

KPMG Knowledge Update

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KPMG IN INDIA



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Convergence with IFRS

The Core Group, constituted by the Ministry of Corporate Affairs for convergence of Indian Accounting Standards with International Financial Reporting Standards (IFRS) from April 2011, has agreed in its meeting on 11 January 2010 that in view of the roadmap for achieving convergence, there will be two separate sets of accounting standards u/s 211(3C) of the Companies Act, 1956:

- First set would comprise of the Indian accounting standards which are converged with the IFRSs (i.e. converged accounting standards) which shall be applicable to the specified class of companies in phases
- Second set would comprise of the existing Indian accounting standards and would be applicable to other companies, including Small and Medium Companies (SMCs)

Companies which fall in the following categories will not be required to follow the notified accounting standards which are converged with the IFRS (though they may voluntarily opt to do so) but need to follow only the notified accounting standards which are not converged with the IFRS. These companies are:-

- Non-listed companies which have a net worth of Rs. 500 crores or less and whose shares or other securities are not listed on stock exchanges outside India
- Small and Medium Companies (SMCs)

Separate roadmap for banking and insurance companies will be submitted by Sub-Group in consultation with the concerned regulators by 28 February 2010.

The draft of the Companies (Amendment) Bill, proposing for changes to the Companies Act, 1956 will be prepared by February 2010 incorporating the recommendation of Sub-Group 1 Report.

Revised Schedule VI to the Companies Act, 1956 according to the converged accounting standards has been submitted by the ICAI to NACAS which, after review, will submit it to the Ministry by 31 January 2010. Amendments to Schedule XIV will also be made in a time bound manner.

In respect of the converged accounting standards, the Accounting Standards Board of ICAI will submit the converged version of accounting Standards to NACAS from time to time for recommendations and onward submission to Ministry. However, convergence of all the accounting standards will be completed by ICAI by 31 March 2010 and NACAS will submit its recommendations to the Ministry by 30 April 2010.

[MCA announcement](#)

ICAI announcement – registration number of the firm to be included in the signature as well as appointment resolution

ICAI has issued the following announcement on 19 January 2010:

The Council of the Institute of Chartered Accountants of India (ICAI), at its 292nd meeting held on January 13, 2010 has decided to require the members of the Institute of Chartered Accountants of India to:

- *Include, in addition to the other requirements relating to signature on the audit report, as prescribed under the relevant Standard on Auditing, the registration number of the firm as allotted by ICAI, in the audit reports signed by them ; and*
- *Ensure that the resolution passed by the company regarding appointment of the statutory auditor of the company under section 224 of the Companies Act, 1956, also contain the registration number of the firm of the auditor(s) with the ICAI.*

These requirements would come into effect from April 1, 2010.

Adjustment of advance tax in respect of fringe benefits for assessment year 2010-11 against advance tax

The Finance (No. 2) Act, 2009, which received assent of the President of India in August 2009, had abolished Fringe Benefit Tax (FBT) with effect from 1 April 2009. By 15 June 2009, many tax payers had paid the first instalment of FBT for the quarter ended June 2009.

The Central Board of Direct Taxes has issued a circular dated 29 January 2010 which enables the adjustment of any FBT instalment paid by a tax payer for financial year (FY) 2009-10 towards the advance income-tax liability for the said year.

The key features of the circular are as under:

- Any FBT paid for the FY 2009-10 shall be treated as advance income tax paid by the tax payer for the said year.
- The unadjusted amount, if any, may be claimed as refund in the return of income for FY 2009-10.

[CBDT circular](#)



Refund of excess CENVAT credit

Ministry of Finance vide circular dated 19 January 2010 has issued a circular regarding refund of excess CENVAT credit. Apart from certain clarifications, the circular states that the declaration for filing of refund should be certified:

- If the amount of refund claimed is less than Rs. 5 lakh in a quarter – by a person authorized by the Board of Directors (in the case of a limited company) or the proprietor/partner (in case of firms/partnerships)
- If the refund claim is in excess of Rs. 5 lakh in a quarter – by Chartered Accountant who audits the annual accounts of the exporter for the purposes of Companies Act, 1956 (1 of 1956) or the Income Tax Act, 1961 (43 of 1961), as the case may be

The requirements of the circular should be adopted with immediate effect.

