



04

Regulatory updates



MCA amended CSR provisions under the Companies Act, 2013

Recently, the Ministry of Corporate Affairs (MCA) has notified certain provisions of the Companies (Amendment) Act, 2019¹ relating to Corporate Social Responsibility (CSR) with effect from 22 January 2021. Additionally, MCA has issued certain amendments to the Companies (CSR Policy) Rules, 2014 (CSR Rules). In this section, we discuss the key features of the notified provisions and the amendments to CSR Rules.

As per the notified amendments, a company would be mandatorily required to utilise the unspent amount earmarked for CSR activities, failing which it would be transferred to a fund specified in the Schedule VII of the Companies Act, 2013 (2013 Act). Until a fund is specified in Schedule VII of the 2013 Act, the unspent CSR amount, if any, should be transferred by the company to any fund included in Schedule VII of the 2013 Act².

The notified provisions are as follows:

- **Unspent amount of CSR on ongoing CSR projects (Section 135(6)):**

In case the CSR amount remains unspent pursuant to any ongoing CSR project undertaken by a company as per its CSR policy, then the company should transfer such unspent amount to a special account within a period of 30 days from the end of the Financial Year (FY). The company should spend the amount transferred to the unspent CSR account within a period of three FYs from the date of such transfer as per its obligation towards the CSR policy.

In case it fails to spend the amount within the specified period, it would be required to transfer the same to a fund specified in Schedule VII of the 2013 Act, within a period of 30 days from the date of completion of the third FY.

- **Unspent amount on CSR activities (Section 135(5)):**

In other cases when there is no ongoing project, the unspent amount should be transferred to a fund specified in Schedule VII of the 2013 Act within a period of six months from the expiry of the FY.

- **Revised definitions (Rule 2 of CSR Rules):** The amendments have revised definitions of certain terms relevant to the applicability of CSR provisions under the 2013 Act. These, *inter alia*, include:

- **CSR:** Currently, CSR has been defined³ to include:

- Projects or programs relating to activities, areas or subjects specified in Schedule VII to the 2013 Act
- Projects or programs relating to activities undertaken by the board of directors of a

company in pursuance of recommendations of the CSR committee of the board as per declared CSR policy of the company subject to the condition that such policy will include activities, areas or subjects specified in Schedule VII of the 2013 Act.

Amendment

The amendments have revised the CSR definition under the CSR Rules. As per the revised definition, CSR would mean the activities undertaken by a company in pursuance of its statutory obligation laid down in Section 135 of the 2013 Act but should not include the following:

- Activities undertaken in pursuance of normal course of business of the company
- Any activity undertaken by the company outside India except for training of Indian sports personnel representing any State or Union territory at national level or India at international level
- Contribution of any amount directly or indirectly to any political party
- Activities benefitting employees of the company as defined in Section 2(k) of the Code on Wages, 2019
- Activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services
- Activities carried out for fulfilment of any other statutory obligations under any law in force in India.

The amendments clarify that companies engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for FYs 2020-21, 2021-22, 2022-23. However, certain conditions have to be fulfilled:

- Such research and development activities should be carried out in collaboration with any of the institutes or organisations given under Schedule VII (point (ix)) to the 2013 Act
- Details of such activity should be disclosed separately in the annual report on CSR included in the board's report.

1. The Companies (Amendment) Act, 2019 got the presidential assent on 31 July 2019. The amendments relating to CSR were not notified at that time.

2. Amendments made to the CSR Rules.

3. Definition under the Companies (CSR Policy) Rules, 2014 (CSR Rules).

- *CSR policy*: As per CSR Rules, CSR policy relates to the activities to be undertaken by the company in areas or subjects specified in Schedule VII to the 2013 Act and the expenditure thereon, excluding activities undertaken in pursuance of normal course of business of a company.

Amendment

As per the revised definition, CSR policy would mean a statement containing the approach and direction given by the board of a company, taking into account the recommendations of its CSR committee, and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan.

