

WINS

(WHITESPAN INFORMATION AND NEWS SERVICES)

**A GATEWAY TO KNOWLEDGE
MONTHLY NEWSLETTER**

*January 01, 2017 - January 25, 2017
Issue No.- 001/2017*

FROM THE CHIEF EDITOR'S PEN

It gives us an immense pleasure to bring out this first edition of our e-newsletter “WINS” (acronym for Whitespan Information and News Services). WINS aims to fulfill long standing need of entrepreneurs, and professionals including Company Secretaries, Chartered Accountants, Cost and Management Accountants, Lawyers, etc. for a handy publication which not only provides latest news, issues with relevant judicial precedents in succinct manner, but also provides “quick takes” to explain their use and implications. Besides, WINS also brings articles on topics of professional interest. We will be issuing WINS every month so that you don't have to wait for long to get updated.

Our Editorial Board comprises the following professionals:

1. Mr. Vinay Shukla

Mr. Vinay Shukla, a Fellow Member of The Institute of Company Secretaries of India (ICSI), and a graduate in Law, Commerce and Management is Co-founder of WSA having more than twenty five years' experience in ide spectrum of corporate functions.

2. Ms. Jaya Yadav

Ms. Jaya Yadav, a practicing company secretary based at Gurgaon is a fellow member of The Institute of Company Secretaries of India (ICSI) and a graduate in law and Commerce from Delhi University.

3. Mr. Himanshu Gupta

4. Ms. Trishna Choudhary

Ms. Trishna Choudhary is an associate member of The Institute of Company Secretaries of India (ICSI) and a graduate in commerce from Delhi University.

In this inaugural issue we have covered the following:

1. Corporate Updates from MCA, RBI, SEBI, CBEC and NSDL
2. Few queries/ issues faced by our professional friends

We hope all these would be of interest to you.

We invite articles on topics of professional interest. Please do ensure that the article is original, written in good style and adds value for the reader.

Your candid feedbacks are valuable: appreciation will encourage us; criticism will help us improve! Feedbacks can be sent at the following email id:

whitespanadvisory@gmail.com

With warm regards
WINS (Whitespan News and Information Services)
January 30, 2017

Published by: WINS, A division of Whitespan Advisory
152 P, Sector 38, Gurgaon 122002
Telephone No.: 0124-2204262/ 63
Website: www.whitespanadvisory.com

INDEX

Section	Particulars		Page No.
A	SEBI	Issue of guidelines for participation/functioning of Eligible Foreign Investors (EFIs) and FPIs in International Financial Services Centre (IFSC)	5
		Securities and Exchange Board of India (listing obligations and disclosure requirements) (second amendment) regulations, 2015-Guidance Note on Board Evaluation	8
B	DGFT	Modification/ change of Branch Office/Head Office/Registered Office address in its IEC and which involves a shift in its jurisdictional RA	11
C	NSDL	New Design of PAN Card effective from January 01, 2017	12
D	CBDT	Deduction of tax at source - income-tax deduction from salaries under section 192 of the Income Tax Act, 1961	13
E	CBEC	Migration of existing Central Excise/Service Tax Assesseees to GST	14
F	RBI	Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Fifteenth Amendment) Regulations, 2016	15
		Enhancement of withdrawal limits from ATMs and Current Accounts	18
G	MCA	SPICe – Simple form for Incorporating Company	19
		Professional Concerns	21

SECTION A - SEBI

1. Issue of guidelines for participation/functioning of Eligible Foreign Investors (EFIs) and FPIs in International Financial Services Centre (IFSC)

Date of notification: January 4, 2017

Effective date: Date of publication in the official gazette

SUBJECT: Guidelines for participation/functioning of Eligible Foreign Investors (EFIs) and FPIs in International Financial Services Centre (IFSC).

