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# CS Update

September 13, 2011

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- FILING OF BALANCE SHEET AND PROFIT & LOSS ACCOUNT IN EXTENSIBLE BUSINESS REPORTING LANGUAGE (XBRL) MODE (*General Circular: 57/2011 dated 28.07.2011*)



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## SEBI UPDATE

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- SERVICE TAX NOTIFICATION NO. 44/2011 *(CBEC dated 12.09.2011)*

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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  
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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>

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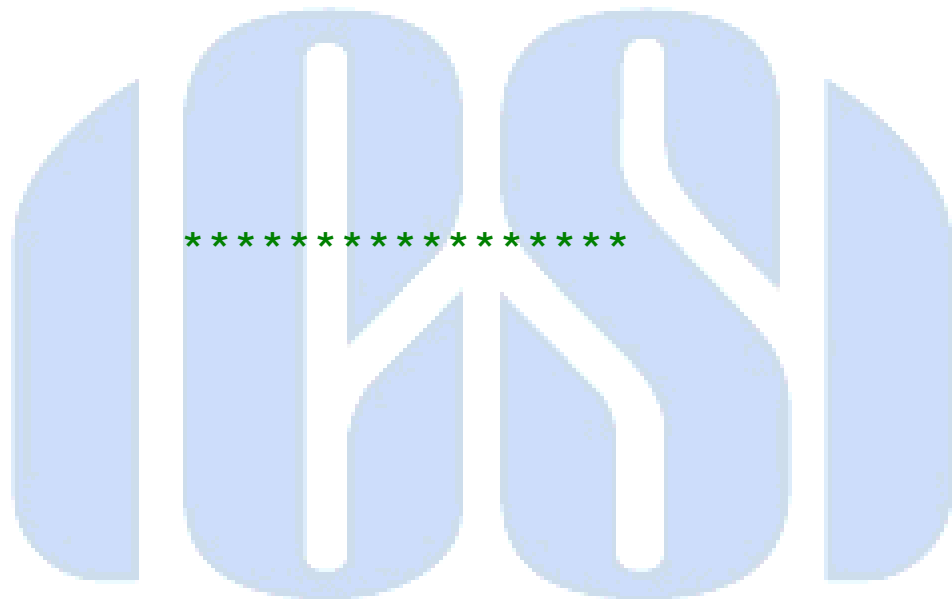
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## 6<sup>th</sup> INTERNATIONAL PROFESSIONAL DEVELOPMENT FELLOWSHIP PROGRAMME-2011- AUSTRALIA

**Details can be accessed at:**

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





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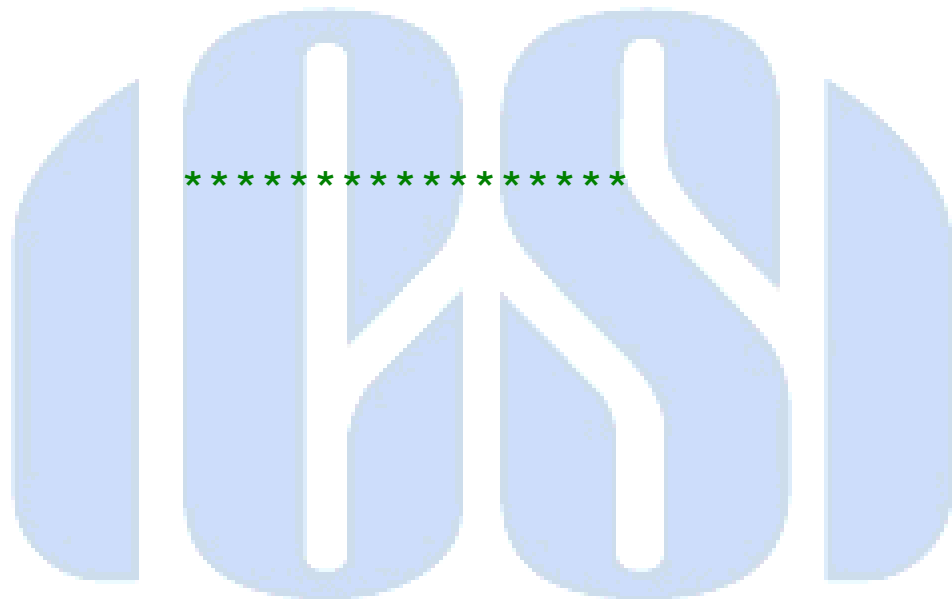
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## RECORDING OF WEBCAST ON XBRL ARRANGED BY ICSI

Details can be accessed at:

