

**SEBI: Early Warning Mechanism to prevent Client Securities.** 1

**SEBI: Disclosure of Significant Beneficial Ownership in the Shareholding pattern.** 3

**SEBI: Cyber Security Operations Centre for SEBI registered intermediaries.** 5

**DIPP: Draft of the Patents (Amendment) Rules, 2018.** 6

**RBI: Guidelines on Loan System for delivery of Bank Credit.** 7

**RBI: Foreign Exchange Management (Borrowing and Lending) Regulations, 2018.** 9

**MCA: Companies (Registration of Charges) Second Amendment Rules, 2018.** 11

**MCA: The Companies (Cost records and audit) Amendment rules, 2018.** 12

**MCA: The Companies (Incorporation) Fourth Amendment Rules, 2018.** 13

## SECURITIES AND EXCHANGE BOARD OF INDIA

### Early Warning Mechanism to prevent Client Securities

During certain instances, the stock brokers have diverted the Clients' securities received to settle obligations. However, such instance of diversion of the securities only came to light when the stock broker failed to meet the obligations to Stock Exchange/ Clearing Corporation and hence, the Securities and Exchange Board of India ("SEBI") vide its Circular dated December 17, 2018 decided to put in place an Early Warning Mechanism and sharing of information between Stock Exchanges, Depositories and Clearing Corporations that shall be decided by them through mutual consultation.

1. The Early Warning Signal may include:
  - a. Deterioration in financial health of the stock broker/depository participant based on the parameters such as:
    - i. Significant reduction or losses over previous half year/ year;
    - ii. Delay in submitting or failure in reporting any financial report or any such information as sought by the Stock Exchanges/ Depositories, etc.
  - b. Early warning signals of securities pledge transactions by the stock broker to be identified by the Depositories which will then be shared with the Stock Exchanges.

- c. Increase in the number of investor complaints.
  - d. Alerts generated from the monthly/ weekly submissions made by the stock broker under Risk Based Supervision (“RBS”) or Enhanced Supervision of Stock Exchange.
  - e. Early disablement of the stock broker in the previous quarter.
2. An internal policy/ guideline regarding non-cooperation of the stock brokers and depository participants shall be formulated by the Stock Exchanges and the Depositories.
3. A mechanism to divert diversion of clients’ securities and to share information amongst the Stock Exchanges/ Clearing Corporations/ Depositories shall be created by themselves.
4. The analysis of the early warning data will help determine whether the stock broker’s financial health has deteriorated and/or he has made unauthorized transfer of funds/ securities of the client and in these cases the Stock Exchanges/ Depositories shall jointly take preventive actions on the stock broker.
5. This Circular directs the Stock Exchanges, Clearing Corporations and Depositories to implement the above early warning mechanism and preventive actions w.e.f. February 01, 2019.

### Disclosure of Significant Beneficial Ownership in the Shareholding pattern

The Ministry of Corporate Affairs vide the Companies (Significant Beneficial Owners) Rules, 2018 (“**Companies Rules, 2018**”) specified various requirements pertaining to disclosure of Significant Beneficial Owners. Accordingly, the Securities Exchange Board of India (“SEBI”) introduced this Circular vide its Circular dated December 07, 2018 on the Disclosure of Significant Beneficial Ownership in the Shareholding pattern.

1. These requirements have been specified in the interest of transparency to the investors in the securities markets, which are:
  - a. Details pertaining to significant beneficial owners of all listed entities shall be in the manner given in the table below as under Table V under Clause 5 of the Circular introduced by SEBI vide its Circular dated November 30, 2015.

Sr. No	Details of the significant beneficial owner			Details of the registered owner			Particulars of the shares in which significant beneficial interest is held by the beneficial owner		Date of creation/ acquisition of significant beneficial interest
	Name	PAN	Nation-ality	Name	PAN	Nation-ality	No. of shares	Sharehold- ing as a % of no. of shares (calculated as per SCRR, 1957) As a % of (A+B+C2)	

- b. All the terms specified in the Companies Rules, 2018 shall apply to this circular as well.
2. This Circular shall come into force w.e.f. March 31, 2019.

### Cyber Security Operations Centre for SEBI registered intermediaries

The need for strengthening the Cyber Security in securities market, the Securities Board of India (“SEBI”) have extended the Cyber Securities and Cyber Resilience framework has been extended to Stock Brokers/ depository Participants vide this Circular dated December 14, 2018 (“Circular”).

This Circular was concluded after the discussions were held with the marketing participants, gathered through a SEBI Circular dated December 03, 2018. These discussions concluded that for smaller intermediaries, the compliance of the cyber security guidelines would be onerous because of the lack of knowledge and the cost factor involved in setting up own Security Operations Centres (“SOC”) and that the small intermediaries may utilize the services of Market SOC. Further, the intermediaries’ membership in Market SOC is nonmandatory.

