

ACQUISORY

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*“ Dreams
Don't Work
Unless
You Do ”*

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(Knowledge Manager with Acquisory)

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AT A GLANCE

ACQUISORY NEWS CHRONICLE FEBRUARY, 2018

ARTICLE

Unregulated Deposit Schemes And Chit Funds (Amendment) Bill, 2018

Recently, the Union cabinet has given its nod to table The Banning of Unregulated Deposit Schemes and Chit Funds (Amendment) Bill, 2018 in the Parliament, in order to curb, fraudulent deposit/ Ponzi schemes which had collected and laundered huge amounts of money from large section of people, exploiting their finances and greed for quick and high return.

Implementation of new IFRS Revenue Recognition Standard

India will have a new revenue recognition standard outlining a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers. This supersedes most current revenue recognition standard.

In brief, the new standard seeks to streamline, and remove inconsistencies from, revenue recognition requirements; provide a more robust framework for addressing revenue issues; make revenue recognition practices more comparable; and increase the usefulness of disclosures.

LEGAL UPDATES

- *RBI has issued a notification to launch Ombudsman Scheme for NBFCs, 2018, which come into effect and force from February 23, 2018.* -RBI being satisfied that for the purpose of enabling it to promote conducive credit culture among the NBFCs and to regulate the credit system of the country to its advantage, it is necessary to provide for a system of Ombudsman for redressal of complaints against deficiency in services concerning deposits, loans and advances and other specified matters,
- *MCA exempts Government Companies from complying with Ind AS 12 for 7 years w.e.f April 2017* - MCA vide Notification dated 5th February, 2018 has directed that the provisions of Accounting Standard 22 or Indian Accounting Standard 12 relating to deferred tax Asset or deferred tax liability shall not apply, for seven years with effect from the 1st April, 2017, to a Government Company.
- *CBEC Mandates 'e-SANCHIT' for Online Filing of Documents from 15th March* - Central Board of Excise and Customs (CBEC) is all set to implement its new facility 'e-SANCHIT' enabling the registered persons to file documents online from 15th March 2018.



Unregulated Deposit Schemes & Chit Funds (Amendment) Bill, 2018



Unregulated Deposit Schemes and Chit Funds (Amendment) Bill, 2018

In a major policy initiative to protect the savings of the investors, the Union Cabinet has given its approval to introduce the following bills in the Parliament to facilitate orderly growth of the sector and provide more financial products to investors:-

(a) Banning of Unregulated Deposit Schemes Bill, 2018 in parliament &

(b) Chit Funds (Amendment) Bill, 2018

The bill is aimed at tackling the menace of illicit deposit-taking activities in the country. Companies/institutions running such schemes exploit existing regulatory gaps and lack of strict administrative measures to dupe poor and gullible people of their hard-earned savings.

A new comprehensive law would completely prohibit unregulated deposit-taking and provide for deterrent punishment for promoting or operating such schemes, besides introducing other changes.

On the proposal to make changes in the Chit Funds Act, the statement said the government aims to facilitate orderly growth of the sector and remove bottlenecks being faced by the industry.

Clean Chit and a Ban

UNREGULATED DEPOSITS
Banning of Unregulated Deposit Schemes Bill, 2018 approved

Complete prohibition of unregulated deposit taking activity



Deterrent punishment for promoting or operating such a scheme

CHIT FUNDS

Chit Funds (Amendment) Bill, 2018 to facilitate orderly growth



Use of "Fraternity Fund" for chit business

₹100 ceiling to be removed

Image source - <https://economictimes.indiatimes.com/img/63004643/Master.jpg>

The Banning of Unregulated Deposit Schemes Bill, 2018

The Union Cabinet has given approval to introduce the banning of Unregulated Deposit Schemes Bill, 2018 in Parliament. The bill is aimed at tackling the menace of illicit deposit taking activities in the country.

Details:

The Banning of Unregulated Deposit Schemes Bill, 2018 will provide a comprehensive legislation to deal with the menace of illicit deposit schemes in the country through,

- complete prohibition of unregulated deposit taking activity;
- deterrent punishment for promoting or operating an unregulated deposit taking scheme;
- stringent punishment for fraudulent default in repayment to depositors;



Unregulated Deposit Schemes & Chit Funds (Amendment) Bill, 2018



Unregulated Deposit Schemes and Chit Funds (Amendment) Bill, 2018

Background:

The Finance Minister in the Budget Speech 2016-17 had announced that a comprehensive central legislation would be brought in to deal with the menace of illicit deposit taking schemes, as in the recent past, there have been rising instances of people in various parts of the country being defrauded by illicit deposit taking schemes. The worst victims of these schemes are the poor and the financially illiterate, and the operations of such schemes are often spread over many States. Subsequently, Finance Minister in the Budget Speech 2017-18 had announced that the draft bill to curtail the menace of illicit deposit schemes had been placed in the public domain and would be introduced shortly after its finalization.

The Chit Funds (Amendment) Bill, 2018

The Bill is aimed at facilitating orderly growth of the chit funds sector and remove bottlenecks being faced by it. For this, amendments to the Chit Funds Act, 1982 have been proposed, which include:



Chit business will be required to use the word 'Fraternity Fund' to signify its nature as well as to differentiate its working from 'Prize Chits' which are banned under a separate legislation.

The Bill proposes to allow the 2 minimum required subscribers to join through video conferencing duly recorded by the foreman, as physical presence of the subscribers towards the final stages of a Chit may not be forthcoming easily.

The Bill aims at hiking the ceiling of foreman's commission from a maximum of 5% to 7%.

The Bill seeks to allow the foreman a right to lien for the dues from subscribers, so that set-off is allowed by the Chit company for subscribers who have already drawn funds. This will help discourage default by them.

The Bill aims to amend Sec 85 (b) of the Chit Funds Act, 1982 to remove the ceiling of Rs 100 set in the year 1982.

* * *



IFRS 15

REVENUE FROM CONTRACTS WITH CUSTOMERS

Implementation of New IFRS Revenue Recognition Standard

Introduction

The Government has introduced two significant game-changers to financial reporting standards in 2018 to effective communication to investors by corporates.

