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Reserve Bank of India

A.) Notification – Implementation of Indian Accounting Standards.

The Reserve Bank of India (“**RBI**”) vide notification RBI/2016-17/DBR.FID.No. 1/01.02.000/2016-17 dated August 4, 2016 (“**IAS Notification**”) provides for implementation of Indian Accounting Standards (“**IAS**”) for All-India Term Lending and Refinancing Institutions

1. The IAS Notification has been issued to select All-India Term Lending and Refinancing Institutions (“**AIFIs**”), i.e. Exim Bank, NABARD, NHB and SIDBI to follow the IAS as notified under the Companies (Indian Accounting Standards) Rules, 2015, subject to any guideline or direction issued by the RBI in this regard, in the following manner:
 - AIFIs shall comply with the IAS for financial statements for accounting periods beginning from April 1, 2018 onwards, with comparatives for the periods ending March 31, 2018 or thereafter. IAS shall be applicable to both standalone financial statements and consolidated financial statements. “Comparatives” shall mean comparative figures for the preceding accounting period. The compliance shall not be applicable before the above mentioned date i.e. April 1, 2018.

2. IAS implementation is likely to significantly impact the financial reporting systems and processes and, as such, these changes need to be planned, managed, tested and executed in advance of the implementation date. Each AIFI is advised to set up a Steering Committee headed by an official of the rank of an Executive Director (or equivalent) comprising members from cross-functional areas of the AIFI to immediately initiate the implementation process. The Audit Committee of the Board shall oversee the progress of the IAS implementation process and report to the Board at quarterly intervals. The critical issues which need to be addressed in the IAS implementation plan include the following:

- IAS Technical Requirements: Diagnostic analysis of differences between the current accounting framework and IAS, significant accounting policy decisions impacting financials, drafting accounting policies, preparation of disclosures, documentation, preparation of Performa IAS financial statements, timing the changeover to IAS, and dry-run of accounting systems and end-to-end reporting process before the actual conversion.
- Systems and processes: Evaluate system changes - assessment of processes requiring changes, issues having significant impact on information systems (including IT systems), and develop/strengthen data capture system, where required.
- Business Impact: Profit planning and budgeting, taxation, capital planning, and impact on capital adequacy.
- People - Evaluation of resources: Adequate and fully dedicated internal staff for implementation, comprehensive training strategy and program.





- Project management: Managing the entire process-holistic approach to planning and execution by ensuring that all linkages are established between accounting, systems, people and business, besides effective communication strategies to stakeholders.
3. AIFIs will have to assess the impact of the IAS implementation on their financial position including the adequacy of capital, taking into account the Basel III capital requirements, as and when these are made applicable to the AIFIs, and submit quarterly progress reports to their Boards.
 4. AIFIs will have to disclose in their Annual Report, the strategy for IAS implementation, including the progress made in this regard. These disclosures have to be made from the financial year 2016-17 until full implementation.
 5. The Boards of the AIFIs will have the ultimate responsibility in determining the IAS direction and strategy and in overseeing the development and execution of the IAS implementation plan.

B) Notification-Priority Sector lending status for Factoring Transactions.

RBI vide notification [RBI/2016-17/DBR.FID.No. 1/01.02.000/2016-17](#) dated August 11, 2016 provides guidelines to all Scheduled Commercial Banks, excluding Regional Rural Banks, for the factoring transactions in relation with the Micro, Small and Medium Enterprises (“MSME”).

- To increase liquidity support for the MSME sector, it has been decided that factoring transactions on ‘with recourse’ basis shall be eligible for priority sector classification by banks, which are carrying out the business of factoring departmentally. The factoring transactions taking place through Trade Receivables Discounting System (“TReDS”) shall also be eligible for classification under priority sector upon operationalization of the platform.
- Banks may classify their outstanding factoring portfolio on the reporting dates under MSME category as per Paragraph 7 of Chapter (III) of [Master Directions on PSL dated July 7, 2016](#), wherever the ‘assignor’ in the factoring transaction is a MSME, subject to the corresponding limits for investment in plant and machinery/ equipment and other extant applicable guidelines for priority sector classification.
- The borrower’s bank may obtain from the borrower periodical certificates regarding factored receivables to avoid double financing/ counting. The ‘factors’ must ensure to intimate the limits sanctioned to the borrower to the concerned banks and details of debts factored taking responsibility to avoid double financing.





C.) Notification-Dishonor of cheques valuing Rupees One Crore and above.

RBI vide notification RBI/2016-17/33 DBR.No.Leg.BC.3/09.07.005/2016-17 dated August 4, 2016 (“**Cheques Notification**”) provides to all scheduled commercial banks the guidelines in respect to dishonor of cheques of value Rs. 1,00,00,000 (Rupees One Crore Only) or more.

