



CS Update

September 02, 2011

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



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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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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, 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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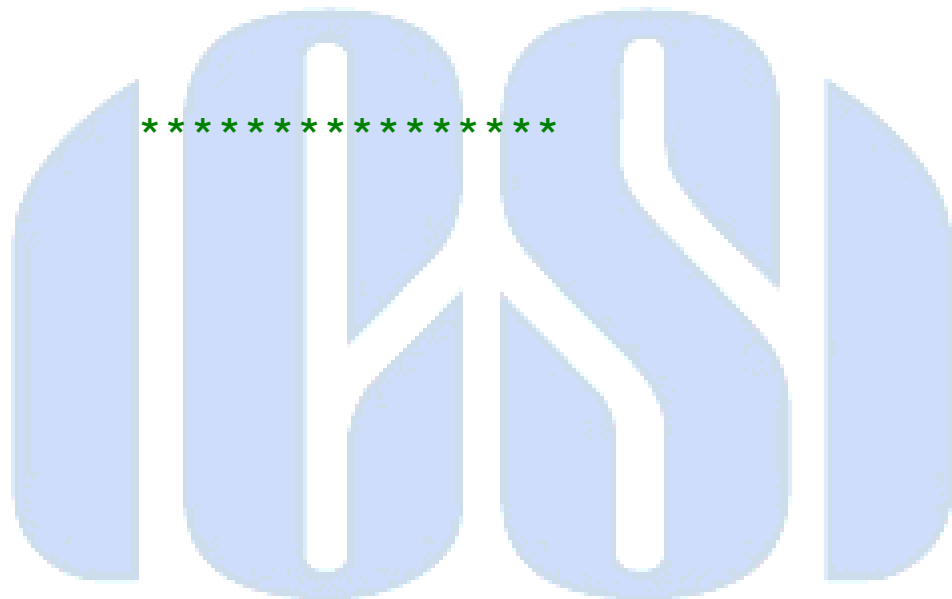


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RECORDING OF WEBCAST ON XBRL ARRANGED BY ICSI

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





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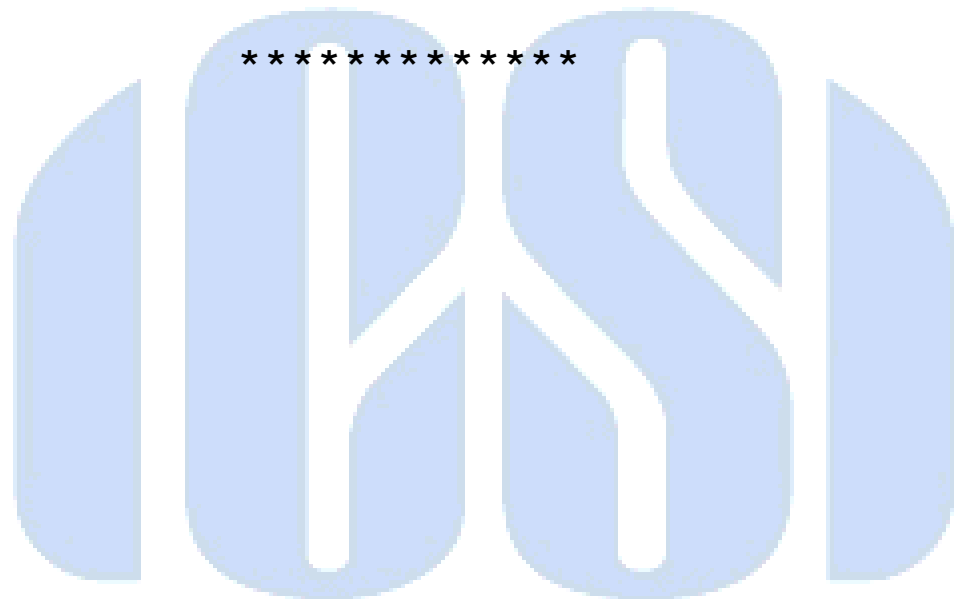


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FORTHCOMING PROGRAMMES ON XBRL

S.No	Date	Topics	Faculty	Organised by	Participating Chapters on live Webcast
	EIRC				
1	04.09.2011	Training on XBRL		Hooghly Chapter	





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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. Corporate Governance Blueprint 2011, Malaysia, launched on 8 July 2011

The Securities Commission Malaysia's five-year Corporate Governance Blueprint (Blueprint) provides the action plan to raise the standards of corporate governance in Malaysia by strengthening self and market discipline and promoting greater internalisation of the culture of good governance.

Developed through a highly consultative process with industry, the Blueprint focuses on six connected themes of the corporate governance ecosystem namely shareholder rights, the roles of institutional investors, boards, gatekeepers and influencers, disclosure and transparency as well as public and private enforcement.

