

1. **RBI & FEMA**
2. **Foreign Trade**
3. **Corporate**
4. **Securities**
5. **Competition**
6. **Indirect Taxes**
 - a. **Customs**
 - b. **Central Excise**
 - c. **Service Tax**
7. **Intellectual Property Rights**
8. **Consumer**
9. **Environment**

RBI/FEMA

1. DECLARATION OF INTEREST RATE ON GOLD MONETISATION SCHEME, 2015

The Reserve Bank of India (RBI) had declared Gold Monetisation Scheme (GMS), 2015 in October, 2015. In this connection, it has now been notified that the rate of interest on Medium and Long Term Government Deposit (MLTGD) under the GMS are as follows:

- i. On medium term deposit – 2.25% p.a.
- ii. On long term deposit – 2.50% p.a.

-[RBI/2015-16/220 DBR. IBD. BC. 53/23.67.003/2015-16, dated 3rd November, 2015]

2. NOTIFICATION OF OPERATIONAL GUIDELINES WITH REGARD TO THE SOVEREIGN GOLD BONDS, 2015-16

RBI has notified the Sovereign Gold Bonds, 2015-16 in October, 2015. In this connection, the operational guidelines with regard to this scheme have now been notified by RBI. - *[RBI/2015-16/222 IDMD. CDD. No. 968/14.04.050/2015-16, dated 4th November, 2015]*

3. INCLUSION AND EXCLUSION OF BANKS IN THE SECOND SCHEDULE OF THE RBI ACT, 1934

Industrial Bank of Korea, Bandhan Bank Limited & Korea Exchange Bank Co., Ltd has been included and HSBC Bank Oman S.A.O.G. has been excluded from the Second Schedule to the Reserve Bank of India Act, 1934. Name of Antwerp Diamond Bank N.V. also has been altered to KBC Bank N.V.

-[DBR.No.Ret.BC. 47/12.07.134A/2015-16 &DBR.No.Ret.BC. 48/12.07.135A/2015-16 &DBR.No.Ret.BC. 49/12.06.118A/2015-16 &DBR.No.Ret.BC. 50/12.07.071A/2015-16 &DBR.No.Ret.BC. 51/12.07.135A/2015-16, all dated 5th November, 2015]

4. REVISION OF GUIDELINES ON INTERNET BANKING FACILITY FOR CUSTOMERS OF COOPERATIVE BANKS

RBI vide its circular dated September 26, 2011 permitted scheduled Urban Cooperative Banks (UCBs) satisfying certain criteria to provide internet banking with transactional facility to their customers with prior approval of RBI and vide circular dated October 13, 2014 allowed all UCBs complying with certain condition to extend internet banking with 'view only' facility, without approval of RBI.

RBI has allowed State Cooperative Banks (StCBs) and District Central Cooperative Banks (DCCBs) also to extend the facility of internet banking to their customers. Accordingly, the guidelines issued to the UCBs were also reviewed and uniform guidelines for all the cooperative banks has now been issued in supersession of previous guidelines issued to UCBs in the matter. - *[RBI/2015-16/229 DCBR. BPD. (PCB/RCB) Cir. No. 6 /19.51.026/2015-16, dated 5th November, 2015]*

NOVEMBER 2015

5. SWITCHING FROM BARTER TRADE TO NORMAL TRADE AT THE INDO-MYANMAR BORDER

RBI vide its dated October 16, 2000 stipulated that the border trade between Myanmar and India may be settled through barter system. However, over a period of time the trade basket has diversified and adequate banking presence is in place to support normal trade with Myanmar. Therefore, RBI has now been done away the barter system of trade at the Indo-Myanmar border and switch over completely to normal trade with effect from December 1, 2015. Accordingly, all trade transactions with Myanmar, including those at the Indo-Myanmar border with effect from December 1, 2015 are to be settled in any permitted currency in addition to the Asian Clearing Union mechanism. - *[RBI/2015-16/230 A. P. (DIR Series) Circular No. 26, dated 5th November, 2015]*

6. ALL SOFTWARE EXPORTERS ALLOWED TO FILE BULK SOFTEX FORM

As per extant guidelines, software exporters, whose annual turnover is at least Rs.1000 crore or who files at least 600 SOFTEX forms annually on an all India basis, are eligible to declare all the off-site software exports in bulk in the form of a statement in excel format, to the competent authority for certification on monthly basis.

In order to provide benefits to small exporters also, RBI has now been extended this facility to all software exporters. Accordingly, all software exporters can now file single as well as bulk SOFTEX form in excel format to the competent authority for certification. The SOFTEX form is given at Annex I. - *[RBI/2015-16/231 A.P. (DIR Series) Circular No. 27, dated 5th November, 2015]*

7. RBI EASES FOREIGN CURRENCY HEDGING NORMS FOR RESIDENTS

As per the existing guidelines, residents having a long term foreign currency liability are permitted to hedge exchange rate and/or interest rate risk exposure thereof by undertaking a foreign currency-INR swap to move from a foreign currency liability to a rupee liability.

With a view to facilitating hedging of long term foreign currency borrowings by residents, RBI has now permitted them to enter in to FCY-INR swaps with Multilateral or International Financial Institutions (MFI/IFI) in which Government of India is a shareholding member subject to the terms and conditions as prescribed in the circular. - *[A.P. (DIR Series) Circular No. 28, dated 5th November, 2015]*

8. UCBS PERMITTED TO ACCEPT DEPOSITS FROM OTHER SCHEDULED UCBS

RBI has permitted scheduled UCBS to accept deposits from other scheduled UCBS, if it is part of an arrangement for providing specific services to the latter bank such as acting as the sponsor bank for clearing purposes, DD arrangement, CSGL facility, currency chest facility, foreign exchange transactions, remittance facility and non-fund based facilities like bank guarantee (BG), letter of credit (LC), etc. Subject to fulfillment of the following criteria:

- i. CRAR of not less than 10 per cent.
- ii. Gross NPAs of less than 7% and Net NPAs of not more than 3%.
- iii. Net profit for at least three out of the preceding four years subject to it not having incurred a net loss in the immediate preceding year.
- iv. No default in the maintenance of CRR/ SLR during the preceding financial year.
- v. Sound internal control system with at least two professional directors on the Board.
- vi. Core Banking Solution (CBS) fully implemented.

