



Bringing lunch to work in reusable containers is the **GREENEST** way to eat at work



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## CS Update

July 30, 2011

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**PREVIOUS ISSUES** of CS UPDATE ARE AVAILABLE AT THE FOLLOWING LINK:

<http://www.icsi.edu/Member/CSUpdate/tabid/1635/Default.aspx>

**Disclaimer:** - 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.





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# FROM GREEN TO GREEN





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## 39th

### National Convention of Company Secretaries

#### *Dates*

**October 13-14-15, 2011**

#### *Venue*

**Jaypee Palace Hotel & Convention Centre, Agra**

10 PCH  
for  
Members of  
ICSI

### THEME

**Corporate Dynamism and Innovative Professionalism**

#### Sub Themes

- Dynamic Business Environment, Innovation and Risk Management
- Regulatory Convergence, Technology and Innovative Professionalism
- From Compliance to Creative Solutions – Vision 2020 challenges
- Leveraging Globalisation for Trade in Professional Services
- Harmonisation of Companies Bill, 2009 vis-à-vis other Corporate Laws

Further details of the Convention and delegate registration form available at the link:

<http://www.icsi.edu/WebModules/LinksOfWeeks/39NC-Brochure.pdf>





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July 29, 2011

## **Filing of balance Sheet and Profit & Loss Account in eXtensible Business Reporting Language (XBRL) mode**

Dear Professional Colleagues,

A. The Ministry of Corporate Affairs under Circular no. 37/2011 dated 07.06.2011 mandated certain class of companies (Phase I) to file Balance Sheets and Profit & Loss Account along with Directors Report and Auditors Report for the financial year ending 2011 by using XBRL taxonomy.

All Companies falling under Phase I whose Balance Sheets are adopted in the Annual General Meeting held before 30<sup>th</sup> September 2011 are permitted to file upto 30<sup>th</sup> September, 2011 without additional fee and where the companies hold the AGM in the month of September 2011 they were allowed to file Balance Sheet within 30 days from the date of adoption in the General Meeting as per Section 220 of the Companies Act, 1956.

The Ministry vide its Circular No. 57/ 2011 dated 28.07.2011 has now modified the above circular by permitting all companies falling in phase I class of companies (excluding exempted class) to file their financial statements without additional fee upto 30<sup>th</sup> November, 2011 or within 60 days of their due date which ever is later.

B. Further, the Ministry of Corporate Affairs under its Circular no. 43/2011 dated 07.07.2011 mandated that besides signing by signatories as specified under Section 215 of the Companies Act, 1956

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the statutory auditor has to certify financial statements prepared in XBRL mode for filing on MCA 21 portal.

A representation was made by the Institute to authorise Company Secretary in Practice for the purpose of verification and certification of documents of financial statements to be filed in XBRL mode by the aforesaid companies.

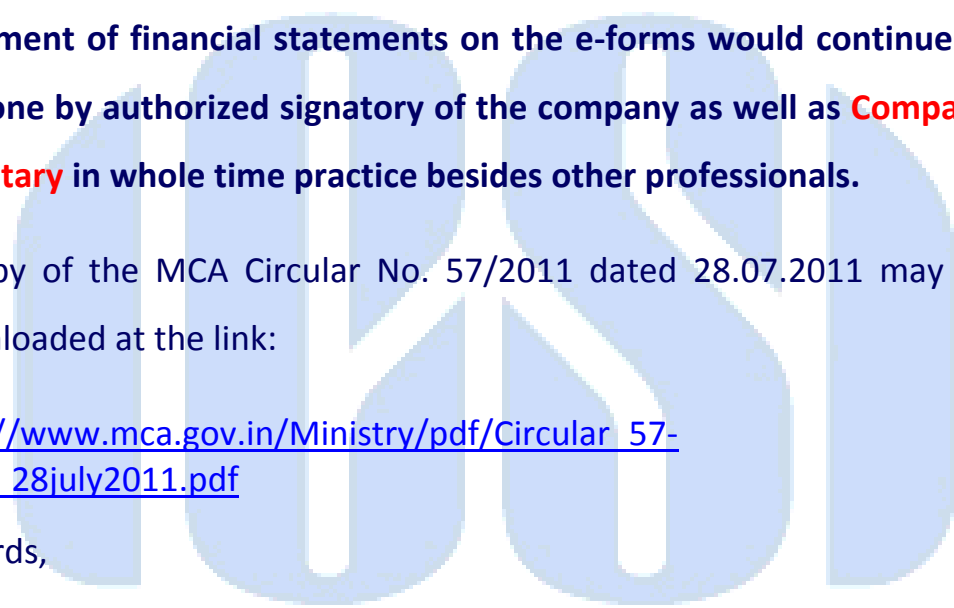
We are pleased to inform that the Ministry vide its Circular No. 57/2011 dated 28.07.2011 has now modified Circular no. 43/2011 dated 07.07.2011 and the verification and certification of the XBRL document of financial statements on the e-forms would continue to be done by authorized signatory of the company as well as **Company Secretary** in whole time practice besides other professionals.

A copy of the MCA Circular No. 57/2011 dated 28.07.2011 may be downloaded at the link:

[http://www.mca.gov.in/Ministry/pdf/Circular\\_57-2011\\_28july2011.pdf](http://www.mca.gov.in/Ministry/pdf/Circular_57-2011_28july2011.pdf)

Regards,

CS N K Jain  
Secretary & CEO

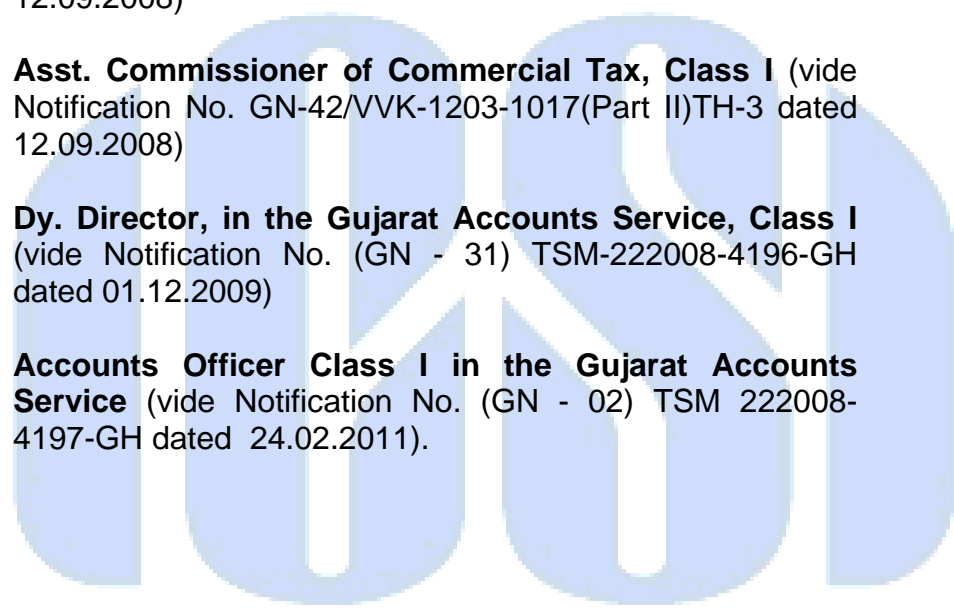




## RECOGNITION OF COMPANY SECRETARY QUALIFICATION FOR DIRECT RECRUITMENT TO THE FOLLOWING CLASS I POSTS IN THE GOVERNMENT OF GUJARAT

The Government of Gujarat has recognized the Company Secretary Qualification for direct recruitment to the following posts:

1. **Dy. Commissioner of Commercial Tax, Class I** (vide Notification No. GN-41/VVK-1203-1017-TH-3 dated 12.09.2008)
2. **Asst. Commissioner of Commercial Tax, Class I** (vide Notification No. GN-42/VVK-1203-1017(Part II)TH-3 dated 12.09.2008)
3. **Dy. Director, in the Gujarat Accounts Service, Class I** (vide Notification No. (GN - 31) TSM-222008-4196-GH dated 01.12.2009)
4. **Accounts Officer Class I in the Gujarat Accounts Service** (vide Notification No. (GN - 02) TSM 222008-4197-GH dated 24.02.2011).