- 1) Pursuant to announcement made in the Union Budget 2015-16 on Gujarat International Finance Tec-City (GIFT), SEBI, in consultation with stakeholders, is in process of laying down requisite regulatory framework for facilitating and regulating financial services relating to securities market in an International Financial Services Centre (IFSC). Accordingly, SEBI issued IFSC Guidelines, 2015 on March 27, 2015 and also issued further guidelines for functioning of Stock Exchanges and Clearing Corporations in IFSC on November 28, 2016.**
- 2) Based on consultations held with the stakeholders on the proposed regulatory framework on participation of Eligible Foreign Investors (EFIs), in partial modification to SEBI (IFSC) Guidelines, 2015, it has been decided as follows**
 - a. SEBI registered FPIs (“FPIs”), proposing to operate in IFSC, shall be permitted, without undergoing any additional documentation and/or prior approval process.**
 - b. In case of participation of FPIs in IFSC, a trading member of the recognized stock exchange in IFSC, may rely upon the due diligence process already carried out by a SEBI registered intermediary during the course of registration and account opening process in India.**
 - c. In case of participation of an EFI, not registered with SEBI as an FPI, but desirous of operating in IFSC, a trading member of the recognized stock exchange in IFSC, may rely upon the due diligence carried out by a bank,**

- which is permitted by RBI to operate in IFSC, during the account opening process of EFI.
- d. FPIs, who presently operate in Indian securities market and propose to operate in IFSC also, shall be required to ensure clear segregation of funds and securities. Custodians shall, in turn, monitor compliance of this provision for their respective FPI clients. Such FPIs shall keep their respective custodians informed about their participation in IFSC.
 - e. Recognised stock exchange in IFSC shall maintain, at all times, the necessary details of EFIs, which may be called upon by SEBI/RBI or any other authority of law.
 - f. EFIs shall abide by all the applicable Indian laws viz. Rules/Regulations/Circulars/Guidelines etc. in IFSC issued by the Government of India/RBI/SEBI or any other authority of law, from time to time.
 - g. It has now been decided to delete the words “a foreign portfolio investor,” in the definition of the term “intermediary” in clause (g) of Guideline 2 (1) of the SEBI (IFSC) Guidelines. Accordingly, the Guidelines stand amended.
- 3) This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

ABOVE CIRCULAR IS AVAILABLE AT THE FOLLOWING LINK:
http://www.sebi.gov.in/cms/sebi_data/attachdocs/1483509795386.pdf

RELEVANT GUIDELINES W.R.T. THE ABOVE CIRCULAR:

SECURITIES AND EXCHANGE BOARD OF INDIA (INTERNATIONAL FINANCIAL SERVICES CENTRES) GUIDELINES, 2015 ARE AVAILABLE ON THE FOLLOWING LINK:

<http://www.indiaicc.com/download/SEBIGuidelinesonIFSCDated27thMarch2015.pdf>

S. No	Category	Explanation
A	SEBI registered FPIs	SEBI registered FPIs (“FPIs”), proposing to operate in IFSC, shall be permitted, without undergoing any additional documentation and/or prior approval process.
B	In case of participation of FPIs in IFSC, a trading member of the recognized stock exchange in IFSC,	They may rely upon the due diligence process already carried out by a SEBI registered intermediary during the course of registration and account opening process in India.
C	In case of participation of an EFI, not registered with SEBI as an FPI and desirous of operating in IFSC	A trading member of the recognized stock exchange in IFSC, may rely upon the due diligence carried out by a bank, which is permitted by RBI to operate in IFSC, during the account opening process of EFI.
D	FPIs, who presently operate in Indian securities market	propose to operate in IFSC also, shall be required to ensure clear segregation of funds and securities. Custodians shall, in turn, monitor compliance of this provision for their respective FPI clients. Such FPIs shall keep their respective custodians informed about their participation in IFSC.

- Recognised stock exchange in IFSC shall maintain, at all times, the necessary details of EFIs, which may be called upon by SEBI/RBI or any other authority of law.
- EFIs shall abide by all the applicable Indian laws viz. Rules/Regulations/Circulars/Guidelines etc. in IFSC issued by the Government of India/RBI/SEBI or any other authority of law, from time to time.
- It has now been decided to delete the words “a foreign portfolio investor,” in the definition of the term “intermediary” in clause (g) of Guideline 2 (1) of the SEBI (IFSC) Guidelines. Accordingly, the Guidelines stand amended.