NOVEMBER 2015

However, it has been made clear that acceptance of deposits by scheduled UCBs from scheduled UCBs in the nature of placement of deposits for investment purposes are not permitted. - [RBI/2015-16/236 DCBR. BPD. (PCB). Cir. No. 8/16.20.000/2015-16, dated 19th November, 2015]

9. RBI ALLOWS BANKS TO FIX VALUE FOR FACTORING BUSINESS

RBI has advised that banks offering factoring services may now decide percentage of the invoice to be paid upfront based on their own assessment of the credit worthiness of the assignor/ buyer, due diligence carried out by them and other commercial considerations. Earlier it was advised that the pre-payment amount offered by banks for the receivables acquired under factoring should not exceed 80% of the invoice value. - [RBI/2015-16/239 DBR. No. FSD. BC. 58/24.01.007/2015-16, dated 19th November, 2015]

10. NOTIFICATION OF PRIOR APPROVAL FOR ACQUISITION OF SHARES OR VOTING RIGHTS IN PRIVATE SECTOR BANKS: DIRECTIONS, 2015

RBI has notified the Prior Approval for acquisition of shares or voting rights in Private Sector Banks: Directions, 2015. As per these directions, a person intending to acquire shares, compulsorily convertible debentures/bonds, voting rights, convert optionally convertible debentures/bonds of 5% or more in a private sector bank will have to apply to the RBI for obtaining prior approval.

An existing major shareholder, who already has the approval of the RBI to have a major shareholding in a bank, will not be required to obtain prior approval for fresh incremental acquisition of shares or voting rights of the concerned bank if the proposed aggregate holding is up to 10%. However, the major shareholder will have to furnish details of the source

of funds for such incremental acquisition and obtain 'no objection' from the bank concerned before such incremental acquisition. - [Master Direction No. DBR. PSBD. No. 56/16.13.100/2015-16, Dated 19th November, 2015]

11. RRBS ALLOWED TO EXTEND THE FACILITY OF INTERNET BANKING TO THEIR CUSTOMERS

With a view to enhancing customer service and taking into account demand for such services, RBI has allowed Regional Rural Banks (RRBs) to extend the facility of internet banking to their customers. The guidelines applicable to all the RRBs are also provided in the circular. - [RBI/2015-16/242 DBR. RRB. BC. No. 59/31.01.001/2015-16, dated 19th November, 2015]

12. REVISION OF THE LIST OF ONLINE RETURNS TO BE SUBMITTED BY NBFCs

RBI has rationalized the returns to be submitted online through COSMOS as below:

- Change in periodicity of NDSI-500cr and ALM-1 returns from monthly to quarterly;
- Discontinuation of NBS- 6 return as the same information is received through NBS-1 return.

The revised list of the returns to be submitted by the NBFC is Annexed to this circular. - [RBI/2014-15/246 DNBS (PD).CC.No.03/03.02.02/2015-16, dated 26th November, 2015]

13. REVISION OF CRITERIA REGARDING ASSET AND INCOME OF FACTORING COMPANIES ELIGIBLE FOR BANK FINANCE

RBI vide circular dated September 11, 2012 on "Bank Finance to Factoring Companies" advised that the banks can extend financial assistance to

NOVEMBER 2015

support the factoring business of Factoring Companies complying with certain criteria, which, *inter-alia*, included:

- i. They derive at least 75 per cent of their income from factoring activity;
- ii. The receivables purchased / financed, irrespective of whether on 'with recourse' or 'without recourse' basis, form at least 75 per cent of the assets of the Factoring Company.

Now the criteria regarding asset and income of factoring companies eligible for bank finance as mentioned in para 1 (i) and (ii) above have been revised to 50% from 75%. All other terms and conditions of the circular dated September 11, 2012 remain unchanged. - **[RBI/2015-16/247 DBR. BP. BC. No. 55/21.04.172/2015-16, dated 26th November, 2015]**

14. ADDITIONS TO THE LIST OF ADMISSIBLE EVIDENCE FOR IMPORT OF GOODS INTO INDIA

As per the extant guidelines an importer has to submit as evidence of import (a) the exchange control copy of the Bill of Entry for home consumption; (b) the exchange control copy of the Bill of Entry for warehousing, in the case of 100% Export Oriented Units (EOUs); or (c) Customs Assessment Certificate or Postal Appraisal Form as declared by the importer to the Customs Authorities.

Banks are now advised to consider the Bill of Entry issued by Customs Authorities named as Ex-Bond Bill of Entry or by any other similar nomenclature, as evidence for physical import of goods. Further, in cases where goods have been imported through couriers, the Courier Bill of Entry, as declared by the courier companies to the Customs Authorities, may also be considered as evidence of import of goods. - **[RBI/2015-16/248 A.P. (DIR Series) Circular No. 29, dated 26th November, 2015]**

15. APPROVAL OF MINISTRY OF CIVIL AVIATION NOT REQUIRED FOR ADVANCE REMITTANCE FOR IMPORT OF AIRCRAFTS / HELICOPTERS / OTHER AVIATION RELATED PURCHASES

As per circular dated June 29, 2007, AD Category I banks could allow advance remittance, without bank guarantee or an unconditional, irrevocable standby letter of credit up to USD 50 million, in the case of import of aircrafts/ helicopters/ other aviation related purchases by scheduled air transport operators permitted by the Director General of Civil Aviation (DGCA), after ensuring that the requisite approval of the Ministry of Civil Aviation (MoCA)/ DGCA / other agencies in terms of the extant Foreign Trade Policy, had been obtained by the company for import.

