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CS UPDATE

FEBRUARY 01, 2011

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

PCS UPDATE

COMPANY SECRETARIES IN PRACTICE

RELAXATION OF TIME TO COMPLETE REQUIRED PROGRAMME CREDIT HOURS FOR THE BLOCK OF THREE YEARS ENDING 31.12.2010

The Guidelines for Compulsory Attendance of Professional Development Programmes by Members (ICSI Guideline No. 3 of November, 2007), which were notified and came into effect from January 1, 2008 require every PCS to secure 12 Programme Credit Hours in one year or 40 Programme Credit Hours in a block of three years by attending approved learning programmes.

As per the guidelines the current block of three years which commenced from January 1, 2008 will close on December 31, 2010.

The Council of the Institute in its 197th meeting held on December 15, 2010 considered the matter and granted an opportunity to those practicing members who have not completed the mandatory programme credit hours to complete the same by attending approved learning programmes upto March 31, 2011.

The Council further decided that if a member does not complete the mandatory Programme Credit Hours till March 31, 2011 the Certificate of Practice of such member shall not be renewed.

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FROM ICS1

PMQ COURSE IN CORPORATE GOVERNANCE

ENHANCEMENT OF FEES

The Council at its 197th Meeting held on December 15, 2010 felt that honorarium be paid to the Guides for dissertation and project report under PMQ Course in Corporate Governance. With a view to meet the expense on honorarium to be paid to the Guide and to meet the increased costs, the Council has decided to enhance the **fee for PMQ Course in Corporate Governance with effect from January 1, 2011.**to **Rs.25,000/-** for the entire course payable as under :

Rs.12500/- payable at the time of registration for the course.

Rs.12,500/- payable after completion of Part I and before commencement of Part II

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INSTITUTE'S NEW PUBLICATIONS

- Business @ Governance & Sustainability
- Guidance Note on Board Processes
- Independent Directors-A research Study on Corporate Practice in India
- Corporate Social Responsibility –Research Study of Corporate Practice in India
- DNA of Integrity
- Role of Company Secretaries-A New Perspective
- A Guide to Company Secretary in Practice
- Guidance Note on Related Party Transactions
- Guidance Note on Listing of Corporate Debt
- Guidance Note on Corporate Governance Certificate
- Referencer on Secretarial Audit
- Referencer on Filling and Filing of E-Forms 23AC and 23ACA
- Establishment of Branch, Liaison & Project Offices in India
- Handbook on Mergers, Amalgamation and Takeover

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MCA UPDATE

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ADDITIONAL FEES REVISED w.e.f 5TH DECEMBER, 2010.

Dear Corporates,

It has been decided to revise the additional fees payable as per Section 611(2) of the Companies Act, 1956 (except for Form 5) as per below details with effect from 5th December 2010 :-

Period of Delay	Fixed rate of additional fee
Upto 30 days	Two times of normal filing fee
More than 30 days and upto 60 days	Four times of normal filing fee
More than 60 days and upto 90 days	Six times of normal filing fee
More than 90 days	Nine times of normal filing fee

In order to avoid payment of additional fees, please file within stipulated time.

Source: www.mca.gov.in

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**RBI
UPDATE**

**RECOGNITION OF PERMANENT DIMINUTION IN THE VALUE
OF INVESTMENTS IN BANKS' SUBSIDIARIES/JOINT
VENTURES**

RBI/2010-11/395
DBOD. No. BP.BC.79/21.04.141/2010-11

January 31, 2011

The Chairmen and Managing Directors/Chief Executive Officers of All Commercial Banks(excluding Regional Rural Banks)

Dear Sir,

Recognition of permanent diminution in the value of investments in banks' subsidiaries/joint ventures

In terms of para 15 of Annexure to circular [DBOD.No.BP.BC.32/21.04.048/2000-2001 dated October 16, 2000](#) on 'Guidelines for Classification and Valuation of investments by Banks', banks are required to recognise any diminution, other than temporary, in the value of their investments in subsidiaries/ joint ventures which are included under Held to Maturity category and provide therefor. However, in the absence of any specific instructions on the method of assessment/measurement of permanent diminution, it has been observed that banks are not making any attempt to determine whether there is any permanent diminution in their strategic equity investments held under HTM or AFS categories.

