



Monthly GAAP Bulletin

September 2021



Introduction

Dear reader,

Grant Thornton Bharat is delighted to present the Monthly GAAP Bulletin, a publication that summarises significant accounting, auditing and related updates. This publication has been compiled to meet the needs of dynamic Indian businesses and focuses on the key developments in India and across the globe.

To access the source of information and complete details, you can click the hyperlinked text below each update. We would be pleased to receive your valuable feedback. Please write to us at npsg@in.gt.com with your comments, questions or suggestions. This edition covers updates for August 2021. Following is the index of updates:



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B. India updates -Proposed

a. Accounting updates

1. Reserve Bank of India (Financial Statements - Presentation and Disclosures) Directions, 2021

Reserve Bank of India (RBI) has, from time to time, issued several guidelines/ instructions/clarifications to the banks on presentation of financial statements, compliance with accounting standards and disclosures in notes to accounts. RBI has now, issued 'Master Direction on Financial Statements-Presentation and Disclosures' that consolidates all such guidelines/instructions/directives on the presentation of financial statements regulatory clarification on compliance with accounting standards, and disclosures in notes to accounts at one place

These master directions are issued to update and, where required, harmonise the directions on the subject. In addition to these directions, commercial banks will also be required to comply with the disclosures specified under the applicable regulatory capital framework. These master directors are applicable to:

- All banking companies (includes foreign banks, local area banks, small finance banks, payment banks), corresponding new banks, regional rural banks and the State Bank of India,
- Urban cooperative banks

These master directions include provisions in respect of the following:

- Format of the Balance Sheet and Profit and Loss
 Account
- · Notes and instructions for compilation
- Disclosure in financial statements: notes to accounts
- Consolidated financial statements
- Other instructions
- Repeal and other provisions: With the issue of these master directions, instructions/guidelines contained in the circulars issued by the RBI earlier on the subject matter stand repealed, list of which is annexed to these master directions.

These master directions are effective from 30 August 2021 (i.e., date when these are published on official website of the RBI's website).

Click here for master directions.

2. Clarification on accounting treatment of compensation of private bank's top officials

RBI vide its notification dated 30 August 2021 has issued a clarification on compensation of whole time directors (WTD)/chief executive officers (CEO)/ material risk takers and control function staff of banks.

As per the clarification, the fair value of the sharelinked incentives paid to the aforesaid officers by private banks should be recognised as an expense beginning with the accounting period for which approval has been granted. This amendment has been done for better clarity as it was observed that certain banks do not recognise grant of share-based compensation as an expense in their books of account concurrently.

The above clarification is applicable to all banks, including local area banks, small finance banks and foreign banks for all share-linked instruments granted after the accounting period ending 31 March 2021.

Click here for clarification.

b. Regulatory updates Companies Act updates

1. Companies (Registration of Foreign Companies) Amendment Rules, 2021

Section 2(42) of the Companies Act, 2013 (2013 Act) defines 'Foreign Company' as any company or body corporate incorporated outside India which:

- has a place of business in India whether by itself or through an agent, physically or through electronic mode; and
- conducts any business activity in India in any other manner.

The term 'electronic mode' for the purpose has been defined under rule 2(1)(h) of the Companies (Specification of definitions details) Rules, 2014 and under rule 2(1)(c) of the Companies (Registration of Foreign Companies) Rules, 2014, respectively, as follows:

Electronic mode means carrying out electronically based, whether main server is installed in India or not, including, but not limited to:

 business to business and business to consumer transactions, data interchange and other digital supply transactions;

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- offering to accept deposits or inviting deposits or accepting deposits or subscriptions in securities, in India or from citizens of India;
- financial settlements, web-based marketing, advisory and transactional services, database services and products, supply chain management;
- online services such as telemarketing, telecommuting, telemedicine, education and information research; and
- · all related data communication services.

whether conducted by e-mail, mobile devices, social media, cloud computing, document management, voice or data transmission or otherwise.