2. SECURITIES AND EXCHANGE BOARD OF INDIA (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS)(SECOND AMENDMENT) REGULATIONS, 2015-Guidance Note on Board Evaluation

Date of notification: January 5, 2017

Effective date: Date of publication in the official gazette.

SUBJECT: Guidance Note on Board Evaluation

- 1. The Companies Act, 2013 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“SEBI LODR”) contain broad provisions on Board Evaluation i.e. evaluation of the performance of: (i) the Board as a whole, (ii) individual directors (including independent directors and Chairperson) and (iii) various Committees of the Board. The provisions also specify responsibilities of various persons / committees for conduct of such evaluation and certain disclosure requirements as a part of the listed entity's corporate governance obligations.**
- 2. However, the concept of Board evaluation in India is at a nascent stage. It has been brought to SEBI’s notice by market participants that as the number of listed entities in India is very large, many of them may not have much clarity on the process of Board Evaluation and hence, may need further guidance.**
- 3. SEBI has studied the practices of Board evaluation prevalent among listed entities in India. An analysis has also been done of the global practices in various jurisdictions like regulatory requirements, best practices, internal versus external evaluation, disclosure requirements etc. The matter was further discussed with the industry associations, stock exchanges, market participants and international bodies and experts to obtain their views on this subject.**
- 4. Based on the aforesaid analysis, a guidance note in this matter has been prepared in order to guide listed entities by elaborating various aspects of Board evaluation that may help them to improve the evaluation process,**

derive the best possible benefit and achieve the objective of the entire process.

5. The guidance note covers all major aspects of Board Evaluation including the following: a. Subject of Evaluation i.e. who is to be evaluated; b. Process of Evaluation including laying down of objectives and criteria to be adopted for evaluation of different persons; c. Feedback to the persons being evaluated; d. Action Plan based on the results of the evaluation process; e. Disclosure to stakeholders on various aspects; f. Frequency of Board Evaluation; g. Responsibility of Board Evaluation and h. Review of the entire evaluation process periodically.
6. The purpose of the Guidance Note is to educate the listed entities and their Board of Directors about various aspects involved in the Board Evaluation process and improve their overall performance as well as corporate governance standards to benefit all stakeholders. This would serve as a guide for listed entities and may be adopted by them as considered appropriate. Anything mentioned in the Guidance Note shall not be construed as interpretation of provisions of SEBI LODR or any other law.
7. This Circular is issued in exercise of the powers conferred under Section 11 and Section 11A of the Securities and Exchange Board of India Act, 1992 read with Regulation 101 of SEBI LODR.

Above circular is available at the following link:

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1483607537807.pdf

Editor's Quick Take:

SEBI have issue the guidance note on Board evaluation vide its circular dated January 05, 2017. The guidance note covers all major aspects of Board Evaluation including the following:

- a. Subject of Evaluation i.e. who is to be evaluated;**
- b. Process of Evaluation including laying down of objectives and criteria to be adopted for evaluation of different persons;**
- c. Feedback to the persons being evaluated;**
- d. Action Plan based on the results of the evaluation process;**
- e. Disclosure to stakeholders on various aspects;**
- f. Frequency of Board Evaluation;**
- g. Responsibility of Board Evaluation and**
- h. Review of the entire evaluation process periodically.**

SECTION B – DIRECTORATE GENERAL OF FOREIGN TRADE

Modification/ change of Branch Office/Head Office/Registered Office address in its IEC and which involves a shift in its jurisdictional RA

Date of public notice – January 11, 2017

Effective date – January 11, 2017

The above public notice is available on the following link:

SECTION C – NSDL

New Design of PAN Card effective from January 01, 2017

Date of Circular – January 10, 2017

Effective date – January 10, 2017

The Income Tax Department (ITD) has prescribed certain changes in the existing design of the [PAN Card](#). Accordingly, with effect from January 10, 2017, PAN cards are being printed as per the new design specifications approved by ITD

Editor's Quick Take:

The Director General of Foreign Trade vide its public notice dated January 11, 2017 have amended the Handbook of Procedure w.r.t the Modification/ change of Branch Office/Head Office/Registered Office address in the IEC and which involves a shift in the jurisdictional RA of the IEC holder. Accordingly, when an IEC holder seeks modification/ change of branch office/ 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 RA concerned under whose jurisdiction the applicant exists. On the basis of this request, the RA (custodian of the IEC file till now) will process such requests and amend IEC, if found appropriate, under intimation to the RA under whose jurisdiction the applicant wants transfer. The new RA shall allow the person in its new address to carry out necessary functions and also apply for eligible benefits as per FTP. Further, applicants are required to pay fees of 500/- (Rupees five hundred only) for IEC application. If the application is rejected, applicant shall be able to rectify the grounds on

New features Added in PAN Card:

- (i) Quick Response (QR) code having details of the PAN applicant is printed on PAN card for enabling verification of the PAN Card;
- (ii) Legends have been incorporated for particulars Name, father's, and date of birth fields. Position of PAN & signature has been changed.
- (iii) Position of PAN & signature has been changed.

SECTION D-CENTRAL BOARD OF DIRECT TAXES

DEDUCTION OF TAX AT SOURCE INCOME-TAX DEDUCTION FROM SALARIES UNDER SECTION 192 OF THE INCOME-TAX ACT, 1961

Date of circular – January 02, 2017

Effective date – January 02, 2017

The above circular is available at the following link:

Editor's Quick Take:

As per the above notification of the income tax department Aadhaar number and QR Code will be added to the new PAN cards issued by the Department. This has made the paperless PAN application process more simple and clear. The Income Tax Department (ITD) have also prescribed certain changes in the existing design of the PAN Card. Accordingly, with effect from January 10, 2017, PAN cards are being printed as per the new design specifications approved by ITD.

<http://www.incometaxindia.gov.in/communications/circular/tds%202017.pdf>

SECTION E – CENTRAL BOARD OF EXCISE AND CUSTOMS

MIGRATION OF EXISTING CENTRAL EXCISE/SERVICE TAX ASSESSEES TO GST

Date of Notification-January 09, 2016

Effective Date -January 09, 2016

Above press release is available on the following link:

<http://www.cbec.gov.in/resources//htdocs-cbec/press-release/press-release->

Editor's Quick Take:

The CBDT vide its circular January 02, 2017 have released the rates of deduction of Income Tax from the payment of income chargeable under the head "Salaries" during the financial year 2016-17 and have also explained certain related provisions of the Act and Income-tax Rules, 1962. The relevant Acts, Rules, Forms and Notifications are also available at the website of the Income Tax Department. Further the circular has broad scheme of tax deduction at source from "Salaries", Persons responsible for deduction tax & their duties and method of computation of income under the head "Salaries".

[migration-assesses-GSTN.pdf](#)

SECTION F – RESERVE BANK OF INDIA

1. Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Fifteenth Amendment) Regulations, 2016

Date of notification: January 10, 2017

Effective date: Date of publication in the official gazette.

SUBJECT: Foreign Exchange Management (Transfer or Issue of Security by a Person

Editor's Quick Take:

Ministry of Finance, Department of Revenue (CBEC) vide its press release dated January 09, 2017 has initiated the process of migration of its existing Central Excise/Service Tax Assesseees to GST and have made PAN mandatory for migration to GST. CBEC is making all efforts to ensure ensure implementation of GST by 1st April, 2017 in a smooth and efficient manner. Once the existing registered Taxpayers (both Central Excise as well as Service Tax) login to CBEC's Web Portal www.aces.gov.in, a facility will be given in a secure manner to access the provisional login ID and password given by Goods and Services Tax Network (GSTN). Thereafter, using the same, they can log in to GST Portal (www.gst.gov.in) to fill the required fields and submit scanned documents. However, if they have already initiated the process of migration to GST as a VAT Assessee under State Commercial Tax Department, no further action is required.