- *Ongoing project*: A new definition has been included in the CSR Rules on 'ongoing project'. An ongoing project has been defined to mean a multi-year project undertaken by a company in fulfilment of its CSR obligation with timelines not exceeding three years (excluding the FY in which it was commenced). It should also include such project that was initially not approved as a multi-year project but whose duration has been extended beyond one year by the board based on reasonable justification.
- **CSR implementation (Rule 4 of CSR Rules)**: Currently, a company can undertake CSR activities either through itself or through a company/trust/society established under Section 8 of the 2013 Act.

Amendment

As per the amendments, every entity who intends to undertake any CSR activity should register itself with the Central Government (CG) by filing the form CSR-1 electronically with the Registrar of Companies (ROC) with effect from the 1 April 2021. However, the provisions would not apply to the CSR projects or programmes approved prior to 1 April 2021.

Form CSR-1 should be signed and submitted electronically by the entity and should be verified digitally by a Chartered Accountant (CA) in practice, Company Secretary (CS) in practice, or a cost accountant in practice.

Additionally, a company may engage international organisations for designing, monitoring and evaluation of the CSR projects or programmes as per its CSR policy as well as for capacity building of their own personnel for CSR.

The board of a company should satisfy itself that the funds so disbursed have been utilised for the purposes and in the manner as approved by it. It should be certified by the Chief Financial Officer (CFO) or the person responsible for financial management.

- **CSR committee (Rule 5 of CSR Rules)**: Currently, every company required to make a CSR spend should constitute a CSR committee. **The CSR committee is required to institute a transparent monitoring mechanism for implementation of the CSR projects or programs or activities undertaken by the company.**

Amendment

The amendments require a CSR committee to formulate and recommend an annual action plan in pursuance of its CSR policy to the board of directors, which should include the following:

- The list of CSR projects or programmes that are approved to be undertaken in areas or subjects specified in Schedule VII of the 2013 Act
- The manner of execution of such projects or programmes
- The modalities of utilisation of funds and implementation schedules for the projects or programme
- Monitoring and reporting mechanism for the projects or programmes and
- Details of need and impact assessment, if any, for the projects undertaken by the company.

The board of directors may alter such plan at any time during the FY, as per the recommendation of its CSR committee, based on the reasonable justification to that effect.

(Emphasis added to highlight the change)

- **Surplus funds from CSR activities (Rule 7 of CSR Rules)**: As per the amendments, any surplus arising out of the CSR activities would not form part of the business profit of a company and should either be ploughed back into the same project or should be transferred to the unspent CSR account and spent in pursuance of CSR policy and annual action plan of the company. It can also transfer the surplus amount to a fund specified in Schedule VII of the 2013 within a period of six months of the expiry of the FY.
- **Creation/acquisition of an asset (Rule 7 of CSR Rules)**: As per the amendments, the CSR amount may be spent by a company for creation or acquisition of a capital asset, which should be held by:
 - A company established under Section 8 of the 2013 Act, or a registered public trust or registered society with charitable objects and CSR registration number

- b. Beneficiaries of the said CSR project, in the form of self-help groups, collectives, entities or
- c. A public authority⁴.

With respect to the capital asset created by a company prior to the commencement of the Companies (CSR Policy) Amendment Rules, 2021, the company should comply with the prescribed requirement within a period of 180 days from such commencement which may be extended by a further period of up to 90 days with the approval of the board of directors based on reasonable justification.

- **Impact assessment (Rule 8 of CSR Rules):** The amendments requires every company with an average CSR obligation of INR10 crore or more (in the three immediately preceding FYs) to undertake an impact assessment of their CSR projects with outlays of INR1 crore or more and which have been completed not less than one year before undertaking the impact study. The assessment should be done through an independent agency. The impact assessment reports should be placed before the board of directors and should be annexed to the annual report on CSR.
- **New format of annual report on CSR (Annexures to CSR Rules):** The amendments have also introduced a new format for the annual report on CSR activities to be included in the board's report for FY commencing on or after 1 April 2020. It also provides the format of e-form CSR-1 for registration of entities undertaking CSR activities.