Ministry of Corporate Affairs (MCA), vide its notifications dated 5 August 2021, has introduced an explanation for the purpose of above-mentioned clause that, 'electronic-based offering of securities, subscription thereof or listing of securities in the International Financial Services Centres (IFSC) set up under section 18 of the Special Economic Zones Act, 2005' will not be construed as 'electronic mode' for the purpose of section 2(42) of the 2013 Act.

Accordingly, companies subscribing to such offerings will not be classified as 'foreign company' under the Act and shall be exempt from any consequential compliances under the 2013 Act. This amendment has come into force from 5 August 2021 (i.e., date of its publication in the Official Gazette).

Click here for Companies (Registration of Foreign Companies) Amendment Rules, 2021.

Click here for Companies (Specification of definitions details) Third Amendment Rules, 2021.

2. Exemption from applicability of provisions of Sections 387 to 392 of Companies Act, 2013

MCA, vide its notification dated 5 August 2021, has exempted the following from the provisions of sections 387 to 392 (both inclusive) of Companies Act, 2013:

- · foreign companies
- companies incorporated or to be incorporated outside India, whether the company has or has not established, or when formed may or may not establish, a place of business in India

insofar as they relate to offering for subscription in the securities, requirements related to the prospectus, and all matters incidental thereto in the International Financial Services Centres set up under Section 18 of the Special Economic Zones Act, 2005.

Click here for notification.

3. Frequently Asked Questions (FAQs) on Corporate Social Responsibility

MCA vide its circular dated 25 August 2021, issued updated FAQs on Corporate Social Responsibility (CSR) for better understanding and facilitating effective implementation of CSR. With the issue of these updated FAQs, earlier issued clarifications and FAQs stand withdrawn on the subject matter.

These updated FAQs are categorised under the following headings:

- Applicability of CSR
- CSR framework
- CSR expenditure
- CSR activities
- CSR implementation
- Ongoing project
- Treatment of unspent CSR amount
- · CSR enforcement
- Impact assessment
- · CSR reporting and disclosure
- Click here for circular.



B. India updates -Proposed

SEBI updates

4. Experienced professionals can become independent directors without proficiency test

MCA, vide its notification dated 19 August 2021, has issued Companies (Appointment and Qualification of Directors) Amendment Rules, 2021 introducing amendment in Rule 6- 'Compliances required by a person eligible and willing to be appointed as an independent director' of Companies (Appointment and Qualification of Directors) Rules, 2014.

These amended rules, inter alia, provide that an advocate of a court, practicing chartered accountants, practicing cost accountants and practicing company secretaries who are or have been, in practice for at least ten years, will not be required to pass the online proficiency self-assessment test for inclusion of their name in databank maintained by Indian Institute of Corporate Affairs (notified under Section 150(1) of the 2013 Act) of willing and eligible persons.

These amended rules have come into force on 19 August 2021 (i.e., date of publication of notification in the Official Gazette).

Click here for the notification.

1. Amendments/ modifications to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations)

SEBI (LODR) (Third Amendment) Regulations, 2021

SEBI vide its notification dated 3 August 2021 has issued SEBI (Listing Obligations and Disclosure Requirements) (Third Amendment) Regulations, 2021 (third amended regulations) which, inter alia, provide the following:

- Every listed entity should ensure that approval of shareholders for appointment of a person on the Board of Directors is taken at the next general meeting or within a time period of three months from the date of appointment, whichever is earlier.
- Related party transactions shall be approved by only those members of the audit committee, who are independent directors.
- Appointment, re-appointment or removal of an independent director of a listed entity, shall be subject to the approval of shareholders by way of a special resolution.

 If any independent director resigns from a listed entity, he/she shall not be appointed as an executive/whole time director on the board of the listed entity, its holding, subsidiary or associate company or on the board of a company belonging to its promoter group, unless a period of one year has passed from the date of resignation as an independent director.

These third amended regulations have come into force on 3 August 2021 (i.e. date of its publication in Official Gazette).

Click here for third amended regulations.

