



CS Update

September 09, 2011

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



Don't use paper cups for coffee at office. **GO GREEN** use ceramics instead.



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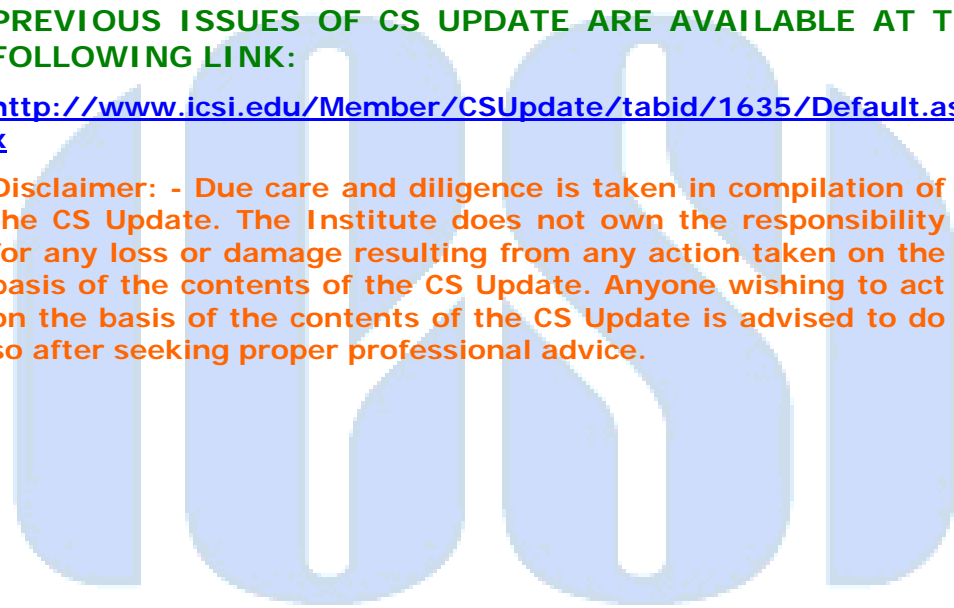
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- EXTERNAL COMMERCIAL BORROWINGS SIMPLIFICATION OF PROCEDURE (*RBI dated 07.09.2011*)
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PREVIOUS ISSUES OF CS UPDATE ARE AVAILABLE AT THE FOLLOWING LINK:

<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

TO





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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/Default.aspx?alias=www.icsi.edu/39nc>





6th INTERNATIONAL PROFESSIONAL DEVELOPMENT FELLOWSHIP PROGRAMME-2011- AUSTRALIA

Details can be accessed at:

<http://www.icsi.edu/Webmodules/LinksofWeeks/6InFellowship.doc>

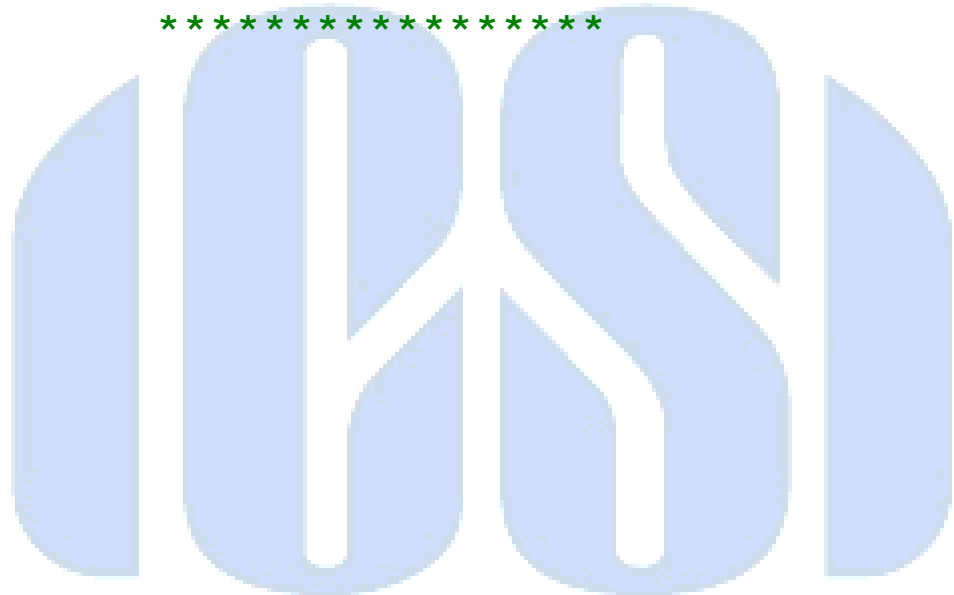
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RECORDING OF WEBCAST ON XBRL ARRANGED BY ICSI