International Financial Reporting Standards (IFRS) accounting framework replaces extant revenue and lease standards effective financial periods commencing from January 1, 2018. Both the new standards have a significant impact on financial statements for majority of sectors. Indian companies too have to brace up for the new Indian Accounting Standards (IND-AS) on revenue that would go live shortly.

The International Accounting Standards Board (IASB), as part of a joint convergence project with its United States Counterpart, the Financial Accounting Standards Board (FASB) has re-modeled the revenue recognition guidance. The new IFRS 15 - Revenue From Contracts With Customers replaces prevailing IAS's and related interpretations, primary of them being (1) IAS 11- Construction Contracts and (2) IAS 18 – Revenue. A new principle for revenue recognition has emerged with the emphasis on the concept of transfer of control and a detailed accounting model, it has been launched as the Five Step Revenue Recognition Model and is to be followed for every revenue contract to account for the financial statement reporting consequences.

“IFRS 15 Revenue from Contracts with Customers provides a single revenue recognition model based on the transfer of control of a good or service to a customer. The new revenue standard marks a significant change from current requirements under IFRS. It provides a more structured approach to measuring and recognising revenue, with detailed application guidance. Therefore, adoption may be a significant undertaking for many entities. Early assessment will be key to managing a successful implementation.”

Evaluation of contracts, customer agreements, pricing models, side-arrangements, revenue and delivery models, contractual clauses, underlying economics, deliverables analysis, et al, become very critical as companies' transition to the new revenue recognition standard.

Standard operating procedures and internal controls also need to be geared up and fine-tuned to comply with this critical financial reporting standard.

The Exposure Draft on clarifications to Ind AS 115 proposes that Ind AS 115 would be applicable for accounting periods beginning on or after 1st April, 2018. The MCA is expected to notify the standard soon.

The effect on entities will vary, and some may face significant changes in revenue recognition. Entities should now be assessing how they will be affected so they can prepare an implementation plan for the new standard.

Core Principle of Revenue Recognition Changes

The global reporting standard moves from a "transfer of risks and rewards" model to a "transfer of control" model. This model determines the timing of revenue recognition. The new timing is when there is a transfer of control of promised deliverable by the seller (reporting entity).

The core principle of the new revenue standard under both IFRS and United States Generally Accepted Accounting Principles (USGAAP) is that an entity recognized revenue to depict the transfer of promised goods and services to customers in an amount that reflects the consideration to which it expects to be entitled in exchange for such promised goods and services. Henceforth, revenue needs to be recognized upon transfer of control of promised products or services to customers in an amount that reflects the consideration that the entity expects to receive in exchange for those products or services.



IFRS 15

REVENUE FROM CONTRACTS WITH CUSTOMERS

Implementation of New IFRS Revenue Recognition Standard

Where a company enters into contracts that could include various combinations of products and services, the company needs to isolate the various revenue components, based on whether each component is generally capable of being distinct and accounted for as separate performance obligations. IFRS reporting entities need to follow a detailed 5-step model to account for revenue as follows.

- Step 1** - Identify the contract with the customer
- Step 2** - Identify the performance obligations in the contract
- Step 3** - Determine the transaction price
- Step 4** - Allocate the transaction price to the separate performance obligations in the contract
- Step 5** - Recognize revenue when or as the reporting entity satisfies a performance obligation



Revenue Recognition Principle Application – The Granularities

A contract is an agreement between two or more parties that creates enforceable rights and obligations and includes promises to transfer goods or services to a customer. Where such goods/services spelled out in the contract are distinct, the promises are performance obligations and are accounted for separately. A good or service is distinct if the customer can benefit from the good or service on its own or together with other resources that are readily available to the customer, and the seller's promise to transfer the goods or services to the customer is separately identifiable from other promises in the contract.

Further, the transaction price needs to be adjusted for the effects of the time value of money if the contract includes a significant financing component and for any consideration payable to the customer under the contractual terms. Where the consideration is variable, the entity is required to estimate the amount of consideration to which it will be entitled to in exchange for the promised goods or services.

The transaction price is to be allocated to each performance obligation on the basis of the relative stand alone selling price of each distinct good or service promised to the customer. Revenue is to be recognized as and when as the company satisfies a performance obligation by transferring a promised good or service to a customer, which is when the customer obtains control of that good or service.

Conclusion

The impact of the new Ind AS revenue standard extends far beyond the finance function. The new revenue standard marks a significant change from current requirements under IFRS. It provides a more structured approach to measuring and recognising revenue, with detailed application guidance. Therefore, adoption may be a significant undertaking for many entities. Early assessment will be key to managing a successful implementation.

* * *



RBI UPDATES

01 *RBI issues various instructions aimed at resolution of stressed assets in the economy*

The Reserve Bank of India has issued various instructions aimed at resolution of stressed assets in the economy, including introduction of certain specific schemes at different points of time. In view of the enactment of the Insolvency and Bankruptcy Code, 2016 (IBC), it has been decided to substitute the existing guidelines with a harmonised and simplified generic framework for resolution of stressed assets. In a major overhaul for resolution of NPAs (non-performing assets), the Reserve Bank of India has revised the new stressed assets framework asking banks to resolve defaults within 180 days. For accounts with an exposure of Rs 2,000 crore or more, banks will have to ensure that a resolution plan is in place within 180 days after a 'default'. If not implemented within the timeframe, the account must be referred to the insolvency courts within 15 days. The RBI has withdrawn the existing resolution frameworks and the Joint Lenders' Forum (JLF) also stands discontinued with immediate effect. Further, the Lenders shall identify incipient stress in loan accounts, immediately on default, by classifying stressed assets as special mention accounts (SMA).

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11218&Mode=0>

02 *Acceptance of coins*

RBI vide Notification dated 15th February, 2018 has advised all banks to direct their branches to accept coins of all denominations tendered at their counters either for exchange or for deposit in accounts.

