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# *CMA e-Bulletin*

**NOVEMBER & DECEMBER 2016 | VOL.4 | NO. 11 & 12**



*(Statutory body under an Act of Parliament)*

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# the CMA e-Bulletin



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## **DIRECTORATE OF RESEARCH & JOURNAL**

### **The Institute of Cost Accountants of India**

*(Statutory body under an Act of Parliament)*

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## INDIAN ECONOMY

### News

#### ➤ India Inc's overseas direct investment dips 39% to \$2.11 billion in October

Indian firms made direct investment of \$2.11 billion in October, down 39.34 percent from a year earlier, Reserve Bank data showed. The overseas direct investment by the local firms stood at \$3.47 billion in October 2015. For month-on-month comparison, the Indian firms had made an investment of \$2.48 billion in September 2016. The investments in October were comprised of equity worth \$1.51 billion, loan of \$187.96 million and rest of \$407.43 million was in the form of guarantee issued.

Read more at: <http://economictimes.indiatimes.com/news/economy/finance/india-incs-overseas-direct-investment-dips-39-to-2-11-billion-in-october/articleshow/55443773.cms>

#### ➤ India's forex reserves fall \$2.4 bn to reach one of the lowest levels since May

India's foreign exchange reserves dipped \$2.4 billion to settle at \$360.6 billion, one of the lowest levels since May of this year, as market sources said that the Reserve Bank of India could be selling dollars heavily in order to arrest the slide in the value of Rupee. "A combination of factors may have triggered the fall," said Ashutosh Khajuria, executive director, Federal Bank. "The last leg of FCNR (B) redemptions has put pressure on the Rupee to an extent while RBI's routine intervention may also have led to an erosion of the reserves."

While one of the steepest falls in the last few months in RBI's dollar reserves was seen in early October due to FCNR (B) outflows starting off, a strengthening dollar and consistent outflow of foreign portfolio investors from the country has also created some pressure on the Rupee lately.

Read more at: <http://economictimes.indiatimes.com/news/economy/finance/indias-forex-reserves-fall-2-4-bn-to-reach-one-of-the-lowest-levels-since-may/articleshow/56141777.cms>

#### ➤ India's current account gap in July-Sept at 0.6% of GDP

The current account deficit (CAD) narrowed by more than a percentage point to 0.6 per cent of GDP at USD 3.4 billion in the July-September on account of lower trade deficit. The July-September CAD is lower than USD 8.5 billion, or 1.7 per cent of GDP, in the same quarter of last fiscal. It is, however, higher than USD 0.3 billion or 0.1 per cent recorded in the first quarter of the current fiscal.

"The contraction in the CAD on year-on-year basis was primarily on account of lower trade deficit (USD 25.6 billion) brought about by a larger decline in merchandise imports relative to exports," the RBI said in a statement. Net services receipts moderated on annual basis, primarily owing to the fall in earnings from software, financial services and charges for intellectual property rights, it said. "In the financial account, net inflows of both foreign direct investment and portfolio investment were significantly higher in the second quarter," it said.

Non-resident Indian (NRI) deposits also witnessed a 50 per cent decline to USD 2.1 billion from USD 4.2 billion in the same quarter of the previous fiscal. During the first 6 months of the current fiscal, the CAD narrowed to 0.3 per cent of GDP from 1.5 per cent in the same period a year ago on contraction in the trade deficit. India's trade deficit narrowed to USD 49.5 billion in the first half from USD 71.6 billion in the same period previous fiscal. Net FDI inflows during 6 months rose by more than 28.8 per cent over the level during the corresponding period of the previous year, it said, adding, portfolio investment recorded a net inflow of USD 8.2 billion as against a net outflow of USD 3.5 billion a year ago.

Read more at: <http://economictimes.indiatimes.com/news/economy/finance/indias-current-account-gap-in-july-sept-at-0-6-of-gdp/articleshow/55963033.cms>

#### ➤ India Inc's foreign borrowings in November stood at \$488.49 mn

India Inc raised \$488.49 million via External Commercial Borrowings (ECBs) and Rupee Denominated Bonds (RDBs) in November 2016, as per RBI data. The Indian companies had raised \$3.16 billion from foreign sources in the same month a year ago.

However, the data is not comparable as borrowings through RDBs were included only this year. The number of companies raising money through ECB route in November 2016 fell to 34 from as high as 53 in November 2015. The Reserve Bank has allowed Indian companies to tap foreign sources by issuing RDBs from this year and it has started publishing the data on these rupee denominated bonds from September 2016.

Of the total borrowings from overseas markets during November, the companies raised \$277.81 million via ECBs, using both the automatic and approval route.

Read more at: <http://economictimes.indiatimes.com/news/economy/indicators/india-incs-foreign-borrowings-in-november-stood-at-488-49-mn/articleshow/56185919.cms>

#### ➤ India's exports up 2.2% in November, gold imports rise 23%

India's merchandise exports grew for the third consecutive month in November with 20 of the 30 export sectors registering a growth in outward shipments, but higher imports due to spike in gold purchases led to sharp increase in trade deficit.

In November, exports added \$20 billion compared with \$19.5 billion a year ago, an increase of 2.9%, data released by the government showed. The overall exports in April-November also turned positive showing a growth of 0.1% during the period.

November exports were down from \$23.5 billion recorded in October, indicating that demonetisation may have hit shipments. Imports increased at a sharper 10.4% at \$33 billion compared with \$29.8 billion in the year ago period, leaving a trade deficit of \$13 billion. Trade gap in November 2015 was \$10.3 billion. "Overall, the trade balance has improved," said commerce and industry ministry in a release.

Read more at: <http://economictimes.indiatimes.com/news/economy/indicators/indias-exports-up-2-2-in-november-gold-imports-rise-23/articleshow/56002850.cms>

## BANKING

### Notifications/Circulars:

#### ➔ Sovereign Gold Bonds 2016-17 Series III – Operational Guidelines

This has reference to the GoI notification F.No.4(16)-W&M/2016 and RBI circular IDMD.CDD.No.893/14.04.050/2016-17 dated October 20, 2016 on the Sovereign Gold Bonds. Operational guidelines with regard to this scheme are given below:

**1. Application:** Application forms from investors will be received at branches during normal banking hours from October 24, 2016 to November 2, 2016. Receiving Offices need to ensure that the application is complete in all respects as incomplete applications are liable to be rejected. Relevant additional details may be obtained from the applicants, where necessary. The Receiving Offices may make arrangements to enable the investors to apply online, in the interest of better customer service.

**2. Joint holding and nomination:** Multiple joint holders and nominees (of first holder) are permitted. Necessary details may be obtained from the applicants as per practice.

**3. Know-Your-Customer (KYC) requirements:** Know-Your-Customer (KYC) norms shall be the same as that for purchase of physical form of gold. Identification documents such as passport, the Permanent Account Number (PAN) Card, the Voter's Identity Card, Aadhaar card shall be required. In case of minors only, the

bank account number may also be considered as valid for KYC verification. KYC will be done by the issuing banks/SHCIL offices/Post Offices/agents.

**4. Interest on application money:** Applicants will be paid interest at prevailing savings bank rate from the date of realization of payment to the settlement date, i.e. the period for which they are out of funds. In case the applicant's bank account is not with the receiving bank, the interest has to be credited by electronic fund transfer to the account details provided by the applicant.

**5. Cancellation:** Cancellation of application is permitted till the closure of the issue, i.e., November 2, 2016. Part cancellation of submitted request for purchase of gold bonds is not permitted. No interest on application money needs to be paid if the application is cancelled.

**6. Lien marking:** As the bonds are government securities, lien marking, etc. will be as per the extant legal provisions of Government Securities Act, 2006 and rules framed there under.

**7. Agency arrangement:** Receiving Offices may engage NBFCs, NSC agents, LIC agents and others to collect application forms on their behalf. Banks may enter into arrangements or tie-ups with such entities. Commission for distribution shall be paid at the rate of rupee one per hundred of the total subscription received by the Receiving Offices on the applications received and Receiving Offices shall share at least 50% of the commission so received with the agents or sub-agents for the business procured through them.

#### **8. Processing through RBI's e-Kuber system:**

Sovereign Gold Bonds will be available for subscription at the branches of scheduled commercial banks and designated post-offices through RBI's e-Kuber system. The e-Kuber system can be accessed either through Ininet or Internet.

The Receiving Offices need to enter the data or carry out bulk upload for the subscriptions received by them. They may ensure accuracy of entry of data to prevent occurrence of any inadvertent errors. An immediate confirmation will be provided to them for receipt of application. In addition, a confirmation scroll will be provided for file uploads to enable the Receiving Offices to update their database. On the date of allotment, i.e., November 17, 2016, Certificates of Holding will be generated for all the subscriptions in the name of the sole/principal holder.

The Receiving Offices can download the same and take printouts. The Certificates of Holding will also be sent through e-mail to the investors who have provided their email address. The securities will be credited in their de-mat accounts within 2-3 days of allotment, subject to matching of particulars furnished in the application with the Depositories' records.

**9. Printing Certificates of Holding:** Certificates of Holding need to be printed in colour on A4 size 100 GSM paper.

**10. Servicing and follow up:** Receiving Offices, i.e., branches of the scheduled commercial banks, designated post offices, SCHIL and stock exchanges (NSE Ltd and BSE) will “own” the customer and provide necessary services with regards to this bond e.g. update contact details, receive requests for premature encashment, etc. Receiving Offices will be required to preserve applications till the bonds are matured and are repaid.

**11. Tradability:** The Bonds shall be eligible for trading on a date notified by the Reserve Bank of India. (It may be noted that only bonds held in demat form with depositories can be traded in stock exchanges).

Source: Notification No. RBI/2016-17/99 [IDMD.CDD.No.894/14.04.050/2016-17] dated: October 20, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10659&Mode=0>

### ➤ Sovereign Gold Bonds 2016-17 – Series III

Government of India has vide its Notification F. No. 4(16)-W&M/2016 dated October 20, 2016 announced that the Sovereign Gold Bonds 2016 – Series III (“the Bonds”) will be open for subscription from October 24, 2016 to November 2, 2016. The Government of India may, with prior notice, close the Scheme before the specified period. The terms and conditions of the issuance of the Bonds shall be as follows:

#### 1. Eligibility for Investment:

The Bonds under this Scheme may be held by a person resident in India, being an individual, in his capacity as such individual, or on behalf of minor child, or jointly with any other individual. The bond may also be held by a Trust, Charitable Institution and University. “Person resident in India” is defined under section 2(v) read with section 2(u) of the Foreign Exchange Management Act, 1999.

**2. Form of Security:** The Bonds shall be issued in the form of Government of India Stock in accordance with section 3 of the Government Securities Act, 2006. The investors will be issued a Holding Certificate (Form C). The Bonds shall be eligible for conversion into de-mat form.

**3. Date of Issue :** Date of issuance shall be November 17, 2016.

**4. Denomination:** The Bonds shall be denominated in units of one gram of gold and multiples thereof. Minimum investment in the Bonds shall be one gram with a maximum limit of subscription of five hundred grams per person per fiscal year (April-March).

