

EDITION - SEPTEMBER 2015

GRETEX CORPORATE SERVICES PRIVATE LIMITED

Category - I Merchant Banker



Registered Office

19B, B.B Ganguly Street, 2nd Floor,
West Bengal, Kolkata -700 012, INDIA.
Tel: 8820221999
Telefax.: +91-033-22369295
Email: info@gretexgroup.com
www.gretexcorporate.com

Corporate Office

Office No.13, Raja Bahadur Mansion
(New Bansilal Building), 9-15 Homi Modi Street,
Near BSE, Fort, Mumbai-400023
Tel.: +91-022-65555185
Telefax: +91-022-40055272
Email: info@gretexgroup.com



**“We make everything
possible for U
as there is  U
in our success”**



Chairman's Message

Dear Readers,

Let me welcome you once again and at the very outset I would like to share few of my thoughts. The current state of flux created by the turmoil in China and the uncertainty of the upcoming US FED actions had been roiling the markets and keeping everybody on the tenterhooks across the globe and India is no exception to that. India now being in the process of becoming the third largest economy of the world is susceptible to all major events taking place around the world. And the recent visits by the Prime Minister has put us on the limelight. The forthcoming meeting with the Heads of African Nations and the Prime Ministers visit to the US are being widely watched. These events have the capacity to transform the economy if handled properly as they will throw up immense opportunities for us in the Industry it will mean exciting new times as there will be more Cross border merger taking place along with the opportunities to raise capital which would result in rolling out of many innovative financial products.

To be on top we will need to keep abreast of all that is happening and be nimble enough to step in to seize the opportunities that are available. It is time to update ourselves to be in sync with the changing landscape. Hence, through this newsletter of ours "Targeting the Target" we make a constant effort to keep our readers updated with the amendments and various notifications.

So, let us gear up and keep our ears to the ground and be ready to grab opportunities as they come and through this newsletter, the "Team Gretex" is reiterating its endeavor to keep you updated on the happenings in the Capital Market as well as the we make you aware of the global scenario which may have a bearing on Corporate world.

Thanking you,

Arvind Harlalka
Chairman

Happy reading!!!



Preface

I start by acknowledging the hard work put in by the “TEAM GRETEX” in shaping up the Seminar that was held on 22nd August, 2015. It was indeed a great team effort and a huge success. The topic “SMEs and Start-ups – The next wealth generator in India” gathered a huge response from the audience and the intensity by which the agenda was taken up by the eminent speakers were quite remarkable.

The presence of the Honourable Ministers from various departments of Government of West Bengal had further uplifted the whole atmosphere to a different level altogether.

The grand success of the seminar has given us further impetus to hold many such seminars throughout the country. So who knows the next seminar could be in your city. Therefore, it is a request to our readers to approach us and provide us their valuable inputs in case they want such seminars to be held at their place.

Now coming to this fourth edition of our newsletter “Targeting the Target” there were different issues that required attention and we have made an attempt to highlight those which required attention, One of such is the One Rank One Pension issue, though we all wanted OROP for the veterans but its financial implication on the economy remains to be seen.

As always we have kept the contents very simple and have tried to present it in the most simplified way.

Thank you.

Vishnu Agarwal
President - Merchant Banking

Contents

Major Updates	04
---------------	----

MCA	04
-----	----

Capital Updates	06
-----------------	----

• Amendment of format as per Regulation 31 of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011	06
• Removal of current restriction on the maximum number of anchor investors	
• Discussion Paper on exemption of open offer relating to forfeiture of shares	
• Additional Eligibility Criteria on SME Platform @ BSE w.e.f 10.09.2015	

SEBI Corner	07
-------------	----

Synopsis of Main Board IPO	07
----------------------------	----

Synopsys of SME	09
-----------------	----

Employees / Professionals Corner	11
----------------------------------	----

• SERVICE TAX -Detailed Manual Scrutiny of Service Tax Returns (ST-3)	11
• COMPARATIVE ANALYSIS OF COMPANIES (AMENDMENT) ACT, 2015 WITH COMPANIES ACT, 2013.	13

Political Update	22
------------------	----

• Is OROP a fiscal burden?	22
----------------------------	----

Major Updates

MCA Circular dated August 28, 2015

The Ministry of corporate affairs vide its notification dated August 28, 2015 has amended some of the provisions of the Companies (Management and Administration) Rules, 2014.

➤ **Form MGT-7 has been substituted with the revised e-form MGT-7, which contains the following details:**

1. Registration and other details;
2. Principal business activities of the company;
3. Particulars of holding, subsidiary, joint ventures and associate companies;
4. Share capital, debentures and other securities of the Company;
5. Turnover and net worth of the company (as defined in the Companies Act, 2013);
6. Share Holding Pattern of a) promoters b) public and c) Details of Foreign Institutional Investors' (FIIs) holding shares of the company;
7. Number of Promoters, Members and Debenture holders as at beginning of the year (2014-15), addition, cessation, and as at end of the year;
8. Details of Directors and Key Managerial Personnel;
9. Meetings of Members / Class of Members / Board / Committees of the Board of Directors;
10. Remuneration of Directors and Key Managerial Personnel;
11. Matters related to certification of compliances and disclosures;
12. Penalty and Punishment-Details thereof;
13. Whether complete list of shareholders, debenture holders has been enclosed as an attachment yes No
(in case the complete list of above mentioned shareholders, debenture holders has not been enclosed as an attachment with e-form MGT-7 then the details separately needs to be provide as per the methods specified in instruction kit of e-form MGT-7)
14. Compliance of sub-section (2) of section 92, In case of Listed Companies in form MGT -8* (certification by Company Secretary in practice in form MGt-8);
15. Certification and Declaration by director;
16. Certification by Company Secretary/ Company Secretary in Practice.