This Cheques Notification provides an amendment to an earlier circular dated June 26, 2003 wherein the banks were advised to introduce a condition for operation of accounts with cheque facility, that in the event of dishonour of a cheque valuing Rs. 1,00,00,000 (Rupees One Crore Only) and above drawn on a particular account of the drawer on four occasions during the financial year for want of sufficient funds in the account, no fresh cheque book would be issued.

Also, the bank may consider closing current account at its discretion.

The above instructions have been reviewed and it has been decided –

- To leave it to the discretion of the banks to determine their response to dishonor of cheques of the account holders.
- That Banks should put in place an appropriate policy approved by the Board or its Committee taking into consideration the need to prevent misuse of the cheque drawing facility and avoid penalizing customers for unintended dishonor of cheques.
- This policy should be transparent, made known to every customer upfront and implemented fairly.



D.) Master Direction-Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 2016.

RBI vide Master Direction RBI/DNBR/2016-17/38 Master Direction DNBR.PD.002/03.10.119/2016-17 dated August 25, 2016 provides guidelines for acceptance of Public Deposits by Non-Banking Financial Companies (“NBFCs”). The guidelines are amendments to the earlier rules issued by the RBI for acceptance of public deposits by NBFCs. The amendments to the earlier issued rules as listed below-

1. Requirement of Maintenance of Liquid Assets-

Every NBFC-D, shall invest and continue to invest in India in unencumbered approved securities valued at the price not exceeding the current market price of such securities an amount which shall, at the close of business or any day, not be less than 15% of the “public deposit”.

2. Restriction on acceptance of public deposit by Non-Banking Finance Companies-

- i. No non-banking financial company having Net Owned Fund (NOF) of twenty five lakh of rupees and above shall accept public deposit unless it has obtained minimum investment grade or other specified credit rating for fixed deposits from any one of the approved credit rating agencies at least once a year and a copy of the rating is sent to the Bank along with return on prudential norms.
- ii. In the event of upgrading or downgrading of credit rating of any non-banking financial company to any level from the level previously held by the non-banking financial company, it shall within fifteen working days of its being so rated inform, the Bank in writing, of such upgrading/downgrading.
- iii. The names of approved credit rating agencies and the minimum credit rating should be according to the following table :-





Name of the agency	Minimum Investment Grade Rating
(a) The Credit Rating Information Services of India Ltd. (CRISIL)	FA- (FA Minus)
(b) ICRA Ltd.	MA- (MA Minus)
(c) Credit Analysis & Research Ltd. (CARE)	CARE BBB (FD)
(d) Fitch Ratings India Private Ltd.	tA-(ind)(FD)
(e) Brickwork Ratings India Pvt. Ltd. (Brickwork)	BWR FBBB
(f) SME Rating Agency of India Ltd.(SMERA)	SMERA A

3. Rate of interest on premature repayment of public deposits

Where a non-banking financial company, whether at its sole discretion or at the request of the depositor, as the case may be, repays a public deposit after three months from the date of its acceptance, but before its maturity (including premature repayment in the case of death of the depositor), it shall pay interest at the following rates:

After 3 months but before 6 months

No interest

After 6 months but before the date of maturity

The interest payable shall be 2 per cent lower than the interest rate applicable to a public deposit for the period for which the public deposit has run or if no rate has been specified for that period, then 3 per cent lower than the minimum rate at which public deposits are accepted by the non-banking financial company.



4. Register of deposit

Every non-banking financial company shall keep one or more registers in respect of all deposits in which shall be entered separately in the case of each depositor the following particulars, namely: -

- name and address of the depositor,
- date and amount of each deposit,
- duration and the due date of each deposit,
- date and amount of accrued interest or premium on each deposit,
- date of claim made by the depositor,
- date and amount of each repayment, whether of principal, interest or premium,
- the reasons for delay in repayment beyond five working days and
- any other particulars relating to the deposit.

4. Branches and appointment of agents to collect deposits

- A non-banking financial company having the certificate of registration issued under section 45-IA of the RBI Act and otherwise entitled to accept public deposits as per paragraph 12 of these Directions, shall open its branch or appoint agents if its

- | | |
|---------------------------------------|---|
| (a) NOF is up to Rs. 50 crore | Within the State where its registered office is situated; and |
| (b) NOF is more than Rs. 50 crore and | Anywhere in India |

- for the purpose of opening a branch, a non-banking financial company shall notify to the Bank of its intention to open the proposed branch;
- on receipt of such advice, the Bank may, on being satisfied that in the public interest or in the interest of the concerned non-banking financial company or for any other relevant reasons to be recorded, reject the proposal and communicate the same to the non-banking financial company.