**5. Issue Price:** Nominal value of the Bonds shall be fixed in Indian Rupees on the basis of simple average of closing price of gold of 999 purity published by the India Bullion and Jewellers Association Limited for the week (Monday to Friday) preceding the subscription period. The issue price shall be Rs. 50 per gram less than the nominal value.

**6. Interest:** The Bonds shall bear interest at the rate of 2.50 percent (fixed rate) per annum on the nominal value. Interest shall be paid in half-yearly rests and the last interest shall be payable on maturity along with the principal.

**7. Receiving Offices:** Scheduled commercial banks (excluding RRBs), designated Post Offices (as may be notified), Stock Holding Corporation of India Ltd (SHCIL) and recognized stock exchanges viz., National Stock exchange of India Limited and Bombay Stock Exchange are authorized to receive applications for the Bonds either directly or through agents.

**8. Payment Options:** Payment shall be accepted in Indian Rupees through Cash (up to a maximum of Rs.20, 000/-) or Demand Drafts or Cheque or Electronic banking. Where payment is made through cheque or demand draft, the same shall be drawn in favour of receiving office.

#### 9. Redemption:

- i. The Bonds shall be repayable on the expiration of eight years from November 17, 2016, the date of issue of Gold bonds. Premature redemption of the Bond is permitted from fifth year of the date of issue on the interest payment dates.
- ii. The redemption price shall be fixed in Indian Rupees on the basis of the previous week's (Monday-Friday) simple average closing price for gold of 999 purity, published by IBJA.
- iii. The receiving office shall inform the investor of the date of maturity of the Gold Bond one month before its maturity.

**10. Repayment:** The receiving office shall inform the investor of the date of maturity of the Bond one month before its maturity.

**11. Eligibility for Statutory Liquidity Ratio (SLR):** Investment in the Bonds shall be eligible for SLR.

**12. Loan against Bonds:** The Bonds may be used as collateral for loans. The Loan to Value ratio will be as applicable to ordinary gold loan mandated by the RBI from time to time. The lien on the Bonds shall be marked in the depository by the authorized banks.

**13. Tax Treatment:** Interest on the Bonds shall be taxable as per the provisions of the Income-tax Act, 1961. The capital gains tax arising on redemption of SGB to an individual has been exempted. The indexation benefits will be provided to long term capital gains arising to any person on transfer of bond.

**14. Applications:** Subscription for the Bonds may be made in the prescribed application form (Form 'A') or in any other form as near as thereto stating clearly the grams of gold and the full name and address of the applicant. The receiving office shall issue an acknowledgment receipt in Form 'B' to the applicant.

**15. Nomination:** Nomination and its cancellation shall be made in Form 'D' and Form 'E', respectively, in accordance with the provisions of the Government Securities Act, 2006 (38 of 2006) and the Government Securities Regulations, 2007, published in part III, Section 4 of the Gazette of India dated December 1, 2007.

**16. Transferability:** The Bonds shall be transferable by execution of an Instrument of transfer as in Form 'F', in accordance with the provisions of the Government Securities Act, 2006 (38 of 2006) and the Government Securities Regulations, 2007, published in part III, Section 4 of the Gazette of India dated December 1, 2007.

**17. Tradability of bonds:** The Bonds shall be eligible for trading on a date notified by the Reserve Bank of India.

**18. Commission for distribution:** Commission for distribution shall be paid at the rate of rupee one per hundred of the total subscription received by the receiving offices on the applications received and receiving offices shall share at least 50% of the commission so received with the agents or sub-agents for the business procured through them.

Source: Notification No. RBI/2016-17/98 [IDMD.CDD. No.893/14.04.050/2016-17] dated: October 20, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10658&Mode=0>

### ➔ External Commercial Borrowings (ECB) by Startups

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to the announcement made by the Reserve Bank in the Fourth Bi-monthly Monetary Policy Statement for the year 2016-17 released on October 04, 2016, for permitting Startup enterprises to access loans under ECB framework.

Parameters for considering an entity as a Startup have since been published in the Official Gazette on February 18, 2016 by the Government of India. It is therefore decided, in consultation with the Government of India to permit AD Category-I banks to allow Startups to raise ECB under the following framework:

- Eligibility: An entity recognized as a Startup by the Central Government as on date of raising ECB.
- Maturity: Minimum average maturity period will be 3 years.
- Recognized lender: Lender / investor shall be a resident of a country who is either a member of Financial Action Task Force

(FATF) or a member of a FATF-Style Regional Bodies; and shall not be from a country identified in the public statement of the FATF as:

- A jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or
- A jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies.

Exclusion: Overseas branches/subsidiaries of Indian banks and overseas wholly owned subsidiary / joint venture of an Indian company will, however, not be considered as recognized lenders under this framework.

d. Forms: The borrowing can be in the form of loans or non-convertible, optionally convertible or partially convertible preference shares. The funds should come from a country which fulfils the conditions at 2 (c) above.

e. Currency: The borrowing should be denominated in any freely convertible currency or in Indian Rupees (INR) or a combination thereof. In case of borrowing in INR, the non-resident lender, should mobilize INR through swaps/outright sale undertaken through an AD Category-I bank in India.

f. Amount: The borrowing per Startup will be limited to USD 3 million or equivalent per financial year either in INR or any convertible foreign currency or a combination of both.

g. All-in-cost: Shall be mutually agreed between the borrower and the lender.

h. End-uses: For any expenditure in connection with the business of the borrower.

i. Conversion into equity: Conversion into equity is freely permitted, subject to Regulations applicable for foreign investment in Startups.

j. Security: The choice of security to be provided to the lender is left to the borrowing entity. Security can be in the nature of movable, immovable, intangible assets (including patents, intellectual property rights), financial securities, etc., and shall comply with foreign direct investment / foreign portfolio investment / or any other norms applicable for foreign lenders / entities holding such securities.

k. Corporate and personal guarantee: Issuance of corporate or personal guarantee is allowed. Guarantee issued by non-resident(s) is allowed only if such parties qualify as lender under paragraph 2(c) above.

Exclusion: Issuance of guarantee, standby letter of credit, letter of

undertaking or letter of comfort by Indian banks, all India Financial Institutions and NBFCs is not permitted.

l. Hedging: The overseas lender, in case of INR denominated ECB, will be eligible to hedge its INR exposure through permitted derivative products with AD Category – I banks in India. The lender can also access the domestic market through branches/ subsidiaries of Indian banks abroad or branches of foreign bank with Indian presence on a back to back basis.

m. Conversion rate: In case of borrowing in INR, the foreign currency - INR conversion will be at the market rate as on the date of agreement.

3. Other provisions like parking of ECB proceeds, reporting arrangements, powers delegated to AD banks, borrowing by entities under investigation, conversion of ECB into equity will be as included in the ECB framework announced vide A.P. (DIR Series) Circular No. 32 dated November 30, 2015. However, provisions on leverage ratio and ECB liability: Equity ratio will not be applicable.

4. It may be noted that Startups raising ECB in foreign currency, whether having natural hedge or not, are exposed to currency risk due to exchange rate movements and hence are advised to ensure that they have an appropriate risk management policy to manage potential risk arising out of ECBs.

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10667&Mode=0>

Source: Notification no. RBI/2016-17/103 [A.P. (DIR Series) Circular No. 13] dated: October 27, 2016

### ➔ Money Market Futures

As announced in the first Bi-Monthly Monetary Policy Statement, 2016-17, it has been decided to introduce Interest Rate Futures based on any rupee denominated money market interest rate or money market instrument on SEBI authorized stock exchanges.

In this regard, the Reserve Bank of India has issued a Notification FMRD.DIRD.09/2016 dated October 28, 2016 amending the Interest Rate Futures (Reserve Bank) Directions, 2013 dated December 5, 2013 to permit cash settled interest rate futures based on money market benchmarks in general.

It may be noted that RBI had already permitted introduction of futures based on the 91-day Treasury Bill, which is a money market instrument. The purpose of the current directions is to permit futures based on any money market instrument or money market interest rate, other than the 91-day Treasury Bill Futures, which has been already permitted.

Registered exchanges are free to select the underlying instrument

or interest rate and structure other details of the contracts. However, before any new or modified futures contract is introduced for trading on the exchanges, the registered exchanges shall submit complete details of the futures contract, duly ratified by SEBI, to the Reserve Bank for approval.

Source: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10668&Mode=0>

### ➔ Deferred Payment Protocols dated April 30, 1981 and December 23, 1985 between Government of India and erstwhile USSR

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to A.P. (DIR Series) Circular No. 79 dated June 30, 2016 wherein the Rupee value of the Special Currency Basket was indicated as Rs. 83.5796140 effective from June 23, 2016.

AD Category-I banks are advised that a further revision has taken place on October 17, 2016 and accordingly, the Rupee value of the Special Currency Basket has been fixed at Rs. 81.0297640 with effect from October 20, 2016.

Source: Notification No. RBI/2016-17/101 [A.P. (DIR Series) Circular No. 12] dated: October 27, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10665&Mode=0>

### ➔ Framework for imposing monetary penalty on Authorized Payment Systems Operators / banks under Payment and Settlement Systems Act, 2007

The Payment and Settlement Systems Act, 2007 (PSS Act) has designated the Reserve Bank of India (Reserve Bank) as the authority for regulation and supervision of payment systems. Under the said Act, certain powers have been conferred upon the Reserve Bank. Section 30 of the PSS Act deals with 'Power of Reserve Bank to impose fines'. In terms of this section, certain powers have been conferred upon the Reserve Bank to impose penalties/fines for certain contraventions/offences more particularly described in section 26 (2) and 26 (6) of the PSS Act.

Section 31 of the PSS Act deals with 'Power to compound offences'. Subject to the provisions of this section, power has been conferred upon the Reserve Bank to compound contraventions/offences committed by the entity. Now, it has been decided to put in place a framework for imposition of penalty/fine under section 30 of the PSS Act and compounding of contraventions/offences under section 31 of the PSS Act. The details of the framework are as under:

#### (i) Nature of offences:

This framework for imposition of penalty/fine/compounding, inter alia, includes the following types of contraventions/offences

that would be considered for levy of penalty/fine/compounding, as the case may be, in payment systems;

- Contravention of provisions of the Act.
- Non-compliance of directions or order made there under.
- Violations of terms and conditions of authorization.

**(ii) Compounding:** 'Compounding' is a voluntary process. The contravener may apply for the compounding of an offence by way of submitting an application as per the Annex I. The application for compounding of contravention/violation may be submitted to the Chief General Manager, Department of Payment and Settlement Systems, 14th floor, Central Office Building, SBS Road, Fort, Mumbai 400001. The application would be considered provided it is complete in all respects and the applicant admits to the contravention.