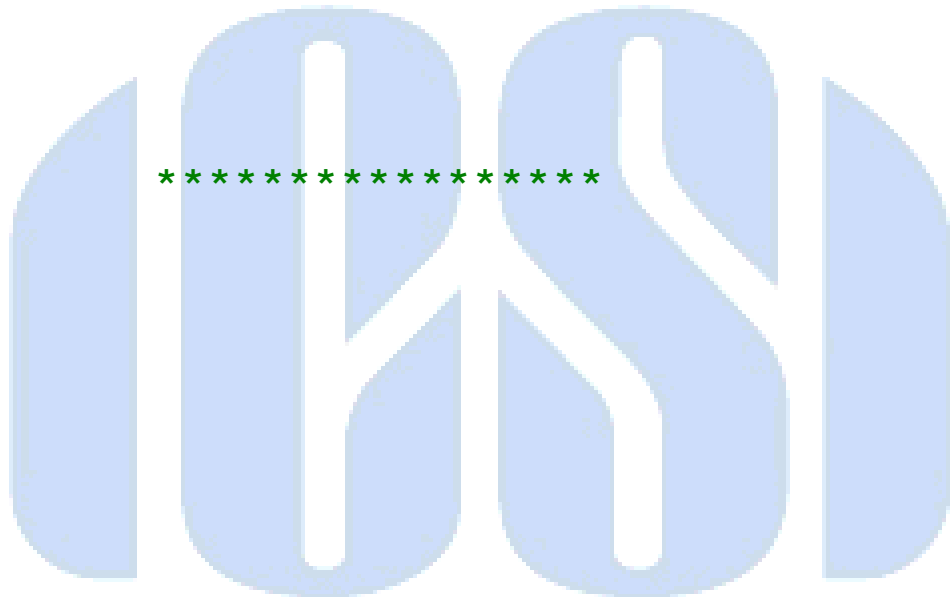
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Details can be accessed at:

<http://www.streamonweb.com/ICSI/archivals>

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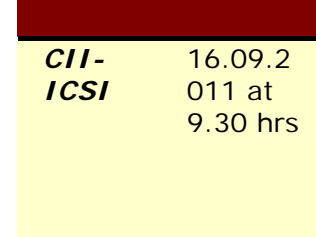




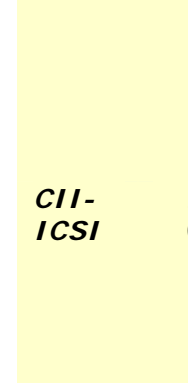
FORTHCOMING PROGRAMMES

			<i>PCH</i>	<i>Organis ed by and Venue</i>	<i>Contact</i>
CII- ICSI	16.09.2011 at 9.30 hrs	INTERACTIVE SESSION ON XBRL - EXTENSIBLE BUSINESS REPORTING LANGUAGE	4 Programme Credit Hours to ICSI members	CII & ICSI at Hotel Taj Mahal Palace, Apollo Bandar, Mumbai	Mr. Sudipto Pal Joint Director WIRC-ICSI 13, Jolly Maker Chambers No.2 (First Floor) and Nos.56 & 57 (fifth Floor) Nariman Point, Mumbai-400 021 Tel: 022-22844073 022-22047569 Fax: 022-22850109 E-mail: Sudipto.pal@icji.edu
CII- ICSI	21.09.2011 at 1500 hrs	INTERACTIVE SESSION ON SALVAGING DISPUTE RESOLUTION"	2 Programme Credit Hours to ICSI members	CII & ICSI, 'South Hall', Mayfair Banquets, Dr Annie Besant Road Worli, Mumbai	Mr. Ashish Modi Confederation of Indian Industry 23, Institutional Area Lodi Road New Delhi 110 003 Tel : 91 11 24601180/2462 9994-7 Fax: 91 11 24615693 E-mail: ashish.modi@cii.in

