



Brahmayya Bulletin

March 2018

Editorial

The close of the financial year has been very eventful. The banking sector is evidencing the so called “NPA clean up” exercise, this fiscal will evidence huge losses.

While the regulators are working hard to control the uncontrollable menace, the PNB scam has created a big furore in the political situation. As professional watchdogs are under scanner, the weaknesses in the system have also been revealed.

The constitution of the National Financial Reporting Authority (NFRA) is said to be aimed to curb the reporting mismanagement, but is there something much more than just the correcting the reporting authority? A big question that never gets answered.

The RBI has also been swift in doing away with certain lending measures to stop this problem.

The continuous improvements, amendments to the Insolvency and Bankruptcy Code and the cabinet nod to the Fugitive Economic Offenders Bill, 2018 would help in laying down measures to deter economic offenders from their attempts to break the law.

SEBI’s attempt to strengthen the corporate governance is gaining good momentum. The Kotak Committee recommendations have been well accepted by SEBI, obviously some in full and some with modifications.

SEBI has also opened up a discussion paper concerning factors affecting the companies under IBC and has agreed to a Public consultation process for amending certain regulations.

The financial closure is going to be very crucial as large number of entities, under Phase II of the Ind AS mechanism would have transitioned to the new reporting standard. With successful implementation last financial year for a class of listed entities, some more listed entities covered under Phase II would conclude their reporting this March.

Interestingly, the MCA has also notified Ind AS 115, dealing with “Revenue from Contracts with Customers” for accounting periods commencing from 1st April 2018.

Happy reading!

Policy Directive order Instruction Update Clarification
Ministry of Corporate Affairs Circular
Rule Enactment Notification Guideline
Framework Update Policy Instruction
Central Board of Direct Taxes
Order Notification Regulation Instruction
Notice Circular Update Notification
Central Board of Excise and Customs
Directive Order Notification Enactment
Pronouncement Announcement Framework Rule
Foreign Exchange Management Act
Instruction Order Clarification Directive Interpretation
Institute of Chartered Accountants of India
Circular Order Clarification Directive Framework
Reserve Bank of India Notification
Announcement Framework Clarification
Notification Order Rule
Instruction Order
Framework Circular
Update

Ministry of Corporate Affairs (MCA)

S.O. E File No.1/4/2016-CL.I Dated 21st March 2018

21st March 2018 has been appointed as the date on which Provisions Section 132 (2) and 132 (11) comes in effect. The said provisions deals with Constitution of National Financial Reporting Authority.

G.S.R.(E) File No 1/4/2016-CL.I – Dated 21st March 2018

National Financial Reporting Authority (Manner of Appointment and Other Terms and Conditions of Service of Chairperson and Members) Rules 2018, is effective from 21st March 2018.

G.S.R.(E) F.No.1/13/2013 CL-V, part-I, Vol.II- Dated 23rd March 2018

Companies (Incorporation) Second Amendment Rules, 2018 has been notified wherein 15 days time has been allowed for rectification of defects for reservation of name. Existing form “RUN” been substituted with new form “RUN”.

General Circular No.02/2018-Dated 28th March 2018

Condonation of Delay Scheme which was originally stated to be upto 31st March 2018 has been extended upto 30th April 2018.

G.S.R.(E) F.No.01/01/2009-CL-V (Part VI)-Dated 28th March 2018

Companies (India Accounting Standards) Amendment Rules 2018 has been notified wherein certain changes has been made in Indian Accounting Standards.

The major amendment being the introduction of Ind AS 115, “Revenue from Contracts with Customers”

For further updates, kindly refer “Our News” section of website.

Insolvency & Bankruptcy Code 2016 (IBC)

IBBI/2017-18/GN/REG027 Dated 27th March 2017

Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2018 is effective from 1st April 2018, where in changes has been prescribed for syllabus format, qualifying marks along with the duties and methodology of registering as Insolvency Professionals.

No. IBB/2017-18/GN/REG/028 – Dated 27th March 2018

Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2018 is effective from 1st April 2018.

Liquidation value has been defined as:-

- Fees Payable to liquidator under Regulation 4.
- Remuneration payable by the liquidator under Regulation 7
- Cost incurred by the liquidator under Regulation 24
- Interest on Interim Finance for a period of 12 months or period from liquidation commencement date till repayment, whichever is lower.

Right has been provided to Liquidator to sell the corporate debtor as going concern.

IBBI/2017-18/GN/REG 029 – Dated 27th March 2018

Amendment has been made in Regulation 42 of Insolvency and Bankruptcy Board of India (Information Utilities) Regulation 2017, which provides that any appeal can be made by information utility within 30 days of receipt of order as per the manner as prescribed in Part III of National Company Law Appellate Tribunal Rules, 2016. Earlier the appeal was filed under the National Company Law Tribunal Rules, 2016.

No.IBBI/2017-18/GN/REG030 – Dated 27th March 2018

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulation, 2018 is effective from 1st April 2018.

Major Amendments are as follows:

- The words “Company Secretaries” has been substituted with Secretarial Auditors in Regulation 3 (1) (c). Any person who is an employee or proprietor or partner of secretarial auditor of the Corporate Debtor will not be considered as Independent.
- Definition of Expenses in Regulation 33 has been amended to include to fees to be paid to Insolvency Professionals Entity, fees to be paid to professional and other expenses to be incurred by Interim Resolution Professional.
- New Regulation 34A has been inserted which require the disclosure of item wise insolvency resolution cost in a manner as required by Board.
- Regulation 35A has been inserted which requires Insolvency Professionals to identify the Resolution Applicant on or before 105th Day from Insolvency Commencement Date.
- Certain changes have been made in Form A, Form B, Form C, Form D, Form E, Form F.