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





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## FORTHCOMING PROGRAMMES

			<i>PCH</i>	<i>Organis ed by and Venue</i>	<i>Contact</i>
<i>CII- ICSI</i>	16.09.2011 at 9.30 hrs	<a href="#">INTERACTIVE SESSION ON XBRL - EXTENSIBLE BUSINESS REPORTING LANGUAGE</a>	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: <a href="mailto:Sudipto.pal@icsi.edu">Sudipto.pal@icsi.edu</a>
<i>CII- ICSI</i>	21.09.2011 at 1500 hrs	<a href="#">INTERACTIVE SALVAGING DISPUTE RESOLUTION"</a>	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: <a href="mailto:ashish.modi@cii.in">ashish.modi@cii.in</a>



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PCH - 6

### Programme on XBRL

PDP / ADP -12

<p><b>Introduction and Objective</b></p>	<p>The Ministry of Corporate Affairs has issued various General Circulars (the recent being Circular No. 57/2011 dated 28<sup>th</sup> July 2011) mandating certain class of companies to file, on or before 30<sup>th</sup> November 2011, their balance sheets &amp; 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>						
<p><b>Day, Date &amp; Timing</b></p>	<p>Friday, September 23, 2011 from <b>05.00 p.m to 07.30 p.m</b> followed by Dinner</p> <p>Saturday, September 24, 2011 from <b>09.30 a.m to 05.30 p.m</b></p>						
<p><b>Venue</b></p>	<p>A/C Conference Hall of ICSI-CCGRT, Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614</p>						
<p><b>Proposed Coverage</b></p>	<ul style="list-style-type: none"> <li>• Introduction to XBRL filing</li> <li>• Concept of XBRL Reporting</li> <li>• Demonstration of XBRL filing</li> </ul>						
<p><b>Faculty</b></p>	<p>Eminent faculty with practical exposure to the subject will be addressing the participants.</p>						
<p><b>Participant Mix</b></p>	<p>Primarily Company Secretaries and Finance Professionals</p>						
<p><b>Fees</b></p>	<table border="0"> <tr> <td>Members of ICSI</td> <td>Rs. 3000/- per participant</td> </tr> <tr> <td>Others</td> <td>Rs. 3500/- per participant</td> </tr> <tr> <td>Concessional fees for Annual Members</td> <td>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
Members of ICSI	Rs. 3000/- per participant						
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](mailto:ccgrt@icsi.edu)

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**PCH - 4**

## Programme on DERIVATIVE

**PDP / ADP -8**

<b>Day, Date &amp; Time</b>	Friday, September 23, 2011 from 09.30 a.m to 05.30 p.m with lunch and background material								
<b>Venue</b>	ICSI – CCGRT Conference Hall, Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614								
<b>Focus of Coverage</b>	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.								
<b>Principal Faculty</b>	<b>Shri Ramesh Lakshman</b> Practising Chartered Accountant Ramesh Lakshman & Co., Chartered Accountants								
<b>Fees :</b>	<table border="0"> <tr> <td>General</td> <td><b>Rs. 1600/- per participant</b></td> </tr> <tr> <td>Members of ICSI, ICAI, ICWAI (25% discount)</td> <td><b>Rs. 1200/- per participant</b></td> </tr> <tr> <td>Students (50% discount)</td> <td><b>Rs. 800 /- per participant</b></td> </tr> <tr> <td>Annual Members of ICSI-CCGRT</td> <td><b>Free of Cost</b></td> </tr> </table> <p>To cover the cost of backgrounder, kit, lunch and other organisational expenses.</p>	General	<b>Rs. 1600/- per participant</b>	Members of ICSI, ICAI, ICWAI (25% discount)	<b>Rs. 1200/- per participant</b>	Students (50% discount)	<b>Rs. 800 /- per participant</b>	Annual Members of ICSI-CCGRT	<b>Free of Cost</b>
General	<b>Rs. 1600/- per participant</b>								
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Students (50% discount)	<b>Rs. 800 /- per participant</b>								
Annual Members of ICSI-CCGRT	<b>Free of Cost</b>								

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](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](mailto: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/>



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## GREEN CORNER

### GREEN IDEA



### E-waste Management

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 27<sup>th</sup>- 28<sup>th</sup> 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.



