Voices on Reporting

Yearly updates

April 2019

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In this publication, we have summarised important updates relating to the year ended 31 March 2019 from the Ministry of Corporate Affairs (MCA), the Securities and Exchange Board of India (SEBI) and the Institute of Chartered Accountants of India (ICAI).

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Updates relating to Ind AS

Ind AS effective from Financial Year (FY) 2019-20

New standard on leases - Ind AS 116, *Leases*

On 30 March 2019, the Ministry of Corporate Affairs (MCA) notified Indian Accounting Standard (Ind AS) 116, *Leases* as part of the Companies (Ind AS) Amendment Rules, 2019. Ind AS 116 replaces existing standard on leases i.e. Ind AS 17, *Leases* with effect from accounting periods beginning on or after 1 April 2019.

The new standard has major impact for lessees. It eliminates the classification of leases as either finance leases or operating leases as required by Ind AS 17. It introduces a single on-balance sheet accounting model that is similar to current finance lease accounting model. Therefore, majority of operating leases will be on-balance sheet as if the entity has borrowed funds to purchase an interest in the leased asset.

Key impacts of the new standard are as follows:

- **Impact on balance sheet:** A lessee would be required to recognise a right-of-use asset representing its right to use the underlying leased asset and a lease liability representing its obligation to make lease payments on its balance sheet. This accounting will make entities look asset-rich but at the same time heavily indebted too.
- **Impact on statement of profit and loss:** Currently, operating lease expenses are charged to the statement of profit and loss on a straight-line basis over the life of a lease. Under the new standard, leases will be accounted for as if the company had borrowed funds to purchase an interest in the leased asset. This typically will result in higher interest expense in the early years than in the later years, similar to any amortising debt. In turn, this means that total lease expense in the statement of profit and loss will be higher in the early years of a lease - even if a lease has fixed regular cash rental payments.
- **Impact on statement of cash flows:** Due to the accounting, the classification in the statement of cash flows of an entity will also undergo a change. Accordingly, it would be required to disclose the following under:

  Operating activities

  – Variable lease payments not included in the lease liability

  – Payments for short-term and low value leases (subject to use of recognition exemption).

Financing activities

– Cash payments of principal portion of lease liability.

- **Changes in key financial metrics:** Key financial metrics such as Earnings Before Interest, Tax, Depreciation and Amortisation (EBITDA), asset turnover ratio, interest coverage ratio, etc., would get affected.
- **Disclosure of impact on financial statements:** Ind AS 8, *Accounting Policies, Changes in Accounting Estimates and Errors* requires an entity to disclose the likely impact of a standard that has been issued but is not yet effective on the entity's financial statements in the period of initial application. Ind AS 116 has been notified on 30 March 2019, therefore, entities would be required to disclose the possible impact of the standard in the financial statements for the period ended 31 March 2019.
- **Identification of all lease agreements and extracting lease data:** As a lessee is required to present most of the leases on the balance sheet, substantial efforts would be required to identify all lease arrangements and extract all relevant lease data necessary to apply the standard.
- **Changes in systems and processes:** Systems and process changes may be required to capture the data necessary to comply with the new requirements. Certain leases may be very old and could extend to periods in multiple decades. Entities will need to institute processes to capture data systematically and perform calculations including review mechanism to monitor the changes regularly.
- **Changes in contract terms and business practices:** The application of new standard may require entities to reconsider their contract terms and business practices such as changes in the restructuring/pricing of a transaction including lease length and renewal options. Therefore, the standard is most likely to affect departments other than financial reporting such as legal, tax, sales, budgeting, IT, etc.
- **New systems and processes:** Ind AS 116 is expected to necessitate changes in the systems of companies so as to capture data required for application of it, such as creating inventory of all leases on transition.
- **Inter-company leases:** Inter-company lease arrangements that were previously classified as operating leases by both the lessee and the lessor may no longer attract equal and opposite accounting in each group entity's accounts i.e. the lessor will continue operating lease accounting but the lessee will recognise a right-of-use asset and a lease liability. This could significantly increase the complexity of internal reporting and consolidation systems and processes.
- **Potential sector impacts:** The new standard on leases is expected to affect the following sectors:

Sectors	Impact areas
Property leases 	• Lease of commercial or office space • Lease of retail or warehouse space • Lease of residential premises • Lease of hotel rooms or service apartments • Lease of car parking space • Determination of lease term with renewal options.
Transport, logistics and leisure 	• Aviation, hotels and shipping • Assessment of substitution rights • Foreign currency impact in the aviation sector • Accounting of sale-and-leaseback transactions.

Sectors	Impact areas
Automotive	• Agreement with component manufacturers • Agreement regarding tools and moulds.
Telecom	• Site-sharing and capacity sharing agreements • Separation of non-lease components.
Consumer market and retail	• Lease arrangements with variable rent • Asset restoration obligation • Contract manufacturing.

- **Transition considerations:** Entities will need to decide upon the transition options available under the new standard i.e. whether to apply the standard retrospectively to all leases or to use a modified retrospective approach. The extent of information required will depend on the transition approach chosen. For instance, a modified retrospective approach could be applied using only current period information i.e. the lessee's incremental borrowing rate at the beginning of the current and lessee's remaining lease payments. On the other hand, an entity would require extensive information about its leasing transactions to apply the standard retrospectively. This will include historical information about lease payments and discount rates. The information will be required as at lease commencement and also as at each date on which an entity would have been required to recalculate lease assets and liabilities or modification of the lease.

For a detailed reading of the requirements of Ind AS 116 along with significant practical application issues vis-à-vis different sectors, please refer to KPMG in India's publication 'Lease accounting is changing - An insight with sectoral impacts'.

(Source: MCA notification dated 30 March 2019 and KPMG in India's First Notes dated 2 April 2019)

Amendments to Ind AS

On 30 March 2019, the MCA notified amendments to certain Ind AS on the basis of annual improvements to IFRS.

The amendments have been made applicable from 1 April 2019.

The table below provides a summary of the amendments:

Standard	Overview of the amendments
Ind AS 12, *Income Taxes*	• Income-tax consequences of distribution of profits (i.e. dividends), including payments on financial instruments classified as equity, should be recognised when a liability to pay dividend is recognised. The income tax consequences should be recognised in profit or loss, Other Comprehensive Income (OCI) or equity according to where the past transactions or events that generated distributable profits were originally recognised. • Appendix C has been added to Ind AS 12 which seeks to bring clarity to the accounting for uncertainties on income tax treatments that are yet to be accepted by tax authorities and to reflect it in the measurement of current and deferred taxes (in line with IFRS Interpretation Committee (IFRIC) 23, *Uncertainty over Income Tax Treatments*).