It is also further advised that it will be preferable to accept coins, particularly, in the denominations of ₹ 1 and 2, by weight. However, accepting coins packed in polythene sachets of 100 each would perhaps be more convenient for the cashiers as well as the customers. Such polythene sachets may be kept at the counters and made available to the customers. A notice to this effect may be displayed suitably inside as also outside the branch premises for information of the public.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11219&Mode=0>

03 *Ombudsman Scheme for Non-Banking Financial Companies, 2018*

RBI vide Notification dated 23rd February, 2018 has issued Ombudsman Scheme for Non-Banking Financial Companies, 2018. Reserve Bank of India (RBI) being satisfied that for the purpose of enabling it to promote conducive credit culture among the Non-Banking Financial Companies (NBFCs) and to regulate the credit system of the country to its advantage, it is necessary to provide for a system of Ombudsman for redressal of complaints against deficiency in services concerning deposits, loans and advances and other specified matters, hereby directs that the NBFCs, as defined in Section 45-I(f) of the Reserve Bank of India Act, 1934 and registered with the RBI under Section 45-IA of the Reserve Bank of India Act, 1934 which (a) are authorised to accept deposits; or (b) have customer interface, with assets size of one billion rupees or above, as on the date of the audited balance sheet of the previous financial year, or of any such asset size as the RBI may prescribe, will come within the ambit, and should comply with the provisions of the Ombudsman Scheme for Non-Banking Financial Companies, 2018.

The Non-banking Financial Company - Infrastructure Finance Company (NBFC-IFC), Core Investment Company (CIC), Infrastructure Debt Fund - Non-banking Financial Company (IDF-NBFC) and an NBFC under liquidation, are excluded from the ambit of the Scheme.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11220&Mode=0>

04 *RBI issues revised guidelines relating to participation of a person resident in India and Foreign Portfolio Investor (FPI) in the Exchange Traded Currency Derivatives (ETCD) Market*

RBI has issued revised guidelines relating to participation of a person resident in India and Foreign Portfolio Investor (FPI) in the Exchange Traded Currency Derivatives (ETCD) Market. Currently, persons resident in India and FPIs are allowed to take a long (bought) or short (sold) position in USD-INR upto USD 15 million per exchange without having to establish existence of underlying exposure. In addition, residents & FPIs are allowed to take long or short positions in EUR-INR,



RBI UPDATES

GBP-INR and JPY-INR pairs, all put together, upto USD 5 million equivalent per exchange without having to establish existence of any underlying exposure. It has now been decided to permit persons resident in India and FPIs to take positions (long or short), without having to establish existence of underlying exposure, upto a single limit of USD 100 million equivalent across all currency pairs involving INR, put together, and combined across all exchanges. Further, the onus of complying with the provisions of this circular rests with the participant in the ETCD market and in case of any contravention the participant shall be liable to any action that may be warranted as per the provisions of Foreign Exchange Management Act, 1999 and the regulations, directions, etc. issued thereunder. These limits shall also be monitored by the exchanges, and breaches, if any, may be reported to the Reserve Bank of India.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11222&Mode=0>

ode=0

05 Separate limit of Interest Rate Futures (IRFs) for Foreign Portfolio Investors (FPIs)

RBI vide Notification dated 1st March, 2018, it has been decided to allocate FPIs a separate limit of ₹ 5,000 crore for long position in (Interest Rate Futures) IRFs. “Foreign Portfolio Investors, registered with Securities and Exchange Board of India, are permitted to purchase or sell Interest Rate Futures subject to the following conditions:

- (i) the aggregate long position of all FPIs, each of whom has a net long position in any IRF instrument, shall not exceed ₹ 5000 crore, aggregated across all IRF instruments, and
- (ii) the total gross short (sold) position of any Foreign Portfolio Investor shall not exceed its consolidated long position in Government securities and Interest Rate Futures, at any point in time”.

The limits prescribed for investment by FPIs in G-secs (currently ₹ 3,01,500 crore) will be exclusively available for investment in G-secs. All other terms and conditions of the extant IRF directions will remain unchanged.

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=11225&Mode=0>



MCA UPDATES

01 MCA exempts Government Company from complying with Ind AS 12 for 7 years w.e.f April 2017

MCA vide Notification dated 5th February, 2018 has directed that the provisions of Accounting Standard 22 or Indian Accounting Standard 12 relating to deferred tax Asset or deferred tax liability shall not apply, for seven years with effect from the 1st April, 2017, to a Government Company which is either a public financial institution, a Non-Banking Financial Company registered under RBI and is engaged in the business of infrastructure finance leasing with not less than seventy five per cent of its total revenue being generated from such business with Government companies or other entities owned or controlled by Government.

http://www.mca.gov.in/Ministry/pdf/NotificationSO529_06022018.pdf

02 MCA designates Special Courts in Kerala, Odisha and Guwahati for speedy Trial of offences

MCA vide Notification dated 5th February, 2018 has designated Special Courts in the State of Kerala, Odisha and Assam and Union territory of Lakshadweep for the purposes of providing speedy trial of offences punishable with imprisonment of two years or more.

http://www.mca.gov.in/Ministry/pdf/NotificationSO528Specialcourts_06022018.pdf

03 Cabinet approves Insolvency and Bankruptcy Code (Amendment) Bill, 2017 to replace the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017

MCA vide Press Release dated 7th February, 2018 has given Ex-post facto approval to the modifications carried out in the replacement Bill, which replaced the Insolvency and Bankruptcy Code (Amendment) Bill 2017, and which has been passed by the Parliament as the Insolvency and Bankruptcy Code (Amendment) Act, 2018.

The amendment will bring clarity and ensure that the prohibition of certain persons in the resolution process of an insolvent corporate person does not include unintended persons and the opportunity given to a person whose account is classified as non-performing asset is more equitable.

04 Amendments to the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

MCA vide Press Release dated 7th February, 2018 has made amendment to Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The following amendments has been made-

a. The Resolution Professional shall appoint two registered valuers to determine the fair value and the liquidation value of the corporate debtor.

b. The Resolution Professional shall submit the information memorandum in electronic form to each member of the committee of creditors within two weeks of his appointment as resolution professional and to each prospective resolution applicant latest by the date of invitation of resolution plan, on receiving confidentiality undertaking.

c. The Resolution Professional shall issue an invitation, including the evaluation matrix, to the prospective resolution applicants.

d. While the Resolution Applicant shall continue to specify the sources of funds that will be used to pay insolvency resolution process costs, liquidation value due to operational creditors and liquidation value due to dissenting financial creditors, the committee of creditors shall specify the amounts payable from resources under the resolution plan for these purposes.

e. A Resolution Plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets.

f. The Resolution Professional shall submit the resolution plan approved by the committee of creditors to the Adjudicating Authority, at least 15 days before the expiry of the maximum period permitted for the completion of the corporate insolvency resolution process.

