



# STUDENT PROFESSIONALS

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## Invitation to write Article

Readers are invited to contribute article/s for the Journal. The article should be on a topic of current relevance on Corporate Law, Tax Law, or other Economic or Commercial Laws. The article should be original and of around 7-8 pages in word file (approx. 2500 words). Send your articles at email id : [articles@vidhimaan.com](mailto:articles@vidhimaan.com) along with your student registration number. The shortlisted articles shall be published in the Journal.

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सत्यं वद । धर्मं चर ।

**Speak the truth, abide by the law.**

I deem myself to be lucky to have the honour of being Torch-bearer of this prestigious Institute for this year when ICSI has the dual honour of entering its Golden Jubilee year as well as gaining the strength of huge **50,000 members** in its eventful journey of 50 golden years. This 50,000th celebrated membership was conferred through the gracious hands of Union Minister of Finance, Sh. Arun Jaitley ji on 8th March 2017. This landmark comes with an inspiring message that now we are a strong collective force that stands committed to extend positive contribution towards Nation building and creating an environment of best Governance practices in Corporate India. Our message is very clear to the outside world **"We are determined to keep the fire burning within us and are going to break our comfort zones and explore the roads less travelled."**

Keeping this in mind, we went a mile further and made every attempt to come out with the '**Motto of ICSI**' to salute this Golden Jubilee Year. After deep deliberations and study of our ancient Indian scriptures, '**Satyam Vada, Dharmam Chara**', one of the quotes of Taittiriya Upanishad has been chosen as the Motto of ICSI. Now on, this motto will guide the way of every Corporate Governance professional in India and will inspire him to take up the path that will guard the spirit of Corporate Governance in their Boardrooms and pave their contribution towards National Governance. We Company Secretaries; are viewed as the 'Conscience Keepers' of the companies we belong to.

This motto also reminds me of a beautifully written lucid story I read once. A Yogi was performing his regular routine of taking a bath in the river, while his followers waited for him on the shore. When the Yogi noticed a scorpion fallen accidentally in the water, the Yogi immediately picked up that scorpion. Despite deep pain of the scorpion sting racing through his veins, the great Yogi struggled through the water towards the shore, and salvaged the scorpion. His followers who were watching this kindness of Yogi were taken aback at the Yogi's determination to save the scorpion despite repeated stings. The perplexed followers hurried to the struggling Yogi, just to witness the smile on the content Yogi's face. One of them could not stop asking how he can still smile as scorpion was about to kill him almost and he was still rescuing his killer. The Yogi responded quietly 'the Scorpion was only following its dharma, or nature, which is to sting. And I followed my dharma, which is to save the lives of needy ones.' Therefore, Dharma becomes your duty, the moral law you are supposed to abide by despite all hardships.

This is my firm belief that the significance of this Motto '**Satyam Vada, Dharmam Chara**' for our profession will guide every Corporate Governance professional to make this motto as the motto of his life and we will live this motto not in letter but in spirit while discharging all our duties in our daily lives.

I am pleased to note your participation in the initiatives ICSI is taking for you all. We are committed towards facilitation of best governance practices for our students by focusing on quality aspect of CS course. Therefore, we are in the process of launching a 90 days training program which will focus on all round development of our students. We invite your views and suggestion on the same so that it comes out as the best training program to nourish your skills and capabilities. Along with that we also invite your suggestions to mark Student Month so that this month becomes memorable month of the year.

And on a signing off note, I will urge all vibrant CS students to gain best of the knowledge from all sources on day to day basis, so that you all become your best version in your lives.

Happy reading.

**CS (Dr.) Shyam Agrawal**

President, ICSI

Dated: 6th April, 2017



# Buy Back of Shares

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*In this article, the author makes an attempt to give an overview of the provisions of buy-back of shares under the Companies Act, 2013*

## Background

Buying back its own shares (and other specified securities) has been utilised as one of the measures of corporate/financial restructure, to leverage optimum utilisation of shareholders' funds and yet maximising the return on investment. Till mid-nineties, companies were strictly prohibited from purchasing its own shares. Similarly, the balance lying securities premium account (then called share premium) was also guarded from write-offs and could be applied for purposes only as expressly permitted.

Buy-back provisions were first introduced to the Companies Act, 1956 (1956 Act) by an amendment in the year 1999. Acknowledging the successful implementation of these provisions and finding that this concept has found favour with the corporates, the Companies Act, 2013 ("the Act") has retained these provisions through sections 68 to 70 in the Act, with few amendments to those corresponding provisions in the 1956 Act. Sec 52(2)(e) of the Act expressly permits application of securities premium account towards buy back of its shares under section 68 of the Act.

Section 68 of the Act enables companies to purchase its own shares or other specified securities out of:

- (i) its free reserves;
- (ii) the securities premium account; or
- (iii) the proceeds of the issue of any shares or other specified securities, subject to the condition that the buy-back of any kind of shares (or other specified securities) shall not be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.

The expression 'shares' would cover all kinds and classes of shares. At the end of the section, it is explained that, for the purposes of this section, the expression "specified securities" would include employees' stock option or other securities as may be notified by the Central Government from time to time

It would be interesting here to understand that the expression 'free reserves' is now defined in section 2(43) of the Act as to mean such reserves which, as per the latest audited balance sheet of a company, are

available for distribution as dividend, with an exception that the following sums shall be excluded:

- (i) any amount representing unrealised gains, notional gains or revaluation of assets, whether shown as a reserve or otherwise, or
- (ii) any change in carrying amount of an asset or of a liability recognised in equity, including surplus in profit and loss account on measurement of the asset or the liability at fair value.

It is also explained at the end of this section that, for the purposes of this section, the expression "free reserves" would include securities premium account.

Further, buy-back may be done utilising the proceeds of a fresh issue, subject to the condition that the buy-back of any kind of shares (or other specified securities) shall not be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities. This implies that if the buy-back is of equity shares, the proceeds of fresh issue of preference shares may be utilised and not that of same kind (of equity shares). It obviously does not make any financial sense or prudence to issue fresh shares of same kind to buy back the similar shares.

## The Other Pre-requisites are Stated in Section 68(2) of the Act

- Before the buy-back of shares, the company shall file with the Registrar, the letter of offer in e-Form No. SH.8, which shall be dated and signed on behalf of the Board of directors of the company by not less than two directors of the company, one of whom shall be the managing director, where there is one.
- In the case of listed companies, the company shall file with the Registrar, along with the letter of offer with the Registrar and the SEBI, a declaration of solvency in e-form SH-9 signed by at least two directors of the company, one of whom shall be the managing director, if any, and verified by an affidavit as specified in the said Form.
- The letter of offer shall be dispatched to the shareholders or security holders immediately after filing the same with the Registrar but not

## Buy Back of Shares

later than twenty days from its filing with the Registrar.