Standard	Overview of the amendments
Ind AS 23, *Borrowing Costs*	• While computing the capitalisation rate for funds borrowed generally, an entity should exclude borrowing costs applicable to borrowings made specifically for obtaining a qualifying asset, only until the asset is ready for its intended use or sale. • Borrowing costs (related to specific borrowings) that remain outstanding after the related qualifying asset is ready for intended use or for sale would subsequently be considered as part of the general borrowing costs of the entity.
Ind AS 28, *Investment in Associates and Joint Ventures*	• An entity's net investment in its associate or joint venture includes investment in ordinary shares, other interests that are accounted using the equity method, and other long-term interests, which are governed by the principles of Ind AS 109. • As per the equity method, the carrying amount of an entity's investment in its associate and joint ventures increases or decreases to recognise the entity's share of profit or loss of its investee associates and joint ventures. • Where the losses exceed the entity's investment in ordinary shares, they are applied to other components of the entity's interest in the associate or joint venture in the reverse order of their superiority. In this context, MCA clarified that the accounting for losses allocated to long-term interests (governed by principles of Ind AS 109, *Financial Instruments*) would involve the dual application of Ind AS 28 and Ind AS 109. The annual sequence in which both standards are to be applied can be explained in a three step process: – Apply Ind AS 109 (Expected Credit Loss (ECL), fair value adjustments, etc.) independently – True-up past allocations on carrying amount of long-term investment – Book current year profits/losses.
Ind AS 103, *Business Combinations* and Ind AS 111, *Joint Arrangements*	• *Ind AS 103:* When an entity obtains control of a business that is a joint operation, then the acquirer considers such an acquisition as a business combination achieved in stages and accounts for it accordingly. • *Ind AS 111:* If a party that participates in a joint operation (but does not have joint control) obtains joint control over the joint operation (which constitutes a business as defined in Ind AS 103), it would not be required to remeasure its previously held interests in the joint operation.

Standard	Overview of the amendments
Ind AS 109, *Financial Instruments*	• A financial asset would be classified and measured at amortised cost or at Fair Value through Other Comprehensive Income (FVOCI) if its contractual cash flows are solely in the nature of principle and interest on the principle amount outstanding (SPPI criterion). • An exception has been prescribed to the classification and measurement requirements with respect to the SPPI criterion for financial assets that: a) Have a prepayment feature which results in a negative compensation[1] b) Apart from the prepayment feature, other features of the financial asset would have contractual cash flows which would meet the SPPI criterion, and c) The fair value of the prepayment feature is insignificant when the entity initially recognises the financial asset. If this is impracticable to assess based on facts and circumstances that existed on initial recognition of the asset, then the exception would not be available. • Such financial assets could be measured at amortised cost or at FVOCI based on the business model within which they are held.
Ind AS 19, *Employee Benefits*	• When a defined benefit plan is amended, curtailed or settled, entities would be required to use updated actuarial assumptions to determine its current service cost and net interest for the remainder of the annual reporting period (post the plan amendment, curtailment or settlement). • The effect of the asset ceiling[2] would not be considered while calculating the gain or loss on any settlement of the plan. Subsequently, it would be recognised in OCI.

(Source: KPMG in India's analysis, 2019 based on MCA notification dated 30 March 2019)

Deferment of Ind AS implementation for banks

On 11 February 2016, the Reserve Bank of India (RBI) issued a circular requiring scheduled commercial banks to comply with Ind AS for accounting periods beginning from 1 April 2018 onwards, with comparatives for periods ending on or after 31 March 2018.

The RBI through its circular dated 22 March 2019 has decided to defer the implementation of Ind AS till further notice.

Implementation of Ind AS for an NBFC covered under Phase II of the road map

Ind AS transition dates for Non-Banking Financial Companies (NBFCs) covered in Phase II of the road map are as follows:

Date of transition: 1 April 2018

First Ind AS financial statements: 2019-20

Comparative year: 2018-19.

1. Where amount received would be lower than the unpaid amount of principal and interest, when the market interest rate was higher than the effective interest rate of the instrument.
2. Asset ceiling is the present value of economic benefits available in the form of refunds from the plan or reductions in future contributions to the plan.

In Phase II, Ind AS is applicable to the following class of NBFCs:

a) NBFCs whose equity and/or debt securities are listed or are in the process of listing on any stock exchange in India or outside India and with net worth of less than INR500 crore

b) NBFCs that are unlisted entities, with net worth of INR250 crore or more but less than INR500 crore

c) Holding, subsidiary, joint venture or associate entities of the above class of entities, other than those already covered under the corporate road map.

Key takeaways

- **Banks:** The deferment of Ind AS is expected to provide relief to several banks, thus providing them with time to prepare for implementation of Ind AS. However, the delayed adoption would impact the comparability of financial statements of banks in India with their global counter parts.

  The deferment may pose various operational and business challenges for a few banks which are a subsidiary or an associate of an entity that is preparing Ind AS financial statements as per the Ind AS road map or they have invested in subsidiaries and associates that are following Ind AS road map. Therefore, the group would need to maintain parallel sets of accounts, get them audited/reviewed and provide reconciliations for transactions that warrant different accounting treatment under the two accounting standards.

- **NBFCs:** NBFCs which are required to implement Ind AS in phase II of the road map should consider the potential impacts of the implementation of Ind AS in its reporting, processes and controls.

(Source: Companies (Indian Accounting Standards) (Amendment) Rules, 2016 issued by MCA on 30 March 2016, RBI circular no. RBI/2015-16/315 dated 11 February 2016 and circular no. RBI/2018-2019/146 dated 22 March 2019 and KPMG in India's IFRS Notes dated 1 April 2016 and 26 March 2019)

Amendments to Ind AS 20, *Accounting for Government Grants and Disclosure of Government Assistance*

On 20 September 2018, the MCA issued certain amendments to Ind AS 20. These are as follows:

- **Accounting for non-monetary government grants:** An entity may record both the asset and the grant at a nominal amount rather than at fair value.

- **Presentation of grants related to assets:** An entity has an option to deduct asset related grants from the carrying amount of the related property, plant and equipment. The grant would be recognised in the statement of profit and loss over the useful life of a depreciable asset as a reduced depreciation expense.

- **Repayment of government grants:** Repayment of grant related to an asset should be recognised by increasing the carrying amount of the related asset (if the grant was previously deducted from the carrying amount of the asset).

  The cumulative additional depreciation which would have been recognised in the profit or loss to date in the absence of the grant should be recognised immediately in the profit or loss. Possible impairment should also be considered.

Effective date: The amendments are effective from 1 April 2018 to be applied retrospectively as per Ind AS 8.

(Source: MCA notification dated 20 September 2018)

Amendments to Schedule III to the Companies Act, 2013

The Schedule III to the Companies Act, 2013 (2013 Act) provides general instructions for presentation of financial statements of a company under both Accounting Standards (AS) and Ind AS. The Schedule III has three parts and they are as follows:

- Division I is applicable to a company whose financial statements are prepared in accordance with AS
- Division II is applicable to a company whose financial statements are prepared in accordance with Ind AS (other than NBFCs)
- Division III is applicable only to NBFCs which are required to prepare financial statements in accordance with Ind AS.

The table below provides a summary of changes made in the divisions:

Division	Summary of changes
Division I	• Minor changes in reference of 'fixed assets' and 'securities premium reserve' in the balance sheet.
Division II	• New disclosures introduced in relation to 'trade payables' towards Micro, Small and Medium Enterprises (MSMEs) in the balance sheet and the related notes. • New categories introduced for classification of 'trade receivables' and 'loans receivables' in the notes to the balance sheet. • Description of purpose of each reserve included within 'other equity' to be provided in the notes to the statement of changes in equity.
Division III	• It provides the general instructions for presentation of financial statements of an NBFC that is required to comply with Ind AS.

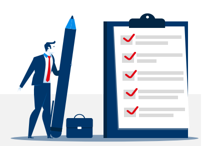
(Source: KPMG in India's analysis, 2019 based on the amendments to Schedule III to the 2013 Act and KPMG in India's IFRS Notes dated 26 October 2018)

Applicability of formats for presentation of financial statements

On 22 November 2018, the National Stock Exchange (NSE) Ltd. and BSE Ltd. issued a clarification on behalf of SEBI regarding the applicability of formats for presentation of financial results by listed entities.