Attachments:

1. List of share holders, debenture holders;
2. Approval letter for extension of AGM;
3. Copy of MGT -8;
4. Optional Attachment(s), if any.

Major Updates

MCA Circular dated September 01, 2015

The Ministry of Corporate Affairs vide its circular dated 1st September, 2015 has extended the last date of filling of Form CRA-4 (Cost Audit Report) upto 30th September, 2015 without any penalty/late fee.

MCA Circular dated September 04, 2015

The Ministry of Corporate Affairs vide its notification dated September 04, 2015 has amended some of the provisions of the Companies (Accounts) Rules, 2014 and issued notifications regarding sub-section (6) of section 129 and sub-section (1) of section 467 of the Companies Act, 2013.

Companies (Accounts) Rules, 2014

1. In rule 2, in sub-rule (1), after clause (d), the following is inserted:“(da) “Indian Accounting Standards” means the Indian Accounting Standards referred to in rule 3 and Annexure to the Companies (Indian Accounting Standards) Rules, 2015.”

2. After rule 4 the following rule is inserted, namely:-

“4A. Forms and items contained in financial statements- The financial statements shall be in the form specified in Schedule III to the Companies Act, 2013 and comply with Accounting Standards or Indian Accounting Standards as applicable:

Provided that the items contained in the financial statements shall be prepared in accordance with the definitions and other requirements specified in the Accounting Standards or the Indian Accounting Standards as the case may be”.

3. in rule 8, in sub-rule (3), the following proviso is inserted at the end, namely:-

“Provided that the requirement of furnishing information and details under this sub-rule shall not apply to a Government company engaged in producing defence equipment”.

4. In Rule 12, for sub-rule (1), the following sub-rule is substituted:

“(1) Every company shall file the financial statements with the Registrar together with Form AOC-4 and the consolidated financial statement, if any, with Form AOC 4 CFS”.

5. In Annexure, for Form AOC-4, the Forms AOC-4 and AOC-4 CFS are substituted.

Notifications regarding sub section (1) of section 467 of the Companies Act, 2013.

In exercise of the powers conferred by sub-section (1) of section 467 of the Companies Act, 2013, the Ministry of Corporate makes the certain further alterations in Schedule III of the Companies Act, 2013. The link of the notification is http://www.mca.gov.in/Ministry/pdf/Notification_07092015.pdf

Notifications regarding sub section (6) of section 129 of the Companies Act, 2013.

The Ministry of Corporate Affairs in exercise of the powers conferred by the sub-section (6) of section 129 of the Companies Act, 2013, in public interest has exempted government companies producing Defence Equipment including Space Research from providing additional information required through paras 5(ii) (a) (1), 5 (ii) (a) (2), 5(ii) (e), 5(iii), 5(viii)(a), 5(viii) (b), 5 (viii) (c) and 5 (viii) (e) of the General instructions for preparation of Statement of Profit and Loss in Schedule III of the Companies Act, 2013 subject to fulfilment of certain conditions as specified in the said circular. The link of the notification is http://www.mca.gov.in/Ministry/pdf/Notification_07092015_1.pdf

CAPITAL MARKET

Amendment of format as per Regulation 31 of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011:

SEBI has modified the disclosure format for pledging of shares. To ensure that adequate disclosures are made to help investors in taking an informed decision, SEBI has revised the format as per Regulation 31 of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011. Regulation 31 says that promoters of Target Company have to make certain disclosures about their encumbered shares in the prescribed formats.

Highlights of the amendments:

- Promoters have to provide the reasons during the time of collateral for taking loan, personal borrowing and third-party pledge.
- Promoters also have to include the name of the lender and the trustee who may hold shares directly or on behalf of the lender. Earlier only the name of the entity in whose favour the shares had been encumbered was to be disclosed.

SEBI through Board Meeting dated 24th August, 2015 took the following decisions:

Removal of current restriction on the maximum number of anchor investors:

- If issue size is more than Rs 250 Crore, 10 additional investors are required for every additional allocation of Rs 250 crore, subject to minimum allotment of Rs.5 crore per anchor investor.
- Listed companies with employee benefit Trusts existing as on the date of notification of the SEBI (Share Based Employee Benefits) Regulations, 2014 shall have to re-classify the shareholding of Trust as 'non-promoter and non-public' category and ensure compliance with the requirement of minimum public shareholding within 3 years (will replace current norms 5 years) from the date of notification of the SBEB Regulations.
- Employees of 'associate company' shall not be eligible as beneficiaries of the employee benefit schemes framed under the SBEB Regulations.
- Pursuant to recent amendments to the SEBI Regulations on takeover, buy-back and delisting, the employee benefit Trusts will now be allowed to offer shares (under the tender offer route) through the stock exchange platform, without any requirement of minimum holding period.
- The time period for exercise of voting rights by employee benefit Trusts, existing as on the date of notification of the SBEB Regulations, has been increased from 1 year to 3 years after considering the representations of the market participants.
- The Board issued the Guidance note Regulation 11 of SEBI (Prohibition of Insider Trading) Regulations, 2015 (Regulations). In the guidance note SEBI exercise of ESOP has not been considered as trading in Insider Regulations.

