



ACCOUNTING AND COMPANY LAW

# N. A. SHAH BULLETIN

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**EXECUTIVE SUMMARY:**

• **Accounting**

○ **Expert Advisory Opinion**

The expert advisory committee of the ICAI has opined that interest earned by the company on the advance money collected from the customers is covered by Ind AS 18 "Revenue". Since there is no obligation on the company as per the terms to pass on the benefit to customers, the said interest should be presented as income in the company's financial statement.

○ **Exposure draft on Ind AS**

Accounting Standard Board of the ICAI and the IASB (as annual improvements to IFRS standards) have issued exposure drafts on following Ind AS:

- Ind AS 12 - Income Taxes
- Ind AS 19 - Employee Benefits
- Ind AS 23 - Borrowing Costs
- Ind AS 28 - Investments in Associates and Joint Ventures
- Ind AS 40 - Investment Property
- Ind AS 103 - Business Combinations
- Ind AS 109 - Financial Instruments
- Ind AS 111 - Joint Arrangements

○ **Amendment to Accounting Standard -11**

Repatriation of accumulated profits from a non-integral foreign operation will now be considered as disposal of non-integral operation if it constitutes return on investments.

○ **Introduction of valuation standards effective from 1 July 2018**

The ICAI has issued Indian Valuation Standards with a view to set up concepts, principles and procedures which are generally accepted internationally. These Standards are applicable for all valuation engagements on mandatory basis under the Companies Act, 2013. In respect of valuation engagements under other statutes like Income Tax, SEBI, FEMA etc., it will be on recommendatory basis for the members of the Institute.

- **Withdrawal of guidance note**

Guidance note on accounting for real estate transactions (for entities to whom Ind AS is applicable) is withdrawn effective from 1<sup>st</sup> June 2018. This is in pursuant to Ind AS 115 "Revenue from Contracts" (effective from 1<sup>st</sup> April 2018) which will cover the real estate transactions hence guidance note is no longer required.

- **Company Law**

- The Companies (Management and Administration) Rules, 2014 are amended to relax the applicability of filing Form No. MGT 10 (change in promoter / top ten shareholder) and MGT 14 (filing of special resolution prior to general meeting) and introduced the facility of E-voting instead of postal ballot during general meetings for specified transactions under section 110.
- Introduced the Companies (Significant Beneficial Owners) Rules, 2018 which require significant beneficial owners to make declaration to the company within 90 days from 13<sup>th</sup> June 2018 or within 30 days in case of fresh acquisition or change in ownership.
- Additional sections of the Companies Amendment Act, 2017 notified effective from 13<sup>th</sup> June 2017. We had issued alert (Volume XXIII) in January 2018 on the key amendments.

## **1 Accounting**

### **1.1 Expert Advisory Opinion**

#### **Accounting treatment to recognise interest earned on advance fee as its income**

##### **a) Facts of the case**

The company has undertaken various metro projects for different states. As per contract, the company is entitled to fixed percentage of project fees on cost plus basis out of which 5% is payable upfront towards mobilization fee in advance and balance amount on quarterly basis. The amounts collected are deposited in separate bank accounts where the company earns interest income. Further as per the contract, interest earned on the mobilization fee advance has to be passed on to the customer. There is no obligation on company to pass on the interest earned on the balance amount.

The C&AG was of the view that interest income earned on the customer advances cannot be recognized as income and is in the nature of liability payable to customer i.e. interest amount earned to be credited to customer advances.

The company contended that accounting of interest earned on such advance money is in line with the opinion given by ICAI in past in respect of accounting treatment of interest on deposits made out of equity share capital and interest free subordinated debt funded by Government.

##### **b) Query**

- (i) Whether the company's accounting treatment to recognise interest earned on advance fee as its income is correct as per the provisions of Ind AS 18.
- (ii) If not, what is the correct accounting treatment?

##### **c) Points considered by the committee**

The Committee notes from the facts of the case that the advance received against fee for execution of project is kept in a separate bank account and interest income is earned on the same.

