



BMC Advisors



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WEEKLY UPDATES

JUNE 12TH, 2017 – JUNE 18TH, 2017

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MCA UPDATE

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRA-ORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
Notification

New Delhi, dated the 13th June, 2017

G.S.R. (E). – In exercise of the powers conferred by clauses (a) and (b) of sub-section (1) of section 462 and in pursuance of sub-section (2) of section 462 of the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act), the Central Government, in the interest of public, hereby amends the notification of the Government of India, in the Ministry of Corporate Affairs, *vide* number G.S.R. 463(E) dated the 5th June, 2015 published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), dated the 5th June 2015 (hereinafter referred to as the principal notification), namely:-

2. In the principal notification, in the Table, for serial number 5 and the entries relating thereto, the following serial number and the entries relating thereto shall be substituted, namely:-

(1)	(2)	(3)
"5.	Chapter VII, sub-section (2) of section 96.	In sub-section (2), for the words "such other place as the Central Government may approve in this behalf", the words "such other place within the city, town or village in which the registered office of the company is situate or such other place as the Central Government may approve in this behalf" shall be substituted."

3. In the principal notification, in the Table, for serial number 15 and the entries relating thereto, the following serial number and the entries relating thereto shall be substituted, namely:-

(1)	(2)	(3)
"15.	Chapter XI, sub-sections (6) and (7) of section 152.	Shall not apply to – (a) a Government company, which is not a listed company, in which not less than fifty-one per cent. of

1

		<p>paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments;</p> <p>(b) a subsidiary of a Government company, referred to in (a) above."</p>
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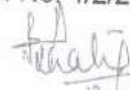
4. In the principal notification, in the Table, after serial number 29, the following serial number and the entries relating thereto shall be inserted, namely:-

(1)	(2)	(3)
"29A.	Chapter XV, sections 230 to 232.	For the word "Tribunal", wherever it occurs, the words "Central Government" shall be substituted."

5. In the principal notification, after paragraph 2, the following paragraph shall be inserted, namely:-

"2A. The exceptions, modifications and adaptations provided in column (3) of the aforesaid Table shall be applicable to a Government company which has not committed a default in filing its financial statements under section 137 of the said Act or annual return under section 92 of the said Act with the Registrar."

[F. No. 1/2/2014-CL-V]



13/06/2015

(Amardeep Singh Bhatia)

Joint Secretary to the Government of India

Note:- 1. A copy of this notification has been laid in draft before both Houses of Parliament as required by sub-section (2) of section 462 of the said Act.

2. The principal notification was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i) *vide* number G.S.R. 463(E) dated the 5th June, 2015.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRA-ORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
Notification

New Delhi, dated the 13th June, 2017

G.S.R. (E). – In exercise of the powers conferred by clauses (a) and (b) of sub-section (1) of section 462 and in pursuance of sub-section (2) of section 462 of the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act), the Central Government, in the interest of public, hereby amends the notification of the Government of India, in the Ministry of Corporate Affairs, *vide* number G.S.R. 464(E) dated the 5th June, 2015 published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), dated the 5th June 2015 (hereinafter referred to as the principal notification), namely:-

2. In the principal notification, in the Table, the existing serial number 1 and the entries relating thereto shall be re-numbered as serial number 1-A, and before the serial number 1A as so re-numbered and the entries relating thereto, the following serial number and the entries relating thereto shall be inserted, namely:-

(1)	(2)	(3)
*1.	Chapter 1, clause (40) of section 2.	<p>For the proviso, the following shall be substituted, namely:-</p> <p>Provided that the financial statement, with respect to one person company, small company, dormant company and private company (if such private company is a start-up) may not include the cash flow statement;</p> <p>Explanation. - For the purposes of this Act, the term 'start-up' or "start-up company" means a private company incorporated under the Companies Act, 2013 (18 of 2013) or the Companies Act, 1956 (1 of 1956) and recognised as start-up in accordance with the notification issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry."</p>

3. In the principal notification, in the Table, for serial number 6 and the entries relating thereto, the following serial number and the entries relating thereto shall be substituted, namely:-

(1)	(2)	(3)
"6.	Chapter V, clauses (a) to (e) of sub-section (2) of section 73.	<p>Shall not apply to a private company-</p> <p>(A) which accepts from its members monies not exceeding one hundred per cent. of aggregate of the paid up share capital, free reserves and securities premium account; or</p> <p>(B) which is a start-up, for five years from the date of its incorporation; or</p> <p>(C) which fulfils all of the following conditions, namely:-</p> <p style="padding-left: 40px;">(a) which is not an associate or a subsidiary company of any other company;</p> <p style="padding-left: 40px;">(b) if the borrowings of such a company from banks or financial institutions or any body corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower; and</p> <p style="padding-left: 40px;">(c) such a company has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under this section:</p> <p>Provided that the company referred to in clauses (A), (B) or (C) shall file the details of monies accepted to the Registrar in such manner as may be specified."</p>

4. In the principal notification, in the table, after serial number 6 and the entries relating thereto, the following serial numbers and the entries shall be inserted, namely:-

(1)	(2)	(3)
"6A.	Chapter VII, clause (g) of sub-	Shall apply to private companies which are small companies, namely:-

	section (1) of section 92	"(g) aggregate amount of remuneration drawn by directors;"
6B.	Chapter VII, proviso to sub-section (1) of section 92	For the proviso, the following proviso shall be substituted, namely:- Provided that in relation to One Person Company, small company and private company (if such private company is a start-up), the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company."

5. In the principal notification, after serial number 9, the following serial number and the entries relating thereto shall be inserted, namely:-

(1)	(2)	(3)
"9A.	Chapter X, clause (i) of sub-section (3) of section 143.	Shall not apply to a private company:- (i) which is a one person company or a small company; or (ii) which has turnover less than rupees fifty crores as per latest audited financial statement or which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less than rupees twenty five crore."

6. In the principal notification, after serial number 11, the following serial numbers and the entries relating thereto shall be inserted, namely:-

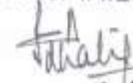
(1)	(2)	(3)
"11A.	Chapter XII, sub-section (5) of section 173.	For sub-section (5), the following sub-section shall be substituted, namely:- (5) A One Person Company, small company, dormant company and a private company (if such private company is a start-up) shall be deemed to have complied with the provisions of this section if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap between the two meetings is not less than ninety days:

		Provided that nothing contained in this sub-section and in section 174 shall apply to One Person Company in which there is only one director on its Board of Directors.
11B.	Chapter XII, sub-section (3) of section 174.	Shall apply with the exception that the interested director may also be counted towards quorum in such meeting after disclosure of his interest pursuant to section 184."