Discussion Paper on exemption of open offer relating to forfeiture of shares

Pursuant to Board Meeting dated 24th August, 2015 and Discussion Paper dated 26th August, 2015, SEBI proposed exemption from making open offer of the entities whose shareholding in a listed companies increases due to forfeiture of shares as per SEBI (SAST) Regulations, 2011. At present there is no provision for exemption of open offer pursuant to forfeiture of shares. SEBI may consider increase of shareholding due to forfeiture of shares as a "Passive Acquisition".

SEBI has invited comments from all stakeholders within 30th September, 2015.

BSE have come out with Additional Eligibility Criteria on SME Platform. This will be applicable with effect from 10th September 2015.

Stock/ Commodity Broking companies will not be eligible for listing on BSE SME Platform.

Exception: If the stock broking and commodity broking companies have discontinued/ surrendered their stock broking and Commodity Broking business license, for a period of at least 3 years and they have also changed their line of business to other eligible lines of business, then such companies may be considered eligible for listing on BSE SME platform.

Further, the company would be required to submit an Undertaking stating that they would not be taking up stock/commodity broking business, while they are listed in the SME Segment.

Finance Companies other than systemically important non-deposit taking Non-Banking Financial Company (NBFC) (as per Reserve Bank NOTIFICATION No.DNBR.008/ CGM (CDS) – 2015 dated March 27, 2015 point (xxviii)), i.e. those which do not accept/ hold public deposit and have total assets of Rs. 500 crore and above as shown in the last audited balance sheet would not be eligible for listing on BSE SME platform.

SEBI Corner

SYNOPSIS OF MAIN BOARD IPO

1. Power Mech Projects Ltd

Eligibility Criteria	Regulation 26(1) of ICDR
Issue Period	Aug 7, 2015 - Aug 11, 2015
Issue Type	Fresh issue and Offer For Sale
Issue Price	Rs. 640 Per Equity Share
Issue Size	4,269,000 Equity Shares of Rs 640 each i.e Rs. 273.22 Crore
Price Band	Rs. 615 - Rs. 640 Per Equity Share
Market Lot	20 Shares
Listing At	BSE, NSE
Business	Power Mech Projects Ltd is one of the leading integrated power infrastructure services companies in India. The Company involves in following business: <ol style="list-style-type: none"> Erection Works; Operation & Maintenance (O&M) Services; Civil Works.
Book Running Lead Manager	IIFL Holdings Limited Kotak Mahindra Capital Company Limited Motilal Oswal Investment Advisors Private Limited
Objects of the issue	The object of the issue are: <ol style="list-style-type: none"> Repayment/pre-payment/advance payment of loans; Funding working capital requirements; General corporate purposes.

2. Navkar Corporation Ltd

Eligibility Criteria	Regulation 26(1) of ICDR
Issue Period	Aug 24, 2015 - Aug 26, 2015
Issue Type	Fresh issue and Offer For Sale
Issue Price	Rs. 155 Per Equity Share
Issue Size	Rs. 600.00 Crore
Price Band	Rs. 147 - Rs. 155 Per Equity Share
Market Lot	95 Shares
Listing At	BSE, NSE
Business	The Company is CFS operator in India with three CFSs, Ajivali CFS I and Ajivali CFS II at Ajivali and Somathane CFS at Somathane, which are strategically located in Panvel, Maharashtra.
Book Running Lead Manager	Axis Capital Limited Edelweiss Financial Services Limited SBI Capital Markets Limited
Objects of the issue	The object of the issue are: <ol style="list-style-type: none"> Capacity enhancement of the Somathane CFS; Development of the non-notified areas of our CFSs; Establishment of a logistics park at Valsad (near Vapi)

3. Pennar Engineered Building Systems Ltd

Eligibility Criteria	Regulation 26(1) of ICDR
Issue Period	Aug 25, 2015 - Aug 27, 2015
Issue Type	Fresh issue and Offer For Sale
Issue Price	Rs. 178 Per Equity Share
Issue Size	Rs. 156.20 Crore
Price Band	Rs. 170 - Rs. 178 Per Equity Share
Market Lot	80 Shares
Listing At	BSE, NSE
Business	The Company is engaged in the business of custom designed building systems solutions. Company's products and services include pre-engineered buildings, design and engineering services, solar module mounting structures, cold form buildings and structural steel products which are widely used for various manufacturing, warehousing, industrial, infrastructure and custom designed commercial buildings. Pennar Engineered Building Systems Ltd is a subsidiary of Pennar Industries, the manufacturer of engineering products.
Book Running Lead Manager	Axis Capital Limited Karvy Investor Services Limited Motilal Oswal Investment Advisors Private Limited
Objects of the issue	The object of the issue are: <ul style="list-style-type: none"> a. Repayment/ prepayment, in full or part, of certain working capital facilities availed by the Company b. Financing the procurement of infrastructure (including software and hardware) for the expansion of its design and engineering services c. General corporate purposes