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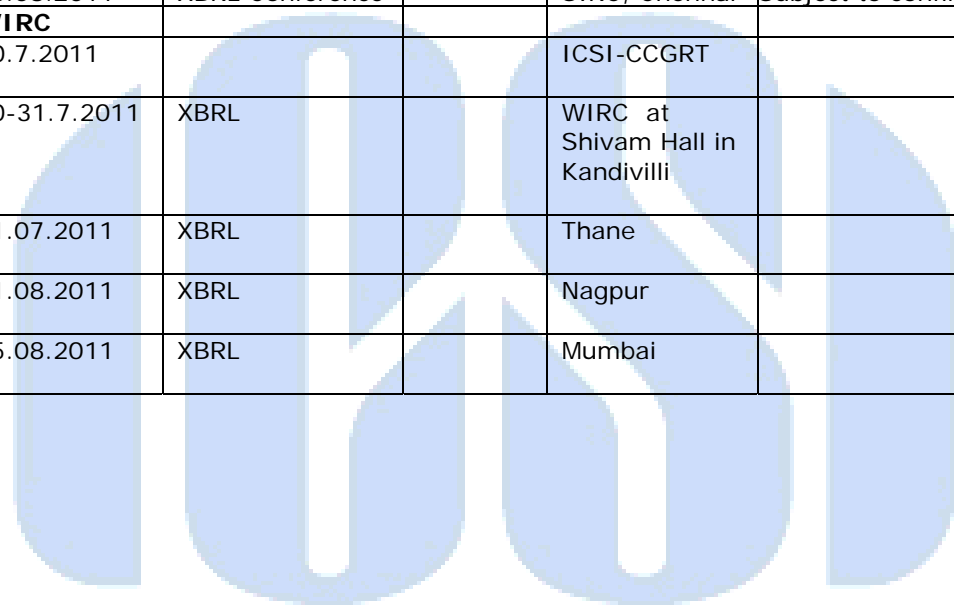
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## LIST OF PROGRAMMES ON XBRL

S.No	Date	Topics	Faculty	Organised by	Participating Chapters on live Webcast
	<b>EIRC</b>				
1.	06.08.2011	XBRL		EIRC	
	<b>NIRC</b>				
1.	3-4.08.2011	Two Day Workshop on "XBRL"		BY NIRC , New Delhi	40 participants will be participating
	<b>SIRC</b>				
1	26.08.2011	XBRL Conference		SIRC, Chennai	Subject to confirmation
	<b>WIRC</b>				
1	30.7.2011			ICSI-CCGRT	
2	30-31.7.2011	XBRL		WIRC at Shivam Hall in Kandivilli	
3	31.07.2011	XBRL		Thane	
4	01.08.2011	XBRL		Nagpur	
5	05.08.2011	XBRL		Mumbai	



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## ICSI Celebrates Corporate Governance Week

August 8-12, 2011

The Institute of Company Secretaries of India (ICSI) is one of the first professional bodies in India to initiate discussion on "Corporate Governance" in the light of Cadbury Committee Report in the year 1997. The Institute has taken several initiatives on corporate governance including ICSI National Award for Excellence in Corporate Governance; ICSI Life Time Achievement Award for Translating Excellence in Corporate Governance into Reality; Issuance of Secretarial Standards to harmonise diverse Corporate Secretarial Practices; Post Membership Qualification (PMQ) Course in Corporate Governance; Directors Development Programmes; International Conferences on Corporate Governance; Investor Education and Awareness Programmes; as well as Joint Programmes with OECD, GCGF (IFC – Washington), INSOL International, Cass Business School (London), ICSA Singapore, ICSA Malaysia, CISI, CMDA (Maldives), etc. for furthering the cause of corporate governance.

### CORPORATE GOVERNANCE WEEK

Furthering the cause of good governance amongst corporate India, the Institute has decided to observe "ICSI Corporate Governance Week", as an Annual Event.

This year the week will be celebrated from August 8-12, 2011. It is proposed to organise programmes corporate governance, sustainability, ethics and integrity, risk management, Non-Financial Disclosures, Carbon Foot Prints, and Good Corporate Citizenship as well as furthering "Go Green" initiatives throughout the length and breadth of the country.

### CORPORATE GOVERNANCE CONCLAVE

The celebrations of the Corporate Governance Week shall culminate into Corporate Governance Conclave. Besides building awareness, the Conclave would provide insights into the various facets of the corporate governance which have assumed significance in the changing business landscape and need the attention from governance professionals, industry leaders, academia, students and others.

### THEME

*"Integrating Sustainability into Corporate DNA"*

Day & Date : Friday August 12, 2011

Venue : New Delhi

Faculty: Corporate Captains, learned professionals, global experts in Corporate Governance will enlighten participants on various intricate issues of Corporate Governance.

PCH – Members attending conclave will be awarded two PCH.

Knowledge Partners :



All are cordially invited to attend and participate in the Corporate Governance Week activities and Corporate Governance Conclave.



**THE INSTITUTE OF  
Company Secretaries of India**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

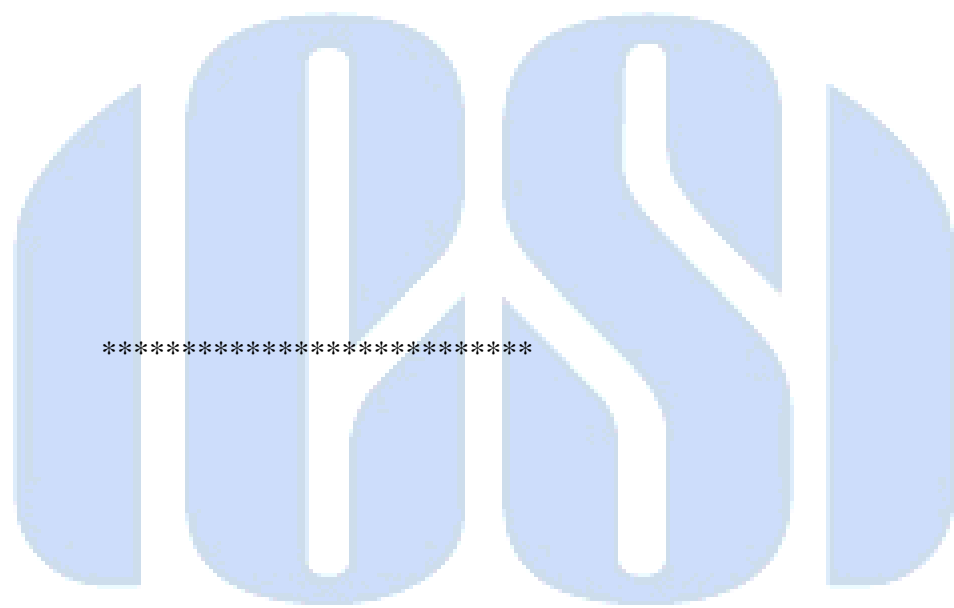
Statutory body under an Act of Parliament





## RECORDING OF WEBCAST ON XBRL ARRANGED BY ICSI

Details can be accessed at: <http://www.streamonweb.com/ICSI>



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## CG & CSR : WATCH

The Institute has always been in the frontline to promote good corporate governance and it has been the constant endeavour of the Institute to raise awareness among the members and students in Corporate Governance arena. This watch gives an update of the latest happenings in the area of Corporate Governance and Corporate Social Responsibility.

### NEW DEVELOPMENTS

#### 1. Public Consultation on the Proposed Revisions to the Code of Corporate Governance—Singapore—14 June 2011

Corporate Governance Council ("Council") which was set up by the Monetary Authority of Singapore to review the existing Code of Corporate Governance 2005 has released the proposed revisions to the Code for public consultation on 14<sup>th</sup> June 2011.

Proposed revision aims to promote a high standard of corporate governance among listed companies in Singapore. This effort is critical to maintaining investor confidence, and to enhance Singapore's reputation as a leading and trusted international financial centre. They shall apply to Singapore listed companies on a 'comply or explain' basis.

The key proposals set out in the consultation paper are made in the areas of director independence, board composition, director training, multiple directorships, alternate directors, remuneration practices and disclosures, risk management, as well as shareholder rights and role.

The Council has invited views and comments on the proposals made in the paper and the draft amendments to the revised Code by 31 July 2011.

The consultation paper on proposed revisions to the Code of Corporate Governance of Singapore can be accessed at:

[http://www.mas.gov.sg/news\\_room/press\\_releases/2011](http://www.mas.gov.sg/news_room/press_releases/2011)

#### 2. OECD Guidelines for Multinational Enterprises -- Recommendations for Responsible Business Conduct in a Global Context -- 24 May 2011

An update of earlier guidelines "The OECD Guidelines for Multinational Enterprises" were issued by OECD after due consultations with government of various adhering nations on 24 May 2011.

The updated version contains recommendations for responsible business conduct that various adhering governments encourage their enterprises to observe wherever they operate.

The Guidelines aim to ensure that the operations of multinational enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises.

The Guidelines provide principles and standards of good practice consistent with applicable laws and internationally recognised standards. Observance of the Guidelines by enterprises is voluntary and not legally enforceable.





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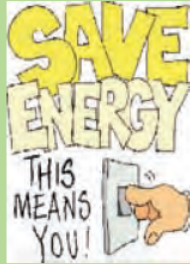


The updated guidelines can be accessed at:

<http://www.oecd.org/>

## GREEN CORNER

### GREEN INDIA



- Turn off the lights when not in use;
- Take advantage of daylight by using light-colored, loose-weave curtains on your windows to allow daylight to penetrate the room;
- Turn off your home office equipment when not in use. A computer that runs 24 hours a day, for instance, uses - more power than an energy-efficient refrigerator;
- If your computer must be left on, turn off the monitor; this device alone uses more than half the system's energy;
- Battery chargers, such as those for laptops, cell phones and digital cameras, draw power whenever they are plugged in. Pull the plug and save;
- Prefer air conditioners having automatic temperature cut off.