7. In the principal notification, after paragraph 2, the following paragraph shall be inserted, namely:-

"2A. The exceptions, modifications and adaptations provided in column (3) of the aforesaid Table shall be applicable to a private company which has not committed a default in filing its financial statements under section 137 of the said Act or annual return under section 92 of the said Act with the Registrar."

[F. No. 1/1/2014-CL-V]



13/06/2017

(Amardeep Singh Bhatia)
Joint Secretary to the Govt of India

- Note:** - 1. A copy of this notification has been laid in draft before both Houses of Parliament as required by sub-section (2) of section 462 of the said Act.
2. The principal notification was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i) *vide* number G.S.R. 464(E) dated the 5th June, 2015.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRA-ORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
Notification

New Delhi, dated the 13th June, 2017

G.S.R. (E). – In exercise of the powers conferred by clauses (a) and (b) of sub-section (1) of section 462 and in pursuance of sub-section (2) of section 462 read with section 8 of the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act), the Central Government, in the interest of public, hereby amends the notification of the Government of India, in the Ministry of Corporate Affairs, *vide* number G.S.R. 466(E) dated the 5th June, 2015 published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), dated the 5th June 2015 (hereinafter referred to as the principal notification), namely:-

2. In the principal notification, in the Table, for serial number 8 and the entries relating thereto, the following serial number and the entries relating thereto shall be substituted, namely:-

(1)	(2)	(3)
*8	Clause (b) and first proviso to sub-section (1) of section 149.	Shall not apply."

3. In the principal notification, in the Table, after serial No. 19, the following serial number and the entries relating thereto shall be inserted, namely:-

(1)	(2)	(3)
*19A.	Sub-section (7) of section 186.	In sub-section (7), the following proviso shall be inserted, namely:- Provided that nothing contained in this sub-section shall apply to a company in which twenty-six per cent. or more of the paid-up share capital is held by the Central Government or one or more State Governments or both, in respect of loans provided by such company for funding Industrial

		Research and Development projects in furtherance of its objects as stated in its memorandum of association."
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4. In the principal notification, after paragraph 2, the following paragraph shall be inserted, namely:-

"2A. The exceptions, modifications and adaptations provided in column (3) of the aforesaid Table shall be applicable to a company covered under section 8 of the said Act which has not committed a default in filing its financial statements under section 137 or annual return under section 92 of the said Act with the Registrar."

[F. No. 1/2/2014-CL-I]


13/06/2017
(Amardeep Singh Bhatia)

Joint Secretary to the Government of India

Note: - 1. A copy of this notification has been laid in draft before both Houses of Parliament as required by sub-section (2) of section 462 of the said Act.
2. The principal notification was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i) *vide* number G.S.R. 466(E) dated the 5th June, 2015.

SEBI UPDATE

CIRCULAR

SEBI/HO/CDMRD/DMP/CIR/P/2017/55

June 13, 2017

To,
**The Managing Directors / Chief Executive Officers
All Commodity Derivatives Exchanges**

Dear Sir / Madam,

Sub: Options on Commodity Futures- Product Design and Risk Management Framework

1. In consultation with Commodity Derivatives Advisory Committee (CDAC), SEBI vide Circular SEBI/HO/CDMRD/DMP/CIR/P/104 dated September 28, 2016 decided that Commodity Derivatives Exchanges shall be permitted to introduce trading in options. This circular is hereby being issued to stipulate necessary guidelines with regard to the product design and risk management framework to be adopted for trading in options on commodity futures.

2. The product design and risk management framework would be in conformity with the guidelines prescribed in **Annexure 1** enclosed with this circular.

3. **Eligibility criteria for selection of underlying Commodity Futures for Options:** Options would be permitted for trading on a commodity derivatives exchange only on those commodity futures as underlying, which are traded on its platform and satisfy both the criteria specified below on the respective exchange:

a. The underlying 'Futures contracts' on the corresponding commodity shall be amongst the top five futures contracts in terms of total trading turnover value of previous twelve months;

b. The average daily turnover of underlying futures contracts of the corresponding commodity during the previous twelve months, shall be at least :

I. INR 200 crore for agricultural and agri-processed commodities

II. INR 1000 crore for other commodities.

4. It is decided that initially, on a pilot basis each exchange shall be allowed to launch options on futures of only one commodity that meets the criteria prescribed above.

5. The Commodity derivatives exchanges willing to start trading in options contracts shall take prior approval of SEBI for launching such contracts.

6. The circular shall be effective from the date of this circular.

7. The Exchanges are advised to:

i. take steps to make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the same,

ii. bring the provisions of this circular to the notice of the members of the Exchange and also to disseminate the same on their website,

iii. communicate to SEBI, the status of the implementation of the provisions of this circular

8. This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

9. This circular is available on SEBI website www.sebi.gov.in under the category “**Circulars**” and “**Info for Commodity Derivatives**”.

Yours faithfully,
Vikas Sukhwai
Deputy General Manager
Division of Market Policy
Commodity Derivatives Market Regulation Department
Email: vikass@sebi.gov.in

For annexure: http://www.sebi.gov.in/legal/circulars/jun-2017/options-on-commodity-futures-product-design-and-risk-management-framework_35096.html

CIRCULAR

CIR/CDMRD/DEICE/CIR/P/2017/53

June 13, 2017

To,
The Managing Directors / Chief Executive Officers
All National Commodity Derivatives Exchanges

Sir/Madam,

Subject: Comprehensive guidelines for Investor Protection Fund, Investor Service Fund and its related matters at National Commodity Derivatives Exchanges

1. SEBI, vide its circular no SEBI/HO/CDMRD/DEICE/CIR/P/2016/94 dated September 26, 2016, consolidated various norms and guidelines relating to Investor Protection Fund, issued by the erstwhile FMC, applicable to the National Commodity Derivatives Exchanges (herein after referred to as Exchanges).

2. With the objective to align with the practices in securities markets, based on the internal deliberations, discussions and feedback as received from the National Commodity Derivatives Exchanges, it has been decided to modify certain clauses in the aforesaid circular as under :

Constitution and management of the IPF

a) Clause 3.2. shall be substituted the following -

3.2. The IPF Trust of the exchange shall have maximum 5 trustees. The IPF Trust shall consist of three public interest directors, one representative from investor associations recognized by SEBI and the compliance officer of the exchange. The maximum tenure of a trustee (excluding the compliance officer of the exchange, whose trusteeship would be co-terminus with the service) shall be five years or as specified by SEBI.

b) Clause 3.3. and 3.6. shall be deleted

Contribution to the IPF

c) Clause 4.1. shall be substituted the following-

4.1. All the penalties levied and collected by the exchange, except for the settlement related penalties (including penalties from delivery default), shall be credited of the IPF.

4.2. 1% of the turnover fee charged by the exchange from its members/brokers or ten lakh whichever is higher in a financial year.