The Market Infrastructure Institutions (“MIIs”) will be setting up the services of Market SOC and are directed to the same by this Circular within six (6) months from the date of this Circular.

DIPP

Draft of the Patents (Amendment) Rules, 2018

The Ministry Commerce and Industry through its *Department of Industrial Policy and Promotion* vide its *Notification dated December 04, 2018* notified the Draft Amendment Rules to the Patent Rules, 2003 (“**Principal Rules**”). These draft rules are open for receiving objections and suggestions only after these thirty (30) days of its publication in the Gazette of India.

1. These rules shall be called the Patents (Amendment) Rules, 2018 (“**Amended Rules**”).
2. The Amended rules inserts a proviso after the sub-rule (2) of Rule 18 of the Principal Rules, which provides the manner of the International Application that is to be done by a patent agent.
3. The Amendment Rules increases the scope of the grounds that the applicants can file a request for expedited examination in Form 18A as was provided under the sub-rule (1) of rule 24 C, clause (b).
4. The Amended Rules also provides for in the which Controller should act to dispose of the request for examination of application as made for Representation of opposition.
5. The Amendment Rules also inserts entries in the First Schedule such as for the Transmittal fee for International application (for e PCT filing) and for preparation of certified copy of priority documents and e-transmission through WIPO DAS.
6. Further the Amendment rules provides with the format of the Form 28 which is required to be submitted for availing Expedited Examination which can be found in the link of the Gazette Notification mentioned above.

RBIGuidelines on Loan System for Delivery of Bank Credit

The Reserve Bank of India (“RBI”) after taking into account the views of the stakeholders on a Circular issued on June 11, 2018 on the draft Guidelines on Loan System for Delivery of Bank Credit, vide Circular dated December 05, 2018 issued the final guidelines (“Guidelines”) on the subject matter.

The Guidelines have been issued to enhance the credit discipline among the larger borrowers (“Borrowers”) enjoying working capital facility from the banking system. As per the Guidelines, delivery of bank credit for such Borrowers shall be as under:

**1. Minimum level of loan component and Effective date**

A minimum level of loan component of 40% shall be effective from April 01, 2019 for borrowers having aggregate fund based working capital limit (“WCL”) of ₹1500 million and above from the banking system. Thus, drawings of 40% of the total fund based WCL shall only be allowed from the loan component to such Borrowers. Further, any drawing in excess to the minimum loan component threshold may only be allowed in the form of cash credit (“CC”) facility. Working examples for bifurcation of the WCL is reproduced in the table below:

Sr. No.	Sanctioned Fund based Capital Limit	Aggregate Working Capital Limit	Current Outstanding	40% of the Aggregate Fund
Scenario 1	Rs. 2100		Rs. 780	WCL – Rs. 780 CC – Nil

Scenario 2	Rs. 2100	Rs. 1700	WCL – Rs. 840
Scenario 3	Rs. 2100	Rs. 1600	WCL – Rs. 840
Scenario 4	Rs. 2100	Rs. 2000	WCL – Rs. 840
Scenario 5	Rs. 2100	Rs. 2050	WCL – Rs. 840

## 2. **Sharing of Working Capital Finance**

Rules for sharing of cash credit and loan components may be laid down by consortiums as per the guidelines on bifurcation mentioned in paragraph 1 above. Each bank under the Multiple Banking Arrangements (“**MBAs**”), shall ensure adherence to the Guidelines at individual Bank Level.

## 3. **Amount and Tenor of the Loan:**

May be fixed by banks in consultation with the Borrowers, with the tenor being not less than seven (7) days.

## 4. **Repayment/Renewal/Rollover of Loan Component**

Banks/consortia/syndicates shall have the discretion to stipulate repayment of WCLs in instalments or by way of a bullet repayment subject to Income Recognition and Asset Classification (“**IRAC**”) norms.

## 5. **Risk Weights for undrawn portion of Cash Credit Limit**

**The** undrawn portion of CC/ Overdraft limits sanctioned to the Borrowers w.e.f. April 01, 2019, irrespective of whether unconditionally cancellable or not, shall attract a credit conversion factor of 20%.

6. The 40 percent loan component will be revised to 60 percent, with effect from July 01, 2019.



## Foreign Exchange Management (Borrowing and Lending) Regulations, 2018

The Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 (“**Borrowing and Lending Regulations**”) has been introduced by the Reserve Bank of India (“RBI”) vide Notification dated December 17, 2018 for regulating the borrowing and lending between a person resident in India and a person resident outside India.

