



The Institute of

Company Secretaries of India

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

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CS UPDATE

March 6, 2007

Dear Member,

Directorate of Academics and Professional Development presents to you the revamped CS Update. In order to enable us to serve you better, we request you to spare a few moments from your busy schedule and send us your valuable feedback about the CS Updates through email to drs1@icsi.edu.

Directorate of Academics and Professional Development, The ICSI.

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INDIRECT TAXES

CUSTOMS ACT

- Reduction in the import duty on maize to Nil upto 31.12.2007
- Change in General Exemption No. 122 regarding Chapter 15 (Animal or Vegetable fats, oils, waxes, etc.
- Amendment in the Courier Imports & Exports (Clearance) Regulations, 1998

CENTRAL EXCISE

- Amendments in Central Excise Rules, 2002
- Increase in the abatement rate of medicaments under Chapter 30
- Bulk sale of ice-cream to hotels/restaurants – Applicability of provisions of Standards of Weight & Measures (Packaged Commodities) Rules, 1977
- Special procedure for removal of excisable goods for carrying out certain processes under Rule 16C of the Central Excise Rules, 2002
- Simultaneous availment of Notification No. 30/2004-CE & 29/2004-CE both dated 9.7.2004 by the manufacturers of goods falling under Chapter 50 to 63 of the CETA, 1985

DIRECT TAXES

- Income Tax Ombudsman for Delhi

CUSTOMS ACT25th January, 2007.**Notification No.9/2007-Customs**

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 21/2002-Customs, dated the 1st March, 2002 which was published in the Gazette of India, Extraordinary, vide number G.S.R.118 (E), dated the 1st March, 2002, namely:-

In the said notification,-

(i) in the preamble, in the proviso, after clause (i), the following clause shall be inserted, namely:-

“(ia) the goods specified against serial No.22A of the said Table on or after the 1st January, 2008.”;

(ii) in the Table, after S.No.22 and the entries relating thereto, the following shall be inserted, namely:-

(1)	(2)	(3)	(4)	(5)	(6)
“22A	1005 90 00	All goods	Nil	-	-“.

[F.No. 332/55/2006-TRU]

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24th January, 2007

Notification No. 8/2007-Customs

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 21/2002-Customs, dated the 1st March, 2002 which was published in the Gazette of India, Extraordinary, vide number G.S.R.118 (E), dated the 1st March, 2002, namely:-

In the said notification, in the Table,-

- i) against S.No. 34, in column (3), against items (A), (B) and (C), for the entries in column (4), the entry "60%" shall respectively be substituted;
- ii) after S.No.36 and the entries relating thereto, the following entries shall be inserted, namely:-

(1)	(2)	(3)	(4)	(5)	(6)
"36A	1512 11 10	All goods	65%	-	-
36B	1512 19 10	All goods	75%	-	-";

- iii) against S.No. 434, for the entry in column (4), the entry "67.5%" shall be substituted.

F.No. 354/106/2006-TRU

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March 6, 2007

Note: The principal notification was published in the Gazette of India, Extraordinary, vide number G.S.R. 118(E), dated the 1st March, 2002 and was last amended by [notification No.6/2007-Customs](#), dated the 22nd January, 2007 which was published in the Gazette of India, Extraordinary vide number G.S.R.39(E), dated the 22nd January, 2007.

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Notification No. 09 /2007-Customs (N.T.)

07th February, 2007

G.S.R. (E). - In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations further to amend the Courier Imports and Exports (Clearance) Regulations, 1998, namely :-

1. (1) These regulations may be called the Courier Imports and Exports (Clearance) Amendment Regulations, 2007.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Courier Imports and Exports (Clearance) Regulations, 1998, (herein after referred to as the said Regulations) in regulation 3, -

(i) in clause (c), for the words "five thousand rupees for imports", the words "ten thousand rupees for imports" shall be substituted;

(ii) in clause (d), for the words "five thousand for each consignment in case of import", the words "ten thousand for each consignment in case of import" shall be substituted;

(iii) after clause (d), following shall be inserted:-

"(da) "Form" means Form appended to these regulations";

3. For regulation 7 of the said regulations, the following shall be substituted, namely:-

"7. Application for Registration- (1) Every person intending to operate as an authorised courier shall make an application in Form A to the Commissioner of Customs having jurisdiction over the area from where the goods are to be imported or exported, for registration in this behalf.

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(2) The authorised courier who is registered under sub-regulation (1) of regulation 10, shall transact the business in all Customs Stations within the country subject to an intimation in Form A to the Commissioner of Customs having jurisdiction over the Customs Station where he has to transact the business”.

4. In regulation 10 of the said regulations, in sub-regulations (2) and (3), for the words “three years”, at both the places where they occur, the words “ten years” shall be substituted.

5. For regulation 12 of the said regulations, the following shall be substituted, namely:-

“12. The authorised courier who has been registered under regulation 10 or has intimated in Form A to the Commissioner of Customs having jurisdiction over the Customs station from where he has to transact the business, shall furnish the bond and security as specified under regulation 11 for each Customs station.

6. After regulation 14, the following form shall be inserted, namely:-

“FORM - A

(see regulation 7)

Application Form for registration to operate as authorised courier at a Customs Station

or

Intimation to operate as authorised courier at a Customs Station other than the place of registration

6. Name of the Applicant. (In case the applicant is a firm or a company, the name of each of the partners of the firm or the directors of the Company as the case may be).

7. PAN Number of applicant. (as assigned for the purpose of Income tax).

8. Whether the Applicant is registered as authorised courier. (Yes/ No).

(i) If yes, Details of registration issued under sub-regulation (1) of regulation 10.

(ii) Particulars of the quantity or value of cargo cleared as authorised courier during the period of operation as authorised courier.

(iii) Whether the registration as authorised courier held under these regulations was cancelled or suspended.

9. Full address of the applicant. (in case the applicant is a firm or a company the full address of each of the partners of the firm or the directors of the company as the case may be).

10. In case the applicant is a firm or a company, the name(s) of its partner or partners or director/directors or duly authorised employees who will actually be engaged in the work of the authorised courier.

11. In case it is desired to appoint clerk or clerks, the name and address of the clerk or clerks as the case may be.

12. Educational qualifications of each of the persons, who will actually be engaged in the work as authorised courier.

13. Particulars regarding knowledge of Customs Law and procedure. (These particulars are required in respect of each person who will be actually engaged in the work of authorised courier).

14. Whether the applicant or any of the persons proposed to be employed by him have been penalized, convicted or prosecuted under any of the provisions of the Customs Act, 1962 (52 of 1962), or any other law for the time being in force.

I/We hereby affirm that I/we have read the Courier Imports and Exports (Clearance) Regulation, 1998, and agree to abide by them.

Signature of applicant(s)

Date.....

Note: The principal Notification No.87/98-Customs (N.T.), dated the 9th November, 1998 was published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i), dated the 9th November, 1998 vide G.S.R. 662(E), dated the 9th November, 1998 and last amended vide [Notification No.68/2006-Customs \(N.T.\)](#), dated the 23rd June, 2006, published in the Gazette of India Extraordinary, Part II, Section 3, sub-section (i), dated the 23rd June, 2006 vide G.S.R. 378(E), dated the 23rd June, 2006.

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CENTRAL EXCISE

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, (EXTRAORDINARY),
PART II, SECTION 3, SUB-SECTION (i) dated 08.02.2007]

Government of India
Ministry of Finance
(Department of Revenue)

New Delhi dated the February 8, 2007
19 Magha, 1928 Saka

Notification No. 3/2007 - Central Excise (N.T.)