### SAVE ENERGY

### Something Good

UNESCO World Heritage Committee (WHC), has decided to remove Manas National Park, Assam, from the "List of World Heritage Sites in Danger". The decision was announced during the 35th Session of the WHC in Paris (19-29th June 2011). This makes Manas the only site out of sixteen world heritage sites in this category, to be taken off the list. The UNESCO-IUCN Reactive Monitoring Mission which visited Manas in January this year took the decision. Members of the visiting mission were impressed to see the range of species and habitat management restoration activities at the site, including the re-habitation of the Indian one-horned rhinoceros. The WHC said, significant improvements in the preservation and restoration of the park, and maintaining the 'Outstanding Universal Values (OUVs)' of the site, were the key factors in the decision.

### To Remember:

July 11 – World Population Day

### Quote of the Month

"Let every individual and institution now think and act as a responsible trustee of Earth, seeking choices in ecology, economics and ethics that will provide a sustainable future, eliminate pollution, poverty and violence, awaken the wonder of life and foster peaceful progress in the human adventure."

— **John McConnell**, founder of International Earth Day

### Feedback & Suggestions

Readers may give their feedback and suggestions on this page to Mrs. Alka Kapoor, Joint Director, ICSI ([alka.kapoor@icsi.edu](mailto:alka.kapoor@icsi.edu))

### Disclaimer:

The contents under **CG & CSR: Watch** have been collated from different sources. Readers are advised to cross check from original sources.





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# MCA UPDATE





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## FILING OF BALANCE SHEET AND PROFIT AND LOSS ACCOUNT IN XBRL MODE

Circular No: 57/2011

No. HQ/MCA/DigitisedBS/AR/2009  
Government of India  
Ministry of Corporate Affairs

5th Floor, "A" Wing, Shastri Bhawan,  
Dr. R.P. Road, New Delhi – 110001

Dated: 28.07.2011

All the Regional Directors,  
All the Registrar of Companies/ Official Liquidators  
All stakeholders

**Sub: Filing of Balance Sheet and Profit and Loss Account in eXtensible Business Reporting Language (XBRL) mode.**

Sir,

The Para 3 of the Circular no. 37/2011 dated 07.06.2011 may be read as under: -

"All companies falling in Phase-I class of companies (excluding exempted class) are permitted to file their financial statements without any additional fee up to 30.11.2011 or within 60 days of their due date, whichever is later."

2. Further, in supersession of Para 2 (i) of Ministry's Circular No. 43/2011 dated 07.07.2011, it is informed that the verification and certification of the XBRL document of financial statements on the e-forms would continue to be done by authorized signatory of the company as well as professional like Chartered Accountant or Company Secretary or Cost Accountant in whole time practice.

3. This issue with approval of Competent Authority.

Yours faithfully,

A handwritten signature in black ink.  
(J.N. Tikku)  
Joint Director





## MINISTRY OF CORPORATE AFFAIRS RELEASES DRAFT NATIONAL COMPETITION POLICY FOR INDIA

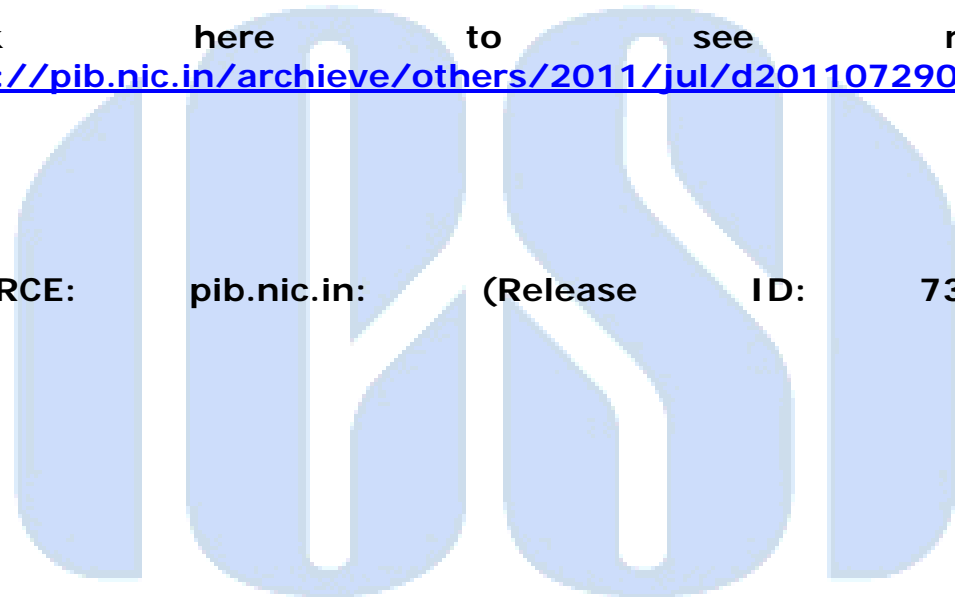
29- JULY, 2011

The Ministry of corporate Affairs has today released the Draft National Competition Policy for India for discussion among the masses and create awareness in this regard. The Policy is as under:

### National Competition Policy Statement of the Government of India

Click [here](http://pib.nic.in/archieve/others/2011/jul/d2011072904.pdf) to see more:  
<http://pib.nic.in/archieve/others/2011/jul/d2011072904.pdf>

SOURCE: [pib.nic.in](http://pib.nic.in): (Release ID: 73582)



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## PROVIDING GIFTS TO THE SHAREHOLDERS DURING ANNUAL GENERAL MEETING (AGM) OF THE COMPANY

Draft Circular

F. No. 17/218/2011 CL.V  
Government of India  
Ministry of Corporate Affairs  
CL V Section

5th Floor, A Wing, Shastri Bhavan,  
Dr. R.P. Road, New Delhi  
Dated July, 2011

All Regional Directors,  
All Registrar of Companies,  
All Stakeholders.

Sub: Providing Gifts to the shareholders during Annual General Meeting (AGM) of the Company.

Sir,

The Ministry of Corporate Affairs has been receiving representations from various stakeholders that it has become a general practice in the country to give gifts to the shareholders while they attend any AGM in addition to the dividend recommended by the Board of Directors.

2. It has also been brought to the notice of the Ministry that the companies offer gifts, extravagant food and other charms to shareholders who attend AGM to divert the attention of the shareholders from the main purpose of AGM and their right of key role in the management of the company through AGM. In addition, shareholders are made busy to collect gifts, gift coupons, packet of snacks etc., in the duration of meeting while corporate manage to pass certain resolutions without any debate on the same.

3. The Secretarial Standards on General Meeting issued by the Institute of Company Secretaries of India has also specifically mentioned that no gifts, gifts coupons or cash in lieu of gifts should be distributed to the members at or in connection with the meeting.

4. Keeping the principle of good corporate governance view, it has been decided that no company shall offer any other thing except tea, coffee, soft drinks and snacks etc in the AGM. As a courtesy to the shareholders, the same may be made available before the start of the meeting. Any other gifts, food coupons or gift coupons and other enticement shall be treated as misconduct on the part of board of directors of the company. The directors of such companies shall be liable to pay back the cost of such expenses to the company and shall also be liable for the penal action as provided under section 168 of the Companies Act, 1956 for not convening the AGM properly as required under section 166 of the Companies Act, 1956.

5. All the stakeholders are requested to consider and examine the above proposal of the Ministry and furnish their views /comments /recommendations to the Ministry by 14<sup>th</sup> August, 2011 on following e-mail addresses.

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[kamna.sharma@mca.gov.in](mailto:kamna.sharma@mca.gov.in)  
[monika.gupta@mca.gov.in](mailto:monika.gupta@mca.gov.in)

Yours faithfully,

(Kamna Sharma)  
Assistant Director

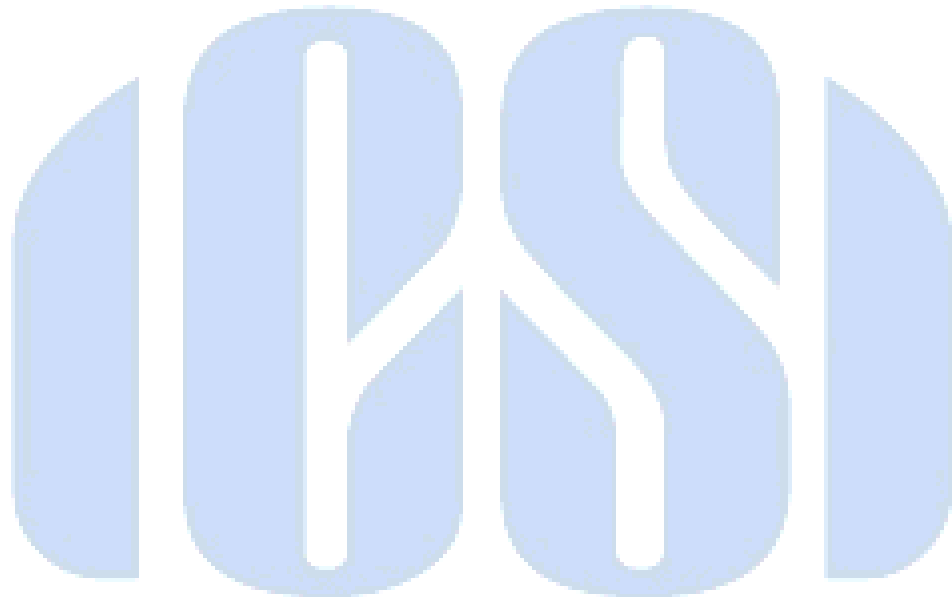
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- Copy to:
1. All concerned
  2. PS to CAM and PS to MOS
  3. PPS to Secretary, Additional Secretary, Joint Secretaries

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## BLOCKING OF DIN CONSEQUENT TO NON-FILING OF STATEMENT OF AFFAIRS (SOA)

GENERAL CIRCULAR No.56 /2011

F. No. 35/6/2011/Insolvency  
Government of India  
Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhavan,  
Dr. R.P. Road, New Delhi-110001  
Dated 28th July 2011

To

All Regional Directors  
All Registrar of Companies  
All Official Liquidators

Subject: Blocking of DIN consequent to non-filing of Statement of Affairs (SOA)

Sir,

It has been observed that companies are not filing Statement of Affairs (SOA) in time in terms of section 454 of the Companies Act, 1956. This delays the process of liquidation considerably. It has, therefore, been decided to give the companies and the directors of such companies where winding up orders have been passed by the Hon'ble Court, one months notice to file SOA before action for blocking their DIN is initiated by the Ministry.