05 MCA revises the version of e-forms

MCA has revised the versions of eforms - Form AOC-4 (XBRL) (Filing of Financial Statements) along with the validation tool is available for IND-AS filling. The form can be filed without additional fee up to 31st March 2018. All companies which are required to prepare their financial statements in accordance with Companies (Indian Accounting



MCA UPDATES

Standards) Rules, 2015 are required to file their financial in the revised Ind AS XBRL taxonomy. All non-banking financial companies, housing finance companies and companies engaged in the business of banking and insurance sector are continue to be exempted from filing of financial statements under these rules. Further, Form CRL-1 is likely to be deployed shortly for filing purposes. Once made available, the form can be downloaded and filed without additional fee up to 19th March 2018. Stakeholders may plan accordingly. Stakeholders are advised to download the latest version before filing. Form- wise date of last version change is available at on the website of MCA.

06 MCA issues Companies (Audit and Auditors) Amendment Rules, 2018

MCA vide Notification dated 16th February, 2018 has issued Companies (Audit and Auditors) Amendment Rules, 2018. The Forms ADT – 1 (Notice to the Registrar by Company for appointment of Auditor) and ADT – 2 (Application for removal of auditor(s) from his/their office before expiry of term) has been revised as per the amendment.

http://www.mca.gov.in/Ministry/pdf/CompaniesAuditAuditorsAmendmentRules2018_19022018.pdf

07 MCA issues Companies (Management and Administration) Amendment Rules, 2018

MCA vide Notification dated 16th February, 2018 has issued Companies (Management and Administration) Amendment Rules, 2018. Form MGT – 6 (Return to the Registrar in respect of declaration under Section 89 received by the Company) and Form MGT – 15 (Form for filing Report on Annual General Meeting) has been revised.

http://www.mca.gov.in/Ministry/pdf/CompaniesManagementAdministrationAmendmentRules2018_19022018.pdf

08 MCA issues Companies (Authorised to Register) Amendment, 2018

MCA vide Notification dated 16th February, 2018 has issued Companies (Authorised to Register) Amendment Rules, 2018. Form URC – 1 (Application by a company for registration under section 366 (conversion from firm into company and

LLP into company) has been amended.

http://www.mca.gov.in/Ministry/pdf/CompaniesAuthorisedRegisterAdmendmentRules2018_19022018.pdf

09 MCA revises the version of e-forms

MCA has revised the version of e-forms - Form PAS-3 (Return of Allotment), Form DPT-3 (Return of deposits), Form MGT-6 (Persons not holding beneficial interest in shares), Form MGT-15 (Form for filing Report on Annual General Meeting), Form MGT-14 (Filing of Resolutions and agreements to the Registrar), Form ADT-1 (Information to the Registrar by Company for appointment of Auditor), Form ADT-2 (Application for removal of auditor(s) from his/their office before expiry of term), Form SH-7 (Notice to Registrar of any alteration of share capital) and Form URC-1. The revised forms will be available on the portal on the portal of MCA shortly. Stakeholders are advised to download the latest version before filing. Form- wise date of last version change is available at on the website of MCA.

10 MCA issues the Companies (Removal of Difficulties) Order, 2018

MCA has issued the Companies (Removal of Difficulties) Order, 2018 which shall come into force from the date of its publication in the Official Gazette. various stakeholders have suggested difficulties regarding proper monitoring and implementation of corporate governance requirements in companies and in order to strengthen corporate governance process, such stakeholders have suggested for reviewing section 169 of the said Act, which, inter-alia, deals with the removal of independent directors. in view of the fact that presently an independent director is re-appointed for second term under sub-section (10) of section 149 of the said Act, only by way of a special resolution, such independent director can be removed by an ordinary resolution and not by a special resolution. in order to remove above said difficulty, and to ensure better corporate governance in companies, and balancing of powers of the board of the company, it is felt that there is a need for an amendment in section 169 of the Companies Act, 2013 to provide for removal of such



MCA UPDATES

re-appointed independent director by way of a special resolution. Accordingly, in proviso to Section 169 (1)(i) shall be inserted, Provided that an independent director re-appointed for second term under sub-section (10) of section 149 shall be removed by the company only by passing a special resolution and after giving him a reasonable opportunity of being heard.

http://www.mca.gov.in/Ministry/pdf/CompaniesRODorder2018_22022018.pdf

11 MCA issues e-Form for Condonation of Delay Scheme (CODS, 2018)

Stakeholders may please take note that Condonation of Delay Scheme (CODS, 2018) e-form is now available on MCA portal for filing purposes. Please make sure to complete the pending annual filing before uploading the CODS Form. The companies which are availing the CoDS scheme have to make a payment of Rs. 30,000/- to MCA.

12 MCA issues notification to exempt companies engaged in defence production from segment reporting

MCA has issued notification to exempt companies engaged in defence production from segment reporting. As per the notification, all companies engaged in defence production are exempted to the extent of application of relevant Accounting Standard on segment reporting as provided under the provisions of the Chapter IX, Section 129 of the Companies Act, 2013. Further, the Segment Reporting requirement is provided in Accounting Standard (AS) - 17 as issued by ICAI and approved by MCA. The said Accounting Standard is not mandatory for Small and Medium Sized Companies from day one of its inception.

<http://www.mca.gov.in/Ministry/pdf/notificationSegment230226022018.pdf>

13 Cabinet approves Establishment of National Financial Reporting Authority

MCA vide Press Release dated 1st March, 2018 has approved the proposal for establishment of National Financial Reporting Authority (NFRA) and creation of one post of Chairperson, three posts of full-time Members and one post of Secretary for NFRA.

The decision aims at establishment of NFRA as an independent regulator for the auditing profession which is one of the key changes brought in by the Companies Act, 2013. The inclusion of the provision in the Act was on the specific recommendations of the Standing Committee on Finance (in its 21st report).

Impact:

The decision is expected to result in improved foreign/domestic investments, enhancement of economic growth, supporting the globalisation of business by meeting international practices, and assist in further development of audit profession.