G.S.R. (E). In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 2002, namely:-

1. (1) These rules may be called the Central Excise (Amendment) Rules, 2007.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Central Excise Rules, 2002, in rule 12, in sub-rule (1), before the existing proviso, the following proviso shall be inserted, namely:-

"Provided that an assessee, manufacturing pan masala falling under tariff item 2106 90 20 or pan masala containing tobacco falling under tariff item 2403 99 90, shall also file, along with the return, for the month to which the said return relates, a statement summarizing,-

- (i) the purchase invoices for the month with the names and addresses of the suppliers of betel nut, tobacco and packing material along with the quantity of the said goods purchased; and

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(ii) the sales invoices for the month with the names and addresses of the buyers, description, quantity and value of goods sold by the assessee.

Explanation: When the goods are not sold from the factory, the address of the premises to which the goods are dispatched from the factory shall also be provided".

Rahul Nangare,
Under Secretary to the Government of India.

[F.No.213/18/2006-CX.6]

Note: The principal rules were published in the Gazette of India vide notification No. 4/2002-Central Excise (N.T.), dated the 1st March, 2002, vide GSR 143 (E) dated the 1 st March, 2002, and were last amended vide notification No.30/2006-Central Excise (N.T.), dated the 30th December, 2006, vide GSR 780(E) dated the 30th December, 2006.

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31st January, 2007

Notification No. 2 /2007 - Central Excise (N. T.)

G.S.R (E).- In exercise of the powers conferred by sub-section (1) and sub- section (2) of section 4A of Central Excise Act 1944 (1 of 1944), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 2/2005-Central Excise (N.T.), dated the 7th January, 2005, which was published in the Gazette of India Extraordinary, vide G.S.R. 10 (E), dated the 7th January, 2005, namely:-

In the said notification, in the Table,-

- (1) against Sl.No. 1, for the entry in column (4), the entry "42.5%" shall be substituted; and
- (2) against Sl.No. 2, for the entry in column (4), the entry "42.5%" shall be substituted.

2. This notification will come into force on the 1st day of February, 2007.

F.No. 332/48/2006-TRU

Note:- *The principal notification was published in the Gazette of India, Extraordinary, vide [Notification No. 2/2005-Central Excise \(N.T.\)](#), dated the 7th January, 2005, G.S.R. 10 (E), dated the 7th January, 2005 and was last amended by [Notification No.4/2005-Central Excise \(N.T.\)](#), dated the 23 February, 2005, vide G.S.R. 91 (E), dated the 23 February, 2005 .*

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Circular No. 843/1/2007-CX

F. No. 6/44/2000-CX.I

Government of India
Ministry of Finance
Department of Revenue

January 17, 2007

Subject: Bulk sale of ice-cream to hotels/restaurants- Applicability of provisions of Standards of Weight & Measures (Packaged Commodities) Rules,1977 - regarding

1. I am directed to refer to Circular No. 625 /16 /2002–CX, dated 28th February, 2002. Para 4 of the said Circular gave an example that in respect of bulk sale of ice-cream to hotels/restaurants, which are not meant for retail sales as such, the provisions of the Standards of Weights and Measures Act will not apply.
2. Para 7 of the said Circular is reproduced below for ease of reference:

“7. Instances of dispute could arise between the department and the assessee as to whether, in respect of a particular commodity/transaction, the assessee is exempted from declaring the retail price or not. In case of such doubt a clarification may be obtained from the concerned Deptt. (generally the **Metrology Deptt.**) of the State Government.”
3. In response to a reference made by this Department to Weights & Measure Unit, Department of Consumer Affairs, Director (Legal Metrology) has opined that bulk sale of ice-cream in packages to hotel/catering industry etc., is not covered under Rule 34(a) of the Standards of Weight & Measures (Packaged Commodities) Rules, 1977 as ice cream cannot be treated as raw

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material and therefore the provisions of the standards of Weights and Measures Act and Packaged Commodities Rules, 1977 shall apply.

4. In view thereof, and in the light of para 7 of Circular No. 625 /16 /2002–CX , dated 28th February, 2002, it stands clarified that bulk sale of ice cream in packages to hotel/catering industry etc. is required to comply with the provisions of Standards of Weight & Measures (Packaged Commodities) Rules, 1977, and accordingly, the assesee is required to declare the retail sale price on such packages.

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- 5.

Circular No.844/02/2007-CX

F.No. 267/24/2006-CX.8

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

January 31, 2007

Subject: Special procedure for removal of excisable goods for carrying out certain processes under Rule 16 C of the Central Excise Rules, 2002.

Attention is invited to notification no. 26/2006-CE(NT), dated 28.12.06, wherein the erstwhile rule 16C of the Central Excise Rules, 2002 has been substituted with a new rule. The erstwhile rule has been redrafted with certain modifications. In the new rule, it has also been provided that a manufacturer can send excisable goods to a job worker for carrying certain processes not amounting to manufacture also. For example, a manufacturer of HR/CR coil can send the products for cutting/slitting, even though said processes does not amount to manufacture as per the court decision. As per new Rule 16C, a manufacturer can be permitted to remove excisable goods manufactured by him for carrying out test or any process not amounting to manufacture to any other premises including to a job worker without payment of duty. The said other person or a job worker may be a registered or unregistered person. The rule further provides that after carrying out specified processes, the goods can be cleared from the premises of the said other person or from the premises of the job worker on payment of duty.

2. As per this rule, the Commissioner is empowered to give the said permission by prescribing certain conditions. In order to ensure uniformity in

the conditions to be imposed by the Commissioner, it is clarified that the procedure prescribed under sub-rules (2),(3),(4) & (9) of rule 12AA of the Central Excise Rules, 2002 should broadly be followed in such cases. However, proper records of receipt of goods, its use, nature of activities carried out, goods processed and cleared by the said other person or job worker would be maintained. In other words, proper records of such goods should be maintained both by principal manufacturer and job worker. Further, any waste/scrap arising at the premises of the said other person/job worker while carrying out the test/other processes should either be cleared on payment of duties or it should be returned back to principal manufacturer. As regards, the valuation of the goods cleared from the job worker's premise, it is clarified that in such cases, the value at which the principal manufacturer (person who has sent the goods for test/carrying out processes) sells the final goods to the customer should be taken for payment of appropriate duty. This aspect should also be incorporated in the permission. Further, such permission should be given only in deserving cases and only for one financial year at a time.

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Circular No. 845/03/2006-CX

F. No. 267/01/2006-CX-8

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

1st February, 2007

Subject: Simultaneous availment of Notification No. 30/2004-CE & 29/2004-CE both dated 9.7.2004 by the manufacturers of goods falling under Chapter 50 to 63 of the CETA, 1985- regarding

Representations were received from trade and industry, as well as field formations seeking clarification on the above referred subject. Notification No. 29/2004-CE dated 9.7.2004 permits clearance of goods at concessional rates availing CENVAT Credit wherein a manufacturer can take CENVAT Credit on inputs. Notification No. 30/2004-CE dated 9.7.2004 permits a manufacturer to clear the goods at 'Nil' rate of duty without availing CENVAT Credit on inputs. Further, Board's circular No. 795/28/2004-CX, dated 28.07.2004, issued by TRU had clarified that the benefit of these two notifications can be availed simultaneously provided the manufacturer maintains separate Books of Account for goods in respect of which benefit of notification No. 29/2004-CE dated 9.7.2004 is availed and similarly, for goods in respect of which benefit of notification No. 30/2004-CE dated 9.7.2004 is availed. However, it was brought to the notice of the Board that in such cases, certain manufacturers did not maintain separate accounts and availed credit on all the inputs. Subsequently, they reversed the credit availed on such inputs utilized for goods cleared under exemption notification No. 30/2004 as per the provisions of Rule 6(3) of the CENVAT Credit Rules, 2004.

2. The issue has been examined. It is seen that proviso to notification No. 30/2004-CE dated 9.7.2004 states that 'nothing contained in this Notification shall apply to the goods in respect of which the credit of duty on inputs has been taken under the provisions of the CENVAT Credit Rules, 2004'. Therefore, it is clarified that non-availment of credit on inputs is a precondition for availing exemption under this notification and if manufacturers avail input tax credit, they would be ineligible for exemption under this notification. Reversal of credit on a later date would not suffice to make them eligible for this exemption.