**(iii) Operational procedure to be followed:** The Reserve Bank will follow the following procedure before imposing the penalty/fine or compounding of the offence on the payment system operators / banks (entity/ies);

- a. Issue of letter to the entity calling for explanation citing the offence.
- b. Based on the explanation and information/evidence submitted by the entity, the Reserve Bank will examine whether the contravention/offences can be considered for compounding or levy of penalty/fine.
- c. Issue of show cause notice for imposing penalty/fine/compounding, in case Reserve Bank is not satisfied by the explanation.
- d. Personal hearing to the entity to be given, if requested in writing, before taking any penal action.
- e. Imposition of penalty/fine or compounding of contravention/offences.

**(iv) Amount of Penalty/fine:** The amount of penalty/fine for the various payment system operators / banks would be based on the nature of contravention/offences with a minimum penalty of Rs. 5 lakh. Where the contravention/violation is not quantifiable, a penalty of minimum Rs. 5 lakh with a maximum of Rs. 1 crore would be levied.

**(v) Disclosure:** The entities, on whom penalty/fine has been levied, shall disclose the penalties/fines in their Annual Financial Statements for the year in which the penalty is levied. Reserve Bank shall also make the penalty levied public by disclosing the same on its website.

**(vi) Method of payment of penalty/fine:** In respect of the entities maintaining current accounts with the Reserve Bank, the Reserve Bank will directly debit their current account (after obtaining a mandate to that effect). The entities which are not maintaining current account with Reserve Bank, would deposit the amount in the designated account of the RBI within one week of the issue of written order.

**(vii) Non-payment of penalty/fine:** In the event of non-payment of penalty /fine, the provisions of Section 8 of the PSS Act would be applicable and necessary action under PSS Act would be initiated accordingly.

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10657&Mode=0>

Source: Notification No. RBI/2016-17/97 [DPSS.CO.OD. No.1082/06.08.005/2016-17] dated: October 20, 2016

### ➔ Sovereign Gold Bonds- Maximum Limit of Investment and Acceptance as Collateral- Clarification

The Sovereign Gold Bond Scheme was notified by GOI in exercise of the powers conferred by clause (iii) of section 3 of the Government Securities Act, 2006 (38 of 2006). The scheme specifies that the maximum limit of subscription to the bonds will be 500 gm, per person per fiscal year. With respect to the scheme, we have been receiving queries from banks and others about the feasibility of lending against the bonds and whether the restrictions on subscription would extend to acquisitions through transfers etc.

In this regard, it is clarified that:

- a. The Sovereign Gold Bonds (SGB) are government securities issued under section 3 (iii) of the government securities Act. As the holder of an SGB can therefore create a pledge, hypothecation or lien against the security (in accordance with the provisions of the G-Sec Act 2006/ G.Sec Regulations, 2007), the SGBs may be used as collateral security for any loan.
- b. Banks and other eligible holders can acquire more than 500 gms. of SGBs in a fiscal year, through transfers etc., including transfers arising out of recovery proceedings.

Source: Notification No. RBI/2016-17/96 [IDMD.CDD. No.892/14.04.050/2016-17] dated: October 20, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10656&Mode=0>

### ➔ Risk Weights for exposures to HFCs

It has been observed that there is a lack of uniformity among banks in the application of risk weights on their exposures to Housing Finance Companies (HFCs).

The matter of risk weights prescribed in respect of banks' exposures to HFCs has been examined and it is advised that exposures to all HFCs would be risk weighted as per the ratings assigned by the rating agencies registered with the SEBI and accredited by the Reserve Bank of India, in a manner similar to that of corporates, AFCs, NBFC-IFCs and NBFC-IDFs as prescribed under Para 5.8.1 of the Master Circular, DBR.No.BP.BC.1/21.06.201/2015-16 dated



July 1, 2015 on Basel III Capital Regulations read with the circular, DBR.No.BP.BC.6/21.06.001/2016-17 dated August 25, 2016 on 'Review of Prudential Norms- Risk Weights for Exposures to Corporates, AFCs and NBFC-IFCs'.

Source: Notification No. RBI/2016-17/95 [DBR.BP.BC.No.20/21.06.001/2016-17] dated: October 20, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10655&Mode=0>

### ➤ External Commercial Borrowings (ECB) – Extension and conversion

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to paragraph No. C.14, F.18 and F.19 of Annex to A.P. (DIR Series) Circular No.32 dated November 30, 2015 and paragraph No. 2.10 and 2.16 of Master Direction No.5 dated January 1, 2016 on External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorized Dealers and Persons other than Authorized Dealers as amended from time to time. Based on experience gained, it has been decided to simplify the process of dealing with matured but unpaid ECB.

Under the extant ECB guidelines, designated AD Category-I banks can approve requests from borrowers for changes in repayment schedule during the tenure of the ECB, i.e., prior to maturity provided average maturity and all-in-cost are in conformity with applicable ceilings/ norms. To simplify the procedure relating to ECB, it has been decided to delegate the powers to designated AD Category-I banks to approve requests from borrowers for extension of matured but unpaid ECB, subject to the following conditions:

- i. No additional cost is incurred;
- ii. Lender's consent is available;
- iii. Reporting requirements are fulfilled.

Further, powers are also delegated to designated AD Category – I bank to approve cases of conversion of matured but unpaid ECB into equity subject to same conditions as set out in paragraph 2 while ensuring that conversion is within the terms mentioned in paragraph C.14 of Annex to Circular dated November 30, 2015 as referred to above.

It should also be noted that if the ECB borrower concerned has availed credit facilities from the Indian banking system including overseas branches/subsidiaries, any extension of tenure / conversion of unpaid ECBs into equity (whether matured or not) shall be subject to applicable prudential guidelines issued by the Department of Banking Regulation of RBI, including guidelines on restructuring. Further, such conversion into equity shall also be subject to consent of other lenders, if any, to the same borrower or at least information regarding conversions shall be exchanged with other lenders of the borrower.

Source: Notification No. RBI/2016-17/92 [A.P. (DIR Series) Circular No. 10] dated: October 20, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10652&Mode=0>

### ➤ Rupee Drawing Arrangement - Trade related remittance limit

Attention of Authorized Dealer Category – I (AD Category – I) banks is invited to A.P. (DIR Series) Circular No.102 dated May 21, 2015 permitting them to regularize payments exceeding the prescribed limit under RDA provided that they are satisfied with the bonafide of the transaction. On a review and in consultation with Government of India, it has been decided that the permitted trade transaction, under the Rupee Drawing Arrangements (RDAs) shall not exceed fifteen lakh rupees per transaction. All other instructions issued vide A.P. (DIR Series) Circular No. 28 [A. P. (FL/RL Series) Circular No. 02] dated February 6, 2008 will remain unchanged.

Source: Notification No. RBI/2016-17/91 [A.P. (DIR Series) Circular No. 9] dated: October 20, 2016

Link: [https://rbi.org.in/Scripts/BS\\_CircularIndexDisplay.aspx?Id=10651](https://rbi.org.in/Scripts/BS_CircularIndexDisplay.aspx?Id=10651)

### ➤ Accounts under PMJDY - Precautions

In reference to our circular DCM (Plg) No.1424/10.27.00/2016-16 dated November 25, 2016 on "Withdrawal of cash – Weekly limit". With a view to protect the innocent farmers and rural account holders of PMJDY from activities of money launders and legal consequences under the Benami Property Transaction & Money Laundering laws, it has been decided to place certain limits, as a matter of precaution, on the operations in the PMJDY accounts funded through deposits of Specified Bank Notes (SBNs) after November 09, 2016. As a temporary measure, the banks are advised to observe the following in respect of the PMJDY accounts:

- i. Fully KYC compliant account holders may be allowed to withdraw Rs. 10,000/- from their account, in a month. The branch managers may allow further withdrawals beyond Rs. 10,000 within the current applicable limits only after ascertaining the genuineness of such withdrawals and duly documenting the same on bank's record.
- ii. Limited or Non KYC compliant account holders may be allowed to withdraw Rs. 5,000 per month from the amount deposited through SBNs after November 09, 2016 within the overall ceiling of Rs. 10,000.

Source: Notification No. RBI/2016-17/165 [DCM (Plg) No. 1450/10.27.00/2016-17] dated: November 29, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10755&Mode=0>

### ➤ Deposit of Specified Bank Notes (SBNs) – Chest Balance Limit / Cash Holding Limit

In reference to Circular. DCM (CC) No. 2598/03.02.05/2009-10 dated October 27, 2009, which inter alia stated that the balance in a currency chest, exceeding the Chest Balance Limit / Cash Holding Limit will be deemed to be bank's own cash, not allowing for inter-chest fungibility.

In the wake of deposits of SBNs in massive quantity and accumulations thereof, the above instructions have been revisited and banks are advised as under:

- i. SBNs deposited in the currency chests, since November 10, 2016 will be considered as part of the chest balance in the soiled note category but such deposits will not be reckoned for calculating Chest Balance Limit / Cash Holding Limit.
- ii. A review of the above will be taken up in the second fortnight of February 2017.

Source: Notification No. RBI/2016-17/164 [DCM (Plg) No. 1459/10.27.00/2016-17] dated: November 29, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10754&Mode=0>

### ➤ Chest Guarantee Scheme for Specified Bank Notes (SBNs) - CGSS

In reference to Circular DCM (Plg) No.1383/10.27.00/2016-17 dated November 24, 2016 on "Specified Bank Notes (SBNs) - Deposit under Guarantee Scheme to decongest the storage facilities at banks". In continuation to the above, it has now been decided to introduce a new scheme for depositing SBNs with designated currency chest at the district level, under guarantee agreement similar to the current facility available at RBI offices.

Source: Notification No. RBI/2016-17/160 [DCM (Plg) No.1430/10.27.00/2016-17] dated: November 27, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10745&Mode=0>

### ➤ Issuance of Rupee denominated bonds overseas by Indian banks

Attention of authorized Dealer Category - I (AD Category - I) banks is invited to the measures announced by the Reserve Bank on August 25, 2016 for development of Fixed Income and Currency Markets in India which, inter alia, proposed to permit banks to issue Rupee Denominated Bonds overseas for their capital re-

quirements and for financing infrastructure and affordable housing and Circular DBR.BP.BC.No.28/21.06.001/2016-17 dated November 3, 2016.

In line with the announcement made, with a view to developing the market of Rupee Denominated Bonds overseas, as also providing an additional avenue for Indian banks to raise capital / long term funds, it has been decided, after consultation with the Government, to allow Indian banks, within the limit set for foreign investment in corporate bonds (INR 244323 crore at present), to issue:

- i. Perpetual Debt Instruments (PDI) qualifying for inclusion as Additional Tier 1 capital and debt capital instruments qualifying for inclusion as Tier 2 capital, by way of Rupee Denominated Bonds overseas; and
- ii. Long term Rupee Denominated Bonds overseas for financing infrastructure and affordable housing.

