Forthcoming Programmes

- Two Day Non-residential National Workshop on Diligence Report for Banks at Coimbatore on May 22-23, 2009
  Similar programmes are being organised at Chennai (May 29-30, 2009), Hyderabad (May 29-30, 2009), Bangalore (June 12-13, 2009) & Jaipur (June 19-20, 2009).

MCA Updates

- Changes in Investor Complaint Form
- Revision of Instruction Kits

SEBI Updates

- Allocation methodology of debt investment limits to FIIs
- Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007

Tax Law Updates

- Levy of Interest under Section 47(2) of the Customs Act, 1962 for delayed payment of duty in respect of clearance of goods from a bonded warehouse

ICSI National Award for Excellence in Corporate Governance, 2009 – Draft Questionnaires for Comments and Suggestions

Disclaimer: - CS Update contains government notifications, case laws and contributions received from the members. Due care and diligence is taken in compilation of the CS Update. The Institute does not own the responsibility for any loss or damage resulting from any action taken on the basis of the contents of the CS Update. Anyone wishing to act on the basis of the contents of the CS Update is advised to do so after seeking proper professional advice.
FORTHCOMING PROGRAMMES

- Two Day Non-residential National Workshop on Diligence Report for Banks at Coimbatore on May 22-23, 2009
Two Day National Workshop

On

Diligence Report for Banks

The Reserve Bank of India vide its Circular dated September 19, 2008 has advised all Scheduled Commercial Banks to obtain Diligence Report by a professional, preferably a company secretary, regarding compliance of various statutory prescriptions that are in vogue, as per the specimen given in the said circular and the subsequent circular(s).

With a view to enable Practicing Company Secretaries to obtain a thorough understanding of the background, scope and the detailed knowledge level required for undertaking assignments of Diligence Report for Banks, the CCRT-ICSI Mumbai jointly with Coimbatore Chapter is organizing a workshop on Diligence Report for Banks as per the following details:-

<table>
<thead>
<tr>
<th>Day(s) &amp; Date(s)</th>
<th>Friday &amp; Saturday, May 22-23, 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Timing</td>
<td>9:30 am to 5:00 pm</td>
</tr>
<tr>
<td>Venue</td>
<td>Jenneys Residency, Avanashi Road, Coimbatore – 641 014</td>
</tr>
<tr>
<td>Proposed Coverage</td>
<td>• Background, Scope &amp; Professional Responsibility</td>
</tr>
<tr>
<td></td>
<td>• Format of Diligence Report</td>
</tr>
<tr>
<td></td>
<td>• Methodology</td>
</tr>
<tr>
<td></td>
<td>• Compliance Inputs &amp; Checklists</td>
</tr>
<tr>
<td></td>
<td>• Competency Building</td>
</tr>
<tr>
<td>Fees</td>
<td>Rs. 2500/- for members of ICSI &amp; Rs. 3000/- for non-members of the ICSI (to cover cost of Backgrounder, Lunch and other organizational expenses)</td>
</tr>
<tr>
<td>Programme Director</td>
<td>Shri R Sridharan, Council Member, The ICSI (Cell. 09841018446)</td>
</tr>
<tr>
<td>Programme Co-ordinator</td>
<td>Shri C Thirumurthy, Chairman, Coimbatore Chapter of the SIRC of The ICSI (Cell. 09843096789)</td>
</tr>
</tbody>
</table>

For registration, please send a Bank Draft favouring The Institute of Company Secretaries of India payable at Coimbatore to Shri C Thirumurthy, Chairman, Coimbatore Chapter of the SIRC of The ICSI, ICSI Coimbatore House, 556, Mettupalayam House, Coimbatore – 641 043 (email:coimbatore@icsi.edu, icsicbechapter@gmail.com) Phone:0422 2452006. The Program is on non-residential basis.

Members attending the workshop would be entitled to 8 Programme Credit Hours & a Certificate of Participation.