5. Safe Custody of Liquid Assets / Collection of Interest on SLR Securities

Every NBFC shall-

- Open a Constituent's Subsidiary General Ledger (CSGL) account with a scheduled commercial bank, or the Stock Holding Corporation of India Ltd. (SHCIL) or a dematerialized account with a depository through a depository participant registered with the Securities and Exchange Board of India and keep the unencumbered approved securities required to be maintained by it in pursuance of section 45-IB of the RBI Act and the Directions as specified in Chapter III of these directions in such CSGL account or dematerialized account;
- designate one of the scheduled commercial banks, in the place where the registered office of the non-banking financial company is situated, as its designated banker and entrust, in physical form, to such bank or the SHCIL the unencumbered term deposits in any scheduled commercial bank maintained by it in pursuance of directions as specified in Chapter III of these directions and such unencumbered approved securities which have not been dematerialized;
- and intimate the name and address of such scheduled commercial bank where it has opened its CSGL account or has held the securities in physical form, or the location of the SHCIL where it has opened its CSGL account or has held the securities in physical form or the depository (and the depository participant) where it has held its dematerialized account, in writing, to the Regional Office of the Bank under whose jurisdiction the registered office of the company is situated.



SEBI

A.)Circular- Foreign Investment in Rupee denominated bonds issued overseas by Indian Corporates.

The Securities Exchange Board Of India (“SEBI”) vide Circular SEBI/HO/IMD/FPIC/CIR/P/2016/67 dated August 04,2016 (Bonds Notification) provides for amendments in the rules for foreign Investment in Rupee denominated bonds issued overseas by Indian Corporates. The RBI had earlier permitted Indian corporate to issue Rupee denominated bonds within a ceiling limit for investments by Foreign Portfolio Investors (“FPIs”). The framework for the same was put in place vide notification A.P. (DIR Series) Circular No.17 dated September 29,2015.The following amendments have been made-

1. The Rs. 244,323 crores (Rupees Two Crores Forty Four Thousand Three Hundred and Twenty Three only) corporate debt limit for FPIs shall be redefined as the combined corporate debt limit for all foreign investments in rupee denominated bonds issued both onshore and overseas by Indian Corporates.
2. Foreign investments in Overseas Rupee denominated bonds shall now be reckoned against the combined corporate debt limit of Rs.244,323 crores (Rupees Two Crores Forty Four Thousand Three Hundred and Twenty Three only). However, these investments shall not be treated as FPI investments and hence shall not be under the purview of the SEBI (Foreign Portfolio Investor) Regulations, 2014.
3. It has been decided that the entire combined corporate debt limit of Rs.244,323 crores (Rupees Two Crores Forty Four Thousand Three Hundred and Twenty Three only) shall be available on tap for investment by foreign investors. All other extant terms and conditions with respect to FPI investments in Corporate debt shall continue to apply as mentioned in Para 5 of the SEBI circular CIR/IMD/FIIC/6/2013 dated April 01, 2013.



B.) Revised Formats for Financial Results and Implementation of Indian Accounting Standards by listed entities which have listed their debt securities and/or non-cumulative redeemable preference shares

SEBI vide circular CIR/IMD/DF1/69/2016 dated August 10,2016 provides the revised formats for Financial Results and Implementation of IAS by listed entities which have listed their debt securities and/or non-cumulative redeemable preference shares.

The listed entities in order to comply with the requirements of paragraph 32 of IAS 101 - 'First time Adoption of IAS', shall provide a reconciliation of its equity and net profit / loss, in the following manner, for enabling the investors to understand the material adjustments to the Balance Sheet and Statement of Profit and Loss on account of transition from the previous Indian Generally Accepted Accounting Principles ("GAAP") to IAS:

- Reconciliation of Equity for the previous year (i.e. for the year immediately before IAS adoption), shall be provided while submitting the annual financial results for the first year of adoption.
- Further, if the listed entity opts to submit comparative full year results along with the financial results for the first half year of the adoption of IAS, then such Reconciliation of Equity for the previous year shall be provided while submitting the aforesaid half yearly financial results also.
- Reconciliation of net profit / loss shall be provided only for the corresponding half year in the preceding year.

In some circumstances, a listed entity may prepare financial statements for a period different from the normal 12(Twelve) month period, for instance, a listed company may now be required to prepare financial statements for a period different from the normal 12 month period for coinciding with 31st day of March as prescribed under Section 2 (41) of the Companies Act, 2013.

MINISTRY OF CORPORATE AFFAIRS

Applicability of provisions of Chapter III of the Companies Act, 2013 to the issue of rupee bonds by Indian companies exclusively to persons residing outside India.