RBI has dispensed with the requirement of obtaining approval from MoCA for the above said purpose. - **[RBI/2015-16/249 A.P. (DIR Series) Circular No.30, dated 26th November, 2015]**

16. NBFC-MFIS CAN GIVE LOANS OF RS 30,000 FOR LARGER TENURE

RBI has clarified that NBFC - micro finance lenders can now give loans of up to Rs. 30,000 for tenure not less than 24 months as the amount limit for these debts has been doubled from the present limit of Rs. 15,000. All loans necessarily be prepaid without any penalty. - **[RBI/2015-16/250 DNBR. CC. PD. No. 071/03.10.038/2015-16, dated 26th November, 2015]**

17. INVESTMENT BY FOREIGN PORTFOLIO INVESTORS IN CORPORATE BONDS ALLOWED

RBI has now permitted Foreign Portfolio Investors (FPI) to acquire NCDs/bonds, which are under default, either fully or partly, in the repayment of principal on maturity or principal installment in the

NOVEMBER 2015

case of amortising bond. The revised maturity period of such NCDs/bonds, restructured based on negotiations with the issuing Indian company, should be three years or more. The FPI which propose to acquire such NCDs/bonds under default should disclose to the Debenture Trustees the terms of their offer to the existing debenture holders / beneficial owners from whom they are acquiring. - **[RBI/2015-16/253 A.P. (DIR Series) Circular No. 31, dated 26th November, 2015]**

FOREIGN TRADE

1. APPLICATION FOR DUTY CREDIT SCRIPS OF ADDITIONAL 2% UNDER MARKET LINKED FOCUS PRODUCT SCHEME

Grant of 2% duty credit scrip under Market Linked Focus Product Scheme (MLFPS) is in addition to 2% benefit under Focus Product Scheme (FPS). Since many exporters are unable to claim the 2% duty credit under MLFPS for having utilised their shipping bills to claim benefit under FPS, DGFT has clarified that the exporters may file a letter with the concerned RA to claim additional benefit intimating the details of earlier application No. (E-Com Reference no.) file no. etc. along with shipping bill number, date of shipping bill, description etc. and coverage indicating serial no. of the Public Notice. RA may verify the claim and thereafter issue supplementary scrip. **[Trade Notice No. 08/2015, 3rd November, 2015, (DGFT)]**

CORPORATE

1. COMPANIES (SHARE CAPITAL AND DEBENTURES) RULES, 2014 HAS BEEN AMENDED

The Ministry of Corporate Affairs (MCA) has issued a notification to further amend the Companies (Share Capital and Debentures) Rules, 2014. Accordingly, sub-clause (iii) of clause (a) of sub-rule (1) of Rule 18 has been substituted with a new sub-clause and sub-clause (iv) has been inserted thereafter. -**[Notification No. G.S.R. 841(E), 6th November, 2015, (MCA)]**

2. FORM NO MGT - 7 IN COMPANIES (MANAGEMENT AND ADMINISTRATION) RULES 2014 REVISED

MCA has issued this notification revising the Form No. MGT-7 being used for furnishing annual returns. -**[Notification No. G.S.R. 862(E), 16th November, 2015, (MCA)]**

3. RELAXATION OF ADDITIONAL FEES AND EXTENSION OF LAST DATE FOR FILING ANNUAL FORMS

MCA had issued a general circular No 14/2015 granting relaxation of the additional fees of annual filings form (i.e. MGT-7, AOC-4 and AOC-XBRL) filed till 30th November, 2015.

In order to grant further relaxation for filing of annual forms (i.e. AOC-4, AOC (CFS), AOC-4 XBRL and e-form MGT-7), the MCA has issued this general circular. Accordingly, there would be no additional fee payable if these forms are filed till 30th December, 2015. - **[General Circular No. 15/2015, 30th November, 2015, (MCA)]**

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SECURITIES

1. **FORMAT FOR VOTING RESULTS UNDER SEBI (LODR) REGULATIONS NOTIFIED**

Regulation 44(3) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 has prescribed that the listed entity shall submit to the stock exchange, within forty eight hours of conclusion of its General Meeting, details regarding the voting results in the format specified by the Board. Accordingly, a format for voting results to be furnished by the listed entities has been notified by the SEBI. - *[CIR/CFD/CMD/8/2015, 4th November, 2015, (SEBI)]*

2. **FORMAT FOR QUARTERLY HOLDING PATTERN, DISCLOSURE NORMS FOR CORPORATE GOVERNANCE REPOST AND MANNER FOR COMPLIANCE WITH TWO WAY FUNGIBILITY OF IDRs NOTIFIED**

Sub-regulation (1) of Regulation 69 of SEBI (LODR) Regulations, 2015 requires listed entity shall file with the stock exchange the Indian Depository Receipt (IDR) holding pattern on a quarterly basis within fifteen days of end of the quarter in the format specified by SEBI. Accordingly, the listed entity that has issued IDRs shall file the holding pattern with the stock exchanges as per format prescribed in Annexure I of this circular issued by SEBI.

Further, sub-regulation (3) of regulation 76 of Listing Regulations specifies that IDRs shall have two-way fungibility (interchangeability). Accordingly, the listed entity shall be guided by the procedure for

partial two-way fungibility within the available headroom as per Annexure II of the circular.

Moreover, sub-regulation (1) of Regulation 72 requires that the listed entity to comply with the corporate governance provisions of its home country and other countries where its equity shares are listed. Sub-regulation (2) requires the listed entity to submit a comparative analysis showing its compliance or non-compliance with corporate governance provisions of its home country and also with requirements under regulation 17 to 27 of LODR Regulations. While SEBI Circular CIR/CFD/CMD/5/2015 dated September 24, 2015 provides the necessary guidance in terms of format. A further addition to this is made by requiring additional column confirming whether the requirement originating from the Listing Regulations, is applicable in its home country and other jurisdictions in which its equity shares are listed.