According to the clarification, for the quarter/year ended 31 March 2019, formats prescribed in amended Schedule III to the 2013 Act should be followed by listed entities.

Key takeaway



Listed entities (in particularly NBFCs) should consider the revised formats for the purpose of filing its financial results for the quarter/year ended 31 March 2019.

(Source: MCA notification no. G.S.R. 1022(E) dated 11 October 2018, BSE circular no. LIST/COMP/27/2018-19, NSE circular no. NSE/CML/2018/32 dated 22 November 2018 and KPMG in India's IFRS Notes dated 26 October 2018 and 7 December 2018)

Updates relating to the Companies Act, 2013

Amendments to the Companies Act, 2013 and related Rules

During the year, the MCA has made certain amendments to the Companies Act, 2013 (2013 Act). These primarily relates to:

- Notification of sections of the Companies (Amendment) Act, 2017
- Companies (Amendment) Ordinance.

Some key changes have been discussed in detail below.

Companies (Amendment) Act, 2017 – Notified key sections

The table below provides a summary of some of the key notified provisions of the Companies (Amendment) Act, 2017 and modification of related Rules under the 2013 Act.

Overview of the amendments
Definitions (Section 2 and Specification of Definition Rules) **(Effective from 7 May 2018)**
• **Significant influence:** In the revised definition of an 'associate company', significant influence means at least 20 per cent of the **total voting power** (earlier total share capital), **on control of or participation** in business decisions under an agreement. • **Joint venture:** The term 'joint venture' has been specifically defined in the 2013 Act (earlier definition of an associate company included the term 'joint venture'). Accordingly, a joint venture is a 'joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement'. The definition is in accordance with Ind AS 28, *Investments in Associates and Joint Ventures*.

Overview of the amendments
Definitions (cont.)
• **Subsidiary:** The term 'total share capital' (i.e. paid-up equity share capital and convertible preference share capital) has been replaced by the term 'total voting power' as the basis for deciding holding/subsidiary relationship. Also the definition of total share capital has been removed from the Companies (Specification of Definitions Details) Rules, 2014 (Specification of Definition Rules). *(Emphasis added to highlight the changes)*
Financial statements, board report, etc. (Section 134 and Companies (Accounts) Rules) **(Effective from 31 July 2018)**
• **Approval of financial statements:** Financial statements (including Consolidated Financial Statements (CFS)) of a company should be signed by: a) Chairperson of the company (where he/she is authorised by the Board of Directors (BoD)), or two directors of which one would be Managing Director (MD), if any **b) Chief Executive Officer (CEO)** (earlier required only if CEO is a director) c) Chief Financial Officer (CFO) d) Company Secretary (CS). (Section 134) • **Additional disclosures in the board's report:** The board's report of every company (except one person company or small company) should also include the following: a) A disclosure, as to whether maintenance of cost records as specified by the Central Government (CG), is required by the company and accordingly, such accounts and records are made and maintained. b) A statement that the company has complied with provisions relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. (Companies (Accounts) Rules) *(Emphasis added to highlight the change)*
Prohibition on acceptance of deposits (Section 73 and Deposit Rules) **(Effective from 15 August 2018/22 January 2019)**
Following revised deposit norms have been made applicable from **15 August 2018**: • **Deposit repayment reserve:** The requirement relating to maintenance of a deposit repayment reserve account in a scheduled bank has been reduced to **20 per cent of the amount of deposits maturing during the following FY** (earlier not less than 15 per cent of the amount of its deposits maturing during a FY and the FY next following was required). • **Deposit insurance:** The requirement to provide a deposit insurance in respect of the amount of deposits accepted by the company has been removed. • **Acceptance of deposits on default:** Companies which have made good on a default committed in the past would be allowed to accept deposits after five years from the date of the default remediation. Amendments to the Companies (Acceptance of Deposit) Rules, 2014 (Deposit Rules) requires that a certificate of the statutory auditor of the company should be attached in Form DPT-1 (circular or circular in the form of advertisement inviting deposits). The certificate should state the fact that the company had made good the default and a period of five years has lapsed since the date of the default remediation. *(Emphasis added to highlight the change)*

Overview of the amendments
Prohibition on acceptance of deposits (cont.)

The MCA has made following amendments to the Deposit Rules with effect from **22 January 2019**:

- **Mandatory filing for transactions not regarded as deposits:** Form DPT-3 (return of deposits) should be used for filing:

  a) A return of deposit

  b) Particulars of a transaction not considered as deposit or

  c) Both

  by every company, other than a government company.

  The form should be filed with the Registrar of Companies (ROC) on or before 30 June, of every year (comprising information contained therein as on 31 March of that year duly audited by the auditor of the company).

  (Emphasis added to highlight the change)

- **One-time return for outstanding receipts not considered as deposits:** Every company (other than a government company) would need to file with the ROC a one-time return in Form DPT-3 for receipt of money/loan by a company outstanding from 1 April 2014 to 22 January 2019 but not considered as deposits (as specified in Form DPT-3).

  Such a return is required to be filed up to 22 April 2019 (i.e. within 90 days from the date of publication of notification in the official gazette) along with specified fees.

- **Revised Form DPT-3:** The amendments have also issued revised Form DPT-3. The key changes made vis-à-vis old form are as follows:

  a) It requires separate disclosure of total amounts of outstanding money or loan received by a company but not considered as deposits as per Rule 2(1)(c) of the Deposit Rules as specified in Rule 16(A)(3).

  b) Additionally, it contains a detailed section which requires the disclosure of a number of financial transactions classified in 13 categories. It covers most of the financial transactions such as:

     i. Amounts received from governments (Indian or foreign)

     ii. Loans from banks and financial institutions

     iii. Loans from directors.

Additionally, on 21 February 2019, the President of India promulgated the Banning of Unregulated Deposit Schemes Ordinance, 2019 (the ordinance).

The ordinance is effective from **21 February 2019.**

The ordinance prohibits a deposit taker[3] from operating, issuing any advertisement soliciting

3. A 'deposit taker', *inter alia*, would mean:

   a) An individual or group of individuals

   b) A partnership firm

   c) A company

   d) A Limited Liability Partnership (LLP) and

   e) A banking company.