2. The need to determine whether impairment has occurred is a continuous process and the need for such determination will arise in the following circumstances:

(a) On the happening of an event which suggests that impairment has occurred. This would include:

- (i) the company has defaulted in repayment of its debt obligations.
- (ii) the loan amount of the company with any bank has been restructured.
- (iii) the credit rating of the company has been downgraded to below investment grade.

(b) When the company has incurred losses for a continuous period of three years and the net worth has consequently been reduced by 25% or more.

(c) In the case of new company or a new project when the originally projected date of achieving the breakeven point has been extended i.e., the company or the project has not achieved break-even within the gestation period as originally envisaged.

3. When the need to determine whether impairment has occurred arises in respect of a subsidiary, joint venture or a material investment, the bank should

obtain a valuation of the investment by a reputed/qualified valuer and make provision for the impairment, if any.

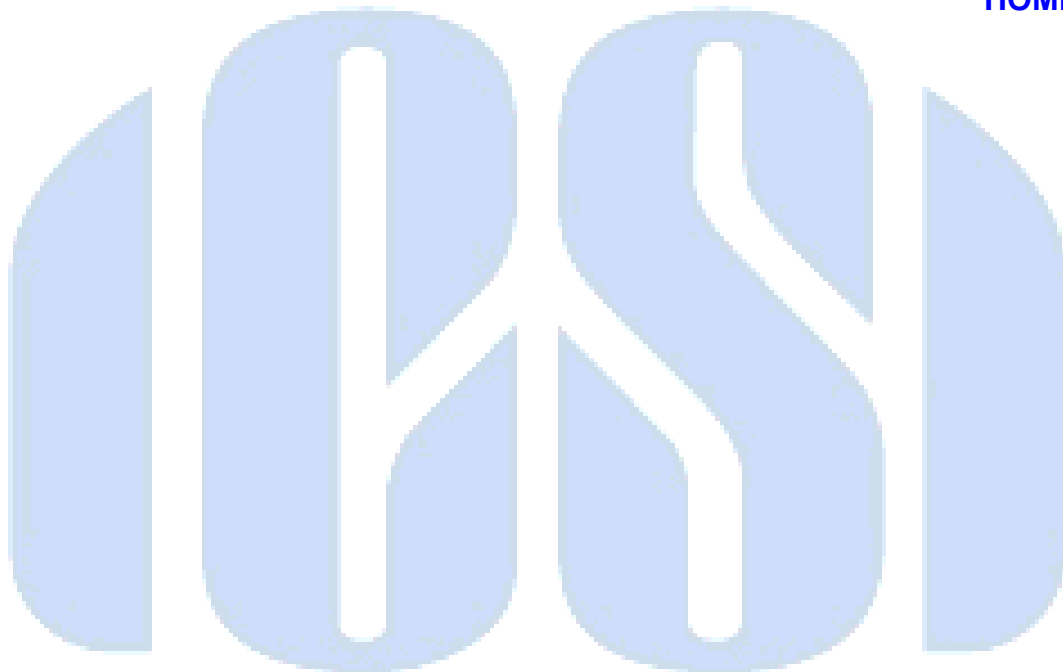
4. These guidelines would be applicable with immediate effect.

Yours faithfully,

(B. Mahapatra)

Chief General Manager-in-Charge

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ANNUAL REPORT OF BANKING OMBUDSMAN SCHEME 2009-10 HIGHLIGHTS EFFECTIVE REDRESSAL OF CUSTOMER GRIEVANCES

The Reserve Bank of India, today, released the [Annual Report of the Banking Ombudsman Scheme for the year 2009-2010](#). The Banking Ombudsman Scheme was established by the Reserve Bank in 1995 to provide speedy solutions to the grievances faced by bank customers.