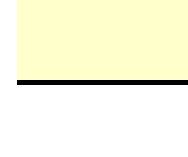
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PCH - 6	Programme on XBRL	PDP / ADP -12						
Introduction and Objective	<p>The Ministry of Corporate Affairs has issued various General Circulars (the recent being Circular No. 57/2011 dated 28th July 2011) mandating certain class of companies to file, on or before 30th November 2011, their balance sheets & profit and loss account in respect of financial statements closing on or after 31.03.2011 by using XBRL taxonomy.</p> <p>The Manual for filing financial statements in XBRL form in MCA21 system is given at the XBRL section of the MCA portal.</p> <p>MCA has also clarified 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 professionals like Company Secretary in whole-time practice.</p> <p>Considering the above, ICSI-CCGRT is organising this program particularly for the benefit of its Members, to acquaint them with the intricacies and practical aspects involved in XBRL filing.</p>							
Day, Date & Timing	<p>Friday, September 23, 2011 from 05.00 p.m to 07.30 p.m followed by Dinner</p> <p>Saturday, September 24, 2011 from 09.30 a.m to 05.30 p.m</p>							
Venue	A/C Conference Hall of ICSI-CCGRT, Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614							
Proposed Coverage	<ul style="list-style-type: none"> • Introduction to XBRL filing • Concept of XBRL Reporting • Demonstration of XBRL filing 							
Faculty	Eminent faculty with practical exposure to the subject will be addressing the participants.							
Participant Mix	Primarily Company Secretaries and Finance Professionals							
Fees	<table border="0" style="width: 100%;"> <tr> <td style="width: 60%;">Members of ICSI</td> <td style="text-align: right;">Rs. 3000/- per participant</td> </tr> <tr> <td>Others</td> <td style="text-align: right;">Rs. 3500/- per participant</td> </tr> <tr> <td>Concessional fees for Annual Members</td> <td style="text-align: right;">Rs. 2500/- per participant</td> </tr> </table> <p>Fees includes the cost of program kit, lunch, dinner on the first day, background material and other organisational expenses.</p>		Members of ICSI	Rs. 3000/- per participant	Others	Rs. 3500/- per participant	Concessional fees for Annual Members	Rs. 2500/- per participant
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Others	Rs. 3500/- per participant							
Concessional fees for Annual Members	Rs. 2500/- per participant							

For Prior registration : Fee may be paid by local cheque/DD payable at Mumbai in favour of "ICSI-CCGRT A/c" sent to: Shri Gopal Chalam, Dean, ICSI-CCRT, Plot No. 101, Sector – 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614, Ph : 022-27577814/15, 022- 4102 1515 email : ccgrt.icsi@gmail.com, ccgrt@icsi.edu





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PCH - 4

Programme on DERIVATIVE

PDP / ADP -8

Day, Date & Time	Friday, September 23, 2011 from 09.30 a.m to 05.30 p.m with lunch and background material								
Venue	ICSI – CCGRT Conference Hall, Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614								
Focus of Coverage	Introduction to Derivatives, applications of derivatives for investments, speculation, risk management and arbitrage. Introduction to Forwards and Futures, Forward Rate Agreements, Options, Swaps, Structured Products and their applications for corporates, Practical application of derivatives from Corporate examples and term sheets, Examples of uses and abuses of Derivatives, Regulatory structure for use of Derivatives, Role and responsibility of Company Secretaries in the use of derivatives by corporates.								
Principal Faculty	Shri Ramesh Lakshman Practising Chartered Accountant Ramesh Lakshman & Co., Chartered Accountants								
Fees :	<table border="0"> <tr> <td>General</td> <td>Rs. 1600/- per participant</td> </tr> <tr> <td>Members of ICSI, ICAI, ICWAI (25% discount)</td> <td>Rs. 1200/- per participant</td> </tr> <tr> <td>Students (50% discount)</td> <td>Rs. 800 /- per participant</td> </tr> <tr> <td>Annual Members of ICSI-CCGRT</td> <td>Free of Cost</td> </tr> </table> <p>To cover the cost of backgrounder, kit, lunch and other organisational expenses.</p>	General	Rs. 1600/- per participant	Members of ICSI, ICAI, ICWAI (25% discount)	Rs. 1200/- per participant	Students (50% discount)	Rs. 800 /- per participant	Annual Members of ICSI-CCGRT	Free of Cost
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Annual Members of ICSI-CCGRT	Free of Cost								

For Registration : The Fees may be drawn by way of D.D / local cheque payable at Mumbai in favour of "**ICSI-CCGRT A/c**" and sent to The Dean, ICSI-CCGRT , Plot No. 101, Sector -15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614. ☎022-2757 7814/15, Fax-022-2757 4384, email: ccgrt@icsi.edu





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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. Code for Responsible Investing in South Africa' (CRISA) 19 July 2011

The Code for Responsible Investing in South Africa (CRISA) was launched by Committee on Responsible Investing by Institutional Investors in South Africa in order to encourage institutional investors to integrate into their investment decisions sustainability issues such as environmental, social and governance (ESG). It aims to provide the investor community with the guidance needed to give effect to the King Report on Corporate Governance South Africa (King III) as well as the United Nations-backed Principles for Responsible Investment (PRI) initiative. Both require institutional investors to consider ESG issues in their investment.