Overview of the amendments
Prohibition on acceptance of deposits (cont.)
participation or enrolment in or acceptance of deposits in pursuance of an unregulated deposit scheme. As per the ordinance, regulated deposit schemes, *inter alia*, includes acceptance of deposits by: a) Companies under Chapter V of the 2013 Act b) NBFCs under Section 45-I of the RBI Act, 1934 c) Listed companies under prescribed SEBI Regulations, such as, SEBI (Collective Investment Scheme) Regulations, SEBI (Portfolio Managers) Regulations, SEBI (Share Based Employee Benefits) Regulations, etc. The ordinance authorises CG to designate an authority which would create, maintain and operate an online database for information on deposit takers operating in India. Accordingly, every deposit taker would be required to intimate the authority about its business in the manner, as may be prescribed. The requirement to intimate would also apply to companies accepting deposits under Chapter V of the 2013 Act.
Appointment and remuneration of managerial personnel (Section 164, 197 and 198) **(Effective from 7 May 2018/12 September 2018)**
• **Disqualification for appointment of a director:** In case a person has been appointed as a director of the company which has defaulted in filing of financial statements/annual return for a continuous period of three years or failed to repay deposits, then newly appointed director would not incur the disqualification for a period of six months from the date of his/her appointment. In case a director gets disqualified on account of the above reasons, then office of the director would become vacant in all the companies other than the company which is in default. **(Effective from 7 May 2018)** • **Managerial Remuneration (MR):** Following amendments have been notified relating to MR effective from **12 September 2018**: – *Remuneration payable by companies with profits:* Payment of remuneration can exceed 11 per cent of the net profits of the company, subject to Schedule V to the 2013 Act (CG approval not required). Where there are one or more than one MD, Whole-Time Director (WTD) or manager in the company, approval of the shareholders by **a special resolution** is required to pay MR in excess of the maximum amount of remuneration prescribed. – *Remuneration payable by companies with inadequate profits:* MR **in excess of limits specified in Schedule V (based on effective capital)** can be paid by passing a special resolution. – *Approval in case of default:* Where a company defaults in payment of dues to: a) Bank b) Public financial institution c) Non-convertible debenture holders

Overview of the amendments
Appointment and remuneration of managerial personnel (cont.)
d) Any other secured creditor prior approval of the bank/public financial institution/non-convertible debenture holders/other secured creditor, should be obtained before obtaining an approval in the general meeting for payment of MR. If a company plans to waive any excess MR received which is refundable by the director, then an approval from bank/public financial institution/non-convertible debenture holders/other secured creditor is required. – *Additional reporting in an auditor's report:* The auditor of the company would make a statement in its report as to whether the remuneration paid by the company to its directors is in accordance with the provisions of Section 197. Also, whether the remuneration paid to any director is in excess of the limit specified in Section 197 of the 2013 Act. – *Applications pending with MCA:* Any application pending for approval with CG of excess remuneration would abate. A company would be required to obtain shareholders' approval by a special resolution by 11 September 2019. • **Calculation of net profits:** Net profits should **additionally exclude** any amount representing unrealised gains, notional gains or revaluation of assets from the net profits. *(Emphasis added to highlight the changes)*
Corporate Social Responsibility (CSR) (Section 135 and the CSR Rules) **(Effective from 19 September 2018)**
Following changes have been made to the provisions relating to CSR: • For determining the threshold of the specified net worth, turnover, or net profit to constitute a CSR committee, the words **'any FY'** have been replaced by the words **'immediately preceding FY'**. • Composition of the CSR committee for **'companies not required to appoint Independent Directors'** has been changed to **'two or more directors'**. • Section 135(3)(a) and the Companies (CSR Policy) Rules, 2014 (CSR Rules) has been modified to refer to **'in areas or subjects specified in Schedule VII to the 2013 Act'** within which CSR activities could be undertaken by an eligible company. Additionally, MCA through its circular dated 28 May 2018 has reiterated that the requirement prescribed under first proviso to Section 135(5) of the 2013 Act (i.e. the company should give preference to the local area around it where it operates, for spending the amount earmarked for CSR activities) has to be followed in letter and spirit. *(Emphasis added to highlight the changes)*

Overview of the amendments
Audit Committee (AC) (Section 177) **(Effective from 7 May 2018)**
Following amendments have been made with respect to the provisions relating to an AC: a) BoD of every listed **public** company and such other class as may be prescribed should constitute an AC. b) A transaction (involving an amount up to INR1 crore) is voidable at the option of the AC, if entered without its approval and not ratified subsequently. c) AC could give recommendations to the board for transactions that are not covered under Section 188, in case it does not approve the transaction. d) No approval of AC required, in case of Related Party Transactions (RPTs) between a holding company and its wholly-owned subsidiary that do not require the board's approval under Section 188. *(Emphasis added to highlight the change)*
Loans to directors (Section 185) **(Effective from 7 May 2018)**
Companies can give a loan to **any person in whom the director is interested**, subject to: a) Prior approval by a **special resolution** in a general meeting and b) Loans to be utilised by the borrowing company for its **principal business activities**. *(Emphasis added)*

(Source: KPMG in India's analysis, 2019 based on the provisions of the Companies (Amendment) Act, 2017 notified and related amendments to the Rules. Also refer to KPMG in India's First Notes dated 28 May 2018, 2 August 2018 and 6 February 2019)

Companies (Amendment) Ordinance

On 2 November 2018, the Ministry of Law and Justice issued the Companies (Amendment) Ordinance (ordinance) and amended the 2013 Act based on the recommendations of the committee[4] formed to review the existing framework dealing with the offences under the 2013 Act.

The ordinance is effective from 2 November 2018.

Key amendments are as follows:

- **Revised eligibility criteria for appointment of a director:** A person would not be eligible to be appointed as a director of a company if he/she holds office as a director (including any alternate directorship) in more than 20 companies at the same time (of which directorship in public companies should not exceed 10).
- **Penalty for repeated defaults:** The ordinance has inserted a new sub-section to Section 454 i.e. Section 454A which provides penalty for repeated defaults.

  As per Section 454A, if a company, an officer or any other person having subjected to penalty for default under any provisions of the 2013 Act, commits such default again within a period of three years from the date of order imposing such penalty passed by the adjudicating officer or the regional director, then such person would be liable for the second or subsequent defaults for an amount equal to twice the amount of penalty provided for such default under the relevant provisions of the 2013 Act.

4. The committee was formed on 13 July 2018 under the chairmanship of Mr. Injeti Srinivas, Secretary, MCA.

- **Replacement of fine with penalty:** Certain amendments to the penal provisions have replaced fines with penalties. Some of the key situations where fines have been replaced with penalties are as follows:
  a) Failure to file an annual return within the stipulated period
  b) Failure to file copy of financial statements with the ROC
  c) Non-compliance with the provisions relating to appointment of directors and intimation of Director Identification Number (DIN)
  d) Non-compliance with the norm relating to maximum number of directorships
  e) Non-compliance with the provisions relating to appointment of key managerial personnel.

For a detailed reading of the ordinance, please refer to KPMG in India's First Notes on 'MCA further amends Companies Act, 2013 through an ordinance' dated 28 November 2018.

(Source: The Companies (Amendment) Ordinance issued by the Ministry of Law and Justice and KPMG in India's First Notes dated 28 November 2018)

Others

National Financial Reporting Authority (NFRA) (Section 132 and related Rules)

The 2013 Act empowered the CG to constitute NFRA to advise on matters relating to both accounting and auditing standards as well as for other issues relating to monitoring and compliance of such standards.

Accordingly, the MCA notified the constitution of NFRA with effect from 1 October 2018.

Additionally, the MCA has notified the following:

- Provisions of the 2013 Act relating to NFRA (effective from 24 October 2018)
- NFRA Rules, 2018 (effective from 14 November 2018)
- NFRA (Manner of Appointment and other Terms and Conditions of Service of Chairperson and Members) Amendment Rules, 2019 (effective from 18 February 2019).

