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The Securities and Exchange Board of India amends regulation to include obligatory norms for Clearing Corporation in commodity derivatives

The Securities and Exchange Board of India (“SEBI”), vide notification dated June 04, 2019, has amended the regulations to include obligatory norms for Clearing Corporation in commodity derivatives.

The same has been done by introduction of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2019, by virtue of which the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 (“**Principal Regulations**”) have been amended.

Below are the amendments in the Principal Regulations introduced by the notification:

- ✓ In regulation 35 of the Principal Regulation, after sub-regulation (1) and prior to sub-regulation (2), the following proviso shall be inserted, namely – “Provided that in case a recognised stock exchange enters into an arrangement with more than one recognised clearing corporation, it shall enter into a multipartite agreement in writing with such recognised clearing corporations to ensure interoperability among the clearing corporations.”
- ✓ After regulation 43 and prior to regulation 44 of the Principal Regulation, the following regulation shall be inserted, namely – 43A.

Obligation of Clearing Corporation in Commodity Derivatives — Every recognized Clearing Corporation providing clearing and settlement services for commodity derivatives shall ensure guarantee for settlement of trades including good delivery.

Explanation: For the purpose of this regulation, "good delivery" shall mean the delivery of goods that is in proper form to transfer title and is of the quality and quantity as per contract specifications of the concerned exchange.”

- ✓ In Schedule H, in Part II of the Principal Regulations, under the sub-heading “Managing Director/ Executive Director:—”, in clause (1), the following words and symbols – “In case of re-appointment, or extension of appointment, the stock exchange/clearing corporation shall apply to the Board two months before the last working day of such Managing Director.” shall be substituted by the following, namely – “The stock exchange/ clearing corporation shall forward the new names to the Board before two months from the last working day of the existing Managing Director.”

The said notification can be accessed on the below link for the reader’s perusal:

<https://www.sebi.gov.in/sebiweb/home/HomeAction.do?doListing=yes&sid=1&ssid=3&smid=0>

The Reserve Bank of India releases the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions 2019

The Reserve Bank of India (“RBI”), vide public issue dated June 07, 2019, has released the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions 2019. The same have come into force with immediate effect.

The provisions of these directions shall apply to the following entities:

- ✓ Scheduled Commercial Banks (excluding Regional Rural Banks);
- ✓ All India Term Financial Institutions (NABARD, NHB, EXIM Bank, and SIDBI);
- ✓ Small Finance Banks; and,
- ✓ Systemically Important Non-Deposit taking Non-Banking Financial Companies (NBFC-ND-SI) and Deposit taking Non-Banking Financial Companies (NBFC-D).

The fundamental principles of the framework are:

- ✓ Early recognition and reporting of default in respect of large borrowers by banks, FIs and NBFCs;
- ✓ Complete discretion to lenders with regard to design and implementation of resolution plans, in supersession of earlier resolution schemes (S4A, SDR, 5/25 etc.), subject to the specified timeline and independent credit evaluation;

- ✓ A system of disincentives in the form of additional provisioning for delay in implementation of resolution plan or initiation of insolvency proceedings;
- ✓ Withdrawal of asset classification dispensations on restructuring. Future upgrades to be contingent on a meaningful demonstration of satisfactory performance for a reasonable period;
- ✓ For the purpose of restructuring, the definition of ‘financial difficulty’ to be aligned with the guidelines issued by the Basel Committee on Banking Supervision; and,
- ✓ Signing of inter-creditor agreement (ICA) by all lenders to be mandatory, which will provide for a majority decision making criteria.

The said public issue can be accessed on the below link for the reader’s perusal:

https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=47248

The Ministry of Corporate Affairs notifies amendments to Schedule VII of the Companies Act, 2013

The Ministry of Corporate Affairs (“MCA”), vide notification dated June 07, 2019, has made amendments to Schedule VII of the Companies Act, 2013.

As per the notification, in the said Schedule VII, after item (xi) and the entries relating thereto, the following item and entries shall be inserted, namely:-



“(xii) disaster management, including relief, rehabilitation and reconstruction activities.”

As such, the list has been extended by including relief, rehabilitation, and reconstruction activities under CSR activities. The impact of amendment is huge as it allows the Companies

to spend money on such area which are left behind.

The said notification can be accessed on the below link for the reader’s perusal:

http://www.mca.gov.in/Ministry/pdf/Notification_06062019.pdf.

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Contact details

Sumes Dewan

Managing Partner

Lex Favios

Email: sumes.dewan@lexfavios.com

Tel: 91-11-41435188/45264524