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

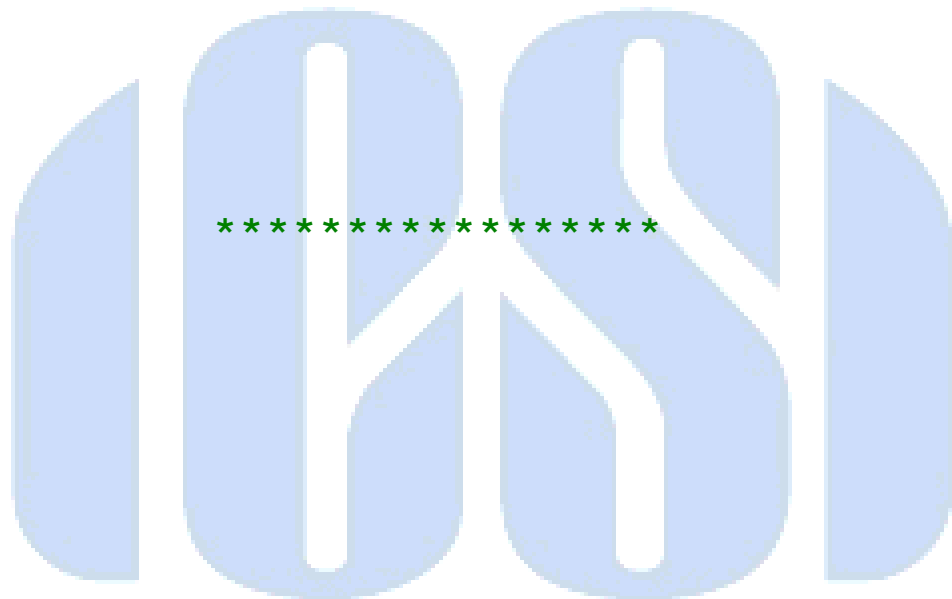
**--3-4<sup>th</sup> October, 2011, Bali, Indonesia**

## **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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## COMPLIANCE OF THE PROVISIONS OF COMPANIES ACT, 1956 AND RULES MADE THEREUNDER

**General Circular No. 63/2011**

**F. No. 17/146/2011-CL V  
Government of India  
Ministry of Corporate Affairs**

5th Floor, A Wing, Shastri Bhavan,  
Dr. R.P. Road, New Delhi,  
Dated the 6th Sept, 2011

To  
All Regional Director,  
All Registrars of Companies.

**Subject: Compliance of the provisions of Companies Act, 1956 and Rules made thereunder**

Sir,

The Ministry has issued General Circular No. 33/2011 dated 01.06.2011 wherein it was informed that in order to ensure corporate governance and proper compliances of provisions of Companies Act, 1956, no request, whether oral or in writing or through e-forms, for recording any event based information / changes shall be accepted by the Registrar of Companies from such defaulting companies, unless they file their updated Balance Sheet and Profit & Loss Accounts and Annual Return with the Registrar of Companies.

2. However, in the interest of stakeholders certain event based information /changes were being accepted by the Registrar from such defaulting companies. Now, on the requests received from various quarters of the corporates & professionals, following forms will also be accepted by the Registrar.

**(a) Filing by Directors of defaulting Companies in respect of such companies:-**

Form 2	Return of allotment
Form 3	Particulars of contract relating to shares allotted as fully or partly paid-up otherwise than in cash
Form 5	Notice of consolidation, division, etc. or increase in share capital or increase in number of members
Form 23	Registration of resolution(s) and agreement(s)
Form 61	Form for filing an application for compounding of offences

**(b) Filing by Directors of defaulting Companies in respect of Companies having the status of Dormant Companies.**



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Form 61	Form for filing an application with Registrar of Companies for normalizing the company and compounding of offences.
DIN-3	Intimation of Director Identification Number by the company to the Registrar
Form 32	<b>(for appointment of signatory added through BO screen)</b> Particulars of appointment of managing director, directors, manager and secretary and the changes among them or consent of candidate to act as a managing director or director or manager or secretary of a company and/ or undertaking to take and pay for qualification shares
Form 21	Notice of the court or the company law board order
Form FTE	Application for striking off the name of company under the Fast Track Exit (FTE) Mode

**(c) Filing by Directors of defaulting Companies in respect of Companies having the status as active in progress companies**

DIN-3	Intimation of Director Identification Number by the company to the Registrar
Form 32	<b>(for appointment of signatory added through BO screen)</b> Particulars of appointment of managing director, directors, manager and secretary and the changes among them or consent of candidate to act as a managing director or director or manager or secretary of a company and/ or undertaking to take and pay for qualification shares
Form 2	Return of allotment
Form 3	Particulars of contract relating to shares allotted as fully or partly paid-up otherwise than in cash
Form 5	Notice of consolidation, division, etc. or increase in share capital or increase in number of members
Form 21	Notice of the court or the company law board order
Form 23	Registration of resolution(s) and agreement(s)
Form 61	Form for filing an application for compounding of offences
Form 23AC	Form for filing balance sheet and other documents with the Registrar
Form 23ACA	Form for filing Profit and Loss account and other documents with the Registrar
Form 20B	Form for filing annual return by a company having a share capital with the Registrar
Form 21A	Particulars of annual return for the company not having share capital
Form 66	Form for submission of compliance certificate with the Registrar



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Form 23 B	Information by Auditor to Registrar
Form FTE	Application for striking off the name of company under the Fast Track Exit (FTE) Mode