2. Official Liquidators shall furnish list of all such directors who have failed to furnish SOA (giving their details) to the Ministry on 3rd working day of every month starting from 5th September, 2011 by e-mail to respective RD, ROC, e-Governance Cell and Insolvency Section of this Ministry.

3. MCA 21 cell in the Ministry would block DIN of all such directors on getting information after approval of the competent authority concerned and intimate the same to all.

Yours faithfully,

(Jaikant Singh)  
Director

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## SCRUTINY INSPECTION AND INVESTIGATION IN ALL WINDING UP CASES

**GENERAL CIRCULAR No. 55/2011**

**F. No. 35/6/2011/Insolvency**

Government of India  
Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhavan,  
Dr. R.P. Road, New Delhi-110001  
Dated 26th July 2011

To

All Regional Directors  
All Registrar of Companies  
All Official Liquidators

Subject: Scrutiny inspection and investigation in all winding up cases.

Sir,

It has been noticed that winding up petitions are being filed by management after having committed major violations under the Companies Act, 1956 as well as misappropriation of funds of the company. Winding up of such companies are also being filed by creditors. In order to curb such malpractices following procedure may be followed in all such cases: -

(a) The moment winding up petition is filed before the Court, Official Liquidator (OL) will obtain a copy of petition and forward the same to the Registrar of Companies (ROC) concerned.

(b) ROC will have a scrutiny of the details/documents available in respect of the company in MCA21 registry and will submit a preliminary report to the Ministry within a week time for inspection or investigation, if so required, containing following information for the past five years of the date of filing of petition: -

- (i) History of the company, viz incorporation, maintenance of registered office, main object and present business activities;
- (ii) Management pattern, including details of directors/nominee directors and their directorship in other companies;
- (iii) Capital structure and shareholding pattern;
- (iv) Financial position and working results;
- (v) Comments on filing position and compliances of Schedule VI read with Accounting Standards;



# CS Update

July 30, 2011



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(vi) Nature of complaints registered on MCA-21, their nature and any noticeable findings;

(vii) Whether any complaint was received alleging that the company is involved in fraudulent activities, siphoning of funds etc. If so, the details thereof.

(viii) Whether any scrutiny/inspection was carried out, if so, the details thereof;

(ix) Whether the company is having any holding or subsidiary company, if so, details thereof;

(x) Whether company has raised funds through IPO, if so, the utilization of amount collected, compliance of provisions of the Act for deviation from the object stated in Prospectus/Offer Document; transactions with related parties;

(xi) In case of public company, whether it has accepted public deposit. If so, whether the payment of matured amount including interest was made as per schedule. In case any amount is still pending, the details of amount and interest thereon.

(xii) The quantum of unsecured loan amount and related party transactions thereto.

(xiii) Secretarial reports and qualifications made by the auditors on accounts of the company;

(xiv) Whether company or its members/creditors have requested for investigation into the affairs of the company, if so, the details thereof.

(c) MCA will take a final view in the matter within a period of 15 days from the date of receipt of preliminary report from ROC. If any inspection under Section 209A and/or investigation under Section 235/237 of the Act is ordered, the same will be completed by the ROC and forwarded to the OL within 30 days.

(d) The OL will place the report before the Hon'ble High Courts for seeking appropriate order/action under Section 539 to 544 and other relevant provisions of the Act. Simultaneously, necessary action as per law will be initiated against the director, ex-director and key management of the company for any violation of law/ Companies Act, 1956.

(e) These cases will be monitored in the monthly staff meeting of Regional Directors.

Yours faithfully,

(Jaikant Singh)  
Director

\*\*\*\*\*





## PRO-ACTIVE ACTION IN CASE OF WINDING UP PETITIONS

GENERAL CIRCULAR NO. 54/2011

F. No. 35/6/2011/Insolvency  
Government of India  
Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhavan,  
Dr. R.P. Road, New Delhi-110001  
Dated 26th July 2011

To

All Regional Directors  
All ROCs  
All Official Liquidators

**Subject: Pro-active action in case of winding up petitions.**

It has been noticed that winding up petitions are filed by creditors, stake holders and management before Hon'ble High courts without providing full information. This leads to waste of valuable time of Hon'ble Court and also delays completion of winding up process as well. In order to speed up the winding up process and to introduce best international practices the winding up process, following actions will be taken by concerned OL:-

(a) OLs shall post one of the staff members to the Company Court to keep track of all cases where applications have been filed for winding up, but orders for winding up are yet to be issued by the Court.

(b) For all cases pending till date and in future as well, information shall be obtained by OL from "institution register" maintained in High Court and action as below must be taken in all cases.

(c) In each case the OL will file an application praying to the Court to direct the management of the company to submit following information duly verified by a chartered accountant:-

(i) The current addresses of the Directors, Company Secretary and Statutory Auditor of the company;

(ii) Location and physical details of each immovable asset of the company along with its current valuation;

(iii) The details of all the debtors and creditors with their complete addresses and occupations;

(iv) The details of each movable asset of the company along with value;

(v) The details of workmen/employees and any amount outstanding to them;

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(vi) The details of all movable and immovable assets held in the personal names of director by providing its location, value, dates of acquisition and nature of right, title and interest therein;

(vii) Copies of last three years audited balance sheet of the company; and

(viii) The details of location of the registered office of the company.

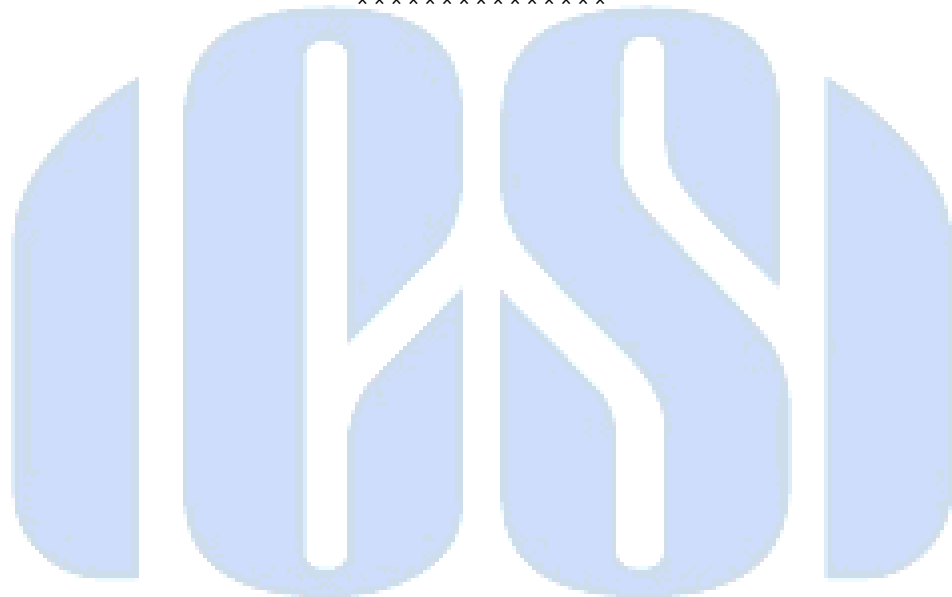
(d) RDs will ensure that in all pending cases, the applications are moved by OL before the Court before the next date of hearing and in all new cases, these are filed before the Hon'ble Court before the second hearing of the case.

(e) RDs will ensure that a standard draft is prepared by them after taking legal advice and the same is used in all cases by OLs.

(Jaikant Singh)

Director

\*\*\*\*\*





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## **GUIDELINES FOR RDs/ROCs IN THE MATTER OF SCHEME OF ARRANGEMENT / AMALGAMATION UNDER SECTION 391-394**

**GENERAL CIRCULAR NO. 53/2011**

**F. No. 51/16/2011-CL.III**  
Government of India  
Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhavan,  
Dr. R.P. Road, New Delhi-110001  
Dated 26th July, 2011

To

**All Regional Directors  
All ROCs  
All Official Liquidators**

**Subject: Guidelines for RDs/ROCs in the matter of scheme of arrangement / amalgamation under section 391-394.**

It has been observed that various field formations are following different practices while sending comments to the Hon'ble High Courts in respect of scheme of arrangement/amalgamation u/s 391-394 of the Companies Act, 1956 on behalf of the Central Government. In order to streamline the procedure the following guidelines alongwith timelines are issued for strict compliance. These guidelines supersede all previous guidelines on the matter. Issues to be examined by ROCs and RDs are given at annexure I and II respectively.

