CONTENTS

MCA Updates

- Revised Forms and Regulations
- Companies (Appointment and Qualifications of Secretary) Amendment Rules, 2009

SEBI Updates

- Guidelines in respect of exit option to Regional Stock Exchanges
- Establishment of Connectivity with both depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to normal Rolling Settlement

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.
MCA UPDATES

- Revised Forms and Regulations
- Companies (Appointment and Qualifications of Secretary) Amendment Rules, 2009
REVISED FORMS AND REGULATIONS

- The under mentioned forms have been revised vide Notification NO: 824(E) and 868(E) dated 28-11-08 and 22-12-08 respectively. **Revised forms** will come into force from **11th January, 2009**. All Stakeholders are requested to use the revised forms w.e.f. **January 11, 2009 (6.00 AM)**:

- **Form 1** – Application and declaration for incorporation of a company;
- **Form 1A** – Application form for availability or change of name;
- **Form 2** - Return of allotment;
- **Form 5** – Notice of consolidation, division, etc. or increase in share capital or increase in number of members;
- **Form 23B** – Information by auditors
- **Form 22** - Statutory report

- Companies (Central Government’s) general rules and forms are amended vide notification no. G.S.R. 872(E) dated December 23, 2008 to **substitute** the following forms:
  - **Form 21** – Notice of the Court or the Company Law Board order or any other competent authority;
  - **Form 23** – Registration of resolution (s) and agreement (s)

- Companies (Central Government’s) general rules and forms are amended vide notification no. G.S.R. 876(E) dated December 24, 2008 to **insert new e-form 67**. This e-form is to be filed as an addendum with the Ministry of Corporate Affairs in respect of any further information called for, in respect of an application or e-form or document, filed electronically, on its website. The name of the e-form is as under:

<table>
<thead>
<tr>
<th>FORM 67</th>
<th>Form for filing addendum for rectification of defects or incompleteness</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Pursuant to Rule 20A(3) of the Companies(Central Government’s) General Rules and Forms, 1956]</td>
<td></td>
</tr>
</tbody>
</table>

- Vide notification no. G.S.R. 888(E) dated December 24, 2008, **Regulation 17 of Companies Regulations, 1956 has been substituted**.

As per the substituted Regulation 17(1), the Registrar shall examine, every application/ e-form/ document required/authorized/filed required to be filed with or delivered to, in the electronic form, the Ministry of Corporate Affairs on its website for approval and registration or taking on record or rectification by the Registrar.

On examining, if it finds it necessary to call further information or finds the document defective/incomplete, he shall direct him to furnish such information or to rectify the defects or incompleteness or re-submit the e-form/application/document.

The above notifications are available at the website of Ministry of Corporate Affairs i.e. www.mca.gov.in.
COMPANIES (APPOINTMENT AND QUALIFICATIONS OF SECRETARY) AMENDMENT RULES, 2009

The Central Government in exercise of the powers conferred under Section 642 and Section 383A of the Companies Act, 1956 has amended the COMPANIES (APPOINTMENT AND QUALIFICATIONS OF SECRETARY) RULES, 1988 vide Notification No. G.S.R. 11 (E), dated 5-1-2009.

The amendment seeks to enhance the paid-up capital requirements for companies compulsorily required to appoint a whole-time secretary to “five crore rupees”.

Under the amended rules a company having a paid-up share capital of two crore rupees or more but less than five crore rupees may appoint any individual who is a member of the Institute of Company Secretaries of India as a whole-time secretary to perform the duties of a secretary under the Companies Act, 1956.

Further, where a company has appointed a whole-time company secretary, possessing the qualification of membership of the Institute of Company Secretaries of India, such a company is not required to obtain a certificate from a secretary in whole-time practice under rule 3 of the Companies (Compliance Certificate) Rules, 2001.

The said amendment shall come into force from 15th March, 2009.

A copy of the notification may be downloaded at the link:

SEBI UPDATES

- Guidelines in respect of exit option to Regional Stock Exchanges
- Establishment of Connectivity with both depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to normal Rolling Settlement
The Managing Directors / Chief Executive Officers / Executive Directors / Officiating Executive Directors of all the Stock Exchanges,

Dear Sir / Madam

Subject: Guidelines in respect of exit option to Regional Stock Exchanges

SEBI Board has approved the broad guidelines as under, to provide an exit option to such Regional Stock Exchanges (RSEs) whose recognition is withdrawn and/or renewal of recognition is refused by SEBI and RSEs who may want to surrender their recognition. In all such cases, an appropriate order will be passed by SEBI.