Effective date: The amendments are effective from the date of their publication in the official gazette i.e. 22 January 2021 except for filing of form CSR-1 which is effective from 1 April 2021.

(Source: MCA notification no. S.O. 324(E) and notification no. G.S.R. 40(E) dated 22 January 2021)

MCA clarification on spending CSR funds on COVID-19 vaccination programme

The MCA through a circular dated 23 March 2020 has clarified that spending of funds earmarked for CSR for carrying out awareness campaigns/programmes or public outreach campaigns on COVID-19 vaccination programme is an eligible CSR activity under the provisions of the 2013 Act. Companies may undertake these activities subject to the fulfilment of the requirements of the CSR Rules and circulars related to CSR issued by MCA from time to time.

(Source: MCA general circular no. 01/2021 dated 13 January 2021)

4. Public authority means 'public authority' as defined in Section 2(h) of the Right to Information Act, 2005.

MCA issued further relaxations for companies amid COVID-19

Conduct of board meetings through VC

Board meetings to discuss the matters specified in Rule 4 of the Companies (Meetings of Board and its Powers) Rules, 2014 (i.e. those relating to approval of financial statements, board's report, prospectus, etc.) can be held through Video Conferencing (VC) or Other Audio-Visual Means (OAVM) up to 31 June 2021 (earlier allowed up to 31 December 2020)..

(Source: MCA notification no. G.S.R. 806(E) dated 30 December 2020)

Conduct of AGMs through VC

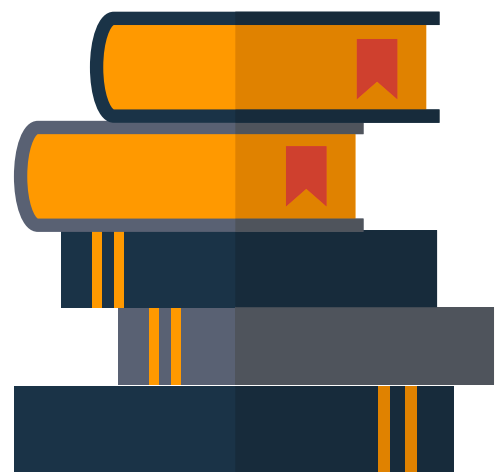
The MCA has allowed companies whose Annual General Meetings (AGMs) were due to be held in the year 2020 or become due in the year 2021 to conduct their AGMs through VC/OAVM on or before 31 December 2021. It has been further clarified that the circular should not be construed as conferring any extension of time for holding of AGMs by the companies under the 2013 Act. Companies which have not adhered to the relevant timelines would remain subject to legal action under the 2013 Act.

(Source: MCA general circular no. 02/2021 dated 13 January 2021)

Conduct of EGMs through VC

The MCA has extended the timeline for conduct of Extraordinary General Meetings (EGMs) by companies through VC/OAVM or transact items through postal ballot up to 30 June 2021 (earlier allowed up to 31 December 2020). These meetings should be conducted in accordance with the framework provided in the circulars dated 8 April 2020, 13 April 2020, 15 June 2020 and 28 September 2020.

(Source: MCA general circular no. 39/2020 dated 31 December 2020)



MCA notified certain provisions of the Companies (Amendment) Act, 2020

Background

The Ministry of Finance introduced the Companies (Amendment) Bill, 2020 (the Bill) which proposed extensive amendments in the 2013 Act. The Bill was passed by the Lok Sabha and Rajya Sabha on 19 September 2020 and 22 September 2020 respectively.

On 30 September 2020, the Companies (Amendment) Act, 2020 (2020 Act) received the assent of the President of India. The 2020 Act incorporates amendments suggested by the Company Law Committee (CLC) in its report.

Recently, the CG has notified certain sections of the 2020 Act effective from 21 December 2020. The notified amendments mainly relate to the following:

- Decriminalisation of certain compoundable offences i.e., rationalisation of 46 compoundable offences and adoption of a principle-based approach to decriminalise the offences and
- Rationalisation of penalties.