Key provisions notified are as follows:

- **Companies governed by NFRA:** Following entities will come under the purview of NFRA:
  a) Companies whose securities are listed on any stock exchange in India or outside India[5]
  b) Unlisted public companies with paid-up capital of not less than INR500 crore, turnover of not less than INR1,000 crore or with outstanding loans, debentures and deposits of not less than INR500 crore as on the 31 March immediately preceding FY[5]
  c) Insurance companies
  d) Banking companies
  e) Companies engaged in the generation or supply of electricity
  f) Companies governed by any special act
  g) Body corporates incorporated in accordance with the provisions of the 2013 Act
  h) Any body corporate/company/person/ any class of body corporates, companies or persons on a reference made by NFRA by the CG in public interest and
  i) A body corporate incorporated or registered outside India, which is a subsidiary or an associate company of any company or body corporate incorporate or registered in India as referred to in clauses (a) to (h) above, if the income or net worth of such subsidiary or associate company exceeds 20 per cent of the consolidated income or net worth of such company or body corporate, as the case may be.
- **Key functions of NFRA:** The key functions of NFRA include:
  – *Monitor and enforce compliance with AS*: To ensure compliance with the standards, NFRA may:
    a) Review the financial statements of companies and body corporates
    b) Require the personal presence of officers of the entity and its auditor for seeking additional information or explanation

5. An entity would continue to be governed by the NFRA for a period of three years after it ceases to be listed or its paid-up capital/turnover/aggregate of loans, debentures and deposits falls below the prescribed limit.

c) Publish its findings relating to non-compliances on its website

d) Investigate or enforce an action, if it finds or has reason to believe that there may be a violation of any AS.

– *Powers to investigate:* NFRA has the same powers as are vested in a Civil Court for discovery/production of information, summoning, inspections, examination of witnesses or documents.

If during investigation, it has evidence to believe that an entity has not complied with the requirements under the 2013 Act or Rules which involve or may involve fraud of INR1 crore or more then it would need to report its findings to the CG.

- **Filing of particulars of auditors:** Following would be required to furnish the details of their auditors to the NFRA:

a) Every existing body corporate, other than a company, governed by NFRA Rules, 2018: Within 30 days from the date of deployment of Form NFRA-1 on the MCA/NFRA website.

b) Body corporates which are not companies within the meaning of the 2013 Act, but are formed in India and are governed under the NFRA Rules, 2018: Within 30 days from the date of deployment of Form NFRA-1 on the MCA/NFRA website.

c) A body corporate specified under clause (i) above.

- **Annual return:** Auditors of the companies and body corporates are required to file a return with the NFRA on or before 30 April every year in a form to be specified by the CG.

For a detailed reading of the notified provisions relating to NFRA, please refer to KPMG in India's First Notes on 'NFRA Rules notified' dated 13 December 2018.

(Source: MCA notification no. S.O. 5099(E) dated 1 October 2018, notification no. S.O. 5385(E) dated 24 October 2018, notification dated 30 January 2019 and general circular no. 12/2018 dated 13 December 2018 and KPMG in India's First Notes dated 13 December 2018)

Mandatory return for supplies from micro and small enterprises

The MCA through its notification dated 22 January 2019, has issued the Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019 (order). The order is effective from 22 January 2019.

The order requires every specified company to file in MSME Form I, details of all outstanding dues to micro or small enterprises suppliers (existing on the date of notification of the order i.e. 22 January 2019) within 30 days from the date of deployment of e-form on MCA21 portal.

Specified companies have been defined to mean companies:

a) Who gets supplies of goods or services from micro and small enterprises and

b) Whose payments to micro and small enterprise suppliers exceed 45 days from the date of acceptance or the date of deemed acceptance of the goods or services as per the provisions of Section 9 of the Micro, Small and Medium Enterprise Development Act, 2006.

Additionally, every specified company is required to file a half-yearly return as per MSME Form I as follows:

a) April to September: by 31 October

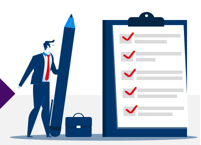
b) October to March: by 30 April.

The half-yearly return should state the following:

a) The amount of payment due and

b) The reasons for delay.

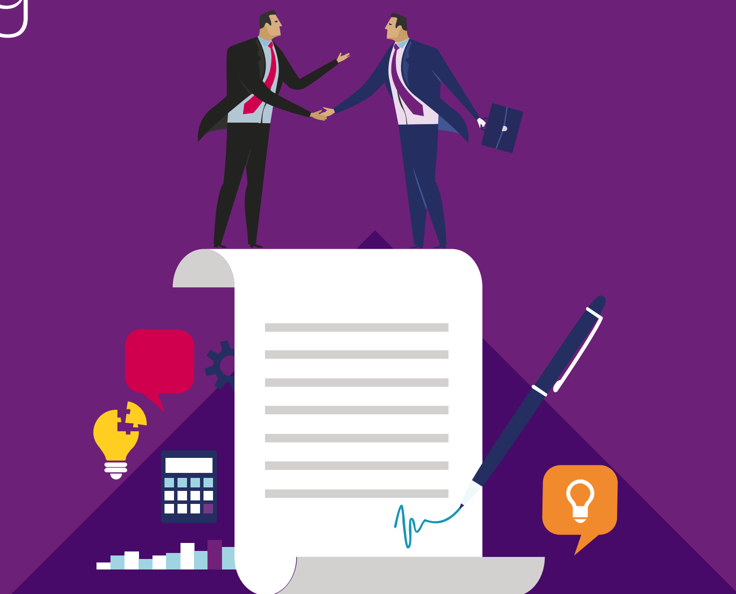
Key takeaway



The companies should initiate the process of identification of their dues with micro and small enterprises. Amount due to them would be required to be reported every half-year, in addition to the one-time return (for all dues outstanding as on 22 January 2019) which is required to be filed up to the date of the deployment of Form MSME I by MCA.

(Source: MCA notification no. S.O. 368(E) dated 22 January 2019 and general circular no. 01/2019 dated 21 February 2019)

Updates relating to SEBI



SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations)

Amendments to Listing Regulations pursuant to Kotak Committee recommendations

On 28 March 2018, the SEBI considered the recommendations of the Kotak Committee on Corporate Governance (the committee) and made amendments to the SEBI Listing Regulations.

Some key amendments effective from 1 April 2019 are as follows:

Accounting and audit related matters

- **Quarterly financial disclosures:** A listed entity would be required to make following disclosures on a quarterly basis:
  - **Consolidated financial results:** In addition to stand-alone financial results, a listed entity is required to submit quarterly consolidated financial results.
  - **Cash flow statement:** As part of stand-alone and consolidated financial results for half-year, a listed entity is also required to submit, by way of a note, statement of cash flows for the half-year.
  - **Audit/limited review of quarterly financial results:** For the purposes of quarterly consolidated financial results, a listed entity is required to ensure that, at least 80 per cent of each of the consolidated revenue, assets and profits, respectively, should have been subject to audit or in case of unaudited results, subjected to limited review.
  - **Limited review for last quarter:** The listed entity would need to submit the audited or limited reviewed financial results in respect of the last quarter along with the results for the entire FY (earlier audited financial results of the last quarter were required to be submitted).
  - **Last quarter financial results:** Any material adjustments made in the results of the last quarter which pertain to earlier periods would be disclosed by the listed entity as a note in the financial results for the last quarter.

- **Other significant matters:**
  - **Audit qualifications:** With respect to audit qualifications where the impact of the qualification is not quantifiable, the management is mandatorily required to make an estimate which the auditor needs to review and report accordingly.

    However, no estimate is required to be made on matters like going concerns or sub-judice matters. In such a case, the management should provide the reasons and the auditor would review the same and report accordingly.
  - **Group audits:** Statutory auditor of a listed entity would be required to undertake a limited review of the audit of all the entities/companies whose accounts are to be consolidated with the listed entity as per AS 21, *Consolidated Financial Statements.*

    SEBI through its circular dated 29 March 2019 prescribed certain guidelines for implementation of the above provision.

