



The Institute of

Company Secretaries of India

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

'ICSI House', 22 Institutional Area, Lodi Road, New Delhi-110003, India.

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CS UPDATE

July 11, 2007

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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.

MEMBERS ALERT

Members are invited to bring to the notice of the Institute, any important development which would be of interest either to all members generally or to certain members belonging to a particular territory or region. Such information would be appropriately shared with other members, on merits, under the head "**MEMBERS ALERT**" through 'Chartered Secretary' or 'CS Update' depending upon the nature of the information. All contributions received and accepted upto December, 2007 would be screened and the member whose contribution is adjudged as the best would be acknowledged appropriately.

*Contributions may be forwarded to
Shri N K Jain, Secretary & CEO
at secretary@icsi.edu.*

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35th NATIONAL CONVENTION OF COMPANY SECRETARIES

Theme

“Excellence Through Business Value Addition”

Dates : September 20-22, 2007

Venue : B M Birla Auditorium, Statue Circle, Jaipur

The details of the National Convention are available at the following link:

<http://www.icsi.edu/Portals/57ad7180-c5e7-49f5-b282-c6475cdb7ee7/35th%20National%20Convention.pdf>

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Suggestions invited on Proposed New Syllabus for the Company Secretaryship Examinations

Comments and suggestions are invited on the Proposed New Syllabus by 31st July, 2007.

The recommended Module-wise scheme of papers approved by the Council at each stage is available at the following link:

<http://www.icsi.edu/Portals/57ad7180-c5e7-49f5-b282-c6475cdb7ee7/Syallabus%20review.pdf>

Comments and suggestions may be addressed to :

Shri V K Aggarwal

Principal Director

The Institute of Company Secretaries of India

“ICSI House”, 22 Institutional Area

Lodi Road, New Delhi 110 003

Email : drs1@icsi.edu Website : www.icsi.edu

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EXPOSURE DRAFT

(Last date for comments : 31st July, 2007)

PROPOSED SECRETARIAL STANDARD ON TRANSMISSION (SS-6)

The following is the text of the Exposure Draft of the proposed 'Secretarial Standard on Transmission (SS-6)', issued by the Secretarial Standards Board of the Institute of Company Secretaries of India, for comments. The comments and suggestions on the Exposure Draft may be sent to Sh. Gopal Chalam, Director, ICSI-CCRT at Plot No-101, Sector - 15, Institutional Area, CBD Belapur, Navi Mumbai-400 614 (E-mail : ccrt@vsnl.com) so as to reach him by 31st July, 2007.

The following is the text of the Secretarial Standard-6 (SS-6) on "Transmission" issued by The Institute of Company Secretaries of India.

In the initial years, adherence by a company to this Secretarial Standard will be recommendatory.

In this Secretarial Standard, the Standard portions have been set in **bold** type. These should be read in the context of background material which has been set in normal type and in the context of the 'Preface to Secretarial Standards'.

INTRODUCTION

The word "transmission" means devolution of title to shares otherwise than by transfer.

On registration of the transmission of shares, the person whose name is registered becomes the shareholder of the company and is entitled to all rights and subject to all liabilities as such shareholder.

In case the deceased shareholder had shareholdings in different companies, in order to effect transmission of shares, the legal heir(s)/nominee/surviving joint holder(s) has to independently correspond with each of the companies by submitting relevant documents, alongwith the share certificates.

In case of dematerialised holdings, the transmission formalities for all securities held in a demat account can be completed by submitting documents to the Depository Participant.

SCOPE

This Standard applies to transmission of Shares held by individual shareholders. These principles are not applicable to issue of Shares arising out of corporate restructuring.

DEFINITIONS

The following terms are used in this Standard with the meaning specified:

“Act” means the Companies Act, 1956 (1 of 1956), or any statutory modification or re-enactment thereof and includes any Rules and Regulations framed thereunder.

“Administrator” means a person appointed by competent authority to administer the estate of a deceased person when there is no Executor.

“Articles” means the Articles of Association of a company, as originally framed or as altered from time to time, including, so far as they apply to the company the Regulations contained as the case may be in the relevant Table in Schedule to the Act or under previous companies laws.

“Board” means the Board of Directors of a company.

“Committee” means a committee constituted by the Board.

“Depository Participant” means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).

“Executor” means a person to whom the execution of the last will of a deceased person is, by the appointment of the deceased, confided.

“Heir” means any person, male or female, who is entitled to succeed the property of a deceased under applicable laws.

“Intestate” means where a person has died without making a testamentary disposition of his property.

“Legal Representative” means a person who in law represents the estate or interests of another person.

“Member” means any person who agrees, either by subscribing to the Memorandum of Association of the company or by applying in writing, to become a member of the company and whose name is entered either in the register of members of the company or in the records of the depository as a beneficial owner in respect of the Shares of the company held by him.

“Minor” means any person subject to the Indian Majority Act, 1875 who has not attained his majority within the meaning of that Act, and any other person who has not completed the age of eighteen years.

“Nominee” means a person nominated by a shareholder(s) whose Shares should vest in such person on the death of the shareholder(s).

“Probate” means the copy of the Will certified under the seal of a Court of competent jurisdiction with a grant of administration to the estate of the deceased.

“Shares” include debentures.