It applies to institutional investors such as pension funds and insurance companies as the owners of assets, and their service providers including asset managers and consultants. It encourages institutional investors and service providers to adopt its principles and practice recommendations on an "apply or explain" basis. The effective date for reporting on the application of CRISA is 1 February 2012.

The King Code was written from the perspective of the board of the company as the focal point of corporate governance. CRISA is intended to give guidance on how the institutional investor should execute investment analysis and investment activities and exercise rights so as to promote sound governance.

Institutional investors and service providers are expected to adopt the principles and practice recommendations in CRISA on an "apply or explain" basis. Where there is conflict between CRISA and applicable legislation, the legislation will prevail.

The code contains five principles and practice recommendations for the institutional investors and service providers. If an institutional investor has not fully applied one of the Principles of the Code, the reasons should be disclosed. Disclosure as well as policies should be made public.

Detailed code can be accessed at:

http://www.iodsa.co.za/Portals/0/library/documents/CRISA_19_July_2011.pdf



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2. International Integrated Reporting Committee (IIRC) Pilot Programme

Integrated Reporting demonstrates the linkages between an organization's strategy, governance and financial performance and the social, environmental and economic context within which it operates. By reinforcing these connections, it can help business to take more sustainable decisions and enable investors and other stakeholders to understand how an organization is really performing. It supports the creation of long-term sustainable value by bringing together financial and non-financial information on areas that are material to an organization's strategy and business performance.

The International Integrated Reporting Committee (IIRC) was established to create a globally accepted integrated reporting framework which brings together financial, environmental, social and governance information in a clear, concise, consistent and comparable format.

IIRC has launched the Pilot Programme to bring together a group of leading companies across different industry sectors and geographies to test the initial proposals for an International Integrated Reporting Framework being developed by the IIRC. Through participation in the Programme, companies will develop an expertise in Integrated Reporting, supported by a network of peer-group companies with whom knowledge can be exchanged and experiences shared in applying the principles of the IIRC's draft Integrated Reporting Framework.

Companies should register their interest in joining the Programme by emailing the [expression of interest form](#) to pilotprogramme@theiirc.org. The IIRC encourages early expression of interest. The programme commences in October 2011.

The Integrated Reporting Pilot Programme offers a select group of companies the opportunity to demonstrate global leadership in this emerging field of corporate reporting.

The Pilot Programme will underpin the development of the Integrated Reporting framework in 2011 and onwards. Through the Pilot Programme, the principles and practicalities of Integrated Reporting will be tried and tested, to support the creation a new global standard in Integrated Reporting. The Programme will consist of three phases:

1. Dry run –
2. Pilot Cycle 1
3. Pilot Cycle 2

The Pilot Programme encompasses companies and the investor community, with expert support from the secretariat of the International Integrated Reporting Committee (IIRC) and peer group feedback from other participants in the Programme.

The **details** can be accessed at:

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



GREEN CORNER

GREEN IDEA

E-waste Management

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Manage your e-waste responsibly.

Loosely discarded, surplus, obsolete, or broken electrical or electronic devices is e-waste.

Informal processing of electronic waste in developing countries causes serious health and pollution problems.

Contact nearest E-waste Management facility before dumping your e-waste.

Something Good:

Concept of 'Paryavarana Ganapathi' -- The Andhra Pradesh Pollution Control Board (APPCB) is advocating celebrating eco-friendly Ganesha Chaturthi through various awareness programmes and workshops to promote clay Ganesh idols and use of environment-friendly colours to protect the water bodies. APPCB has dispatched guidelines set by the Central Pollution Control Board (CPCB) to district collectors and departments concerned for compliance.

To Remember:

September 8 - International Literacy day
September 15- International Democracy Day
September 27- World tourism Day

Quote of the Month

"Until the poor become asset creators, we are not empowering them."

2011 Ramon Magsaysay Award winner Harish Hande on poverty reduction

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.

