of managerial remuneration.
4. Approval of the C.G. earlier required for payment of remuneration to Directors, Managing Directors or managers in case of inadequate or no profits without complying with the provisions of Schedule V is omitted.
5. If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed or without the required approvals then he is liable to refund such amount to the Company within 2 years or such lesser period as may be allowed by the company. Such amount will be held in trust by such director till it is refunded.
6. Company may waive the recovery of the amount refundable to it by the Director with the approval of the members by passing a special resolution. In case the company has defaulted in payment of dues to any bank or public financial institution etc. then prior approval of such bank or public financial institution etc. will also be required.
7. Auditor of the company shall, in their report under section 143, make a statement as to whether the remuneration paid by the company to its directors is in accordance with the provisions of this section, whether remuneration paid to any director is in excess of the limit laid down under this section For the computation of net profits for the purpose of managerial remuneration, Investment Companies are now allowed to credit the profits, by way of premium on shares or debentures of the company, which are issued or sold by the company.
8. Any amount representing unrealized gains, notional gains or revaluation of assets shall not be credited to the net profits for the purpose of computation of managerial remuneration.
9. Fixation of the limit of maximum remuneration by the Central Government has been omitted.

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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.