PARTNERS BEYOND BOUNDARIES

INDIA ACCOUNTING UPDATE

May - June 2019

Ind AS (Indian Accounting Standards)

MCA notifies amendment to National Company Law Tribunal rules

Impact: All entities

To protect the interest of members, Companies Act gives certain number of members or depositors the right to file a class action suit if, they feel that management or affairs of the company are being conducted in a manner prejudicial to the interests of the company or its members/depositors. Such instances include, but are not limited to ultra vires acts, breach of provisions of articles of association, illegal acts and any fraudulent acts. With the class action suit, members and depositors can also seek damages from the board, auditors or any third party acting as expert, consultant or advisor for wrongful, fraudulent or misleading acts conducted by them in their acting capacity.

With the amendments to NCLT rules, more clarity has been bought about the minimum number/percentage of members/depositors that need to come together to initiate a class action lawsuit. The prescribed number of members/depositors have been kept low to protect the interests of minority shareholders.

The Amendment Rules provide specific percentage thresholds required for filing an application, in case of listed and unlisted companies. Pursuant to the amendment, the following sub-rules (3) and (4) have been inserted in Rule 84, after sub-rule (2):

"(3) In case of a company having a share capital, the requisite number of member or members to file an application under sub-section (1) of section 245 shall be –

(i) (a) at least five per cent of the total number of members of the company; or

(b) one hundred members of the company, whichever is less; or

(ii) (a) member or members holding not less than five per cent of the issued share capital of the company, in case of an unlisted company;

(b) member or members holding not less than two per cent. of the issued share capital of the company, in case of a listed company.

(4) The requisite number of depositor or depositors to file an application under sub-section (1) of section 245 shall be –

(i) (a) at least five per cent of the total number of depositors of the company; or

(b) one hundred depositors of the company, whichever is less; or;

(ii) depositor or depositors to whom the company owes five per cent of total deposits of the company.

ICAI issued Ind AS Technical Facilitation Group clarifications bulletin 19 in response to some issues raised by members

Impact: All entities

ITFG – Ind AS Technical Facilitation Group issued technical clarifications bulletin 19, to provide responses to the following issues raised by members:

1. Clarification on business combination accounting in case of acquisitions by first time adopters

2. Clarification on timing of (at a point in time or over time) revenue recognition under Ind AS 115

3. Clarification on transition requirements of Ind AS 115 for first time adopter of Ind AS

4. Clarification on application of capitalization rate for in-process assets acquired under business combinations

5. Clarification on accounting for business combinations under common control

6. Clarifications on continued requirement to apply Ind AS for entities that once adopt Ind AS voluntarily or due to mandatory requirement.

For full text of the clarification bulletin please refer : https://resource.cdn.icai.org/55219indas44435.pdf

Materiality threshold requiring shareholder approval for brand and royalty payments to related parties revised upwards

Impact: Entities with brand, royalty, technology supply or similar arrangements with related parties

Regulation 23(1A) of the Securities Exchange Board of India (SEBI) (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations) governs related party transactions. The rules require that payments made by listed entities to related parties with respect to brand usage/royalty amounting to more than a specified threshold be approved by shareholders on a majority of minority basis i.e. none of the related parties have a right to vote to approve such resolutions.

SEBI in its meeting dated 27 June 2019, increased the materiality threshold for transactions requiring approval from two per cent of annual consolidated turnover of the listed entity during a financial year to five percent.

SEBI has been making changes to Regulation 23 based on stakeholder feedback and had recently also deferred the implementation date of the rule from April 1, 2019 to June 30, 2019.

RBI issues "Prudential framework for Resolution of Stresses Assets"

Impact: Financial institutions

RBI issued the "Prudential framework for Resolution of Stresses Assets" to provide directions for early recognition, reporting and time bound resolution of stressed assets and the rules went into effect immediately on issuance i.e. on June 7th, 2019 repealing all earlier schemes and guidelines issues by RBI in this respect.

The new rules are seen as striking a better balance as it is applicable to non-banking financial companies (NBFCs) and small finance banks (SFBs) as well and puts the onus on the institutions to devise a suitable resolution plan (RP). The rules provide a 30-day review period after default for the institution to decide on the resolution strategy, including nature and implementation approach as against the stringent requirements under the erstwhile rules that were struck down by Supreme Court in April 2019.

The rules include disincentives in the form of additional provisioning of 20-35% in a phased manner for delay in implementation of resolution plan or initiation of insolvency proceedings under IBC (Insolvency and Bankruptcy Code, 2016).