The Committee considered paragraph 29 of Ind AS 18, Revenue which states that "Revenue arising from the use by others of entity assets yielding interest, royalties and dividends shall be recognised on the basis given below:

- (a) it is probable that the economic benefits associated with the transaction will flow to the entity; and
- (b) the amount of the revenue can be measured reliably.

In the given circumstances, it is probable that the interest income will flow to the entity and the same can be measured reliably. Therefore, the same should be recognised as revenue of the entity.

**d) Opinion**

The Committee is of view that interest earned on such advance money has to be recognized and recorded as revenue in financial statement and not credited to customer account.

## 1.2 Exposure draft of Ind AS

Exposure draft has been issued for Annual Improvements to Ind AS. These proposed amendments are corresponding to Annual Improvements to IFRS and proposed to be effective from 1<sup>st</sup> April 2019.

Ind AS	Key points of proposed amendments
Ind AS 12 – Income Taxes	It is proposed to clarify that entity shall recognize income tax consequences of dividends as defined in Ind AS 109 when it recognizes a liability to pay a dividend. Earlier the reference of Ind AS 109 was not given.
Ind AS 111 – Joint Arrangements and Ind AS 103 Business Combination	Additional guidance is given under Ind AS 103 in regard to having control in joint operations. The amendment proposes to cover such transactions under business combination and which will require remeasurement of previous held interest in the joint operations.
Ind AS 23 – Borrowing Costs	It is proposed to clarify that in computing the capitalisation rate for funds borrowed generally, an entity should exclude borrowing costs applicable to borrowings made specifically for obtaining a qualifying asset, only until the asset is ready for its intended use or sale.

Additionally, following amendments to Ind AS are proposed by ICAI:

Ind AS	Key points of proposed amendments
Ind AS – 28 Investments in Associates and Joint Ventures	Ind AS 109 should first be applied for long term interest (like preference shares and loan) and then Ind AS 28 (i.e. equity method) should be applied. Detailed guidance with illustration is given the exposure draft for explain the proposed amendment.
Ind AS – 40 Investment Property	Currently only cost model is allowed. As per the proposed amendment, fair value option is also available for measurement of investment property.
Ind AS 19 – Employee benefits	Proposed amendment is about measurement of defined benefit liability for past service cost in case of change (i.e. amends, curtails or settles) in defined benefit plans.

Ind AS	Key points of proposed amendments
Ind AS 109 – Financial Instruments	The amendment provides the accounting treatment with regard to financial instrument with prepayment feature (i.e. early termination of the contract) and negative compensation.

### 1.3 Amendment to the accounting standard on foreign exchange transactions

Accounting Standard 11 – ‘The Effects of Changes in Foreign Exchange Rates’ applicable to corporates is amended stating that remittance from a non-integral foreign operation by way of repatriation of accumulated profits does not form part of a disposal unless it constitutes return of the investment. This is effective from 1<sup>st</sup> April 2018.

### 1.4 Introduction of valuation standards

The ICAI has issued ‘valuation standards’ with a view to set up concepts, principles and procedures which are generally accepted internationally, having regard to legal framework and practices prevalent in India. These standards lay down a framework to ensure uniformity in approach and quality of valuation output. Broadly it cover the following aspects:

- a. Preface to the Indian valuation standards
- b. Framework for the Preparation of Valuation Report in accordance with the Indian Valuation Standards
- c. Indian valuation standard 101 - Definitions
- d. Indian valuation standard 102 - Valuation Bases
- e. Indian valuation standard 103 - Valuation Approaches and Methods
- f. Indian valuation standard 201 - Scope of Work, Analyses and Evaluation
- g. Indian valuation standard 202 - Reporting and Documentation
- h. Indian valuation standard 301 - Business Valuation
- i. Indian valuation standard 302 - Intangible Assets
- j. Indian valuation standard 303 - Financial Instruments

These valuation standards are applicable for valuation reports issued on or after 1<sup>st</sup> July 2018. These valuation standards are applicable for all valuation engagements on mandatory basis under the Companies Act 2013 and will be effective till they are notified under Rule 18 of the Companies (Registered Valuers and Valuation) Rules, 2018. In respect of valuation engagements under other Statutes like Income Tax, SEBI, FEMA etc., it will be on recommendatory basis for the members of the Institute.