Eligibility of claims

d) Clause 6.2. shall be substituted the following-

6.2. If any eligible claim arises within three years from the date of expiry of the specified period, such claim

i. shall be considered eligible for compensation from IPF/CPF in case where the defaulter member's funds are inadequate. In such cases, IPF/CPF Trust shall satisfy itself that such claim could not have been filed during the specified period for reasons beyond the control of the claimant.

ii. shall not be considered eligible for compensation from IPF/CPF in case where the surplus funds of the defaulter member is returned to the defaulter member. The same shall be borne by the exchanges after scrutinizing and satisfying itself that such claim could not have been filed during the specified period for reasons beyond the control of the claimant.

Provided that any claim received after three years from the date of expiry of the specified period may be dealt with as a civil dispute.

e) Clause 6.3. shall be deleted

f) Clause 6.4. shall be substituted the following-

6.4. The investor claim arising out of a default of a broker/member of the exchange shall be eligible for compensation from IPF.

Determination of legitimate claims

g) Clause 7.1. and 7.2. shall be substituted as following-

7.1. In case of claims against a defaulter member, the claims of the claimant shall be placed before the defaulters' committee for sanction and ratification. The Defaulters' Committee's advice with respect to legitimate claims shall be sent to IPF Trust for disbursement of the amount.

7.2. In case the claim amount is more than the maximum limit for compensation under IPF or the amount sanctioned and ratified by the Defaulters Committee is less than the claim amount, then the investor may prefer for arbitration mechanism for claim of the balance amount.

h) Clause 7.3. shall be inserted the following-

7.3. In the event of default by the member, all transactions executed on the exchange platform shall be eligible for settlement from IPF subject to the appropriate norms laid down by the defaulters' committee. The IPF of the exchange shall be utilized for the clients of SEBI registered members. However, the said amount shall not be more than the maximum limit as prescribed at all time.

Threshold limit for claims

i) Clause 8.1 and 8.2 shall be substituted the following:

8.1. The Exchanges are free to fix suitable compensation limits, in consultation with IPF trust. However, the amount of compensation available against a single claim of an investor arising out of defaulter by a member broker shall not be less than Rs 1 lakh.

8.2. The exchanges in consultation with IPF Trust, shall review and progressively incase the amount of compensation available against a single claim from an investor at least every three year.

j) Clause 8.3 shall be deleted

Disbursement of Claims from the IPF

k) Clause 9.2. and 9.3. shall be substituted the following:

9.2. The compensation shall be disbursed to the investor from the IPF in case there is a shortage of defaulter broker's assets after its realization.

9.3. The Exchange shall ensure that the amount realized from the assets of the defaulter member is returned to the defaulter member after satisfying the claims of the exchanges and SEBI in accordance with the bye-laws of the exchange.

Provided that in case of a member broker having membership on multiple exchanges, amount realized from the assets of the defaulter member shall be returned to the said member only after satisfying eligible claims of the concerned exchange, SEBI, and other exchanges as the case may be. Provided further that in cases where any litigations are pending against the defaulter member, the residual amount, if any, may be retained by the exchange until such litigations are concluded."

3. The IPF Trust shall disburse the compensation to the investors as and when claims have been crystallized against a defaulter member. The IPF Trust need not wait for realization of assets of the defaulter member for disbursement of the claims. Upon receipt of advice of defaulter's committee, for payment, the IPF Trust shall take necessary steps for disbursement of amount at the earliest.

4. Exchanges shall periodically review the sources of fund and eligible compensation amount so as to recalibrate the fund to make suitable recommendation for enhancement.

Income earned on IPF and its Utilization:

5. The exchange may utilize income earned on the corpus of IPF towards promotion of investor education and awareness programmes through seminars, lectures, workshops, publications (print and electronic media), training programs etc. to enhance literacy and to promote participation in the commodity derivatives market or any other mandated purpose. Capital expenditure would be permissible only w.r.t. setting up of Investor Service Centre. However, no expenditure to be incurred on product promotion in any manner. However, in case of non-utilization of the said income in the same financial year for the mandated purpose, the same shall be ploughed back to IPF. In addition to above, the income earned on the IPF corpus may be utilized in other manner as prescribed/permitted by SEBI in the interest of investors from time to time.

6. In order to ensure effective utilization of income earned on IPF, supervision of utilization of interest on IPF will rest with the IPF Trust of the exchange.

Investor Service Fund (ISF)

7. Exchanges are mandated to set up Investor Service Fund (ISF) for providing following basis minimum facilities at various Investor Service Centers (ISC).

- a. The ISC shall provide 4 financial newspapers with at least one in the Regional language.
- b. The ISC shall install computer software (marketed by some vendors) which provide information about various commodities (agri and non agri) including research reports, general, financial & other important commodity related information. The information will be made available through computers with one master terminal and some dummy terminals through which investors could access this information. Other facilities like copying will be made available to the investors at minimum cost.
- c. The ISC shall provide facilities for receiving/recording investor complaints. Special staff recruited/deployed by the exchange for this purpose will register the complaints and provide counseling service to the investors. Status of complaints will be maintained and updated in the computer system of the Center.
- d. The ISC shall provide for other infrastructure facilities such as telephone, photocopier, furniture, sitting space, internet connection having access to various directions / circulars issued by SEBI and Government agencies etc.
- e. The ISC shall provide published commodity related materials of exchanges for the benefit of the investors. It should also provide the pamphlets / brochures detailing the rights and obligation of investors while dealing with brokers in commodity markets, FAQ's etc.
- f. The ISC shall provide for dummy terminals to display the prices of the commodities listed on the exchange on real-time basis, to enable investors watch the price movements of the commodities etc.
- g. The ISC shall maintain a library on relevant laws, financial analysis, market trend analysis etc. for the education of the investors.
- h. The ISC shall conduct various investor education and investor awareness programs through seminars, lectures, workshops, publications (print and electronic media), training programs etc. enhance literacy and promoting participation in the commodity derivatives market.

Contribution to ISF

a. At initial stage, the exchange shall contribute a minimum of Rs Ten Lakhs towards setting up of Investor Service Fund (ISF). Subsequently, onwards, the Exchanges shall transfer the 1% percent of the turnover fees charged by the exchange from its members on monthly basis towards ISF within 7 days of the end of the month, subject to minimum of Rs Ten Lakh in a financial year.

b. The Exchange shall also plough back the entire income earned on the corpus of ISF to the ISF within one month from the end of September and March of each year.

8. The exchange shall be permitted to utilize the corpus of ISF for conducting various investor education and awareness programs, capacity building programs and maintenance of all price ticker boards installed by the respective exchanges, cost of training of arbitrators etc. In addition to above, the corpus may be utilized in other manner as prescribed/permitted by SEBI in the interest of investors from time to time.