    As per the guidance issued by SEBI:

    a) The statutory auditors of the parent entity should obtain desired information about the components (i.e. subsidiaries, joint ventures and associates) to be consolidated as per the guidance given in:

       i. Standard on Auditing (SA) 600, *Using the Work of Another Auditor*

       ii. Guidance Note on Audit of CFS issued by ICAI.

    b) The statutory auditor of the parent is required to identify significant components.

       Significant components would be those components which together with parent company would represent 80 per cent of each of the consolidated:

       i. Revenue

       ii. Assets and

       iii. Profits.

    c) Audit/limited review of the components should continue to be undertaken by the respective auditors of the components.

    d) The statutory auditor of the parent entity would communicate key matters with the component auditor, e.g.:

       i. Threshold for material misstatements in the component's financial results

       ii. List of related parties and work to be performed on intra-group transactions/account balances

       iii. Significant risks of material misstatement due to error or fraud

       iv. Areas requiring special consideration

       v. Significant deficiencies in internal control at the component level.

    The guidelines are also effective from 1 April 2019.
  - **Disclosures on audit and non-audit fee services rendered by the auditors:** Total fee paid to an auditor and all entities on the network firms/network entity of which the auditor is a part have to be disclosed by the listed entity in the corporate governance section ('other disclosures') of the annual report on a consolidated basis.

Related Party Transactions (RPTs)

- **Approval of RPTs:** All material RPTs would require an approval of the shareholders through a resolution and a related party would not vote to approve such resolutions whether the entity is a related party to the particular transaction or not.

  Additionally, all entities falling in the definition of related parties would not vote to approve the relevant transaction irrespective of whether the entity is a related party to the particular transaction or not.

  Therefore, the related parties would be allowed to cast a negative vote, as such voting would not be considered to be in conflict of interest.

- **Materiality policy:** Clear threshold limits, as considered appropriate by the BoD would be required to be disclosed in the materiality policy. Such materiality policy should be reviewed by the BoD at least once every three years and updated accordingly.
- **Revised definition of material subsidiary**: Material subsidiary would mean a subsidiary, whose income or net worth exceeds 10 per cent (earlier 20 per cent) of the consolidated income or net worth of the listed entity and its subsidiaries in the immediately preceding accounting year.
- **Disclosure of RPTs:** Listed entities would be required to make following disclosures:
  - Half-yearly disclosure of RPTs on a consolidated basis, in the disclosure format required for RPT in the annual accounts as per the accounting standards, on the website of the listed entity within 30 days of publication of the half-yearly financial results. Copy of the same also to be submitted to the stock exchanges *(Effective from half-year ending 31 March 2019)*
  - Disclosures of transactions with promoters/promoter group entities holding 10 per cent or more shareholding would need to be made annually (even if not classified as related parties in the annual report) *(Effective for annual reports filed for the year ended 31 March 2019).*
- **Shareholder's approval required for royalty and brand payments:** Payments made by the listed entities to related parties with respect to brand usage/royalty amounting to more than two per cent of consolidated turnover of the listed entity would be considered material.

  As currently required by the Listing Regulations, such related party payments for royalty and brand would require approval from the shareholders on a majority of minority basis. This sub-limit of two per cent would be considered within the overall 10 per cent limit to determine material RPTs.

  The said amendment was to come in to effect from 1 April 2019. However, SEBI through its notification dated 29 March 2019 has deferred the implementation of this provision for three months. Accordingly, it will apply from 1 July 2019.

Reclassification of promoters and additional disclosure in an annual report

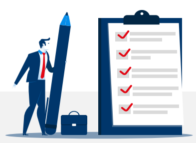
On 16 November 2018, SEBI issued certain amendments to the Listing Regulations which, *inter alia*, provide revised norms relating to reclassification of promoters/public.

Additionally, every listed entity would be required to disclose number of complaints filed, disposed of and pending as on end of FY in relation to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in the corporate governance section ('other disclosures') of the annual report.

The amendments are effective from 16 November 2018.

For a detailed reading of the amendments, please refer to KPMG in India's First Notes on 'SEBI issues amendments to the Listing Regulations - reclassification of promoters and additional disclosure in an annual report' dated 20 December 2018.

Key takeaway



The listed entities would need to gear up to ensure compliance with the requirements applicable from 1 April 2019, in particular, the requirements relating to quarterly financial disclosures as non-compliance could attract severe penal actions.

(Source: SEBI notification no. SEBI/LAD-NRO/GN/2018/10 dated 9 May 2018, circular no. CIR/CFD/CMD1/27/2019 dated 8 February 2019, notification no. SEBI/LAD-NRO/GN/2019/07 dated 29 March 2019 and KPMG in India's publication on 'Amendments to SEBI Listing Regulations pursuant to Kotak Committee recommendations' issued in June 2018 and First Notes dated 20 December 2018 and 4 April 2019)

Disclosure of reasons for delay in submission of financial results by listed entities

Currently, Regulation 33(3) of the Listing Regulations prescribes the following timelines for submission of financial results with the stock exchange by an equity listed entity:

- *Quarterly and year to-date separate and consolidated financial results:* Within 45 days of the end of each quarter, other than the last quarter.
- *Annual separate and consolidated financial results along with the last quarter results:* Within 60 days from the end of the FY.

On 19 November 2018, SEBI issued a circular which provides that if any listed entity does not submit its financial results within the timelines specified in Regulation 33 of the Listing Regulations, then such a listed entity would be required to disclose detailed reasons for such delay to the stock exchanges within one working day of the due date of submission for the results.

However, if the decision to delay the results was taken by the listed entity prior to the due date of submission of financial results, then it should disclose detailed reasons for such delay within one working day of such decision.

The provisions of the circular have been made effective from 19 November 2018.

(Source: SEBI circular no. CIR/CFD/CMD-1/142/2018 dated 19 November 2018 and KPMG in India's IFRS Notes dated 7 December 2018)

Non-compliance with certain provisions of the Listing Regulations

On 3 May 2018, SEBI has issued a circular to adopt a uniform approach and to maintain consistency in the matter of levy of fines for non-compliance with certain provisions of the Listing Regulations, the manner of suspension of trading of securities of a listed entity and the manner of freezing the holdings of the promoter and promoter group of a non-compliant listed entity.

The provisions of the circular came into effect from compliance periods ended on or after 30 September 2018.

Some of the actions in case of key non-compliances are as follows:

- **Non-compliance with the requirements pertaining to composition of the BoD including failure to appoint a woman director (Regulation 17(1)):** Fine of INR5,000 per day
- **Non-submission of the financial results within the prescribed period (Regulation 33):** Fine of INR5,000 per day.

In addition to fine, the recognised stock exchange, could move the scrip of the listed entity to 'Z' category wherein trades would take place on 'trade for trade' basis. Also, it could suspend trading in the shares of such a listed entity.

(Source: SEBI circular no. SEBI/HO/CFD/CMD/ CIR/P/2018/77 dated 3 May 2018)

SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations, 2018)

On 11 September 2018, SEBI has issued the ICDR Regulations, 2018. The ICDR Regulations, 2018 has been made applicable from 10 November 2018.