## **1.5 Withdrawal of guidance note**

Guidance note on accounting for real estate transactions (for entities to whom Ind AS is applicable) is withdrawn effective from 1<sup>st</sup> June 2018. This is in pursuant to Ind AS 115 "Revenue from Contracts" (effective from 1<sup>st</sup> April 2018) which will cover the real estate transactions hence guidance note is no longer required.

## **2 Company Law**

### **2.1 The Companies (Management and Administration) Rules, 2014**

Following amendments are made to The Companies (Management and Administration) Rules, 2014:

- a. Requirement to file form MGT no. 10 is omitted. The form was earlier required to be filed by listed company for change (2% or more) in the promoter or top ten shareholders. This will avoid duplication since such information is required to be filed under the Companies (Significant Beneficial Owners) Rules, 2018 and Section 90 of the Companies Act, 2013.
- b. Requirement to file Form No. MGT .14 is omitted. The form was required to file containing proposed special resolution to be passed at general meeting.
- c. Any transaction that is required to be transacted by means of postal ballot under section 110 may be transacted at a general meeting by a company which is required to provide the facility to members to vote by electronic means.

### **2.2 The Companies (Significant Beneficial Owners) Rules, 2018**

MCA has notified 'The Companies (Significant Beneficial Owners) Rules, 2018' on 13<sup>th</sup> June 2018. Broadly it covers the following aspects:

- a. Definition of registered owner and significant beneficial owner (SBO)
- b. Declaration and Return to be filed in respect of SBO in shares (format prescribed)
- c. SBO to make declaration to the company within 90 days from 13<sup>th</sup> June 2018 or within 30 days in case of fresh acquisition or change in ownership
- d. It is clarified that "share" includes instruments in the form of global depository receipts, compulsorily convertible preference shares or compulsorily convertible debentures
- e. Requirement to maintain register of SBO (format prescribed)
- f. Right of company to seek information about SBO

- g. Application by the company to the Tribunal to restrict or suspend the rights attached to such shares
- h. Penalty provision laid down for non-compliances by SBO and company
- i. These Rules are not applicable to holding of shares of companies / body corporates, in case of pooled investment vehicles/ investments funds such as mutual funds, alternate investment funds, real estate investment trusts, infrastructure investments trusts regulated by SEBI.

### 2.3 Sections of the Companies (Amendment) Act, 2017 notified

Following sections of The Companies (Amendment) Act, 2017 are notified to be effective from 13<sup>th</sup> June 2018. Corresponding changes are also made in the Rules. We had issued alert (Volume XXIII) in January 2018 on the key amendments.

Reference in Amendment Act 2017	Corresponding reference in 2013 Act	Title / Explanatory notes
Section 21 (iii)	Section 89	Explains the concept of beneficial interest in a share that it includes the right or entitlement of a person alone or together with any other person to exercise any of the rights attached to such share or receive any dividend or other distribution.
Section 22 (iii)	Section 90	Mandates declaration for beneficial interest of more than 25 percent by the individual, maintaining register of beneficial interest declared by individuals, return filing by company regarding beneficial interest and penalties for contravening any clauses under this section. If declaration by the beneficial interest holder is not given, the company may move to tribunal within 30 days.
Section 24	Section 93	Omitted – Requirement to file a return for changes in promoter’s stake as the same is now required under section 90.
Section 25	Section 94	Requirement to give the registrar a copy of a special resolution passed to change the place of maintenance of registers under section 88 and annual return under section 92 has been removed.
Section 26	Section 96	AGM of an unlisted company may be held anywhere in India with prior consent of all the members. Earlier it was to be held in the registered office or in anywhere in the city of the registered office.
Section 71	Section 216	Investigation by Central Government on matters relating to the company will now encompass details of beneficial owners.

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