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



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

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

OECD - Asian Roundtable on Corporate Governance and the Task Force on Board Nomination and Election

--3-4th October, 2011, Bali, Indonesia

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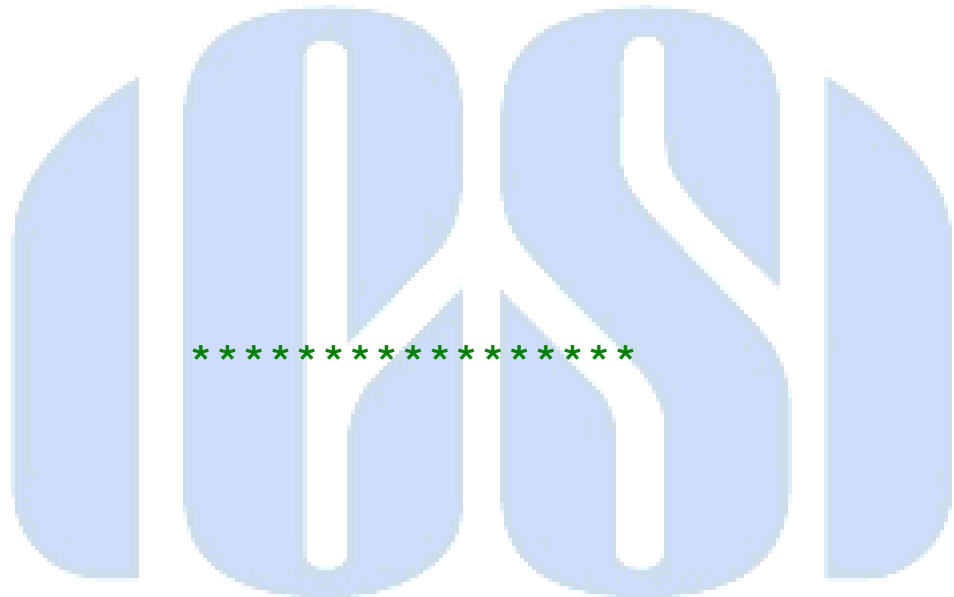


Feedback & Suggestions

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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CLARIFICATION ON NOTIFICATION NO S.O. 447 (E) DATED 28.02.2011 ON REVISED SCHEDULE VI (SHALL BE EFFECTIVE FROM 01.04.2011)

General Circular No. 62/2011

F.No.17/244/2011-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhawan,

Dr. R.P. Road, New Delhi

Dated: 05.09.2011

To

All Regional Directors

All Registrar of Companies

All Official Liquidators

Sub: Clarification on notification no. S.O. 447 (E) dated 28.02.2011 on Revised Schedule VI (shall be effective from 01.04.2011)

The undersigned is directed to refer to this Ministry's notification no. S.O. 447 (E) dated 28.02.2011 regarding Revised Schedule VI of the Companies Act, 1956 and to say that clarification has been sought that during the current year, Ministry has amended the Schedule VI which is to take effect for accounts closing on 31st March 2012. During the Financial Year, in case companies intend to go for Initial Public Offer / Further Public Offer, they are expected to prepare accounts in the new schedule VI format. If previous figures are reclassified in accordance with new Schedule VI, this will pose enormous amount of administrative work and difficulty in making such changes besides making comparison with previous year unrealistic.

Contd...



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-2-

2. The Ministry has examined this matter and clarifies that the presentation of Financial Statements for the limited purpose of IPO/FPO during the Financial Year 2011-12 may be made in the format of the pre-revised Schedule VI under the Companies Act, 1956. However, for period beyond 31st March 2012, they would prepare only in the new format as prescribed by the present Schedule VI of the Companies Act, 1956. Also the companies would ensure that it will prepare and file the Annual Accounts for the Financial Year 2011-12 as per revised Schedule VI of the Companies Act, 1956.

3. This issues with the approval of the Corporate Affairs Minister.

Yours faithfully

A handwritten signature in black ink, appearing to be 'J.N. Tikku'.

(J.N. Tikku)
Joint Director

Tele: 011-2338 1295





ONLINE INCORPORATION OF COMPANIES WITHIN 24 HOURS

General Circular No. 61/2011

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 5th Sept, 2011

To,
All Regional Directors
All Registrar of Companies.

Sub: Online incorporation of companies within 24 hours

Sir,

Please refer to this Ministry's General Circular No. 49/2011 dated 23rd July, 2011 intimating that this Ministry is simplifying the procedures under the procedures to enable promoters to get their companies incorporated online within 24 hours. It has been stated that 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.

2. The matter has been re-examined in the Ministry and it is decided that since now companies are being incorporated within 24-48 hours, on-line approval of incorporation forms i.e. STP mode of approval of e-forms 1, 18 and 32 on the basis of certification and declarations given by the practicing professional is not going to be implemented yet.

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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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



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, appearing to read "Kamna S".

(Kamna Sharma)
Assistant Director

Encl: As above





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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



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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 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.