The procedure to be followed and the timelines are indicated below.

- a) On receipt of notice from the court u/s 394A regarding the scheme, the Regional Director should make an entry in a register or in electronic form. If the petition has already been filed with ROC in Form 61 in the system, the same can be monitored directly from the system.
- b) Thereafter within three days of receipt, Regional Director shall send a mail to ROC concerned for the report.
- c) ROC should furnish his report online to RD within 7 days from receipt of Form 61 without waiting for RD's communication.
- d) Within seven days of receipt of notice RD should send a letter to local branch of Law Ministry / Assistant Solicitor General appointed for the state by Law Ministry as the case may be (furnishing copy of the notices received u/s 394A) requesting for nomination of an advocate.
- e) Regional Director should send a letter within five days of receipt of notice to company / its Advocate to provide material of valuation report, Chairman's report



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regarding creditors / members meeting and on receipt of the information, the matter should be processed and finalized within a week's time.

f) The finalized affidavit should be sent to designated Standing Counsel for the particular case for signature and then to Law Ministry (local branch) for identification. This exercise should not take more than five days after which the affidavit should be filed in Court Registry.

2. The ROCs may examine the matter in respect of issues mentioned in Annexure 'I' and send their report to concerned RDs who would take into consideration the report of the ROC before finalizing their comment.

(Jaikant Singh)

Director

**GENERAL CIRCULAR NO. 53/2011  
Annexure - I**

#### Issues to be examined by ROCs

1. Filing Position.
2. Investor Grievances.
3. Inspection / Investigation / Technical Scrutiny.
4. Pending Prosecution.
5. Furnishes comments on the scheme.

\*\*\*\*\*

**GENERAL CIRCULAR NO. 53/2011**

**Annexure - II**

#### ISSUES TO BE EXAMINED BY REGIONAL DIRECTORS

Regional Director should ensure that all requisite statutory procedure for supporting the schemes has been complied with. For this he should examine the following:

- 1) Whether companies forming part of scheme are sensitive sectors categories companies such as, Defence Equipment Manufacturing Companies / Telecommunication / Insurance / Business / Companies / Media News / Channels / Television Broadcasting Companies / Aviation Section / Power, Energy, Natural Gas / Petroleum etc? If so, whether notices served on the concerned Regulatory Authorities / Ministry?
- 2) Whether any of the Transferor/ Transferee Company is listed company at any Stock Exchanges? If so, NOC from Stock Exchange is submitted?
- 3) Whether there is any NRI holding / foreign interest in any of the Transferor or Transferee Company?



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- 4) Whether Petitioner Company and / or its director have prima facie contravened any provisions of Companies Act, 1956?
- 5) Whether Transferor and Transferee Company are regular in filing its statutory returns?
- 6) Reports sent by concerned Registrar of Companies should be examined.
- 7) Investors/or other companies regarding affairs of the company should be examined.
- 8) In case of complicated legal/technical issues, opinion of Law Ministry/ Government Advocates should also be obtained.
- 9) Whether Transferor or Transferee Company was inspected u/s.209A of the Companies Act, 1956 by this Directorate and position of latest follow up of penal actions arising out of inspection?
- 10) Whether Valuation Report submitted, if so, whether share exchange ratio in the scheme is as per Valuation Report and as per general accepted accounting principles?
- 11) Whether transfer of Employees and their interest is protected?
- 12) Whether Accounting Treatment clause is as per Accounting Standard- 14 and in tune with the provisions of sec.211 3A / 3C of the Companies Act, 1956?
- 13) Whether meeting is conducted by the company in respect of equity shareholders/secured creditors/unsecured creditors? If not, whether any exemption is granted by the Hon'ble High Court?
- 14) Whether details of transactions entered with related parties of directors falling u/s.295, 297 and 299 of the Act is furnished?
- 15) Whether consideration is made in cash other than of shares?
- 16) Whether provisions of sec.77 in respect of buy back of shares is attracted?
- 17) Whether any reduction of share capital is involved in the scheme of demerger and provisions of sec.100-104 is complied with?
- 18) Where no such reduction of capital is involved, it is made sure that necessary adjustment is made in the books of accounts duly incorporating in the scheme?
- 19) Whether the authorized share capital of the Transferee Company is sufficient for allotment of new shares for the shareholders of the Transferor Company?
- 20) Whether any foreign entity is involved and if so necessary permission is obtained from Regulatory Authorities?
- 21) Whether compliance of FEMA/RBI Guidelines has been done wherever applicable?
- 22) Whether any qualification has been made by the Statutory Auditor, if so, whether company has complied with sec. 217(3) of the Companies Act, 1956?
- 23) How the qualification and reservations of the Auditors are complied with by the company?

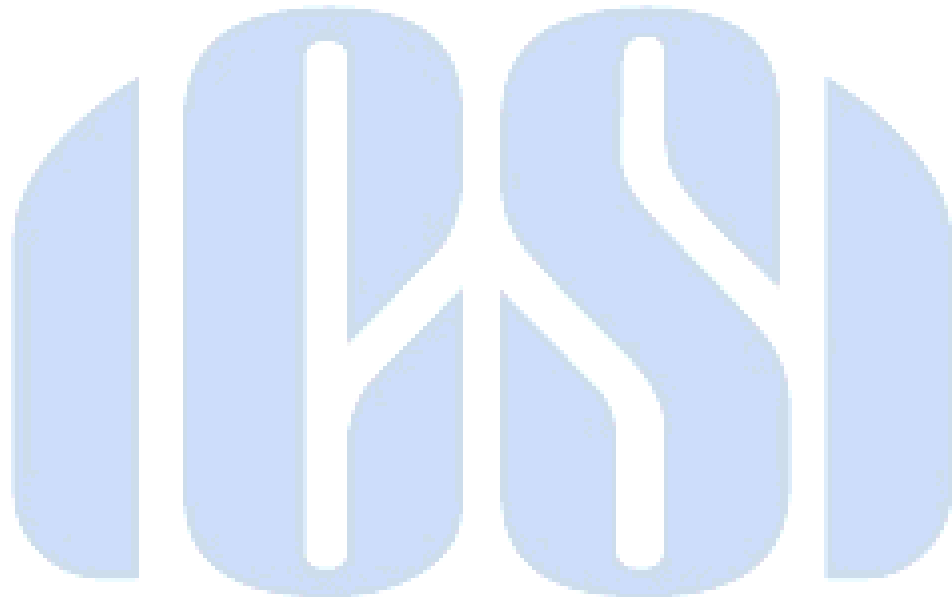


24) Whether a listed company is merging with an unlisted company ? In such a case he should ensure that share of unlisted company also gets listed.

25) Whether consequent to merger, the promoters holding in the listed company is substantially increased ?

26) Whether the companies have come up with schemes to circumvent the Law in the garb of obtaining approval of the Hon'ble High Court under the accepted principle of "Single Window" approval and other grounds laid down by the Courts in its rulings? If so, the Regional Director should bring out his objection in his statement/report/affidavit irrespective of the fact whether Court accepts it or not.

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## SIMPLIFIED PROCEDURE FOR OBTAINING ONLINE APPROVAL OF CENTRAL GOVERNMENT UNDER SECTION 297 OF THE COMPANIES ACT, 1956

General Circular No. 52/2011

F.No. 17/170/2011 CL.V  
Government of India  
Ministry of Corporate Affairs  
CL V Section

5th Floor, A Wing, Shastri Bhavan,  
Dr. R.P. Road, New Delhi  
Dated 25th July, 2011

All Regional Directors,  
All Registrar of Companies,  
All Stakeholders.

Sub : **Simplified procedure for obtaining online approval of Central Government under section 297 of the Companies Act, 1956.**

Sir,

The Ministry of Corporate Affairs has been receiving representations from various stakeholders to simplify the approval processes under section 297 of the Companies Act, 1956.

In order to cut timelines in giving approval, the Ministry has decided to simplify the procedures and to give approval online, if the proposed contract has been approved by the shareholders by way of special resolutions in a general meeting.

2. According to new procedure, application will be made in a new e-form with the prescribed fee. The relevant information like terms of contract and details of Board resolutions and special resolutions shall be captured in the e-form. The e-form shall also be certified by the practicing professional who shall specifically certify the correctness of the information and declarations given by the company in the e-form.

3. The company while seeking approval of the directors and shareholders in their meetings shall specifically take approval to the effect that: --

(i) Proposed contract is competitive, at an arm's length, without conflict of interest and is not less advantageous to it as compared to similar contracts with other parties.

(ii) The company has not made any default in repayment of any of its debts (including public deposits) or debentures or interest payable thereon and has filed its upto date Balance Sheets and Annual Returns with the Registrar of Companies;

(iii) The proposed contract is falling within the provisions of section 297 of the Act and provisions of sections 198, 269, 309, 314 and 295 are not applicable in the proposed contract.