9. In order to efficient management of ISF, Investor Service Committee (ISC) of exchange shall oversee the contribution to ISF and its utilization.

10. Exchange shall maintain separate bank account for maintaining corpus of the IPF as well as ISF and such funds should not be co-mingled with any other fund(s) of the exchange and shall not be used for any other purpose than the mandated purposes as mentioned in this circular.

11. The provisions of this circular shall come into effect from July 01, 2017.

12. The exchanges are advised to:-

- make necessary amendments to relevant bye-laws, rules and regulations for the implementation of this circular.
- bring the provisions of this circular to the notice of the members of the exchange and also to disseminate the same on their website.
- communicate to SEBI, the status of implementation of the provisions of this circular.

13. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

14. The circular is available on SEBI website at www.sebi.gov.in .

Yours faithfully,
Prasad Jagdale
Deputy General Manager
Division of Exchange Inspection and Complaints against Exchanges
Commodity Derivatives Market Regulation Department
prasadj@sebi.gov.in

For Annexure: http://www.sebi.gov.in/legal/circulars/jun-2017/comprehensive-guidelines-for-investor-protection-fund-investor-service-fund-and-its-related-matters_35095.html

CIRCULAR

CIR/MRD/DP/54/2017

June 13, 2017

To,
All Stock Exchanges

Dear Sir/Madam,

Sub: Comprehensive Review of Margin Trading Facility

1. SEBI vide circular SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004 had prescribed framework for permitting stock brokers to provide margin trading facility to their clients. The said framework was revised vide circular SEBI/MRD/SE/SU/Cir-16/04 dated March 31, 2004 and circular MRD/DoP/SE/Cir-08/2005 dated March 04, 2005.

2. Representations have been received from market participants requesting review of margin trading framework to enable greater participation. The suggestions received from market participants were examined and deliberated in the Secondary Market Advisory Committee ("SMAC"). Based on the deliberations, the revised framework for Margin Trading Facility are stated as under:

Securities Eligible for Margin Trading

3. Equity Shares that are classified as 'Group I security' as per SEBI Master circular No. SEBI/HO/MRD/DP/CIR/P/2016/135 dated December 16, 2016, shall be eligible for margin trading facility.

Margin Requirement

4. In order to avail margin trading facility, initial margin required shall be as under;

Category of Stock	Applicable margin
Group I stocks available for trading in the F & O Segment	VaR + 3 times of applicable ELM*
Group I stocks other than F&O stocks	VaR + 5 times of applicable ELM*

*For aforesaid purpose the applicable VaR and ELM shall be as in the cash segment for a particular stock.

5. The initial margin payable by the client to the Stock Broker shall be in the form of cash, cash equivalent or Group I equity shares, with appropriate hair cut as specified in SEBI Master circular no. SEBI/HO/MRD/DP/CIR/P/2016/135 dated December 16, 2016.

6. The Stock brokers shall be required to comply with the following conditions:

- i. The stocks deposited as collateral with the stock broker for availing margin trading facility (Collaterals) and the stocks purchased under the margin trading facility (Funded stocks) shall be identifiable separately and no comingling shall be permitted for the purpose of computing funding amount;
- ii. Collateral and Funded stocks shall be marked to market on a daily basis;

- iii. In case of increase in the value of Collaterals, stock brokers may have the option of granting further exposure to their clients subject to applicable haircuts;
- iv. However, no such exposure shall be permitted on the increased value of Funded stocks.

7. Stock brokers shall ensure maintenance of the aforesaid margin at all times during the period that the margin trading facility is being availed by the client. In case of short fall, stock broker shall make necessary margin calls.

8. The exchange/stock broker, based on the risk assessment, shall have the discretion to impose/collect higher margin than the margin specified in para-4 above.

Liquidation of Securities by the Stock Broker in Case of Default by the Client

9. The stock broker shall list out situations/conditions in which the securities may be liquidated and such situations/conditions shall be included in the "Rights and Obligations Document". The broker shall liquidate the securities, if the client fails to meet the margin call to comply with the conditions as mentioned in this circular or specified in the "Rights and Obligations Document" specified by exchange.

10. However, the broker shall not liquidate or use in any manner the securities of the client in any situation other than the conditions stipulated at para-9 above.

Eligibility Requirements for Stock Brokers to Provide Margin Trading Facility to Clients

11. Only corporate stock brokers with a net worth of at least Rs.3.00 crore shall be eligible to offer margin trading facility to their clients.

12. The "net worth" for the purpose of margin trading facility shall be as specified in SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992.

13. The stock brokers shall submit to the stock exchange a half-yearly certificate, as on 31st March and 30th September of each year, from an auditor confirming the net worth. Such a certificate shall be submitted not later than 30th April and 31st October of every year.

Source of Funds

14. For the purpose of providing the margin trading facility, a stock broker may use own funds or borrow funds from scheduled commercial banks and/or NBFCs regulated by RBI. A stock broker shall not be permitted to borrow funds from any other source.

15. The stock broker shall not use the funds of any client for providing the margin trading facility to another client, even if the same is authorized by the first client.

Leverage and Exposure Limits

16. At any point of time, the total indebtedness of a stock broker for the purpose of margin trading shall not exceed 5 times of its net worth, calculated as per para 12 above.

17. The maximum allowable exposure of the broker towards the margin trading facility shall be within the self imposed prudential limits and shall not, in any case, exceed the borrowed funds and 50% of his "net worth".

18. While providing the margin trading facility, the broker shall ensure that:

a) exposure to any single client at any point of time shall not exceed 10% of the broker's maximum allowable exposure, as specified in para 17 above.

b) exposure towards stocks purchased under margin trading facility and collateral kept in the form of stocks are well diversified. Stock brokers shall have appropriate Board approved policy in this regard.

Disclosure Requirement

19. The stock broker shall disclose to the stock exchanges details on gross exposure towards margin trading facility including name of the client, Category of holding (Promoter/promoter group or Non-promoter), clients' Permanent Account Number ("PAN"), name of the scrips (Collateral stocks and Funded stocks) and if the stock broker has borrowed funds for the purpose of providing margin trading facility, name of the lender and amount borrowed, on or before 12 noon on the following trading day. The format for this disclosure by the stock broker to the stock exchange is enclosed at Annexure 1

20. The stock exchanges shall disclose on their websites the scrip wise gross outstanding in margin accounts with all brokers to the market. Such disclosure regarding margin trading done on any day shall be made available after the trading hours, on the following day, through its website. The format for such disclosure by the stock exchange is enclosed at Annexure 2.

21. The stock exchanges shall put in place a suitable mechanism to capture and maintain all relevant details including member-wise, client-wise, scrip-wise information regarding outstanding positions in margin trading facility and also source of funds of the stock brokers, on the exchange both on daily as well as on cumulative basis.