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(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;

(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



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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 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,


(J.N. Tikku)
Joint Director



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SEBI UPDATE





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AMENDMENTS TO SEBI (MUTUAL FUNDS) REGULATIONS, 1996

CIRCULAR

Cir/ IMD/ DF/ 16 / 2011

September 08, 2011

All Registered Mutual Funds/ Approved Asset Management Companies (AMCs)

Sir/Madam,

Sub: Amendments to SEBI (Mutual Funds) Regulations, 1996

1. We are enclosing a copy of the Gazette Notification No. LAD-NRO/GN/2011-12/27668 on Amendments to SEBI (Mutual Funds) Regulations, 1996 dated August 30, 2011 for your information and implementation.
2. **Mailing of Annual Report or Abridged Summary:**
 - (i) Please refer to the SEBI Circular No. IMD/CIR No.8/132968/2008 dated July 24, 2008 on Abridged Schemewise Annual Report Format and periodic disclosures to the unitholders and proviso to Regulation 56 (1) of SEBI (Mutual Funds) Regulations, 1996 regarding mailing of scheme wise annual report or abridged summary thereof.
 - (ii) In order to bring cost effectiveness in printing and dispatching the annual reports or abridged summary and as a green initiative measure, the following shall be adhered:
 - a. In case of unitholders whose email addresses are available with the Mutual Fund, the AMCs shall communicate to them stating that henceforth, the scheme annual reports or abridged summary would only be sent by email.
 - b. In case of unitholders whose email addresses are not available with the Mutual Fund, the AMCs shall communicate to the unitholders to obtain their email addresses for registration of the same in their database.
 - c. The communication in both the above cases shall clearly mention that the scheme annual accounts or abridged summary would henceforth be sent to these email addresses and not as physical copies and the communication shall also have an option for the investors stating that those who still wish to receive the reports as physical copies may indicate as such.





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- d. In case of any request from these unitholders as detailed above for physical copies notwithstanding their registration of email addresses, AMC's shall provide the same without demur.
- e. For the rest of the investors, i.e. whose email addresses are not available with the mutual fund, the AMC's shall continue to send physical copies of scheme annual reports or abridged summary.
- f. The AMC's shall display the link of the scheme annual reports or abridged summary prominently on their websites and make the physical copies available to the investors at their registered offices at all times.

(iii) The aforesaid circular stands modified to the said extent.

3. Consolidated Account Statement:

- (i) As per sub-regulation 1 and 2 of regulation 36 of SEBI (Mutual Funds) Regulations, 1996, AMC's are required to allot the units to the applicant, whose application has been accepted and send confirmation regarding the same as soon as possible but not later than five working days from the date of closure of the initial subscription list and/or from the date of receipt of the request from the unitholders shall be issued.
- (ii) As per the newly inserted sub-regulation 4 of regulation 36 of SEBI (Mutual Funds) Regulations, 1996, AMC's shall ensure that consolidated account statement for each calendar month is issued to the investors in whose folios transactions has taken place during that month.
- (iii) It is clarified that in view of the aforesaid, as per sub-regulation 1 and 2 of regulation 36 of SEBI (Mutual Funds) Regulations, 1996, AMC's shall continue to allot the units to the applicant whose application has been accepted and also send confirmation specifying the number of units allotted to the applicant by way of email and/or SMS's to the applicant's registered email address and/or mobile number as soon as possible but not later than five working days from the date of closure of the initial subscription list and/or from the date of receipt of the request from the unitholders.

Further, as per sub-regulation 4 of regulation 36 of SEBI (Mutual Funds) Regulations, 1996, AMC's shall issue consolidated account statement for each calendar month to the investors in whose folios transaction(s) has/have taken place during that month.

- (iv) The provisions of sub-regulation 4 of regulation 36 of SEBI (Mutual Funds) Regulations, 1996 regarding dispatching of consolidated account statement shall be applicable from October 1, 2011.
- (v) SEBI Circular No. IMD/CIR/12/80083/2006 dated November 20, 2006 stands modified to the said extent.