Some of the important provisions of the Borrowing and Lending Regulations are discussed below:

**1. Prohibition to Borrow or Lend:**

Regulation 3 prohibits any person resident in Indian from borrowing or lending in Foreign Exchange from or to a person resident in or outside India. It also prohibits any person resident in India from borrowing or lending in rupees from or to a person resident outside India.

**2. Borrowing from outside India in Foreign Exchange by a Person Resident in India:**

Regulation 4 provides as to when a person resident in India i.e. an Authorised Dealer (“AD”), a branch of AD outside India or any person other than AD is allowed to borrow from outside India in Foreign Exchange. Schedule I and II deals with this issue in detail.

**3. Lending in Foreign Exchange by a Person Resident in India:**

Regulation 5 provides as to when an AD or its branch outside India or any person other than AD is allowed to lend in Foreign Exchange. This is subject to Schedule III of the Borrowing and Lending Regulations.

**4. Borrowing in Indian Rupees by a Person Resident in India:**

Regulation 6 deals with the following:

- a. Borrowing by an AD
- b. Borrowing by person other than an AD - Such borrowings are in the nature of External Commercial Banks (“**ECBs**”) and shall be subject to provisions contained in Schedule I.

**5. Lending in Indian Rupees by a Person Resident in India**

Regulation 7 deals with the following:

- a. Lending by an AD
  - b. Lending by persons other than AD – Any financial institutions as may be specified by the RBI from time to time may provide loans to a Non-Resident Indian (“**NRI**”) or Overseas Citizenship of India (“**OCI**”) Card-holders subject to the terms and Conditions as provided by the RBI.
6. An AD may allow continuation of loan in the event of change in the residential status of the lender/ borrower
7. Any borrowing under the Borrowing and Lending Regulations can be continued as permitted up to the due date of repayment.

## MCA

### Companies (Registration of Charges) Second Amendment Rules, 2018

The Central Government vide its Notification dated December 18, 2018 (“**Notification**”) made further Rules to amend the Companies (Registration of Charges) Rules, 2014 (“**Principal Rules**”) viz. Companies (Registration of Charges) Second Amendment Rules, 2018 (“**Amended Rules**”).

The Amended Rules, introduced an amended format of Form No. CHG-4 whose screenshot has been attached to the Notification, its link mentioned above:

## The Companies (Cost records and audit) Amendment Rules, 2018

The Central Government vide its Notification dated December 03, 2018 introduced the Companies (Cost Records and Audit) Amendment Rules, 2018 (“**Amended Rules**”). These Amended Rules have been derived from the Companies (Cost records and audit) Rules, 2014 (“**Principal Rules**”).

The Amended Rules is different from the Principal Rules according to as mentioned below:

1. Rules 6 of the Principal Rules shall have a proviso inserted after it vide the Amended Rules which allows the Companies having an extension of time of holding the Annual General Meeting, may file form CRA-4 within extended period as per the Section 137 of the Companies Act, 2013.
2. Further, in the form CRA-1 vide paragraph No. 31 and CRA-3 vide Note 3 shall be inserted which makes provision for the Unit of Measuring (“**UOM**”). Each Custom Tariff Act headings, shall be the same as provided in the Customs Tariff Act, 1975 for the UOM.

## The Companies (Incorporation) Fourth Amendment Rules, 2018

The Central Government vide its Notification dated December 18, 2019, brought about certain amendments to the Companies (Incorporation) Rules, 2014 (“**Principal Rules**”) viz. the Companies (Incorporation) Fourth Amendment Rules, 2018 (“**Amended Rules**”).

The major provisions of the Amended Rules have been mentioned below:

1. After Rule 23 of the Principal Rules, a clause viz. Rule 23A shall be inserted providing the format of the declaration that a director shall make on the commencement of his/her business as per Rule 10A of the Principal Rules. This Rule specifies that the declaration shall be made in accordance to the Form No.INC-20A and shall be filled as provided by the Companies (Registration Offices and Fees) Rules, 2014 which shall be verified by a Company Secretary/ Chartered Accountant/ Cost Accountant in practice.
2. Further, after Rule 39 of the Principal Rules, Rules 40 and 41 shall be inserted which specifies the manner and the documents that are required for filing an application for change in financial year as under sub-section (41) section 2 of the Companies Act, 2013 (“**Companies Act**”) application for conversion of public company into private company as under Section 14 of the Companies Act respectively.

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Warm Regards,

Dipali Sarvaiya Sheth

Founder



D-226, Neelkanth Business Park,

Vidyavihar (West), Mumbai- 400086

Email: [contact@eternitylegal.com](mailto:contact@eternitylegal.com) Tel no.: +91 22 2515-9001

Website: [www.eternitylegal.com](http://www.eternitylegal.com)