Resident outside India) (Fifteenth Amendment) Regulations, 2016

In exercise of the powers conferred by clause (b) of sub-section (3) of Section 6 and Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India hereby makes the following amendments in the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 ([Notification No. FEMA. 20/2000-RB dated 3rd May 2000](#)) namely:-

1. Short Title & Commencement:-

(i) These Regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Fifteenth Amendment) Regulations, 2016.

(ii) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment to Regulation 2:

In the Principal Regulations, in Regulation 2, after clause (ii), a new clause shall be inserted namely:-

“(iiA) ‘convertible note’ means an instrument issued by a startup company evidencing receipt of money initially as debt, which is repayable at the option of the holder, or which is convertible into such number of equity shares of such startup company, within a period not exceeding five years from the date of issue of the convertible note, upon occurrence of specified events as per the other terms and conditions agreed to and indicated in the instrument;”

3. Insertion of a new Regulation

After the existing Regulation 6C, the following shall be inserted, namely:-

“6D. Issue of Convertible Notes by startup companies

(1) A person resident outside India (other than an individual who is citizen of Pakistan or Bangladesh or an entity which is registered / incorporated in Pakistan or Bangladesh), may purchase convertible notes issued by an Indian startup company for an amount of twenty five lakh rupees or more in a single tranche.

Explanation: For the purpose of this Regulation, a 'startup company' means a private company incorporated under the Companies Act, 2013 or Companies Act, 1956 and recognised as such in accordance with notification number G.S.R. 180(E) dated February 17, 2016 issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry.

(2) A startup company engaged in a sector where foreign investment requires Government approval may issue convertible notes to a non-resident only with approval of the Government.

Explanation: For the purpose of this regulation, the issue of shares against such convertible notes shall have to be in accordance with the Schedule 1 of the Principal Regulations.

(3) A startup company issuing convertible notes to a person resident outside India shall receive the amount of consideration by inward remittance through banking channels or by debit to the NRE / FCNR (B) / Escrow account maintained by the person concerned in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016, as amended from time to time.

Provided that an escrow account for the above purpose shall be closed immediately after the requirements are completed or within a period of six months, whichever is earlier. However, in no case continuance of such escrow account shall be permitted beyond a period of six months.

(4) NRIs may acquire convertible notes on non-repatriation basis in accordance with Schedule 4 of the Principal Regulations.

(5) A person resident outside India may acquire or transfer, by way of sale, convertible notes, from or to, a person resident in or outside India, provided the transfer takes place in accordance with the pricing guidelines as prescribed by RBI. Prior approval from the Government shall be obtained for such transfers in case the startup company is engaged in a sector which requires Government approval.

(6) The startup company issuing convertible notes shall be required to furnish reports as prescribed by Reserve Bank.

2. Enhancement of withdrawal limits from ATMs and Current Accounts

Date of notification: January 16, 2017

Effective date: Date of publication in the official gazette.

SUBJECT: Enhancement of withdrawal limits from ATMs and Current Accounts

Please refer to our [circulars](#) [DCM](#) (Plg) [No. 1274, 1317, 1437](#) and [2142/10.27.00/2016-17](#) dated November 14, 21 and 28 and December 30, 2016, respectively, on the above subject.

On a review of limits placed on withdrawals from ATMs and current accounts, it

Editor's Quick Take:

Reserve Bank of India vide notification dated January 10, 2017 notified the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Fifteenth Amendment) Regulations, 2016

- **A person resident outside India (other than an individual who is citizen of Pakistan or Bangladesh or an entity which is registered / incorporated in Pakistan or Bangladesh), may purchase convertible notes issued by an Indian startup company for an amount of twenty five lakh rupees or more in a single tranche.**
- **A startup company engaged in a sector where foreign investment requires Government approval may issue convertible notes to a non-resident only with approval of the Government.**
- **The startup company issuing convertible notes shall be required to furnish reports as prescribed by Reserve Bank**

has been decided to enhance the same, with immediate effect as under:

(i) The limit on withdrawals from ATMs has been enhanced from the current limit of 4,500/- to 10,000/- per day per card (It will be operative within the existing overall weekly limit).

