

Info Capsule

MCA CLARIFICATION REGARDING APPLICABILITY OF EXEMPTION GIVEN TO CERTAIN PRIVATE COMPANIES UNDER SECTION 143(3)(i) OF THE COMPANIES ACT, 2013¹

Ministry of Corporate Affairs has issued a clarification through **General Circular No. 8/2017 dated July 25, 2017** regarding applicability of exemption given to certain private companies under section 143(3)(i) of the Companies Act, 2013.

Serial no. 5 of MCA Notification no. G.S.R. 583(E) dated June 13, 2017 states that, in case of Private Company, the requirements of reporting under section 143(3)(i) of the Companies Act, 2013 shall not apply to a private company:-

- (i) which is a one person company or a small company; or
- (ii) which has turnover less than rupees fifty crores as per latest audited financial statement and which has aggregate borrowings from banks or financial institutions or anybody corporate at any point of time during the **financial year** less than rupees twenty five crore.

Clarity has been sought by stakeholders w.r.t. **the financial year(s) in respect of which the said exemption shall be applicable.**

The issue has been examined in the Ministry and it is clarified that-

The exemption shall be applicable for those audit reports in respect of financial statements pertaining to financial year commencing on or after April 1, 2016, which are made on or after the date of the said notification.

ONLINE FILING SYSTEM FOR REAL ESTATE INVESTMENT TRUSTS (REITS) AND INFRASTRUCTURE INVESTMENT TRUSTS (INVITS)²

SEBI vide its circular dated July 24, 2017 introduced an online system for filings related to REITs and InvITs. The online system can be used for application for registration, reporting and filing under the provision of under SEBI (Real Estate Investment Trusts) Regulations, 2014 and SEBI (Infrastructure Investment Trusts) Regulations, 2014. All applicants desirous of seeking registration as REITs or InvITs are now required to submit their applications online only, through SEBI Intermediary Portal at <https://siportal.sebi.gov.in>

Additionally, all SEBI registered REITs and InvITs are now required to file/ submit/ apply for any request, as may be required under the provision of aforesaid Regulations & Circulars issued thereunder, through the online system only.

¹ Available at: http://www.mca.gov.in/Ministry/pdf/GeneralCircular8_25072017.pdf

² Available at: http://www.sebi.gov.in/legal/circulars/jul-2017/online-filing-system-for-real-estate-investment-trusts-reits-and-infrastructure-investment-trusts-invits-_35411.html

SEBI (ISSUE AND LISTING OF DEBT SECURITIES) (AMENDMENT) REGULATIONS, 2017³

SEBI vide its circular dated July 13, 2017 amended the SEBI (Issue and Listing of Debt Securities) Regulations, 2008. Regulation 20B on International Securities Identification Number has been inserted in SEBI (Issue and Listing of Debt Securities) Regulations, 2008 which provides that any issuer issuing debt securities on private placement basis, shall comply with the conditions relating to the issue of International Securities Identification Number, as may be specified by SEBI from time to time.

The following clause has been substituted in regulation 20A of SEBI (Issue and Listing of Debt Securities) Regulations, 2008.

For clause (a) the following clause has been substituted, namely,-

"(a) the articles of association of the issuer shall not have any provision, whether express or implied, contrary to such consolidation and re-issuance;"

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³ Available at: http://www.sebi.gov.in/legal/regulations/jul-2017/securities-and-exchange-board-of-india-issue-and-listing-of-debt-securities-amendment-regulations-2017_35314.html