3. However, it is seen that textile manufacturers/ processors have to use common inputs, which are used in a continuous manner, and it may not be practically possible to segregate and store inputs like dyes and chemicals separately or maintain separate accounts . In such cases, in order to facilitate simultaneous availment of the two notifications, such manufacturers may be advised not to take credit initially and instead take only proportionate input credit on inputs used in the manufacture of finished goods cleared by him on payment of duty. Such proportionate credit should be taken at the end of the month only. At the time of audit of records, or at any other time if the department requires, the assessee should support such credit availment with the relevant records maintained by them showing input quantity used for the goods manufactured and cleared on payment of duty. In case any subsequent verification reveals that such proportionate credit taken is incorrect, the penal provisions as prescribed under the law will be taken against such assessees.

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Income Tax Ombudsman for Delhi

Members may be aware that Mrs. Baljeet Matiyani has taken over as Income Tax Ombudsman for Delhi. The address of Tax Ombudsman, Delhi is as follows “

Office of Income Tax Ombudsman
Room No.251, CR Building, I P Estate,
Delhi – 110002.

The objective of Ombudsman is to enable resolution of complaints relating to public grievances against the Income Tax Department and to facilitate the satisfaction or settlement of such complaints. Income Tax Ombudsman Guidelines issued by the Government outline the powers and duties of the Ombudsman and procedure for redressal of grievances.

As per the Guidelines, any person who has a grievance against the Income Tax Department may himself or through his authorized representative make a complaint in writing or through electronic means on any of the following grounds:

- ▶ Delay in issue of refunds
- ▶ Non-adherence to the principles of first-come-first-serve
- ▶ Non-acknowledgement of letters/documents sent to the Income Tax Department.
- ▶ Lack of transparency in identifying cases for scrutiny.
- ▶ Delay in disposing cases of interest waiver
- ▶ Delay in release of seized books of accounts and assets after the proceedings under Income Tax have been completed.
- ▶ Delay in allotment of Permanent Account Number (PAN)
- ▶ Non-adherence to prescribed working hours by Income Tax Officials
- ▶ Unwarranted rude behaviour of Income Tax Officials with assessees etc.

Members who wish to obtain the Income Tax Ombudsman Guidelines, 2006 may visit the website of Income Tax Department at <http://incometaxindia.gov.in> .

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BANKING UPDATES

- **RBI Guidelines on Doorstep Banking**

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RESERVE BANK OF INDIA

Date: Feb 21, 2007

Doorstep Banking – Section 23 of Banking Regulation Act, 1949

RBI/2006-2007/262

DBOD.No.BL.BC. 59 /22.01.010 /2006-2007

February 21, 2007
Phalgun 2, 1928 (S)

All Scheduled Commercial Banks
(excluding RRBs)

Dear Sir

Section 23 of Banking Regulation Act, 1949 – Doorstep Banking

Please refer to our circular [DBOD.No.BL.BC.86/22.01.001/2004-2005 dated April 30, 2005](#) on the above subject, in terms of which banks were advised to formulate a scheme with the approval of their Boards, for providing services at the premises of a customer and submit it to Reserve Bank for approval.

2. In order to ensure transparency in respect of the rights and obligations of customers, uniformity in approach and to clearly delineate the risks involved, it has been decided to lay down general principles and broad parameters to be followed by banks while offering "doorstep" services to their customers. Accordingly, banks may prepare a scheme for offering "doorstep" banking services to their customers, with the approval of their Boards, in accordance with the [guidelines enclosed](#) to this letter.

3. Attention of banks is also drawn to the incidence of circulation of forged notes, particularly, high denomination notes, in the market. Banks are advised to take suitable steps to educate their "Agents" to enable them to detect forged and mutilated notes so as to avoid frauds and disputes with the customers.

4. Banks are further advised to take into account the various risks that may arise on account of offering doorstep banking services to customers directly or through agents and take effective steps to manage the same. Banks may specifically consider prescribing cash limits for their agents and customers in this regard.

5. The operation of the scheme may also be reviewed by the Boards of banks on a half-yearly basis, during the first year of its operation and subsequently on an annual basis.

Yours faithfully,
(P.Vijaya Bhaskar)
Chief General Manager

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Annex

Guidelines for Doorstep Banking

1. Services to be offered

Banks can offer the following banking services to their customers at their doorstep: -

(a) Corporate Customers/ Government Departments/ PSUs etc.

- (i) Pick up of cash
- (ii) Pick up of instruments
- (iii) Delivery of cash against cheques received at the counter
- (iv) Delivery of demand drafts

(b) Individual Customers/Natural persons:

- (i) Pick up of cash
- (ii) Pick up of instruments
- (iii) Delivery of demand drafts

2. Modalities of Delivery

- (a) Through own employees
- (b) Through Agents

Where banks engage the services of Agents for delivery of services, it should be ensured that the policy approved by the Board lays down the broad principles for selection of Agents and payment of fee/commission etc. Banks may refer to the guidelines on Managing Risks and Code of Conduct in Outsourcing of Financial Services by banks issued vide our circular [DBOD No.BP.40/21.04.158/2006-2007 dated November 3, 2006](#) and ensure that the principles enumerated therein are complied with while offering Doorstep Banking services.

3. Delivery process

- (i) Cash collected from the customer should be acknowledged by issuing a receipt on behalf of the bank;
- (ii) Cash collected from the customer should be credited to the customer's account on the same day or next working day, depending on the time of collection;
- (iii) The customer should be informed of the date of credit by issuing a suitable advice.

(iv) Delivery of demand draft should be done by debit to the account on the basis of requisition in writing/ cheque received and not against cash or instruments collected at the doorstep;

(v) Cash delivery services may be offered to the corporate clients/PSUs/departments of Central and State Governments against receipt of cheque only at the branch and not against telephonic request. No such facility, however, shall be made available to individual customers;

4. Risk Management

It may be ensured that the agreement entered into with the customer does not entail any legal or financial liability on the bank for failure to offer doorstep services under circumstances beyond its control. The services should be seen as a mere extension of banking services offered at the branch and the liability of the bank should be the same as if the transactions were conducted at the branch. The agreement should not provide any right to the customer to claim the services at his doorstep.

5. Transparency

Charges, if any, to be levied on the customer for doorstep services should be incorporated in the policy approved by the Board and should form part of the agreement entered into with the customer. The charges should be prominently indicated on brochures offering doorstep services.

6. Other conditions

(i) Doorstep services should be offered to only those customers in whose case proper KYC procedures, as laid down in our circular [DBOD No.AML BC.58/14.01.001/2004-05 dated November 29, 2004](#) and subsequent circulars on the subject have been followed;

(ii) The services should be offered at either the residence or office of the customer, the address of which should be clearly and explicitly mentioned in the agreement.

(iii) The agreement/ contract with the customer shall clearly specify that the bank will be responsible for the acts of omission and commission of its 'agent'.

(iv) The "Scheme" should not be restricted to any particular client/customer or class of customers.

(v) Banks may keep in view the restrictions imposed by Section 10 (1) (b) (ii) (b) of the Banking Regulation Act, 1949, while making payments for the services outsourced.

7. Redressal of Grievance

a) Banks should constitute an appropriate Grievance Redressal Machinery internally for redressing complaints about services rendered by its 'agents'. The name and telephone number of the designated Grievance Redressal officer of the 'bank' should be made available to the customers including on the bank's website. The designated officer should ensure that genuine grievances of customers are redressed promptly.

b) If a customer feels that his complaint has not been satisfactorily addressed, he will have the option to approach the Office of the concerned Banking Ombudsman for redressal of his grievance/s.