Provisions contained in A.P. (DIR Series) circular No. 17 dated September 29, 2015 and A.P. (DIR Series) circular No.60 dated April 13, 2016 on Issuance of Rupee Denominated Bonds Overseas read with paragraph No. 3.3.2 and 3.3.3 of Master Direction No. 5 dated January 1, 2016 on External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorized Dealers and Persons other than Authorized Dealers as amended from time to time, which allow Indian banks to participate in the space of Rupee Denominated Bonds Overseas only as arrangers and underwriters but not as issuers, accordingly, stand modified for the limited purpose of treating Indian banks as eligible borrowers under this route. The instruments (PDI and debt capital instruments) and long terms bonds, as mentioned in paragraph 2 above, issued by Indian banks by way of Rupee Denominated Bonds overseas should, however, conform to the provisions contained in the Master Circular DBR.No.BP.BC.1/21.06.201/2015-16 dated July 01, 2015 on 'Basel III Capital Regulations' and Circular DBOD.BP.BC.No. 25/08.12.014/2014-15 dated July 15, 2014 on 'Guidelines on Issue of Long Term Bonds by Banks – Financing of Infrastructure and Affordable Housing' issued by the Reserve Bank and as amended from time to time. Further, underwriting by overseas branches/subsidiaries of Indian banks for such issuances will not be allowed.

Source: Notification No. RBI/2016-17/107 [A.P. (DIR Series) Circular No. 14] dated: November 03, 2016

### ➤ External Commercial Borrowings (ECB) – Clarifications on hedging

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to paragraphs 2.i and 3 of A.P. (DIR Series) Circular No.56 dated March 30, 2016 and paragraph no. 2.5 of Master Direction No.5 dated January 1, 2016 on 'External Commercial

Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorized Dealers and Persons other than Authorized Dealers' as amended from time to time, on the provisions of hedging in the ECB framework.

With a view to provide clarity on the aforesaid directions and bring uniformity in hedging practices in the market so as to effectively address currency risk at a systemic level, the following clarifications are issued:

i. Coverage: Wherever hedging has been mandated by the RBI, the ECB borrower will be required to cover principal as well as coupon through financial hedges. The financial hedge for all exposures on account of ECB should start from the time of each such exposure (i.e. the day liability is created in the books of the borrower).

ii. Tenor and rollover: A minimum tenor of one year of financial hedge would be required with periodic rollover duly ensuring that the exposure on account of ECB is not unhedged at any point during the currency of ECB.

iii. Natural Hedge: Natural hedge, in lieu of financial hedge, will be considered only to the extent of offsetting projected cash flows / revenues in matching currency, net of all other projected outflows. For this purpose, an ECB may be considered naturally hedged if the offsetting exposure has the maturity/cash flow within the same accounting year. Any other arrangements/ structures, where revenues are indexed to foreign currency will not be considered as natural hedge. The designated AD Category-I bank will have the responsibility of verifying that 100 per cent hedging requirement is complied with. All other aspects of the ECB policy shall remain unchanged.

Source: Notification No. RBI/2016-17/110 [A.P. (DIR Series) Circular No. 15] dated: November 07, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10682&Mode=0>

### ➤ Repo / Reverse Repo Transactions with RBI

In reference to Circular No. FMRD.DIRD.10/14.03.002/2015-16 dated May 19, 2016, on the captioned subject. In this connection, it has been decided to start reckoning the market value of collateral securities for the purpose of RBI Repo (including MSF) and Reverse Repo operations and to allow re-repoing of securities received under RBI Reverse Repo operations with effect from November 26, 2016.

Source: Notification No. RBI/2016-17/117 [FMOD.MAOG. No.116/01.01.001/2016-17] dated: November 10, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10689&Mode=0>

### ➤ Schemes for Stressed Assets - Revisions

In the recent past, the Reserve Bank of India has taken various regulatory measures to strengthen the lenders' ability to deal with stressed assets viz., Framework for Revitalising Distressed Assets, Flexible Structuring of Project Loans, Strategic Debt Restructuring Scheme, Scheme for Sustainable Structuring of Stressed Assets, etc.

The changes in the above guidelines have been carried out with the objectives of:

- i. harmonisation of stand-still clause as applicable in case of Strategic Debt Restructuring Scheme with other guidelines;
- ii. clarifying on the deemed date of commencement of commercial operations; and
- iii. partial modification of certain guidelines based on the experience gained in using these tools in resolving the stressed assets as well as feedback received from stakeholders, and taking into consideration the requirements of the construction sector.

Source: Notification No. RBI/2016-17/122 [DBR.No.BP. BC.34/21.04.132/2016-17] dated: November 10, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10695&Mode=0>

## INSOLVENCY & BANKRUPTCY CODE, 2016

### The Insolvency and Bankruptcy Code, 2016

The Insolvency and Bankruptcy Code, 2016 is an Act of Parliament that was enacted on 28th May, 2016. The Act consolidates and amends the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an For Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

Link: <http://www.ipaicmai.in/IPA/Upload/LegalFramework/IBC-2016.pdf>

### Ministry of Corporate Affairs has notified the following rules:

- Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

Notification No.G.S.R. 1108(E), dated 30th November, 2016

Link:<http://www.ipaicmai.in/IPA/Upload/Rules/InsolvencyRules01122016.pdf>

- Companies (Transfer of Pending Proceedings) Rules, 2016

Notification No. G.S.R. 1119(E), dated 7th December, 2016

Link: <http://www.ipaicmai.in/IPA/Upload/Rules/CompaniesTransfer08122016.pdf>

Ministry of Corporate Affairs notified the date of establishment of Insolvency and Bankruptcy Board of India (Hereinafter referred as "Board") as 1st October, 2016 with the location of head office as New Delhi vide Notification S.O. 3110(E) dated 1st October, 2016.

Link: [http://www.ipaicmai.in/IPA/Upload/LegalFramework/Notifications/Notification\\_01102016\\_II.pdf](http://www.ipaicmai.in/IPA/Upload/LegalFramework/Notifications/Notification_01102016_II.pdf)

#### **The Board has since notified the following Regulations:**

- Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016.

Notification No. IBBI/2016-17/GN/REG001, dated 21.11.2016

Link: <http://www.ipaicmai.in/IPA/Upload/LegalFramework/Regulations/MODEL-BYE-LAWS.pdf>

- Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016

Notification No. IBBI/2016-17/GN/REG002, dated 21.11.2016

Link: <http://www.ipaicmai.in/IPA/Upload/LegalFramework/Regulations/IPA.pdf>

- Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016

Notification No. IBBI/2016-17/GN/REG003, dt. 23.11.2016

Link: <http://www.ipaicmai.in/IPA/Upload/LegalFramework/Regulations/IP.pdf>

- Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

Notification No. IBBI/2016-17/GN/REG004, dt. 30.11.2016

Link: <http://www.ipaicmai.in/IPA/Upload/LegalFramework/Regulations/IRPFPCP.pdf>

- Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 - Notification No. IBBI/2016-17/GN/REG005, dated 15.12.2016.

Link: <http://www.ipaicmai.in/IPA/Upload/LegalFramework/Liquidation-Process-Regulations.pdf>

The Institute of Cost Accountants of India has incorporated a company registered under section 8 of the Companies Act, 2013, namely Insolvency Professional Agency of Institute of Cost Accountants of India to function as Insolvency Professional Agency (IPA) under the Insolvency and Bankruptcy Code, 2016.

Link: <http://ipaicmai.in/IPA/index.aspx>

To be able to function as Insolvency Professional (IP), an individual is required to be enrolled with an insolvency professional agency as a professional member followed by registration with the Board in accordance with the provisions contained in Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

#### **Cost Accountant (CMA) in Practice may function as Insolvency Professional in different capacities:**

- As Interim Resolution Professional and manage the affairs of Corporate Debtors as a going concern during the insolvency resolution process in interim period. (Section 16)

- As Resolution Professional for preparing the Resolution Plan and managing the affairs of the Corporate Debtor as a going concern during the insolvency resolution process to be appointed by the committee of creditors. (Section 22)

- As Liquidator. (Section 33,34)

- As Voluntary Liquidator of a corporate person registered as a company to be appointed by the members of the company. - (Section 59)

- As Insolvency Resolution Professional in case of insolvency and bankruptcy for individuals and partnership firms. (Section 80,82)

- As Resolution Professional for initiating the insolvency resolution process in case of insolvency and bankruptcy for individuals and partnership firms. (Section 94,95,97)

- As Bankruptcy Trustee in case of insolvency and bankruptcy for individuals and partnership firms. (Section 122,123,125)

- As Valuer of properties and assets of liquidation estate under the Insolvency and Bankruptcy Code, 2016 Act and Regulations thereunder.

\* Sections referred in parentheses relates to the Insolvency and Bankruptcy Code, 2016

## CUSTOMS

### Notifications/Circulars:

#### ➤ Abolition of Mate receipt by CBEC in respect of Containerised Cargo as per Committee Recommendations for Simplification of Custom Procedures

CBEC has decided that customs house will not insist for issuance of Mate's receipt in the case of containerised cargo. However, in respect of non-containerised export cargo like bulk cargo etc., the practice of issuing Mate's receipt would continue vide CBEC Circular No. 56/2016-Customs dated 24th Nov, 2016.

Link: <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2016/circ56-2016cs.pdf>

#### ➤ Notification No. 57/2016-Cus, dt. 03-10-2016

Central Government made following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.94/96-Customs, dated the 16th December, 1996, namely:

In the said notification, in first proviso for clause (a), the following clauses shall be substituted namely,-

“(a) in the case of Bhutan, the machinery and equipment [other than those exported under the Duty Exemption Scheme (DEEC) or Export Promotion Capital Goods Scheme (EPCG) or Duty Entitlement Passbook Scheme (DEPB)] are re-imported within seven years after their exportation or within such extended period, not exceeding three years, as may be allowed by the Principal Commissioner of Customs or Commissioner of Customs as the case may be, on sufficient cause being shown for the delay, allow:

(aa) in all other cases, the goods [other than the goods exported under the Duty Exemption Scheme (DEEC) or the Export Promotion Capital Goods Scheme (EPCG) or Duty Entitlement Passbook Scheme (DEPB)] are re-imported within three years after their exportation or within such extended period, not exceeding two years, as the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, on sufficient cause being shown for the delay, allow;

(ab) in the case of goods exported under the Duty Exemption Scheme (DEEC) or the Export Promotion Capital Goods Scheme (EPCG), or Duty Entitlement Passbook Scheme (DEPB), re-importation of such goods takes place within one year of exportation or such extended period not exceeding one more year as the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, on sufficient cause being shown for the delay, allow.”

Read more at: <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs57-2016.pdf>

➤ **Notification No. 54/2016-Cus, dt. 03-10-2016** - Includes two ICDs in list of Customs stations from where Export/Import under EP schemes can take place.

Read more at: <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs54-2016.pdf>

#### ➤ Clearance of import of metal scrap-Procedure

Kind attention is invited to Circular No. 48/2016-Customs dated 26.10.2016 on the above cited subject. In the said Circular revised guidelines for clearance of un-shredded compressed or loose metallic scrap have been prescribed. In Para 3(i), however, while prescribing the documentary requirement in respect of the clearance of the shredded metallic scrap (both ferrous and non-ferrous), it has been inadvertently mentioned that the import shall be permitted 'without any pre-shipment certificate'.