3. This circular shall be effective from 18<sup>th</sup> Sept, 2011.

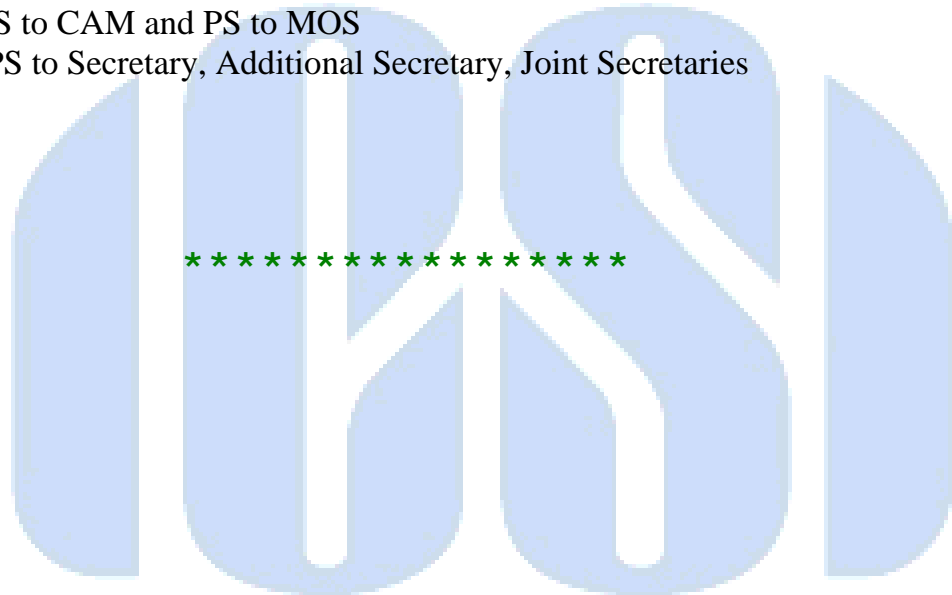
Yours faithfully,

-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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## **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

5<sup>th</sup> 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 31<sup>st</sup> 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...

-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 31<sup>st</sup> 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



(J.N. Tikku)  
Joint Director

Tele: 011-2338 1295



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## 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

5<sup>th</sup> Floor, A Wing, Shastri Bhavan,  
Dr. R.P. Road, New Delhi,  
Dated the 10<sup>th</sup> 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

\*\*\*\*\*



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## COMPANY LAW SETTLEMENT SCHEME, 2011

General Circular No.59 /2011

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

5<sup>th</sup> Floor, A Wing, Shastri Bhavan,  
Dr. R.P. Road, New Delhi,  
Dated the 05<sup>th</sup> 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 **12<sup>th</sup> Aug, 2011** and shall remain in force up to **31<sup>st</sup> 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 sub-section (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 Sharma".

(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 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/-

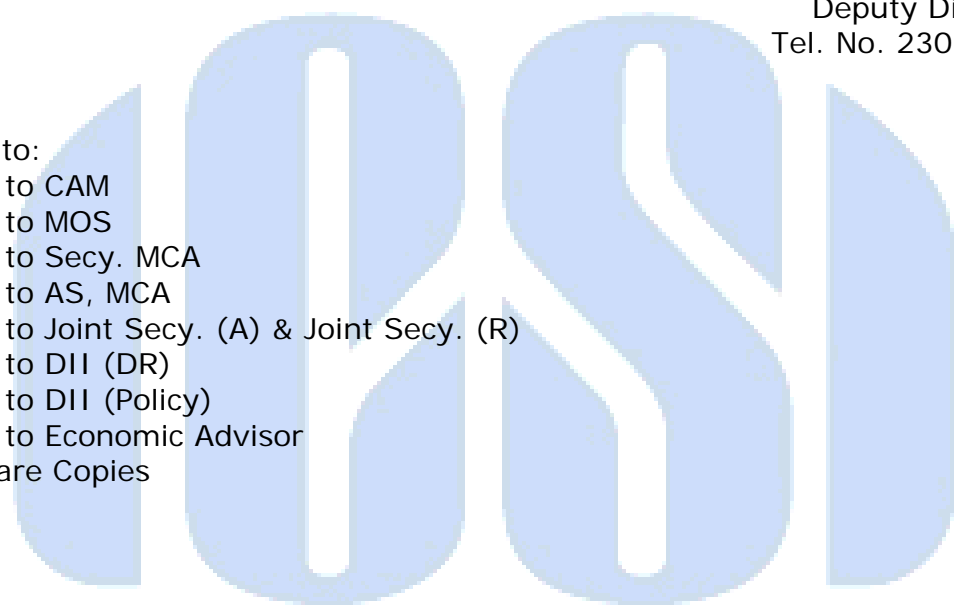
(R K Bakshi)