Key changes introduced by the ICDR Regulations, 2018 vis-à-vis ICDR Regulations, 2009 are as follows:

Topic	Overview of the revised provisions
Financial disclosures	• Consolidated restated financial information required for three years (earlier for five years). • Audited separate financial statements of the issuer and material subsidiaries required to be disclosed on the website of the issuer. • Exemption from presentation of comparatives for stub period. • Disclose a list of related parties and RPTs of the consolidated entities (whether eliminated on consolidation or not) as disclosed in their separate financial statements. • Financial statements of all foreign consolidated entities to be audited, unless they are not material[6] to the CFS and the local regulation does not mandate audit. • In case issue proceeds would be utilised for a proposed acquisition of material business/entity, provide audited statements of balance sheets, profit and loss, cash flow for the latest three FYs and stub period (if available) of the business/entity proposed to be acquired. • Total unaudited information included in the CFS should not exceed 20 per cent of the turnover, net worth or profits before tax of the CFS of the respective year.
Other key changes	• The applicability threshold of ICDR Regulations, 2018 for rights issue has been increased from INR50 lakh to **INR10 crore.** • For a company to be eligible to make a fast track rights issue, it should not have any audit qualifications in respect of FYs disclosed in the letter of offer. • The time period for announcement of the price band has been reduced from five working days to **two working days** prior to the issue opening date. • Shortfall of up to 10 per cent of minimum promoters' contribution may be met by prescribed institutional investors without being identified as promoters. *(Emphasis added to highlight the changes)*

(Source: KPMG in India's analysis, 2019 based on SEBI notification no. SEBI/LAD-NRO/GN/2018/31 dated 11 September 2018)

6. A consolidated entity should be considered *'material'* if it contributes 10 per cent or more to the turnover, net worth, or profits before tax in the annual CFS of the respective year.

SEBI (Prohibition of Insider Trading) Regulations, 2015 (SEBI PIT Regulations)

On 31 December 2018, SEBI issued certain amendments to the SEBI PIT Regulations. The amendments, *inter alia*, requires that the BoD of a listed entity should make a policy for determination of 'legitimate purposes'[7] as a part of 'Code of fair disclosure and conduct' formulated under Regulation 8 of the SEBI PIT Regulations.

Further, it provides that any person in receipt of Unpublished Price Sensitive Information (UPSI) pursuant to a 'legitimate purpose' would be considered as an 'insider' and due notice would be given to such persons to maintain confidentiality of such UPSI in compliance with the SEBI PIT Regulations.

The amendments have also inserted a new provision relating to institutional mechanism for prevention of insider trading.

As per the provision, the CEO, MD or such other analogous person of a listed entity, should put in place an adequate and effective system of internal controls to ensure compliance with the requirements of the SEBI PIT Regulations to prevent insider trading.

The audit committee of a listed entity would be required to review compliance with the SEBI PIT Regulations at least once in a FY. It would also be required to verify that the systems for internal control are adequate and are operating effectively.

The amendments have been made effective 1 April 2019.

(Source: SEBI notification no. SEBI/LAD-NRO/GN/2018/59 dated 31 December 2019)

Others

Framework for fund raising by issuance of debt securities by large entities

On 26 November 2018, SEBI issued a circular and provided a framework comprising detailed guidelines for raising of funds by issuing debt securities.

Key requirements prescribed are as follows:

- **Minimum borrowings from debt securities:** All listed entities (except scheduled commercial banks) classified as 'large corporates' are mandatorily required to raise at least 25 per cent of their incremental borrowings[8] during a FY (subsequent to the FY in which it is identified as a large corporate) by issuing debt securities[9].
- **Large corporate:** A listed entity would be classified as a large corporate if it meets all of the following:
  a) Its specified securities[10], debt securities or non-convertible redeemable preference shares are listed on a recognised stock exchange(s) in terms of Listing Regulations
  b) It has an outstanding long-term borrowing[11] of INR100 crore or above and
  c) It has a credit rating of 'AA and above'. The credit rating should be of the unsupported bank borrowing or plain vanilla bonds of an entity which have no structuring/support built in. Where an issuer has multiple ratings from multiple rating agencies, highest of such rating should be considered for the purpose of applicability of this framework.

7. For this purpose, the term *'legitimate purpose'* would include sharing of UPSI in the ordinary course of business by an insider with partners, collaborators, lenders, customers, suppliers, merchant bankers, legal advisors, auditors, insolvency professionals or other advisors or consultants, provided that such sharing has not been carried out to evade or circumvent the prohibitions of the SEBI PIT Regulations.
8. *'Incremental borrowings'* means any borrowing done during a particular FY, of original maturity of more than one year, irrespective of whether such borrowing is for refinancing/repayment of existing debt or otherwise and should exclude External Commercial Borrowings (ECBs) and inter-corporate borrowings between a parent and subsidiary(ies).
9. *'Debt securities'* as defined under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008.
10. *'Specified securities'* means 'equity shares' and 'convertible securities'.
11. *'Outstanding long-term borrowings'* means any outstanding borrowing with original maturity of more than one year and should exclude ECBs and inter-corporate borrowings between a parent and subsidiary(ies).

- **Disclosures by a large corporate to the stock exchange(s):** A listed entity identified as a large corporate would be required to make following disclosures to the stock exchanges where its securities are listed:

  a) Disclosure of the fact that it has been identified as a large corporate in the specified format within 30 days from the beginning of the FY and

  b) Details of the incremental borrowings done during a FY in the specified format within 45 days of the end of the FY.

  The above mentioned disclosures are to be certified by a company secretary and the Chief Financial Officer (CFO) of the large corporate. Additionally, such disclosures would form part of the audited annual financial results of the listed entity.

- **Effective date:** For the entities following April-March as their FY, the framework has been made applicable from 1 April 2019 and for the entities which follow calendar year as their FY, the framework has been made applicable from 1 January 2020.

  Accordingly, the circular specifies the timeline for meeting the incremental borrowing norms for the following years:

  a) For FY2020 and 2021: The requirement of meeting the incremental borrowing norms would be applicable on an annual basis. A listed entity identified as a large corporate as on 31 March 2019/31 March 2020 would need to comply with the requirement by 31 March 2020 and 31 March 2021.

  In case of shortfall in borrowing, an explanation is to be provided to the stock exchange(s).

  b) From FY2022: The requirement of mandatory incremental borrowing to be met over a contiguous block of two years. Accordingly, a listed entity identified as a large corporate on the last day of FY 'T-1' would need to fulfill the incremental borrowing requirement for FY 'T', over FY 'T' and FY 'T+1'.

  In case of shortfall at the end of two years, monetary penalty/fine of 0.2 per cent of the shortfall in the borrowed amount would be levied.

(Source: SEBI circular no. SEBI/HO/DDHS/CIR/P/2018/144 dated 26 November 2018)

Updates relating to ICAI

Revised Standards on Auditing (SAs)

The ICAI has issued new and revised auditor reporting standards designed to improve transparency and clarity regarding the auditor's responsibilities in an audit and provide information about the audit that was performed.

The new and revised SAs are effective for audits of financial statements for periods beginning on or after 1 April 2018.