The recommendations in the Blueprint will be implemented over a five year period. Most of the recommendations will be applied through a corporate governance code and changes to the Listing Requirements, both of which are expected to take effect by early 2012.

The Blueprint is divided into various chapters. Chapter two sets out proposals for a new code governing institutional investors. Chapter three recommends that boards adopt a charter setting out, amongst other things, the board's functions and responsibilities as well as the key values, principles and ethos of the company. The charter should also include information about the company's governance arrangements, including the committees formed and the division of powers between the board, committees, chairman and CEO. Chapter four sets out five pillars of disclosure and transparency and makes recommendations regarding the content of the Commission's Corporate Governance Code. Chapter five makes wide-ranging recommendations, including greater clarity regarding the role of company secretaries and widening the obligations regarding mandatory whistle-blowing. Chapter six explains that shareholders are able to bring a statutory derivative action where the company has suffered harm but notes that there has only been one reported case. The chapter recommends further research to explore ways in which private enforcement can be promoted, including whether the Securities Commission should have a greater role.

The Securities Commission welcomes feedback from all interested parties and the public on the Blueprint. All feedback can be emailed to CGblueprint@seccom.com.my by **15 September 2011**.

The **Corporate Governance Blueprint 2011** can be accessed at:
<http://www.sc.com.my>

2. GOCC Governance Act of 2011 [Republic Act No. 10149] of Republic of the Philippines approved by President on 6th June 2011

The GOCC Governance Act of 2011 has been enacted in Philippines to promote financial viability and fiscal discipline in government-owned or -controlled corporations (GOCC) and to strengthen the role of the state in its governance and management to make them more responsive to the needs of public interest and for other purposes.

The Act will have wide-ranging reforms in the GOCC sector which constitute a substantial portion of the government assets and liabilities.

In accordance with the Act, a body named the Governance Council for Government-Owned or Controlled Corporations (GCG) will be created, further the GOCC Governance Commission (GGC) will monitor the performances of the 157 GOCCs in the country.

Among others, the functions of the GCG is to adopt a manual encompassing all issues concerning GOCC operations; take charge of endorsing to the President the individuals qualified to be Appointive Directors; assess GOCC operations regularly; and determine the relevance of a GOCC and make a recommendation to the President whether to abolish, merge, privatize, reorganize, or streamline the corporation in question.

Also among the GCG functions are to recommend a reasonable compensation system for employees and officers of GOCCs; monitor the performance of GOCCs and ensure that operations are consistent with government programs and policies; and recommend approval or disapproval with regard to the creation of a





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GOCC.

GCG shall also recommend Government Corporate Governance Standards applicable to GOCCs, which shall refer to a system whereby shareholders, creditors, and other stakeholders of a corporation ensure that management enhances the value of the corporation as it competes in an increasingly global market place.

The Act can be accessed at:

<http://www.gov.ph/2011/06/06/republic-act-no-10149/>

GREEN CORNER

GREEN INDIA

Reduce, Reuse, Recycle



Reduce – Check unwanted consumption & wastage; turn off the lights, carpool, and conserve energy, etc.

Reuse – Think of probable usage before throwing away any material,

Recycle – Prefer recycling the waste material rather than simply dumping discards.

Something Good

"We hope to establish an independent regulator — the **National Environment Appraisal and Monitoring Authority** — soon. Staffed by dedicated professionals, it will work full time to evolve better and more objective standards of scrutiny,"

PM Manmohan Singh --- said at the international seminar on "Global Environment and Disaster Management, law and society in the national capital."

To Remember:

August 8 - World Senior Citizen's day

August 12 - International Youth Day, recognized by the UN

August 19 - World Humanitarian Day

Quote of the Month

"The ultimate test of man's conscience may be his willingness to sacrifice something today for future generations whose words of thanks will not be heard."

—*Gaylord Nelson*, former governor of Wisconsin, co-founder of Earth Day

Forthcoming Events

CSR Asia Summit --- The Summit is the annual flagship event of CSR Asia which aims to be the most innovative and thought-provoking gathering on corporate social responsibility in Asia. Themed "**Asian Growth: Global Responsibility**", the conference will bring together over 400 international delegates to discuss key CSR issues and strategies, and provide new insights for businesses, governments, CSR practitioners and NGOs.

– 27th- 28th September 2011– Hotel Istana , Kuala Lumpur, Malaysia.

Corporate Secretaries International Association --- First International Corporate Governance Conference – "**Sustainable Corporate Governance – Towards a Global Model ?**"

--21-23 September 2011- JW Marriott Hotel, Shanghai.

Feedback & Suggestions

Readers may give their feedback and suggestions on this page to Mrs. Alka Kapoor, Joint Director, ICSI (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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CORRIGENDUM TO COMPANY LAW SETTLEMENT SCHEME, 2011

General Circular No. 60/2011

F. No. 2/11/2011-CL V
Government of India
Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi,
Dated the 10th Aug, 2011

To

All Regional Director,
All Registrars of Companies.