- The offer for buy-back shall ordinarily remain open for a period of not less than fifteen days and not exceeding thirty days from the date of dispatch of the letter of offer. If, all members of a company agree, the offer for buy-back may remain open for a period less than fifteen days.
- In case the number of shares or other specified securities offered by the shareholders or security holders is more than the total number of shares or securities to be bought back by the company, the acceptance per shareholder shall be on proportionate basis out of the total shares offered for being bought back.
- The company shall complete the verifications of the offers received within fifteen days from the date of closure of the offer and the shares or other securities lodged shall be deemed to be accepted unless a communication of rejection is made within twenty one days from the date of closure of the offer.
- The company shall immediately after the date of closure of the offer, open a separate bank account and deposit therein, such sum, as would make up the entire sum due and payable as consideration for the shares tendered for buy-back in terms of these rules.
- The company shall within seven days of the time specified in sub-rule (7)-
  - (a) make payment of consideration in cash to those shareholders or security holders whose securities have been accepted; or
  - (b) return the share certificates to the shareholders or security holders whose securities have not been accepted at all or the balance of securities in case of part acceptance.
- The company shall ensure that—
  - (a) the letter of offer shall contain true, factual and material information and shall not contain any misleading information and must state that the directors of the company accept the responsibility for the information contained in such document;
  - (b) the company shall not issue any new shares including by way of bonus shares from the date of passing of special resolution authorizing the

buy-back till the date of the closure of the offer under these rules, except those arising out of any outstanding convertible instruments;

- (c) the company shall confirm in its offer the opening of a separate bank account adequately funded for this purpose and to pay the consideration only by way of cash;
- (d) the company shall not withdraw the offer once it has announced the offer to the shareholders;
- (e) the company shall not utilize any money borrowed from banks or financial institutions for the purpose of buying back its shares; and
- (f) the company shall not utilize the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities for the buy-back.
- (a) The company, shall maintain a register of shares or other securities which have been bought-back in form SH-10
- (b) The register of shares or securities bought-back shall be maintained at the registered office of the company and shall be kept in the custody of the secretary of the company or any other person authorized by the board in this behalf.
- (c) The entries in the register shall be authenticated by the secretary of the company or by any other person authorized by the Board for the purpose.

The company, after the completion of the buy-back under these rules, shall file with the Registrar, and in case of a listed company with the Registrar and the SEBI, a return in the e-form SH-11 along with the fee.

The company shall annex to the return filed with the Registrar in e-Form No.SH-11, a certificate in Form No. SH-15 signed by two directors including the managing director, if any, certifying that the buy-back of securities has been made in compliance with the provisions of the Act and the rules made thereunder.

### Other Provisions

The notice of the meeting at which the special resolution is proposed to be passed u/s 68(2)(b) shall be accompanied by an explanatory statement stating that every buy-back shall be completed within a period of one year from the date of passing of the special resolution, or as the case may be, the resolution passed by the Board u/s 68(2)(c). ■

# Reduction of Share Capital

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*In this article, the author summarises the procedure of reduction of share capital. He made a concluding remark by stating that, it is now mandatory to obtain creditors' consent for every form of reduction of share capital.*

## Capital Reduction Mechanism

Capital reduction is the process of decreasing a company's shareholder equity through share cancellations and share repurchases. The reduction of capital is done by companies for various reasons, including increasing shareholder value and producing a more efficient capital structure. After a capital reduction, the number of shares in the company will decrease by the reduction amount.

Main reasons for reduction of share capital is :

- To eliminate losses,
- Return surplus capital to shareholders,
- Assist a buy-back or redemption of shares, or distribute assets to shareholders.

Capital reduction section under the Companies Act, 1956

Sections 100 to 105 deal with the reduction of share capital under the old Companies Act, 1956. Under the provisions of this section, the company is required to pass the special resolution and apply to the court for the confirmation of reduction of share capital.

Step by step procedure for reduction of capital under the Companies Act, 2013

The company limited by shares or limited by guarantee and having a share capital may reduce the share capital by passing a special resolution and subject to the confirmation of the tribunal.

Manner of reduction of share capital

The company may reduce its share capital in the following manner:-

- (a) extinguish or reduce the liability on any of its shares in respect of the share capital not paid-up; or
- (b) either with or without extinguishing or reducing liability on any of its shares,-
  - (i) cancel any paid-up share capital which is lost or is unrepresented by available asset; or
  - (ii) pay off any paid-up share capital which is in excess of the wants of the company, alter its

memorandum by reducing the amount of its share capital and of its shares accordingly.  
Practising Company Secretary, Chennai

Arrears in repayment of deposits

The company is not allowed to reduce its capital if it has arrears in the repayments of any deposits accepted by it or the interest payable thereon either before or after the commencement of the Companies Act, 2013. [section 66(1)].

Form to be filed with Registrar of Companies

After passing the special resolution the company has to file the Form MGT-14 within 30 days to Registrar of Companies.

## Form to be Filed with National Company Law Tribunal

The company should follow the following procedure prescribed in the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016.

Form of application or petition for reduction of share capital under Section 66-

- (1) An application to the Tribunal to confirm a reduction of share capital of a company shall be in Form No. RSC-1 along with the application fee of Rs. 5000.
- (2) An application to confirm a reduction of share capital of a company shall be accompanied with,-
  - (a) the list of creditors duly certified by the managing director, or in his absence, by two directors, as true and correct, which is made as on a date not earlier than fifteen days prior to the date of filing of an application showing the details of the creditors of the company, class-wise, indicating their names, addresses and amounts owed to them;
  - (b) a certificate from the auditor of the company to the effect that the list of creditors referred to in clause (a) is correct as per the records of the company verified by the auditor;

## Reduction of Share Capital

- © a certificate by the auditor and declaration by a director of the company that the company is not, as on the date of filing of the application, in arrears in the repayment of the deposits or the interest thereon; and
- (d) a certificate by the company's auditor to the effect that the accounting treatment proposed by the company for the reduction of share capital is in conformity with the accounting standards specified in section 133 or any other provisions of Act.
- (3) Copies of the list of creditors shall be kept at the registered office of the company and any person desirous of inspecting the same may, at any time during the ordinary hours of business, inspect and take extracts from the same on payment of the sum or rupees fifty for inspection and for taking extracts on payment of the sum of rupees ten per page to the company.