The following table provides a summary of the new/revised requirements as envisaged by the SAs:

New/revised SAs	Overview
SA 700 (Revised), *Forming an Opinion and Reporting on Financial Statements*	**Revised format of an auditor's report** • Reordering of an auditor's report: Audit opinion at the beginning, followed by a basis for opinion paragraph • Description of Key Audit Matters (KAMs), including why and how for each identified KAM • Enhanced description of the responsibilities of management and the auditor's including assessment of going concern assumption • Inclusion of a statement of required independence by the auditors.
SA 701, *Communicating Key Audit Matters in the Independent Auditor's Report*	New standard to establish requirements and guidance for the auditor's determination and communication of KAMs. KAMs are selected from matters communicated to those charged with governance, which in the auditor's professional judgement, are of most significance in the audit of the financial statements of the current period. KAMs are required to be communicated in the auditor's reports for audits of financial statements of listed entities.

New/revised SAs	Overview
SA 705 (Revised), *Modifications to the Opinion in the Independent Auditor's Report*	The scope of SA 705 additionally, includes how the form and content of the auditor's report is affected when an auditor expresses a modified opinion. Additionally, the SA prohibits a KAM section from being included in the auditor's report when the auditor disclaims an opinion on the financial statements, unless the auditor is otherwise required by law or regulations to communicate KAM.
SA 706 (Revised), *Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report*	The SA clarified the relationship between the emphasis of matter and other matter paragraphs and KAM section of the auditor's report. As per SA 706, when SA 701 applies, the use of emphasis of matter paragraphs is not a substitute for a description of individual KAMs.
SA 720 (Revised), *The Auditor's Responsibilities Relating to Other Information*	An auditor is required to read and consider the other information – financial or non-financial and: • Consider whether there is a material inconsistency between the other information and the financial statements and • Consider whether there is a material inconsistency between the other information and the auditor's knowledge obtained in the audit, in the context of audit evidence obtained and conclusions reached in the audit and respond/report appropriately. In the auditor's report, include a separate 'other information' section: • When the auditor has obtained some or all of the other information as of the date of the auditor's report of listed or unlisted corporate entities. • In case of listed entities, also if the auditor expects to obtain other information after the date of the auditor's report.

(Source: KPMG in India's analysis, 2019 and ICAI announcements dated 17 May 2016, 1 April 2017 and 21 January 2018)

Other regulatory updates

Supreme Court (SC) ruling on the applicability of Provident Fund (PF) contributions on allowances

The Employees' Provident Funds and Miscellaneous Provision Act, 1952 (EPF Act) requires that the contribution towards PF will be calculated on monthly pay comprising the following components:

- Basic wages
- Dearness Allowance (DA) (all cash payments by whatever name called paid to an employee on account of a rise in the cost of living)
- Retaining allowance
- Cash value of any food concession.

However, while computing PF, entities have been excluding certain allowances, for example overtime allowance, bonus, commission or any other similar allowance payable to an employee in respect of his/her employment, or any presents given by the employer.

The provision of EPF is applicable to employers having more than 20 employees and are required to deduct PF of 12 per cent on monthly pay (as specified above).

Petition filed

Various appeals before the SC have been filed which raised a question whether the other allowance such as travel allowance, canteen allowance, special allowance, management allowance and conveyance allowance paid by an establishment to its employees would fall within the expression basic wages for computation of contribution towards PF.

SC decision

The SC explains its ruling as follows:

- If any amount is to be excluded from the basic wages, it has to be shown that the employee had become eligible to get this extra amount beyond the normal work which he/she was otherwise required to put in
- In the cases before the SC, it could not be demonstrated that the allowances (e.g. HRA, overtime allowance, bonus, commission) being paid to employees were either variable or were linked to any incentive for production resulting in greater output by an employee and that such allowances were not paid across the board to all employees in a particular category or were being paid especially to those who avail the opportunity

- The wage structure and the components of salary had been examined on facts, both by the authority and the appellate authority under the EPF Act, who had arrived at a conclusion that the allowances (e.g. HRA, overtime allowance, bonus, commission) were essentially a part of the basic wage.

The above mentioned ruling of the SC would require employers to revisit their policies and determine the salary for the purpose of PF computation.

Also refer KPMG in India's Tax Flash News dated 1 March 2019 which provides detailed overview of SC ruling.

(Source: SC ruling dated 28 February 2019)

Glossary

2013 Act	The Companies Act, 2013
AS	Accounting Standard
ASB	Accounting Standards Board
BoD	Board of Directors
CFS	Consolidated Financial Statements
CG	Central Government
FVOCI	Fair Value Through Other Comprehensive Income
FY	Financial Year
GST	Goods and Services Tax
ICAI	The Institute of Chartered Accountants of India
IFRS	International Financial Reporting Standards
IFRIC	IFRS Interpretation Committee
ITFG	The Ind AS Technical Facilitation Group
ICDR Regulations, 2018	SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018
Ind AS	Indian Accounting Standards
Listing Regulations	SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015
MCA	The Ministry of Corporate Affairs
NBFC	Non-Banking Financial Company
NFRA	National Financial Reporting Authority
NSE Ltd.	National Stock Exchange Limited
OCI	Other Comprehensive Income
RPT	Related Party Transaction
SC	Supreme Court
SEBI	The Securities and Exchange Board of India
SEBI (PIT) Regulations	SEBI (Prohibition of Insider Trading) Regulations, 2015

KPMG in India's IFRS institute

Visit KPMG in India's IFRS institute - a web-based platform, which seeks to act as a wide-ranging site for information and updates on IFRS implementation in India.

The website provides information and resources to help board and audit committee members, executives, management, stakeholders and government representatives gain insight and access to thought leadership publications that are based on the evolving global financial reporting framework.

IFRS Notes

RBI defers implementation of Ind AS for banks till further notice

26 March 2019

Scheduled Commercial Banks (SCBs) excluding Regional Rural Banks (RRBs) were initially required to implement Indian Accounting Standards (Ind AS) from 1 April 2018. However, RBI vide a press release dated 5 April 2018, deferred the implementation of Ind AS by one year i.e. 2019-20 would have been the first year of Ind AS with 2018-19 as the comparative year.

The RBI through a notification dated 22 March 2019, has further deferred the Ind AS implementation till further notice.

First Notes

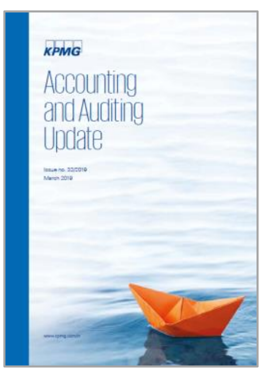
SEBI issued procedure and formats for limited review and audit reports

9 April 2019

On 9 May 2018, the Securities and Exchange Board of India (SEBI) amended its Listing Regulations and specified that the statutory auditor (principal auditor) of the listed entities would be required to undertake a limited review of the audit of all the entities/companies whose accounts are to be consolidated with the listed entity.

The SEBI through its circular dated 29 March 2019 prescribed the procedure and formats for limited review report and audit report of the listed entity and its components. This issue of First Notes provides an overview of the recent SEBI circular.

Accounting and Auditing Update



Issue no. 32 | March 2019

In this edition of Accounting and Auditing Update (AAU) we have included an article which provides an overview of the accounting and reporting challenges faced by NPOs.

This edition also carries an article on the accounting for transfer of financial assets.

The Institute of Chartered Accountants of India (ICAI) has issued an educational material on Ind AS 28, *Investments in Associates and Joint Ventures* which explains key requirements of the standard and Frequently Asked Questions (FAQs). The FAQs cover issues which are expected to be encountered frequently while implementing the standard. The article on this topic highlights key issues discussed in the educational material along with the related guidance reiterated by ICAI.

Our publication also carries a regular synopsis of some recent regulatory updates.

Notes

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