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,

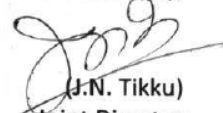
The Para 3 of the Circular no. 37/2011 dated 07.06.2011 may be read as under: -

"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,

  
(J.N. Tikku)  
Joint Director

\*\*\*\*\*



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# SEBI UPDATE





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## REDRESSAL OF INVESTOR GRIEVANCES AGAINST DEPOSITORY PARTICIPANTS (DPS) IN SEBI COMPLAINTS REDRESS SYSTEM (SCORES)

CIR/MIRSD/20/2011

September 12, 2011

To

NSDL & CDSL

Sir/Madam,

### Sub: Redressal of investor grievances against Depository Participants (DPS) in SEBI Complaints Redress System (SCORES)

- SEBI has commenced processing of investor grievances in a centralized web-based complaints redressal system, 'SCORES'. The salient features of this system are:
  - Centralized database of all complaints;
  - Online movement of complaints to the concerned entities;
  - Online upload of Action Taken Reports (ATRs) by the concerned entities; and
  - Online tracking of status of complaints by investors.
- The investor grievances received by SEBI against DPS will be taken up electronically with the concerned Depositories through SCORES (<https://scores.gov.in/Admin>). The Depositories shall, in turn, take up the matter with the concerned DPS.
- The DPS shall take adequate steps for redressal of grievances within one month from the date of receipt of the complaint and keep the investor/Depositories duly informed of the action taken thereon. Failure to comply with the said requirement will render the DP liable for penal action.
- The Depositories shall:
  - put in place a suitable mechanism to follow up with the DPS, wherever necessary;
  - devise a system to levy penalty on DPS for any non-compliance with the requirements specified in para 3 above;
  - update the status of the complaints in SCORES, at every stage, along with supporting documents; and
  - ensure that the status of investor complaints disclosed on their websites is in conformity with the status updated in SCORES.



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5. The Depositories are advised to:

- a) issue necessary instructions to bring the provisions of this circular to the notice of their constituents and also disseminate the same on their websites;
- b) make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above in co-ordination with one another to achieve uniformity in approach;
- c) communicate to SEBI, the status of the implementation of the provisions of this circular in the Monthly Development Report of the following month;
- d) monitor the compliance of this circular through half-yearly internal audit and inspections of DPs; and
- e) encourage investors to use SCORES for lodging their grievances.

6. This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market and shall come into effect from the date of this circular.

7. This circular is available on SEBI website at [www.sebi.gov.in](http://www.sebi.gov.in) under the categories "Legal Framework" and "Circulars"

Yours faithfully,

**Prasanta Mahapatra**  
**Deputy General Manager**  
**022-26449313**  
**prasantams@sebi.gov.in**

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## SEBI PROHIBITION OF INSIDER TRADING (AMENDMENT) REGULATIONS, 2011

THE GAZETTE OF INDIA

EXTRAORDINARY

PART – III – SECTION 4

PUBLISHED BY AUTHORITY

NEW DELHI, 16 AUGUST, 2011

SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION

Mumbai, 16 August, 2011

SECURITIES AND EXCHANGE BOARD OF INDIA

(PROHIBITION OF INSIDER TRADING) (AMENDMENT) REGULATIONS, 2011

No.LAD-NRO/GN/2011-12/16/26150–In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following Regulations to further amend the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, namely:-

1. These regulations may be called the Securities and Exchange Board of India (Prohibition of Insider Trading) (Amendment) Regulations, 2011.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992–

(i) in regulation 13,–

(a) for marginal note, the following shall be substituted, namely:-

“**Disclosure of interest or holding in listed companies by certain persons – Initial Disclosure.**”;

(b) after sub-regulation (2), the following sub-regulation shall be inserted, namely:-

“(2A) Any person who is a promoter or part of promoter group of a listed company shall disclose to the company in Form B the number of shares or voting rights held by such person, within two working days of becoming such promoter or person belonging to promoter group.;

(c) after sub-regulation (4), the following sub-regulation shall be inserted, namely:-

“(4A) Any person who is a promoter or part of promoter group of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total



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number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person from the last disclosure made under Listing Agreement or under sub-regulation (2A) or under this sub-regulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.”;

- (d) in sub-regulation (5), the symbols, numbers and word “(3) and (4)” shall be substituted for, namely:-

“(3), (4) and (4A)”;

- (e) in sub-regulation (6), the symbols, numbers and word “(1), (2), (3) and (4)” shall be substituted for, namely:-

“(1), (2), (2A), (3), (4) and (4A)”;

- (f) after sub-regulation (7), the following explanation shall be inserted, namely:-

“*Explanation.*—For the purposes of sub-regulations (2A) and (4A), the words “promoter” and “promoter group” shall have the same meaning as assigned to them in terms of regulations framed under clause (h) of sub-section (2) of section 11 of the Act.”