Rights and Obligations for Margin Trading

22. The stock exchanges shall frame a Rights and Obligations document laying down the rights and obligations of stock brokers and clients for the purpose of margin trading facility. The Rights and Obligations document shall be mandatory and binding on the Broker/Trading Member and the clients for executing trade in the Margin Trading framework.

23. The broker/exchange may modify the Rights and Obligations document only for stipulating any additional or more stringent conditions, provided that no such modification shall have the effect of diluting any of the conditions laid down in the circular or in the Rights and Obligations document

Maintenance of Records

24. The stock broker shall maintain separate client-wise ledgers for funds and securities of clients availing margin trading facility.

25. The stock broker shall maintain a separate record of details of the funds used and sources of funds for the purpose of margin trading.

26. The books of accounts, maintained by the broker, with respect to the margin trading facility offered by it, shall be audited on a half yearly basis. The stock broker shall submit an auditor's certificate to the exchange within one month from the date of the half year ending 31st March and 30th September of a year certifying, inter alia, the extent of compliance with the conditions of margin trading facility. This certificate is in addition to the certificate on net worth specified in para 12 above.

Other Conditions

27. A broker shall take adequate care and exercise due diligence before providing margin trading facility to any client.

28. Any disputes arising between the client and the stock broker in connection with the margin trading facility shall have the same treatment as normal trades and should be covered under the investor grievance redressal mechanism, arbitration mechanism of the stock exchange.

29. SGF and IPF shall be available for transactions done on the exchange, whether through normal or margin trading facility. However, any losses suffered in connection with the margin trading facility availed by the client from the stock broker shall not be covered under IPF.

30. The stock brokers wishing to extend margin trading facility to their clients shall be required to obtain prior permission from the exchange where the margin trading facility is proposed to be

offered. The exchange shall have right to withdraw this permission at a later date, after giving reasons for the same.

31. This circular shall supersede earlier circulars no SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004, SEBI/MRD/SE/SU/Cir-16/04 dated March 31, 2004 and MRD/DoP/SE/Cir-08/2005 dated March 04, 2005 on Margin Trading Facility.

32. The Stock Exchanges are advised to:-

- a. take necessary steps and put in place necessary systems for implementation of this circular.
- b. make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision.
- c. bring the provisions of this circular to the notice of the member brokers of the stock exchange and also disseminate the circular on the website.

33. This circular is being issued in exercise of the powers conferred by Section 11 (1) of Securities and Exchange Board of India Act, 1992 to protect the interest of investors in securities and to promote the development of, and to regulate the securities market.

Yours faithfully
Susanta Kumar Das
Deputy General Manager
e-mail: susantad@sebi.gov.in

CIRCULAR

CIR/MRD/DP/56/2017

June 14, 2017

To,
The Depositories,

Dear Sir / Madam,

Subject: Recording of Non Disposal Undertaking (NDU) in the Depository System

1. The depository system provides a transparent mechanism for recording pledge transactions entered between lenders and borrowers.
2. SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, requires promoters of a company to disclose details of their encumbered shares including NDUs by promoters which are covered under the scope of disclosures of 'Encumbrances'.
3. It has been observed that some shareholders, primarily promoters, enter into non-disposal agreements/ non-disposal undertaking (NDU) for borrowing funds from various lenders. NDUs are typically undertakings given by a shareholder not to transfer or otherwise alienate the securities and are in the nature of negative lien given in favour of another party, usually a lender.
4. It is observed that currently there is no framework to capture the details of NDU in the depository system as these happen outside the depository system and are not captured and reflected in the records of the depositories. Therefore, in order to enable the shareholders to record the NDUs in the depository system, it has been decided to permit the depositories to offer a system for capturing and recording the NDUs.
5. In this regard, the depositories are advised the following:
 - 5.1. Depositories shall develop a separate module/ transaction type in their system for recording NDUs.
 - 5.2. Both parties to the NDU shall have a demat account with the same depository and be KYC compliant.
 - 5.3. Pursuant to entering the NDU, the Beneficial Owner (BO) along with the other party shall make an application through the participant (where the BO holds his securities) to the depository, for the purpose of recording the NDU transaction.
 - 5.4. The application shall necessarily include details of BO ID, PAN, email-id, signature(s), name of the entity in whose favor such NDU is entered and the quantity of securities. Such entity in whose favor NDU is entered shall also authorize the participant of the BO holding the shares, to access the signatures as recorded in that entity's demat account.
 - 5.5. The participant after being satisfied that the securities are available for NDU shall record the NDU and freeze for debit the requisite quantity of securities under NDU in the depository system. .
 - 5.6. The depositories shall make suitable provisions for capturing the details of BO ID and PAN of the entity in whose favor such NDU is entered by the participant. The depositories shall also make available to the said participant, the details of authorized signatories as recorded in the demat account of the entity in whose favor such NDU is entered.

5.7. On creation of freeze in the depository system, the depository/ participant of the BO holding shares, shall inform both parties of the NDU regarding creation of freeze under NDU.

5.8. The depositories shall make suitable provisions for capturing the details of company/ promoters if they are part of the NDU.

5.9. In case if the participant does not create the NDU, it shall intimate the same to the parties of the NDU along with the reasons thereof.

5.10. Once the freeze for debits is created under the NDU for a particular quantity of shares, the depository shall not facilitate or effect any transfer, pledge, hypothecation, lending, rematerialisation or in any manner alienate or otherwise allow dealing in the shares held under NDU till receipt of instructions from both parties for the cancellation of NDU.

5.11. The entry of NDU made as per para 5.5 above may be cancelled by the depository/ participant of the BO through unfreeze of specified quantity if parties to the NDU jointly make such application to the depository through the participant of the BO.

5.12. On unfreeze of shares upon termination/ cancellation of NDU, the depository shall inform both parties of the NDU in the form and manner agreed upon at the time of creating the freeze. The unfreeze shall be effected in the depository system after a cooling period of 2 clear business days but no later than 4 clear business days.

6. The freeze and unfreeze instructions executed by the Participant for recording NDUs will be subject to 100% concurrent audit.

7. The DPs shall not facilitate or be a party to any NDU outside the depository system as outlined herein

8. The Depositories shall implement the provisions of this circular within four months from the date of this circular.

9. The Depositories are advised to:-

i. make amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision, as may be applicable/necessary;

ii. to carry out system changes if any to implement the above;

iii. disseminate the provisions of this circular on their website;

iv. communicate to SEBI, the status of implementation of the provisions of this circular in their Monthly Development Report.