The petition filed with the National Company Law Tribunal shall be in the Format prescribed in Form No.RSC-1

### Issue of Notice and Directions by the National Company Law Tribunal('NCLT')

After receipt of every application for capital reduction the Tribunal shall, within fifteen days of submission of the application, shall give notice or direct that notice be given to –

- The Central Government, Registrar of Companies, in all cases, in Form No. RSC-2;
- the Securities and Exchange Board of India, in the case of listed companies in Form No. RSC-2;
- the creditors of the company, in all cases in Form No. RSC-3; seeking their representations and objections, if any.

The notice for creditors shall be sent, within seven days of the direction given or such other period as may be directed by the Tribunal, to each creditor whose name is entered in the list of creditors submitted by the company about the presentation of the application and of the said list, stating the amount of the proposed reduction of share capital and the amount or estimated value of the debt or the contingent debt or claim or both for which such creditor's name is entered in the said list, and the time within which the creditor may send his representations and objections.

Notice to Central Government, Registrar in respect

of application for reduction of share capital of every company will be in the following format

Noticed issued to creditors

The notice issued to the creditors of the company, seeking their representations and objections, if any shall be given in the format prescribed in Form No. RSC-3

Publication of Notice

The NCLT shall also issue further directions for the notice which is to be published in Form No.RSC-4 within seven days of such direction in leading English and vernacular language newspapers.

NCLT can also issue the directions for uploading the notice in the website of the company.

The notice shall state the amount of the proposed reduction of share capital, and the places, where the aforesaid list of creditors may be inspected, and the time as fixed by the Tribunal within which creditors of the company may send their objections:

The notice issued to creditors shall be in the Form No. RSC-4

Affidavit on despatch and publication of notice

Where there is no representation is received from Central Government, Registrar, the Securities and Exchange Board of India or creditors within the said period of three months. Then, it shall be presumed as they have no objection to the capital reduction. [under section 66(2) ].

The company or the person who was directed to issue notices and the publication in the newspaper, shall as soon as may be, but not later than seven days from the date of issue of such notices, file an affidavit in Form No. RSC- 5 confirming the despatch and publication of the notice.

Where the Tribunal is satisfied that the debt or claim of every creditor has been discharged or determined or has been secured or his consent is obtained, under section 66(3) it may dispense with the requirement of giving of notice to creditors or publication of notice or both.

Affidavit confirming the despatch and publication of the notice shall be filed in the Form No.RSC-5.

### Procedure with Regard to Representations and Objections Received

(1) The company shall submit to the Tribunal, within seven days of expiry of period upto which



## Reduction of Share Capital

representations or objections were sought, the representations or objections so received along with the responses of the company thereto.

(2) The Tribunal may give such directions as it may think fit with respect to holding of any enquiry or adjudication of claims or for hearing the objection or otherwise.

(3) At the hearing of the application, the Tribunal may, if it thinks fit, give such directions as may deem proper with reference to securing the debts or claims of creditors who do not consent to the proposed reduction, and the further hearing of the petition may be adjourned to enable the company to comply with such directions.

**Order on application and minute thereof**

(1) Where the Tribunal makes an order confirming a reduction, and approving the minute may include such directions or terms and conditions as the Tribunal deems fit.

(2) The order confirming the reduction of share capital and approving the minute shall be in Form No. RSC - 6 on such terms and conditions as may be deemed fit.

The order confirming reduction of share capital and approving minute will be in the prescribed format

**Liabilities of Members**

On reduction of share capital, the extent of liabilities of any member shall not exceed the difference of the amount paid thereon or deemed to have been paid thereon and amount of the share fixed by the order of reduction.

If, any creditor entitled to object to the reduction of share capital is not entered in the list of creditors by reason of his ignorance of the proceedings for reduction or of their nature and effect with respect to his debt or claim, and after reduction of share capital, company is unable to pay his debt or claim, then every member at the time of registration of order will be liable to contribute for the payment of debt to the creditor. [section 66(7) and (8)].

**Certificate of registration of order and minute**

The certified copy of order confirming the reduction of share capital and of minute approved by the Tribunal showing, -

1. The amount of share capital,
2. The number of shares into which it is divided,
3. The amount of each share, and

4. The amount, if any at the date of registration deemed to be paid-up on each share, shall be delivered by the company to the Registrar of Companies within thirty days of the receipt of the copy of the order.

The Tribunal order shall be filed by the company with the Registrar of Companies in e- form INC-28.

The Registrar shall register the same and issue a certificate in the following Form No. RSC-7.

### Offence and Penalty

If any officer of the company knowingly conceals the name of any creditor entitled to object to the reduction or knowingly misrepresents the nature or amount of the debt or claim of any creditor, or abets or is privy to any concealment or misrepresentation, he shall be liable for fraud under section 447 of the Companies Act, 2013 [section 66(10)].

If the company fails to publish the order of tribunal confirming the reduction of share capital as per section 66(4) then the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty lakh [section 66(11)].

### Conclusion

The provisions of the new Companies Act, 2013 and the rules made therein provide a very clear procedure for the reduction of share capital of companies.

Under the new Companies Act, 2013 it is now mandatory to obtain creditors' consent for every form of reduction of share capital including when the reduction is required for cancellation of paid-up share capital which is lost or is unrepresented by the company by available assets, The scope and power of NCLT in administering the reduction of share capital of companies is widened.

After constitution of the National Company Law Tribunal under the new Companies Act, 2013 the professionals like practising company secretaries, cost accountants, and chartered accountants can appear as authorised representatives on behalf of their clients not only with respect to capital reduction but also for merger and amalgamations also. Which is considered as a good scope for these practising professionals. ■



# Competition Commission of India

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*In this article, the author has given an overview of the composition and duties of the Competition Commission of India. He concludes by stating that the Competition Act, 2002 offers a good career opportunity to the practicing company secretaries and other professionals who are eligible to appear before the Commission.*

## The Competition Act, 2002

The Competition Act, 2002 ('the Act') aims to (i) prevent practices having adverse effect on Competition; (ii) promote and sustain competition in markets; (iii) protect the interests of Consumers; and (iv) ensure freedom of trade carried on by other participants in markets, in India. This paper deals with the Competition Commission of India (Commission) established under the Act.

