

Info Capsule

MINISTRY OF CORPORATE AFFAIRS ISSUES NOTIFICATION FOR COMMENCEMENT OF SECTION 247 OF THE COMPANIES ACT, 2013 RELATING TO VALUATION BY REGISTERED VALUERS¹

The Companies (Registered Valuers and Valuation) Rules, 2017, finalized after public consultation and detailed deliberations with stakeholders, have also been issued simultaneously.

The Ministry of Corporate Affairs has issued Notification for commencement of Section 247 of the Companies Act, 2013 [Valuation by Registered Valuers] with effect from October 18, 2017. The Companies (Registered Valuers and Valuation) Rules, 2017 (Rules), which have been finalized after public consultation and detailed deliberations with stakeholders have also been issued simultaneously.

The Rules, inter alia, provide for Registration of Valuers for conduct of valuation under the Companies Act, 2013. The valuers, who may be individuals or partnership entities or companies, would be required to be registered with the authority specified by the Central Government. The Rules provide for registration of different category of valuers and lay down the requirements on their eligibility, qualifications and experience. The Registered Valuers are also required to be members of the Registered Valuers Organizations (RVOs), recognized by the authority under the Rules. The eligibility norms for RVOs to be recognized have also been provided in the Rules which, inter alia, include for an internal governance structure which should provide for enforcement of a code of conduct on the registered valuers, training and conduct of educational courses for the valuation of specific asset classes for which the RVO concerned is recognized.

The Rules also lay down the mechanism to prescribe valuation standards and syllabus for conduct of valuation education courses as well as specify the requirements with regard to the contents of the valuation report.

The Rules provide for a transition period up to March 31, 2018 for registration of valuers with the authority keeping in view the period which would be required by the valuers organizations and the valuers to fulfil the requirements under the law. During this transition period any person who may be rendering valuation services under the Companies Act, 2013 may continue to render such services without getting registered under the Rules.

The role and powers of the authority with regard to registration/recognition and ancillary matters have been provided in the Rules. It is proposed to specify Insolvency and Bankruptcy Board of India (IBBI) as the authority under the Rules. The relevant notification under section 458 of the Act in this regard is being issued separately.

The commencement notification and the Rules referred to are also placed on the Ministry's website at www.mca.gov.in

¹ Available at: <http://pib.gov.in/newsite/erelease.aspx>

SECURITIES AND EXCHANGE BOARD OF INDIA (INTERNATIONAL FINANCIAL SERVICES CENTERS) GUIDELINES, 2015-AMENDMENTS²

1. With reference to SEBI (IFSC) Guidelines, 2015 notified by SEBI on March 27, 2015 and SEBI Circular SEBI/HO/CIR/P/2017/85 dated July 27, 2017 amending these guidelines.
2. In order to further streamline the operations at IFSC, based on the internal discussions and consultations held with the stakeholders, it has been decided to further amend Guideline 8(2) which shall now read as follows:

“8 (2) Any entity based in India or in a foreign jurisdiction may form a company in IFSC to act as a trading member of a stock exchange and/or a clearing member of a clearing corporation in IFSC.”

3. This circular is being 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.

COMMENTS AND SUGGESTIONS INVITED FOR AMENDMENT OF INCOME-TAX RULES WRT REGISTRATION OF CHARITABLE OR RELIGIOUS TRUSTS³

Vide Finance Act, 2017, a new clause (ab) was inserted in sub-section (1) of section 12A of the Income-tax Act, 1961 ('the Act') w.e.f 01.04.2018 to the effect that where a trust or an institution, which has been granted registration under sections 12A or 12AA of the Act has subsequently adopted or undertaken modification of the objects and such modification does not conform to the conditions of such registration, then such trust or institution shall be required to obtain registration again by making an application within a period of thirty days from the date of such adoption or modification of the objects.

As per the Memorandum related to Delegated Legislation laid on the floor of the Parliament along with the Finance Bill, 2017, the form and manner in which an application of registration u/s 12(1)(ab) shall be made to the Principal Commissioner or Commissioner for registration of the trust or institution subsequent to modification of its objects, is required to be prescribed.

The rules for making an application for registration of charitable or religious trusts under section 12A of the Act are laid down under Rule 17A of the Income-tax Rules, 1962 ('the Rules'). As per the Rules, the application, for registration of charitable or religious trusts under section 12A of the Act, is to be made in Form 10A.

Accordingly, subsequent to the aforesaid amendment to the Act, Rule 17A and Form 10A are proposed to be amended. In this regard, draft notification providing for the amendment of Rule 17A and Form 10A has been framed and uploaded on the website of the Income Tax Department www.incometaxindia.gov.in for comments from stakeholders and general public.

The comments and suggestions on the draft Rules may be sent by October 27, 2017 electronically at the email address, dirtpl1@nic.in.

Team ICSI

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² Available at: http://www.sebi.gov.in/legal/circulars/oct-2017/securities-and-exchange-board-of-india-international-financial-services-centres-guidelines-2015-amendments_36289.html

³ Available at: <http://pib.gov.in/newsite/erelease.aspx>