The *Report* indicates an increase in customers' awareness of the Scheme resulting in an increase in the absolute number of complaints received in BO Offices. What more, the number of complaints from rural areas also increased. In addition, the increase in the number of online complaints, coupled with the increase in ATM/credit card related complaints during 2009-10 were indicative of the increasing use of technology by customers for availing banking services as also for seeking redressal of their grievances. Banking Ombudsman offices effectively addressed 94 per cent of the total complaints received (compared to 87 per cent in the previous year). Further, based on the feedback received from banking ombudsmen, the Reserve Bank took many proactive customer-centric initiatives during the year.

Highlights of the Report

Number of Complaints

- During 2009-10, the Banking Ombudsmen (BO) received 79, 266 complaints, recording an increase of 15 per cent from 69,117 complaints received in 2008-09. The rate of increase, however, dropped significantly – from 44 per cent in 2008-2009 to 15 per cent in 2009-2010. The number of complaints increased mainly due to awareness campaigns carried out by the Banking Ombudsmen (BOs) and various proactive measures taken by the Reserve Bank.
- BO offices at Chennai accounted for maximum receipt of complaints (16.10 per cent), followed by New Delhi at 15.20 per cent, Mumbai at 13.7 per cent and Kanpur 9.9 per cent.
- The average number of complaints received per BO office increased to 5,284 during 2009-2010 as against 4,608 complaints received during 2008-09. Chennai BO office alone received as many as 12,727 complaints, followed by BO, New Delhi (12,045), Mumbai (10,058) and Kanpur (7,832).
- The number of complaints from rural and metropolitan areas increased during the year 2009-10. Complaints received from metropolitan areas constituted 34 per cent of total complaints, followed by rural areas at 32 per cent, urban areas at 20 per cent and semi urban areas at 14 per cent. This was mainly due to the awareness efforts undertaken by the Banking Ombudsmen as well as the Reserve Bank through personal/ village visits, media campaign, etc.

Nature of Complaints

- *Credit cards* related complaints at 24 per cent of the total complaints formed a significant proportion followed by complaints relating to 'Failure to meet commitments made' (non adherence to fair practices code as adopted by banks) at 15 per cent. Complaints related to *loans and advances* at 8 per cent, *remittance* related complaints (7 per cent), *deposits* related complaints (5 per cent), *pension* related complaints (6 per cent).

Disposal

- During 2009-10, Banking Ombudsmen disposed off 94 per cent of the total complaints received (87 per cent in the previous year). Out of 5363 complaints pending as on June 30, 2010, only five per cent (242) complaints were pending for more than three months as against seven per cent in the previous year.
- While the cost of running the Scheme through 15 offices of BO in the country at Rs.19.74 crore recorded an increase of 29 per cent over the previous year, the average cost per complaint remained at Rs. 2368 - the same level as that of the last year. This was due to increase in the number of complaints received/dealt with.

Two-way Process

Using the feedback received from BOs, the Reserve Bank took many proactive customer-centric initiatives. Some illustrations:

- Agency banks were directed to pay compensation at Bank rate + 2 per cent penalty for delay in payment of pension dues.
- Banks were advised to pay compensation of Rs. 100 per day to the complainants for delay in resolving complaints in respect of failed ATM transactions.
- Banks were advised to display their contact details, such as, telephone numbers of help desk/contact person for lodging of ATM related complaints at all ATM locations.
- Effective April 1, 2010, payment of interest on savings bank deposits was made to be paid on a daily product basis.
- Banks were advised to issue no-due certificates in all cases resolved through Banking Ombudsmen's intervention within a week of reaching such settlement and also suitably modify records of Credit Information Bureau of India Limited (CIBIL).
- Banks were advised to issue loan statements to borrowers every year.
- The Reserve Bank issued a comprehensive master circular on customer service on July 1, 2010.
- Booklets on FAQs on Housing Loan and Cheque Collection Policy were published.
- Banks were advised to review their customer service / customer care aspects and submit a detailed memorandum to their Board of Directors,

once every six months and initiate prompt corrective action wherever service quality / skill gaps were noticed.