4. Shree Pushkar Chemicals and Fertilisers Ltd

Eligibility Criteria	Regulation 26(1) of ICDR
Issue Period	Aug 25, 2015 - Aug 27, 2015
Issue Type	Fresh issue and Offer For Sale
Issue Price	Rs. 65 Per Equity Share
Issue Size	Rs. 70 Crore
Price Band	Rs. 61-65 Per Equity Share
Market Lot	200 Shares
Listing At	BSE, NSE
Business	The Company is the manufacturer of widest range of dye intermediates in India with zero waste. Company has a manufacturing facilities located at LoteParshuram, Maharashtra. The Company is also amongst India's large manufacturers of K-Acid, a dye intermediate used to manufacture Reactive Dyes for dyeing of textiles, with an installed capacity of 960 MTPA.
Book Running Lead Manager	Keynote Corporate Services Ltd
Objects of the issue	The object of the issue are: <ul style="list-style-type: none"> a. Acquisition of an existing factory within MIDC Industrial Area Lote-Parshuram bearing no. B-97 b. Setting up of facilities at B-97 c. Setting up of additional effluent treatment plant at the existing facility (Unit I) to make the unit a 'Zero Discharge' unit. d. Construction of additional Godown(s) at the existing facility (Unit II) for meeting the additional storage requirements for finished goods. e. General corporate purposes; and f. To meet the preliminary & pre-operative and Issue expenses.

5. Prabhat Dairy Limited

Eligibility Criteria	Regulation 26(1) of ICDR
Issue Period	August 28, 2015 – September 4, 2015 (issue closure date extended upto 04 September, 2015.)
Issue Type	Fresh Issue & Offer for sale
Issue Price	Rs. 115 Per Equity Share
Issue Size	Rs. 520 Crore
Price Band	Rs. 115 - Rs. 126 Per Equity Share Note: Post issue modification date has been revised to 05 September, 2015. Price band has been revised from 140/- to Rs. 147/- To Rs. 115/- to Rs. 126/- per share
Market Lot Listing At	102 Shares BSE, NSE
Business	The Company is the manufacturer of widest range of dye intermediates in India with zero waste. Company has a manufacturing facilities located at Lote Parshuram, Maharashtra. The Company is also amongst India's large manufacturers of K-Acid, a dye intermediate used to manufacture Reactive Dyes for dyeing of textiles, with an installed capacity of 960 MTPA.
Book Running Lead Manager	Edelweiss Financial Services Limited SBI Capital Markets Limited Macquarie India Advisory Services Private Limited
Objects of the issue	The object of the issue are: a. Part pre-payment of loans availed by the company and its wholly owned subsidiary, SAIPL; b. To meet capital expenditure; and c. General corporate purposes. expenses.

SYNOPSIS OF SME IPO

1. H. K. Trade International Limited (HKTIL)

Issue Period	Aug 31, 2015 - Sep 3, 2015
Issue Price	Rs. 18 Per Equity Share
Issue Size	12,72,000 Equity Shares of Rs 18 each i.e. Rs. 2.29 Crores
Market Lot Listing At	8,000 Shares BSE SME
Business	HKTIL is engaged into the business of manufacturing and supplying of adhesive tapes and synthetic paper (teslin papers) from jumbo rolls of adhesive tapes and synthetic paper (teslin) respectively. It operates as an important intermediary in the packing material supply chain, whereby the company purchases materials such as tapes, labels, papers, etc., in the roll form which is further cut and repacked into smaller rolls.
Book Running Lead Manager	Intensive Fiscal Services Private Limited
Objects of the issue	The object of the issue are: 1. To meet long-term working capital requirement; 2. To meet General Corporate expenses; 3. To meet Public Issue Expenses

2. Universal Autofoundry Limited (UAL)

Issue Period	Aug 19, 2015 - Aug 21, 2015
Issue Price	Rs. 15 Per Equity Share
Issue Size	2,160,000 Equity Shares of Rs. 15 each i.e. Rs. 3.24 Crores
Market Lot	8,000 Shares
Listing At	BSE SME
Business	Incorporated in 1971, UAL is engaged in the manufacturing of Iron Castings. The Jaipur, Rajasthan based company manufacture castings components in Grey Iron and S.G. (Ductile) Iron, primarily for automotive sector. Castings are supplied in Machined, Semi Machined and as cast condition with surface treatment as per customer's need. Suspension Brackets, Differential housing, Hubs, Brake drum, Flywheels, Adjuster Nuts, Pulleys, Dampers, etc. are some of the items that find application in the commercial vehicle and engineering industry.
Book Running Lead Manager	Hem Securities Limited
Objects of the issue	The object of the issue are: <ol style="list-style-type: none"> 1. Expansion of Manufacturing Facilities; 2. General Corporate Purpose; 3. To Meet the Issue Expenses

3. Oyeeee Media Ltd. (OML)

Issue Period	Aug 13, 2015 - Aug 19, 2015
Issue Price	Rs. 40 Per Equity Share
Issue Size	3,975,000 Equity Shares of Rs. 40 each i.e. Rs. 15.90 Crores
Market Lot	3,000 Shares
Listing At	BSE SME
Business	Incorporated in 2008, OML is an in-house production division which focuses dedicatedly on development and production of reality show, docusoap& docudramas. It is engaged in providing the most comprehensive range of solutions for corporate as well as private event management and media production needs. OML plan and stage events at national and international levels to suit clients specific needs. Oyeeee Media is one-stop-shop for all event management and media production requirements for the desiring clients.
Book Running Lead Manager	First Overseas Capital Limited
Objects of the issue	The object of the issue are: <ol style="list-style-type: none"> 1. To finance the production of television serials and organizing events; 2. To finance the estimated expenditure of production small budget feature film; 3. Development and Acquisition of contents; 4. Brand Building; 5. General Corporate Expenses; <p>To meet the expenses of the Issue.</p>