For a detailed read, please refer KPMG in India's First Notes on 'MCA notified certain provisions of the Companies (Amendment) Act, 2020' dated 13 January 2021.

New development

Some of the other key amendments notified with effect from 22 January 2021 are as follows:

- **Amendment to definition of listed company (Section 2(52)):** The 2020 Act empowers CG in consultation with the Securities and Exchange Board of India (SEBI) to exclude certain listed companies and private companies with the intention of getting listed certain class of securities, from the category of 'listed companies'.
- **Periodical financial results (Section 129A):** The 2020 Act inserted a new Section 129A relating to requirement of periodical financial results. The section enables CG to prescribe such class or classes of unlisted companies to:
 - a. Prepare periodical financial results in such form (period and form to be prescribed)
 - b. Obtain approval of the board of directors
 - c. Complete audit or limited review of such periodical financial results (manner to be prescribed)
 - d. File a copy with the ROC within 30 days of completion of the relevant period (fees to be prescribed).

- **Exemption from forming a CSR committee (Section 135(9)):** If the amount to be spend by a company on CSR is less than INR50 lakh then a CSR committee is not required to be formed. In this case, the board of directors of such a company would discharge the functions of a CSR committee.
- **Excess CSR spend (Section 135(5)):** The amendments also permit a company which spends an amount in excess of the prescribed amount of two per cent on CSR activities, to set-off excess amount against the requirement to spend for such number of succeeding FYs and in such manner, as may be prescribed. The amendments to the CSR Rules further clarified that the excess amount can be carried forward up to immediately succeeding three FYs. However, following conditions have to be fulfilled:
 - a. The excess amount available for set off should not include the surplus arising out of the CSR activities, if any and
 - b. The board of the company should pass a resolution to that effect.
- **Penalty for non-compliance with CSR provisions (Section 135(7)):** Following penalty provision has been inserted for non-compliance of provisions relating to CSR:
 - a. *On a company:* Twice the amount required to be transferred by the company to the fund specified in Schedule VII of the 2013 Act, the unspent CSR account or INR1 crore whichever is lower, and
 - b. *On every officer in default:* One-tenth of the amount required to be transferred to the fund specified in Schedule VII of the 2013 Act, the unspent CSR account or INR2 lakh, whichever is lower.



Some of the other notified amendments relates to:

Section	Particulars
Section 62(1)	Reduction of timelines for rights issue process
Section 89(11)	Declaration in respect of beneficial interest in any share
Section 117(3)	Resolutions and agreements to be filed with the ROC by the company
Section 393A	CG empowered to exempt any class of foreign companies or companies incorporated or to be incorporated outside India, from any of the provisions of Chapter XXII.
Section 410	Removal of restriction on the appointment of the number of judicial and technical members in the Appellate Tribunal
Section 418A	Constitution of additional benches of NCLAT and related provisions
Section 435	Exclusion of punishment for wrongful withholding of property from the applicability of Section 435 i.e. special courts
Section 446B	Lesser penalties for start-up company, producer company, one-person company or small company
Section 452	Punishment for wrongful withholding of property
Section 454	Adjudication of penalties

Source: MCA notification no. S.O. 4646(E) dated 21 December 2020 and notification no. S.O. 325(E) dated 22 January 2021.