Policy conditions for import of shredded metallic scrap are prescribed in Para 2.54 (b) of HBP (2015-2020) which clearly mention that the importer shall furnish to the Customs, a pre-shipment inspection certificate from the designated inspection & Certification agencies.

In view of the above policy conditions, it is clarified that the import of shredded metallic scrap shall continue to be cleared inter-alia upon furnishing of pre-shipment inspection certificate. Para 3(i) of the Circular No. 48/2016-Customs shall stand modified to that extent.

Source: Notification No. Circular No. 53/2016-Customs [F. No. 450/148/2009-Cus.IV] dated: 18th November, 2016

➤ **Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver – Notification No. 144/2016-Cus (NT), dt. 30-11-2016.**

Read more at: <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt144-2016.pdf>

➤ **Rate of exchange of conversion of the foreign currency with effect from 30th November, 2016 – Notification No. 143/2016-Cus (NT), dt. 29-11-2016.**

Read more at: <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt143-2016.pdf>

➤ **Courier Imports and Exports (Clearance) Amendment Regulations, 2016**

In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the regulations, further to amend the Courier Imports and Exports (Clearance) Regulations, 1998, namely the Courier Imports and Exports (Clearance) Amendment Regulations, 2016 vide Notification No. 142/2016-Cus (NT), dt. 29-11-2016.

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt142-2016.pdf>

➔ **Rescinds Publication of Daily List of Imports & Exports Rules, 2004- Notification No. 128/2004- Cus (N.T.) dated 19th November, 2004 – Notification No. 140/2016-Cus (NT), dt. 25-11-2016.**

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt140-2016.pdf>

➔ **Deferred Payment of Import Duty Rules, 2016 – Notification No. 134/2016-Cus (NT), dt. 02-11-2016**

In exercise of the powers conferred by the proviso to sub-section (1) of sections 47 and section 156 of the Customs Act, 1962 (52 of 1962), the Central Government makes the following rules, namely the Deferred Payment of Import Duty Rules, 2016.

**Application:** These rules shall apply to eligible importer who have been notified under the proviso to sub-section (1) of section 47 of the Act.

#### **Information about intent to avail benefit of notification:**

An eligible importer who intends to avail the benefit under sub-section (1) of section 47 of the Act shall intimate to the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, having jurisdiction over the port of clearance, his intention to avail the said benefit.

The Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, shall, upon being satisfied with the eligibility of the importer to pay the duty under these rules, allow the eligible importer to pay the duty by due dates specified in rule 5.

Payment of duty — The eligible importer shall pay the duty by the dates specified here under inclusive of the period (excluding holidays) as mentioned in sub-section (2) of section 47 of the Act, namely:-

(a) for goods corresponding to Bill of Entry returned for payment from 1st day to 15th day of any month, the duty shall be paid by the 17th day of that month;

(b) for goods corresponding to Bill of Entry returned for payment from 16th day till the last day of any month other than March the duty shall be paid by the 2nd day of the following month;

(c) for goods corresponding to Bill of Entry returned for payment from 16th day till the 29th day of March, the duty shall be paid by the 31st March;

(d) for goods corresponding to Bill of Entry returned for payment from 30th day of March to 31st day of March, the duty shall be paid by the 2nd April.

**Manner of payment:** The eligible importer shall pay the duty electronically: Provided that the Assistant Commissioner or the Deputy Commissioner of Customs, as the case may be, for reasons to be recorded in writing, may allow payment of duty by any mode other than electronic payment.

**Deferred payment not to apply in certain cases:** An eligible importer who fails to pay duty in full by due date more than once in a period of three consecutive months shall not be permitted to make deferred payment.

Provided that the facility of deferred payment shall not be restored unless the eligible importer has paid the duty in full along with the interest.

#### ➔ **Safeguard Duty**

CBEC seeks to levy safeguard duty on Hot Rolled flat sheets and plates (excluding hot rolled flat products in coil form) of alloy or non-alloy steel having nominal thickness less than or equal to 150mm and nominal width of greater than or equal to 600mm.

Source: Notification No. 03/2016 Cus. (SG), dt. 23-11-2016

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-sg2016/cssg03-2016.pdf>

#### ➔ **Anti Dumping Duty:**

- CBEC seeks to levy definitive anti-dumping duty on Axle for Trailers originating in, or exported from People's Republic of China – Notification No. 54/2016-Cus (ADD), dt. 29-11-2016.

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd54-2016.pdf>

- Levy of anti-dumping duty on the imports of Low Ash Metallurgical Coke originating in or exported from Australia and People's Republic of China for a period of five years vide No-

tification No. 53/2016-Cus (ADD), dt. 25-11-2016.

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd53-2016.pdf>

- Levy of anti-dumping duty at modified rates on 4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA) originating in or exported from People's Republic of China up to and inclusive of 22nd January, 2019 – Notification No. 52/2016-Cus (ADD), dt. 09-11-2016.

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd52-2016.pdf>

- CBEC seeks to levy provisional anti-dumping duty on 'Wire Rod of Alloy or Non-Alloy Steel' originating in or exported from China PR vide Notification No. 51/2016-Cus (ADD), dt. 02-11-2016.

Source: <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd51-2016.pdf>

- CBEC imposed anti-dumping duty on Narrow woven Fabrics [Hook and Loop Velcro Tapes] of specified types, originating in or exported from People's Republic of China for a period of five years vide Notification No. 50/2016-Cus (ADD), dt. 06-10-2016.

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-add2016/csadd50-2016.pdf>

- ➔ **Instructions:** Procedures for handling exporter's obligations under EPCG authorizations rationalized vide Instruction F. No. 605/71/2015-DBK, dated: 14-10-2016.

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-instructions/cs-instructions-2016/instruction-605-71-2015-DBK-14102015.pdf>

## SERVICE TAX

### Notifications/Circulars:

- ➔ **Notification No. 51/2016-Service Tax, dt. 30-11-2016**

CBEC amended Place of Provision of Services Rules, 2012 so as to exclude 'online information and database access or retrieval services' from the definition of 'telecommunication services'.

Read more at: <http://www.cbec.gov.in/resources//htdocs-service-tax/st-notifications/st-notifications-2016/st51-2016.pdf>

<http://www.cbec.gov.in/resources//htdocs-service-tax/st-notifications/st-notifications-2016/st51-2016.pdf>

- ➔ **Notification No. 50/2016-Service Tax, dt. 22-11-2016**  
Amendment of Notification No. 20/2014-ST dated 16th September, 2014 so as to provide exclusive jurisdiction to LTU-Bangalore with respect to online information and database access or retrieval services provided or agreed to be provided by a person located in non-taxable territory and received by a 'non-assesse online recipient'.

Read more at: <http://www.cbec.gov.in/resources//htdocs-service-tax/st-notifications/st-notifications-2016/st50-2016.pdf>

- ➔ **Notification No. 49/2016-Service Tax, dt. 09-11-2016**

CBEC seeks to amend notification No. 30/2012-ST, dated the 20th June, 2016 so as to put compliance liability of service tax payment and procedure on to the service provider located in the non-taxable territory with respect to online information and database access or retrieval services provided in the taxable territory to 'non-assesse online recipient'.

Read more at: <http://www.cbec.gov.in/resources//htdocs-service-tax/st-notifications/st-notifications-2016/st49-2016.pdf>

- ➔ **Notification No. 48/2016-Service Tax, dt. 09-11-2016**

CBEC amended Service Tax Rules, 1994 so as to prescribe that the person located in non-taxable territory providing online information and database access or retrieval services to 'non-assesse online recipient', as defined therein, is liable to pay service tax and the procedure for payment of service tax.

Read more at: <http://www.cbec.gov.in/resources//htdocs-service-tax/st-notifications/st-notifications-2016/st48-2016.pdf>

- ➔ **Notification No. 47/2016-Service Tax, dt. 09-11-2016**

Amendment of Notification No. 25/2012-ST dated 20th June, 2016 so as to withdraw exemption from service tax for services provided by a person in non-taxable territory to Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Read more at: <http://www.cbec.gov.in/resources//htdocs-service-tax/st-notifications/st-notifications-2016/st47-2016.pdf>

- ➔ **Notification No. 46/2016-Service Tax, dt. 09-11-2016**

CBEC seeks to amend Place of Provision of Services Rules, 2012 so as to amend the place of provision of 'online information and database access or retrieval services' with effect from 01.12.2016.

Read more at: <http://www.cbec.gov.in/resources//htdocs-service-tax/st-notifications/st-notifications-2016/st46-2016.pdf>

➔ Withdrawal of exemption from service tax on cross border B2C OIDAR services provided online/electronically from a non-taxable territory to consumers in taxable territory in India vide Circular 202/12/2016-ST, dt. 09-11-2016.

Read more at: <http://www.cbec.gov.in/htdocs-servicetax/st-circulars/st-circulars-2016/st-circ-202-2016>

## CENTRAL EXCISE

### Notifications/Circulars:

➔ CBEC seeks to exempt Point of Sale (POS) devices and goods required for its manufacture from central excise duty till 31st March, 2017 vide **Notification No. 35/2016-CE, dt. 28-11-2016.**

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/ex-cise/cx-act/notifications/notfns-2016/cx-tarr2016/ce35-2016.pdf>

➔ CBEC amended Notification No. 27/2014-Central Excise(NT), dated 16.09.2014 – **Notification No. 48/2016-CENT dt. 07-10-2016.**

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/ex-cise/cx-act/notifications/notfns-2016/cx-nt2016/cent48-2016.pdf>

➔ **Export warehousing-Extension of facility in Ahmedabad District of Gujarat – Circulars: 1051/39/2016-CX dated: 15-11-2016**

In reference to Board's Circular No. 581/18/2001-CX, dated 29th June, 2001 which, inter alia, specifies conditions, procedures, class of exporters and places under sub-rule(2) of Rule 20 of Central Excise Rules, 2002 for warehousing of excisable goods for the purpose of export. In paragraph 2(2) of the said Circular, the Board has specified places where warehouses may be established to store excisable goods for export. The Board has received representations from the trade to include Ahmedabad District in the state of Gujarat in the list of places mentioned in the said Circular.

The matter has been examined. Board is of the view that extension of the facility of export warehousing to Ahmedabad district in the state of Gujarat would facilitate the trade and industry. Therefore, it has been decided to amend paragraph 2(2) of the Circular No. 581/18/2001-CX, dated 29th June, 2001 to include Ahmedabad district in the State of Gujarat. Accordingly, the said paragraph shall now read as follows: "(2) Places: The warehouses may be established and registered in Bangalore, Kolkata, Chennai, Delhi, Hyderabad, Jaipur, Kanpur, Ludhiana, Mumbai, the district of Ahmedabad in the state of Gujarat, the districts of Pune and

Raigad in the state of Maharashtra, the district of East Midnapore in the state of West Bengal, the district of Kancheepuram in the state of Tamil Nadu, the district of Indore in the state of Madhya Pradesh, the taluka Ankleshwar in the district of Bharuch in the state of Gujarat, Navi Mumbai in the district of Thane in the state of Maharashtra, Sholinghur in the district of Vellore in the state of Tamilnadu, Bidadi in the Bangalore Rural District, Karnataka, the district of Thiruvallur in the state of TAMILNADU, the district of GAutam Budh Nagar in the state of Uttar Pradesh, the district of Nagpur in the state of Maharashtra, Tehsil of Tijara of Alwar district in the state of Rajasthan and Bhuj Taluka of Kutch District in the state of Gujarat."