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MCA UPDATES

- Review Of Companies (Issue Of Indian Depository Receipts) Rules, 2004
- Companies (Issue of Indian Depository Receipts) (Amendment) Rules, 2006

Based on the requests received from SEBI and other stakeholders for review of certain requirements provided in the Companies (Issue of Indian Depository Receipts) Rules, 2004, the same have been examined in the Ministry of Company Affairs in consultation with Department of Economic Affairs and SEBI. In this regard, the **Explanatory Memorandum** on draft Indian Depository Receipts notification and the **Draft Notification** amending the Companies (Issue of Indian Depository Receipts) Rules, 2004 are being displayed on the website of the Ministry of Company Affairs are reproduced below:

Explanatory Memorandum
Ministry of Company Affairs

REVIEW OF COMPANIES (ISSUE OF INDIAN DEPOSITORY RECEIPTS) RULES, 2004

Background

1.1 The Central Government, in exercise of powers available with it under section 642 read with section 605A had prescribed the Companies (Issue of Indian Depository Receipts) Rules, 2004 (IDR Rules) vide notification number GSR 131(E) dated 23rd February, 2004.

1.2 The rules provide inter- alia for (a) Eligibility for issue of IDRs (b) Procedure for making an issue of IDRs (c) Other conditions for the issue of IDRs (d) Registration of documents (e) Conditions for the issue of prospectus and application (f) Listing of Indian Depository Receipts (g) Procedure for transfer and redemption (h) Continuous Disclosure Requirements (i) Distribution of corporate benefits.

1.3 It has also been provided in such rules that an issuing company shall also fulfill the eligibility criteria laid down by SEBI from time to time in this behalf. (Rule 4(d)). The disclosure to be made in the prospectus to be filed with the SEBI and Registrar pursuant to rule 5(ii) has been prescribed in Schedule to the Rules and SEBI has been empowered under that Schedule to specify any other information not specifically mentioned in Schedule. SEBI, in view of authorization available to it under IDR Rules, have issued a circular dated 3/4/2006 in this regard. This circular is available on the website of SEBI.

Need and scope for modification of IDR Rules

2. Requests received from SEBI and other stakeholders for review of certain requirements provided in the IDR Rules have been examined in the Ministry of Company Affairs in consultation with D/o Economic Affairs and SEBI. The areas of IDR Rules which require certain modification have been indicated in the following paragraphs. A draft notification modifying relevant rules of IDR Rules is also attached to this Memorandum.

“ idr draft notification feb 2007 ”

3.1 Rule 4(a) of the IDR Rules provides that the pre-issue paid up capital and free reserves of the issuing company shall be at least US\$ 100 million, and the company would have an average turnover of US\$ 500 million during the last three financial years preceding the issue.

3.2 It has been informed that some countries require that a company issuing Depository Receipts should have at least 3 years operating record in the country where it is issuing Depository Receipts or elsewhere. It has been suggested and felt that similar requirement may be provided for in rule 4 of the IDR Rules. This may be helpful in establishing the track record of the issuing entity. Similarly, a minimum market capitalization requirement is followed internationally, both in US and UK in respect of companies which seek to raise funds through Depository Receipts. It has further been suggested that the turnover criteria is not found to be a satisfactory criterion for the purpose as it may not disclose the profitability or the market perception of the issuer. Hence a view has been made that a minimum market capitalization requirement may be provided for. In view of this, it has been felt to modify the requirement under existing rule 4(a) with the following:-

(a) Its pre-issue paid-up capital and free reserves are at least US\$ 50 millions and it has a minimum average market capitalization (during the last 3 years) in domestic country of at least US\$ 100 millions;

(b) It has trading record/history in India or elsewhere for at least three years;

4. Rule 4(b) of the IDR Rules provides that the company proposing to issue IDRs should have been making profits for at least five years preceding the issue and has been declaring dividend of not less than 10% each year for the said period. It has been brought to the notice that there are several companies in countries like USA which do not have the policy of declaring and paying dividends. These companies will be restricted from issuing IDRs due to such a provision. For domestic issues there is a requirement of profitability track record of 3 out of last 5 years. Suggestion has been made to omit the requirement of declaring dividend of not less than 10%. Further it has also been suggested that requirement of making profits for at least 5 years may be modified in line with domestic issues i.e. a profitability record for at least 3 out of last 5 years. Accordingly this rule is proposed to be modified as (new rule 4(c)) under:-

(c) It has a track record of distributable profits in terms of section 205 of the Companies Act, 1956, for at least three out of immediately preceding five years

5. Rule 4(c) of IDR Rules states that the pre-issue debt equity ratio shall not be more than 2:1. It has been brought to the notice that debt equity ratio of a company would depend on a range of factors including the industry it operates in and may not be indicative of the size or quality of a company. It has also been informed that there is no similar requirement for domestic issues. A suggestion has been made to omit or relax this requirement to a reasonable level. Since there is no such requirement for domestic issues, it is felt that this rule may be omitted.

6.1 Existing rule 5 (i)(a) of the rules provide that no issuing company shall raise funds in India by issuing IDRs unless it has obtained prior permission from the SEBI. For domestic issues, SEBI does not give any permission for issuers and only issues observations on offer documents filed with it as per Clause 2.1 of SEBI (DIP) Guidelines 2000. It has been suggested that suitable modification in this clause may be made to indicate in a clear manner the role of SEBI in clearing Offer documents relating to IDRs.

6.2 It is proposed that the following principle may be incorporated that no issuing company shall raise fund in India by issuing IDRs unless its prospectus has been submitted to SEBI in the form prescribed and any comments/observations/requirements pointed out by SEBI have been complied with to the satisfaction of SEBI. Necessary changes have accordingly been made in Rule 5 which can be seen in the draft notification attached to this Memorandum.

7. Rule 6(iii) of the IDR Rules states that IDRs issued by any issuing company in any financial year shall not exceed 15 % of its paid up capital and free reserves. It has been informed that this criterion will limit the issue size to a proportion of the value of paid up capital and free reserve. This stipulation may also limit the free float and subsequent liquidity of IDRs. It has been suggested that this rule may be modified as under:-

“(iii) The number of underlying equity shares offered in a financial year through IDR offerings shall not exceed 25 per cent of the post issue number of equity shares of the company”

8. Rule 11(ii) of IDR Rules stipulates that the quarterly audited financial results should be prepared and published in newspapers in the manner specified by the listing conditions. Attention has been drawn to clause 41 of the Listing Agreement which provides for publishing unaudited quarterly results with a limited review report by the auditor of the company. In many other countries, it has been informed, companies are generally not required to provide audited quarterly results. Since IDRs are to be listed and traded in India, the rules applicable for domestic issuers should be made applicable. It has accordingly been suggested that publishing of unaudited quarterly results subject to a limited review by auditors may be allowed. This clause is accordingly proposed to be modified as under:-

“(ii) The quarterly audited results or unaudited results subjected to limited review by the auditors of the company and duly approved by the Board of Directors of the issuing company, as the case may be, shall be prepared and published in the manner specified in the listing conditions”

9. Paragraph 5 (ii) of Schedule to IDR Rules states that description of “Promoters and their background” should be disclosed in the Prospectus. It has been informed that many listed foreign companies having large public shareholding are managed by the Board of Directors and do not have identified promoters. It has been suggested that this provision may be modified as under:-

“(ii) promoters and their background.

Provided that in case there are no identifiable promoters, the names, addresses and other particulars as may be specified by SEBI of all the persons who hold 5% or more equity share capital of the company shall be disclosed”.