## Competition Commission of India

The Commission is established as a body corporate, having perpetual succession and a common seal with power to acquire, hold and dispose of property. In its Order dated 27<sup>th</sup> July 2015 in Case No. 03/2011, the Commission explained its role as under:

"The Commission is a statutory body, established under the Act with the legislative mandate inter alia to prevent practices having adverse effect on competition, to promote and sustain competition in the markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in the markets, in India. To perform the above mentioned functions, under the scheme of the Act, the Commission is vested with inquisitorial, investigative, regulatory, adjudicatory and advisory jurisdiction. As such, the purpose of filing information before the Commission is only to set the ball rolling as per the provisions of the Act."

## Composition of the Commission

The Commission consists of a Chairperson and not more than six other Members who have

professional experience of not less than fifteen years in, international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs or competition matters, including competition law and policy. They are appointed by the Central Government based on the panel of names recommendation by the Selection Committee.

The Commission is assisted by the Director General in conducting inquiry into contravention of any of the provisions of this Act and the Secretary for the efficient performance of its functions under this Act. The Commission may also engage experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to competition, as may be deemed necessary, to assist the Commission in the discharge of its functions under the Act.

The Act contains detailed provisions on constitution of the Selection Committee; term of office of Chairperson and other Members; resignation, removal and suspension of Chairperson and other Members; restriction on employment of Chairperson and other Members in certain cases, administrative powers of Chairperson, salary and allowances and other terms and conditions of service of Chairperson and other members, etc.

## Duties of the Commission

Section 18 deals with the duties of the Commission. Accordingly the Commission is duty bound to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade carried on by other participants, in

## Competition Commission of India

markets in India. In this reference it was held by the Delhi High Court in *Telefonaktiebolaget LM Ericsson (PUBL) v CC* that the function to administer and execute the Act vests predominantly with the Commission and it has a pivotal role to play under the competition act.

### Meetings of the Commission

The Commission has to transact its business through the meetings where all the questions coming up before the meetings are to be decided by a majority of members present and voting. The quorum for such meetings is 3 members. The Competition Commission of India (Meeting for Transaction of Business) Regulations, 2009 prescribe the rules and procedure in regard to the transaction of business at the meetings of the Commission.

### Power of the Commission to Regulate its Own Procedure

Section 36 empowers the Commission to regulate its own procedure. The Commission has been vested with the powers of a civil court and may order the production of documents etc. for its officers. In *Nissan Motors India (P) Ltd. v CCI*: the Madras High Court explained the scope of said section in the following manner:

“Section 36 contemplates the power of the Commission to regulate its own procedure. As per sub-section (1), in the discharge of its functions, the Commission shall be guided by the principles of natural justice and, subject to the other provisions of the Act and of any rules made by the Central Government, the Commission shall have the powers to regulate its own procedure. Under sub-section (2), the Commission shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908. Sub-section (4) ordains that the Commission may direct any person - (a) to produce before the Director General or the Secretary or an officer authorised by it, such books

or other documents in the custody or under the control of such person so directed as may be specified or described in the direction, being documents relating to any trade, the examination of which may be required for the purposes of this Act and (b) to furnish to the Director General or the Secretary or any other officer authorised by it, as respects the trade or such other information as may be in his possession in relation to the trade carried on by such person, as may be required.”

### Power to Make Regulations

Section 64 empowers the Commission make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act. The said power can be exercised by issuing a notification and regulations may provide for matters listed under the said section. The same includes determination of cost of production, payment of filing fee, forms, manner of recovery of penalty, etc.

### Conclusion

According to its preamble, the Competition Act, 2002 is “an Act to provide, keeping in view of the economic development of the country, for the establishment of a Commission ....” (emphasis added). Reference to the 'Commission' in the preamble denotes its significance as a powerful market regulator in the globalized economy. To the professionals, the Competition Act, 2002 offers a good career opportunity because a person or an enterprise or the Director General may engage practicing chartered accountants or practicing company secretaries or practicing cost accountants or legal practitioners to appear before the Commission. Being fully conversant with the corporate affairs, Company Secretaries should be the natural allies of the parties dealing with the matters before the Commission. ■

## Time Matters...

Contributed by Brahma Kumaris,  
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*"The bad news is time flies. The good news is you're the pilot." MICHAEL ALTSHULER.*

*It has been discussed at length and probably volumes have been written about the ways in the personal development, career enhancement and self-help zone, but have we ever explored the issue from a spiritual perspective? Before doing that, the author would like to explain why one aims to do so.*

### Value is Time

From time immemorial, the importance of time has been reiterated in various contexts. We see a rise in the value of many things around us- property, gold, commodities, even amenities. But something that has always been on the top of this list in terms of value is TIME. The rule of demand and supply does not seem to be aptly applicable to it-the more the demand, the lesser seems to be the supply of time...



It will be good to appreciate the importance of time before we talk more about how to manage it:

- ❖ Time is important because of its below attributes:
  - It is non-retrievable
  - One cannot reserve it
  - It is irreplaceable
  - It is irreversible
- ❖ Most of the time is wasted not in hours... but in minutes!
- ❖ There is a difference of just a few words between success and failure- "*I did not have time*". Because we always do the task at the last moment, in a situation of time crunch, there is no time to try for something creative or new.
- ❖ **TIME = "KAAL"**  
*"If we destroy time, time will destroy us one day. Give respect to time so that it gives you chance to receive it back."*
- ❖ Some of the biggest fires could have been extinguished by pouring a cup of water **at the right time!**



- ❖ Today is yesterday's 'tomorrow', so for a successful tomorrow **value today!**

Time management has become an important aspect of our everyday lives where we have to constantly prioritise and choose from a plethora of options. There are various ways to do so including:

- ❖ Be clear with -
  - 'What' is to be done?
  - 'Why' is it to be done?
  - 'How' is it to be done?
- ❖ **Set short-term and long-term goals.**
- ❖ Know your **potential and limitations** and use your potential in the best way.
- ❖ Say '**NO**' for things and activities that can waste time.
- ❖ **Fix your routine** and find the gaps and the black holes (things that can eat away as much time as you may have).
- ❖ **Sharpen your axe**, i.e., update your skills and learning to do work more efficiently in a given amount of time.
- ❖ **Prioritise!** Don't let the important task become urgent on your to do list.
- ❖ Proceed "**bit-by-bit**" for a large chunk of task.