SEBI (LODR) (Fourth Amendment) Regulations, 2021

SEBI vide its circular dated 13 August 2021 has issued SEBI (Listing Obligations and Disclosure Requirements) (Fourth Amendment) Regulations, 2021 (fourth amended regulations) which, inter alia, omitted the provisions pertaining to issuance of:

- · Listed non-convertible debt securities
- Non-convertible redeemable preference shares
- · Perpetual debt instruments and/or
- Perpetual non-cumulative preference shares.

have been omitted from the current LODR Regulations pursuant to the issuance of a separate set of regulations governing such instruments, namely, SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 (ILNCS Regulations, 2021).

These fourth amended regulations have come into force on 13 August 2021 (i.e. date of its publication in Official Gazette).

Click here for fourth amended regulations.

Disclosure of shareholding pattern of promoter(s) and promoter group entities

Regulation 31(4) of LODR Regulations mandates disclosure by listed entities in a specified format (Table – II), the shareholdings pattern of promoter and promoter group on the website of stock exchanges.

Currently, these are being disclosed collectively in the given format. However, SEBI has now modified the disclosure format and provided that shareholding pattern of respective securities of promoters, promoter group, public shareholders and significant beneficial owners, should be disclosed separately.

Click here for the circular.



B. India updates -Proposed

2. Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021

SEBI vide its circular dated 9 August 2021 has merged SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (ILDS Regulations, 2008) and SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013 (NCRPS Regulations, 2013) and issued SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 (ILNCS) Regulations, 2021.

The ILNCS Regulations, 2021 have been introduced in line with the draft consultation paper issued by SEBI on 19 May 2021. The new framework inter-alia aims to:

- Harmonise provisions of the Companies Act, Rules made thereunder and SEBI Regulations;
- Align various circulars, guidelines issued by SEBI
- Identify policy changes in line with the present market practices for ease of doing business
- Merge all the existing circulars into a single operational circular

The new Regulations come into force with effect from 16 August 2021. Since the erstwhile Regulations came into effect, SEBI had issued multiple circulars covering procedural and operational aspects thereof. Accordingly, SEBI vide its circular dated 10 August 2021 has merged all the requirements into a single operational circular, with consequent changes

Click here for Regulation.

Click here for the Operational circular.

3. Amendment to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations)

Guidelines on issuance of Non-Convertible Debentures (NCDs) with Warrants under ICDR Regulations

Pursuant to SEBI (ILNCS) Regulations, 2021 issued on 9 August 2021, in order to streamline the procedure of issuance and applicability of Electronic Bidding Platform (EBP) mechanism on issue of 'NCDs with Warrants' in terms of Chapter VI – Qualified Institutions Placement of SEBI (ICDR) Regulations.

As per the circular, EBP platform mechanism will be mandatory for 'NCDs portion' of the issue and issuer will be required to comply with the SEBI (ILNCS) Regulations, 2021, and circulars issued there under.

However, the 'Warrants portion' of the issue will be governed by Chapter VI on Qualified Institutions Placement under the ICDR Regulations.

The circular is applicable for all issuance of 'NCDs with Warrants' on or after 13 August 2021.

Click here for the circular.

SEBI (ICDR) (Third Amendment) Regulations, 2021 SEBI vide its notification dated 13 August 2021, has issued SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2021, in line with its decisions taken in the board meeting held on 6 August 2021. The key amendments inter-alia include the following:

- Lock-in period of specified securities held by the promoters have been reduced from "three years from the date of commencement of commercial production or date of allotment in the IPO, whichever is later" to "18 months from the date of allotment in the IPO".
- Lock-in period for the promoters' holding in excess of minimum promoters' contribution has been reduced to six months from the date of allotment in the IPO instead of existing one year.

However, the lock in period will be of three years in case of (a) above and that of one year in case of (b) above, where the majority of the issue proceeds is proposed to be utilised for capital expenditure.

Further, the entire pre-issue capital held by persons other than the promoters shall be locked-in for a period of six months from the date of allotment in the IPO instead of existing one year.

The amendments are effective from 13 August 2021 (i.e., the date of its notification in Official Gazette).

Click here for the notification.