10. Paragraph 6 of Schedule to IDR Rules states that the Prospectus should contain a report certified by an Accountant who is member of Institute of Chartered Accountants of India holding certificate of practice upon profits or losses of the issuing company for each of the five financial years immediately preceding the issue of prospectus and upon the assets and liabilities of the issuing company at the last date to which the accounts of the company were made in the specified form; provided that the gap between date of issue and date of report shall not be more than 120 days. It has been brought to the notice that for domestic issues audited results should be given for a period of 5 years and should not be older than 6 months (180 days) from the date of opening of issue. It has been suggested that the gap indicated in the paragraph to 120 days may be modified to 180 days. Necessary change, accordingly, has been proposed in the draft notification attached.

11. The rules have also been proposed to be amended to specifically indicate at rule 5(i)(g) and rule 7(ii) that for the purpose of these rules, the concerned Registrar would be the Registrar of Companies, New Delhi.

Draft Notification

12. Based on above proposals, a draft notification proposing modifications in the Companies (Issue of IDRs) Rules, 2004 has been prepared and is **annexed** to this Memorandum. Suggestions/Comments on the draft notification alongwith justification in brief may be addressed/sent latest by 28th March, 2007 to Shri Diwan Chand, Director, Inspection and Investigation or Shri N.K. Dua, Assistant Director, M/o Company Affairs, 5th Floor, A Wing, Shastri Bhavan, New Delhi. The suggestions/comments may also be sent through email at diwan.chand@mca.gov.in or narendra.dua@mca.gov.in. It will be appreciated if the name and address of the sender is also indicated clearly at the time of sending suggestions/comments.

“ idr draft notification feb 2007 ”

MINISTRY OF COMPANY AFFAIRS

NOTIFICATION

New Delhi, dated, the 2007

G.S.R. (E).- In exercise of powers conferred by clause (a) of sub-section (1) of section 642 read with section 605A of the Companies Act, 1956, the Central Government hereby makes the following rules further to amend the Companies (Issue of Indian Depository Receipts) Rules, 2004, namely:-

1. (i) These Rules may be called the Companies (Issue of Indian Depository Receipts) (Amendment) Rules, 2006;

(ii) They shall come into force from the date of their notification in the Official Gazette.

2. In the Companies (Issue of Indian Depository Receipts) Rules, 2004:-

(i) the existing rule 4 shall be substituted with the following, namely:-

“4. Without prejudice to anything contained in the Securities and Exchange Board of India Act, 1992, an issuing company may issue IDRs only if it satisfies the following conditions:-

(a) Its pre-issue paid-up capital and free reserves are at least US\$ 50 millions and it has a minimum average market capitalization (during the last 3 years) in domestic country of at least US\$ 100 millions;

- (b) It has trading record/history in India or elsewhere for at least three years;
 - (c) It has a track record of distributable profits in terms of section 205 of the Companies Act, 1956, for at least three out of immediately preceding five years;
 - (d) It shall fulfill such other eligibility criteria as may be laid down by SEBI from time to time in this behalf.
- (ii) In sub-rule (i) to rule 5,
- (a) the existing clause (a) shall be substituted with the following namely;
 - (a) No issuing company shall raise funds in India by issuing IDRs unless its prospectus has been submitted to SEBI in the form prescribed and examined by SEBI and any comments/observations/requirements pointed out by SEBI have been complied with to the satisfaction of SEBI.
 - (b) in the existing clause (b), the words "seeking permission" appearing after the words "An application" shall be omitted;
 - (c) the proviso to existing clause (b) shall be substituted with the following namely;
Provided that, on compliance being made by the issuing company on any comments/observations/requirements indicated by SEBI, the issuing company shall pay an issue fee of half a percent of the issue value subject to a minimum of Rs.10 lakhs where the issue is upto Rs.100 crore in Indian rupees:
 - (d) in the existing clause (c), the words "seeking permission" appearing after the words "an application" shall be omitted;
 - (e) in the existing clause (g) the words "of Companies, New Delhi" shall be inserted after the word "Registrar".
 - (iii) In sub-rule (iii) to rule 5, the words "seeking permission under sub-rule (i) above", appearing after the words 'The Issuing Company' shall be omitted;
 - (iv) in rule 6, the existing sub-rule (iii) shall be substituted with the following, namely:-
 - "(iii) The number of underlying equity shares offered in a financial year through IDR offerings shall not exceed 25 per cent of the post issue number of equity shares of the company"
 - (v) in sub-rule (ii) to rule 7, the words "of Companies, New Delhi" shall be inserted after the word "Registrar".
 - (vi) in rule 11, the existing sub-rule (ii) shall be substituted with the following, namely:-
 - "(ii) The quarterly audited results or unaudited results subjected to limited review by the auditors of the company and duly approved by the Board of Directors of the issuing company, as the case may be, shall be prepared and published in the manner specified in the listing conditions."
 - (vii) in Schedule, in para 5, the existing sub-para (ii) may be substituted with the following, namely:-
 - (ii) promoters and their background.
Provided that in case there are no identifiable promoters, the names, addresses and other particulars as may be specified by SEBI of all the persons who hold 5% or more equity share capital of the company shall be disclosed.
 - (viii) in Schedule, in para 6, in the existing sub-para (ii), the figure "120" appearing before the words "days" may be substituted with the figure "180".

F.No.1/2/2001-C.L.-V
Jitesh Khosla; Joint Secretary

NOTE: The principal rules were published vide G.S.R. 131(E) dated 23.2.2004.

HOME

SEBI UPDATES

- Additional Reporting along with Monthly Cumulative Report - MCR

March 6, 2007

EXECUTIVE DIRECTOR

INVESTMENT MANAGEMENT DEPARTMENT

SEBI/IMD/CIR No. 15/87045/2007

February 22, 2007

All Mutual Funds Registered with SEBI/

Association of Mutual Funds in India (AMFI)

Dear Sirs,

Sub: Additional Reporting along with Monthly Cumulative Report (MCR)

Please refer to SEBI circular MF/CIR/07/404/2000 dated July 31, 2000, circular SEBI/IMD/CIR No.3/2564/2004 dated February 5, 2004 and circular SEBI/IMD/CIR No. 6/72245/06 dated July 20, 2006 prescribing the format for Monthly Cumulative Report.

Commencing with the MCR for the Month of February '07 an additional report on the overseas investment by Mutual Funds in ADRs/GDRs, foreign securities and overseas Exchange Traded Funds (ETFs) shall also be provided as per the [enclosed format](#).

The above clarifications are being issued in accordance with the Regulation 77 of the SEBI (Mutual Funds) Regulations, 1996.

Yours faithfully,

R K NAIR

HOME

Format for Additional Reporting along with Monthly Cumulative Report (MCR)

Details of overseas investments by ----- (for the month of ----)

Instruments	Amount Invested		Redemption		Value of overseas investments (as on last date of the month)	
	in terms of Rs.	In terms of US \$	In terms of Rs.	In terms of US \$	In terms of Rs.	In terms of US \$
ADR/GDR						
Equity of overseas companies						
Foreign debt securities						
Government Securities of AAA rated countries						
Overseas ETFs						
Units/securities issued by overseas Mutual Funds						

Number of Schemes investing in foreign securities	
--	--

Name of the country	Amount invested	
	in terms of Rs.	In terms of US \$

* Conversion rate as on last date of the month. Adjustment of conversion of US \$ into India Rupee as per the RBI reference rate by Foreign Exchange Dealer Association of India (FEDAI)

HOME

March 6, 2007

For the benefit of the Members circular SEBI/IMD/CIR No. 6/72245/06 dated July 20, 2006, prescribing the format for Monthly Cumulative Report is re-produced below

EXECUTIVE DIRECTOR

INVESTMENT MANAGEMENT DEPARTMENT

SEBI/IMD/CIR No. 6 / 72245 /06

July 20, 2006

All Mutual Funds Registered with SEBI

Association of Mutual Funds in India (AMFI)

Dear Sirs,

Re: REVISED MONTHLY CUMULATIVE REPORT (MCR) AND ANNUAL STATISTICAL REPORT (ASR)

Please refer to SEBI circular No SEBI/IMD/CIR No. 3/2564/2004 dated February 5, 2004 and SEBI circular no. MFD/CIR No. 2/110/02 dated April 26, 2002 prescribing the format for Monthly Cumulative Report (MCR) and Annual Statistical Report (ASR) respectively.