Employees/Professional Corner

SERVICE TAX

Detailed Manual Scrutiny of Service Tax Returns (ST-3)

CBEC vide Circular No. 185/4/2015-ST dated June 30, 2015 has revised the erstwhile prescribed procedure for carrying out detailed scrutiny of service tax returns laid down vide Circular No. 113/07/2009-ST dated 23-4-2009. With the introduction of the Point of Taxation Rules, 2011, which shifted the liability of payment of service tax from receipt basis to accrual basis and the advent of negative list-based comprehensive taxation of services in 2012, the need for revision became persistent. Therefore the detailed scrutiny of ST-3 returns would be carried out in the prescribed manner with effect from August 01, 2015.

In order to put in place a strong 'return scrutiny' system, a two way system of return scrutiny was envisaged: i) a preliminary scrutiny which would be online covering all the returns and ii) a detailed manual scrutiny of scrutiny returns, identified on the basis of risk parameters, to be done by the Division/ Range offices and should be carried out in the manner outlined in the Circular, illustrated as below:

1) Preliminary Online Scrutiny

The purpose is to ensure the completeness of the information furnished in the return, arithmetic correctness of the amount computed as tax and its timely payment, timely submission of the return and identification of non-filers and stop-filers. On the basis of validation checks returns having certain errors are marked for Review and Correction (RnC).

2) Detailed manual scrutiny

The purpose is to ensure the correctness of the assessment made by the assessee and this includes checking the taxability of the service and the correctness of the value of taxable services. In doing this Proper Officer must rely mainly on assessment related documents like agreements/ contracts and invoices. Detailed financial records should not be called for in a routine manner. A detailed scrutiny programme typically supplements the audit programme.

3) Selection of returns for detailed scrutiny

Core focus would be in respect of such assesses whose total tax paid (Cash + CENVAT) for the FY 2014-15 is below Rs. 50 lakh. Each Commissionerate has to select equal number of assesses for carrying out returns scrutiny from each of the these 3 (Three) total tax paid bands (Cash + CENVAT) viz. Less than Rs. 10 lakh, Rs. 10-25 lakh, Rs. 25-50 lakh for the financial year 2014-15.

4) Methodology

Detailed scrutiny of returns must be conducted by the Service Tax Range headed by the Superintendent and assisted by a complement of inspectors. However, the Divisional DC/AC shall be responsible for the overall supervision of this business process in respect of his/her division. Before return scrutiny is initiated, the assessee must be given prior intimation of at least 15 (Fifteen) days and the purpose of the exercise must be spelt out in an intimation letter. To begin with, the returns for the financial year 2013-14 should be taken up for detailed scrutiny. One of the important objectives of return scrutiny is to ensure validation of the information furnished in the self-assessed ST-3 return. The Validation exercise would require reconciling information furnished in the ST-3 return with ITR Form Nos. 4, 5, 6 and 26AS and any third party information made available. A checklist has been prepared for carrying out detailed manual scrutiny which has been categorized as under:

- Reconciliation for validation of the information furnished in the ST-3 return;
- Taxability in respect of services which may have escaped assessment;
- Classification (for the purposes of due availment of abatement/exemption benefit);
- Valuation; and CENVAT Credit availment/utilization.

5) Documentation of Findings

An Observation sheet should be prepared to document the findings flowing from the scrutiny effort. The scrutiny officer must record his findings under each of the subject of the checklist namely reconciliation, taxability, classification, valuation and CENVAT credit. All scrutiny findings in a month must be discussed in a Monthly Scrutiny Monitoring Committee Meeting where each Range should present their scrutiny findings in the form of a Scrutiny Report.

This circular also provides for Proforma of Intimation Letter, Assessee Master Information, Checklist, Observation sheet for documenting scrutiny findings, Scrutiny Report, Monthly MIS Report and Draft Scrutiny Report for the abovementioned purpose.

CA. Goutam Seal
Chief Financial Officer

COMPARATIVE ANALYSIS OF COMPANIES

(AMENDMENT) ACT, 2015 WITH COMPANIES ACT, 2013.

Companies (Amendment) Bill, 2014 had been passed by the Lok Sabha on December 17, 2014, by Rajyasabha on May 13, 2015, received the president assent on May 25, 2015 and published in the Official Gazette of India on May 26, 2015.

The Companies (Amendment) Act, 2015 shall come into force w.e.f May 26, 2015, although MCA issued notification that the provision of section 1 to 12 and 15 to 23 of the Companies Act, 2015 shall come into force w.e.f May 29, 2015.