Jurisdiction:

The jurisdiction of NFRA for investigation of Chartered Accountants and their firms under section 132 of the Act would extend to listed companies and large unlisted public companies, the thresholds for which shall be prescribed in the Rules. The Central Government can also refer such other entities for investigation where public interest would be involved.

The inherent regulatory role of ICAI as provided for in the Chartered Accountants Act, 1949 shall continue in respect of its members in general and specifically with respect to audits pertaining to private limited companies, and public unlisted companies below the threshold limit to be notified in the rules.

The Quality Review Board (QRB) will also continue quality audit in respect of private limited companies, public unlisted companies below prescribed threshold and also with respect to audit of those companies that may be delegated to QRB by NFRA. Further, ICAI shall continue to play its advisory role with respect to accounting and auditing standards and policies by making its recommendations to NFRA.

Background:

The need for establishing NFRA has arisen on account of the need felt across various jurisdictions in the world, in the wake of accounting scams, to establish independent regulators, independent from those it regulates, for enforcement of auditing standards and ensuring the quality of audits to strengthen the independence of audit firms, quality of audits and, therefore, enhance investor and public confidence in financial disclosures of companies.



SEBI UPDATES

01 Charging of additional expenses of upto 0.20% in terms of Regulation 52 (6A) (c) of SEBI (Mutual Funds) Regulations, 1996

SEBI vide Circular dated 2nd February, 2018 has clarified that Mutual Fund schemes including close ended schemes, wherein exit load is not levied / not applicable, the AMCs shall not be eligible to charge the above mentioned additional expenses for such schemes.

Further, existing Mutual Fund schemes including close ended schemes, wherein exit load is not levied / not applicable, shall discontinue, with immediate effect, the levy of above mentioned additional expenses, if any.

Regulation 52 (6A) (c) of SEBI (Mutual Funds) Regulations, 1996, allows an AMC to charge additional expenses, incurred towards different heads mentioned under Regulation 52 (2) and Regulation 52 (4), not exceeding 0.20 per cent of daily net assets of the scheme.

02 SEBI issues Circular w.r.t. Total Expense Ratio – change and disclosure which shall be applicable on All Mutual Funds/AMCs/Trustee Companies

SEBI has issued circular w.r.t Total Expense Ratio – change and disclosure which shall be applicable on All Mutual Funds / Asset Management Companies (AMCs) / Trustee Companies / Boards of Trustees of Mutual Funds. In order to bring uniformity in disclosure of actual TER charged to mutual fund schemes and to enable the investor to take informed decision, it has been decided that AMCs shall prominently disclose on a daily basis, the TER of all schemes under a separate head – “Total Expense Ratio of Mutual Fund Schemes” on their website. Any change in the base TER (i.e. TER excluding additional expenses provided in Regulation 52(6A)(b) and 52(6A)(c) of SEBI (Mutual Funds) Regulations, 1996) in comparison to previous base TER charged to any scheme shall be communicated to investors of the scheme through notice via email or SMS at least three working days prior to effecting such change.

https://www.sebi.gov.in/legal/circulars/feb-2018/total-expense-ratio-change-and-disclosure_37707.html

03 SEBI issues Circular for Compensation to Retail Individual Investors (RIIs) in an IPO

SEBI vide Circular dated 15th February, 2018 has prescribed a uniform policy for calculation of minimum compensation payable to investors in different scenarios like a. Failure on part of the Self Certified Syndicate Banks (SCSBs) to make bids in the concerned Exchange system even after the amount has been blocked in the investors’ bank account with such SCSB. b. Failure on part of the SCSB to process the ASBA applications even when they have been submitted within time. c. Any other failures on part of an SCSB which has resulted in the rejection of the application form.

It is also proposed that in case of issues which are subscribed between 90-100%, i.e. non oversubscribed issues, the applicants would be compensated for all the shares which they would have been allotted.

https://www.sebi.gov.in/legal/circulars/feb-2018/compensation-to-retail-individual-investors-riis-in-an-ipo_37864.html

04 SEBI eases out access norms for investment by FPIs

SEBI vide Circular dated 15th February, 2018 has made regulatory provisions to ease the access norms for investment by Foreign Portfolio Investors (FPIs) – a. Discontinuance of requirements for seeking prior approval from SEBI in case of change in local custodian/Designated Depository Participant (DDP). b. Rationalization of procedure for submission of PCC/MCV Declarations and Undertakings (D&U) and Investor grouping requirement at the time of continuance of registration of FPIs. c. Placing reliance on due diligence carried out by erstwhile DDP at the time of change of Custodian / DDP of FPIs. d. Exemption to FPIs having Multiple Investment Managers (MIM) structure from seeking prior approval from SEBI in case of Free of cost (FOC) transfer of asset.

https://www.sebi.gov.in/legal/circulars/feb-2018/easing-of-access-norms-for-investment-by-fpis_37866.html



SEBI UPDATES

05 SEBI issues Circular on Manner of Achieving Minimum

Public Shareholding

SEBI vide Circular dated 22nd February, 2018 has prescribed additional methods for achieving minimum public shareholding requirements. The following additional methods are allowed – a. Open market sale: Sale of shares held by the promoters/promoter group up to 2% of the total paid-up equity share capital of the listed entity in the open market, subject to five times’ average monthly trading volume of the shares of the listed entity;

b. Qualified Institutions Placement: Allotment of eligible securities through Qualified Institutions Placement in terms of Chapter VIII of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009.

https://www.sebi.gov.in/legal/circulars/feb-2018/manner-of-achieving-minimum-public-shareholding_37953.html



TAXATION UPDATES

01 GST: Government Notifies Postponement of E-Way Bill

Government has notified the postponement of E-Way Bill under the Goods and Services Tax (GST) regime. However, the next rollout date has not been prescribed in the notification. To give effect to the postponement, Government rescinds Notification No. 74/2017-Central Tax which had appointed February 1 for said Rules, except as respects things done or omitted to be done before such rescission. The fresh dates will be notified separately by the Government.

02 CBDT has issued Frequently Asked Questions (FAQs) regarding taxation of long-term capital gains proposed in Finance Bill, 2018.