- (ii) in Schedule III,—

- (a) for Form B, the following Form shall be substituted, namely:-

**“FORM B**

*Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992*  
[Regulations 13(2), 13(2A) and 13(6)]

**Details of shares or voting rights held by Director or Officer and his dependents or Promoter or Person who is part of Promoter Group of a listed company, or positions taken in derivatives by Director or Officer of a listed company and his dependents.**

Name, PAN No. & Address of Promoter/ Person who is part of Promoter Group/Director/ Officer	Date of assuming office of Director/ Officer OR Date of becoming Promoter/ part of Promoter Group.	No. & % of shares/voting rights held at the time of becoming Promoter/ Group/Director/ Officer.	Date of intimation to company	Mode of acquisition (market purchase/ public/ rights/ preferential offer etc.)	Trading member through whom the trade was executed with SEBI Registration No. of the TM	Exchange on which the trade was executed	Buy quantity	Buy value

*Note: The above table shall be applicable with suitable modifications to disclosures for position taken in derivatives also.”*



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(b) for Form D, the following Form shall be substituted, namely:-

**“FORM D**

*Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992*

[Regulations 13(4), 13(4A) and 13(6)]

**Details of change in shareholding or voting rights held by Director or Officer and his dependents or Promoter or Person who is part of Promoter Group of a listed company.**

Name, PAN No. & Address of Promoter/ Person who is part of Promoter Group/Director/ Officer.	No. & % of shares/ voting rights held by the Promoter/ Person who is part of Promoter Group/Director/ Officer	Date of receipt of allotment advice/ acquisition/ sale of shares/ voting rights	Date of intimation to company	Mode of acquisition (market purchase/ public/rights/ preferential offer, etc.)/sale	No. & % of shares/ voting rights post acquisition/ sale	Trading member through whom the trade was executed with SEBI Registration No. of the TM	Exchange on which the trade was executed	Buy quantity	Buy value	Sell quantity	Sell value

**U. K. SINHA**  
**CHAIRMAN**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**Footnotes:**

1. The Securities and Exchange Board of India (Insider Trading) Regulations, 1992, was published in the Gazette of India on 19<sup>th</sup> November, 1992, vide S.O. LE/6308/92 (E).
2. The Securities and Exchange Board of India (Insider Trading) Regulations, 1992, was subsequently amended –
  - a. on 28<sup>th</sup> March, 2000 by the Securities and Exchange Board of India (Appeal to Securities Appellate Tribunal) (Amendment) Regulations, 2000 vide S.O. No. 278 (E).
  - b. on 20<sup>th</sup> February, 2002 by the SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2002 vide SO.221/(E).
  - c. on 29<sup>th</sup> November, 2002 by the SEBI (Prohibition of Insider Trading) (Second Amendment) Regulations, 2002 vide SO. 1245 (E).
  - d. on 11<sup>th</sup> July, 2003 by the SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2003 vide S.O. 796(E).
  - e. on 19<sup>th</sup> November, 2008 by SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2008 vide No. LAD-NRO/GN/2008/29/44801.



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# RBI UPDATE





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## **GUIDELINES FOR REHABILITATION OF SICK SME UNITS**

**RBI/2011-12/171**

**RPCD.SME & NFS.BC.No.19/06.02.31/2011-12**

**September 12, 2011**

The Chairman/Managing Director/  
Chief Executive Officer

All Scheduled Commercial Banks  
(excluding Regional Rural Banks)

Madam/Dear Sir,

### **Guidelines for Rehabilitation of Sick SME Units**

Please refer to paragraph 5 of Annexure – I of our [circular RPCD. NO. PLNFS.BC.57/06.04.01/2001-2002 dated January 16, 2002](#) on captioned subject. Norms for grant of reliefs and concessions by banks to potentially viable sick SSI units for rehabilitation as furnished in [Appendix-II](#) of the above circular were recently re-examined. It was observed that all the banks have migrated to the Base Rate regime with effect from July 1, 2010 and references to PLR/BPLR are no more meaningful.

2. As per extant guidelines on interest rates, banks are not allowed to lend below Base Rate. However, in terms of para 2.3.1.3 of [Master Circular DBOD.No.Dir.BC.5/13.03.00/2011-12 dated July 1, 2011](#) on 'Interest Rates on Advances', in case of Restructured loans if some of the WCTL, FITL, etc. need to be granted below the Base Rate for the purposes of viability and there are recompense etc. clauses, such lending by Scheduled Commercial Banks will not be construed to be a violation of the Base Rate guidelines.

3. Further, vide [RPCD Circular SME&NFS. BC.No.102/06.04.01/2008-09 dated May 04, 2009](#), all Scheduled Commercial Banks have been advised to put in place their own Restructuring/ Rehabilitation policy for revival of viable/potentially viable sick units/enterprises duly approved by the Board of Directors.