B. India updates -Proposed

4. SEBI introduces 'accredited investors' concept in Indian Securities Market

In a move expected to open up a new channel for raising funds, a person or entity will now be identified as an 'accredited investors' (Als) on the basis of net worth or income. The concept has been introduced through amendments to various SEBI Regulations which inter-alia specifies that individuals, hindu undivided families (HUFs), family trusts, sole proprietorships, partnership firms, trusts and body corporates can get accreditation based on specified financial parameters. The subsidiaries of depositories and stock exchanges will issue accreditation certificate to such investors.

Further, the central as well state governments, funds set up by them, developmental agencies, qualified institutional buyers, Category I Foreign Portfolio Investors, sovereign wealth funds and multilateral agencies will be accredited investors and may not be required to obtain a certificate of accreditation.

Additionally, SEBI, vide its circular dated 26 August 2021, has also issued detailed modalities for implementation of the 'accredited investor framework'.

The framework contains detailed guidelines on eligibility criteria for Als, procedure as well as validation for accreditation, to avail benefits linked to accreditation and flexibility to investors to withdraw their 'consent'.

Click here for SEBI (Portfolio Managers) (Third Amendment) Regulations, 2021.

Click here or SEBI (Foreign Portfolio Investors) (Amendment) Regulations, 2021.

Click here for SEBI (Investment Advisers) Regulations, 2013.

Click here for SEBI (Investment Advisers) (Third Amendment) Regulations, 2021.

Click here for SEBI (Alternative Investment Funds) (Third Amendment) Regulations, 2021.

Click here for SEBI (Alternative Investment Funds) Regulations, 2012.

Click here for circular on modalities for implementation of the framework for 'accredited investors'.

5. SEBI (Mutual Funds) (Second Amendment) Regulations, 2021

SEBI vide its notification dated 5 August 2021 has issued amendments to SEBI (Mutual Fund) Regulations, 1996. The current rule requires an investment of 1 percent of the amount raised in a New Fund Offer (NFO) or an amount of INR 50 lakh, whichever is less by the NFO's asset management company. The amendments inter alia provides that, asset management companies should invest in their own schemes based on its risk associated with the schemes, as may be specified by the Board from time to time. The minimum amount that needs to be invested by the fund houses has been subsequently prescribed vide SEBI's circular dated 2 September 2021, which is based on the risk-o-meter of the immediately preceding month.

Further, Regulation 76 has been substituted, expanding the scope and powers of SEBI to initiate actions in cases of contravention of any provision of the Act or regulations, including forfeiture of the amount invested by an asset management company in any of its schemes as above.

These amendments will come into force from 1 May 2022.

Click here for SEBI notification.

Click here for SEBI circular.

6. SEBI revises minimum number and holding of unit holders for Unlisted Infrastructure Investments Trusts (InvITs)

SEBI vide notification dated 30 July 2021 has reduced the minimum number of unit holders in an InvIT, other than the sponsor(s), its related parties and its associates (all such parties put together shall be treated as a single unit holder), to be 5, together and should be collectively holding at least 25 per cent of the total units of the InvIT at all times. SEBI has now vide its circular dated 4 August 2021 has clarified that registered unlisted InvITs which have already issued units as on the date of this circular will have to comply with the new framework within six months from the date of this circular .

Click <u>here</u> for the SEBI notification dated 30 July 2021.

Click here for SEBI circular dated 4 August 2021.



B. India updates -Proposed

7. Securities and Exchange Board of India (Share Based Employee Benefits and Sweat Equity) Regulations, 2021

SEBI, during its board meeting dated 6 August 2021, discussed about the merger of SEBI (Issue of Sweat Equity) Regulations, 2002 (Sweat Equity Regulations) and SEBI (Share Based Employee Benefits) Regulations, 2014 (SBEB Regulations) into a single regulation called the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.

SEBI has now vide notification dated 13 August 2021, published the Securities and Exchange Board of India (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 in the Official Gazette.

The Regulations are effective from 13 August 2021 (i.e., from the date of its publication in the Official Gazette).

Click here for the regulation.

8. Security and covenant monitoring using Distributed Ledger Technology

During November 2020, SEBI issued a circular to outline the process of independent 'due diligence' by debenture trustee(s) on assets of the issuer company to ensure sufficiency and periodical monitoring of security created; and to ensure enhanced disclosures on the website by debenture trustee(s) on continuous basis.