Ministry of Finance vide Press Release dated 4th February, 2018 has issued responses to these queries in the form of Frequently Asked Questions (FAQs) dated 4th February, 2018 which have been uploaded on www.incometaxindia.gov.in.

The Finance Bill, 2018 has proposed to withdraw the exemption under Section 10(38) and to introduce a new section 112A in the Income-tax Act, 1961 vide clause 31 of the Finance Bill, 2018 so as to provide that long-term capital gains arising from transfer of such long-term capital asset exceeding one lakh rupees will be taxed at a concessional rate of 10 percent. Since the introduction of the Finance Bill, 2018 on 1st February, 2018, several queries have been raised in different forum on various issues relating to the proposed new tax regime for taxation of long-term capital gains.

Under the existing regime, Long Term Capital Gains arising from transfer of long term capital assets, being equity shares of a company or a unit of equity oriented fund or a unit of business trust, is exempt from income tax under clause (38) of Section 10 of the Act. However, transactions in such long-term capital assets are liable to Securities Transaction Tax (STT).

The Finance Bill, 2018 proposes to withdraw the exemption under clause (38) of Section 10 and to introduce a new Section 112A in the Income-tax Act, 1961 so as to provide that Long-Term Capital Gains arising from transfer of such Long-Term Capital Asset exceeding Rupees one lakh will be taxed at a concessional rate of 10 percent.

03 GST Council recommends relief in GST on Circus, Dance and Theatrical Performances - Threshold Exemption under GST for admission to such cultural and sports events in the country increased from Rs. 250 to Rs. 500 per person.

Ministry of Finance vide Press Release dated has recommended that for the purpose of GST exemption, the threshold price limit of Admission Ticket for circus, dance, theatrical performances including drama or dance, award functions, pageants, concerts, musical performances, and recognized sporting events may be increased from Rs. 250 per person to Rs.500 per person. The Council has further recommended that admission to planetarium may also be given the benefit of this threshold exemption up to Rs.500 per person.

04 GST rate on admission to amusement parks and ballet etc, reduced from 28% to 18%.

Ministry of Finance vide Press Release dated 7th February, 2018 has announced that admission to amusement parks including theme parks, water parks, joy rides, merry-go-rounds, go-carting and ballet is now taxable at the lower rate of 18%.

05 GST Council recommends granting relief from GST on services provided by the Resident Welfare Associations (RWAs) to their Members - Threshold Exemption Limit under GST for monthly contributions made by members for services provided by RWAs raised from Rs. 5,000 to Rs. 7,500 per month per person

GST Council had recommended several measures granting relief from GST on a number of goods and services. One of the important reliefs granted by the Council is to enhance the limit of contribution made by members of a Resident Welfare Association (RWA) for the purpose of exemption from GST.

The Council had recommended that the limit may be enhanced from Rs.5,000 to Rs 7,500 per month per member. Services provided by RWAs(unincorporated body or a registered non-profit entity) to their members were hitherto exempt against contribution of up to an amount of five thousand rupees per month per member.



TAXATION UPDATES

06 India and Iran signed in New Delhi today an Agreement for the Avoidance of Double Taxation (DTAA) and the Prevention of Fiscal Evasion with respect to taxes on income.

Ministry of Finance vide Press Release dated 17th February, 2018 has announced that India and Iran has signed an Agreement for the Avoidance of Double Taxation (DTAA) and the Prevention of Fiscal Evasion with respect to taxes on income.

The Agreement is on similar lines as entered into by India with other countries. The Agreement will stimulate flow of investment, technology and personnel from India to Iran & vice versa, and will prevent double taxation. The Agreement will provide for exchange of information between the two Contracting Parties as per latest International Standards. It will improve transparency in tax matters and will help curb tax evasion and tax avoidance.

The Agreement also meets treaty related minimum standards under G-20 OECD Base Erosion & Profit Shifting (BEPS) Project, in which India participated on an equal footing.

07 Cabinet approves New Bill to ban Unregulated Deposit Schemes and Chit Funds (Amendment) Bill, 2018

Ministry of Finance vide Press Release dated 20th February, 2018 has given approval to introduce the Banning of Unregulated Deposit Schemes Bill, 2018 in parliament & Chit Funds (Amendment) Bill, 2018. The bill is aimed at tackling the menace of illicit deposit taking activities in the country. Companies/ institutions running such schemes exploit existing regulatory gaps and lack of strict administrative measures to dupe poor and gullible people of their hard-earned savings.

Also, In order to facilitate orderly growth of the Chit Funds sector and remove bottlenecks being faced by the Chit Funds industry, thereby enabling greater financial access of people to other financial products.

08 Form GST-3B simplified - 'Filing GSTR 3B is now made more user friendly'

The GST Authorities have come out with a simplified version of GSTR-3B, making it more user-friendly amidst indications that it may possible be used even beyond March 31. There was a slight change in procedure of filing GSTR 3B from today i.e.

21.02.2018 what GSTN termed as 'Filing GSTR 3B is now made more user friendly'. Earlier, a taxpayer was required to Submit the return to ascertain the tax liability amount. Post submission, no changes were allowed. Now, the tax liability to be paid in cash/ credit will be shown before submitting the return. Challan generation – Tax payment challan can now be auto-generated after offsetting the input tax credit available in credit ledger. Taxpayer, however, has an option to edit the credit amount to be utilized and not to consider the system generated credit utilisation. Earlier, the assessee had to manually fill in the credit utilization amount and generate the challan. Download facility of draft return – A new feature of downloading draft return at any stage has been provided to verify the saved details offline. Auto-fil of tax amount – Taxpayer now need to fill either CGST or SGST/UTGST amount, other tax will get auto filled. This is a welcome step towards making the tax filing process more user friendly. It makes the system less rigid and reduces the chances of inadvertent errors. With this, hopefully, the businesses would find it easier to file returns which would in turn increase the level of compliance's.

09 CBEC Mandates 'e-SANCHIT' for Online Filing of Documents from 15th March

Central Board of Excise and Customs (CBEC) is all set to implement its new facility 'e-SANCHIT' enabling the registered persons to file documents online from 15th March 2018.

10 Packaging of Goods is 'Part of Manufacture', Service Tax Not Leviable: CESTAT, Delhi

Central Excise and Service Tax Appellate Tribunal (CESTAT), Delhi has declared that packaging of goods are part of manufacture for which, service tax is not leviable.