Amendments to the SEBI regulations

Listing Regulations

Background

Currently, a listed company is required to disclose certain events in relation to the Corporate Insolvency Resolution Process (CIRP) of a listed corporate debtor under the Insolvency and Bankruptcy Code, 2016 (the code) with the stock exchanges as deemed material events in accordance with the requirements of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations) (Schedule III- Part A). The events, *inter alia*, include:

- Filing of application by the corporate applicant for initiation of CIRP, also specifying the amount of default
- Admission of application by the Tribunal, along with amount of default or rejection or withdrawal, as applicable
- Any other material information not involving commercial secrets.**

Amendments

SEBI through a notification dated 8 January 2021 has issued certain amendments to the Listing Regulations. The amendments have modified the disclosures relating to material information not involving commercial secrets

under the code. As per the revised requirement, a listed company is now required to disclose specific features and details of the resolution plan as approved by the Adjudicating Authority under the code, not involving commercial secrets, including details such as:

- Pre and post net-worth of the company
- Details of assets of the company post CIRP
- Details of securities continuing to be imposed on the companies' assets
- Other material liabilities imposed on the company
- Detailed pre and post shareholding pattern assuming 100 per cent conversion of convertible securities
- Details of funds infused in the company, creditors paid-off
- Additional liability on the incoming investors due to the transaction, source of such funding, etc.
- Impact on the investor – revised Price-Earnings (P/E), Return on Net Worth (RONW) ratios, etc.
- Names of the new promoters, key managerial persons(s), if any and their past experience in the business or employment. In case where promoters are companies, history of such company and names of natural persons in control
- Brief description of business strategy.

Additional disclosures to be made by a listed company are as follows:

- a. Proposed steps to be taken by the incoming investor/acquirer for achieving the Minimum Public Shareholding (MPS)
- b. Quarterly disclosure of the status of achieving the MPS
- c. The details as to the delisting plans, if any approved in the resolution plan.

Effective date: The amendments are effective from the date of their publication in the official gazette i.e. 8 January 2021.

(Emphasis added to the highlight the change)

(Source: SEBI notification no. SEBI/LAD-NRO/GN/2021/02 dated 8 January 2021)

ICDR Regulations

SEBI through a notification dated 8 January 2021 has issued certain amendments to the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations). The key amendments are as follows:

- **Additional exemption from minimum promoter's contribution (Regulation 112):** Currently, requirements of minimum promoters' contribution is not applicable in the following cases:
 - a. An issuer which does not have any identifiable promoter
 - b. The equity shares of the issuer are frequently traded on a stock exchange for a period of at least three years and the issuer has a track record of dividend payment for at least three immediately preceding years.**

Amendment

The amendments have modified the exemption given to an issuer whose equity shares are frequently traded on a stock exchange from minimum promoter's contribution. As per the revised requirement, minimum promoter's contribution will not be applicable in case where the equity shares of the issuer are frequently traded on a stock exchange for a period of at least three years immediately preceding the reference date and the issuer is in compliance with the following conditions:

- a. The issuer has redressed at least 95 per cent of the complaints received from investors till the end of the quarter immediately preceding the reference date.

- b. The issuer has been in compliance with the Listing Regulations for a minimum period of three years immediately preceding the reference date.

In case an issuer has not complied with the provisions of the Listing Regulations relating to composition of board of directors for any quarter during the last three years immediately preceding the date of filing draft offer document/offer document, but has complied with the same at the time of filing of document with adequate disclosures about such non-compliances (during the three years immediately preceding the date of filing the draft offer document/offer document) being made in the offer document, then the issuer will be deemed to have complied with the said condition.

- **Lock-in period for equity shares issued pursuant to any resolution of stressed assets (Regulation 167(4)):** Currently, equity shares issued on a preferential basis pursuant to any resolution of stressed assets under a framework specified by the Reserve Bank of India (RBI) or a resolution plan approved by the NCLT under the Insolvency and Bankruptcy Code, 2016 should be locked-in for a period of one year from the trading approval.

Amendment

As per the amendments, the above lock-in provision will not be applicable to the specified securities to the extent to achieve 10 per cent public shareholding.

Effective date: The amendments are effective from the date of their publication in the official gazette i.e. 8 January 2021.