## Time Matters...

### Both Time Management and Spirituality Concerns Way of Life

First, in my opinion, both time management and spirituality concerns our way of life and are inter-dependent. One of the biggest challenges we face when trying to go about doing what needs to be done, is the mind. The mind is unscrupulous and a master at making apparently genuine excuses. The challenge is to be very aware and to catch when we are just about to make an excuse and be strong enough not to give in. That is the only way we can accomplish more in our day- to- day lives and also effectively manage time to adhere to deadlines without feeling drained.

Easier said than done, right? That is where spirituality comes in- to be able to do rather than just say. This is where I am reminded of a context from Shakespeare's, 'Julius Caesar,' (year, 1599 approx.) "*Men at some time are masters of their fates: The fault, dear Brutus, is not in our stars, But in ourselves, that we are underlings...*"

The power in the statement is that it creates its own momentum. In other words, this statement clearly indicates that we do have the potential to be the master of time and the fact that we cannot achieve it lies in our own shortcomings.

I depart from the philosophy that- work drains our energy. On the contrary I believe that- you have more energy when you are able to achieve more and you are more confident and ready when the next task arrives. All we need to do is effectively manage time and manage ourselves better.

### Extension of Concept of Time Management

Secondly, if we extend the concept of time management to all spheres of corporate, social, political and environmental systems, achieving it would require collaboration, which is not possible without shared values. Time management requires a change in lifestyle and change in mindset.

Spirituality, thus, comes into picture to add the missing dimension of self -awareness, self - control and self-transformation. We cannot control the hands of the clock but we can definitely stop racing against time.

And two simple strategies to reduce alarmed feelings of being pressed for time is: through 'Rajyog' meditation and acquiring knowledge, which helps in re-channelling of any worked-up feelings of stress into more productive high-energy emotions. However, this has to be a conscious decision to put in that effort to achieve the larger goals. And when the quality of energy is positive, we will be able to manage time better. Often I encounter questions like "Where's the time to meditate when we don't find enough time to finish work?" Honestly, we

cannot literally add hours to our day, can we? If that were possible, we would customise our weekends to have 36 hours or more! When we cannot influence the external environment, we can try to better manage the 24 hours in an efficient manner. Starting with 30 minutes to 1 hour of investment in morning meditation, will direct our energy



flow for the rest of our day. And who would not want to invest just 30 minutes in the morning which will impact the remaining 23 hours of the day?

Rajyog meditation can help liberate you from the pressures of time. This is partly because it helps you deal with tasks more skilfully and creatively. It makes you happier and less stressed too. Numerous researches have confirmed the importance of morning. In the morning, our mind and intellect are typically the sharpest, and we have the largest store of energy to work effectively and proactively. Further, in the mornings, we're less likely to be interrupted by urgencies that occur as the day progresses. But to translate this into action, we need self-control. Self-control and energy are not only connected but also is finite just like time. In the grind of everyday life, our schedule tires our soul much like a muscle. Even though we don't much realise it, as the day progresses, we understand our increased difficulty in applying self-control and focusing on work. As self-control recedes, our exhaustion and negative energy flow takes over the centre- stage and we find the task at hand to be extremely challenging. This tiredness of soul kills our productivity and our energy is drained. For reference there is an interesting study (2015) by John Denninger, a psychiatrist at Harvard Medical School, on how meditation can ward off stress and disease. This is where time and spirituality goes hand- in- hand. To achieve the best benefits of time, spirituality is the only guide.

Otherwise, in today's lifestyle demands, we are all emotionally conflicted and anxiety takes over. It is this anxiety that makes you feel like you don't have enough



## Time Matters...

time to do it all. How many of us have ever wanted more than 24 hours in a day to be able to achieve more? However, when we reflect upon the experiences, do we have those 'could have done better' moments? We know that we could have done better but we did not; simply because our mind was busy making excuses; and in any case it is easier to blame circumstances than ourselves.

Often, without being aware, a lot of our time is lost because our mind and intellect is oscillating between the past and the future. Meditation brings the focus back to the present moment, which is the field of action— we cannot act in the past or future, what we can do is to act in the time 'now!' So, when the mind is in the present, we can do much more in the same specified time. That is where meditation can help to sail through the troubled waters of the day in a peaceful manner and further, be able to sort out timelines in an effective manner. Meditation can lead to profound shift in how the brain allocates attention. And if we have the tool to sharpen our attentiveness, do we really have to worry about time management issues? The shared truth is- we all know that we can do it and that somewhere deep down we have the quality and the ability to do things better. However, we fail. This is where we need spiritual intervention to sharpen our intellects. This in turn influences our decision making process and ability to prioritise. And once, we are able to do that, we automatically invest our time in what is needed rather than wasting our time and energy to make decisions.

Time management translated through spirituality is about respecting your own self and the other.

However, the spiritual ambit is often lost as we tend to blame dearth of time, other people, and situations for your own failure to manage ourselves. We incline ourselves to an array of negative energies like fear, despair and frustration when not being able to cope up with time. In the meantime we conveniently push the spiritual aspect away and start time-chasing things that wouldn't happen anyway. Meditation can help add hours to our day. We can experience this for ourselves over a period of time as we meditate daily and go deeper into the practice. This is the second stage of time management in the spiritual journey where we stop chasing time and are able to move from time management to time creation.

### Feeling Pressed for Time Entails Many Harmful Consequences

Thirdly, feeling pressed for time can have many harmful consequences such as poorer health, trouble sleeping and depression. What signal are we giving our body

when we are constantly in haste? What impact will it have on the psyche? By pausing we can utilise the time we actually have in a healthier and happier way. I would like to incorporate the spiritual concept of “traffic control” into this aspect which reminds us to pause, to break away from the present activity and connect with the Supreme energy. No words can underline the importance of this and we will only have to try this to understand the wonders. And if we can include this in our everyday lives, I bet we will not have to take sabbaticals or consider long holidays to give ourselves a break from work. Further, relationships also drain a lot of our time and energy which in turn affect our time and well-being. The practice of time management is not just limited to workplace but can easily be applied to household situations as well. Spirituality teaches us when to invest, when to disconnect and when to stop. This practice transforms the relationship dynamics at home. As a result, we are able to spend quality time with our loved ones.

### Not Having Enough Time has Become Fad

Fourthly, this might be a personal proposition but honestly, there's time for everything that truly matters to you. In my opinion “not having enough time” has become one of recent fads of the 21st Century and I think it has lead us to be superficially happy about the delusional fact of being busy all the time. There is a certain kind of pseudo importance attached to not-having-time and somewhere it satisfies our ego. But doesn't it sound like a lame excuse? We often become so focused and concentrated on planning the future, that we miss important moments in our life, which is usually in the present moment.