The information furnished under Sub-regulation (1) of Regulation 69 and Sub regulation (2) of regulation 72 shall also be disclosed on the website of the listed entity. - *[CIR/CFD/CMD/9/2015, 4th November, 2015, (SEBI)]*

3. **FORMAT FOR BUSINESS RESPONSIBILITY REPORT NOTIFIED**

As per clause (f) of sub regulation (2) of regulation 34 of SEBI (LODR) Regulations, the annual report shall contain a business responsibility report describing the initiatives taken by the listed entity from an environmental, social and governance perspective. The companies in this regard shall be guided by the format provided in Annexure 1 of this circular. Certain key principles to assess the fulfilment of listed entities and a description of the

NOVEMBER 2015

core elements under these principles are detailed at Annexure II.

Those listed entities which have been submitting sustainability reports to overseas regulatory agencies/stakeholders based on internationally accepted reporting frameworks need not prepare a separate report for the purpose of these guidelines but only furnish the same to their stakeholders along with the details of the framework under which their BR Report has been prepared and a mapping of the principles contained in these guidelines to the disclosures made in their sustainability reports. - *[CIR/CFD/CMD/10/2015, 4th November, 2015, (SEBI)]*

4. STREAMLINING THE PROCESS OF PUBLIC ISSUE OF EQUITY SHARES AND CONVERTIBLES

To streamline the process of public issue of equity shares and convertibles, it has been decided by SEBI:

- (i) to reduce the time taken for listing after the closure of issue to 6 working days as against the present requirement of 12 working days, and
- (ii) to broad-base the reach of investors by substantially enhancing the points for submission of applications.

To carry this to effect certain amendments to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 have been notified and the operational details to implement above is mentioned in this circular issued by SEBI. - *[CIR/CFD/POLICYCELL/11/2015, 10th November, 2015, (SEBI)]*

5. ANNUAL AUDIT SYSTEM, BUSINESS CONTINUITY PLAN AND DISASTER RECOVERY

In view of the guidelines relating to Annual System Audit, SEBI has clarified that for the stability of markets and investor confidence it is required by National Commodity Derivatives Exchanges to have robust Business Continuity Plan (BCP) and Disaster Recovery (DR) to ensure continuity of operations. The guidelines relating to Annual System Audit, BCP and DR are as follows:

Annual System Audit: Annual system audit which includes, audit process, auditor selection norms, Terms of Reference (TOR) and audit report guidelines in accordance with SEBI circular no. CIR/MRD/DMS/13/2011 dated November 29, 2011. First Annual System Audit of Exchanges shall be conducted on or before June 30, 2016 for the year 2015-16.

Business Continuity Plan and Disaster Recovery: The exchanges shall have BCP & DR policy in place and implement the broad guidelines regarding the setting up of Disaster Recovery Site (DRS) and Near Site (NS), Configuration of DRS/NS with Primary Data Centre (PDC), DR drills / Testing, BCP DR policy document as per the provisions of SEBI circular no. CIR/MRD/DMS/12/2012 dated April 13, 2012 read with circular no. CIR/MRD/DMS/17/2012 dated June 22, 2012.

The exchanges which do not have DRS / NS presently shall set up DRS/NS on or before September 30, 2016. The exchanges shall submit their BCP – DR policy along with detailed plan of action for implementation to SEBI on or before April 01, 2016.

NOVEMBER 2015

- [CIR/CDMRD/DEICE/01/2015, 16th November, 2015, (SEBI)]

6. STREAMING OF INVESTOR GRIEVANCE REDRESSAL SYSTEM AND ARBITRATION MECHANISM AT COMMODITY DERIVATIVES EXCHANGES IN LINE WITH THE SECURITIES MARKET

Pursuant to Section 131 of the Finance Act, 2015 and Central Government notification F.No. 1/9/SM/2015 dated August 28, 2015, all recognized associations under the Forward Contracts (Regulation) Act, 1952 are deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 with effect from September 28, 2015. This circular applies to National Commodity Derivatives Exchanges as defined in the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2015.

SEBI has issued this circular with an objective to streamline and strengthen the framework of investor redressal and arbitration mechanism at commodity derivatives exchanges in line with the securities market. - [CIR/CDMRD/DIECE/02/2015, 16th November, 2015, (SEBI)]

7. FORMAT TO BE SUBMITTED BY LISTED ENTITIES TO STOCK EXCHANGES SPECIFYING DETAILS OF ITS SECURITISED DEBT INSTRUMENTS, NOTIFIED

SEBI (LODR) Regulations, 2015 requires that the listed entity shall submit statements/reports to stock exchange within seven days from the end of the month/ actual payment date, either by itself or through the servicer, on a monthly basis in the format as specified by the SEBI.

Accordingly, formats for statements/reports as per the Annexure I to this circular has been prescribed which requires the listed entity to provide pool level, tranche level and loan level details. - [CIR/IMD/DF1/ 10 /2015, 27th November, 2015, (SEBI)]

8. FORMATS FOR FURNISHING FINANCIAL RESULTS OF LISTED ENTITIES WHICH HAVE LISTED THEIR DEBT SECURITIES AND/OR NON-CUMULATIVE REDEEMABLE PREFERENCE SHARES, NOTIFIED

Regulations 52 of the SEBI (LODR) Regulations, 2015 prescribes various disclosures to be filed in the formats specified by the board to enable investors to make well-informed investment decisions.

This circular provides the formats for such disclosures. - [CIR/IMD/DF1/9 /2015, 27th November, 2015, (SEBI)]

9. STOCK EXCHANGES TO FOLLOW UNIFORM AND CONSISTENT APPROACH IN IMPOSING FINES AND A STANDARD PROCEDURE FOR SUSPENSION AND REVOCATION OF TRADING IN CASE OF NON-COMPLIANCE WITH SEBI LODR REGULATIONS, 2015

SEBI through the present circular has tried to establish consistency and uniformity in case of punishment awarded for breach of listing regulation.

As stock exchanges are responsible for monitoring compliance of listed entities, SEBI has clarified that stock exchanges shall use imposition of fines as action of first resort in case of non-compliances and invoke suspension of trading in case of subsequent

NOVEMBER 2015

and consecutive defaults. In this regard it has listed out a uniform fine structure for non-compliance with Listing Regulations regarding non-submission of certain periodic reports in Annexure I of this circular and a Standard Operating Procedure (SOP) for suspension and revocation of suspension of trading of specified securities in Annexure II.