The rules also call for more prompt reporting of stressed assets with instances of default by all borrowers with aggregate exposure of ₹ 50 million and above on weekly basis to Central Repository of Information on Large Credits (CRILC).

In respect of facilities by multiple lenders, the rules require that any decision under the Inter Creditor Agreement (ICA) agreed by lenders representing 75 per cent by value of total outstanding credit facilities (fund based as well non-fund based) and 60 per cent of lenders by number shall be binding upon all the lenders. This will lead to faster decisions with approval of only 75% of lenders (by value) and 60% (by number of lenders) needed instead of 100% previously.

For full text of the rule please refer:

https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11580&Mode=0

IFRS (International Financial Reporting Standards)

Exposure draft on targeted amendments proposed by IASB in response to IBOR reform published

Impact: Entities using hedge accounting

IFRS Standards require companies to use forward-looking information to apply hedge accounting meaning if there is an uncertainty or the company is not able to make forward looking assessments it cannot apply hedge accounting.

Amidst the benchmark interest rate reform and ongoing uncertainty around interest rates, the current requirements could lead to companies having to discontinue hedge accounting solely because of the reform's effect on company's ability to make forward-looking assessments leading to reduced usefulness of the information in the financial statements.

To overcome this challenge, Board has proposed to amend IFRS 9 Financial Instruments and *IAS 39 Financial Instruments: Recognition and Measurement* to provide relief from specific hedge accounting requirements that could have resulted in the discontinuation of hedge accounting solely due to the uncertainty arising from interest rate benchmark reform.

IASB proposes annual improvements to IFRS standards

As part of its improvement and maintenance initiative for IFRS standards, IASB published narrow scope amendments to the following standards:

Standard	Proposed amendment
IFRS 1 - First-time Adoption of International Financial Reporting Standards	A subsidiary, associate or joint venture that elects to apply paragraph D16(a) of IFRS 1 would be required to measure cumulative translation differences using the amounts reported by the parent, based on the parent's date of transition to IFRSs. This proposed amendment would also apply to an associate or joint venture that elects to apply paragraph D16(a) of IFRS 1
IFRS 9 - Financial Instruments	The Board proposes to clarify the fees that an entity includes when assessing whether the terms of a new or modified financial liability are substantially different from the terms of the original financial liability should include only fees paid or received between the borrower and the lender, including fees paid or received by either the borrower or lender on the other's behalf
Illustrative examples accompanying IFRS 16 Leases	The Board proposes to amend Illustrative Example accompanying IFRS 16 Leases to remove the illustration of payments from the lessor relating to leasehold improvements. The proposed amendment would remove potential for confusion regarding the treatment of lease incentives applying IFRS 16
IAS 41 - Agriculture	Align the fair value measurement requirements in IAS 41 with those in other IFRS Standards.

IASB issues exposure draft to update conceptual framework reference in IFRS 3

Impact: All entities entering business combinations

On May 30, 2019 IASB issued its exposure draft on narrow-scope amendments to IFRS 3 *Business Combinations*[1].

The draft replaces the reference to "Framework for the Preparation and Presentation of Financial Statements issued in 1989" for definition of assets and liabilities with a reference to the current version—"the Conceptual Framework for Financial Reporting" issued in March 2018. The differences in the definitions under the frameworks are such that it could increase the population of assets and liabilities qualifying for recognition in a business combination.

The second proposal in the draft is to add to IFRS 3 a requirement that for liabilities and contingent liabilities that would be within the scope of IAS 37 or IFRIC 21, if incurred separately, an acquirer should apply IAS 37 or IFRIC 21 respectively, instead of the Conceptual Framework, to identify the obligations it has assumed in a business combination. By including this exception, the liabilities and contingent liabilities recognized in a business combination would effectively be the same as those recognized applying IFRS 3 at present and would avoid any problem of day 2 losses or gains due to such contingent liabilities.

The proposal also makes requirements for contingent assets more explicit. IFRS Standards define contingent assets as possible assets whose existence will be confirmed only by uncertain future events. IFRS 3 prohibits recognition of contingent assets, but this prohibition is stated explicitly only in the Basis for Conclusions accompanying the Standard. To clarify the requirements and avoid any doubt about whether updating the reference to the Conceptual Framework would change them, the Board proposes to add to IFRS 3 an explicit statement that an acquirer should not recognize contingent assets acquired in a business combination.

[1] https://www.ifrs.org/-/media/project/updating-a-reference-to-the-conceptual-framework-amendments-to-ifrs-3/exposure-draft/exposure-draft-reference-to-the-conceptual-framework-ifrs-3.pdf

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