S.N.	SECTION/SUB-SECTION OF COMPANIES ACT,2013	PROVISIONS OF COMPANIES ACT,2013	PROVISIONS OF COMPANIES (Amendment) ACT,2015	REMARKS/IMPORTANT POINTS
1.	Section 2(68)	"Private company" means a company having a minimum paid-up share capital of one lakh rupees or such higher paid-up share capital as may be prescribed.	The Minimum Paid up capital criteria has been omitted. Now, a "Private company" means a company having a minimum paid-up share capital as may be prescribed.	Now for a private company there is no requirement of minimum paid up share capital of Rs. 100,000/-
2.	Section 2(71)(b)	"Public company" means a company which has a minimum paid-up share capital of five lakh rupees or such higher paid-up capital, as may be prescribed.	The Minimum Paid up capital criteria has been omitted. Now, a "Public company" means a company which has a minimum paid-up share capital, as may be rescribed.	Now for a public company there is no requirement of minimum paid up share capital of Rs. 500,000/-
3.	Section 9	Common seal is necessary to acquire, hold and dispose of property, movable and immovable, tangible and intangible, to contract and to sue and be sued, by the said name.	The word common seal appear in the section 9 shall be omitted. Hence Common Seal is no more mandatorily required.	Common seal has become optional.
4.	Section 11	For commencement of Business a declaration is required to be file with ROC that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him.	No need to file any Declaration.	Section 11 of Companies Act, 2013 is omitted
5.	Section 12(3)(b)	Every company shall have its name engraved in legible characters on its seal (Common seal)	its name engraved in legible characters on its seal, if any.	become optional.

6.	Section 22(2)	A company may, by writing under its common seal, authorise any person, either generally or in respect of any specified matters, as its attorney to execute other deeds on its behalf in any place either in or outside India.	<p>A company may, by writing under its common seal, if any, authorise any person, either generally or in respect of any specified matters, as its attorney to execute other deeds on its behalf in any place either in or outside India. Insertion of new proviso:</p> <p>Provided that in case a company does not have a common seal, the authorisation under this sub-section shall be made by two directors or by a director and the Company Secretary, wherever the Company has appointed a Company Secretary.</p>	
7.	Section 22(3)	A deed signed by such an attorney on behalf of the company and under his seal shall bind the company and have the effect as if it were made under its common seal.	For the word "have the effect as if it were made under its common seal" took place under section 22(3) shall be omitted.	Now a deed signed on behalf of the Company shall bind even if no Common Seal of the Company is embossed.
8.	Section 46(1)	A certificate, issued under the common seal of the company, specifying the shares held by any person, shall be prima facie evidence of the title of the person to such shares.	A certificate issued under the common seal, if any, of the Company or signed by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary, specifying the shares held by any person, shall be prima facie evidence of the title of the person to such shares.	
9.	Section 76A	Section 76A was not under the Companies Act, 2013	<p>(Language of section 76A is given at the end)</p> <p>If a company makes any default in repayment of deposits or any interest due thereon, the Company shall liable to pay additional fine which may extend to upto 10 crores rupees.</p>	This section is newly inserted which makes the deposit rules more strict.

			<p>and</p> <p>Every officer who is in default shall be punishable with imprisonment which may extend to seven years or fine which may extend to two crore rupees, or both.</p>	
10.	Section 117(3)(g)	Inspection of MGT-14 filed by companies was allowed.	<p>The word "and" at the end of section 117(3)(g) shall be omitted.</p> <p>After clause g of sub-section 3 of section 117 the following proviso shall be inserted, namely;</p> <p>"Provided that no person shall be entitled under section 399 to inspect or obtain copies of such resolutions."</p>	Public can't inspect form MGT-14 filed for against the section 179(3).
11.	Section 123(1)	No provision was regarding setting off of previous year losses and depreciation for declaration of dividend.	<p>After the third proviso of section 123(1), the following proviso shall be inserted:</p> <p>"Provided also that no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year."</p>	A company cannot declare dividend unless previous years losses and depreciation is set off.
12.	Section 124(6)	All shares in respect of which unpaid or unclaimed dividend has been transferred under sub-section 5 of section 123 shall also be transferred by the company in the name of Investor Education and protection Fund.	<p>All shares in respect of which dividend has not been paid or claimed for seven consecutive years or more shall be transferred by the company in the name of Investor Education and protection Fund.</p> <p>After the proviso, the following explanation shall be inserted, namely:—</p> <p>"Explanation.— In case any dividend is paid or claimed for any year during the said period of seven consecutive years, the share shall not be transferred to Investor Education and Protection Fund.</p>	

13.	Section 134(3) (ca)	Earlier Not was under the Act.	Insertion of new clause after clause c of sub-section 3 of section 134: “(ca) details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government;”	Now the Board in its report has to disclose any fraud as reported by the auditor under Section 143 (12) other than those reported to Central Government
14.	Section 143(12)	If an auditor during his audit period has reason to believe that an offence involving fraud is being or has been committed against the company by officers or employee of the Company, he shall immediately report the matter to the Central Government within such time and in such manner as may be prescribed (under rule 12 of the Companies [Audit & Auditors] Rules, 2014).	Notwithstanding anything contained in this section, if any auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the central government within such time and in such manner as may be prescribed: Provided that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases within such time and in such manner as may be prescribed: Provided further that the companies, whose auditors have reported frauds under subsection 12 to the Audit Committee or the Board but not to report to the Central Government, shall disclosed details about such frauds in the Board Report in such manner as may be prescribed.	
15.	Section 177(4)(iv)	Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall inter alia, include: approval or any subsequent modification of transaction of the Company with Related Party	Insertion of new proviso after section 177(4)(iv): “Provided that the Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to such conditions as may be prescribed.”	With insertion of this proviso a Company can take several approvals for related party transactions under one resolution.