The depositories are also directed to freeze or unfreeze the entire shareholding of the promoter and promoter group in such entity, after receiving intimation from recognized stock exchanges. The stock exchanges will also disclose on their website the action taken against the listed entities for non-compliance. - *[CIR/CFD/CMD/12/2015, 30th November, 2015, (SEBI)]*

10. FORMAT FOR DISCLOSURE OF HOLDING OF SPECIFIED SECURITIES AND HOLDING OF SECURITIES IN DEMATERIALIZED FORM, NOTIFIED

Regulation 31 of the SEBI (LODR) Regulations deals with the disclosure of shareholding pattern and manner of maintaining shareholding in dematerialized format.

SEBI vide this circular specifies the format for disclosures and other operational instructions. - *[CIR/CFD/CMD/13/2015, 30th November, 2015, (SEBI)]*

11. MANNER OF ACHIEVING MINIMUM PUBLIC SHAREHOLDING PRESCRIBED BY SEBI

Regulation 38 of the SEBI (LODR) Regulations, 2015 provides that the listed entity shall comply with minimum public shareholding requirements.

SEBI vide this circular specifies that a listed entity shall adopt any of the following measures to achieve the minimum public shareholding:

- (i) Issuance of shares to public through prospectus;
- (ii) Offer for sale of shares held by promoters to public through prospectus;
- (iii) Sale of shares held by promoters through the secondary market in terms of SEBI circular CIR/MRD/DP/05/2012 dated February 1, 2012;
- (iv) Institutional Placement Programme (IPP) in terms of Chapter VIIIA of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009;
- (v) Rights Issue to public shareholders, with promoter/promoter group shareholders forgoing their entitlement to equity shares, that may arise from such issue;
- (vi) Bonus Issues to public shareholders, with promoter/promoter group shareholders forgoing their entitlement to equity shares, that may arise from such issue;
- (vii) Any other method as may be approved by SEBI on a case to case basis. For this purpose, the listed entities may approach SEBI with appropriate details.

SEBI would endeavour to communicate its decision within 30 days from the date of receipt of the proposal. - *[CIR/CFD/CMD/14/2015, 30th November, 2015, (SEBI)]*

12. FORMATS FOR PUBLISHING FINANCIAL RESULTS, NOTIFIED

Regulation 33 of the SEBI (LODR) Regulations, 2015 prescribes various disclosures to be filed under various provisions contained therein. Accordingly, SEBI, vide this circular, has prescribed the formats of the quarterly financial results, quarterly and format of annual segment information as part of

NOVEMBER 2015

financial results, format of Limited review reports, format of the audit report to be given by the auditors, format of the audit report shall be given by the auditors, format of the financial results to be published in the newspapers in terms of Regulation 47(1)(b) etc. - **[CIR/CFD/CMD/15/2015, 30th November, 2015, (SEBI)]**

13. ADDITIONAL REQUIREMENTS IN RESPECT OF SCHEME OF ARRANGEMENT BY LISTED ENTITIES AND RELAXATION UNDER SCRR, 1957, NOTIFIED BY SEBI

SEBI listing regulations place obligations with respect to Scheme of Arrangement on Listed Entities and Stock Exchanges in terms of Regulation 11, 37 and 94. Sub-rule (7) of rule 19 of the Securities Contracts (Regulation) Rules, 1957 (SCRR) provides that SEBI may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

Thus, the additional requirements in order to achieve the intent of regulations 11, 37 and 94 and for availing exemption under sub-rule (7) of rule 19 of SCRR, if applicable, has been notified by SEBI vide this circular. - **[CIR/CFD/CMD/16/2015, 30th November, 2015, (SEBI)]**

14. LIABILITY FOR NOT MAKING DISCLOSURES UNDER SEBI TAKEOVER REGULATION WILL BE BORNE BY THE MEMBERS OF PROMOTER GROUP JOINTLY AND SEVERALLY

The limited but important question before the tribunal was whether, the expression 'promoter' used under the takeover regulations, would require every

promoter of the listed company to make yearly disclosure or whether the disclosure in case of a promoter group could be made by any promoter covered under the promoter group.

The Hon'ble Securities Appellate Tribunal (SAT) held that the obligation to make yearly disclosure under regulation 8(2) and regulation 30(2) of the Takeover Regulations framed by SEBI in the year 1997 & 2011 respectively, is on the promoter/promoter group. If the promoters of a listed company are individual promoters then the obligation is on the individual promoters and in case there is a 'promoter group' then the promoter group is required to make yearly disclosure. If the promoter group fails to disclose the shares or voting rights held by the promoters in the promoter group as also their person acting in concert (PAC's) within the time stipulated under the Takeover Regulations, then, penalty is imposable on the promoter group and the said penalty would be recoverable jointly and severally from the promoters in the promoter group who held shares or voting rights in the Target Company with their PAC's. - **[Gopalakrishnan Raman v. SEBI, 20th November, 2015, (SAT)]**

COMPETITION

1. THREE AIRLINES COMPANIES PENALISED FOR CARTELISATION IN FIXING FUEL SURCHARGE FOR TRANSPORTATION CARGO

The Competition Commission of India found that the three airlines colluded in fixing Fuel Surcharge (FSC) rates and overcharging cargo freight in the garb of fuel surcharge. Such conduct was found to have resulted in indirectly determining the rates of air cargo transport and thereby contravening Section

NOVEMBER 2015

3 of the Competition Act. Accordingly, the commission has imposed a sum of Rs. 151.69 crores on OP-1 (Jet Airways), Rs. 63.74 crores on OP-2 (IndiGo Airlines), Rs. 42.48 crores on OP-3 (SpiceJet) as penalties for the impugned conduct in contravention of the provisions of section 3(1) read with section 3(3)(a) of the Act. - *[Express Industry Council of India v. Jet Airways (India) Ltd, 17th November, 2015, (CCI)]*