[Ministry of Finance circular](#)

SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations

SEBI has introduced amendments to the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 vide the following notifications:

- [SEBI \(Issue of Capital and Disclosure Requirements\) \(Second Amendment\) Regulations, 2010](#). The amendments come into force with effect from 8 January 2010.
- [SEBI \(Issue of Capital and Disclosure Requirements\) \(Amendment\) Regulations, 2010](#). The amendments come into force with effect from 1 January 2010.
- [SEBI \(Issue of Capital and Disclosure Requirements\) \(Amendment\) Regulations, 2009](#). The amendments come into force with effect from 11 December 2009 except for clause (a) and (b) of regulation 2(ix) of these regulations which come into force with effect from 1 April 2010 and 1 January 2010 respectively.

Simplified debt listing agreement for debt securities

SEBI vide circular dated 7 January 2010 has made certain amendments to the debt listing agreement.

The circular states that the requirements of clause 5 and 16(a) (regarding maintenance of 100% asset cover for all debt securities issued) shall not be applicable in case of unsecured debt instruments issued by regulated financial sector entities eligible for meeting capital requirements as specified by respective regulators.

Clause 29A(a) of the debt listing agreement permits an issuer of debt securities to furnish either audited or unaudited financial results subject to limited review on a half yearly basis to the stock exchange. To ensure consistency with clause 29(A)(a), the word 'un-audited' has now been deleted from clause 29A (b) and (c).

[SEBI circular](#)

Application of certain provisions of the Companies Act, 1956 to limited liability partnerships with modifications

MCA vide notification dated 6 January 2010 has notified certain sections of the Companies Act, 1956 which shall be applicable to limited liability partnerships subject to certain modifications.

[MCA notification](#)

Limited Liability Partnership (Amendment) Rules, 2010

MCA vide notification dated 11 January 2010 has issued Limited Liability Partnership (Amendment) Rules, 2010 wherein rule 10 [with regard to Designated Partner Identification Number (DPIN)], rule 12 [related to foreign nationals residing outside India in countries signatory to the Hague Apostile Convention, 1961 and seeking to register a LLP in India] and rule 21(2) [related to filing of information by a LLP for the purposes of section 23(3) of the LLP Act, 2008] have been amended.F

The notification also prescribes a revised format for forms 1-7. The amendments come into force with effect from 15 January 2010.

[MCA notification](#)



Repo in Corporate Debt Securities (Reserve Bank) Directions, 2010

RBI vide circular dated 8 January 2010 has issued Repo in Corporate Debt Securities (Reserve Bank) Directions, 2010. The Directions provide guidance on various aspects related to repo in corporate debt securities such as securities eligible for repo, eligible participants, tenor, trading, reporting and settlement of trades, haircut, valuation, capital adequacy, prohibition on sale of repoed security and disclosure of details of corporate debt securities lent or acquired under repo or reverse repo transactions in the notes to accounts to the balance sheet.

The Directions come into force with effect from 1 March 2010.

[RBI circular](#)

Guidelines on trading of currency futures on recognised stock exchange

RBI vide press release dated 6 August 2008 had issued Currency Futures (Reserve Bank) Directions, 2008 prescribing the framework for the trading of currency futures in recognised stock exchanges, in consultation with SEBI.

In relation to the above, RBI vide circular dated 19 January 2010 has issued Currency Futures (Reserve Bank) (Amendment) Directions, 2010 which permit the recognised stock exchanges to offer currency futures contracts in the currency pairs of Euro-INR, JPY-INR and GBP-INR, in addition to the USD-INR contracts, with immediate effect.

Consistent with this, SEBI has also issued a circular dated 19 January 2010 to permit eligible stock exchanges to introduce currency futures on additional currency pairs mentioned above.

[RBI circular](#)

[SEBI circular](#)

Retail issue of subordinated debt for raising Tier II capital

RBI vide notification dated 7 September 2009 had permitted banks to issue subordinated debt as Tier II capital with call and step-up options. In relation to this, RBI vide notification dated 13 January 2010 has now issued guidelines to banks for issuing subordinated debt to retail investors. The guidelines come into force with immediate effect.

[RBI notification](#)

Disclosure in balance sheet – bancassurance business

RBI vide circular dated 7 January 2010 has stated that banks should disclose in their notes to accounts the details of fees/remuneration received in respect of their bancassurance business.

The disclosure requirements shall be effective for accounting periods ending on or after 31 March 2010.

[RBI circular](#)

Prevention of money laundering rules – obligation of banks and financial institutions

RBI vide circular dated 12 January 2010 has listed the salient features of the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2009 (PMLA Rules) which are relevant for banks and financial institutions.

The circular requires banks/ financial institutions to strictly follow the amended provisions of PMLA Rules and ensure meticulous compliance with them.