As per the said guidelines, such RSEs (or their successor entities) may be permitted to retain movable and immovable assets and to deal with such assets as they deem fit subject to compliance with the following conditions:

1. The Investor Protection Fund, Investor Services Fund, 1% security deposit available with such exchanges shall be transferred to the SEBI Investor Education and Protection Fund. The 1% security deposit shall subsequently be returned to the issuer company in due course on satisfying the prescribed conditions.

2. Statutory dues outstanding to SEBI including 10% of the listing fee and the annual regulatory fee, shall be transferred to SEBI.

3. Consequent upon de-recognition, the trading members of such exchanges shall cease to be trading members and therefore liable to be de-registered as stock brokers, and their certificate of registration granted by SEBI shall accordingly stand automatically cancelled.

4. The brokers/trading members of such de-recognised stock exchanges shall be liable to pay SEBI registration fees as per Schedule III of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 till the date of such de-recognition. Dues of the brokers to SEBI shall be recovered by the exchange out of the brokers’ deposits / capital / share of sale proceeds / winding up proceeds / dividend payable, etc. available with the exchange and transferred to SEBI.

5. In case the stock exchange, after de-recognition, continues as a corporate entity under the Companies Act, 1956, it shall not use the expression ‘stock exchange’ or any variant in its name or in its subsidiaries name so as to avoid any representation of any present or past affiliation with the stock exchange.
6. The subsidiaries of de-recognised stock exchanges may continue to function as any other normal broking entity with a suitable change of name so as to avoid any representation of any present or past affiliation with the stock exchange. Further, the additional conditions specified by SEBI vide circulars dated November 26, 1999 dated December 16, 1999 would not apply to the said broking entity.

7. In case of sale/distribution/transfer of assets/winding up of such exchanges/companies, the relevant provisions of the various laws such as Income Tax Act, 1961, the Companies Act, 1956, Stamp Act, etc. would apply. SEBI would inform the concerned State Governments about derecognition of a Stock Exchange.

8. The companies which are listed in such de-recognised RSEs and also listed in any other stock exchange(s) may continue to remain listed in the other stock exchange(s). In case of companies exclusively listed on those de-recognised stock exchanges, it shall be mandatory for such companies to either seek listing at other stock exchanges or provide for exit option to the shareholders as per SEBI Delisting Guidelines / Regulations after taking shareholders’ approval for the same, within a time frame, to be specified by SEBI, failing which the companies shall stand delisted through operation of law.

9. The stock exchange shall set aside sufficient funds in order to provide for settlement of any claims, pertaining to pending arbitration cases, arbitration awards, not implemented, if any, liabilities/claims of contingent nature, if any, and unresolved investors complaints/grievances lying with the exchange.

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.

Yours faithfully,

S V MURALI DHAR RAO
The Executive Directors/Managing Directors of all Stock Exchanges

Dear Sir/Madam,

Sub: Establishment of Connectivity with both depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to normal Rolling Settlement

1. It is observed from the information provided by the depositories that the companies listed in Annexure ‘A’ have established connectivity with both the depositories during the month of October 2008.

2. The stock exchanges may consider shifting the trading in these securities to normal Rolling Settlement subject to the following:

   a) At least 50% of other than promoter holdings as per clause 35 of Listing Agreement are in dematerialized mode before shifting the trading in the securities of the company from TFTS to normal Rolling Settlement. For this purpose, the listed companies shall obtain a certificate from its Registrar and Transfer Agent (RTA) and submit the same to the stock exchange/s. However, if an issuer-company does not have a separate RTA, it may obtain a certificate in this regard from a practicing company Secretary/Chartered Accountant and submit the same to the stock exchange/s.

   b) There are no other grounds/reasons for continuation of the trading in TFTS.

3. The Stock Exchanges are advised to report to SEBI, the action taken in this regard in Section II, item no. 13 of the Monthly/Quarterly Development Report.

Yours faithfully,

S V MURALIDHAR RAO

Encl: a/a
Annexure A

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Company Name</th>
<th>ISIN</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>AUROMA COKE LIMITED</td>
<td>INE662I01012</td>
</tr>
<tr>
<td>2.</td>
<td>SILVER OAK (INDIA) LIMITED</td>
<td>INE870J01019</td>
</tr>
<tr>
<td>3.</td>
<td>FARMAX RETAIL (INDIA) LIMITED</td>
<td>INE890101019</td>
</tr>
</tbody>
</table>