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/ex-cise/cx-circulars/cx-circulars-2016/circ1051-39-2016cx-signed.pdf>

➔ **Combined Annual Return Form for Central Excise and Service Tax – Circular: 1050/38/2016-CX dated: 08-11-2016**

Notification No. 8/2016-CE(N.T.) (Sl. No.5) dated 01.03.2016 and Notification No. 13/2016-CE(N.T.) (Sl. No.9) dated 01.03.2016 vide which Rule 12 of Central Excise Rules, 2002 and Rule 9A of CENVAT Credit Rules, 2004, respectively, were amended to replace the existing Central Excise Forms ER-4 to ER-7 with an Annual Return form. On the service tax side, vide Notification No. 19/2016-ST dated 01.03.2016, Rule 7 of the Service Tax Rules, 1994 was amended to prescribe an annual return.

In terms of Rule 12 of Central Excise Rules, 2002 and Rule 7 of the Service Tax Rules, 1994, the format of the Annual Return, which was required to be filed by 30th day of November, was to be specified by the Board by notification.

In view of impending implementation of Goods & Services Tax (GST) it has been decided that, the aforesaid Annual Return shall not be required to be filed for the year 2015-16, which is due to be filed by 30.11.2016. After implementation of GST, Annual Return for non-GST goods only may be required. A final view on the same would be taken after due consultation with the trade.

Read more at: <http://www.cbec.gov.in/resources//htdocs-cbec/ex-cise/cx-circulars/cx-circulars-2016/circ1050-2016cx-signed.pdf>

## SEBI

### Notifications/Circulars:

➔ Securities and Exchange Board of India (SEBI), the SEBI has issued two notifications dated 30th November,2016 to amend Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 and Securities and Exchange Board



of India (Infrastructure Investment Trusts), Regulations, 2014 wherein the regulation 2 sub-regulation (1) Clause (zz) and regulation 2 sub-regulation (1) Clause (zzf), respectively are amended beside other regulations and definition of valuer in respect of financial valuation has been modified to include a **Cost Accountant in whole-time practice**.

To download the notifications, please click at below link- [http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1480513080291.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1480513080291.pdf)

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1480513049714.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1480513049714.pdf)

➔ SEBI has issued a circular indicating the disclosure of financial information in offer document/placement of Memorandum in respect of Infrastructure investment vide Circular No. CIR/IMD/DF/114/2016 October 20, 2016.

Read more at: [http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1476958899483.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1476958899483.pdf)

➔ SEBI has issued Circular No. SEBI /HO/MIRSD/MIRSD4/ CIR/ P/2016/119 dated November 1, 2016 on Enhanced Standards for Credit Rating Agencies (CRAs).

For details refer: [http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1477999985100.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1477999985100.pdf)

➔ **Review of requirement for copy of PAN Card to open accounts of FPIs**

Reference - SEBI circular no. CIR/MIRSD/01/2013 dated January 04, 2013 and CIR/MIRSD/07/2013 dated September 12, 2013. Based on representations received from stakeholders and to further ease the PAN verification process at the time of account opening of FPIs, it is decided that the intermediaries can verify the PAN of FPIs online from website authorized by Income Tax department at the time of account-opening for FPIs. However, FPIs need to provide the copy of PAN card within 60 days of account-opening or before remitting funds out of India, whichever is earlier to their intermediaries. 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.

Source: Circular - CIR/IMD/FPIC/123/2016, dated: November 17, 2016

Read more at: [http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1479379448955.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1479379448955.pdf)

➔ To ensure effective enforcement of uniform fine structure prescribed by SEBI vide Circular No. CIR/CFD/CMD/12/2015

dated November 30, 2015 for non-compliance with certain provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("Listing Regulations") and Standard Operating Procedure for suspension and revocation of trading of specified securities, SEBI has issued Circular No. SEBI/HO/CFD/CMD/CIR/P/2016/116 dated October 26, 2016 for freezing the holdings of promoters and promoter group entities of non compliant listed entities in the specified manner.

For details, refer to: [http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1477480389564.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1477480389564.pdf)

➔ **Disclosure by Listed Insurance Companies**

SEBI has issued circular indicating the format etc., regarding the disclosures to be made by the listed Insurance companies in the quarterly Financial Statements etc and for details refer to Circular No. CIR/CFD/DIL/115/2016 dated 24th Oct, 2016.

The insurance companies (life and non-life) shall submit the following disclosures for quarters ending 30th September, 2016 and 31st December, 2016 in the format as specified by IRDAI:

- i. Format for quarterly financial results;
- ii. Format for Reporting of Segment wise Revenue, Results and Capital Employed along with the quarterly results;

With respect to the format for Newspaper Publishing Purpose (Standalone/Consolidated), the insurance companies shall continue to follow the format as specified under the aforesaid circulars issued by SEBI. Additional disclosures may also be made as prescribed by IRDAI. The other requirements specified under the aforesaid circulars shall continue to apply to insurance companies.

Read full notification at: [http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1477287349972.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1477287349972.pdf)

## INCOME TAX

### Notifications/Circulars:

➔ **Income-tax (34th Amendment) Rules, 2016**

Central Board of Direct Taxes made rules to further amend the Income-tax Rules, 1962, namely the Income-tax (34th Amendment) Rules, 2016 vide Notification No. 108 /2016/F.No.142/01/2016-TPL / G.S.R. 1100(E) dt. 29th November 2016. It shall come into force from the 1st day of June, 2016.

In the Income-tax Rules, 1962, in rule 8AA, after sub-rule (2), the

sub-rule (3) has been inserted.

According to Rule 8AA (3):

In the case of a capital asset, declared under the Income Declaration Scheme, 2016:

(i) being an immovable property, the period for which such property is held shall be reckoned from the date on which such property is acquired if the date of acquisition is evidenced by a deed registered with any authority of a State Government; and

(ii) in any other case, the period for which such asset is held shall be reckoned from the 1st day of June, 2016.”

Reference: The principal rules were published vide Notification S.O. 969 (E), dated the 26th March, 1962 and last amended vide Notification S.O. 3573(E), dated the 28th November, 2016.

Link: <http://www.incometaxindia.gov.in/communications/notification/notification1082016.pdf>

#### ➤ Income-tax (33rd Amendment) Rules, 2016

Central Board of Direct Taxes made rules further to amend the Income-tax Rules, 1962, namely the Income-tax (33rd Amendment) Rules, 2016 vide Notification No. 107/2016/ F. No. 370142/28/2016-TPL / S.O. 3573(E) dated: 28th November, 2016. It shall be deemed to have come into force from the 1st day of June, 2016.

In the Income-tax Rules, 1962, after rules 12CB, a new rule 12CC has been substituted. Also, Form No. 64E & Form No. 64F have been inserted after the Form No. 64D.

Rule 12CC is in respect of the statement of income distribution by a securitisation trust-

(1) The statement of income distributed by a securitisation trust to its investor shall be furnished to the Principal Commissioner or the Commissioner of Income-tax within whose jurisdiction the principal office of the securitisation trust is situated, by 30th day of November of the financial year following the previous year during which such income is distributed:

Provided that the statement of income distributed shall also be furnished to the investor by 30th day of June of the financial year following the previous year during which the income is distributed.

(2) The statement of income distributed shall be furnished under sub-section (4) of section 115TCA by the securitisation trust to:

(i) the Principal Commissioner or the Commissioner of Income-tax referred to in sub-rule (1), in Form No. 64E, duly verified by an accountant in the manner indicated therein and shall be furnished

electronically under digital signature;

(ii) the investor in Form No. 64F, duly verified by the person distributing the income on behalf of the securitisation trust in the manner indicated therein.

(3) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for filing of Form No. 64E and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished.”

Link: <http://www.incometaxindia.gov.in/communications/notification/notification1072016.pdf>

#### ➤ Income-tax (32nd Amendment) Rules, 2016

Central Board of Direct Taxes made rules further to amend the Income-tax Rules, 1962, namely the Income-tax (32nd Amendment) Rules, 2016 vide Notification No. 106/2016 [F. No. 142/15/2015-TPL]/S.O. 3498(E) dated: 21st November, 2016.

In the Income-tax Rules, 1962, in rule 10V,-

(i) in sub-rule (1), in clause (c), after the words “has been entered into”, the words “or is established or incorporated or registered in a country or a specified territory notified by the Central Government in this behalf” shall be inserted with effect from the date of their publication in the Official Gazette;

(ii) after sub-rule (10), the following sub-rules shall be inserted, and shall be deemed to have been inserted with effect from the 15th day of March, 2016, namely:-

- Sub-rule (11), For the purposes of clause (a) of sub-section (4) of section 9A, a fund manager shall not be considered to be a connected person of the fund merely for the reason that the fund manager is undertaking fund management activity of the said fund.

- Sub-rule (12), For the purposes of clause (d) of sub-section (4) of section 9A, any remuneration paid to the fund manager, by the fund, which is in the nature of fixed charge and not dependent on the income or profits derived by the fund from the fund management activity undertaken by the fund manager shall not be included in the profits referred to in the said clause, if the conditions specified in clause (m) of sub-section (3) of section 9A are satisfied and such fixed charge has been agreed by the fund manager in writing at the beginning of the relevant fund management activity.

Reference: The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii) vide number S.O. 969(E), dated 26th March, 1962 and was last amended by notification number G.S.R.1073(E), dated 16th November, 2016.

Link: <http://www.incometaxindia.gov.in/communications/notification/notification1062016.pdf>

➤ **Income-tax (31st Amendment) Rules**

Central Board of Direct Taxes made rules further to amend the Income-tax Rules, 1962, namely the Income-tax (31st Amendment) Rules, 2016 vide Notification No.105/2016 [F.No.142/8/2014-TPL]/ GSR 1073(E) dated: 16th November 2016. In the Income-tax Rules, 1962, after rule 12D, the rule 12E has been inserted. According to Rule 12E, the prescribed authority under sub-section (2) of section 143 shall be an income-tax authority not below the rank of an Income-tax Officer who has been authorised by the Central Board of Direct Taxes to act as income-tax authority for the purposes of sub-section (2) of section 143.