(ii) The limit on withdrawal from current accounts has been enhanced from the current limit of 50,000/- per week to 1, 00,000/- per week and it extends to overdraft and cash credit accounts also.

3. There are no changes in the other conditions. The relaxations as provided in our circular dated November 28, 2016 will continue.

SECTION G-MCA

SPICe – Simple form for Incorporating Company

MCA has recently introduced SPICe Form INC-32 which is simplified proforma for incorporating Company Electronically. SPICe or Form INC-32 can help Incorporate a company with a single application for reservation of name, Incorporation of new company and / or application for allotment of DIN . SPICe or INC-32 is very similar

to form INC-29, which also helps with fast tract incorporation of a company in India.

Procedure for Filing SPICe- Form INC-32

Form INC-32 must be accompanied by supporting documents including details of Directors & subscribers, affidavits, declarations, identity proof, address proof, MOA and AOA etc. Once the eForm is filed, its processed by the MCA's Central Processing Centre. If found complete, company would be registered and CIN would be allocated. Alos DINs gets issued to the proposed Directors who do not have a valid DIN. Maximum 3 Directors are allowed for using this integrated form for filing application of DIN while incorporating a company.

Declaration by Professional

The digital signature of a professional (CA/CS/Cost Accountant/Advocate) is required to file Form INC-32 . The professional must declare that all information presented in the form is correct and enter his/her membership number and certificate number.

Documents Required for SPICe form INC-32

The following documents must be filed with SPICe form for incorporation of company:

1. MOA- Applicable and mandatory only in case of section 8 of Company with foreign subscribers not having DIN
2. AOA- Applicable and mandatory only in case of section 8 of Company with foreign subscribers not having DIN
3. Affidavit and declaration by first subscriber(s) and Director(s)- Mandatory in all cases
4. Proof of Office Address
5. Copies of Utility bills that are not older than 2 Months
6. Copy of approval in case the proposed name contains any word(s) or expression(s) which requires approval from central government.
7. If the proposed name is based on a registered trademark or is subject matter of an application pending for registration under the trade mark Act,

then it is mandatory to attach the trademark registration certificate or trademark application copy

8. NOC from the sole proprietor/partners/other associates/existing company
9. Proof of identity and residential address of the subscribers
10. Proof of identity and residential address of directors.

.....

PROFESSIONAL CONCERNS

Presently our professional friends are facing problems in the following area and seek your valuable suggestion on the same:

1. Whether Fresh Certificate of Incorporation is required in case shifting of Registered office of the company within the same state and under the jurisdiction of same ROC.

2. What will be the effective date for shifting of Registered office of a Company from one state to another state.

Request you to kindly share your views/ suggestions on the above queries on the following e-mail id:

whitespanadvisory@gmail.com

For further information please contact:



whitespanadvisory@gmail.com

**NCR OF DELHI
LGF, 152P, Sector 38,
Near Medanta, the Medicity,
Gurgaon 122-002
Telephone – 0124-2204242, 63**

**MUMBAI
506, Arcadia, 195, Nariman Point,
Mumbai – 400 023**

Disclaimer:

The material and contents of this Newsletter including the Editor's quick takes, have been compiled with due care and caution before their publication and are provided only for information of clients, associates and friends without any express or implied warranty of any kind. The Newsletter does not constitute professional guidance or legal opinion. No claim is made as to the accuracy or authenticity of the contents of this Newsletter. Readers are advised to make appropriate enquiries and seek appropriate professional advice and not take any decision based solely on the contents of this Newsletter.

In no event shall this Newsletter or Chief Editor or members of Editorial Team or Whitespan Advisory including its officers and associates, be liable for any damages whatsoever arising out of the use of or inability to use the material or contents of this newsletter or the accuracy or otherwise of such material or contents.

This newsletter is not an advertisement or any form of inducement or invitation for solicitation of any kind of work whatsoever.



This newsletter is being circulated to you as client, friend or associate of Whitespan Advisory or its officials or on your request. If at any time you wish to unsubscribe receiving this newsletter please e-mail us at whitespanadvisory@gmail.com