Subject: Corrigendum to Company Law Settlement Scheme, 2011

Sir,

In continuation of the Ministry's General Circular No. 59/2011 dated 5.8.2011 on the subject cited above, it is stated that the said scheme shall be applicable to Form 52 (filing of annual accounts by a foreign company) as foreign companies are included in the scheme.

2. All the terms and conditions of the General Circular No. 59/2011 dated 5.8.2011 will remain the same.

Yours faithfully,

-sd/-
(Kamna Sharma)
Assistant Director

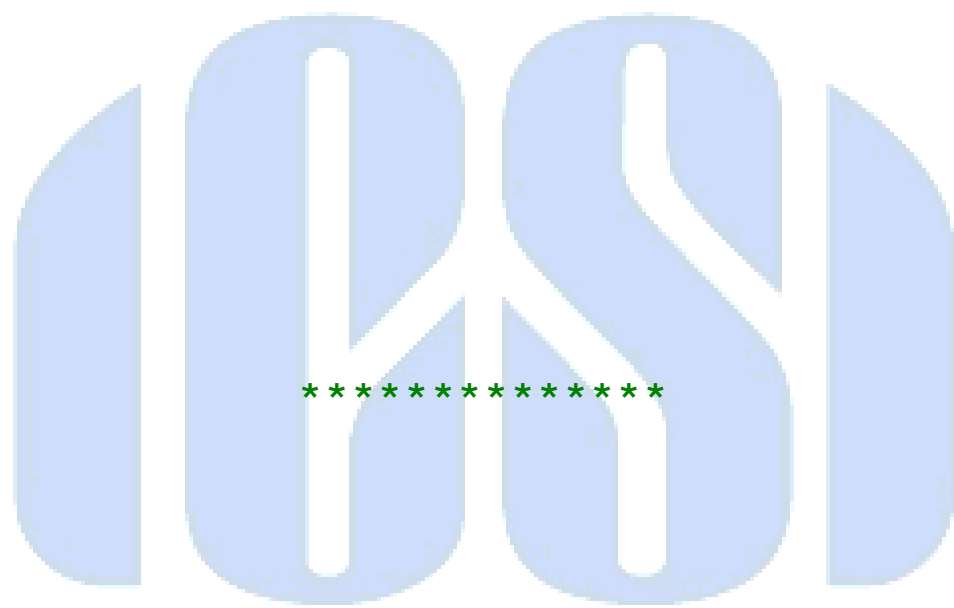
Encl: As above



COMPANIES (CENTRAL GOVERNMENT'S) GENERAL RULES AND FORMS (AMENDMENT) RULES, 2011

FOR DETAILS:

[://www.mca.gov.in/Ministry/notification/pdf/GSR\(E\)_11aug2011.pdf](http://www.mca.gov.in/Ministry/notification/pdf/GSR(E)_11aug2011.pdf)



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COMPANY LAW SETTLEMENT SCHEME, 2011

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General Circular No.59 /2011

F. No. 2/11/2011-CL V
Government of India
Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi,
Dated the 05th Aug, 2011

To

All Regional Director,
All Registrars of Companies.

Subject: Company Law Settlement Scheme, 2011

Sir,

It has been observed that a large number of companies are not filing their due statutory documents (i.e. Balance Sheets and Annual Returns) timely with the Registrar of Companies. Due to this, the records available in the electronic registry are not updated and thereby are not available to the stakeholders for inspection. Further, due to not filing the documents on time, companies are burdened with additional fee, facing the prosecutions and being debarred from filing other documents electronically as provided in Circular No. 33/2011 dated 01.06.2011 also.

2. In order to give an opportunity to the defaulting companies to enable them to make their default good by filing such belated documents and to become a regular compliant in future, the Ministry, in exercise of the powers under Section 611(2) and 637B (b) of the Companies Act, 1956 has decided to introduce a Scheme namely, "Company Law Settlement Scheme, 2011," condoning the delay in filing documents with the Registrar, granting immunity from prosecution and charging additional fee of 25 percent of actual additional fee payable for filing belated documents under the Companies Act, 1956 and the rules made there under. The details of the Scheme are as under:-

- (i) The scheme shall come into force on the **12th Aug, 2011** and shall remain in force up to **31st Oct, 2011**.



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(ii) **Definitions** - In this Scheme, unless the context otherwise requires, -

(a) "Act" means the Companies Act, 1956 (1 of 1956);

(b) "company" means a company registered under the Companies Act, 1956 and a foreign company falling under section 591 of the Act;

(c) "defaulting company" means a company registered under the Companies Act, 1956 and a foreign company falling under section 591 of the Act, which has made a default in filing of documents on the due date(s) specified under the Companies Act, 1956 and rules made there under;

(d) "designated authority" means the Registrar of Companies having jurisdiction over the registered office of the company.