(Emphasis added to the highlight the change)

(Source: SEBI notification no. SEBI/LAD-NRO/GN/2021/03 dated 8 January 2021)



FAQs on disclosure of information related to forensic audit of listed companies

Background

SEBI through a notification dated 8 October 2020 required companies with listed specified securities (i.e. equity shares and convertible securities) to make following disclosures to the stock exchange(s) as deemed to be material events, in case of initiation of forensic audit (by whatever name called):

- a. The fact of initiation of forensic audit along-with name of entity initiating the audit and reasons for the same, if available
- b. Final forensic audit report (other than for forensic audit initiated by regulatory/enforcement agencies) on receipt by the listed entity along with comments of the management, if any.

New development

Recently, SEBI has issued certain clarifications relating to the application of the said disclosures by listed companies in the form of Frequently Asked Questions (FAQs). The clarifications are as follows:

- **Scope of forensic audits:** Forensic audits would refer to those audits (by whatever name called), which are initiated with the objective of detecting any misstatement in financials, misappropriation/ siphoning or diversion of funds. It does not seek to cover disclosure of audit of matters such as product quality control practices, manufacturing practices, recruitment practices, supply chain process including procurement and matters that would not require any revision to the financial statements disclosed by the listed company.
- **Disclosure of initiation of forensic audit:** The fact of initiation of any forensic audit, (or an audit by whatever name called), by the management of listed company, lenders, regulatory/enforcement agencies are required to be disclosed.
- **Applicability:** The new requirement is applicable prospectively and applies to all audits which are initiated and audit reports which are finalised after 8 October 2020.
- **Exclusions:** In the disclosure of the final forensic audit report, any personally identifiable information including names of individuals and commercially sensitive information, if any, may be expunged.

(Source: FAQs by SEBI dated 27 November 2020)

SEBI issued further relaxations amid COVID-19

- **Requirement of sending physical copies of annual report to shareholders:** Regulations 36 and Regulation 58 of the Listing Regulations requires listed companies to send their annual reports to the shareholders in the following manner:
 - a. Soft copy of full annual report to shareholders who have registered their email address(es)
 - b. Hard copy of statement containing salient features of all the documents, as prescribed in Section 136 of the 2013 Act to the shareholders who have not registered their email addresses and
 - c. Hard copies of full annual reports to those shareholders, who request for the same.

Relaxation

SEBI has exempted listed companies from sending hard copies of annual reports/statement of salient features to their members up to 31 December 2021.

- **Requirement of proxy for general meetings:** Regulation 44(4) of the Listing Regulations requires a listed company to send proxy forms to holders of securities in all cases mentioning that a holder may vote either for or against a resolution.

Relaxation

The requirement of sending proxy forms has been temporarily dispensed with up to 31 December 2021, in case of meetings held through electronic mode.

(Source: SEBI circular no. SEBI/HO/CFD/CMD2/CIR/P/2021/11 dated 15 January 2021)

- **Creation of security in issuance of listed debt securities and due diligence by debenture trustees:** SEBI through its circular dated 3 November 2020 has issued guidelines with respect to creation of security in issuance of listed debt securities and performance of due diligence by debenture trustee(s) pursuant to the amendments to the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 and SEBI (Debenture Trustees) Regulations, 1993. The guidelines were made applicable from 1 January 2021.

Relaxation

In view of the challenges arising out of the prevailing business and market conditions due to COVID-19, SEBI has decided to extend the implementation date of the provisions of the said circular to 1 April 2021.

(Source: SEBI circular no. SEBI/HO/MIRSD/CRADT/ CIR/P/2020/254 dated 31 December 2020)

Risk based internal audit framework for banks

Background

Currently, banks are required to put in place a Risk-Based Internal Audit (RBIA) system as part of their internal control framework that relies on a well-defined policy for internal audit, functional independence with sufficient standing and authority within the bank, effective channels of communication, adequate audit resources with sufficient professional competence, among others. The requirement has been laid down in the Guidance Note on Risk-Based Internal Audit issued by RBI in 2002.

The guidance note lays the basic approach for risk based internal audit functions. Banks are expected to re-orient their approach, in line with the evolving best practices, as a part of their overall governance and internal control framework. Banks are also encouraged to adopt the International Internal Audit standards, like those issued by the Basel Committee on Banking Supervision (BCBS) and the Institute of Internal Auditors (IIA).