16.	Section 185(1) (c) and (d)	Earlier Not was under the Act.	<p>Section 185(1)(c):</p> <p>"any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company."</p> <p>any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company:</p> <p>Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities.</p>	<p>Loan made by made holding company to its wholly owned subsidiary is exempted from the purview of section 185,</p> <p>Provided such loan are utilised by subsidiary for its principal business activities.</p>
17.	First proviso to Section 188(1)	<p>First proviso:</p> <p>Provided that no contract or arrangement, in the case of a company having a paid up share capital of Rs. Crore or more or transaction exceeding the sums prescribed under rule 15 of the Companies (Meeting of Board and it powers) Rules, 2014, shall be entered into except with the prior approval of the shareholders by passing of special resolution.</p> <p>Second proviso:</p> <p>Provided further that no member of the Company shall vote on such special resolution, to approve any contract or arrangement which may b e entered into by the company, if such member is a related party.</p>	<p>For the words "special resolution", where they occur in the left hand side, the word "resolution" shall be substituted. This means a company can enter into related party transaction by passing an Ordinary Resolution instead of Special Resolution earlier.</p>	<p>Now for entering into contract or arrangement, in the case of a company having a paid up share capital of Rs. Crore or more or transaction exceeding the sums prescribed under rule 15 of the Companies (Meeting of Board and it powers) Rules, 2014, Ordinary Resolution will suffice.</p>

18.	Fourth proviso to section 188(1)	Not was earlier in the act	<p>Insertion of new proviso after the third proviso of section 188(1):</p> <p>Provided also that the requirement of passing the "resolution" under first proviso of section 188(1) shall not be applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the</p> <p>Shareholders at the general meeting for approval.</p>	Requirement of passing the ordinary resolution will not be required in case of a transaction entered into between holding company and its wholly owned subsidiary provided the their accounts are consolidated.
19.	Section 188(1)(3)	Any contract or arrangement entered into by the director or employee, without obtaining the consent of the Board or approval of the shareholder by way of special resolution in the general meeting under sub-section 1 of section 188 and if it not ratified by the board or shareholder as the case may be at a meeting within 3 month from the date when the contract or arrangement was entered, such contract or arrangement shall be voidable at the option of the board.	Now for entering into the transaction as specified in the left hand side "ordinary resolution" will be require.	No more special resolution will be require for entering into transaction by the persons specified in the section 188(3).
20.	Section 223(4)(a)	<p>The report of any inspector appointed under the chapter XIV of the Companies Act, 2013 i.e. Inspection, Enquiry and investigation:</p> <p>The report of any inspector appointed under this chapter shall be authenticated either-</p> <p>a) by the seal of the Company whose affairs have been investigated; or</p> <p>by a certificate of a public officer having a custody of the report, as provided under section 76 of the Indian Evidence Act, 1872.</p>	For the words appeared in the left hand side "by the seal", the words "by the seal, if any," shall be substituted.	Common seal has become optional.

21.	Section 248(1)(a)	Where the Registrar (RoC) has reasonable cause to believe that- "a company has failed to commence its business within one year of its incorporation."	After the word 'incorporation' take place in the left hand side, the word 'or' shall be inserted	
22.	Section 248(1)(b)	Where the Registrar (RoC) has reasonable cause to believe that- "the subscriber to the memorandum have not the subscription they had undertaken to pay within a period of one hundred and eighty days from the date of incorporation of a company and a declaration under sub-section 1 of section 11 to this effect has not been filled within one hundred and eighty days of its incorporation	Omission of clause b of sub-section 1 of section 248.	Requirement of passing the ordinary resolution will not be required in case of a transaction entered into between holding company and its wholly owned subsidiary provided the their accounts are consolidated.
23.	Section 419(4)	The president shall, for the purpose of any case relating to rehabilitation, restructuring, reviving or winding up, of companies, constitute one or more special benches consisting of three or more members, majority necessarily being of judicial members.	The word "winding up" in the Section shall be omitted.	
24.	Section 435(1)	The Central Govt. may for the purpose of providing speedy (Trial of offences under this Act), established or designate as many Special Courts as may be necessary.	For the Words "Trial of Offences under This Act", The words "Trial of offences punishable under this Act with imprisonment with 2 years or more" is substituted. After Sub Clause (1) the following proviso is inserted: "Provided that all other offences shall be tried, as the case may be by a metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction to try any offence under this Act or under any pervious company law."	

25.	Section 436(1)(a)	<p>All offences under this Act shall be triable only by the Special Court established or designated for the area in which the registered office of the Company in relation to which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.</p>	<p>For the words "all offences under this Act", the word "all offences specified under Sub-section (1) of section 435" shall be substituted.</p>	
26	Section 462	<p>Subsection (2, 3 and 4 of Section 462) shall be substituted.</p>	<p>Section 462(2):</p> <p>A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days, and if, both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.</p> <p>Section 462(3):</p> <p>In reckoning any such period of thirty days as is referred to in sub-section (2), no account shall be taken of any period during which the House referred to in subsection (2) is prorogued or adjourned for more than four consecutive days.</p> <p>Section 462(4):</p> <p>The copies of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament.</p>	

"76A. Punishment for contravention of section 73 or section 76

Where a company accepts or invites or allows or causes any other person to accept or invite on its behalf any deposit in contravention of the manner or the conditions prescribed under section 73 or section 76 or rules made thereunder or if a company fails to repay the deposit or part thereof or any interest due thereon within the time specified under section 73 or section 76 or rules made thereunder or such further time as may be allowed by the Tribunal under section 73,—

(a) the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees but which may extend to ten crore rupees; and

(b) every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both:

Provided that if it is proved that the officer of the company who is in default, has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or depositors or creditors or tax authorities, he shall be liable for action under section 447."