Background

The Reserve Bank introduced the Banking Ombudsman Scheme (BOS) in India on June 14, 1995 to provide an expeditious and inexpensive forum to bank customers for resolution of their complaints relating to deficiency in banking services provided by commercial banks, regional rural banks and scheduled primary co-operative banks. There are 15 offices of Banking Ombudsman (OBOs), spread across the country. The feedback gathered in the course of administering the BOS has been used by RBI to modify the Scheme in 2002, 2006, 2007 and 2009, to include, among other things, customer complaints on new areas such as credit card complaints, internet banking, deficiencies in providing the promised services by both bank and its sales agents (DSAs), levying service charges without prior notice to the customers, non- adherence to the Fair Practices Code adopted by individual banks, etc. From a total of 11, when the BO Scheme was started in 1995, today, the BO Scheme provides for 27 grounds of complaints / deficiencies in bank services. RBI operates the BOS, free of cost, so as to make it accessible to all. In order to increase its effectiveness and utility, BOS is today fully staffed and funded by RBI.

R. R. Sinha
Deputy General Manager

Press Release : 2010-2011/1098

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OPENING OF "SMALL ACCOUNT"

RBI/2010-11/389
DBOD.AML.No. 77/14.01.001/2010-11

January 27, 2011

The Chairmen / CEOs of all Scheduled Commercial Banks (Excluding RRBs) /
Local Area Banks / All India Financial Institutions

Dear Sir,

Opening of "Small Account"

Please find enclosed a copy of the Government of India, [Notification No. 14/2010/F.No.6/2/2007-E.S. dated December 16, 2010](#), amending the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005.

A. Small Accounts

2. In terms of Rule 2 clause (fb) of the Notification 'small account' means a savings account in a banking company where-

- (i) the aggregate of all credits in a financial year does not exceed rupees one lakh;
- (ii) the aggregate of all withdrawals and transfers in a month does not exceed rupees ten thousand; and
- (iii) the balance at any point of time does not exceed rupees fifty thousand .

3. Rule (2A) of the Notification lays down the detailed procedure for opening 'small accounts'. Banks are advised to ensure adherence to the procedure provided in the Rules for opening of small accounts.

B. Officially Valid Documents

4. The Notification has also expanded the definition of 'officially valid document' as contained in clause (d) of Rule 2(1) of the PML Rules to include job card issued by NREGA duly signed by an officer of the State Government or the letters issued by the Unique Identification Authority of India containing details of name, address and Aadhaar number.

5. It is further advised that where a bank has relied **exclusively** on any of these two documents, viz. NREGA job card or Aadhaar letter, as complete KYC document for opening of an account (ref. paragraph 2.4 (f) of the Master circular dated July 1,2010) the bank account so opened will also be subjected to all conditions and limitations prescribed for small account in the Notification.

6. Accordingly, all accounts opened in terms of procedure prescribed in Rule 2A of the Notification enclosed **and** all other accounts opened **ONLY** on the basis of NREGA card or Aadhaar letter should be treated as "small accounts" subject to the conditions stipulated in clause (i) to (v) of the sub-rule (2A) of Rule 9.

7. Please acknowledge receipt.

Yours faithfully,

(Vinay Baijal)

Chief General Manager

Encl: As above

ncl: As above

**Government of India
Ministry of Finance
(Department of Revenue)**

Notification

New Delhi, the 16th December, 2010

GSR (E) – In exercise of the powers conferred by sub-section (1) read with clauses (h) (i), (j) and (k) of sub-section (2) of Section 73 of the Prevention of Money-laundering Act, 2002 (15 of 2003), the Central Government hereby makes the following amendments to the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005, namely: :-

1. (1) These rules may be called the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients

of the Banking Companies, Financial Institutions and Intermediaries) Third Amendment Rules, 2010.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005, -

(a) in rule 2,-

3. (i) after clause (b), the following clause shall be inserted, namely:-

“(bb) “Designated Officer” means any officer or a class of officers authorized by a banking company, either by name or by designation, for the purpose of opening small accounts”.