INDIRECT TAXES

a. CUSTOMS

1. WITHDRAWAL OF DUTY-FREE IMPORT OF AGGREGATE QUANTITY OF 15000 MT IN A YEAR OF WHITE BUTTER, BUTTER OIL AND ANHYDROUS MILK FAT

The Central Board of Excise and Customs (CBEC) has amended the Notification No. 12/2012- Customs dated 17th March, 2012 so as to withdraw the TRQ of 15,000 MT for total imports of white butter, butter oil and anhydrous milk fat (AMF) at Nil import duty by omitting the said entry (S.No.9). - *[Notification No. 52/2015 – Customs, dated 20th November, 2015]*

2. TARIFF CONCESSIONS FOR SINGAPORE DEEPENED

CBEC has amended the Notification No. 10/2008 – Customs, dated 15th January, 2008 so as to deepen the tariff concessions in respect of specified goods under the Comprehensive Economic Co-operation Agreement (CECA) between India and Singapore, when imported from Singapore. - *[Notification No. 53/2015 – Customs, dated 23rd November, 2015]*

3. EXEMPTION FOR RAW MATERIAL AND PARTS FOR MANUFACTURE OF SHIPS

CBEC has amended the Notification No. 12/2012-Customs dated 17th March, 2012 so as to provide exemption from custom duties on all raw material and parts for use in manufacture of certain specified ships/vessels subject to actual user condition and also removing the requirement of manufacturing of ships/vessels in a custom bonded warehouse under the provisions of Section 65 of the Customs Act, 1962 for availing duty benefits. – *[Notification No. 54/2015 – Customs, dated 24th November, 2015]*

4. DUTY EXEMPTION TO EOUs FOR MANUFACTURE OF CERTAIN SPECIFIED SHIPS FOR DTA

CBEC has amended the Notification No. 52/2003-Customs dated 31st March, 2003 so as to enable EOUs to become eligible for duty exemption on raw materials/parts consumed in manufacture of certain specified ships/vessels and cleared to DTA, even if such ships/vessels are exempt from basic customs duty and central excise/CVD. - *[Notification No. 55/2015 – Customs, dated 24th November, 2015]*

5. SHAHEBGANJ AND HALDIBARI NOTIFIED AS LAND CUSTOMS STATIONS FOR BAGGAGE

Shahabganj and Haldibari in Cooch Behar district of West Bengal has been notified as land customs stations for the purpose of customs clearance of baggage of Indian enclave dwellers coming from the Bangladesh to India. - *[Notification No. 111/2015 – Customs (N.T.), dated 18th November, 2015]*

NOVEMBER 2015

6. NOTIFICATION OF ALL INDUSTRY RATES (AIR) OF DUTY DRAWBACK

All Industry Rates (AIR) of Duty Drawback has been revised and new rates *w.e.f.* 23rd November, 2015 are notified vide this circular. - *[Notification No. 110/2015 – Customs (N.T.), dated 16th November, 2015]*

7. TUMB (GUJARAT) NOTIFIED AS CONTAINER DEPOT

Tumb in Valsad district of Gujarat has been notified as an inland container depot station for import as well as export. - *[Notification No. 103/2015 – Customs (N.T.), dated 3rd November, 2015]*

8. LEVY OF ADD ON CARBON BLACK USED IN RUBBER APPLICATIONS

Anti-dumping duty (ADD) levied on Carbon Black used in rubber Applications, originating in or exported from China PR and Russia for a period of five years. - *[Notification No. 54/2015-Customs (ADD), dated 18th November, 2015]*

9. FOR INVOCATION OF SECTION 114 OF CUSTOMS ACT, 1962 ACTUAL MOVEMENT OF GOODS IS NECESSARY, HOWEVER, FOR SECTION 114AA MOVEMENT OR EXISTENCE OF GOODS IS NOT NECESSARY: CESTAT

In this case, the appellants are exporters and availing the benefit of Vishesh Krishi Upaj Yojana (VKUY). They obtained a VKUY scrip by submitting 296 shipping bills to DGFT. During the verification process, it was found that only 175 of those shipping bills were genuine. Pursuant to the investigation, a notice was issued to the appellants as to why penalty should not be imposed u/s 114AA of the Customs Act. The

appellant relied on the case law with reference to the Section 114.

The Hon'ble Tribunal observed that there may have been cases where documents are made and there is no movement of goods either way and benefits are claimed. Section 114AA is intended to cover those cases. It was held that the appellant relies on the case law with reference to the Section 114 is not relevant that insofar as Section 114 deals with violation in respect of actual movement of goods outside the country. Thus, for invocation of Section 114 the actual movement of goods is necessary, however, for the purpose of Section 114AA movement or existence of goods is not necessary. Therefore, penalty under Section 114AA can be legally imposed in the present circumstances. – *[Almas Impex v. Commissioner Of Customs, Mumbai, dated 4th November, 2015 (CESTAT)]*

b. CENTRAL EXCISE

1. DUTY EXEMPTION FOR RAW MATERIAL AND PARTS FOR MANUFACTURE OF CERTAIN SPECIFIED SHIPS/VESSELS

CBEC has amended the Notification No. 12/2012-CE dated 17th March, 2012 so as to provide exemption from excise duty on all raw material /parts for use in manufacture of certain specified ships/vessels subject to actual user condition. The requirement of manufacturing of ships/vessels in a custom bonded warehouse under the provisions of Section 65 of the Customs Act, 1962 for availing duty benefits, has also been removed. - *[Notification No. 44/2015 – Central Excise, dated 24th November, 2015]*

NOVEMBER 2015

2. DUTY EXEMPTION TO EOUs FOR MANUFACTURE OF CERTAIN SPECIFIED SHIPS FOR DTA

CBEC has amended the Notification No. 22/2003-CE dated 31st March, 2003 so as to enable EOUs to become eligible for duty exemption on raw materials/parts consumed in manufacture of certain specified ships/vessels and cleared to DTA, even if such ships/vessels are exempt from basic customs duty and central excise/CVD. - *[Notification No. 45/2015 – Central Excise, dated 24th November, 2015]*