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July 30, 2011



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(iv) The company and its Directors have complied with the provisions of sections 173, 287, 299, 300, 301 and other applicable provisions of the Companies Act, 1956 with regard to the proposed contract.

4. The application will be processed online and approval of Central Government shall also be made available to the applicant company online on the basis of declarations made by the company and certifications by the professionals given in the e-form.

5. If any of the information or declaration given by the company or certificate given by the professional in the e-form is found to be wrong, then the applicant company, its Directors and professional shall be liable for penal action under section 297 and 628 of the Companies Act, 1956 in addition to penal action prescribed in regulations of the respective professional institutes.

6. The process of online approval of Central Government under section 297 of the Companies Act, 1956 is likely to be implemented with effect from 24th September, 2011.

Yours faithfully,  
-sd-  
(Kamna Sharma)

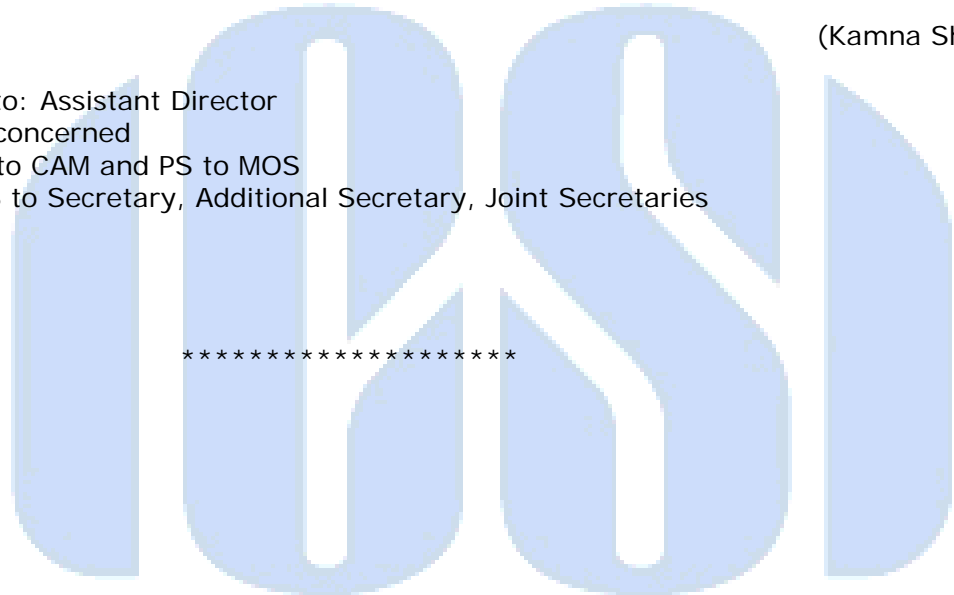
Copy to: Assistant Director

1. All concerned

2. PS to CAM and PS to MOS

3. PPS to Secretary, Additional Secretary, Joint Secretaries

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## ONLINE INCORPORATION OF COMPANIES WITHIN 24 HOURS

General Circular No. 49 /2011

No 2/10/2011-CL.V  
Government of India  
Ministry of Corporate Affairs

5th floor, 'A' Wing, Shastri Bhawan,  
Dr. Rajendra Prasad Road, New Delhi  
Dated the 23rd July, 2011

All Regional Directors  
All Registrar of Companies.

### Sub: Online incorporation of companies within 24 hours

Sir,

In order to give ease to the corporate world to carry business in India, the Ministry of Corporate Affairs has been simplifying the procedures under the Companies Act, 1956. As another step in this direction, the Ministry is modifying the incorporation procedures to enable promoters to get their companies incorporated online within 24 hours.

2. Ministry has already implemented online approval of Director's Identification Number (DIN) with effect from 12.06.2011 and names of the proposed company will also be made available online with effect from 24.07.2011. The digital certificate of incorporation is already being issued online by the Registrar of Companies.

3. Now, the Ministry is also simplifying the procedures to approve incorporation applications forms online.

In case the e-forms 1, 18, 32 and e-form for Memorandum of Association (MOA) and Articles of Association (AOA) have been certified by the practicing professional regarding the correctness of the information and declarations given by the subscribers, the application shall be processed electronically and the digital certificate of incorporation shall be issued immediately online by the Registrar of Companies.

4. The above facility is optional to the existing process of backend processing of applications by the Registrar of Companies where no such certifications have been done by the practicing professional.

5. If any of the information or declaration given by the company or certificate given by the professional in the e-forms and attachment(s) thereto is/ are, found to be wrong, false or illegal then the subscribers, declarant(s) and professional(s) shall be liable for penal action under section 628 and 629 of the Companies Act, 1956 in addition to penal action prescribed in regulations of the respective professional institutes.

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July 30, 2011



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6. Where a company has been registered online on the basis of declarations made by the subscribers, declarant(s) and certifications by the professional(s) given in the e-form, if it is found later on that the company ought not to have been registered under provisions of the Companies Act, 1956 read with Rules and Regulations made therein, the Registrar of Companies shall take necessary action to put the company in state of suspended animation and initiate the process of revocation of the registration of the company after giving an opportunity of being heard.

7. It is expected that the above immediate online approvals of DIN, availability of name and registration of e-forms-1, 18, 32 and MOA and AOA, the complete process of incorporation of a company can be completed within 24 hours.

8. The above simplified process of online incorporation of companies is likely to be implemented with effect from 11th August, 2011.

Yours faithfully,

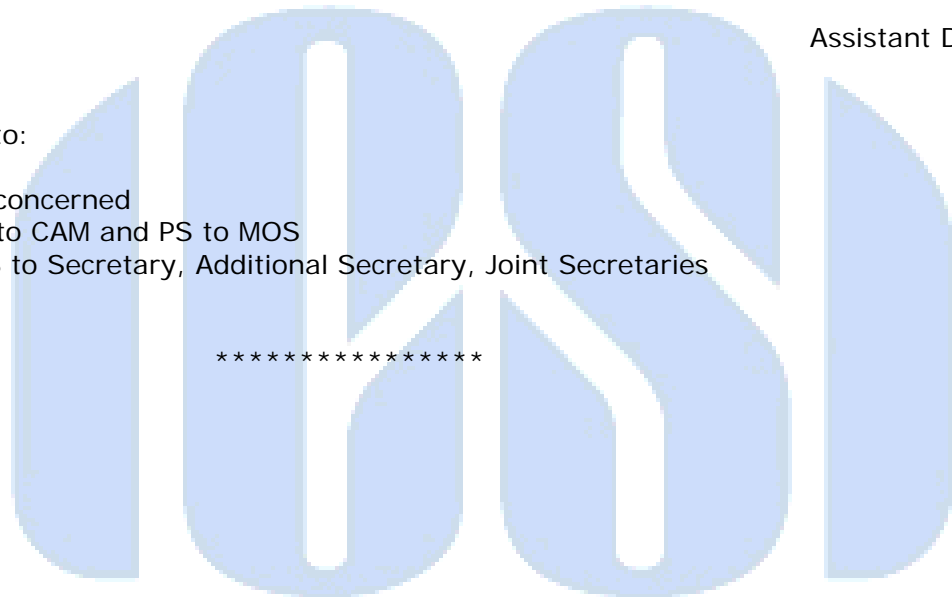
-sd/ -  
(Monika Gupta)

Assistant Director

Copy to:

1. All concerned
2. PS to CAM and PS to MOS
3. PPS to Secretary, Additional Secretary, Joint Secretaries

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## SIMPLIFIED PROCEDURE FOR RECTIFICATION OF REGISTER OF CHARGES UNDER SECTION 141 OF THE COMPANIES ACT, 1956

General Circular No. 51 / 2011

F.No. 1/ 1/ 2003 CL.V  
Government of India  
Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan,  
Dr. R.P. Road, New Delhi  
Dated 25th July, 2011

All Regional Directors,  
All Registrar of Companies,  
All Stakeholders.

**Sub: Simplified procedure for rectification of register of charges under section 141 of the Companies Act, 1956.**

Sir,

In order to simplify the procedures and cut timelines, the Ministry has decided to notify section 20 of the Companies (Second Amendment) Act, 2002 (1) of 2003 thereby the work relating to rectification of register of charges under section 141 of the Companies Act, 1956 shall be shifted from the jurisdiction of Company Law Board to the Central Government.

2. It has further been decided to delegate this work to the respective Registrar of Companies under whose jurisdiction the registered office of the company is situated. The petitions filed with the Company Law Board and pending as on the effective date of notification shall be transferred to respective Registrar of Companies.

3. The revised e-forms and business re-engineering process under MCA-21 system is being developed and the simplified procedures to be followed by the companies and Registrar of Companies shall be given in the modified e forms and instruction kit thereto shortly.

4. It is expected that on discharging of these functions by the respective Registrar of Companies on implementation of simplified procedures, the cost and the time to get condonation under section 141 of the Companies Act, 1956 shall be reduced.