The formats of the said reports have been modified to incorporate the data on unit capital. The revised formats are enclosed. Accordingly, in future, [MCR](#) and [ASR](#) shall be submitted to SEBI in the revised format.

It is also clarified that the details of the new scheme launched shall be reported in the MCR for the month in which the allotment is done. For eg. if an NFO closes in the month of July and the allotment is done in the month of August, then, the details of this new scheme shall be reported in the MCR for the month of August that will reach SEBI by 3rd of September.

This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, read with the provisions of Regulation 77 of SEBI (Mutual Funds) Regulations, 1996, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Yours faithfully,

R K Nair

Encl : a/a

HOME

ANNUAL STATISTICAL REPORT (ASR)

NAME OF THE MUTUAL FUND : _____

Unitholding Pattern of Mutual Fund as on March 31, ____

Category	Number of Folios	Net asset Value (Rs. Crores)	Unit Capital
Individuals			
NRIs/OCBs			
FIs			
Corporates/Institutions/ Others			
TOTAL			

Note : Data is to be provided for all the schemes put together and not individual scheme-wise.

HOME

UNION BUDGET 2007-08

Highlights



UNION BUDGET 2007-08 – Highlights

N K JAIN

SECRETARY & CEO – The ICSI

INTRODUCTION

Under pressure from sensitive inflationary build-up while being allured by gratifying growth rate leading to buoyancy in revenue generation, the Finance Minister had an unenviable task in framing the Union Budget 2007-08. The major indicators in the pre-budget Economic Survey were like the following:

Indicators	2005-06	2006-07
GDP growth	9.0%	9.2%
Contribution by Services		55.10% of GDP
Contribution of Agriculture		18.5% of GDP
Contribution by Mfg.		26.4% of GDP
GD Capital Formation	33.8% of GDP	31.5% of GDP
Rate of Inflation		6.7%
Average Inflation		5%
Growth rate of M3	17%	21.1%
Foreign Exchange Reserves	USD 165.3 billion	USD 185.1 Billion
Tax to GDP ratio	10.3%	11.2%

The dynamics of the economy under constant pressure for various kinds of reforms and the humdrum of the crying needs of the common man require a different kind of marshalling. A budget that will balance the different forces and factors, demands and drivers and the contrast of growth without inflationary pressures was the need of the hour. His dream budget of 1997 had become a constant reminder of heavy expectations from the Finance Minister. Agriculture was proving to be a drag on economic growth and a push factor for the unwanted inflation. Declining productivity in agriculture required intensive and extensive inputs and resources that would help agriculture to add value in order to bring down the inflationary pressures and also to achieve its potential. Expectations created by continuing integration of the economy with the world economy called for substantive doses of investment and upgradation in education and health care sectors.

On a first reading of the budget speech and measures announced by the Finance Minister, it is difficult to evaluate all his policies and prescriptions in the light of the tormenting objective of sustaining

growth sans inflation. A bird's eye view of the advances towards this objective that are major gains and shortfalls beating the expectations that are the pains flowing from this budget is the aim of this article.

FRBM Achievements

Particulars	Target	Actual
Fiscal deficit	3.8% of GDP	3.7% of GDP
Revenue deficit	2.1% of GDP	2.0% of GDP

The Fiscal Responsibility and Budget Management Act set the targets for reduction in the fiscal deficit and revenue deficit and thus far the Finance Minister has bettered his own projections. Thus, he has more than satisfied the reform enthusiasts at least on this count.

Agriculture

The lag in the agricultural sector is one of the major concerns that the budget has addressed. Agriculture grew only at 2.7% in 06-07 on a base of 6% growth in the previous year. The Economic Survey points out low investment, imbalance in fertilizer use, low seeds replacement rate, a distorted incentive systems and a low post-harvest value addition as the causal factors.

Poor agricultural performance could complicate maintenance of price stability with supply-side problems in essential commodities. India has the potential to become a food mart to the world if post-harvest value addition through food processing industry and integration of the supply chain from the farm gate to the consumer's plate are achieved. But the budget could have taken much more positive measures to achieve this.

Productivity in the agricultural sector has been stagnant. Rising nominal wages to agricultural labour feed into inflation. Hence drastic measures to increase agricultural productivity are required. Rising wages in the manufacturing sector can be absorbed by higher productivity. Therefore, raising agricultural productivity is necessary to have inclusive growth with lower inflation. Agriculture and infrastructure particularly in rural areas, therefore, needed to be the focal points of the budget. The funding of projects in these areas being made more attractive fell upon the budget as a major expectation.

Looking at declining contribution of agricultural sector, the Finance Minister has introduced welcome measures to increase farm credit, better irrigation facilities, accelerated rural development, water harvesting and effort to re-incarnate the green revolution of 1960s. In order to sharpen the effectiveness of fertilizer subsidy he has initiated the pilot programme for delivering the subsidy directly to the farmer. But the budget has missed the opportunity to frame measures to add value in the supply chain as pointed out earlier.

Import Duties

The target was to have parity with the Asean Peak Import Duty level of 8%. It was expected that the budget would bring down peak import duty from 12.5% to 10% if not to 8%; the Finance Minister has fulfilled the expectation. But sharper cuts in customs duties on specific commodities like chemicals and plastics, coking coal, edible oils, prime steel etc. were prompted more by inflationary pressures than by fiscal rationale. The Finance Minister could have, perhaps, taken into account the time gap the domestic industry needs to adjust to the opening up of the Indian economy.

Financial Sector

In addition to the important legislative measures now before Parliament, Government proposes to take a number of initiatives in banking and insurance.

Government proposes to acquire RBI's equity holding in State Bank of India. A sum of Rs.40,000 crore has been provided for this purpose, but the transaction will be deficit neutral to the Government.

The Differential Rate of Interest (DRI) scheme provides finance at a rate of 4 per cent to the weaker sections of the community engaged in gainful occupations. It is proposed to raise the limit of the loan from Rs.6,500 to Rs.15,000 and the limit of the housing loan from Rs.5,000 to Rs.20,000 per beneficiary.

Regional Rural Banks (RRBs) have emerged as the third arm for delivering rural credit, and the RRBs are willing to take on greater responsibilities. The Committee on Financial Inclusion, chaired by Dr. C. Rangarajan, also made certain recommendations concerning RRBs. It is therefore, proposed to:

- ask RRBs to undertake an aggressive branch expansion programme and, in 2007-08, open at least one branch in the 80 uncovered districts of the country;
- extend the Securitisation and Reconstruction of Financial Assets and Enforcement of Securitisation of Interest (SARFAESI) Act to loans advanced by RRBs;
- permit RRBs to accept NRE/FCNR deposits; and
- recapitalize, in a phased programme, the RRBs which have a negative net worth.

The National Housing Bank (NHB) will shortly introduce a novel product for senior citizens: a 'reverse mortgage' under which a senior citizen who is the owner of a house can avail of a monthly stream of income against the mortgage of his/her house, while remaining the owner and occupying the house throughout his/her lifetime, without repayment or servicing of the loan. The finer details of the proposal will perhaps provide answers to the questions like income tax implications and enforceability of the mortgage.

Banks and housing finance companies that lend against mortgages would have greater comfort if the mortgage can be guaranteed through a three way contract among borrower, lender and guarantor. Regulations will be put in place to allow the creation of mortgage guarantee companies.

December 6, 2006 saw the launch of an exclusive health insurance scheme for senior citizens offered by National Insurance Company. The other three public sector insurance companies have been asked to offer a similar product to senior citizens, and they have agreed to do so in 2007-08.

The Micro Financial Sector (Development and Regulation) Bill as well as a comprehensive Bill to amend the insurance laws will be introduced in the Budget Session.