3. CESS ON PAPER IS NOT INCLUDABLE FOR CALCULATION OF EDUCATION CESS: CESTAT

The issue involved was whether the Education Cess is payable on Paper Cess paid for clearance of Paper and Paper Board. Hon'ble Tribunal held that Cess on Paper levied by Ministry of Industries, GOI, in exercise of powers under sub-section (1) of Section 9 of Industrial Development and Regulation Act, 1961 is not includable in the calculation of the Education Cess as Paper cess cannot be treated as a duty, which is both levied and collected by Department of Revenue. Therefore, demand of Education Cess on Paper Cess cannot be sustained – *[CCE & CST, Vapi v. M/s Shah Pulp And Paper Mills Ltd., dated 29th October, 2015 (CESTAT)]*

4. INTEREST AND PENALTY PROVISIONS OF RULES 96 ZO, ZP, ZQ OF THE CENTRAL EXCISE RULES, 1994 QUASHED BY SUPREME COURT

Present appeals raises questions relating to the demand for interest and penalty under Rules 96ZO, 96ZP and 96ZQ of the Central Excise Rules, 1994, which were framed in order to effectuate the provisions contained in Section 3A

of the Central Excise Act, 1994. Several High Courts have struck down the said Rules relating to penalty as being ultra vires the parent provision and violative of Articles 14 and 19(1)(g) of the Constitution of India.

The Hon'ble Supreme Court held that since Section 3A which provides for a separate scheme for availing facilities under a compound levy scheme does not itself provide for the levying of interest. Rules 96 ZO, 96 ZP and 96 ZQ cannot do so and therefore on this ground the appellant has to succeed.

A penalty can only be levied by authority of statutory law, and Section 37 of the Act, does not expressly authorize the Government to levy penalty higher than Rs.5,000/. This further shows that imposition of a mandatory penalty equal to the amount of duty, which may be in crores of rupees, not being by statute would itself make rules 96ZO, 96 ZP and 96 ZQ without authority of law. - *[M/s Shree Bhagwati Steel Rolling Mills v. CCE & Anr., dated 24th November, 2015 (SC)]*

5. GOODS SOLD UNDER ANY BRAND NAME WOULD BE TREATED AS BRANDED GOODS, WHETHER BELONGS TO ASSESSEE OR NOT: SUPREME COURT

The assessee in the present matter is engaged in the manufacture of Pan Masala/Gutkha containing Tobacco falling under Chapter sub-heading 2404.49. The assessee claimed exemption under Notification No. 08/2001 dated 1st March, 2001. It was stated that since the assessee is not using the brand name of any third party but being a small scale industrial (SSI) unit, the aforesaid brand name is its own brand name, and for the purposes of the said Notification No. 08/2001 it should be treated as "unbranded" product.

NOVEMBER 2015

The Hon'ble Supreme Court held that it is not relevant whether the brand is own or not. The definition, as stipulated, does not limit the brand name to third party brand name. Therefore, the irresistible conclusion would be that once the goods are sold under any brand name, whether that belongs to the assessee or the third party the goods would be treated as branded. - [CCE, Guntur v. M/s Virat Crane Industries Ltd, dated 6th November, 2015 (SC)]

c. SERVICE TAX

1. SWACHH BHARAT CESS OF 0.5% ON ALL TAXABLE SERVICES w.e.f. 15TH NOVEMBER, 2015

The Finance Act, 1994 has been amended to introduce the provisions for Swachh Bharat cess of 2% on all taxable services.

In this regard, CBEC has notified 15 November, 2015 as the effective date for the cess, and has simultaneously exempted the cess in excess of 0.5%. In effect, there is a cess of 0.5% on all taxable services. - [Notification No. 21/2015 & Notification No. 22/2015 - Service Tax, dated 6th November, 2015]

2. AMENDMENT OF RULES AND NOTIFICATIONS TO INCLUDE SWACHH BHARAT CESS PROVISIONS

With the introduction of Swachh Bharat cess, the central government has amended several rules and notifications to make them applicable to Swachh Bharat cess (SBC). The amending notifications are –

- i. **Notification No. 23/2015 - Service Tax, dated 12th November, 2015** which provides that SBC will be payable on

abated value for services covered in the abatement notification 26/2012-ST;

- ii. **Notification No. 24/2015 - Service Tax, dated 12th November, 2015** which provides that the reverse charge notification 30/2012-ST will be applicable, mutatis mutandis, for SBC also;
- iii. **Notification No. 25/2015 - Service Tax, dated 12th November, 2015** which provides a composition rate for SBC as applicable to service tax under sub-rules 7, 7A, 7B and 7C of the Rule 6 of the Service Tax Rules 1994.

3. CLARIFICATION REGARDING LEVIABILITY OF SERVICE TAX IN RESPECT OF SEED TESTING WITH EFFECT FROM 01.07.2012

It has been clarified that all testing and ancillary activities to testing such as seed certification, technical inspection, technical testing, analysis, tagging of seeds, rendered during testing of seeds, are covered within the meaning of 'testing' as mentioned in sub-clause (i) of clause (d) of section 66D of the Finance Act, 1994. Therefore, such services are not liable to Service Tax under section 66B of the Finance Act, 1994. - [Circular No.189/8/2015-Service Tax, dated 26th November, 2015]

4. APPEAL AGAINST AN ORDER OF PROVISIONAL RELEASE UNDER SECTION 110A PASSED BY COMMISSIONER OF CUSTOMS LIES BEFORE THE TRIBUNAL

The issue before the Five Member Larger Bench of the CESTAT was, whether an appeal lies before the Tribunal against the order passed by Commissioner (Customs) under Section 110A of