### Conclusion

Conclusively, if an action is performed in the spirit of 'Yog,' (as I understand- being detached from the material process and connected with Supreme energy) then the psyche becomes predisposed to function in accordance with the unified decision-making process. The attitude of performing work in 'Yog' facilitates a reflective inner propensity; which leads to the discovery of the underlying suppressed issues influencing time management and decision making issues. However, the sustainability of time management and spirituality depends on individual practice. It is only by embracing spiritual congruity that we can suppress the various causes of disruptive forces and restore positive energy, thereby influencing our time and productivity. ■

# Peer to Peer Lending in India: An Overview

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*In this article, the author gives a brief background of Peer to Peer (P2P) lending in India, involvement of various risks and RBI consultation paper on P2P lending. The author concluded by stating that RBI consultation paper act as a growth catalyst in the recognition of nascent sector.*

## Background

There has been an unconventional disrupt in the banking industry with the emergence of online platforms involved in crowd funding. This memorandum attempts to examine the regulatory viewpoint exclusively on Peer to Peer (P2P) platforms in the domestic and international domain. Peer to peer platforms can be explained as the aggregators which link credible borrowers with potential investors to provide the former with unsecured loans. The interest rate of the loan is set either by the platform or by mutual agreement between the two parties. The borrowers are required to pay the origination fees based on their risk category. The lenders, depending on the terms of the platform, have to pay an administration fee and an additional fee if they choose to use any additional service which the platform may provide. The business model of P2P platforms makes profit through the arrangement fees as contrary to financial intermediaries who earn through the spread between lending and deposit rates.

## P2P Lending in India

P2P Lending is at its rudimentary stage in India. There are numerous P2P lenders registered under the Companies Act, 2013 involved in micro finance activities. After the borrowers or lenders are registered on the platform, due diligence is conducted on them to accept only credible parties. In most cases, the platform moderates the interaction between the borrower and the lender.

The documentation for the lending and borrowing arrangement is facilitated by the P2P platform. The lender transfers money from his/her bank account to borrower's bank account. The platform facilitates collection of post-dated cheques from the borrower in the name of the lender as a proxy for repayment of the loan. The P2P forum, in general, also helps in the recovery process and as part of this, follows up for repayments and if need be, employs recovery agents too.<sup>1</sup>

## Potential Risks Involved

One of the major prospective risks surrounding P2P finance include borrower's default on re-payment. The defense of the industry is that it has developed systems to select only after due diligence of the parties to the loan. This system of cherry picking keeps lender's capital at risk unless backed by securities. As against any fixed term deposit, there is a risk that interest rates might increase before the committed term thereby making it a consideration for determination of risk. P2P platforms are associated with the asymmetric information of players. Information asymmetry leads to adverse selection, where lenders cannot discriminate between borrowers with different credit risks. To reduce the asymmetry, the platforms assign a grade to each loan, relying on third party information, like FICO score, used by the vast majority of banks and credit grantors. This grade is associated with an interest rate, depending on its credit risk.

<sup>1</sup> Refer to RBI Consultation Paper on Peer to Peer Lending available at [https://www.rbi.org.in/scripts/bs\\_viewcontent.aspx?Id=3164](https://www.rbi.org.in/scripts/bs_viewcontent.aspx?Id=3164)

## Peer to Peer Lending in India: An Overview

### RBI Consultation Paper on P2P Lending

The Consultation Paper on P2P Lending by RBI marked the commencement of proposal to regulate the P2P sector in India. The Consultation Paper encapsulates the argument for and against the regulation on the budding sector. The key arguments for not regulating discussed the possibility of rubber stamping the sector thereby stifling the growth of an innovative platform at a nascent stage. The arguments for regulating the sector focused on recognition of P2P finance through imposition of regulations and promoting it as a formal method of finance. It also discussed the possibility of unhealthy practices arising in the industry which may have detrimental consequences. The Consultation Paper articulates its proposal to bring P2P Lending platforms under the purview of Reserve Bank's regulation by defining P2P platforms as NBFCs under Section 45I(f)(iii) of the RBI Act. The extensive contours of the proposed legislation are given below:

#### Permitted Activity

The regulatory framework would encompass the platform to be registered only as an intermediary, prohibited to give any assured return directly or indirectly. To reduce the asymmetry on the finance platform, the regulations propose that the platforms be allowed to propound on the creditworthiness of the borrower and the lenders matching the requirements. The guidelines would also prohibit the platforms being used for any cross-border transaction in view of FEMA provisions

relating to transactions between residents and non-residents.<sup>2</sup> Regulations on advertisements, money laundering and cross border transactions will also be put in place.

#### Prudential Requirements

There will be a minimum capital requirement of 2 Crores which has got the platforms scampering for fresh funds. A cap on the contribution by a lender to a borrower may be introduced given that the lenders may include uninformed individuals.

#### Governance Requirements

The guidelines with respect to the governance requirements will cover fit and proper criteria for promoters, directors and CEO. An efficient risk management system needs to be put in place for platforms.

#### Customer Interface

The current regulations applicable to other NBFCs will be made applicable to the P2P platforms in regard to recovery practice. The operators would also be mandated to have a proper grievance redress mechanism to deal with complaints from both lenders and borrowers and require reporting to the Board.

#### Reporting Requirements

The platforms will be required to submit regular reports on their financial position; loans arranged each quarter, complaints etc. to the Reserve Bank.

### Global Practice

Please see below a matrix of the regulatory regime of P2P finance in different countries:

COUNTRY	REGULATORY REGIME
China	With the highest number of P2P Lenders in the world, China Banking Regulatory Commission recently released a regulatory framework wherein caps on borrowing from P2P platform have been introduced. The rules ban P2P platforms from securitizing assets or offering debt transfer mechanism that mimic securitization.

<sup>2</sup> RBI Consultation Paper on P2P Lending; *ibid*

## Peer to Peer Lending in India: An Overview

United States of America	There are two levels of regulation, Federal regulation through the Securities and Exchange Commission (SEC) and State level, where platforms have to apply on a state-by-state basis. One level below the federal requirements is state regulation. Some states outright ban the practice of P2P lending (e.g. Texas). Other states place limits on the type of investors using the platforms to lend (e.g. California). In addition, if a platform wishes to operate across multiple state boundaries, it must apply to each state separately. <sup>3</sup>
Japan	For a business operator to intermediate bilateral loans, both the operator and the lender must be registered as moneylenders under the MLBA. This effectively restricts the operation of peer-to-peer lending (P2P lending) in Japan.
Australia	There is a pre requisite for P2P Lenders to hold an Australian Financial Services License (AFSL) and an Australian credit license. Capital and cash requirements are also needed to be satisfied for the functioning of the platforms. In addition to this, KYC norms under anti-money laundering and counter terrorism financing legislation are to be complied with. <sup>4</sup>
France	In France, the peer to peer platforms are registered as banks due to their credit intermediary functions. They are registered as “Intermédiaire en Financement Participatif” (IFP, crowd lending intermediary) with APCR, the national financial services regulator.