(iii) **Applicability**: - Any "defaulting company" is permitted to file belated documents, which were due for filing till **30.06.2011**, in accordance with the provisions of this Scheme:

(iv) **Manner of payment of fees and additional fee on filing belated document for seeking immunity under the Scheme** - The defaulting company shall pay statutory filing fees as prescribed under the Companies Act and rules made there under along with an additional fee of 25 percent of the actual additional fee standardised under subsection (2) of Section 611 of the Companies Act, 1956, payable on the date of filing of each belated document;

(v) **Withdrawal of appeal against prosecution launched for the offences**- If the defaulting company has filed any appeal against any notice issued or complaint filed before the competent court for violation of the provisions under the Act in respect of which application is made under this Scheme, the applicant shall before filing an application for issue of immunity certificate, withdraw the appeal and furnish the proof of such withdrawal along with the application;



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(vi) **Application for issue of immunity in respect of document(s) filed under the scheme** - The application for seeking immunity in respect of belated documents filed under the Scheme may be made electronically in the Form annexed, after closure of Scheme and after the document(s) are taken on file, or on record or approved by the Registrar of Companies as the case may be, but not after the expiry of six months from the date of closure of the Scheme. There shall not be any fee payable on this Form;

(vii) **Order by designated authority granting immunity from the penalty and prosecution** - The designated authority shall consider the application and upon being satisfied shall grant the immunity certificate in respect of documents filed in the Scheme;

(viii) **Scheme not to apply to certain documents** -

(a) This Scheme shall not apply to the filing of documents other than the following documents:-

Form 20 B - Form of filing annual return by a company having a share capital

Form 21 A - Particulars of annual return for the company not having share capital

Form 23AC & 23ACA - Form for filing Balance Sheet and Profit & Loss account

Form 66 - Form for submission of Compliance Certificate with the Registrar

(b) This Scheme shall not apply to companies against which action under sub-section (5) of section 560 of the Act has been initiated by the Registrar of Companies;

(ix) After granting the immunity, the Registrar concerned shall withdraw the prosecution(s) pending if any before the concerned Court(s);



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3. At the conclusion of the Scheme, the Registrar shall take necessary action under the Companies Act, 1956 against the companies who have not availed this Scheme and are in default in filing of documents in a timely manner.

Yours faithfully,

A handwritten signature in black ink that reads "Kshal S".

(Kamna Sharma)
Assistant Director

Encl: As above





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CORRIGENDUM TO GENERAL CIRCULAR NO. 54/2011

GENERAL CIRCULAR NO. 58/2011

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 1st August, 2011

To

All Regional Directors
All ROCs
All Official Liquidators

Subject: Corrigendum to General Circular No. 54/2011.

In view of the representations from professional Institutes, it has been decided to amend Para (c) the Circular No. 54/2011 dated 26th July, 2011. Para (c) of the said Circular may be read as under:

(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/a **Company Secretary/a Cost Accountant in practice:-**"

2. All other clauses of the said Circular remain unaltered.

(Jaikant Singh)
Director



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MASTER CIRCULAR ON PROSECUTION OF DIRECTORS

Master Circular No. 1/2011

No.3/57/2011/CL- II
Government of India
Ministry of Corporate Affairs

5th Floor, Shastri Bhavan,
Dr. Rajendra Prasad Road,
New Delhi-110001,
Dated the 29th July, 2011

To,

All Regional Directors,
All Registrars of Companies,
All Official Liquidators.

Sub: Master Circular on Prosecution of Directors – Regarding

Sir,

The question of treating a person as an officer in default by ROCs when prosecutions are launched against a company and its directors for violations under Companies Act, 1956 has come up for examination time and again. The Department has issued various circulars in this regard so far. It may be recollected that the Department vide circular No.42/7/73-CL.II dated 20.9.1973 had clarified that a person appointed as a nominee director, whatever interest he represents or protects is responsible for the proper discharge of his obligations and fiduciary responsibilities under the statute in the similar manner as an ordinary directors. However, in the same circular, it was further clarified that nominees of institutions set up under Acts having non-obstante clauses can enjoy immunity from prosecutions.

2. In Departmental circular No.6/98 dated 12.11.1998, it was clarified that where penal provisions provide for "punishment of officers in default", prosecutions should be filed primarily against managing director(s)/ whole time director(s)/manager(s) and the company secretary, if any. It was also clarified that only in those cases where the above mentioned managerial personnel are not available in any company; prosecutions should be against ordinary directors. In the same circular, it was also clarified that there are provisions in the Act which though do not use the expression "officers who are in default" for fastening liabilities in case of their contraventions, yet the persons against whom the proceedings can be initiated is specified. In such cases, the persons expressly specified in the relevant provisions of the Act should alone be prosecuted.