4. Considering the above developments, the Relief and Concessions to viable/potentially viable sick units under rehabilitation prescribed in Appendix – II of our circular dated January 16, 2002 stand withdrawn.



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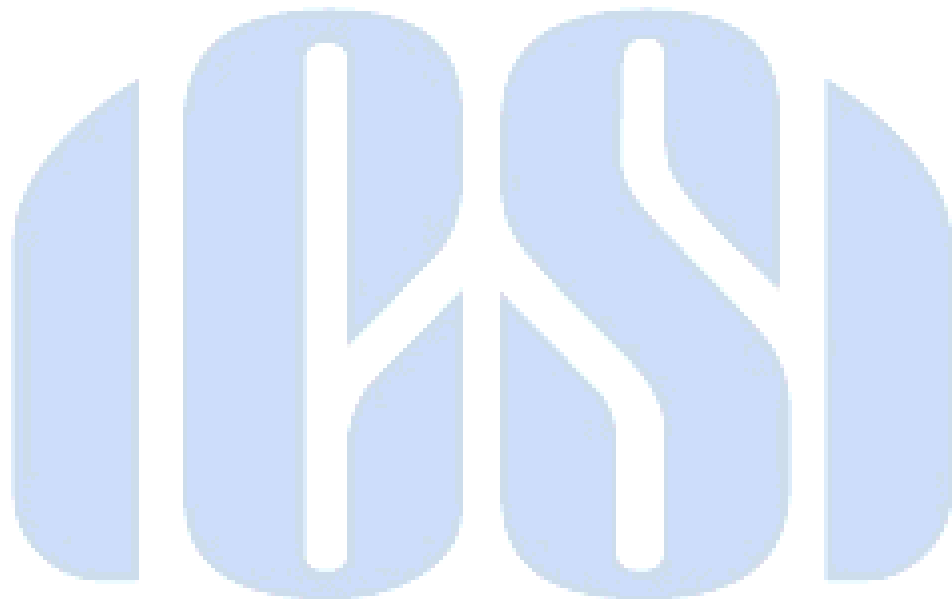
5. Banks are advised to put in place their own Board approved Restructuring/ Rehabilitation policy for revival of viable/potentially viable sick MSE units/enterprises.

6. Please acknowledge receipt.

Yours faithfully

**(C.D. Srinivasan)**  
Chief General Manager

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## GUIDELINES ON BASE RATE

RBI/2011-12/170  
DBOD.Dir.BC.34 /13.03.00/2011-12

September 9, 2011

All Scheduled Commercial Banks  
(excluding RRBs)

Dear Sir / Madam

### Guidelines on Base Rate

Please refer to our circular No. DBOD.Dir.BC.88/13.07.001/2009-10 dated April 9, 2010 and our letter DBOD.Dir.No. 21957/13.07.001/ 2009- 10 dated June 24, 2010 addressed to Indian Banks' Association (IBA) on the subject.

2. The National Scheduled Tribes Finance and Development Corporation (NSTFDC), a wholly owned Government of India Section 25 Company under the Ministry of Tribal Affairs, extends financial assistance at concessional rates of interest for viable income generating activities to eligible beneficiaries belonging to Scheduled Tribes. The guidelines for implementation of the Micro Credit Scheme of NSTFDC were issued by IBA vide their circulars SB/Govt/113 dated November 22, 2007 and SB/CIR/Govt/NSTFDC/43 dated April 6, 2009. Under the scheme, banks may extend subsidised loans to eligible beneficiaries/SHGs for undertaking Self Employment Ventures/activities at interest rates not exceeding six per cent/eight per cent where refinance at three per cent/five per cent from NSTFDC is available. Similarly, banks may extend subsidised loans to eligible beneficiaries under the various schemes of National Handicapped Finance and Development Corporation (NHFDC) at interest rates prescribed therein where refinance from NHFDC is available. In this context, we advise as under:

Banks may charge interest at the rates prescribed under the schemes of NSTFDC /NHFDC to the extent refinance is available. Such lending, even if it is below the Base Rate, would not be considered as a violation of our Base Rate Guidelines. Interest rate charged on the part not covered under refinance should not be below Base Rate.

Yours faithfully

(P. R. Ravi Mohan)  
Chief General Manager

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# TAX LAW UPDATE





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## **VOLUNTARY PAYMENT OF DUTY BEFORE FINAL ASSESSMENT**

**Circular No.40 / 2011 - Customs**

F.No. 528/33/2011-STO (TU)  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs

299-A, North Block, New Delhi,  
9<sup>th</sup> September, 2011.

To

All Chief Commissioners / Commissioners of Customs / Customs (Prev.),  
All Chief Commissioners / Commissioner of Customs & Central Excise,  
All Directors General under CBEC.