[RBI circular](#)

Review of securities lending and borrowing framework

SEBI vide circular dated 6 January 2010 has made certain changes to the securities lending and borrowing (SLB) framework including those related to:

- Tenure of the contracts in SLB
- Early recall / repayment of shares by lender/ borrower
- Failure of the borrower to meet margin obligations

[SEBI circular](#)

Master circular for mutual funds

SEBI has issued a master circular dated 1 January 2010 for mutual funds. The master circular is a compilation of all applicable circulars issued by Investment Management Department of SEBI.

The master circular includes circulars issued upto 31 December 2009. In case of any inconsistency between the master circular and the applicable circulars, the contents of the relevant applicable circular shall prevail.

[SEBI circular](#)

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Internal audit for credit rating agencies

SEBI vide its circular dated 6 January 2010 has directed credit rating agencies (CRA) to get a complete internal audit carried out on a half yearly basis. The audit should be conducted by Chartered Accountants, Company Secretaries or Cost and Management Accountants who are in practice and who do not have any conflict of interest with the CRA.

The Board of Directors of CRA are required to obtain the internal audit report within two months from the end of the half-year and submit with SEBI a report on the action taken to rectify the deficiencies in the audit report, within two months of the receipt of the internal audit report.

For the half year October 2009 - March 2010, the CRA should obtain the internal audit report by 31 May 2010 and send a report to SEBI on the action taken by it to rectify the deficiencies by 31 July 2010.

[SEBI circular](#)

Establishment of branch office / liaison office in India by foreign entities - eligibility criteria, procedural guidelines and delegation of powers

RBI vide circular dated 30 December 2009 has simplified certain guidelines for establishment of a branch office (BO) and liaison office (LO) by a foreign entity in India . These relate primarily to the broad criteria regarding eligibility for opening of BO / LOs, documentation, permissible scope of activities and other procedural guidelines regarding functioning of the BO / LO in India.

RBI has also issued another circular dated 30 December 2009 regarding delegation of powers to authorised dealers for extension of the validity period of LOs, closure of BO / LOs of foreign entities in India.

[RBI circular – establishment of BO/LO](#)

[RBI circular – delegation of powers](#)

Applications supported by blocked amount facility in public issues and rights issues

SEBI vide circular dated 30 December 2009 has notified the phase - II of the existing applications supported by blocked amount (ASBA) facility in public issues and rights issues. ASBA – phase II shall be applicable to all public issues and rights issues with single payment option which are opening on or after 1 January 2010.

[SEBI circular](#)

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ICAI recommendations on the Goods and Service Tax

ICAI has compiled its recommendations on the Goods and Service Tax in India.

[ICAI recommendations](#)

Standards on Auditing issued by ICAI

ICAI has issued the following Standards on Auditing:

- [SA 700 \(Revised\), Forming an Opinion and Reporting on Financial Statements](#)
- [SA 705, Modifications to the Opinion in the Independent Auditor's Report](#)
- [SA 706, Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report](#)

The standards will be effective for audits of financial statements for periods beginning on or after 1 April 2011.

Standard on Internal Audit (SIA) 17, Consideration of Laws and Regulations in an Internal Audit

ICAI has issued SIA 17, Consideration of Laws and Regulations in an Internal Audit. The standard will be recommendatory in the initial period and will become mandatory from such date as may be notified by the ICAI.

[SIA 17](#)

New publication issued by ICAI

The Expert Advisory Committee of the Institute of Chartered Accountants of India has published Volume XXVI of Compendium of Opinions.

[ICAI announcement](#)

ICAI invites queries/comments relating to tax issues arising from implementation of IFRS

ICAI vide announcement dated 7 January 2010 has invited suggestions, queries, comments relating to tax issues arising from implementation of IFRS.

[ICAI announcement](#)



ICAI Awards for Excellence in Financial Reporting

The following companies have won the Gold shield at the ICAI Award for Excellence in Financial Reporting for their annual report and financial statements for the year ended 31 March 2009:

- Nucleus Software (under the category of information technology, communication and entertainment enterprises)
- ICICI Prudential Life Insurance Company Limited (under the category of Insurance)
- The Akshaya Patra Foundation (under the category of Section 25 companies, educational institutions, NGOs, charitable hospitals and other organisations)

[ICAI announcement](#)

Exposure draft issued by ICAI

ICAI has issued the exposure draft of Accounting Standard 4 (Revised), Events After The Reporting Period.

[Exposure draft](#)

Exposure draft issued by IASB

ICAI has invited comments on the exposure draft of Measurement of Liabilities in IAS 37: Proposed amendments to IAS 37 issued by the International Accounting Standards Board (IASB).

[ICAI announcement](#)

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