3. It has come to the notice of the Department that in spite of various rulings available on the question of "officers in default" who can be held



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liable for violations of a particular provision under the Companies Act, the ROCs are arraying all the directors of the company for the violations without differentiating between officer in default and or others.

4. It is noticed that penal actions are also initiated against certain Directors who are not charge with the responsibility, particularly in following cases: --

(a) For listed companies Securities and Exchange Board of India (SEBI) requires nomination of certain Directors designated as Independent Directors.

(b) For public sector undertakings, respective Government nominates Directors on behalf of the respective Government.

(c) Various Public Sector Financial Institutions, Financial Institutions and Banks having participation in equity of a Company also nominate Directors to the Board of such companies.

(d) Directors nominated by the Government u/s 408 of the Companies Act, 1956.

In super session of all earlier circulars, it is clarified that Registrar of Companies should take extra care in examining the cases where above Directors are also identified as Officer in default. No such Director as indicated above shall be held liable for any act of omission or commission by the company or by any officer of the company which constitute a breach or violation of any provision of the Companies Act, 1956, and which occurred without his knowledge attributable through Board process and without his consent or connivance or where he has acted diligently in the Board process. The Board process includes meeting of any committee of the Board and any information which the Director was authorized to receive as Director of the Board as per the decision of the Board. All the Regional Directors are advised to direct Inspecting Officers also to examine the Board's minutes of the company to arrive at a conclusion if Independent director is also responsible for any violation of the provisions of Companies Act, 1956.

5. It is further clarified that before taking penal action under the Companies Act, 1956 against the Directors the following compliances should be verified by Registrar of Companies: -

(a) A director resigns and the company does not file Form 32 as required in terms of Section 302(2) of the Act. In case, the director concerned has informed/endorsed a copy of his resignation to the Registrar of Companies, the Registrar should enquire into such cases and try to find out whether such director has actually resigned or not.

(b) In case the status of a director, i.e. whether he is a nominee director or not, is not reflected in the Annual Return or other documents of the company, available with Registrar, the same should be cross checked with the Annual Report filed by the company;



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(c) The timing of the commission of offence is also material to identify the director's responsibility; and Form 1AB should also be checked in case any person has been charged by the Board under Section 5(f) with the responsibility of complying with some particular provision or in case any director has been specified by the Board under Section 5(g) of the Act.

(d) Special Directors appointed by BIFR under section 16 (6)(b) of SICA 1985, shall not incur any obligation or liability for anything done or omitted to be done in good faith and in discharge of duties. Hence they shall be excluded in the list of officers in default

6. For default u/s 209(5), 209(6), 211 and 212 of the Act, the following persons shall be the 'officers in default for the purpose of prosecution under these provisions: -

(a) Where there is a Managing Director or Manager, the Managing Director or the Manager as the case may be and in addition, the Company Secretary appointed u/s 383A or the person who has been charged with work of maintenance and preparation of Annual Accounts in compliance with aforesaid provisions.

(b) Where there is no Managing Director or Manager, every director and the Company Secretary appointed u/s 383A of the Act.

(c) Any persons amongst officers and employees other than Managing Director/Manager/Directors who has been charged by the Managing Director/Manger or Board of Directors with specific responsibility of complying with aforesaid provisions, in addition to Managing Director/Manager/Board of Directors as the case may be.

(d) Directors including Non-Executive Directors, officers and employees not connected with responsibility with the above provisions should not be arrayed as delinquent directors.

(e) While considering the non-executive directors for including in the list of officers in default for a particular violation of the Companies Act, it should be examined whether the violation has taken place with his knowledge attributable through board process, with his consent or connivance and whether he acted diligently or not.

(f) Where prosecution is required to be filed against any Government company, its directors/officers and Member of Parliament and Member of Legislator under the Companies Act, 1956, Registrar of Companies should seek prior authorization of Central Government in terms of Section 621 of the Act

7. There should be proper application of mind on the part of Registrar of Companies in deciding whether a person to be implicated is an 'officer in default' by examining the Annual Return, Form 32(s) and DIN-3 database available in the Registry. The guidelines issued herein above should be applied and wrongful prosecution should be avoided. Wherever the Registrar of Companies has doubt as to whether director/officer can be held



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liable after applying the above parameters, they should refer to Regional Director, who shall guide Registrar of Companies in the matter.

8. All the Regional Directors are required to ensure that such cases are reviewed, based on these parameters and a report must be sent by each Regional Director with specific recommendation in case the proceedings are proposed to be discontinued.

This master circular consolidates circular No.2/2003 dated 7.7.2003, No.08/2011 dated 25.3.2011, No.1/88/2010-CL.II dated 18.4.2011 and 47/2011 dated 14.7.2011 respectively.