Note: Similar programmes are being organised at Chennai (May 29-30, 2009), Hyderabad (May 29-30, 2009), Bangalore (June 12-13, 2009) & Jaipur (June 19-20, 2009).
MCA Updates

- Changes in Investor Complaint Form
- Revision of Instruction Kits
Changes in Investor Complaint Form

In the Investor Complaint Form (available at www.mca.gov.in):

- At serial number 3 “Nature of complaint”, one more option namely “non filing of return of cessation of a director in Form 32” has been added;

- At serial number 5, a new filed namely, particulars of the director for whom return of cessation is not filed by the company has also been added.

- A new attachment namely “In case complaint is in respect of non filing of return of cessation of a director, correspondences with the company with respect to the cessation” has been added.
Revision of Instruction Kits

Instruction kits of under mentioned forms have been revised. All stakeholders are requested to refer the revised instruction kit before filing these forms.

- Form 24: Form of application to the Central Government for increase in the number of directors of the company

- Form 24B: Form of application to the Central Government for obtaining prior consent for holding of any office or place of profit in the company by certain persons

- Form 25A: Form of application to the Central Government for approval of appointment or reappointment and remuneration or increase in remuneration or waiver for excess or over payment to managing or whole-time director(s) or manager and commission or remuneration or expression of opinion to directors
• Allocation methodology of debt investment limits to FIIIs
• Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007
General Manager  
Division of Foreign Institutional Investors & Custodians  
INVESTMENT MANAGEMENT DEPARTMENT  

Cir No. IMD/FII & C/ /2009  
May 12, 2009

To

All Foreign Institutional Investors  
through their designated Custodians of Securities

Dear Madam/Sir

Sub: Allocation methodology of debt investment limits to FIIs

1. Please refer to SEBI circular IMD/FII & C/ 37/2009 dated February 06, 2009 providing the modalities for the allocation methodology for the debt investment limits.

2. It has been decided that the unutilised investment limits for government debt shall also be allocated in similar manner as specified in the circular mentioned above.

3. In partial amendment to clause 3 (h) of the aforesaid circular, no single entity shall be allocated more than Rs.1,000 cr. of the government debt investment limit.

4. A copy of this circular is available at the web page “F.I.I.” on our website www.sebi.gov.in. The custodians are requested to bring the contents of this circular to the notice of their FII clients.

Yours faithfully,

Jeevan Sonparote

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Notification under regulation 3 of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007

No. LAD/NRO/GN/2009-10/04/163097


NOW THEREFORE the Board approves the Series-I: CD, as specified by NISM vide aforesaid notification, as the required certification for approved users and sales personnel of trading members of the Currency Derivatives Segment of recognized stock exchanges for the purpose of sub-regulation (2) of regulation 16L of the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992.

NOW THEREFORE a trading member of the Currency Derivatives Segment of a recognised stock exchange shall ensure that all its approved users and sales personnel obtain Series-I: CD certification, as specified above, by 10th August, 2009.
FURTHER from the date of this notification a trading member of the Currency Derivatives Segment of a recognised stock exchange shall not engage or employ any approved user or sales personnel who does not have valid Series-I: CD certification.

C. B. BHAVE
CHAIRMAN
Levy of Interest under Section 47(2) of the Customs Act, 1962 for delayed payment of duty in respect of clearance of goods from a bonded warehouse
Circular No.15/2009- Customs

F. No. 473/01/2007 – LC
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

Dated the 12 May, 2009

Subject: Levy of Interest under Section 47(2) of the Customs Act, 1962 for delayed payment of duty in respect of clearance of goods from a bonded warehouse – Reg.

A reference is invited to Section 47 (2) of the Customs Act 1962, which provides that where the importer fails to pay the import duty within 5 working days from the date on which the Bill of Entry for home consumption is returned to him for payment of duty, he shall pay interest on the amount of duty till the date of payment of the duty, at the rate fixed by the Central Government. A doubt has been raised whether such interest under Section 47 (2) is payable on goods deposited in a warehouse and for which a Bill of entry for home consumption is filed under Section 68 of the said Act, if the importer fails to pay the duty within 5 working days from the date on which such Bill of Entry filed under Section 68 is returned to him for payment of duty.