5. The above simplified process is likely to be implemented with effect from 24<sup>th</sup> September, 2011.

Yours faithfully,

-sd-  
(Kamna Sharma)  
Assistant Director

Copy to:

1. All concerned
2. PS to CAM and PS to MOS
3. PPS to Secretary, Additional Secretary, Joint Secretaries



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# SEBI UPDATE





## HIGHLIGHTS OF MAJOR DECISIONS TAKEN AT SEBI BOARD MEETING HELD ON JULY 28, 2011

SEBI in its Board Meeting held on July 28, 2011, took the following major decisions:

### 1. Acceptance of recommendations of the Takeover Regulations Advisory Committee (TRAC)

The Board considered the Report of the Takeover Regulations Advisory Committee (TRAC) and accepted most of the recommendations of TRAC. Major among them include the following:

- Initial trigger threshold increased to 25 % from the existing 15 %.
- Introduction of Voluntary offers.
- Minimum offer size to be kept at 26% of the total issued capital.

### 2. Review of certain policies relating to mutual funds through Amendment to SEBI (Mutual Funds) Regulations, 1996,

covering Rationalization of transaction charges, Permissible activities to be carried out by Asset Management Companies (AMCs), Transparency of information, Dispatch of Annual Accounts etc through e-mail etc

### 3. KYC Registration Agency introduced for Harmonization and Rationalization of KYC process, avoiding repetitive KYC compliances with multiple intermediaries.

### 4. Amendment to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009

- Revision of structure, design, format, contents and order of information of Bid-cum-Application Form and Abridged Prospectus.
- Listed Companies to comply with the requirement for track record of distributable profits.
- Listed entities to disclose in a prescribed format, voting results/ patterns on their websites and to the exchanges within 48 hours from the conclusion of the concerned shareholders' meeting.
- Listed entities to supply soft copies of full annual reports to all those shareholders who have registered for the same, hard copy of abridged annual reports to others, hard copies of full annual reports to those shareholders who request for the same.
- Disclosure of figures in respect of immediately preceding quarter as well in addition to the existing requirements.
- Companies which opt to submit audited annual results within 60 days of end of financial year in lieu of last quarter results to also submit the last quarter results along with the audited annual results.

### 5. Simplification and rationalization of trading account opening process with stock brokers.

### 6. Merchant bankers to maintain records and documents pertaining to due diligence exercised in pre-issue and post-issue activities of issue management, takeover, buyback and delisting of securities.

### 7. Networth Requirements stipulated for RTAs

- (i) Category I RTAs - Rs. 50 lakh
- (ii) Category II RTAs - Rs. 25 lakh

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8. Amendment to the SEBI (Prohibition of Insider Trading) Regulations, 1992 mandating certain disclosures to be made by promoters and persons who are part of promoter group of a listed company.

\*\*\*\*\*

PR No. 119/2011

## SEBI Board meeting

The Board met today in Mumbai and took the following major decisions:

### (I) Proposed new Takeover Regulations based on recommendations of Takeover Regulations Advisory Committee

The Board considered the Report of the Takeover Regulations Advisory Committee (TRAC) and accepted most of the recommendations of TRAC.

Major among them include the following:

- a) Initial trigger threshold increased to 25 % from the existing 15 %.
- b) There shall be no separate provision for non-compete fees and all shareholders shall be given exit at the same price.
- c) In cases of competitive offers, the successful bidder can acquire shares of other bidder(s) after the offer period without attracting open offer obligations.
- d) Voluntary offers have been introduced subject to certain conditions.
- e) A recommendation on the offer by the Board of Target Company has been made mandatory. As regards definition of control and offer size, the Board decided as under:
- f) Existing definition of control shall be retained as it is.
- g) The minimum offer size shall be increased from the existing 20 % of the total issued capital to 26 % of the total issued capital.

The Board did not accept the recommendation of TRAC to provide for delisting pursuant to an offer and proportionate acceptance.

### (II) Review of certain policies relating to mutual funds – Amendment to SEBI (Mutual Funds) Regulations, 1996

- a) Transaction charges



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In order to help Mutual Funds penetrate into retail segment in smaller towns, the distributor would be allowed to charge Rs. 100 as transaction charge per subscription. No charge can be made for investments below Rs. 10,000. An additional amount of Rs. 50 can be charged to first time Mutual Fund investor. However, there would be no transaction charge on (a) transactions other than purchases/ subscriptions relating to new inflows, and (b) direct transactions with the Mutual Fund. For SIPs, the transaction charges can be recovered in 3 or 4 instalments. The transaction charges are in addition to the existing eligible commissions permissible to the distributors.

b) Permissible activities that can be carried out by Asset Management Companies (AMCs) AMCs to manage and advise pooled assets such as offshore funds and pension funds etc. that are broad based, provided there is no conflict of interest due to differential fee structure .AMCs will continue to deal with Portfolio Management Services (PMS) under the current arrangements.

c) Transparency of information

Guidelines for advertisements will be suitably modified to include point to point return on a standard investment of Rs. 10,000 and other performance related disclosures. More granular disclosure of Assets Under Management (AUM) figures giving break up of debt/equity/balanced and also geography wise disclosures. Besides, the scheme performance will have to be disclosed against Sensex or Nifty or Government of India debt paper in addition to scheme benchmark. Performance of fund manager across all schemes managed by the same fund manager will have to be disclosed.

d) Distributors of Mutual Fund Products

As a first step towards regulating distributors of Mutual Funds, selected distributors will be regulated through Asset Management Companies (AMCs) by putting in place the due diligence process to be conducted by AMCs. The due diligence process may be initially applicable for those distributors satisfying one or more of the following criteria:

Multiple point presence in more than 20 locations

AUM raised over Rs.100 crore across industry in the non institutional category but including high network individuals (HNIs)

Commission received of over Rs. 1 crore p.a. across industry

Commission received of over Rs. 50 lakh from a single mutual fund

It is estimated that this measure will cover distributors handling about half of the total AUM in the industry.



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AMCs shall disclose the commissions paid to the distributors meeting one or more of the above criteria and AMFI will disclose the aggregate amount of commissions paid to such distributors by the MF industry.

e) Common Account Statement

One common account statement will be dispatched every month for investors who have transacted in any of his folios across the mutual funds. The statement shall also contain the disclosure related to the transaction charge paid to the distributor. One common account statement will be dispatched to the investor every half year for all non-transacted folios.

f) Green initiative and cost effective measures

In case of unit holders whose email ids are registered for receiving Annual Reports by email, the scheme annual reports would be sent by email. In case of unit holders whose email ids are not registered with the Mutual Fund and the investors who request for hard copies notwithstanding their registration of email ids, the AMCs shall continue to send hard copies of scheme annual reports.

g) All the Operations of a Mutual Fund to be located in India

All the operations of a Mutual Fund including trading desks, unit holder servicing, and investment operations shall be based in India. Mutual Funds having any of their operations abroad, will be required to immediately confirm that they shall wind up the same and bring them onshore within a period of one year from the notification amending the Regulations. The period is extendable by another one year on SEBI's discretion.

h) Infrastructure Debt Fund Schemes

1. The SEBI Board approved a framework for setting up of Infrastructure Debt Funds (IDFs) through amendment of SEBI (Mutual Funds) Regulations, 1996 by inserting Chapter VI-B, on Infrastructure Debt Fund Schemes.

1. The IDFs can be set up by any existing mutual fund. Applications from companies which have been carrying on activities or business in infrastructure financing sector for a period of not less than five years and fulfill the eligibility criteria provided in Regulation 7 of Mutual Fund Regulations will also be considered for setting up Mutual Funds exclusively for the purpose of launching IDF Scheme. Salient features of the IDF Scheme are:

a) The IDF would invest 90 per cent of its assets in the debt securities of infrastructure companies or SPVs across all infrastructure sectors. Minimum investment into IDF would be Rs. 1 crore with Rs. 10 lakh as minimum size of the unit. The credit risks associated with underlying securities will be borne by the investors and not by IDF.

b) A firm commitment from strategic investors to the extent of Rs. 25 crore.



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c) An infrastructure debt fund scheme shall be launched either as close-ended scheme maturing after more than five years or Interval scheme with lock-in of five years.

d) Fully paid up units of infrastructure debt fund schemes shall be listed on a recognized stock exchange.

e) An Infrastructure debt fund shall have minimum 5 investors and no single investor shall hold more than 50% of net assets of the scheme

f) Mutual Funds may disclose indicative portfolio of infrastructure debt fund scheme to its potential investors disclosing the type of assets the mutual fund will be investing. Mutual Funds launching Infrastructure debt fund scheme may issue partly paid units to the investors.

### **(III) Harmonization and Rationalization of KYC in Securities Market**

Currently, Know Your Client (KYC) is done by each SEBI regulated intermediary viz. Broker, Depository Participant (DP), Mutual Fund, Portfolio Manager etc. This results in duplication of work, wastage of recordkeeping space and is a burden on the intermediaries and even more so to the client seeking to make investments. Towards the purpose of ensuring that the initial KYC including the identification of beneficial ownership should be undertaken only once and the client should not be made to repeatedly fill up forms and submit documents when it wishes to open an account with another intermediary registered with SEBI, the SEBI Board has passed a proposal of setting up a mechanism wherein one or more SEBI regulated KYC Registration Agency (hereinafter referred to as "KRA") will undertake KYC at the stage of account opening for all clients in the securities market through SEBI Regulated Points of Service (PoS). The change in methodology of KYC process does not compromise PML Rules and FATF Standards; rather the proposed change will strengthen the uniformity of the conduct of KYC process.