Central Board of Excise and Customs (CBEC) – Customs

Circular No.6/2018-Customs – Dated 16th March 2018

Filing of Export General Manifest apart from filling of shipping bill and GSTR-3B is mandatory requirement for processing refund claim of IGST on Export. To ensure the hassle free processing of refunds claims, guidelines/steps has been issued for the jurisdictional officers in ICDs.

Securities and Exchange Board of India (SEBI)

SEBI/HO/OIAE/IGRD/CIR/P/2018/58 –Dated 26th March 2018

In order to enhance investor satisfaction on complaint redressal, SEBI has put in place a Compliant Review Facility under SCORES. With Effect from 1st August 2018, the procedure will change for filling and redressal of investor grievances using SCORES as follows:-

- Investor has to generate the unique User Id by registering on www.scores.gov.in after providing certain information.
- Login credentials have to be use to lodge the compliant.
- Grievance can be submitted to Company/intermediaries directly by using SCORES and Companies/intermediaries. Company/intermediaries should redress the grievance within 30 days. If Company/intermediaries fails to redress the same, complaint shall be registered in SCORES.

Investors may lodge a compliant on SCORES within a period of 3 years from the cause of complaint where:

- Investor has approached the listed company/ intermediary and was rejected **OR**
- No communication has been received **OR**
- Complainant is not satisfied with reply given to him **OR**
- Redressal action taken by listed Company or intermediary is not satisfactory.

Press Release PR No.09/2018 - Dated 28th March 2018

SEBI Board met at Mumbai and has accepted many suggestions made by Kotak Committee without any modifications relating to the Number of Directorships, Eligibility Criteria for Independent Director, Role of Audit Committee, Nomination and Remuneration Committee, Fund Utilization by way of QIP/Preferential issue, disclosure auditor credentials, audit fees and reasons for auditors' resignations.

Certain recommendations are accepted with modifications which mainly includes Minimum number of directorships, Quorum of Board meetings, Separation of CE/MD and Chairperson etc.

Such modifications will be applicable at first stage for top companies by market Capitalization. It also mandated that the top 500 listed entities have at least one women director by April 2019.

The Board has approved amendments to SEBI (Alternative Investment Funds) Regulations,2012 with respect to "angel funds". Approval has been given to increase the maximum investment by angel funds in venture capital undertaking to Rs. 10 Crore from current Rs. 5 Crore with maximum period of acceptance being extended to 5 years from 3 years. The minimum corpus fund requirement of angel fund has been reduced from 10 Crore to 5 Crore.

Decisions have been taken to revise the enforcement framework for non compliance of listing regulations. Stock Exchanges have been empowered to impose fines and also to freeze shareholding of promoter and promoter group along with shareholding in other securities.

Board has also decided to include the option of distribution of cash benefits like dividends through depositories in addition to the present system of distribution directly by companies.

In order to curb fraud and manipulation of securities, it has been decided that transfer of listed securities will be processed only in dematerialized form. Date of such amendment will be notify later.

SEBI has proposed to ease compliance norms for companies undergoing resolution under the Insolvency and Bankruptcy Code (IBC) framework. A discussion paper has been released to examine various aspects relating to disclosures, trading in stock exchanges, material related party transactions, reclassification of promoters, compliance with minimum public shareholding requirement and ease of norms for delisting pursuant to Resolution plan.

The Board has approved the proposal of Public Consultation Process for review of SEBI (Buy-Back of Securities) Regulations 1998 and SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011. It is also proposed to reframe an entirely new set of Buy-Back Regulations, 2018.

Reserve Bank of India (RBI)

**RBI/2017-18/139 A.P.(DIR Series)
Circular No. 20 – Dated 13th March
2018**

RBI has decided to discontinue the practice of issuing Letters of Undertaking (LOUs) / Letters of Comfort (LoCs) with immediate effect. Authorised Dealer-1 (AD-1) category banks will not be allowed to issue LoCs and LoUs.

Banks may continue to issue letters of credit and bank guarantees for trade credit for imports into India as per the current guidelines applicable.

**RBI/2017-18/138 A.P.(DIR Series)
Circular No.19- Dated 12th March
2018**

Hedging of Commodity Price Risk and Freight Risk in Overseas Markets (Reserve Bank) Directions, 2018 has been issued, which shall come into force from 1st April 2018. The Reserve Bank of India has tightened guidelines for hedging commodity price risks and freight risks in overseas markets by limiting the tenor of all bank instruments in trade finance areas. Banks are permitted to issue SBLC/Guarantee for a maximum period of 1 year. Operational guidelines for banks has been issued for permitting eligible entities to hedge commodity price risk and freight risk overseas. Banks should ensure that these SBLCs/guarantees are used by their clients for the intended purposes only. Under the new directions, commodities whose price risk can be hedged in the case of direct exposure include all commodities except gold, gems and precious stones. Residents (non-individuals) hedging their commodity price risks and freight risks under a specific approval from RBI given under the approval-route based on the previous set of guidelines would be permitted to continue hedging under the said approval till June 30, 2018 or the last date specified in the approval, whichever is earlier.

Foreign Exchange Management Act (FEMA)

**Notification No. FEMA.389/2018-RB-
Dated March 20th March 2018**

Foreign Exchange Management (Cross Border Merger) Regulations, 2018 have been notified and are effective from the date of notification.

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