Read more at: [http://www.incometaxindia.gov.in/communications/notification/notification105\\_2016.pdf](http://www.incometaxindia.gov.in/communications/notification/notification105_2016.pdf)

➤ **Admissibility of expenditure incurred by a firm on Keyman Insurance Policy in the case of a Partner vide Circular No. 38/2016, dated: 22 November 2016.**

Link: [http://www.incometaxindia.gov.in/circular/circular38\\_2016.pdf](http://www.incometaxindia.gov.in/circular/circular38_2016.pdf)

➤ **Income-tax (30th Amendment) Rules, 2016**

Central Board of Direct Taxes made rules further to amend the Income-tax Rules, 1962, namely the Income-tax (30th Amendment) Rules, 2016 vide Notification No. 104/2016 [F.No.370142/32/2016 -TPL] / SO 1068(E), dt.15 November 2016.

For full details of the notification, visit: [http://www.incometaxindia.gov.in/communications/notification/notification104\\_2016.pdf](http://www.incometaxindia.gov.in/communications/notification/notification104_2016.pdf)

➤ **Income-tax (29th Amendment) Rules, 2016**

Central Board of Direct Taxes made rules further to amend the Income-tax Rules, 1962, namely the Income-tax (29th Amendment) Rules, 2016 vide Notification No. 103/2016 [F.No.370142/29/2016 -TPL] / SO 3399(E) dated: 7 November 2016. In the Income-tax Rules, 1962, the following proviso has been inserted in rule 5 after sub-rule (1) with effect from 1st day of April, 2016: "Provided that in case of a domestic company which has exercised option under sub-section (4) of section 115BA, the allowance under clause (ii) of sub-section (1) of section 32 in respect of depreciation of any block of assets entitled to more than forty per cent. shall be restricted to forty per cent. on the written down value of such block of assets."

For details refer: <http://www.incometaxindia.gov.in/>

[http://www.incometaxindia.gov.in/communications/notification/notification103\\_2016.pdf](http://www.incometaxindia.gov.in/communications/notification/notification103_2016.pdf)

Reference: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide notification number S.O. 969 (E), dated the 26th March, 1962 and last amended by the Income-tax (28th Amendment) Rules, 2016, vide notification number G.S.R No.982(E), dated the 17.10.2016.

➤ **Notification No. 101/2016 [F. No. 300196/12/2016-ITA-I] / SO 3336(E) dated: 27 October 2016**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government notifies for the purposes of the said clause, Bihar Electricity Regulatory Commission, a body constituted by the State Government of Bihar, in respect of the following specified income arising to that Commission, namely:-

- (a) amount received in the form of government grants;
  - (b) amount received as licence fee from licensees in electricity;
  - (c) amount received as application processing fee; and
  - (d) interest earned on government grants and fee received.
- This notification shall be effective subject to the conditions that Bihar Electricity Regulatory Commission,-
- (a) shall not engage in any commercial activity;
  - (b) activities and the nature of the specified income remain unchanged throughout the financial years; and
  - (c) shall file returns of income in accordance with the provision of clause (g) of sub-section (4C) section 139 of the Income-tax Act, 1961.

This notification shall be applicable for the financial years 2016-17 to 2020-21.

Link: [http://www.incometaxindia.gov.in/communications/notification/notification101\\_2016.pdf](http://www.incometaxindia.gov.in/communications/notification/notification101_2016.pdf)

➤ **Prohibition of Benami Property Transactions Rules, 2016**

In exercise of the powers conferred by section 68 of the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988), the Central Government made rules, namely Prohibition of Benami Property Transactions Rules, 2016 vide Notification No. 99/2016 [F. No. 149/144/2015-TPL (Part-II)] / G.S.R. 1004(E) dated: 25 October 2016. It shall come into force on the 1st November, 2016.

For details, refer: [http://www.incometaxindia.gov.in/communications/notification/notification99\\_2016.pdf](http://www.incometaxindia.gov.in/communications/notification/notification99_2016.pdf)

➤ Central Government notifies 01.11.2016 as the effective date for Prohibition of Benami Property Transactions Act, 1988 vide Notification No.98/2016, dated 25.10.2016.

Read more at: <http://www.incometaxindia.gov.in/>

[communications/notification/notification98\\_2016.pdf](#)

➤ **Notification No. 97/2016 [F. No. 149/144/2015-TPL (Part-II)] / S.O. 3288(E) dated 25.10.2016: Section 71 of the Prohibition of Benami Property Transactions Act, 1988 - Transitional provision - Notified Adjudicating Authority**

In exercise of powers conferred under section 71 of the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988), the Central Government notifies that, with effect from the 1st day of November, 2016, the Adjudicating Authority appointed under sub-section (1) of section 6 of the Prevention of Money-Laundering Act, 2002 (15 of 2003) and the Appellate Tribunal established under section 25 of that Act shall discharge the functions of the Adjudicating Authority and Appellate Tribunal, respectively, under the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988) until the Adjudicating Authorities are appointed and the Appellate Tribunal is established under the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988).

Read full notification at: [http://www.incometaxindia.gov.in/communications/notification/notification97\\_2016.pdf](http://www.incometaxindia.gov.in/communications/notification/notification97_2016.pdf)

➤ **Notification No. 94/2016, dated: 17.10.2016**

In exercise of the powers conferred by section 115QA read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes made rules further to amend the Income-tax Rules, 1962, namely the Income-tax (28th Amendment), Rules, 2016. They shall come into force from the 1st June, 2016. In the Income-tax Rules, 1962, after PART-VII B, PART VII-BA has been inserted.

PART VII-BA states special provisions relating to tax on distributed income of domestic company for buy-back of shares.

40BB. Amount received by the company in respect of issue of share:

(1) For the purposes of clause (ii) of the Explanation to sub-section (1) of section 115QA, the amount received by a company in respect of the share issued by it, being the subject matter of buy-back referred to in the said section, shall be determined in accordance with this rule.

(2) Where the share has been issued by a company to any person by way of subscription, amount actually received by the company in respect of such share including any amount actually received by way of premium shall be the amount received by the company for issue of such share.

(3) Where the company had at any time, prior to the buy-back of the share, returned any sum out of the amount received in respect of such share the amount as reduced by the sum so returned shall

be the amount received by the company for issue of said share: Provided that if the sum or any part of it so returned was chargeable to additional income-tax under section 115-O and the company has paid such additional income tax then such sum or part thereof, as the case may be, shall not be reduced.

(4) Where the share has been issued by a company under any plan or scheme under which an employees' stock option has been granted or as part of sweat equity shares, the fair market value of the share as computed in accordance with sub-rule (8) of rule 3, to the extent credited to the share capital and share premium account by the company shall be deemed to be the amount received by the company for issue of said share:

Explanation - For the purposes of this sub-rule the expression "sweat equity shares" shall have the meaning assigned to it in clause (b) of the Explanation to sub-clause (vi) of clause (2) of section 17.

(5) Where the share has been issued by a company being an amalgamated company, under a scheme of amalgamation, in lieu of the share or shares of an amalgamating company, then, the amount received by the amalgamating company in respect of such share or shares determined in accordance with this rule, shall be deemed to be the amount received by the amalgamated company in respect of the share so issued by it.

(6) The amount received by a company, being a resulting company in respect of shares issued by it under a scheme of demerger, shall be the amount which bears the amount received by the demerged company in respect of the original shares determined in accordance with this rule in the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.

(7) The amount received by the demerged company in respect of the original shares in the demerged company shall be deemed to have been reduced by the amount as so arrived under sub-rule (6).

Read full notification at: <http://www.incometaxindia.gov.in/news/notificaiton942016.pdf>

➤ **Notification No. 93/2016, dated: 14.10.2016**

Central Government specifies that the reconstruction or splitting up of a company which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be deemed to be a demerger if the following conditions are fulfilled, namely:—

(i) that such reconstruction or splitting up has been made to transfer any assets of the demerged company to the resulting company to give effect to the conditions mentioned in the Share Holders' Agreement and Share Purchase Agreement; and

(ii) that the resulting company is a public sector company

Read more at: <http://www.incometaxindia.gov.in/communications/notification/notification-932016-17-10-2016.pdf>

➔ **Circular No. 39/2016, dt. 29th November, 2016: Transport, Power and Interest subsidies received by an Industrial Undertaking- Eligibility for deduction under sections 80-IB, 80-IC etc., of the Income-tax Act, 1961.**

Link: [http://www.incometaxindia.gov.in/communications/circular/circular\\_39\\_2016.pdf](http://www.incometaxindia.gov.in/communications/circular/circular_39_2016.pdf)

➔ **Circular No. 37/2016, dated 02.11.2016: Chapter VI-A deduction on enhanced profits**

Link: <http://www.incometaxindia.gov.in/communications/circular/circular372016.pdf>

➔ **Circular No.36/2016, dated 25.10.2016**

Taxability of the compensation received by the land owners for the land acquired under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('RFCTLAAR Act').

Read more at: <http://www.incometaxindia.gov.in/communications/circular/circular362016.pdf>

## FOREIGN TRADE

➔ **Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Eleventh Amendment) Regulations, 2016**

Reserve Bank of India made amendments in the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 (Notification No.FEMA.20/2000-RB dated 3rd May 2000) namely the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Eleventh Amendment) Regulations, 2016.

### Amendment of Schedule 1:

In the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, (Notification No. FEMA 20/2000-RB dated 3rd May 2000), in Schedule 1, in paragraph 2, after the existing sub-paragraph (4), a new sub-paragraph, by name '(5)' shall be inserted, namely:

“(5). A wholly owned subsidiary set up in India by a non-resident

entity, operating in a sector where 100 percent foreign investment is allowed in the automatic route and there are no FDI linked conditionalities, may issue equity shares or preference shares or convertible debentures or warrants to the said non-resident entity against pre-incorporation/ pre-operative expenses incurred by the said non-resident entity up to a limit of five percent of its capital or USD 500,000 whichever is less, subject to the conditions laid down below.

a. Within thirty days from the date of issue of equity shares or preference shares or convertible debentures or warrants but not later than one year from the date of incorporation or such time as Reserve Bank of India or Government of India permits, the Indian company shall report the transaction in the Form FC-GPR to the Reserve Bank.

b. The valuation of the equity shares or preference shares or convertible debentures or warrants shall be subject to the provisions of Paragraph 5 of Schedule 1 of these Regulations.

c. A certificate issued by the statutory auditor of the Indian company that the amount of pre-incorporation/pre-operative expenses against which equity shares or preference shares or convertible debentures or warrants have been issued has been utilized for the purpose for which it was received should be submitted with the FC-GPR form.

Explanation: Pre-incorporation/pre-operative expenses shall include amounts remitted to Investee Company's account, to the investor's account in India if it exists, to any consultant, attorney or to any other material/service provider for expenditure relating to incorporation or necessary for commencement of operations.

Source: Notification No.FEMA.373/2016-RB, dated: October 24, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10710&Mode=0>

➔ **Foreign Exchange Management (Manner of receipt and payment) Regulations, 2016**

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to A.D.(M.A. Series) Circular No. 11 dated May 16, 2000 in terms of which ADs were advised of various Rules, Regulations, Notifications/ Directions issued under the Foreign Exchange Management Act, 1999 (hereinafter referred to as the Act).