The Unique Identification Document or Aadhaar number will be included in the eligible documents that can be presented as an identification of the customer, as part of the KYC process.

KRAs between them would have provision of inter-connectivity and secure data transmission link with each intermediary that relies upon its data. All other intermediaries can electronically rely upon KYC data of the KRA during the course of opening the account of their client while bearing full responsibility for the KYC process as per PML Rules. The reliance upon services of a KRA performing elements of the KYC function will be determined by each intermediary, i.e. whether to opt for a tie up with the KRA and avail of the benefits of the KRA process or not.

The benefits of a KRA system include the execution of a single and uniform KYC procedure across the securities market, saving of record keeping space, centralized storage and dissemination of data and saving the time and burden of procedure for clients by undertaking this procedure of identification only once, subject to periodic update. SEBI will frame



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appropriate Regulations to give effect to the proposal approved by the SEBI Board.

## **(IV) Amendment to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009**

### a) Review of Bid-cum-Application Form and Abridged Prospectus

In order to ensure that materially important information is provided in a structured, logical and user-friendly manner to aid the investor in making his investment decision, SEBI has revised the structure, design, format, contents and order of information of Bid-cum-Application Form and Abridged Prospectus. This has been done based on recommendations of group constituted by SEBI, comprising cross section of market participants. The revised Abridged Prospectus shall contain company/ project specific information and highlight materially relevant disclosures such as peer comparison of important financial ratios and risk factors.

Information which is of generic nature and not specific to the issuer shall now be brought out in the form of a General Information Document (GID) in English and Hindi or Regional Language(s) and circulated along with the Application form.

Upon implementation, the following benefits accrue:

- Ease of handling the application/ abridged prospectus as it is booklet form of A4 size
- Approximately 50% reduction in number of pages
- Rationalisation and logical sequencing of information to make it more readable and investor friendly, highlighting material disclosures and availability of information regarding price
- Standardisation of form and single form for ASBA/ Non-ASBA
- 100% increase in space for key data fields in the application form, facilitating easier form filling
- Track record of BRLMs

### b) Eligibility criteria for companies coming out with IPOs through the 'profitability track record'

In case of a pure 'Offer for Sale', the requirement that not more than 50% of the 'net tangible assets' shall be held as 'monetary assets', shall not be applicable.

The requirement of track record of distributable profits for at least three out of immediately preceding five years shall be complied with both on stand-alone as well as consolidated basis.

### c) Disclosure of voting results by listed entities



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In order to ensure wider dissemination of information regarding voting patterns which gives a better picture of how the meetings are conducted and how the different categories of investors have voted on a resolution, listed entities shall disclose in a prescribed format, voting results/ patterns on their websites and to the exchanges within 48 hours from the conclusion of the concerned shareholders' meeting. To start with, it will be applicable to top 500 listed companies and based on experience gained to be extended to all listed companies after a period of one year.

d) Mode of supplying Annual Reports by listed entities to shareholders

As part of green initiative to contain the environmental cost incurred by listed entities in supplying hard copies of full annual reports to all shareholders, it has been decided that listed entities shall supply:

- soft copies of full annual reports to all those shareholders who have registered for the same
- hard copy of abridged annual reports to others
- hard copies of full annual reports to those shareholders who request for the same

e) Disclosure of quarterly financial results by listed companies

In order to give a better comparative picture of the quarterly financial results, listed companies shall disclose figures in respect of immediately preceding quarter as well in addition to the existing requirements.

Companies which opt to submit audited annual results within 60 days of end of financial year in lieu of last quarter results shall also submit the last quarter results along with the audited annual results.

## **(V) Simplifying and rationalizing Trading Account Opening Process**

Board has approved the simplification and rationalization of trading account opening process with stock brokers.

SEBI has been getting feedback from the investors that the present procedure is very cumbersome and requires a very large number of signatures on different documents. The client has to enter into a number of agreements depending on his trading preferences.

Salient features of simplification are as follows:

- a) All client-broker agreements shall be replaced with the 'Rights and Obligations' documents, which shall be mandatory and binding on all parties.



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b) The number of client signatures will reduce substantially. In most of the cases, signatures will be required only on one document i.e. Account Opening Form.

c) The cost of compliance for both clients and brokers will come down.

Further, investor will get additional information from the stock broker at the time of account opening process, as under:

a) The stock broker will give a tariff sheet specifying various charges, including brokerage, payable by the clients.

b) A list of 'Do's & Don'ts' while trading in the market as prescribed by SEBI.

c) Information on point of contact for investors within the stock broking firm, including contact details of senior officials and information related to arbitration procedures.

Necessary amendments to the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 have been approved by the Board to implement the new procedures.

## **(VI) Due diligence records to be maintained by merchant bankers**

The merchant bankers are required to exercise due diligence in the pre-issue and post-issue activities of issue management, takeover, buyback and delisting of securities. At present, they are not required to maintain any records as to how they exercised due diligence. As a result, the merchant bankers follow different standards of compliance and the level of due diligence cannot be checked during inspection of merchant bankers by SEBI.

Board approved amendment to SEBI (Merchant Bankers) Regulations, 1992, requiring merchant bankers to maintain records and documents pertaining to due diligence exercised in pre-issue and post-issue activities of issue management, takeover, buyback and delisting of securities.

## **(VII) Review of net worth for Registrars to an Issue and Share Transfer Agents**

The net worth prescribed for Registrars to an Issue and Share Transfer Agents (RTAs) has not been reviewed since 1993. Considering the present day capital needs for setting up a RTA business with adequate infrastructure, it has become necessary to increase the requirement of net worth. Accordingly, the Board approved amendments to SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993 stipulating the net worth requirement of RTAs as follows:

(i) Category I RTAs - Rs. 50 lakh

(ii) Category II RTAs - Rs. 25 lakh



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Board also approved to grant a time period of three years to existing RTAs to increase their net worth.

## **(VIII) Amendment to the SEBI (Prohibition of Insider Trading) Regulations, 1992**

The Board approved amendment to the SEBI (Prohibition of Insider Trading) Regulations, 1992 mandating certain disclosures to be made by promoters and persons who are part of promoter group of a listed company. The amendment relates to initial disclosures relating to their shareholding at the time of becoming promoter or part of promoter group; and also continuous disclosures whenever there is a change in their holdings exceeding Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.

Presently, similar disclosures are required to be made by the directors and officers of the company.

## **(IX) Decentralisation of work to Regional Offices and opening of Local Offices**

The Board approved the proposal relating to strengthening of Regional Offices (ROs) and opening of new Local Offices (LOs) at state capitals in phased manner. Head Office will continue to deal with policy and important operational issues. Additional operational work will be delegated to Regional Offices. It is proposed to open new Western Regional Office I at Mumbai while the Western Regional Office at Ahmedabad will be renamed as Western

Regional Office II. It has been decided to open three local offices at Hyderabad, Guwahati and Lucknow in phase I. The work relating to investor grievances, investor assistance and education shall be important focus area of ROs and LOs. On matters of registration / supervision of intermediaries, redressing investor grievance, investor assistance and education and clearance of offer documents etc. enhanced responsibility and powers would be delegated to ROs.

## **(X) NSDL Matter**

Pursuant to the order dated May 09, 2011 of the Hon'ble Supreme Court, the Board decided to release the orders of the Two member Committee, in the matter of IPO irregularities and DSQ software, to NSDL for compliance.

Mumbai

July 28, 2011

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# TAX LAW UPDATE





## CUSTOM NOTIFICATION NO. 51/2011

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, PART-II, SECTION 3, SUB-SECTION (ii), EXTRAORDINARY]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS

Notification No.51/2011-Customs (N.T.)

DATED THE 27<sup>th</sup> July, 2011  
5 Shrawana, 1933(SAKA)

S.O. (E). – In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.41/2011-CUSTOMS (N.T.), dated the 28<sup>th</sup> June, 2011 *vide* number S.O.1475 (E), dated the 28<sup>th</sup> June, 2011, except as respects things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby determines that the rate of exchange of conversion of each of the foreign currency specified in column (2) of each of Schedule I and Schedule II annexed hereto into Indian currency or *vice versa* shall, **with effect from 1<sup>st</sup> August, 2011** be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

### SCHEDULE-I

S.No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	48.95	47.75
2.	Canadian Dollar	47.55	46.35
3.	Danish Kroner	8.75	8.45
4.	EURO	64.95	63.35
5.	Hong Kong Dollar	5.75	5.65
6.	Norwegian Kroner	8.40	8.10
7.	Pound Sterling	73.35	71.55
8.	Swedish Kroner	7.15	6.95
9.	Swiss Franc	56.10	54.55
10.	Singapore Dollar	37.25	36.30

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# CS Update

July 30, 2011



11.	US Dollar	44.70	43.90
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## SCHEDULE-II

S.No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	57.55	55.95

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[F.No.468/10/2011-Cus.V]

(ABHINAV GUPTA)  
UNDER SECRETARY TO THE GOVT. OF INDIA  
TELE: 2309 4610

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