2. The matter has been examined by the Board. As per Section 46 of the Customs Act, 1962, the importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting to the proper officer a bill of entry for home consumption or warehousing in the prescribed form. The provision regarding payment of interest for delayed payment of duty after the return of Bill of Entry is contained in Section 47 which reads as under:

“(1) Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.

(2) Where the importer fails to pay the import duty under sub-section (1) within five days excluding holidays from the date on which the bill of entry is returned to him for payment of duty, he
shall pay interest at such rate, not below ten per cent and not exceeding thirty six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, on such duty till the date of payment of the said duty”.

3. A harmonious reading of the above provisions indicates that the provisions of Section 47 (1) are applicable to the goods entered for home consumption by filing a bill of entry accordingly, and the interest liability for delayed payment of duty after the return of Bill of Entry is attracted on import duty as assessed under Section 47 (1) on such goods.

4. In case of goods deposited in a warehouse and being cleared for home consumption, the entry for clearance (i.e. ex-bond Bill of Entry) is made under Section 68. As per Section 68 of the Act, the importer of any warehoused goods may clear them for home consumption, if

(a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;

(b) the import duty leviable on such goods and all penalties, rent, interest and other charges payable in respect of such goods have been paid; and

(c) an order for clearance of such goods for home consumption has been made by the proper officer.

5. Section 68 is a self-contained provision dealing with the clearance of goods from a warehouse for home consumption and this provision does not contain a reference to payment of interest on delayed payment of duty after return of Bill of Entry.

6. Further, as per the provisions of Section 61 (2), interest on warehoused goods is payable when they remain in the warehouse beyond the permitted warehousing period specified in Section 61 (1). Such interest is payable on the amount of duty payable at the time of clearance of the goods from the expiry of the said warehousing period (including such extended period), till the date of payment of duty on the warehoused goods. Thus, when a provision has been made for warehousing of imported goods, without payment of interest for a specified period, it is not the intention to charge interest within the said interest-free period, even if duty is paid after 5 days after return of the ex-bond Bill of Entry. Interest in any case is chargeable if the warehoused goods remain in the warehouse beyond the permitted period for the period from the
expiry of the said period till the date of payment of duty on the warehoused goods.

7. In view of the foregoing, it is clarified that the provisions of Section 47 (2) are not attracted in case of clearances made under Section 68. Consequently, no interest is liable to be paid on goods deposited in a warehouse and being cleared for home consumption by filing the Bill of Entry prescribed under Section 68 of the Act, ibid, for delayed payment of duty i.e. if the importer fails to pay the duty within 5 working days from the date on which such Bill of Entry is returned to him for payment of duty. However, interest on warehoused goods is payable when they remain in a warehouse beyond the period specified in sub-section (1) of Section 61 as per provisions of sub-section (2) of Section 61.

8. Wide publicity to this Circular may be given by way of issuance of public notice and standing order.

9. Difficulties, if any, faced in the implementation of this circular, may be immediately brought to the notice of the Board.

10. Please acknowledge receipt.

11. Hindi version follows.

Yours faithfully,

(P. S. Pruthi)
Commissioner (Customs &EP)
ICSI National Award for Excellence in Corporate Governance, 2009 – Draft Questionnaires for Comments and Suggestions

The process of organizing the ninth “ICSI National Award for Excellence in Corporate Governance” which was instituted in the year 2001 by the Institute of Company Secretaries of India has commenced. The Award aims to identify corporates which best establish and follow good corporate governance norms in letter and spirit. The award is based on the outcome of concerted and comprehensive process which includes the evaluation of responses of the participating companies to questionnaires designed by the Institute.

The draft first questionnaire, the draft second questionnaire and the suggested evaluation methodologies for the respective questionnaires that are proposed to be used for the year 2009 are placed on the website of the Institute at the following link:


We shall highly appreciate your comments and suggestions on the draft questionnaires and the evaluation methodologies thereon. These will help us to further improve the process of evaluation of participating companies in the ICSI National Award for Excellence in Corporate Governance.

Comments and suggestions may please be sent at alka.kapoor@icsi.edu to reach before June 15, 2009