Yours faithfully

Sd/-

(R K Bakshi)

Deputy Director
Tel. No. 23073230

Copy to:

1. PS to CAM
2. PS to MOS
3. PS to Secy. MCA
4. PS to AS, MCA
5. PS to Joint Secy. (A) & Joint Secy. (R)
6. PS to DII (DR)
7. PS to DII (Policy)
8. PS to Economic Advisor
9. Spare Copies





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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





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SEBI UPDATE





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INFRASTRUCTURE FINANCE COMPANIES (IFCS) -- AS ELIGIBLE ISSUERS FOR FIIS INVESTMENT LIMIT IN DEBT INSTRUMENT FOR INFRASTRUCTURE

CIRCULAR

CIR/IMD/FIIC/15/2011

August 26, 2011

To
All Foreign Institutional Investors through their designated Custodians of Securities

Dear Sir/Madam

Sub: Infrastructure Finance Companies (IFCs) -- as eligible issuers for FIIs investment limit in debt instrument for infrastructure.

1. Please refer to SEBI circular dated November 26, 2010 & March 31, 2011, regarding FII investment in the corporate bonds issued by Indian companies which are in the infrastructure sector, where 'infrastructure' is defined in terms of the extant guidelines on External Commercial Borrowings (ECB).
2. In partial amendment to para 3 of circular dated November 26, 2010 and para 4 of circular dated March 31, 2011 it has been decided that Non-Banking Financial Companies (NBFCs) categorized as Infrastructure Finance Companies (IFCs) by the Reserve Bank of India (RBI) shall also now be considered eligible issuers for the purposes of FII Investment under the corporate debt long term infra category.
3. This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
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
General Manager
+91-22-26449110
jeevans@sebi.gov.in





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RBI UPDATE





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INCLUSION IN THE SECOND SCHEDULE TO THE RESERVE BANK OF INDIA ACT, 1934- AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED

RBI/2011-12/163
Ref: DBOD.No.Ret. BC.29/12.06.130/2011-12

August 30, 2011

All Scheduled Commercial Banks

Dear Sir,

Inclusion in the Second Schedule to the Reserve Bank of India Act, 1934 – Australia and New Zealand Banking Group Limited

We advise that the name of “Australia and New Zealand Banking Group Limited” has been included in the Second Schedule to the Reserve Bank of India Act, 1934 by [Notification DBOD.IBD.No.19042/23.03.024/2010-11](#) dated June 07, 2011, published in the Gazette of India (Part III – Section 4) dated July 09, 2011.

Yours faithfully,

(P.K.Mahapatra)
General Manager

DBOD.IBD.No.19042 /23.03.024/2010-11

June 7, 2011

Notification

In pursuance of Clause (a) of sub-section (6) of Section 42 of the Reserve Bank of India Act, 1934 (2 of 1934), the Reserve Bank of India hereby directs the inclusion in the Second Schedule to the said Act of the following bank namely:

“Australia and New Zealand Banking Group Limited”

(R. Gandhi)
Executive Director



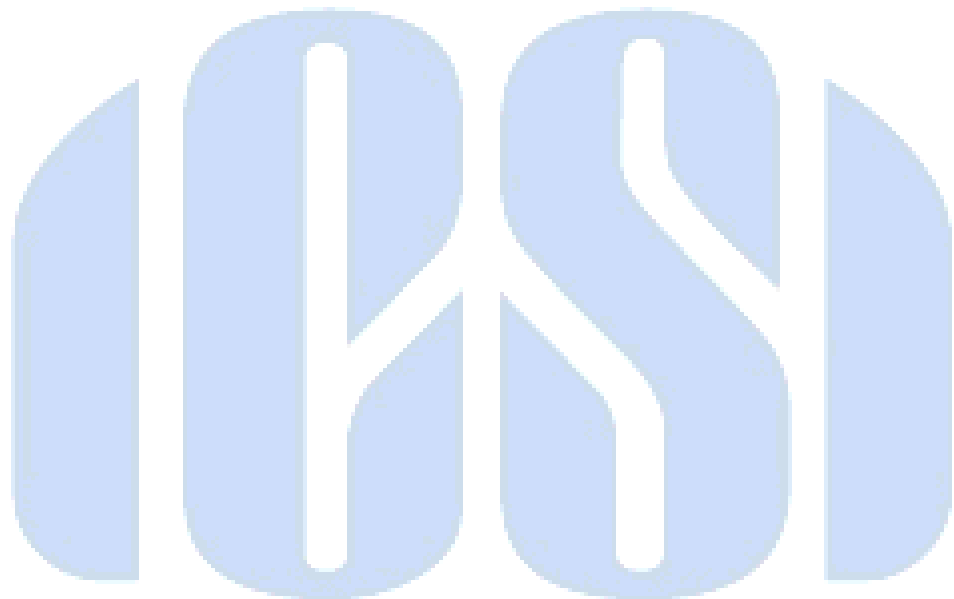


AUTHORISATION GUIDELINES FOR PRIMARY DEALERS (PDs)