Sir / Madam,

**Subject: Voluntary payment of duty before final assessment-  
regarding.**

A reference has been received seeking a clarification whether an importer or exporter can be allowed to pay customs duties voluntarily in the period intervening provisional assessment and final assessment.

2. The issue has been examined by the Board, and accordingly it is clarified that whenever any importer or exporter intimates to the proper officer in writing that he desires to pay voluntarily certain amount of duty of customs, at any time before finalization of the provisional assessment, the following may be drawn to his attention, namely: -

- (a) Such duty should be paid along with interest on the amount of duty so being paid, at the rate fixed by the Central Government under section 28B of the Customs Act, 1962, from the first day of the month in which the duty is provisionally assessed till the date of payment thereof;
- (b) The term and conditions of the bond and the amount of security of surety furnished at the time of provisional assessment shall remain unchanged; and
- (c) No refund of duty will be granted till the assessment is finalised.



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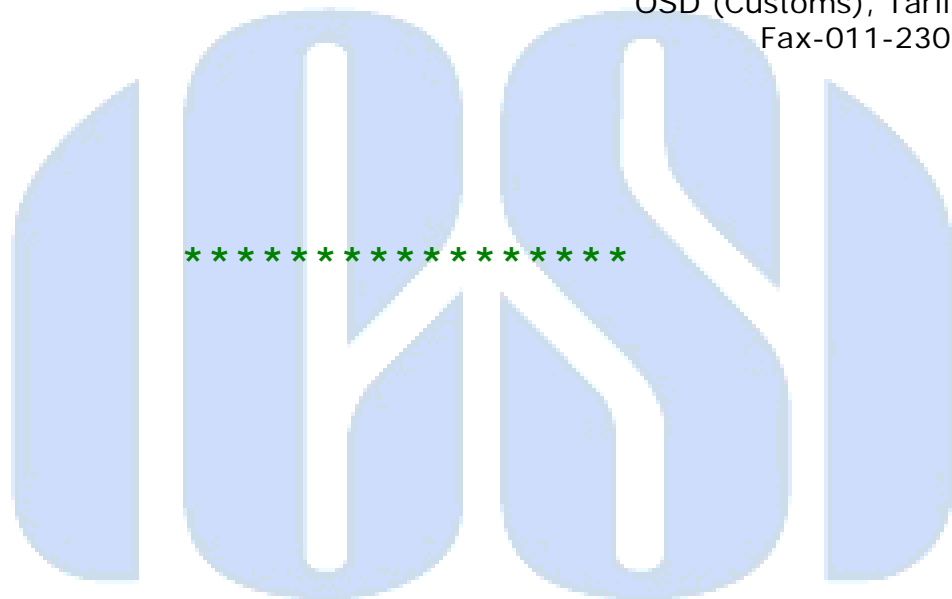


3. Wherever the importer or exporter pays any amount of duty before finalisation of assessment, he shall not incur interest on the amount of duty so paid for the period from the date of such payment till the finalization of assessment. Consequent to final assessment, the interest due will be calculated from the first day of the month in which the duty is provisionally assessed till the date of payment of duty. Also, the amount of duty that is initially provisionally paid or paid in the interim period and interest paid, if any, shall be adjusted against the duty finally assessed, and the interest payable.

4. Difficulty in implementing this instruction, if any, may be brought to notice of the Board.

Yours faithfully,

(Subodh Singh)  
OSD (Customs), Tariff Unit,  
Fax-011-23092173





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## NOTIFICATION NO. 45/2011 – SERVICE TAX

Government of India  
Ministry of Finance  
(Department of Revenue)

### Notification No. 45/2011 – Service Tax

New Delhi, the 12<sup>th</sup> September, 2011

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts taxable services referred to under item (iii) of sub-clause (zzzzm) of clause (105) of section 65 of Finance Act, 1994.

2. This notification shall come into force on the date of its publication in the Official Gazette.

[F. No. 354/167/2011-TRU]

(Samar Nanda)  
Under Secretary to the Government of India

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## NOTIFICATION NO. 44/2011 – SERVICE TAX

Ministry of Finance  
(Department of Revenue)

### Notification No. 44/2011 – Service Tax

New Delhi, the 9<sup>th</sup> September, 2011

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 31/2009-Service Tax, dated the 1st September, 2009, which was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 625 (E), dated the 1st September, 2009, namely :-

In the said notification, after the words, "provided by a sub-broker", the words "or authorised person, as the case may be," shall be inserted.

2. This notification shall come into force on the date of its publication in the Official Gazette.

[F. No. 354/205/2011-TRU]

(Samar Nanda)  
Under Secretary to the Government of India

Note.- The principal notification No. 31/2009-Service Tax, dated the 1st September, 2009 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 1st September, 2009, vide number G.S.R. 625 (E), dated the 1st September, 2009.

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