Financial inclusion is the process of ensuring access to timely and adequate credit and financial services by vulnerable groups at an affordable cost. The Finance Minister has relied upon the interim report of the Committee on Financial Inclusion. Awaiting the final report, the Government has decided to implement, immediately, two recommendations. The first is to establish a Financial Inclusion Fund with NABARD for meeting the cost of developmental and promotional interventions. The second is to establish a Financial Inclusion Technology Fund to meet the costs of technology adoption. Each fund will have an overall corpus of Rs. 500 crore,

with initial funding to be contributed by the Central Government, RBI and NABARD.

Exchangeable Bonds

The Financial Dictionary defines exchangeable bonds as an issue giving the bondholder the right to exchange the issue for a specified number of common stock shares of a corporation different from the issuer of the bond. In other words, EB gives the bondholder a right to exchange the bond for shares of a company, which is different from the issuing company. This can be done by any entity, which holds a substantial stake in another company. EBs allow companies to raise funds and potentially sell the holding at a premium over the current market price. Companies can also retain ownership and voting rights on the underlying holding shares till the future date when the investors exchange bonds into shares.

Thus, Central and State Governments, corporates and financial institutions will get a new instrument that will allow them to raise capital by unlocking value in their strategic holdings in other companies. Big and reputed companies can use the money to fund major acquisitions and green field ventures like retailing. EBs is a tool to monetise stakes in other group companies enabling the holding companies to use large illiquid holdings to raise funds for future programmes without selling their stakes in the secondary market.

INFRASTRUCTURE

The much awaited innovative thinking to utilize burgeoning foreign exchange reserves to finance infrastructure has found expression in this budget. The budget floats a plan to incorporate abroad two wholly owned subsidiaries of India Infrastructure Finance Company. They will act as special purpose vehicles to borrow from RBI and lend to Indian companies to finance infrastructure projects like power, ports and roads. The proposal to use the foreign exchange reserves in this manner will become inflationary if the foreign exchange components of the infrastructure project like building roads is not high as it will increase currency supply in India.

The loans by RBI to the SPVs will be guaranteed by the Central Government assuring the RBI a higher return than it would earn on an average on the incremental investment.

But will this measure be sufficient to satisfy the need of USD 320 billion as envisaged by the Economic Survey to finance infrastructure requirements over the next five years? The obvious

answer appears to be in the negative. A big effort will be required to amass rupee resources to achieve the target.

Soft Infrastructure

The Finance minister has also laid emphasis on soft infrastructure through creation of Manpower Development Fund for software export companies, initiated implementation of Vocational Education Mission; subsidized regularization of employment to physically challenged and increased the allocation for e-governance.

E-governance will prove a major boon to the administration of the Indian economy has been proved by the success of MCA 21 initiatives of the Ministry of Company Affairs. More emphasis on e-governance will improve legal compliance management in India.

Recognising the need for a reservoir of skilled and trained manpower and to take advantage of the demographic dividend thrown up by the increase in the working age population, the Finance Minister has mooted public private partnership for vocational education programmes. He also proposes to upgrade around 1400 ITIs into centers of excellence in specific trades and skills under PPP model setting aside Rs. 750 crore for this purpose.

Direct Taxes

Emphasising moderate tax regime, the Finance Minister has postponed the comprehensive review of the current slabs and the rates of personal income tax till the proposed Income Tax code which will be introduced in the Parliament in 2007. Yet, he has increased the threshold limit of exemption by Rs. 10,000/- for all categories of assesses.

The Finance Bill proposes to allow payment of medical insurance premia by any mode except cash. The maximum amount allowable as deduction under Section 80-D of IT Act will be Rs. 15,000 for effecting medical insurance on the health of the assessee or any member of his family, in the case of an individual and HUF. For senior citizens the deductible amount will be upto Rs. 20,000. The amendment will take effect from assessment year 2008-09. By proposed amendment to Section 40A any expenditure incurred by the assessee for which a payment exceeding Rs. 20,000 is made otherwise than by account payee cheque or bank draft, no deduction will be allowed in respect of such expenditure. Further, where a deduction has been allowed earlier in respect of any liability incurred by the assessee and subsequently the assessee makes

payment in respect thereof otherwise than by an account payee cheque or bank draft, the payment so made shall be deemed to the the profits and gains of business or profession if the amount of the payment exceeds Rs. 20,000. Exceptions are carved out in cases and circumstances as may be prescribed.

In respect of corporate income tax, for small and medium enterprises, there will be no surcharge on income tax on all firms and companies with a taxable income of Rs. One crore or less.

For cooperative banks, the deductions under section 36(1)(vii) and section 36(1)(viii) will be available. For any provisions for any bad and doubtful debts, a cooperative bank, primary agricultural credit society and primary cooperative agricultural and rural development bank will get a deduction upto 7-1/2% of the total income and an amount not exceeding 10% of the aggregate average advances by the rural branches. For any special reserve created and maintained by such banks, a deduction of an amount not exceeding 20% of the profits of eligible business carried to such reserve account will be available.

The budget has extended Minimum Alternate Tax under section 115JB to the income eligible for deduction under section 10A [FTZ units] and 10B [EOUs]. Thus, the amount of income to which any of the provisions of section 10A or 10B apply shall not be reduced from the book profit for calculating minimum alternate tax.

The Finance Bill also proposes to provide exemption to income by way of contributions received from commodities exchanges and the members thereof by the Investor Protection Fund set up by Commodities Exchanges in India. The proposal extends the exemption available to Investor Protection Fund set up recognized by Stock Exchanges.

In the case of a company engaged in the business of biotechnology or of manufacture or production of any drugs, pharmaceuticals, electronic equipments etc. a deduction of a sum equal to 150 per cent of the expenditure incurred on scientific research is available. This will now be extended upto 31st March 2012 i.e. including assessment year 2012-13.

By amending section 115WB the definition of fringe benefits and deemed fringe benefits is also extended to include any specified security or swat equity shares allotted or transferred by the employer free of cost or at concessional rate to his employees and former employees. The new section will provide that the fair

market value of the security on the date of exercise of the option by the employee as reduced by the amount actually paid by, or recovered from the employee in respect of such security shall be the value of fringe benefits.

The Dividend Distribution Tax under section 115-O any amount declared, distributed or paid by a domestic company by way of dividends, whether interim or otherwise, and whether out of current or accumulated profits, an additional income tax of 15% instead of 12-1/2% on such distributed profits is proposed to be charged.

INDIRECT TAXES

On the Service Tax front, goaded by the exuberance in the services sector he has managed to maintain stability in tax rates while widening the service tax net and at the same time raising the exempt threshold of gross turnover in services from Rs. 4 lacs to Rs. 8 lacs. Yet, he has failed to grant full level playing field to Practising Company Secretaries along with other brother professionals vis-à-vis lawyers in spite of strong representations for such a step.

On the CENVAT front also he has maintained stable tax structure, although, certain measures like differential excise duty on cement sold at more than Rs.190 per bag have reinforced complications in the tax regime.

Apart from the changes in the rates of duty of Excise and Customs, the respective laws will also undergo amendments. An application for refund of duty is to be filed before expiry of one year from the relevant date. Relevant sections will be amended to provide that the relevant date for the purpose of refund of duty in consequence of any judgement, decree, order or direction of Appellate Authority, Tribunal or any court shall be the date of such judgement, etc.

For filing an application for advance ruling, it is being clarified that joint venture in India will mean a venture in which at least one of the participants, partners or equity holders shall be a non-resident having a substantial interest in the joint venture or exercising control over it.

For filing an application before Settlement Commission, the applicant shall be eligible in respect of cases in which he admits short levy on account of misclassification, under-valuation, inapplicability of exemption notification or CENVAT credit but not in respect of goods for which he had not filed a return. While filing

any application, he shall deposit the additional amount of duty accepted by him alongwith stipulated interest due thereon.