New development

With a view to bring uniformity in approach followed by the banks and to align the expectations on internal audit function with the best practices, on 7 January 2021, RBI through a notification has issued certain guidelines for the banks. The guidelines, *inter alia*, relates to:

- **Authority, stature and independence:** The internal audit function must have sufficient authority, stature, independence and resources within the bank, thereby enabling internal auditors to carry out their assignments with objectivity. Accordingly, the head of internal audit should be a senior executive of the bank who should have the ability to exercise independent judgement.

- **Competence:** Banks should ensure that internal audit function has the requisite skills to audit all areas of the bank.
- **Staff rotation:** The board should prescribe a minimum period of service for staff in the internal audit function. The board may also examine the feasibility of prescribing at least one stint of service in the internal audit function for the staff possessing specialised knowledge useful for the audit function, but who are posted in other departments, so as to have adequate skills for the staff in the internal audit function.
- **Remuneration:** The remuneration policies should be structured in a way that it avoids creating conflict of interest and compromising audit's independence and objectivity.
- **Others:** The internal audit function should not be outsourced. However, where required, experts, including former employees, could be hired on contractual basis subject to the Audit Committee of Board (ACB) being assured that such expertise does not exist within the audit function of the bank. Ownership of audit reports in all cases should rest with regular functionaries of the internal audit function.

Additionally, banks must ensure and demonstrate that their risk-based internal audit framework captures all the significant criteria/principles suited for their organisational structure, the business model and the risks through proper documentation.

Effective date: The guidelines are effective from 7 January 2021.

(Source: RBI notification no. RBI/2020-21/83 dated 7 January 2021)



Extension of due dates of submitting IT returns and audit reports

The Ministry of Finance through a press release dated 30 December 2020 has further extended the due dates for submission of Income-Tax (IT) returns, declaration under Vivad Se Vishwas Scheme and payment of self-assessment tax as follows:

Extension of due date of IT returns for Assessment Year (AY) 2020-21

- a. For the taxpayers (including their partners) who are required to get their accounts audited and companies (whose due date under Section 139(1) of the IT Act was 31 October 2020), the due date has been extended to 15 February 2021 (earlier 31 January 2021).
- b. For the taxpayers who are required to furnish report in respect of international/specified domestic transactions (whose due date under Section 139(1) of the IT Act was 30 November 2020), the due date has been extended to 15 February 2021 (earlier 31 January 2021).

Declaration under Vivad Se Vishwas Scheme

The last date for making a declaration under Vivad Se Vishwas Scheme has been extended to 31 January 2021 (earlier 31 December 2020). Further, the date of passing orders under Vivad Se Vishwas Scheme, which are required to be passed by 30 January 2021 has been extended to 31 January 2021.

Others

- a. The date for passing an order or issuance of notice by the authorities under the Direct Taxes and Benami Acts which are required to be passed/ issued/made by 30 March 2021 has been extended to 31 March 2021.
- b. The due date for payment of self-assessment tax for taxpayers (with self-assessment tax liability up to INR1 lakh) who are required to get their accounts audited and those who are required to furnish report in respect of international/specified domestic transactions has been extended to 15 February 2021 (earlier 31 January 2021).
- c. The due date for furnishing an annual return under Section 44 of the Central Goods and Service Tax Act, 2017 for the FY2019-20 has been extended to 28 February 2021 (earlier 31 December 2020).

(Source: Press release by Ministry of Finance dated 30 December 2020)

ICAI publications

Technical guide on the provisions of independent directors from corporate governance perspective

Recently, the Institute of Chartered Accountants of India (ICAI) has issued a technical guide on the 'provisions of independent directors from corporate governance perspective'. The guide aims to provide comprehensive guidance on the role, responsibilities, duties and powers of independent directors with regard to the 2013 Act, Listing Regulations and various other laws. The guide also covers specific issues and questions that should be considered in a performance evaluation of the entire board by independent directors/parameters for evaluation of board of directors/performance evaluation of independent director/self-appraisal checklist.