10. This circular is being issued in exercise of the powers conferred by Section 11 (1) of Securities and Exchange Board of India Act, 1992 and section 19 of the Depositories Act, 1996 to protect the interest of investors in securities and to promote the development of, and to regulate the securities market.

Yours faithfully
Susanta Kumar Das
Deputy General Manager
e-mail: susantad@sebi.gov.in

CIRCULAR

CIR/CFD/DIL/57/2017

June 15, 2017

To
All Listed entities who have listed their equity and convertibles
All the Recognized Stock Exchanges

Dear Sir / Madam,

Sub: Non-compliance with certain provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 ("ICDR Regulations")

1. Regulations 111A and 111B of ICDR Regulations inter alia specify liability of a listed entity or any other person for contravention and actions which can be taken by the respective stock exchange and the revocation of such actions, in the manner specified by SEBI.
2. Stock exchanges shall impose fines on the companies for non-compliance with certain provisions of ICDR Regulations as under:

Regulation	Violation	Fine
95(1)	Delay in completion of bonus issue.	₹ 20,000 per day of non-compliance till the date of compliance. If non-compliance continues for more than 15 days, additional fine of 0.01 % of paid up capital of the entity or ₹ 1 crore, whichever is less. Paid-up capital for this purpose shall be the paid up capital as on first day of the financial year in which the non-compliance occurs.
75	Companies not allotting the shares on conversion of convertible securities within 18 months.	Same as above.
108(2)	Issuer not approaching the exchange for listing of equity shares within 20 days from date of allotment.	Same as above.

3. The amount of fine realized as per the above structure shall be credited to the "Investor Protection Fund" of the concerned recognized stock exchange.
4. The recognized stock exchanges shall disseminate on their website the names of non-compliant listed entities that are liable to pay fine for non-compliance, the amount of fine imposed, details of fines received, etc.
5. The recognized stock exchange shall issue notice to the non-compliant listed entity to pay fine within 15 days from the date of the notice.
6. If any non-compliant listed entity fails to pay the fine, the recognized stock exchange may initiate appropriate enforcement action, including prosecution.

7. In consultation with the stock exchanges, it is further clarified with respect to bonus issue delays:
- a) For the purpose of a bonus issue to be considered as '*implemented*' under Regulation 95(1) of ICDR Regulations, the date of commencement of trading shall be considered.
 - b) The recognized stock exchange shall grant approvals to the bonus shares allotted to persons other than the promoter(s) in the interest of the investors, subject to compliance with other requirements.
 - c) The approvals for the promoters' bonus shares may be granted by the Stock Exchange after payment of the requisite fine by the company.
8. The Stock Exchanges are advised to bring the provisions of this circular to the notice of listed entities and also to disseminate the same on its website.
9. This circular is issued under regulations 111A, 111B and 112 of ICDR Regulations.
10. This circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework/Circulars".

Yours faithfully,

Pradeep Ramakrishnan

**Deputy General Manager
Corporate Finance Department
Tel No.022-2644 9246
Email id - pradeepr@sebi.gov.in**

CIRCULAR

CIR/HO/MIRSD/MIRSD2/CIR/P/2017/59

June 15, 2017

To,

1. All Recognized Depositories
2. Depositories Participants (DPs) through Depositories
3. Registrars to an Issue and Share transfer agents (RTAs)

Dear Sir/Madam,

Sub: Interest and Dividend information reporting in case of Custodial Accounts-Rule 114 G (1) (e) of the Income Tax Rules, 1962

1. This has reference to SEBI Circular No. CIR/MIRSD/2/2015 dated August 26, 2015 on implementation of the Multilateral Competent Authority Agreement and Foreign Account Tax Compliance Act.

2. In terms of Rule 114G(1)(e)(i) of Income Tax Rules, 1962 issued under Section 285BA of Income Tax Act, 1961 following information is required to be reported by reporting financial institution in the case of reportable custodial account:-

(i) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year;

3. In respect of the above it has been decided in consultation with Central Board of Direct Taxes, Department of Revenue, Ministry of Finance that:-

a) Depositories shall provide additional field in the depository system to the RTAs by July 15, 2017 whereby the RTAs can incorporate the details of corporate action viz. dividend/interest in rupee terms per unit of the security at the time of setting up of corporate action. Depositories shall make available such information to DPs to enable them to do necessary reporting.

b) The reporting with respect to dividend / interest is to be done by DPs on 'entitlement' basis and not on the basis of actual payment received by the demat Account holder.

c) If a demat account is identified as a 'reportable account' during a calendar year by the DP, the reporting under Rule 114G (1) (e) is to be done for the dividend / interest entitlements during the entire calendar year i.e. including the period of the calendar year before identification of such account as a 'reportable account' by the DP.

4. You are advised to take necessary steps to ensure compliance with the above.

5. The Depositories are directed to bring the contents of this circular to the notice of the Depository Participants, Registrar to an Issue and transfer agents/Issuers of the securities and also disseminate the same on their websites.

6. This Circular is being issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Rule 114G(11)(a) of the Income Tax Rules, 1962.

7. This Circular is available on the SEBI website (www.sebi.gov.in) under the section **SEBI Home > Legal Framework > Circulars**.

Yours faithfully,
Debashis Bandyopadhyay
General Manager



RBI UPDATES

RBI/2016-17/321
DBR.No.BP.BC.74/21.06.009/2016-17

June 13, 2017

The Chairman / CMD / MD / CEO
All Scheduled Commercial Banks
(Excluding Local Area Banks and Regional Rural Banks)
Madam/Dear Sir,

Prudential Guidelines on Capital Adequacy and Market Discipline- New Capital Adequacy Framework (NCAF) - Eligible Credit Rating Agencies - INFOMERICS Valuation and Rating Pvt Ltd. (INFOMERICS)

Please refer to the Master Circular DBR.No.BP.BC.4./21.06.001/2015-16 dated July 1, 2015 on 'Prudential Guidelines on Capital Adequacy and Market Discipline - New Capital Adequacy Framework (NCAF)'.

2. In terms of para 6 of the circular, six domestic credit rating agencies viz. CARE, CRISIL, FITCH India, ICRA, Brickwork Ratings and SMERA have been accredited for the purpose of risk weighting the banks' claims for capital adequacy purposes. The long term and short term ratings issued by these domestic credit rating agencies have been mapped to the appropriate risk weights applicable as per the Standardised Approach under the Basel II Framework.

3. It has been decided that banks may also use the ratings of the INFOMERICS Valuation and Rating Pvt Ltd. (INFOMERICS) for the purpose of risk weighting their claims for capital adequacy purposes in addition to the existing six domestic credit rating agencies. The rating-risk weight mapping for the long term and short term ratings assigned by INFOMERICS will be the same as in case of other rating agencies.

