Summary of the Ministry of Finance Notification dated December 10, 2019

Ministry of Finance (Department of Revenue) has notified the Indian Stamp (Collection of Stamp-Duty through Stock Exchanges, Clearing Corporations and Depositories) Rules, 2019 (Rules) by a notification dated December 10, 2019, with effect from January 9, 2020. Set out below is a summary of the Rules:

Collection of stamp duty by the stock exchange or clearing corporation

- The Stamp duty for the sale of securities through the stock exchange (including listed units of a registered pooled arrangement/scheme, and tripartite repo) are to be collected on the settlement date by the stock exchange or the clearing corporation authorized by the stock exchange, from the buyer
- Buyers of option instruments including instruments of zero or near zero premium, are required to clearly identify the premium payable to him on each constituent transaction and report it to the collecting agent
- Stamp duty is to be collected from the Offeror for transactions arising from tender offer, open offer or offer for sale or private placements through the stock exchange, stamp duty, once the offer is successfully completed
- If a transaction is reported to a stock exchange, the stamp duty is payable on the entire sale consideration when the transfer is reported, even if the consideration is paid in part or in instalments to be paid in the future
- If a depository intimates a stock exchange of dematerialized transfers to the stock exchange/clearing corporation, which may have to be later reported, and stamp duty has been collected by the Depository, the stock exchange shall not collect stamp duty
- Sale consideration reported to a stock exchange shall be considered as the actual sale value
- A stock exchange or a clearing house shall intimate the depository about the transfer of dematerialized securities executed on its platform on the day on which settlement obligation is determined by the clearing corporation, on which stamp duty is leviable
- For transactions that are merely reported to the stock exchange, the stamp duty shall be collected by the stock exchange. The reporting intermediaries shall report the domicile details of the client to the stock exchange

Determination of transactions as on delivery basis or non-delivery basis

- The clearing corporation shall at the time of settlement determine whether transfer of security, is to be treated as on delivery basis or non-delivery basis, as per the established principles governing delivery
- In case of inter-operability of the clearing corporations, trades of a client across the stock exchanges shall be considered for determining whether it results in delivery or not

Collection of stamp duty from transferor for off market transfers

- Stamp duty shall be collected before execution of all off-market transfers involving transfer of securities in the depository system including over the counter trades occurring in demat or electronic form
- A depository shall collect stamp duty on the consideration amount specified by the transferor in the delivery instruction slip, which shall be considered as the actual consideration amount
- For inter-depository off-market transfers, transferee's depository shall intimate the transferor's depository about the transferee's domicile state so as to remit stamp duty collected by the buyer's state
- Depositories are required to put in place a system to identifying market transfers, the sale consideration for such transfers, and mandatory disclosure of the reasons for the transfer and the consideration amount
- If the consideration is paid in part, stamp duty shall be collected on the entire sale consideration when the sale is affected
- In case of transfer pursuant to invocation of pledge, duty shall be collected from the pledgee on the market value of the securities

Collection of stamp duty by depositories in case of issuance

- The stamp duty leviable on creation of new security and change in records in the depository upon issue of securities shall be collected from the issuer before executing any transaction in the depository system
- The issuer of securities shall submit to the depository, the allotment list in respect of initial public offer, follow-on public offer, or private placement and purchases made after an open offer or tender offer or offer for sale, at the time of allotment of securities
- A depository shall not collect stamp-duty on creation or destruction of securities on account of stock split or stock consolidation or mergers and acquisitions or such similar actions etc., if there is no change in beneficial ownership
- For transactions arising from tender offer, open offer or offer for sale or private placements through depository, stamp duty is to be collected from the offeror on the market value of the security at the offer price
- In case of acquisition of shares of minority by majority shareholders in accordance with section 236 of Companies Act, 2013, stamp duty shall be collected from the issuer instead and not the transferor

Other provisions

- The collecting agent shall transfer the stamp duty to the State Government in accordance with the Stamp Act
- The collecting agent shall transfer the stamp duty in the account of the State Government with Reserve Bank of India (**RBI**) or any scheduled commercial bank as notified to it by RBI or the State Government
- The value of stamp duty collected shall be rounded off to the nearest rupee
- The collecting agent may deduct 0.2% of the stamp-duty collected towards facilitation charges before transferring the same to State Government
- The collecting agent is required to appoint a principal officer with 15 days from the date of publication of the Rules or within 15 days from the notification issued under the Indian Stamp Act
- The State Government may appoint a nodal officer for all official communication with the principal officers for collection of stamp duty under the Rules
- Stamp duty collected shall not be used for any other purpose and shall be transferred to the State Government along with the interest earned on such amount

- The collecting agent shall submit a return of stamp duty collected on various transactions, either manually or electronically, to the State Government including details of defaulters on a monthly basis within 7 days of the succeeding month
- The collecting agent is required to furnish a consolidated return of stamp duty collected during a financial year, manually or electronically, on or before 30th June to the State Government or Accountant General of the State. Such return shall be verified by the Managing Director or designated director or principal officer of the collecting agent
- If a transfer is erroneously indicated as not involving consideration, the person making such erroneous indication may rectify such error by informing the collecting agent within 3 weeks from the end of the month and pay the required stamp duty
- If a person changes his domicile State, the transfer of stamp duty shall be transferred to that State as per the changed address from the date, when records are updated
- If the transfer of stamp duty was erroneously made to a State Government or there is a statutory order or order of the court for reversal of a stamp duty already paid and transferred, the collecting agent shall rectify the same by adjusting it from the next remittance till the erroneous payments are compensated for provided the concerned state Government has been informed of the error in writing. In case the State Government is not satisfied by such adjustment, it shall proceed against the collecting agent as per the provisions of the relevant Stamp Act
- Any fresh or revised demand of Stamp Duty by the State Government pursuant to any dispute or adjudication may be recovered in accordance with the provision of the Stamp Act
- The stamp duty as per the amendment to the Indian Stamp Act, 1899 under the Finance Act, 2019 are provided below for ready reference:

Type of Trade	Applicable Stamp Duty Rate (applicable on the value)
Debentures	
Issue	0.005%
Transfer	0.0001%
For non-debenture instruments	
Issuance of security	0.005%
Transfer on delivery basis	0.015%
Futures (Equity and Commodity)	0.002%
Options (Equity and Commodity)	0.003%
Currency and interest rate derivatives	0.0001%
Other derivatives	0.002%
Repo on corporate bonds	0.00001%