MCA vide Circular No: 09/2016 No 1212013-CL-V dated August 3, 2016 (Applicability Circular) provides clarification for applicability of provisions of Chapter III of the Companies Act, 2013 ("**Companies Act**") and Rule 18 of Companies (Share Capital and Debenture) Rules, 2014 to the issue of rupee bonds by Indian companies exclusively to persons residing outside India.

The provisions of Chapter III of the Companies Act and Rule 18 of Companies (Share Capital and Debenture) Rules, 2014 provide for rules regarding issuance of Prospectus and allotment of securities.

Accordingly, this Applicability Circular states that unless otherwise provided in the circular/ directions/ regulations issued by RBI, provisions of Chapter III of the Companies Act and rule 18 of companies (Share Capital and debenture) Rules, 2014 would not apply to issue of rupee denominated bonds made exclusively to persons residing outside India in accordance with applicable sectoral regulatory provisions.



MERC

Order of the Hon'ble Maharashtra Electricity Regulatory Commission ("MERC") in Case no. 150 of 2015 of M/s. Hindustan Zinc Limited V/s Maharashtra State Electricity Distribution Company Limited.

1. Hindustan Zinc Limited ("**HZL**" / "**Petitioner**") is a generating company having established and operating 25.5 MW (17 x 1.5 MW) Wind Generating Units at Villages Akhatwade, Vasdare, Gangapur, Mandal and Thanepada in District Nandurbar, Maharashtra.
2. HZL had filed a petition on December 9, 2015 under Section 86(1)(f) of the Electricity Act, 2003 ("**EA, 2003**") seeking directions against Maharashtra State Electricity Distribution Co. Ltd. ("**MSEDCL**" / "**Respondent**") to pay the delayed payment surcharge along with carrying cost.
3. HZL in its petition had stated that after supplying electricity to MSEDCL and after raising invoices for the same, there was a delay on the part of MSEDCL in payments of the invoices raised, up to 75 days beyond the due date of payment.
4. The Energy Purchase Agreement ("**EPA**") dated October 7, 2011 entered into by HZL and MSEDCL clearly stated the terms of payments and the calculation of interest for delayed payments. The relevant clause of the EPA is reproduced-

“The due date of payment shall be 60 days from receipt of the Seller’s monthly energy bills by the MSEDCL and will be paid by account payee’s cheque in the name of Seller or authorized representative, in whose name power of attorney is given by the Seller. In case of delay in payment beyond the due date, the Seller shall be entitled to a late payment surcharge at the rate of 1.25% per month shall be levied by the generating company. The MSEDCL, however, shall be entitled to make adjustments in the Seller’s Invoices from any charges/costs incurred on behalf of the Seller and payable by the Seller under this Agreement. This shall be shown in the audited statement issued by the MSEDCL.”

On the basis of the above stated terms, HZL calculated the interest which amounted to Rs.1,00,53,970/- (Rupees One Crore Fifty Three Thousand Nine Hundred and Seventy Only) as on October 31, 2015 for the delayed payments of earlier periods starting from September, 2011 to September, 2015.

5. MSEDCL in its reply stated that it was not liable for any payments towards interest as claimed by HZL. Without admitting the claim for interest, MSEDCL denied the correctness of calculation of interest by HZL. They stated that on many occasions, the delay was on account of delayed clearance of invoices by MSEDCL and also on account of its bankers delaying the release of payments after instructions by MSEDCL.
6. They also stated that the petition was not within the limitation period. Hence, its claim for the period prior to three years preceding the date of submission of the Petition is time-barred under the Limitation Act.

7. The Hon'ble MERC ruling in the favor of HZL, held as follows:
- MSEDCL is liable to pay the interest on account of the delay of payment in accordance with the terms of EPA.
 - The argument made by MSEDCL that there was no liability as to the interest amount, as the petition was not within the limitation period and the debt had become time-barred was rejected. The Hon'ble MERC noted that MSEDCL in a meeting held on May 9, 2014 acknowledged and accepted it's liability as to the surcharge on late payment, making MSEDCL liable to pay and quoted the judgment of the Hon'ble Supreme court dated October 26, 2004 in *Civil Appeal 2259 of 1999 (Food Corporation of India vs. Assam State Cooperative Marketing and Consumer Federation)*-

"According to Section 18 of the Limitation Act, an acknowledgement of liability made in writing in respect of any right claimed by the opposite party and signed by the party against whom such right is claimed made before the expiration of the prescribed period for a suit in respect of such right has the effect of commencing a fresh period of limitation from the date on which the acknowledgement was so signed. It is well settled that to amount to an acknowledgement of liability within the meaning of Section 18 of the Limitation Act, it need not be accompanied by a promise to pay either expressly or even by implication."

HZL was represented by Eternity legal at the Hon'ble Commission in Case No.150 of 2015.

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Warm Regards,

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