(ii) in clause (d), for the words “the Election Commission of India or any other document as may be required by the banking company or financial institution or intermediary”, the words “Election Commission of India, job card issued by NREGA duly signed by an officer of the State Government, the letter issued by the Unique Identification Authority of India containing details of name, address and Aadhaar number or any other document as notified by the Central Government in consultation with the Reserve Bank of India or any other document as may be required by the banking companies, or financial institution or intermediary” shall be substituted;

(iii) after clause (fa), the following clause shall be inserted, namely:-

“(fb) “small account” means a savings account in a banking company where-

(i) the aggregate of all credits in a financial year does not exceed rupees one lakh,

(ii) the aggregate of all withdrawals and transfers in a month does not exceed rupees ten thousand, and;

(iii) the balance at any point of time does not exceed rupees fifty thousand”.

(b) In rule 9, after sub-rule (2), the following sub-rule shall be inserted, namely:-

“(2A) Notwithstanding anything contained in sub-rule (2), an individual who desires to open a small account in a banking company may be allowed to open such an account on production of a self-attested photograph and affixation of signature or thumb print, as the case may be, on the form for opening the account.

Provided that –

(i) the designated officer of the banking company, while opening the small account, certifies under his signature that the person opening the account has affixed his signature or thumb print, as the case may be, in his presence;

(ii) a small account shall be opened only at Core Banking Solution linked banking company branches or in a branch where it is possible to manually monitor and ensure that foreign remittances are not credited to a small account and that the stipulated limits on monthly and annual aggregate of transactions and balance in such accounts are not breached, before a transaction is allowed to take place;

(iii) a small account shall remain operational initially for a period of twelve months, and thereafter for a further period of twelve months if the holder of such an account provides evidence before the banking company of having applied for any of the officially valid documents within twelve months of the opening of the said account, with the entire relaxation provisions to be reviewed in respect of the said account after twenty four months.

(iv) a small account shall be monitored and when there is suspicion of money laundering or financing of terrorism or other high risk scenarios, the identity of client shall be established through the production of officially valid documents, as referred to in sub rule (2) of rule 9"; and

(v) foreign remittance shall not be allowed to be credited into a small account unless the identity of the client is fully established through the production of officially valid documents, as referred to in sub-rule (2) of rule 9."

(Notification No.14/2010/F.No.6/2/2007-ES)

(S.R. Meena)
Under Secretary

Note : The principal rules were published in Gazette of India, Extraordinary, Part-II, Section 3, Sib-Section (i) vide number G.S.R.444 (E), dated the 1st July, 2005 and subsequently amended by number G.S.R.717 (E), dated the 13th December, 2005, number G.S.R. 389(E), dated the 24th May, 2007, number G.S.R. 816(E), dated the 12th November, 2009, number G.S.R.76 (E), dated the 12th February, 2010 and number G.S.R. 508(E), dated the 16th June, 2010.

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Notification No. 4/2011-Customs

[TO BE PUBLISHED IN THE GAZETTE OF INDIA,
EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

New Delhi, the 27th January, 2011

Notification No. 4/2011-Customs

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 21/2002-Customs, dated the 1st March, 2002 which was published in the Gazette of India, Extraordinary, vide number G.S.R.118 (E), dated the 1st March, 2002, namely:-

In the said notification, in the preamble, in the proviso, in clause (f), for the figures, letters and words "1st day of April, 2011", the figures, letters and words "1st day of April, 2012" shall be substituted.

[F.No.354/15/2010-TRU]

(Navin Kumar Vidyarthi)

Under Secretary to the Government of India

Note: The principal notification was published in the Gazette of India, Extraordinary, vide number G.S.R.118(E), dated the 1st March, 2002 and was last amended by notification No. 2/2011-Customs, dated the 8th January, 2011 published vide number G.S.R.10(E), dated the 8th January, 2011