11 GST: Maharashtra Govt Prescribes Norms for Online Filing of LUTs

Maharashtra State Government has enabled the facility of online submission of Letter of Undertaking (LUTs) by the taxable person who makes the zero-rated supply of goods or services or both without payment of Integrated Tax under Integrated Goods and Services Tax (IGST) Act.



TAXATION UPDATES

12 CBDT Notifies New Communication Scheme

Central Board of Direct Taxes has notified a new centralised communication scheme for serving e-notices to income tax-payers as part of the Government's plan to usher in a countrywide paperless system of interface between the Taxman and the Assessee.



OTHER UPDATES

01 DGFT – Issues a public notice to notify the amendment in the procedure of seeking modification in IEC

The DGFT has issued a public notice to notify the amendment in the procedure of seeking modification in Import Export Code (IEC). When an IEC holder seeks modification / change of Head Office / Registered Office address in its IEC and which involves a shift in its jurisdictional RA, a request to that effect will have to be made to the new RA, to whose jurisdiction the applicant is shifting its office. The new RA shall make appropriate amendments, based on documents submitted to it by the applicant. The new RA will also separately inform the RA, who had initially issued the IEC, of the changes made in the concerned IEC. Thereafter, the new RA shall allow the applicant to carry out necessary functions and also apply for eligible benefits as per FTP through its office.

[http://dgft.gov.in/Exim/2000/PN/PN17/P.N.%2058\(e\).pdf](http://dgft.gov.in/Exim/2000/PN/PN17/P.N.%2058(e).pdf)

02 Cabinet approves signing of India-Australia Memoranda of Understanding (MoUs) for Secondment Programme

Cabinet vide Press Release dated 7th February, 2018 has given its approval for signing of Memoranda of Understanding for Secondment Programme between the Department of Economic Affairs (Indian Economic Service Cadre) and The Treasury, Government of Australia, for a period of three months.

The proposed Programme will help to deepen the understanding of current economic policy issues in both countries and also explore further opportunities for future collaboration and engagement. The Programme would also provide the seconded officers with valuable and unique development opportunities and also provide exposure on global best practices.

03 Cabinet approves signing and ratification of protocol amending the Agreement between India and China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion

Cabinet vide Press Release dated 7th February, 2018 has given its approval for signing and ratification of protocol amending

the Agreement between India and China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income.

Besides other changes, the Protocol updates the existing provisions for exchange of information to the latest international standards. Further the Protocol will incorporate changes required to implement treaty related minimum standards under the Action reports of Base Erosion & Profit shifting (BEPS) Project, in which India had participated on an equal footing. Besides minimum standards, the Protocol will also bring in changes as per BEPS Action reports as agreed upon by two sides.

04 Cabinet approves signing of a Memorandum of Cooperation between India and USA on Law Enforcement Training

Cabinet vide Press Release dated 7th February, 2018 has given its approval for signing of a Memorandum of Cooperation (MoC) between Federal Law Enforcement Training Centers (FLETC), USA and Bureau of Police Research & Development (BPR&D), India on Law Enforcement Training. The MoC will help in improving the standards of training, training materials, quality of trainers etc. which will go a long way in improving the functioning of police forces in the country and realizing the concept of SMART Police.

05 Cabinet approves signing of a MoU with United Kingdom of Great Britain and Northern Ireland on Cooperation in the Field of Skill Development, Vocational Education and Training

Cabinet vide Press Release dated 7th February, 2018 has given its approval for signing of Memorandum of Understanding (MoU) with United Kingdom of Great Britain and Northern Ireland on Cooperation in the Field of Skill Development, Vocational Education and Training. The MoU would pave the way for closer bilateral cooperation between the two countries in the field of vocational education and training and skill development.



OTHER UPDATES

06 Cabinet approves creation of National Urban Housing Fund

Ministry of Housing and Urban Poverty Alleviation vide Press Release dated 20th February, 2018 has given approval for creation of National Urban Housing Fund (NUHF) for Rs.60,000 crores. This fund will be situated in Building Materials and Technology Promotion Council (BMTPC), an autonomous body registered under the Societies Registration Act, 1860 under the Ministry of Housing and Urban Affairs.

07 Revised Double Taxation Avoidance Agreement (DTAA) between India and Kenya notified;

Revised DTAA to improve transparency in tax matters, help curb tax evasion and tax avoidance, remove double taxation and will stimulate the flow of investment, technology and services between both the countries.

Ministry of Finance vide Press Release dated 22nd February, 2018 has revised Double Taxation Avoidance Agreement (DTAA) between India and Kenya.

Some of the key features of the revised DTAA are highlighted as under:

- i. In order to promote cross border flow of investments and technology, the revised DTAA provides for reduction in withholding tax rates from 15% to 10% on dividends, from 15% to 10% on interest, from 20% to 10% on royalties and from 17.5% to 10% on fees for management, professional and technical services.
- ii. The revised DTAA provides for a new Article on Limitation of Benefits to allow treaty benefits to bonafide residents of both countries, to combat treaty abuse by third country residents and to allow application of domestic law to prevent tax avoidance or evasion.
- iii. The Article on Exchange of Information has been updated to the latest international standard to provide for exchange of information, including banking information for tax purposes, to the widest possible extent.
- iv. A new Article on Assistance in Collection of Taxes has also been provided in the revised treaty which will enable assistance in collection of tax revenue claims between both countries.

The revised DTAA will improve transparency in tax matters, help curb tax evasion and tax avoidance, remove double taxation and will stimulate the flow of investment, technology and services between India and Kenya.

08 New Facilities for UAN- Aadhar Linking Introduces By EPFO

Ministry of Labour and Employment vide Press Release dated 27th February, 2018 has announced introduction of new facilities for UAN – Aadhar Linking by EPFO.

Employees' Provident Fund Organisation (EPFO) has introduced UAN-Aadhaar linking facility for the convenience of members using EPFO Link in UMANG Mobile App. This is in addition to the existing web facility already available at EPFO's website www.epfindia.gov.in >> Online Services >> e-KYC Portal>> LINK UAN AADHAAR.