(Source: Technical guide on the provisions of independent directors from corporate governance perspective issued by ICAI in January 2021)

Technical guide on charges - registration, modification and satisfaction under the Companies Act, 2013 and LLP Act, 2008

Every company creating a charge on its property, assets or any of its undertakings (whether tangible or otherwise) is required to register the particulars of the charge with the ROC within a prescribed period in accordance with the provisions of the 2013 Act. Any modification or satisfaction of the same also need to be intimated by the company to ROC. Any delay or failure to adhere the requirements attracts penal consequences.

In order to facilitate the understanding, interpretation and procedural formalities relating to creation, modification and satisfaction of charge, recently, ICAI has issued a technical guide on 'charges-registration, modification and satisfaction under the 2013 Act and LLP Act, 2008'. The publication outlines the procedural aspects involved in registration of charges.

(Source: Technical guide on charges - registration, modification and satisfaction under the Companies Act, 2013 and LLP Act, 2008 issued by ICAI in January 2021)

Educational material on Ind AS 23

On 27 January 2021, ICAI issued an educational material on Ind AS 23, *Borrowing Costs*. The publication provides guidance on the implementation of the standard for recognising the borrowing costs incurred by entities in the form of Frequently Asked Questions (FAQs). It also highlights major differences between Ind AS 23 and AS 16/IAS 23, *Borrowing Costs*.

(Source: Educational material on Ind AS 23 issued by ICAI on 27 January 2021)

Handbook on audit of CSR activities

Recently, ICAI has released a 'Handbook on audit of CSR activities' which provide detailed guidance on the auditing aspects of CSR spends. The handbook also incorporates relevant provisions of the 2013 Act and reporting requirements under the Companies (Auditor's Report) Order, 2020 (CARO 2020) relating to CSR.

(Source: Handbook on audit of CSR activities issued by ICAI in December 2020)

FASB issued an update clarifying the scope of Topic 848 - Reference rate reform

The Financial Accounting Standards Board (FASB) has recently issued an Accounting Standards Update (ASU) that clarifies the scope of the Topic 848, *Reference Rate Reform*. The amendments in the ASU clarified that certain optional expedients and exceptions in Topic 848 for contract modifications and hedge accounting will apply to derivatives that are affected by the discounting transition. Specifically, certain provisions in Topic 848, if elected by an entity, will apply to derivative instruments that use an interest rate for margining, discounting or contract price alignment that is modified as a result of reference rate reform. The amendments in the ASU to the expedients and exceptions in Topic 848 also capture the incremental consequences of the scope clarification and tailor the existing guidance to derivative instruments affected by the discounting transition.

The amendments are elective and applies to all entities that have derivative instruments that use an interest rate for margining, discounting, or contract price alignment that is modified as a result of reference rate reform. The amendments also optionally apply to entities that designate receive-variable rate, pay-variable-rate cross-currency interest rate swaps as hedging instruments in net investment hedges that are modified as a result of reference rate reform.

Effective date: An entity may elect to apply the amendments on a full retrospective basis as of any date from the beginning of an interim period that includes or is subsequent to 12 March 2020. An entity may also apply the amendments on a prospective basis to new modifications from any date within an interim period that includes or is subsequent to the date of the issuance of a final update, up to the date that financial statements are available to be issued.

If an entity elects to apply any of the amendments for an eligible hedging relationship, any adjustments as a result of those elections must be reflected as of the date the entity applies the election.

The amendments do not apply to:

- a. Contract modifications made after 31 December 2022
- b. New hedging relationships entered into after 31 December 2022 and
- c. Existing hedging relationships evaluated for effectiveness in periods after 31 December 2022, except for hedging relationships existing as of 31 December 2022, that apply certain optional expedients in which the accounting effects are recorded through the end of the hedging relationship (including periods after 31 December 2022).

(Source: ASU no. 2021-01 issued by FASB in January 2021)