CS Manohar Mishra

Executive

POLITICAL UPDATE

Is OROP a fiscal burden?

"Despite the huge fiscal burden, given its commitment to the welfare of ex-servicemen, government has decided to implement OROP" - these were the remarks of the Honourable Minister, Mr. Parrikar while announcing the 'One Rank, One Pension' for the army personnel. Is it really a burden on the economy? Well, only the future will answer that.

Before coming to any conclusion, we must first understand what is OROP and the need for implementing it. Rank and prestige matters a lot for the armed forces, it plays a critical role. Therefore, a General who retires in 1980 after 30 years of service should not draw a lesser pension when compared to a Major who retires in 2015 after a 20 years of service. Unfortunately, this is the situation where a General who served the country longer at a higher rank receive lesser pension just because he retired much earlier. This is totally unreasonable and unethical when we take both the Time Value of Money and the Rank of Service. Moreover, when we consider the fact that army-men who retires early at their mid-age are left with lesser options to find a career in some other field, 'One Rank, One Pension' would act as a bridge and would allow retiring army-men to receive equal pension for servicing the army for same number of years at same rank. Then what is the glitch? The glitch is that it requires a lot of money, Rs. 8,000 to 10,000 crores which can adversely impact the balance of the economy.

The current year fiscal deficit has been set at 3.9% of the GDP, primarily due to lower spending (on account of savings on fuel and fertilizer subsidies this year) as well as higher indirect taxes (relative to the budget target).

It is unlikely that the above target is going to get affected due to the implementation of OROP and its impact on the financials to the tune of around Rs. 10,000 crores. However, the scheme is being implemented retrospectively i.e. from July 01, 2014 with arrears to be paid in four half-yearly installments, with pension retired every five year. Therefore, there could be situation that we may get a revised fiscal deficit figures, but it is worth mentioning that going by the Government estimates the one-off hit due to arrears is likely to be around 0.1% of GDP in FY16.

Implementation of One Rank One Pension was long due and its implementation was inevitable given the political mandate the current government has got especially when it featured as one of the major promises during the run up to the general election in 2014. It wouldn't have been a burden had it been implemented on time, therefore it was now or never that OROP is implemented. The current macro features like the fall in crude prices and a favorable fiscal deficit numbers were instrumental in justifying the need for implementing OROP now.

Vishnu Agarwal

President-Merchant Banking

Disclaimer

This Publication does not constitute any professional advice. The information in this publication has been obtained or derived from sources believed by Gretex Corporate Services Private Limited (GRETEX) to be reliable but GRETEX does not represent that this information is accurate or complete. Any opinions or estimates contained in the publication represent the judgment of GRETEX at this time and are subject to change without notice. Readers of this publication are advised to seek their own professional advice before taking any course of action or decision, for which they are entirely responsible, based on the contents of this publication. GRETEX neither accepts nor assumes any responsibility or liability to any reader of this publication in respect of the information contained within it, or for any decision readers may take or decide not to or fail to take.

Feedback Form

Your Name & Position: _____

Organization Name: _____

Organization Address: _____

Contact Number: _____

E Mail Address: _____

Observation / Comment: _____

Any recommendations (to any person): _____

Please write your feedback to :

GRETEX CORPORATE SERVICES PRIVATE LIMITED

19B, B.B Ganguly Street, 2nd Floor, West Bengal, Kolkata -700 012, INDIA.

Tel: 8820221999, Telefax.: +91-033-22369295

Email: info@gretexgroup.com, www.gretexcorporate.com

Our Clients



Sar Auto products Ltd



Axtel Industries Ltd



Neil Industries Ltd



Anubhav Infrastructure Ltd



Palco Metals Ltd



Roxy Exports



Arfin India Ltd



Hindustan Safety Glass Industries Limited

Salem Erode Investments Ltd.

Umang Commercial Company Ltd.

Tine – Valley Tuticorin Investments Ltd.

Birla Group Holdings Private Limited.

PH Trading Ltd.

Kome - On Communication Ltd.

Our Services

CORPORATE COUNSELLING

LOAN SYNDICATION

MANAGERS TO ISSUE

UNDERWRITING

ADVISING ON MERGERS/TAKEOVERS

ARRANGING OFF-SHORE FINANCING

CORPORATE RESTRUCTURING

ISSUE MANAGEMENT

Our Strengths

INNOVATIVE
ANALYSIS

INTEGRITY

EXPERTISE
TEAM

ABILITY TO
PROVIDE
OUT OF BOX
SOLUTIONS
TO COMPLEX
BUSINESS
NEEDS

CAPITAL
MARKET
FAMILIARITY

VAST
NETWORKING