In consultation with the Government of India, the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000; Foreign Exchange Management (Receipt from, and payment to, a person resident outside India) Regulations, 2000 and Foreign Exchange Management Notification (Transactions

in Indian rupees with residents of Nepal or Bhutan) Regulations 2000, as amended from time to time have been repealed and superseded by the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016 notified vide G.S.R. No.480 (E) dated May 03, 2016.

Further, attention of Authorized Dealers is invited to para A.3 of Master Direction No 16/2015-16 on Export of Goods and Services and B.4 of Master Direction No 17/2015-16 on Import of Goods and Services dated January 1, 2016 respectively, as amended from time to time.

The synopsis of the new Regulations notified is as under:

### **Manner of receipt in foreign Exchange:**

(1) AD bank may receive foreign exchange by way of remittance or by way of reimbursement from his branch or correspondent outside India against payment for exports from India or against any other payment in following manner:

#### **(A) Members of Asian Clearing Union (ACU)**

(i) Bangladesh, Myanmar, Pakistan, Sri Lanka and Republic of Maldives -

a) Receipt for export of eligible goods and services, through ACU mechanism i.e. by debit to the ACU Dollar/Euro account in India of a bank of the member country in which the other party to the transaction is resident or by credit to the ACU Dollar/Euro account of the Authorized Dealer maintained with the correspondent bank in that member country,

b) In any freely convertible currency for cases other than export of eligible goods and services,

c) In respect of exports from India to Myanmar, payment may be received in any freely convertible currency or through the ACU mechanism from Myanmar.

(ii) Nepal and Bhutan:

a) In Rupees

b) In respect of exports from India to Nepal, may be received in any freely convertible currency also, provided the importer resident in Nepal has been permitted by the Nepal Rashtra Bank to make payment in free foreign exchange. However, such receipts shall not be routed through the ACU mechanism.

(iii) Islamic Republic of Iran -

In all cases including receipts for export of eligible goods and services, in any freely convertible currency and/or as prescribed by Reserve Bank of India from time to time.

(B) All countries other than those mentioned in (A) above:-

(i) Receipt in rupees from the account of a bank situated in any country other than an ACU member,

(ii) In any freely convertible currency.

(2) (i) In respect of export from India, receipt shall be made in a currency appropriate to the place of final destination as mentioned in the declaration form irrespective of the country of the residence of the buyer,

(ii) Any other mode of receipt of export proceeds as prescribed by the Reserve Bank of India from time to time.

(3) Payment for export of goods / software may be received from a Third Party (a party other than the buyer) as per specified conditions.

(4) Receipt for exports may also be made in following manner:

(i) In the form of a bank draft, cheque, pay order, foreign currency notes/traveller's cheque from a buyer during his visit to India;

(ii) By debit to FCNR/NRE account in India;

(iii) In rupees from the credit card servicing bank in India against the charge slip signed by the buyer;

(iv) From a rupee account held in the name of an Exchange House with an Authorised Dealer if the amount does not exceed fifteen lakh rupees per export transaction;

(v) In accordance with the directions issued by the Reserve Bank to Authorised Dealers, where the export is covered by the arrangement between the Central Government and the Government of a foreign country or by the credit arrangement entered into by the Exim Bank with a financial institution in a foreign state;

(vi) In the form of precious metals i.e. gold / silver / platinum equivalent to value of jewellery exported by Gem & Jewellery units in Special Economic Zones and Export Oriented Units on the condition that the sale contract provides for the same and the value is declared in the relevant EDF;

(vii) In addition to (i) and (iii) above, any person resident in India may also receive any payment other than for exports by means of postal order/postal money order issued by a post office outside India.

### **Manner of payment in foreign exchange:**

(I) AD bank may make payment in foreign exchange by way of remittance from India or by way of reimbursement to his branch or correspondent outside India against payment for import into India, or against any other payment in the following manner:

(A) Members of Asian Clearing Union:

(i) Bangladesh, Myanmar, Pakistan, Sri Lanka and Republic of Maldives -

a) Payment for import of eligible goods and services by credit to the ACU Dollar/Euro account in India of a bank of the member country in which the other party to the transaction is resident or by debit to the ACU Dollar/Euro account of the Authorized Dealer maintained with the correspondent bank in that member country,

b) In any freely convertible currency for cases other than import of eligible goods and services;

c) In respect of imports to India from Myanmar, payment may be made in any freely convertible currency or through the ACU mechanism from Myanmar.

(ii) Nepal and Bhutan- Payment may be made in Rupees;

(iii) Islamic Republic of Iran -

In all cases including payments for import of eligible goods and services, in any freely convertible currency and/or as prescribed by Reserve Bank of India to ADs from time to time,

(B) All countries other than those mentioned in (A) above:

(i) Payment in rupees from the account of a bank situated in any country other than an ACU member,

(ii) In any freely convertible currency.

(II) In respect of imports into India:

(i) where the goods are shipped from ACU member, but the supplier is resident of a country other than member of ACU (other than Nepal and Bhutan), payment may be made in rupees to the account of a bank situated in any country other than an ACU member or in any freely convertible currency,

(ii) In all other cases, payment shall be made in a currency appropriate to the country of shipment of goods.

(iii) Any other mode of payment as may be prescribed by the Reserve Bank of India from time to time.

(III) Payments for import of goods / software may be made to a Third Party (a party other than the supplier) as per specified conditions.

(IV) Manner of Payment in certain cases:

(A) Payments for import of goods may be made in foreign exchange through an international card held by him / in rupees from international credit card / debit card through the credit / debit

card servicing bank in India against the charge slip signed by the importer / as prescribed by Reserve Bank from time to time, provided that the transaction is in conformity with the extant provisions including the Foreign Trade Policy in force.

(B) Any person resident in India may also make payment as under:  
(i) in rupees towards meeting expenses on account of boarding, lodging and services related thereto or travel to and from and within India of a person resident outside India who is on a visit to India;

(ii) by means of a crossed cheque or a draft as consideration for purchase of gold or silver in any form imported by such person in accordance with the terms and conditions imposed under any order issued by the Central Government under the Foreign Trade (Development and Regulations) Act, 1992 or under any other law, rules or regulations for the time being in force;

(iii) a company or resident in India may make payment in rupees to its non-whole time director who is resident outside India and is on a visit to India for the company's work and is entitled to payment of sitting fees or commission or remuneration, and travel expenses to and from and within India, in accordance with the provisions contained in the company's Memorandum of Association or Articles of Association or in any agreement entered into by it or in any resolution passed by the company in general meeting or by its Board of Directors, provided the requirements of any law, rules, regulations, directions applicable for making such payments are duly complied with.

5. The new regulations have been notified vide Notification No. FEMA 14 (R)/2016-RB dated May 02, 2016 c.f. G.S.R. No.480 (E) dated May 03, 2016 and shall come into force with effect from May 02, 2016.

Source: Notification No. RBI/2016-17/93, A.P. (DIR Series) Circular No. 11 [(1)/14(R)] dated: October 20, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10653&Mode=0>

➔ **Foreign investment in other Financial Services**

Attention of Authorized Dealers Category – I (AD Category - I) banks is invited to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000, notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time (Principal Regulations). At present, paragraph F.8 of Annex B to Schedule 1 of the Principal Regulations permits foreign investment up to 100%, under the automatic route, in Non-Banking Finance Companies (NBFCs) engaged in the 18 activities listed therein. Such investment is subject to the conditions, including minimum capitalization norms.

On a review, in consultation with the Government of India, it has been decided to allow foreign investment up to 100% under the automatic route in 'Other Financial Services'.

Other Financial Services will include activities which are regulated by any financial sector regulator viz. Reserve Bank of India, Securities and Exchange Board of India, Insurance Regulatory and Development Authority, Pension Fund Regulatory and Development Authority, National Housing Bank or any other financial sector regulator as may be notified by the Government of India in this regard. Such foreign investment shall be subject to conditionalities, including minimum capitalization norms, as specified by the concerned Regulator/ Government Agency.

**Other salient features of the revised regulatory framework are as under:**

a) In financial services activities which are not regulated or partly regulated by any financial sector regulator or where there is lack of clarity regarding regulatory oversight, foreign investment will be allowed up to 100% under the Government approval route.

b) Foreign investment in an activity which is specifically regulated by an Act will be restricted to foreign investment levels/limits, if any, specified in that Act.

c) Downstream investment by any entity engaged in 'Other Financial Services' will be subject to extant sectoral regulations and provisions of Principal Regulations.

AD Category – I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

Reserve Bank has since amended the Principal Regulations accordingly through the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Thirteenth Amendment) Regulations, 2016 which have been notified through Notification No. FEMA 375/2016-RB dated September 9, 2016 vide G.S.R. No. 879(E) dated September 9, 2016.

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10650&Mode=0>

Source: Notification No. RBI/2016-17/90 [A.P. (DIR Series) Circular No. 8] dated: October 20, 2016

➔ **Continuation of Minimum Import Price (MIP) on 66 HS Codes of Iron and Steel under Chapter 72 of ITC (HS), 2012 -Schedule - 1 (Import Policy): amendment in import Policy Conditions**

Central Government extends the applicability of Minimum Import Price (MIP) beyond 04/10/2016 on 66 HS Codes as speci-

fied in the Notification No 20/2015-20 dated 4.8.2016 for further two months, i.e., till 4th December, 2016 vide Notification No. 30/2015-2020, dated: 04.10.2016.

Effect of this Notification: Effect of Notification No 20/2015-20 dated 4.8.2016 is extended till 4th December, 2016.

Link: <http://dgft.gov.in/Exim/2000/NOT/NOT16/noti3016.pdf>

➔ **Foreign Exchange Management (Insurance) Regulations, 2015**

Attention of Authorized Dealers (ADs) is invited to A.D (M.A. Series) Circular No. 11 dated May 16, 2000 in terms of which ADs were advised of various Rules, Regulations, Notifications/ Directions issued under the Foreign Exchange Management Act, 1999.

On a review, it is felt necessary to revise the regulations issued under the Foreign Exchange Management (Insurance) Regulations, 2000 notified vide Notification No. FEMA. 12/2000 – RB dated May 03, 2000 c.f. G.S.R. No. 395(E) dated May 03, 2000.

Accordingly, the said Regulations have been repealed in consultation with the Government of India and superseded by the Foreign Exchange Management (Insurance) Regulations, 2015 notified vide Notification No. FEMA. 12(R)/2015-RB dated December 29, 2015 c.f. G.S.R. No. 1007(E) dated December 29, 2015.

The revised notification has come into force with effect from December 29, 2015.

Source: Notification No. RBI/2016-17/137, A.P. (DIR New Series) Circular No.18 [(1)/12 (R)] dated: November 17, 2016

Link: <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=10717&Mode=0>

➔ **Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Tenth Amendment) Regulations, 2016**

Reserve Bank of India made amendments in the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 (Notification No. FEMA.20/2000-RB dated 3rd May 2000) namely the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Tenth Amendment) Regulations, 2016.

Link: Notification No.FEMA.372/2016-RB, dated: October 27, 2016

Read more at: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10711&Mode=0>





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