### Conclusion

The RBI Consultation Paper acts as a growth catalyst in the recognition of a nascent sector. The Paper deliberates the merits and demerits of regulating the P2P platform and evaluates the need

to develop a final set of regulations with a balanced regulatory approach that would lead to protection of borrowers and lenders and safeguard financial innovation as well. ■

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You will receive an email and an SMS (as registered with ICSI) containing your user id and password.

<sup>3</sup>Ibid

<sup>4</sup><http://www.allens.com.au/pubs/baf/cubaf5dec14.htm>



## INCOME -TAX

Salient Features of the Finance Act, 2017 (7 of 2017)

Beginning 1st April, 2017, here are the 10 important income-tax changes that tax payers need to take note of:

- ❖ An income tax of decreased tax rate from 10 percent to 5 per cent would be levied for a person falling under a tax slab of their total income exceeding two lakh fifty thousand and below Five Lakh. Consequently this would fetch a tax saving of upto Rs. 12,500 per year and Rs. 14,806/- (including surcharge and cess) for those with income above rupees one crore.
- ❖ Tax Rebate reduced to to Rs. 2500/- from Rs. 5000/- for tax payers with their total income upto Rs. 3.5 lakh (87A of the Income -tax act, 1961)
- ❖ A newly introduced surcharge for the person having total income exceeding Rs 50 Lakh will be levied at 10 per cent. Further, surcharge for super rich people, i.e, person having income range exceeding Rs. 1 crore remains unchanged, i.e, it will still be levied at 15 per cent
- ❖ Holding period for immovable property to be considered "long term" reduced to 2 years from 3 years. This will ensure immovable property held beyond 2 years taxed at reduced rate of 20 per cent.
- ❖ The base year for indexation of cost (adjusted of inflation) has been shifted to 1st April, 2001 from 1st April 1981.
- ❖ Tax exemption will be available on reinvestment

of capital gains in notified redeemable bonds (in addition to investment in NHAI and REC Bonds)

- ❖ A simple one page tax return is to be introduced for individuals with taxable income upto Rs. 5 lakh (excluding business income). Most Importantly those filing return for the first time in this category will not be subject to scrutiny.
- ❖ Delay in filing tax return for 2017-18 after due date and before 31st December, 2017 will attract a penalty of Rs. 5000. In other case the imposition of fine will be 10,000
- ❖ Time period for revision of tax return cut to one year from two years from the end of relevant financial year or before completion of assessment, whichever is earlier.
- ❖ Deduction for first-time investors in listed equity shares or listed units of equity oriented fund under the Rajiv Gandhi Equity Savings Scheme is withdrawn from 2017-18. If an individual has already claimed deduction under this scheme before 1st April, 2017, he/she shall be allowed to avail a deduction for the next two years.

Tax Slab For The Financial Year 2017-18

1. Existing rate of income- tax on income between Rs. 250,000 – Rs. 500,000 reduced to 5 percent from 10 percent. All other employees in subsequent income brackets will also get tax benefits of Rs. 12,500. So, the income-tax slab for FY 2017-18 is as follows:

However, Tax relief under section 87A available to a

Income Slab	Tax rate
Income up to Rs 250,000	: No Tax
From Rs 250,001 to Rs 500,000	: 5% of the amount by which the total income exceeds Rs 250,000
From Rs 500,001 to Rs 1,000,000	: Rs 12,500 + 20% of the amount by which the total income exceeds Rs 500,000
Above Rs 1,000,000	: Rs 112,500 + 30% of the amount by which the total income exceeds Rs 1,000,000

## Knowledge Updates

resident Individual, if his total income does not exceed Rs. 3,00,000, is proposed to be decreased from Rs 5,000 to Rs 2,500 (100 percent of income-tax or Rs.2,500 whichever is less). Therefore, an individual earning taxable income up to Rs. 300,000, he/she does not pay any tax.

2. Education Cess (at 3 percent) will continue to be applicable on Income- tax amount.
3. Surcharge at 10% on tax is proposed to be levied on Individuals earning income more than Rs 50 lakhs, but not exceeding Rs.1 crore annually.
4. 'Super Rich' Surcharge on tax (at 15%) continues to be applicable for Individuals earning income more than Rs. 1 Crore .
5. No change in amount of deduction for interest on housing loan under section 24. So, total deduction for housing loan interest remains at Rs. 200,000 per co-owner interest.
6. Foreign listed shares (like shares of Akamai US) will continue to be short-term capital asset if it is held for less than 24 months. These shares will become long- term capital asset if it is held for more than 24 months.

### COMPANY LAW

COMPANIES (INDIAN ACCOUNTING STANDARDS) (AMENDMENT) RULES, 2017 - AMENDMENT IN INDIAN ACCOUNTING STANDARDS (IND AS) 7 AND INDIAN ACCOUNTING STANDARDS (IND AS) 102

MCA issued a notification [via Notification No. GSR. 258(E)] dated 17th March, 2017, for the amendment in the Companies (Indian Accounting Standards) Rules, 2015. The Central Government in exercise of the powers conferred by section 133 read with section 469 of the Companies Act, 2013 (18 of 2013) and sub-section (1) of section 210A of the Companies Act, 1956 (1 of 1956), and in consultation with the National Advisory Committee on Accounting Standards makes the rules to amend the Companies (Indian Accounting Standards) Rules, 2015.

### COMPETITION LAW

RELAXATION OF FILING NORMS FOR

### MERGERS AND EXTENSION OF SCOPE OF *DE MINIMISEXEMPTION*

The Ministry of Corporate Affairs, through a Gazette notification dated March 27, 2017, SO. 988(E) has modified the method of calculation of assets and turnover for the purposes of filing of notice in cases of acquisition or acquiring control of or merger or amalgamation of a portion of an enterprise or division or business for the purpose of Section 5 of the Competition Act, 2002 (Act), without changing the thresholds of assets or turnover prescribed earlier vide Gazette Notification 674 (E) dated March 4, 2016. The earlier notification dated March 4, 2016 has been rescinded with immediate effect. The latest notification published in the Official Gazette on March 29, 2017 is applicable for a period of 5 years i.e. up to March 28, 2022.