In order to strengthen the process, SEBI vide its circular dated 13 August 2021 has announced development of a platform for Security and Covenant Monitoring System (system) hosted by depositories.

The system will inter alia capture the process of creation of security (viz. due diligence, charge creation etc.), continuous monitoring of covenants by debenture trustees (as applicable), credit rating of the non-convertible securities by the Credit Rating Agencies (CRAs) etc. The information stored in the system will be cryptographically signed, time stamped and sequentially added to the ledger. It would provide a verifiable audit trail of transactions

The new system will come into effect from 1 April 2022. However, testing of the system will start from 1 January 2022.

Click here for the circular.

9. Amendment to SEBI (Alternative Investment Funds) Regulations, 2012

SEBI has issued Securities and Exchange Board of India (Alternative Investment Funds) (Fourth Amendment) Regulations, 2021 (the AIF Regulations) dated 13 August 2021. Amendments inter-alia include the following:

- Through this amendment, the concepts of 'debt fund', 'investable fund' and 'unit' have been modified.
- Un-invested portion of the investable funds and divestment proceeds pending distribution to investors may be invested in liquid mutual funds or bank deposits or other liquid assets of higher quality, such as treasury bills, triparty repo dealing and settlement, commercial papers, certificates of deposits, etc. till the deployment of funds as per the investment objective or the distribution of the funds to investors as per the terms of the fund documents.

- The minimum investment as provided in Regulation 16(2)(a) has been increased from 2/3rd to 75%.
- The Board may communicate its comments, if any, to the merchant banker prior to launch of the scheme and the merchant banker shall ensure that the comments are incorporated in the placement memorandum prior to launch of the scheme. Amendment in this regulation (Regulation 12) would be applicable from 12 November 2021 (91 days from 13 August 2021).

Amendments to the AIF Regulations, other than (b) above are effective from 13 August 2021 (i.e. the date of its publication in the Official Gazette).

Click here for the notification.



B. India updates -Proposed

10. Amendment to SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

In order to reduce information asymmetry and streamline disclosure requirements, SEBI, vide notification dated 13 August 2021, has issued SEBI (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2021 (the Regulation) omitting the requirements under Regulation 30 for physical submission of aggregate shareholding and voting rights to the stock exchange and the target company's registered office by:

- Every person, who together with persons acting in concert with him, exercise 25% or more of the voting rights in a target company

- The promoter of every target company together with persons acting in concert with him

The concept of 'system driven disclosures' for the said disclosures is already in place and runs parallel with the physical submission of disclosures under the aforesaid Regulations since May 2018.

The amendment shall come into force from 1 April 2022.

Click here for the notification.

Other regulatory updates

1. Updates to Insolvency and Bankruptcy Code, 2016

Insolvency and Bankruptcy Code (Amendment) Act, 2021

The Insolvency and Bankruptcy Code (Amendment) Act, 2021 (Amendment Act 2021) has received the assent of the President of India on 11 August 2021.

With the issue of the Amendment Act 2021, Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021 (IBC ordinance 2021) stands repealed.

Click here for IBC ordinance 2021.

The Amendment Act 2021 inter-alia allows prepackaged insolvency resolution process for corporate debtors classified as micro, small or medium enterprises under the Micro, Small and Medium Enterprises Development Act, 2006.

The Amendment Act 2021 is deemed to have come into force on 4 April 2021.

Click here for Amendment Act 2021.

Income-tax (24th Amendment) Rules, 2021

The Central Board of Direct Taxes (CBDT) on 18 August 2021 amended the Income Tax Rules,1962 to authorise Resolution Professionals (appointed by NCLT) to verify the tax returns filed by the companies undergoing bankruptcy under the aforementioned Code.

The amendment is expected to clarify the role of the Resolution Professional under the Income Tax Act.