Going forward with the proposal to introduce national goods and service tax with effect from 1st April, 2010, the Finance Minister has announced reduction of Central Sales Tax from 4% to 3% with a view to eventually abolishing it.

On all taxes, direct or indirect, the additional secondary and higher education cess of 1% will be levied. The total cess will, thus, go to 3% of total tax and surcharge.

CONCLUSION

The Finance Minister faced gigantic challenges in the preparation of the budget. The challenges required dynamic, visionary and path-breaking solutions. But the budget exercise has, it appears, ignored several opportunities in introducing this dynamism and vision in tackling the problems, although, the effort, in terms of gross budgetary support to Central Plan increasing the allocation from Rs. 1,54,939 crore to Rs. 2,05,100 crore, was monumental.

Expectations about the budget are always far, many and, sometimes even wild. But even if many would say that the budget has held back on many counts, we should read the message behind the budget. The message is loud and clear that the Indian industry is fine and has, thankfully, matured. It does not any more need Government support. It has come of age and is able to stand on its own feet. In the years to come, on the basis of the strengths it has built, it will surely contribute its mite to the Indian economy.

The industry seems to have taken it well in its stride, as a healthy rural and agricultural ecosystem would be beneficial in terms of demand for goods and services in the long run.

However, the budget could have addressed the larger picture and pushed the reform agenda encouraging savings, streamlining supply chain management and speeding up infrastructure development. Overall, it appears the budget is, both, a little sweet and a little sour.

HOME

RECENT RELEASES

- *Practitioner's Guide to Consumer Protection Law*
- *Referencer on Limited Liability Partnership Bill, 2006*

RECENT RELEASES

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- ✓ A comprehensive, lucid and user friendly practical guide for professionals appearing before the consumer redressal forums at various levels.
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This referencer has been published essentially to enable the readers to know 'at a glance' the salient features of the emerging Limited Liability Partnership Law in India. The referencer deals with all the Clauses of the Limited Liability Partnership Bill, 2006 introduced in the Rajya Sabha on December 15, 2006 including notes on the clause, a brief analysis and corresponding section(s) of the (Indian) Companies Act, 1956 and relevant provisions of Singapore Limited Liability Partnerships Act, 2005 as well as U.K. Limited Liability Partnerships Act, 2000.

Price: **Rs. 60/-** only (Rs. 30/- extra for postage).

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HOME

FORTHCOMING PROGRAMMES

- Two Day Programme on Orientation of Independent Directors
(March 20-21, 2007)
- National Seminar on Corporate Compliance Management
(March 29, 2007)



The Institute of
Company Secretaries of India
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

TWO DAY PROGRAMME

011

ORIENTATION OF INDEPENDENT DIRECTORS

DAYS & DATES : *Tuesday & Wednesday, March 20-21, 2007*

VENUE : *Hotel Intercontinental, Nehru Place, New Delhi-110 019*

TIME : *10.00 AM To 5.00 PM*

INTRODUCTION

In order to imbibe a culture at high quality corporate governance legal frameworks, the world over, introduced the concept of independent directors. Independence comes not merely from statutory definition; it requires conscious cultivation. Bringing about a qualitative change in skills, knowledge and creative and contributive abilities of sitting and prospective directors calls for systematic cultivation of qualities that reinforce statutorily defined independence. The Orientation programme for independent directors designed by the Institute of Company Secretaries of India aims at giving quality inputs in this direction.

COVERAGE

- Development, Monitoring and Evaluation of Business Strategy and related process in Corporate Governance
- Legal Duties, Powers and Responsibilities of Directors with special focus on Company Law
- Financial Information, Internal Control Mechanism, Audit Committee process and Risk Management in Corporate Governance
- Compensation Strategy, Remuneration Committee and other related issues in Corporate Governance
- Differentiating Governance from Management, Code of Conduct, Ethics and Integrity in Corporate Governance
- Analysis of Annual Accounts and Funds Flow.
- Case Study/Panel Discussion

FACULTY

Expert faculty consisting of Senior Government Officials, Corporate Executives, Management Advisors and experienced corporate professionals would deliberate and interact with the participants.

FEE

A fee of Rs.9,500 per participant will be charged to cover the cost of lunch, tea, course material and other organizational expenses.

PARTICIPATION

The programme is designed primarily for individuals sitting on the Boards of Companies or aspiring to do so and other top rank Company Executives.

REGISTRATION

Request for registration alongwith fee by way of cheque/demand draft drawn in favour of " The Institute of Company Secretaries of India" may please be sent to Shri T R Mehta, Assistant Director, The Institute of Company Secretaries of India, 22, Institutional Area, Lodi Road, New Delhi-110003, Phone: 41504444, Fax:011-24626727, 24645045, E.mail: trmehta@icsi.edu

HOME

NFCG

NATIONAL FOUNDATION FOR
CORPORATE GOVERNANCE

NATIONAL SEMINAR ON CORPORATE COMPLIANCE MANAGEMENT

Organised by



The Institute of
Company Secretaries of India
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

Day & Date : Thursday - March 29, 2007 • Time : 10.00 AM To 5.00 PM

Venue : Napoleon Hall, Hotel Le Meridien, Janpath, New Delhi

ABOUT THE SEMINAR

Corporate accountability is on everyone's mind today. Corporate executives face significant pressure to comply with a steady stream of complex regulations. An effective compliance management program that embeds a culture of compliance throughout the organisation can therefore be a business value enhancer offering positive benefits to business. A superior knowledge of the regulatory risks envisaged by the organisations and putting in place necessary measures to guard against those risks can provide a company with a competitive advantage.

In an effort to measure and control risk and compliance, organizations are looking for a structured approach that lets them quantify risk, establish risk appetite/tolerance, identify and prioritize controls and establish a system to meet a multitude of compliance obligations.

Corporate Compliance Management is a mechanism through which an organisation secures and ensures adherence to the applicable laws. This also forms an integral part of the CEO/CFO Certification, one of the cornerstones of Clause 49 of the Listing Agreement.

This focused attention on compliances with the spirit and details of laws casts upon Company Secretaries and other corporate professionals an onerous responsibility to guide the corporates adapting with compliance regimes, so as to ensure extended protection to investors, shareholders and other stakeholders.

It is in this context the Institute has decided to organise a National Seminar on Corporate Compliance Management sponsored by the National Foundation for Corporate Governance (NFCG) on March 29, 2007 at Hotel Le-Meridian, Janpath, New Delhi.

SEMINAR AGENDA

- Concept of Corporate Compliance Management - need, scope and importance in good Corporate Governance
- Process of Corporate Compliance Management - Identification, evaluation and analysis of applicable Laws and Assessment of Compliance Status
- Certification - establishing Controls and Standards, Self-certification and Certification by outside experts like Practicing Company Secretaries etc.
- Case studies

CHIEF GUEST

Shri Anurag Goel, Secretary, Ministry of Company Affairs has been requested to be the Chief Guest and inaugurate the National Seminar.

FACULTY

Eminent faculty with comprehensive exposure to practical aspects on the chosen topics will address the participants.

FEES

A nominal fee of Rs. 1000 will be charged per participant. (Free for Corporate Members of NIRC)

WHO SHOULD ATTEND

The programme will be of immense practical benefit to Company Secretaries both in practice and employment and other corporate professionals.

PROGRAMME CREDIT HOURS

Members of the Institute will be entitled to four programme credit hours

REGISTRATION

Request for registration alongwith fee by way of cheque/demand draft drawn in favour of "The Institute of Company Secretaries of India" may please be sent to Shri T R Mehta, Assistant Director, The Institute of Company Secretaries of India, 22, Institutional Area, Lodi Road, New Delhi-110003, Phone: +1504444, Fax:011-24626727, 24645045, E.mail: trmehta@icsi.edu

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