Yours faithfully,
(S. S. Barik)
Chief General Manager-in-Charge

Period for Submission of Agency Commission Claims

RBI/2016-17/322

DGBA.GBD.No.3262/31.02.007/2016-17

June 15, 2017

All Agency Banks

Dear Sir

Period for Submission of Agency Commission Claims

Please refer to circular No.DGBA.GAD.1031/31.12.010/98-99 dated May 6, 1999 wherein all agency banks were advised to submit their eligible agency commission claims to the Reserve Bank of India within two quarters from the end of the quarter during which the transactions have been conducted.

2. On a review, it has now been decided to reduce the time period allowed to agency banks to furnish their claim on agency commission to Reserve Bank from two quarters to 90 days from the end of the quarter in which the transactions have been conducted. If the banks fail to lodge the claims within the stipulated period mentioned above they may forward the same only after giving reasons for delay.

3. This will be applicable for the agency commission claims for the quarter ended June 30, 2017 onwards.

Yours faithfully

(Partha Choudhuri)
General Manager

Formation of a new district in the State of West Bengal - Assignment of Lead Bank Responsibility

RBI/2016-17/323

FIDD.CO.LBS.BC.No.32/02.08.001/2016-17

June 15, 2017

The Chairman and Managing Director/Chief Executive Officer
All Lead Banks

Dear Sir/Madam,

Formation of a new district in the State of West Bengal - Assignment of Lead Bank Responsibility

The Government of West Bengal vide Gazette Notification dated February 07, 2017 notified the creation of a new district "Kalimpong" by redefining the limits of Darjeeling District of West Bengal. It has been decided to assign the lead bank responsibility of this new district to State Bank of India as detailed below:-

Sr No	Newly carved district	Erstwhile District	Sub-division under the newly created district	Lead Bank Responsibility assigned to	District Working Code allotted to new district
1	Darjeeling	Darjeeling	Darjeeling Sadar, Siliguri, and Kurseong	Central Bank of India	132
2	Kalimpong	Darjeeling	Kalimpong Sadar	State Bank of India	397

2. Further, as mentioned above in the table, the District Working Code of the new district has been allotted for the purpose of BSR reporting by banks.

3. There is no change in the lead bank responsibilities of the other district in the State of West Bengal.

Yours faithfully

(Ajay Kumar Misra)
Chief General Manager

INCOME TAX UPDATES

Circular No.19/2017

F.No.279/Misc./140/2015/1TJ
Government of India
Ministry of Finance
Central Board of Direct Taxes

New Delhi, Dated 12th June, 2017

Sub: Settled View on section 2(22)(e) of the Income Tax Act, trade advances -reg.

Section 2(22) clause (e) of the Income Tax Act, 1961 (the Act) provides that "dividend" includes any payment by a company, not being a company in which the public are substantially interested, of any sum by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits holding not less than ten per cent of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (hereafter in this clause referred to as the said concern) or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits.

2. The Board has observed that some Courts in the recent past have held that trade advances in the nature of commercial transactions would not fall within the ambit of the provisions of section 2(22) (e) of the Act. Such views have attained finality.

2.1 Some illustrations/examples of trade advances/commercial transactions held to be not covered under section 2(22) (e) of the Act are as follows:

- i. Advances were made by a company to a sister concern and adjusted against the dues for job work done by the sister concern. It was held that amounts advanced for business transactions do not fall within the definition of deemed dividend under section 2(22) (e) of the Act. (CIT vs. Creative Dyeing & Printing Pvt. Ltd. , Delhi High Court).
- ii. Advance was made by a company to its shareholder to install plant and machinery at the shareholder's premises to enable him to do job work for the company so that the company could fulfil an export order. It was held that as the assessee proved business expediency, the advance was not covered by section 2(22) (e) of the Act. (CIT vs Amrik Singh, P&H High Court)
- iii. A floating security deposit was given by a company to its sister concern against the use of electricity generators belonging to the sister concern. The company utilised gas available to it from GAIL to generate electricity and supplied it to the sister concern at concessional rates. It was held that the security deposit made by the company to its sister concern was a business transaction arising in the normal course of business between two concerns and

the transaction did not attract section 2(22) (e) of the Act. (CIT, Agra vs Atul Engineering Udyog, Allahabad High Court)

3. In view of the above it is, a settled position that trade advances, which are in the nature of commercial transactions would not fall within the ambit of the word 'advance' in section 2(22)(e) of the Act. Accordingly, henceforth, appeals may not be filed on this ground by Officers of the Department and those already filed, in Courts/Tribunals may be withdrawn/not pressed upon.

4. The above may be brought to the notice of all concerned.

5. Hindi version follows.

(Neetika Bansal)
Deputy Secretary to Government of India

Circular No.20/2017

F. No. 279/Misc./140/2015/ITJ
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, Dated 12th June, 2017

Subject: Applicability of Explanation 2 to Section 132B of the I. T. Act, 1961- reg. -

Section 132B of the Income Tax Act 1961, provides for adjustment of seized assets/requisitioned assets against the amount of any existing liability under the Income Tax Act, 1961, (the Act), the Wealth-tax Act, 1957, the Expenditure-tax Act, 1987, the Gift-tax Act, 1958 and the Interest-tax Act, 1974, and the amount of the liability determined on completion of the assessment under section 153A of the Act and the assessment of the year relevant to the previous year in which search is initiated or requisition is made, or the amount of liability determined on completion of the assessment under Chapter XIV -B for the block period, as the case may be (including any penalty levied or interest payable in connection with such assessment) and in respect of which such person is in default or is deemed to be in default, or the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C of the Act.

2. Dispute arose between the Department and the assessee with regard to adjustment of such seized/requisitioned cash against advance tax liability etc. Several Courts held that on an application made by the assessee, the seized money is to be adjusted against the advance tax liability of the assessee. Subsequently, Explanation 2 to Section 132B of the Act was inserted by the Finance Act, 2013 w.e.f. 01-06-2013, clarifying that "existing liability" does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII of the Act. However, the dispute continued on the issue as to whether the amendment was clarificatory in nature having retrospective applicability or it has only prospective applicability.

3. Several Courts have held that the insertion of Explanation 2 to section 132B of the Act, is prospective in nature and not applicable to cases prior to 01.06.2013. The SLPs filed by the Department against the judgement of the Hon'ble Punjab and Haryana High Court in the case of Cosmos Builders and Promoters Ltd. 1 and the Hon'ble Allahabad High Court in the case of Sunil Chandra Gupta, have been dismissed. Subsequently, the CBDT has also accepted the judgment of the Hon'ble Punjab & Haryana High Court in the case of Spaze Towers Pvt. Ltd. 3 dated 17.11.2016, wherein it was held that the Explanation 2 to Section 132B of the Act is prospective in nature.