#### Revised method of calculation of thresholds under Section 5 of the Act

Where a portion of an enterprise or division or business is being acquired, taken control of, merged or amalgamated with another enterprise, the assets and turnover of the enterprise for the purposes of Section 5 of the Act shall be calculated on the basis of the relevant assets or turnover of the said portion of the enterprise, division or business being acquired.

#### Value of assets

The value of assets of the said portion of enterprise, division or business shall be determined by taking the book value of the assets shown in the audited books of accounts of the enterprise or as per statutory auditor's report where the financial statement have not yet become due to be filed, in the financial year immediately preceding the financial year in which the date of the proposed combination falls.

#### Value of turnover

The turnover of the portion or division or business being acquired, taken control of, merged or amalgamated shall be as certified by the statutory auditor on the basis of the last available audited accounts of the company.

## Knowledge Updates

### Target Exemption extended to cover Mergers and Amalgamations

The latest notification has included mergers and amalgamations within the De-Minimis exemption (also known as “Target Exemption”). Earlier, only acquisitions were covered under the De-Minimis exemption.

#### Calculation of thresholds for application of de-minimis Exemption

Further, the Government has also modified the method for calculating assets and turnover for applying De Minimis exemption. It shall no longer be required to seek approval of CCI for transactions where the value of assets being acquired, taken control of, merged or amalgamated are not more than Rs. 350 crores, or the turnover of the enterprises being parties to such acquisition is not more than rupees one thousand Crores.

### SEBI REGULATIONS

#### ANNUAL LISTING FEES

The Exchange vide its Circular No. DCS/LISTOPS/25/2016-17 dated 1st March, 2017 has revised its Annual Listing Fees to be paid by the listed entities for listing of its securities on the exchange. The new Annual Listing Fees shall be effective from 1st April ,2017. The capital to be considered for the above schedule includes equity shares, preference shares, Indian Depository Receipts, fully convertible debentures, partly convertible debentures and any other security convertible into equity shares. In case of debenture capital (not convertible into equity shares) listed prior to 1st April ,2017, the fees applicable will be 75 percent of the above fees are applicable for the full year.

#### SEBI COMPLAINTS REDRESS SYSTEM (SCORES)

SCORES is a web based centralised grievance redress system of SEBI (<http://scores.gov.in>). SCORES enables investors to lodge and follow up their complaints and track the status of redressal of such complaints online from the above website from anywhere. This enables the market intermediaries and listed companies to receive the complaints online from investors, redress such

complaints and report redressal online.

To make efficient complaints redressal mechanism through SCORES, it is mandated by SEBI to all stock brokers and DPs that they shall redress the complaints within 15 days from the date of receipt of complaint. In case of additional information required from the complainant, then it should be sought within 7 days from the date of receipt of complaint, the period of 15 days shall be count from the receipt of additional information.

### TRADE MARKS LAW

#### TRADE MARKS RULES, 2017

The Trade Marks Rules, 2017 have been notified and have come into effect from 6th March, 2017. These Rules, which replace the erstwhile Trade Marks Rules 2002, will streamline and simplify the processing of trade mark applications. Some salient features of the revamped Rules are as follows :

- ❖ Number of Trade Marks (TM) Forms have been reduced from 74 to 8.
- ❖ To promote e-filing of TM applications, the fee for online filing has been kept at 10 per cent lower than that for physical filing.
- ❖ Based on stakeholders feedback, the fees for individuals, start-ups and small enterprises have been reduced from that proposed in the Draft Rules – i.e., only Rs. 4,500 as against Rs 8,000 for e-filing of TM applications proposed at the draft stage.
- ❖ Modalities for determination of well-known trademarks have been laid out for the first time.
- ❖ The provisions relating to expedited processing of an application for registration of a trade mark have been extended right upto registration stage (hitherto, it was only upto examination stage).
- ❖ Over all fees have been rationalised by reducing the number of entries in Schedule I from 88 to just 23.
- ❖ Modalities for service of documents from applicants to the Registry and vice-versa through electronic means have been introduced to expedite the process; e-mail has been made an essential part of address for service to be

## Knowledge Updates

provided by the applicant or any party to the proceedings so that the office communication may be sent through e-mail.

- ❖ Hearing through video conferencing has been introduced.
- ❖ Number of adjournments in opposition proceedings has been restricted to a maximum of two by each party, which will help dispose of matters in time.
- ❖ Procedures relating to registration as registered user of trademarks have also been simplified.

It may be recalled that the examination time for a TM application has already been brought down from 13 months to just 1 month in January 2017; this is despite a stupendous 35 per cent jump in TM filings in 2015-16 vis-à-vis the previous year. The new Rules should give a boost to the Intellectual property regime in India.

### LAW RELATED TO LLP

#### FOREIGN DIRECT INVESTMENT (FDI-LLP) IN LIMITED LIABILITY PARTNERSHIPS (LLP) FORMED AND REGISTERED UNDER THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

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, the Reserve Bank of India vide Notification No. FEMA.385/2017-RB dated 3rd March, 2017 notified Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) (Second Amendment) Regulations, 2017. Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) (Second Amendment) Regulations, 2017 amended Regulation 5(9) and Schedule 9.

### MISCELLANEOUS

#### MATERNITY BENEFIT (AMENDMENT) ACT, 2017

The Maternity Benefit (Amendment) Act No. 6 of 2017 received the assent of the President on the 27th March, 2017 and thus enforced from 1st April, 2017 except sub-section (5) of section 3 which will be enforced from 1st July, 2017. Salient features of the Maternity Benefit (Amendment) Act, 2017 are as under:

- ❖ Maternity leave available to the working

women increased from 12 weeks to 26 weeks for the first two children.

- ❖ Maternity leave for children beyond the first two children will continue to be 12 weeks.
- ❖ Maternity leave of 12 weeks to be available to mothers adopting a child below the age of three months as well as to the “commissioning mothers”. The commissioning mother has been defined as biological mother who uses her egg to create an embryo planted in any other woman.
- ❖ Every establishment with more than 50 employees to provide for crèche facilities for working mothers and such mothers will be permitted to make four visits during working hours to look after and feed the child in the crèche.
- ❖ The employer may permit a woman to work from home if it is possible to do so.
- ❖ Every establishment will be required to make these benefits available to the women from the time of her appointment. ■

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