Click here for the notification

Handbook on Claims under The Insolvency and Bankruptcy Code, 2016

Committee on Insolvency and Bankruptcy Code of the Institute of Chartered Accountants of India (ICAI) has issued 'Handbook on Claims under The Insolvency and Bankruptcy Code, 2016' (Code) to facilitate understanding of the various provisions related to claims under the Code and about the practical aspects based on case laws. The publication covers various aspects related to claims, model timelines, different forms, frequently asked questions and case laws, etc.

Click here for ICAI Handbook.

B. India updates -Proposed

2. Limited Liability Partnership (Amendment) Act, 2021

The central government of India, vide notification dated 13 August 2021, has published amendments to Limited Liability Partnership Act, 2008 (LLP Amendment Act). The key amendments, inter-alia, include the following:

- · decriminalisation of offences
- introduction of concept of small Limited Liability Partnerships (LLPs)
- · compounding of offences
- establishment of special courts
- introduction of provision that the central government can prescribe standards of accounting and auditing for LLPs, in consultation with the National Financial Reporting Authority and as recommended by the ICAI

Provisions of the LLP Amendment Act will come into force on such dates as the central government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions and any reference in any such provision to the commencement of this LLP Amendment Act will be construed as a reference to the coming into force of that provision.

Click here for LLP Amendment Act.

3. Resolution Framework for COVID-19related stress - Revised timelines for compliance

In September 2020, RBI highlighted the key ratios and their sector specific thresholds to be considered while finalising the resolution plans in respect of eligible borrowers under Resolution Framework for COVID-19 related stress.

While recognising the difficulties, it may pose for the borrowers in meeting the operational parameters, RBI, vide its notification dated 6 August 2021, has decided to defer the target date from 31 March 2022 to 1 October 2022, for meeting the specified thresholds in respect of the four operational parameters, viz. Total Debt, EBIDTA, Current Ratio, Debt Service Coverage Ratio (DSRC) and Adjusted DSCR.

However, the target date for achieving the threshold for ratio of total outside liabilities/adjusted tangible net worth, as crystallised in terms of the resolution plan, will remain unchanged as 31 March 2022.

Click here for RBI notification.

4. Master Direction - Classification, valuation and operation of investment portfolio of commercial banks (Directions), 2021

The RBI has, from time to time, issued several guidelines/instructions/directives to the banks on prudential norms for classification, valuation and operations of investment portfolios by banks.

To enable banks to have all the current guidelines at one place, RBI, vide its notification dated 25 August 2021 has issued the 'Master Direction-Classification, Valuation and Operation of Investment Portfolio of Commercial Banks (Directions), 2021'.

These Master Directions will apply to all commercial banks (excluding RRBs), including small finance banks and payments.

The Master Directions are effective from 25 August 2021.

Click here for the Master Direction.

5. RBI issues Master Directions on Prepaid Payment Instruments, 2021

RBI vide its notification dated 27 August 2021 has issued Master Directions on Prepaid Payment Instruments (PPIs), 2021 keeping in view the recent updates to PPI guidelines.

The new Master Directions, inter-alia revise the classification of PPIs in following two categories:

- Small PPIs: PPIs that can have cash upto ₹10,000 loaded per month, not exceeding ₹1.2 lakh in a year; and
- Full KYC PPIs: PPIs issued by banks and nonbanks after completing Know Your Customer (KYC) of the PPI holder.

The erstwhile master directions used to classify PPIs as closed systems, semi-closed systems and open system PPIs.

Click here for the Master Director.



B. India updates - Proposed

a. Accounting updates

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B. India updates -Proposed

a. Accounting updates

1. Exposure Draft on AS 105, non-current assets held for sale and discontinued operations

The Accounting Standard Board of ICAI is in the process of revising the currently applicable Accounting Standards and has released certain exposure drafts in the past. In furtherance to the initiative, it has now released the Exposure Draft on AS 105, Non-current Assets Held for Sale and Discontinued Operations (the exposure draft) in line with the Indian Accounting Standard (Ind AS) 105, as notified by the MCA in February 2015, and as amended from time to time. The Exposure Draft has also highlighted the major differences between proposed AS 105 and AS 24 (as currently effective).

The proposed Standard will be applicable to entities to whom Ind AS are not applicable.

The last date for submitting the comments was 14 September 2021

Click here for exposure draft.



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