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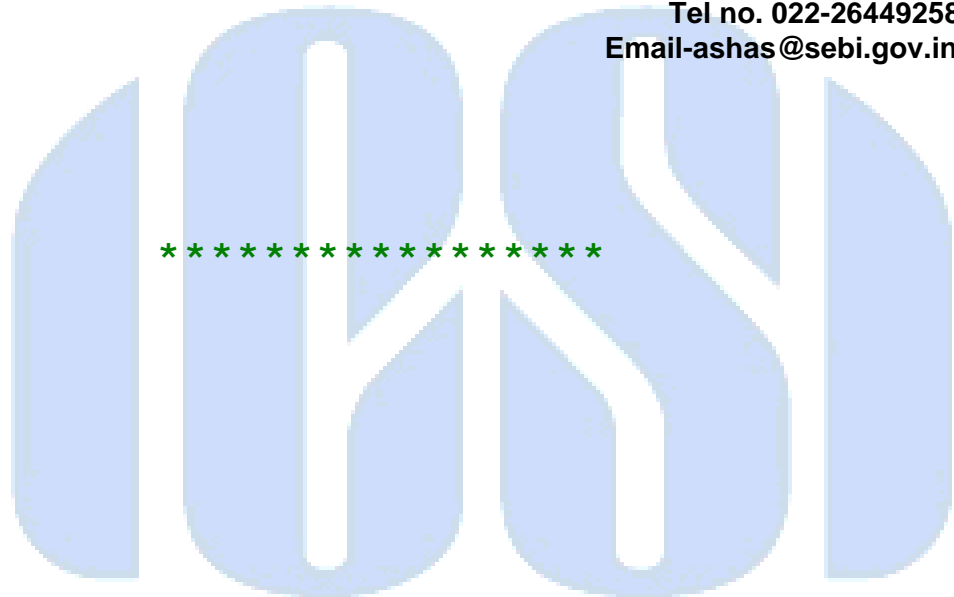
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4. This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, read with the provisions of Regulation 77 of SEBI (Mutual Funds) Regulations, 1996, to protect the interests of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

Yours faithfully,

Asha Shetty
Deputy General Manager
Tel no. 022-26449258
Email-ashas@sebi.gov.in







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SEBI FAQ ON CREDIT RATING, DEBENTURE TRUSTEE, DEPOSITORY PARTICIPANTS AND GLOSSARY

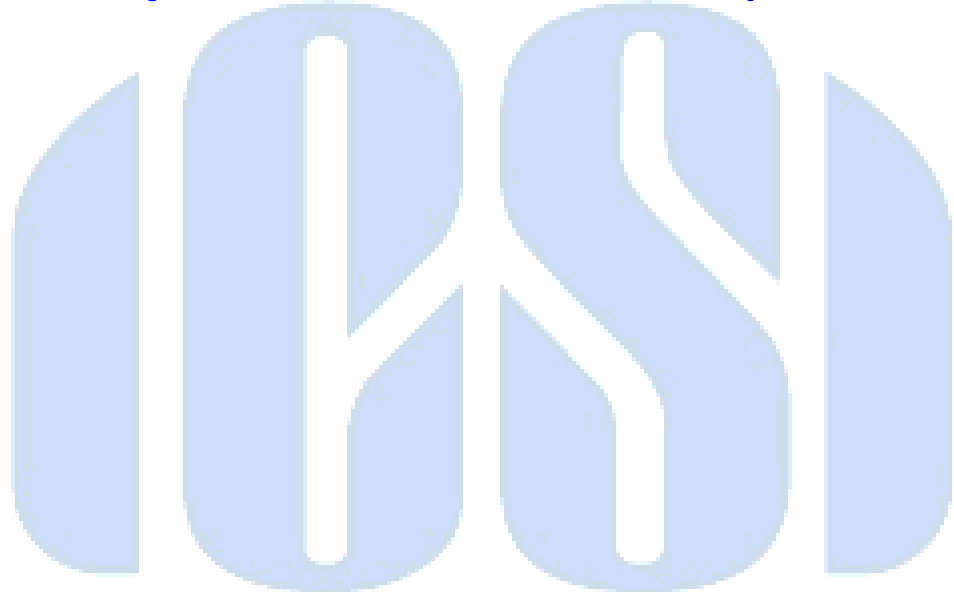
Details can be accessed at:

<http://www.sebi.gov.in/sebiweb/home/list/4/37/44/0/Credit-Rating>

<http://www.sebi.gov.in/sebiweb/home/list/4/37/45/0/Debenture-Trustees>

<http://www.sebi.gov.in/sebiweb/home/list/4/37/46/0/Depository-Participants>

<http://www.sebi.gov.in/sebiweb/home/list/4/37/47/0/Glossary>





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RBI UPDATE





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EXTERNAL COMMERCIAL BORROWINGS SIMPLIFICATION OF PROCEDURE

RBI/2011 -12/169

A. P. (DIR Series) Circular No. 11

September 07, 2011

To

All Category - I Authorised Dealer Banks

Madam / Sir,

External Commercial Borrowings – Simplification of Procedure

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to the Foreign Exchange Management (Borrowing or lending in foreign exchange) Regulations, 2000, notified vide [Notification No. FEMA 3/2000-RB dated May 3, 2000](#), amended from time to time and the [A.P. \(DIR Series\) Circular No. 5 dated August 1, 2005](#), amended from time to time relating to the External Commercial Borrowings (ECB).