Date: August 30, 2011

RBI/2011-12/162
IDMD.PCD. 9 /14.03.05/2011-12

For details: http://www.rbi.org.in/scripts/BS_CircularIndexDisplay.aspx?Id=6690



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OPENING AND MAINTENANCE OF RUPEE/ FOREIGN CURRENCY VOSTRO ACCOUNTS OF NON-RESIDENT EXCHANGE HOUSES

RBI/2011-12/160
A.P. (DIR Series) Circular No.09
A.P.(FL/RL Series) Circular No.01

August 29, 2011

To

All Authorised Dealer Category-I Banks

Madam / Sir,

Opening and Maintenance of Rupee / Foreign Currency Vostro Accounts of Non-resident Exchange Houses

Attention of Authorised Dealer Category-I (AD Category-I) banks is invited to the [A.P.\(DIR Series\) No.28 \[A.P\(FL/RL Series\) Circular No.02\] dated February 06, 2008](#) on the Memorandum of instructions for Opening and Maintenance of Rupee/ Foreign Currency Vostro accounts of Non-resident Exchange Houses and the subsequent amendments thereto.

2. In terms of para (A) (1) of Annex-I of the afore-mentioned circular, under the Rupee Drawing Arrangements (RDAs), inward remittances for permissible purposes are received in India through Exchange Houses situated in Gulf countries, Hong Kong and Singapore, with prior approval of the Reserve Bank. With a view to extending the scope of the said Arrangement to other jurisdictions, it has been decided to extend the Rupee Drawing Arrangements (RDAs) only under the Speed Remittance procedures to Exchange Houses situated in Malaysia.

3. The other instructions issued vide the above mentioned circular, as amended from time to time remain unchanged.

4. AD Category-I banks may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

Dr.(Smt.) Sujatha Elizabeth Prasad
Chief General Manager-in-Charge





DRAFT GUIDELINES FOR LICENSING OF NEW BANKS IN THE PRIVATE SECTOR

Date : 29 August, 2011

The Reserve Bank of India released on its website today, the [Draft Guidelines for "Licensing of New Banks in the Private Sector"](#). The Reserve Bank has sought views/comments on the draft guidelines from banks, non-banking financial institutions, industrial houses, other institutions and the public at large. Suggestions and comments on the draft guidelines may be sent by October 31, 2011 to the Chief General Manager, Reserve Bank of India, Department of Banking Operations and Development, Central Office, 13th floor, Central Office Building, Shahid Bhagat Singh Marg, Mumbai-400001 or [emailed](#).

Final guidelines will be issued and the process of inviting applications for setting up of new banks in the private sector will be initiated after receiving feedback, comments and suggestions on the draft guidelines, and after certain vital amendments to Banking Regulation Act, 1949 are in place.

Key features of the draft guidelines are:

- (i) **Eligible promoters:** Entities / groups in the private sector, owned and controlled by residents, with diversified ownership, sound credentials and integrity and having successful track record of at least 10 years will be eligible to promote banks. Entities / groups having significant (10 per cent or more) income or assets or both from real estate construction and / or broking activities individually or taken together in the last three years will not be eligible.
- (ii) **Corporate structure:** New banks will be set up only through a wholly owned Non-Operative Holding Company (NOHC) to be registered with the Reserve Bank as a non-banking finance company (NBFC) which will hold the bank as well as all the other financial companies in the promoter group.
- (iii) **Minimum capital requirement:** Minimum capital requirement will be ` 500 crore. Subject to this, actual capital to be brought in will depend on the business plan of the promoters. NOHC shall hold minimum 40 per cent of the paid-up capital of the bank for a period of five years from the date of licensing of the bank. Shareholding by NOHC in excess of 40 per cent shall be brought down to 20 per cent within 10 years and to 15 per cent within 12 years from the date of licensing of the bank.
- (iv) **Foreign shareholding:** The aggregate non-resident shareholding in the new bank shall not exceed 49 per cent for the first 5 years after

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which it will be as per the extant policy.

- (v) **Corporate governance:** At least 50 per cent of the directors of the NOHC should be independent directors. The corporate structure should be such that it does not impede effective supervision of the bank and the NOHC on a consolidated basis by the Reserve Bank.
- (vi) **Business model:** Should be realistic and viable and should address how the bank proposes to achieve financial inclusion.
- (vii) **Other conditions:**
 - The exposure of bank to any entity in the promoter group shall not exceed 10 per cent and the aggregate exposure to all the entities in the group shall not exceed 20 per cent of the paid-up capital and reserves of the bank.
 - The bank shall get its shares listed on the stock exchanges within two years of licensing.
 - The bank shall open at least 25 per cent of its branches in unbanked rural centres (population upto 9,999 as per 2001 census) Existing NBFCs, if considered eligible, may be permitted to either promote a new bank or convert themselves into banks.
- (viii) In respect of promoter groups having 40 per cent or more assets / income from non-financial business, certain additional requirements have been stipulated.