4. Accordingly, it has now been settled that insertion of Explanation 2 to Section 132B of the Act shall have a prospective application and so, appeals may not be filed by the Department on this issue for the cases prior to 01.06.2013 and those already filed may be withdrawn/ not pressed upon.

5. The above may be brought to the notice of all concerned.

6. Hindi version follows.

(Neetika Bansal)
Deputy Secretary to Government of India

Circular No. 21/2017

F.No. 279/Misc./140/2015/ITJ
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, Dated 12th June, 2017

SUBJECT: Non-Applicability of the provisions of section 194-1 of the I.T. Act, 1961 on remittance of Passenger Service Fees (PSF) by an Airline to an Airport Operator - reg. -

Under the existing provisions contained in section 194-1 of the Income Tax Act, 1961 ('the Act'), tax is required to be deducted at source on payment of rent. The term "rent" is defined in the Explanation to the said section to mean any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any (a) land; or (b) building (including factory building); or (c) land appurtenant to a building (including factory building); or (d) machinery; or (e) plant; or (f) equipment; or (g) furniture; or (h) fittings, whether or not any or all of the above are owned by the payee.

2. A dispute arose on applicability of the provisions of section 194-1 of the Act, on payment of Passenger Service Fees (PSF) by an Airline to an Airport Operator. The Hon'ble High Court of Bombay in CIT vs. Jet Airways (India) Ltd. 1 declined to admit the ground relating to applicability of provisions of section 194-1 of the Act on PSF charges holding that no substantial question of law arises. While doing so it relied on the judgement of the Hon'ble Supreme Court dated 4.8.2015 in the case of Japan Airlines and Singapore Airlines² where the Apex Court held that in view of Explanation to section 194-1 of the Act, though, the normal meaning of the word 'rent' stood expanded, however, the primary requirement is that the payment must be for the use of land and building and mere incidental/minor / insignificant use of the same while providing other facilities and service would not make it a payment for use of land and buildings so as to attract section 194-1 of the Act.

3. The Board has accepted the above view of the High Court of Bombay. Accordingly, it is now a settled position that section 194-1 of the Act, will not - apply on PSF.

4. In view of the above, henceforth, appeals may not be filed by the Department on the above settled issue, and those already filed may be withdrawn/ not pressed upon.

5. The above may be brought to the notice of all concerned.

6. Hindi version of the same will follow.

(Neetika Bansal)
Deputy Secretary to Government of India

CUSTOM UPDATE

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3,
SUB SECTION (i)] GOVERNMENT OF INDIA

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
Notification No. 23/2017 – Customs

New Delhi, the 12th June, 2017

GSR (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 12/2012-Customs, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 185(E), dated the 17th March, 2012, namely :-

In the said notification, in the Table, after serial number 333E and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)	(6)
"333F	7225	The following goods, namely: - (i) hot rolled coils; (ii) cold-rolled Magnesium Oxide (MgO) coated and annealed steel; (iii) hot rolled annealed and pickled coils; (iv) cold rolled full hard, for the manufacture of cold rolled grain oriented steel (CRGO) steel falling under tariff item 7225 11 00	5% 5% 5% 5%	- - - -	5 5 5 5"

[F. No. 354/99/2017-TRU]

(Gunjan Kumar Verma)

Under Secretary to the Government of India

Note: The principal notification No. 12/2012-Customs, dated the 17th March 2012 was published in the Gazette of India, Extraordinary, Part II, Section-3, Sub-section (i), vide number G.S.R. 185(E), dated the 17th March, 2012 and last amended by notification No. 20/2017-Customs, dated the 16th May, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 474 (E), dated the 16th May, 2017.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
(CENTRAL BOARD OF EXCISE AND CUSTOMS)
Notification No. 53/2017 - Customs (N.T.)

New Delhi, dated the 15th June, 2017
25 Jyaistha, 1939 (SAKA)

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the notification of the Central Board of Excise and Customs No.52/2017-CUSTOMS (N.T.), dated 1st June, 2017, except as respects things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby determines that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 16th June, 2017, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

Schedule-I

S.NO.	FOREIGN CURRENCY	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	49.85	48.10
2.	Bahrain Dinar	176.60	164.65
3.	Canadian Dollar	49.35	47.75
4.	Chinese Yuan	9.65	9.30
5.	Danish Kroner	9.90	9.50
6.	EURO	73.45	70.95
7.	Hong Kong Dollar	8.35	8.15
8.	Kuwait Dinar	219.25	204.95
9.	New Zealand Dollar	47.25	45.55
10.	Norwegian Kroner	7.75	7.50
11.	Pound Sterling	83.40	80.60
12.	Qatari Riyal	18.10	17.05
13.	Saudi Arabian Riyal	17.75	16.60
14.	Singapore Dollar	47.50	45.90
15.	South African Rand	5.25	4.90
16.	Swedish Kroner	7.50	7.25
17.	Swiss Franc	67.35	65.10
18.	UAE Dirham	18.10	16.95
19.	US Dollar	65.15	63.50

SCHEDULE-II

S.NO.	FOREIGN CURRENCY	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	59.75	57.70
2.	Kenya Shilling	64.35	60.15

[F.No. 468/01/2017-Cus.V]

(Satyajit Mohanty)
Director
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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART-II, SECTION-3,
SUBSECTION (ii)]**

**Government of India
Ministry of Finance
(Department of Revenue)
(Central Board of Excise and Customs)
Notification No. 54/2017-CUSTOMS (N.T.)**

**New Delhi, 15th June, 2017
25 Jyaistha, 1939 (SAKA)**

S.O. ... (E).- In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise & Customs, being satisfied that it is necessary and expedient so to do, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted namely:-

TABLE-1

S. No.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	716
2	1511 90 10	RBD Palm Oil	737
3	1511 90 90	Others - Palm Oil	727
4	1511 10 00	Crude Palmolein	744
5	1511 90 20	RBD Palmolein	747
6	1511 90 90	Others - Palmolein	746
7	1507 10 00	Crude Soya bean Oil	812
8	7404 00 22	Brass Scrap (all grades)	3287
9	1207 91 00	Poppy seeds	2510

TABLE-2

S.No.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs dated 17.03.2012 is	415 per 10 grams

		availed	
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	551 per kilogram

TABLE-3

S.No.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	3320''

[F. No. 467/01/2017 -Cus-V]

(Satyajit Mohanty)
Director (ICD)

Note: - The principal notification was published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide Notification No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, vide number S. O. 748 (E), dated the 3rd August, 2001 and was last amended vide Notification No. 51/2017-Customs (N.T.), dated the 31st May, 2017, e-published in the Gazette of India, Extraordinary, Part-II, Section-3, Subsection (ii), vide number S. O. 1743(E), dated 31st May, 2017.



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