2. As per the extant ECB procedures, any request for change of the lender for an existing ECB is required to be referred by the Authorised Dealer Bank to the Reserve Bank for necessary approval.

3. As a measure of simplification of the existing procedures, it has been decided to delegate powers to the designated AD Category-I banks to approve the request from the ECB borrowers with respect to change in the recognized lender when the original lender is an international bank or a multilateral financial institution (such as IFC, ADB, CDC, etc.) or a regional financial institution or a Government owned development financial institution or an export credit agency or supplier of equipment and the new lender also belongs to any one of the above mentioned categories, subject to the Authorised Dealer ensuring the following conditions:-

- i. the new lender is a recognized lender as per the extant ECB norms;
- ii. there is no change in the other terms and conditions of the ECB; and
- iii. the ECB is in compliance with the extant guidelines.

4. However, changes in the recognized lender in case of foreign equity holder and foreign collaborator will continue to be examined by the Reserve Bank.

5. The changes in the recognized lender should be promptly reported to the Department of Statistics and Information Management, Reserve Bank of India in Form 83.



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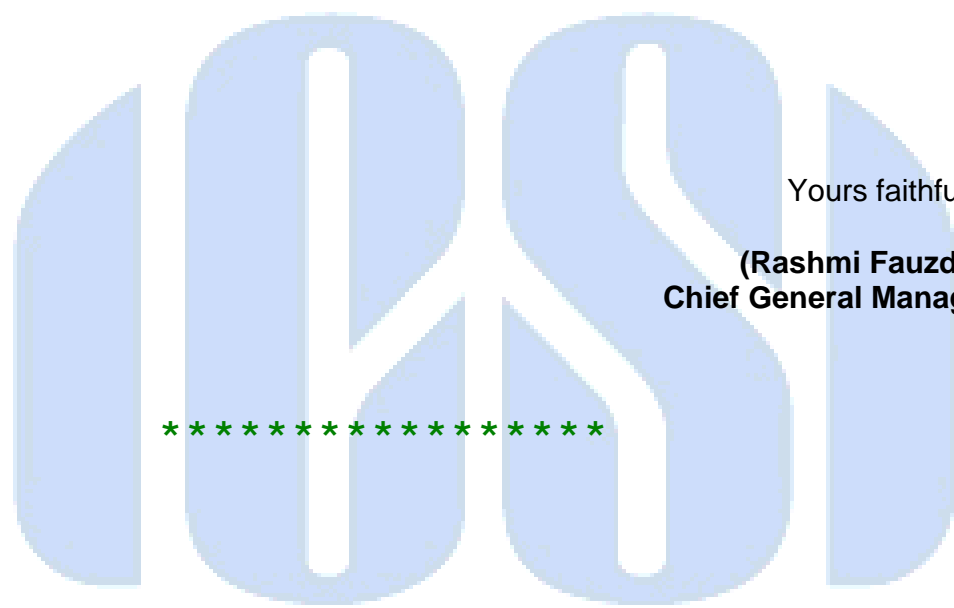
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6. The above modifications to the ECB guidelines will come into force with immediate effect. All other aspects of the ECB policy, such as, USD 500 million limit per company per financial year under the automatic route, eligible borrower, end-use, all-in-cost ceiling, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements shall remain unchanged.

7. AD Category –I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

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



Yours faithfully,

**(Rashmi Fauzdar)
Chief General Manager**





SUBSTITUTION OF TERM MICRO AND SMALL ENTERPRISES IN PLACE OF SSI IN THE DOCUMENTS

RBI/2011-12/167
RPCD.CO RRB. BC.NO.18 /03.05.33/2011-12

September 7, 2011

The Chairmen
All Regional Rural Banks (RRBs)

Dear Sir,

Substitution of term Micro and Small Enterprises in place of SSI in the documents

Copies of the [notification No.S.O.1642 \(E\) dated September 29, 2006](#) issued by the Ministry of Small Scale Industries and [S.O.563 \(E\) dated February 27, 2009](#) issued by Ministry of Commerce and Industry regarding substitution of term 'Micro and Small Enterprises' in place of the term 'Small Scale Industries' are enclosed. Kindly ensure that your internal guidelines / instructions are compliant with these notifications.

2. You are requested to issue suitable instructions to your branches / controlling offices.
3. Kindly acknowledge receipt of the circular to our Regional Office concerned.

Yours faithfully

(C.D. Srinivasan)
Chief General Manager

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