Background

It may be recalled that pursuant to the announcement made by the Union Finance Minister in his budget speech and the Reserve Bank's Annual Policy Statement for the year 2010-11, a discussion paper on "Entry of New Banks in the Private Sector" was placed on RBI website on August 11, 2010. The discussion paper marshalled international practices, Indian experience as well as the extant ownership and governance (O&G) guidelines. The Reserve Bank had sought views/comments from banks, non-banking financial institutions, industrial houses, other institutions and the public at large. Discussions were also held with major stakeholders to seek their comments and suggestions on the issues raised in the paper. The gist of comments on various issues received through email and letters and discussions was placed on Reserve Bank's website on December 23, 2010. The draft guidelines have been prepared based on the responses received, extensive internal discussions and consultation with the Government of India.

Alpana Killawala
Chief General Manager
Press Release: 2011-2012/322



Related Press Releases
Dec 23, 2010

[RBI Releases Gist of Comments on the Discussion Paper on Entry of New Banks](#)

[in the Private Sector](#)

Aug 20, 2010

[RBI invites Stakeholders for Discussions on the Paper on "Entry of New Banks in](#)

[the Private Sector"](#)

Aug 11, 2010

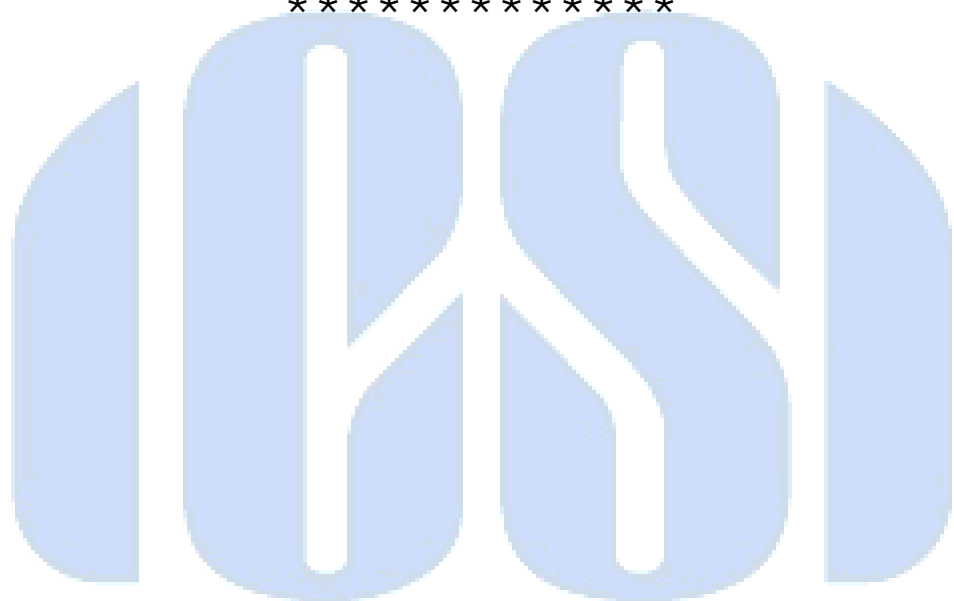
[RBI releases Discussion Paper on Entry of New Banks in the Private Sector](#)

Jan 03, 2001

[Guidelines on entry of new banks in the private sector](#)

Jan 22, 1993

[Guidelines on Entry of New Private Sector Banks](#)



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TAX LAW UPDATE





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SERVICE TAX E-RETURN MANDATORY FOR EVERY ASSESSEE

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 43/2011 – Service Tax

New Delhi, the 25th August 2011
Bhadra 3, 1933 (Saka)

G.S.R. 642 (E).- In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely :-

1. (1) These rules may be called the Service Tax (Fourth Amendment) Rules, 2011.

(2) They shall come into force on the 1st day of October, 2011.

2. In the Service Tax Rules, 1994, in rule 7, -

(a) in sub-rule (2), the proviso shall be omitted;

(b) after sub-rule (2) as so amended, the following sub-rule shall be inserted, namely: -

“(3) Every assessee shall submit the half-yearly return electronically”.

[F. No. 137/99/2011 – Service Tax]

(Deepankar Aron)

Director (Service Tax)

Note.- The principal rules were notified vide notification No. 2/1994 – Service Tax dated the 28th June 1994, published in the Gazette of India, Extraordinary, Part II, section 3, Sub-section (i), vide number G.S.R. 546(E), dated the 28th June, 1994 and were last amended by notification No. 35/2011 - Service Tax, dated the 25th April, 2011, vide number G.S.R. 343 (E), dated the 25th April, 2011.