NOVEMBER 2015

the Customs Act, 1962 for provisional release of the goods or not. The Bench after careful consideration of all applicable and binding precedents and circumstances of reference in the present case, held that the contention that an order or decision by the Adjudicating Authority under Section 110A is administrative or interim in nature is misconceived. Further, that the provisions of Section 129A (1) (a) clearly authorize an appeal against an order or decision by the Adjudicating Authority issued under Section 110A. There is no legal basis to restrict the scope of such appeal in the absence of any restrictive conditions in the provision. - *[M/s Gaurav Pharma Ltd. v. CCE & ST, Rohtak, Delhi, dated 27th November, 2015 (CESTAT)]*

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INTELLECTUAL PROPERTY RIGHTS

1. DRAFT PATENT (AMENDMENT) RULES, 2015

Draft Patent (Amendment) Rules, 2015 has been published by CGPDTM for inviting public comments. - *[Ministry of Commerce and Industry, Department of Industrial Policy and Promotion, dated 26th October, 2015]*

2. DRAFT TRADEMARK (AMENDMENT) RULES, 2015

Draft Trademark (Amendment) Rules, 2015 has been published by CGPDTM for inviting public comments. - *[Ministry of Commerce and Industry, Department of Industrial Policy and Promotion, dated 17th October, 2015]*

3. NO ONE CAN CLAIM TRADEMARK RIGHT ON HOLY BOOKS : SUPREME COURT

The present appeal had been filed by Bihar-based Lal Babu Priyadarshi, who had sought to trademark the word 'Ramayan' to sell incense sticks and perfumes, against the order of the Intellectual Property Appellate Board (IPAB). The Apex Court observed and held that there are many holy and religious books like Quran, Bible, Guru Granth Sahib, Ramayan, etc. The answer to the question as to whether any person can claim the name of a holy or religious book as a trademark for goods or services marketed by him is clearly 'No'. *[Lal Babu Priyadarshi v. Amritpal Singh, dated 27th October, 2015 (SC)]*

CONSUMER

1. ITS BANK RESPONSIBILITY TO DO DUE DILIGENCE BEFORE GRANTING NET BANKING FACILITY: NCDRC

The case pertains to a fraudulent withdrawal of Rs. 1.6 lakhs from the savings bank account of the complainant in April 2006. The amount had been transferred to the account of another customer of the bank through net-banking transaction, but the bank refused to take cognizance of complainant's plea that it was an illegal transfer and that he never used net banking facilities.

At district level the consumer forum accepted the argument of the bank that since the net transaction had taken place using the password known only to the customer, the bank cannot be held accountable. The district level consumer forum paid no attention to his plea that the money had been siphoned off to the account of a person, who was a security guard at the bank earlier, in collusion with a bank employee.

NOVEMBER 2015

The consumer forum at the state level, however, went into the case in detail and found that the bank had acted on an application for net banking facilities that had a forged signature of the complainant. Pointing out that the fraud could not have taken place if the bank manager had shown due diligence, the state commission directed the bank to refund Rs. 1.6 lakhs to the customer, along with interest at rate of 9 per cent and also pay a compensation of Rs. 1 lakh.

In response to the revision petition filed by the bank against this order, the National Consumer Disputes Redressal Commission (NCDRC) examined the signature of the complainant in his account opening form and in the application seeking net banking facilities and found that the two signatures did not tally at all. Commission found the bank to be guilty of negligence. - *[HDFC Bank Ltd v. Swapan Kumar Joardan, 17th November, 2015, (NCDRC)]*

ENVIRONMENT

1. NGT BANS BOTH LEGAL, ILLEGAL SAND MINING ON YAMUNA

The National Green Tribunal (NGT) ordered that no mining activity, both legal and illegal, should be carried out on the banks of river Yamuna till the next date of hearing. The panel was hearing a plea filed by NGT Bar Association in which it was alleged that some land mafias were indulged in illegal sand mining on either side of banks of Yamuna at Gautam Budh Nagar area of Uttar Pradesh and Faridabad area of Haryana. - *[Business Standard, dated 2nd November, 2015]*

2. NGT BARS CONSTRUCTION ON GANGA BANKS IN UTTARAKHAND

NGT in order to protect pollutants from being discharged into the river, virtually barred construction of buildings along the banks of the Ganga in Uttarakhand. It was directed that no corporation, authority or panchayat shall grant permission for construction of building, houses, hotels or any structures within 200 metres of shore of river Ganga at the highest flood line without prior approval from the tribunal. - *[The Hindu, dated 6th November, 2015]*

3. SUPREME COURT STAYS GREEN PANEL'S DIRECTIVE ON CSR ACTIVITIES

The Apex Court has stayed the orders of NGT that had directed automobile dealers of Bhopal to conduct corporate social responsibility (CSR) activities under polluter pays principle without ascertaining loss caused to the environment. As per NGT's orders, errant automobile dealers and service centres in the city were to adopt one civic ward each under CSR and ensure its cleanliness and green cover for flouting environmental norms. Each service centre was asked to construct five toilets, install 15 dustbin containers and plant 250 trees in each of the wards adopted. - *[The Times of India, dated 17th November, 2015]*

4. NOTICE TO CENTRE, STATES OVER HYDEL PROJECTS

As environmentalists continue to protest against hydroelectric projects on rivers across India, the NGT has asked the Centre and all States about their stand on maintaining the minimum necessary downstream flow in the rivers to ensure there is no damage to the aquatic ecology. A plea is moved before the NGT, which sought to maintain a minimum of 15 per cent river flow downstream by hydroelectric projects across India. - *[The Hindu, dated 18th November, 2015]*

NOVEMBER 2015

5. PLEA FOR BAN ON VOLKSWAGEN VEHICLES' SALE

NGT has sought response from the central government and the German automobile firm Volkswagen on a plea seeking a ban on manufacture and sale of its vehicles in the country for allegedly flouting emission norms. The directions came while hearing a plea seeking directions to disallow “manufacturing, assembly and sale” of vehicles manufactured by Volkswagen and its group companies until it is established that they are as per the prescribed norms in India. - *[The Financial Express, dated 30th November, 2015]*

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