The facility on e-KYC Portal has further added a new feature to link UAN with Aadhaar online using biometric credentials. Using the aforesaid facilities, EPFO members can link their UAN with Aadhaar as under:

For using this facility with UMANG APP, Member will have to provide his/her UAN. An OTP will be sent to the UAN registered Mobile Number. After OTP Verification, member will have to provide Aadhaar details and gender information (where gender information is not available against UAN). Another OTP will be sent on Aadhaar Registered Mobile Number and/or email. After OTP verification, Aadhaar will be linked with UAN where UAN and Aadhaar details are matched.

For using this facility through E-KYC Portal, Member will have to provide his/her UAN. An OTP will be sent to the UAN registered Mobile Number. After OTP Verification, member will have to provide Aadhaar details, gender information (where gender information is not available against UAN) and select Aadhaar verification method (Using Mobile/email based OTP /using Biometrics). Another OTP will be sent on Aadhaar Registered Mobile Number and/or email or Biometric will be captured using Registered Biometric Device. After verification, Aadhaar will be linked with UAN where UAN and Aadhaar details are matched.

Moving towards Digital India, EPFO has also launched e-Nomination facility for filing nomination form by the member.



OTHER UPDATES

This functionality is available at Member Interface of EPFO Unified Portal (<https://unifiedportal.mem.epfindia.gov.in/memberinterface/>). Any member having activated and Aadhaar seeded UAN, can avail this facility.

This functionality is independent from employer. After giving nomination details online, member has to digitally sign the nomination. Aadhaar based eSign is being used for digital signing of nomination form.

Aadhaar based eSign is being provided to members free of cost by EPFO. Only member's mobile number should be linked with Aadhaar. This functionality will also be made available on UMANG mobile app soon.

09 Cabinet approves Fugitive Economic Offenders Bill, 2018 - Offences worth Rs.100 crore or more under the Bill Property of Fugitive Economic Offenders to be attached

Ministry of Finance vide Press Release dated 1st March, 2018 has approved the proposal of the Ministry of Finance to introduce the Fugitive Economic Offenders Bill, 2018 in Parliament. The Bill would help in laying down measures to deter economic offenders from evading the process of Indian law by remaining outside the jurisdiction of Indian courts.

The cases where the total value involved in such offences is Rs.100 crore or more, will come under the purview of this Bill. Impact:

The Bill is expected to re-establish the rule of law with respect to the fugitive economic offenders as they would be forced to return to India to face trial for scheduled offences. This would also help the banks and other financial institutions to achieve higher recovery from financial defaults committed by such fugitive economic offenders, improving the financial health of such institutions.

It is expected that the special forum to be created for expeditious confiscation of the proceeds of crime, in India or abroad, would coerce the fugitive to return to India to submit to the jurisdiction of Courts in India to face the law in respect of scheduled offences.

Salient features of the Bill:

- i. Application before the Special Court for a declaration that an individual is a fugitive economic offender;
- ii. Attachment of the property of a fugitive economic offender;

- iii. Issue of a notice by the Special Court to the individual alleged to be a fugitive economic offender;
- iv. Confiscation of the property of an individual declared as a fugitive economic offender resulting from the proceeds of crime;
- v. Confiscation of other property belonging to such offender in India and abroad, including benami property;
- vi. Disentitlement of the fugitive economic offender from defending any civil claim; and
- vii. An Administrator will be appointed to manage and dispose of the confiscated property under the Act.

If at any point of time in the course of the proceeding prior to the declaration, however, the alleged Fugitive Economic Offender returns to India and submits to the appropriate jurisdictional Court, proceedings under the proposed Act would cease by law. All necessary constitutional safeguards in terms of providing hearing to the person through counsel, allowing him time to file a reply, serving notice of summons to him, whether in India or abroad and appeal to the High Court have been provided for. Further, provision has been made for appointment of an Administrator to manage and dispose of the property in compliance with the provisions of law.

Implementation strategy and targets:

In order to address the lacunae in the present laws and lay down measures to deter economic offenders from evading the process of Indian law by remaining outside the jurisdiction of Indian courts, the Bill is being proposed. The Bill makes provisions for a Court ('Special Court' under the Prevention of Money-laundering Act, 2002) to declare a person as a Fugitive Economic Offender. A Fugitive Economic Offender is a person against whom an arrest warrant has been issued in respect of a scheduled offence and who has left India so as to avoid criminal prosecution, or being abroad, refuses to return to India to face criminal prosecution. A scheduled offence refers to a list of economic offences contained in the Schedule to this Bill. Further, in order to ensure that Courts are not overburdened with such cases, only those cases where the total value involved in such offences is 100 crore rupees or more, is within the purview of this Bill.

Glossary

CBDT	Central Board of Direct Taxes	MCA	Ministry of Corporate Affairs
CBEC	Central Board of Excise & Customs	MoU	Memorandum of Understanding
CGST	Central Goods and Service Tax	MSME	Micro Small and Medium Enterprises
DIN	Director Identification Number	NCLAT	National Company Law Appellate Tribunal
CA 2013	Companies Act 2013	NCLT	National Company Law Tribunal
FPI	Foreign Portfolio Investors	NBFC	Non Banking Financial Company
FRDI	Financial Resolution & Deposit Insurance	NPA	Non-Performing Assets
FDI	Foreign Direct Investment	NRI	Non resident India
GST	Goods and Services Tax	OTP	One Time Password
GIC	GST Implementation Committee	OCI	Overseas Citizens of India
ICDS	Income Computation and Disclosure Standards	PAN	Permanent Account Number
IGST	Integrated Goods and Services Tax	PIO	Person of Indian Origin
ITC	Input tax Credit	RBI	Reserve Bank Of India
IFRS	International Financial Reporting Standards	ROC	Registrar of Companies
ITR	Income Tax Return	SEBI	Securities and Exchange Board of India
IBC	Insolvency and Bankruptcy Code	TAN	Tax Account Number
IPs	Insolvency Professionals	UTGST	Union Territory Goods and Service Tax
Ind AS	Indian Accounting Standards	VAT	Value Added Tax
IBBI	Insolvency and Bankruptcy Board of India	IEPF	Investor Education and Protection Fund
IUs	Information Utilities	ISD	Input Service Distributer



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