“Transmission” means the passing of property in Shares by operation of law on the happening of certain events, such as, death of the member, other than by way of transfer.

“*Transposition*” means the interchange of order or position of names amongst joint holders of shares.

“*Will*” means the legal declaration in writing of the intention of a person with respect to his property which he desires to be carried into effect after his death.

Unless the context otherwise requires, words and expressions used herein and not defined should have the meaning respectively assigned to them under the Act.

SECRETARIAL STANDARDS

Transmission of Shares should be effected by the company on receipt of intimation of death of a member and on production of necessary documents, such as –

- (i) Request for transmission signed by the legal heir(s)/Legal representatives /claimant(s) with their specimen signature(s);
- (ii) Death certificate;
- (iii) Succession Certificate or Letter of Administration or Probate of Will;
- (iv) Original share certificate(s);
- (v) Orders of the Court or of competent authority, if applicable;
- (vi) Permission under the Foreign Exchange Management Act, 2000, if applicable.

The Board may require documentary evidence to satisfy themselves about the genuineness of the nominee or legal heir or other claimants.

To facilitate transmission of Shares by small investors held in single name without any nomination and where there is no dispute amongst heirs, the Board of Directors, unless otherwise restricted by the Articles of Association, may waive production of certain documents, such as Probate or Letter of Administration or Succession Certificate. However, in such cases, the company may insist on a suitable indemnity and affidavit.

Section 109A provides for nomination by members in their individual capacity in respect of shares. Where a nominee has been appointed, the Shares should vest in the nominee on the death of the member.

As per Section 109B, on death of the shareholder, the nominee has the option to elect either to register himself as the holder of the Shares of the deceased or transfer the Shares to any other person. The transferees may not necessarily be the legal heirs of the deceased shareholder(s).

Nomination assumes significance in transmission. It is recommended that companies obtain and maintain particulars of the nominee.

In case the nominee is a minor, on death of the shareholder during the minority of the nominee, the Shares should be transmitted to the guardian of the minor till the minor attains majority; however, the beneficial interest will be with the minor.

Similar rights are available to a person becoming entitled to Shares consequent to death or insolvency of a member in cases of companies having provisions akin to Regulation 26 of Table A of Schedule I to the Act in their Articles.

In case of Shares held by a lunatic or insolvent, the company may insist for an order of a Court of competent jurisdiction declaring such person to be of unsound mind or insolvent and appointing a legal representative or administrator as the case may be to deal with his estate.

If the transmission results in increase in the holding of Shares with voting rights in case of listed companies, the concerned shareholder and the company should make periodic disclosures as required under the SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 1997.

Acquisition of Shares by transmission is exempted from making a public announcement under the above Regulations.

If the Articles of Association of the company provide otherwise, it shall override the principles of the Standard.

1. TRANSMISSION OF SHARES HELD SINGLY

With nomination

- 1.1 Where a sole shareholder who has appointed a nominee dies, the company should on receipt of written request from the Nominee accompanied by the certificate evidencing the death of the shareholder and the original share certificates held by him, register the Shares in the name of the nominee within a period of 15 days.**
- 1.2 Where a sole shareholder who has appointed a nominee dies, the company should on receipt of written request from the Nominee accompanied by the certificate evidencing the death of the shareholder, and the original share certificates held by him with duly executed transfer deed, register the Shares in the name of any other person elected by him within a period of 15 days.**

The nominee has the option to elect either to register himself as the holder of the Shares of the deceased or transfer the Shares to any other person. For this purpose, the nominee should give notice of his intention.

All limitations, restrictions and provisions of the Act relating to transfer of Shares will apply. The transferees may not necessarily be the legal heirs of the deceased shareholder(s).

Without nomination

- 1.3 Where a sole shareholder who has not appointed a nominee, dies leaving a Will, the company should on receipt of written request from the executor of the Will accompanied by the certificate evidencing the death of the shareholder and the Probated Will, register the Shares in the names of those persons who are entitled as per the Will within a period of 15 days.**

The Board may at its discretion waive the requirement of probating the Will on production of other satisfactory evidence about the genuineness of the Will.

- 1.4 Where a sole shareholder who has not appointed a nominee, dies intestate, the company should on receipt of written request from the legal heir, accompanied by the certificate evidencing the death of the shareholder and the Succession Certificate or Letter of Administration, register the Shares in the name of the legal heir within a period of 15 days.**

In case the transmission is requested in favour of one or more but not all the legal heirs, the company may require a No Objection Certificate relinquishing their right on the said Shares or Deed of Relinquishment from other legal heir(s) for such transmission.

- 1.5 Where a sole shareholder who has not appointed a nominee dies intestate, the company should on receipt of written request from the legal heir, accompanied by the certificate evidencing the death of the shareholder and the Succession Certificate or Letter of Administration together with duly executed transfer deed, register the Shares in the name of any other person elected by him within a period of 15 days.**

2. TRANSMISSION OF SHARES HELD JOINTLY

- 2.1 Where Shares are held in joint names on death of any of the holders, the company should on receipt of written request from the survivor(s) accompanied by the certificate evidencing the death of the shareholder, register the Shares in the name of the survivor(s) within a period of 15 days.**

With nomination

- 2.2 Where Shares are held in joint names and where such holders have together appointed a nominee, the company should on receipt of written request from the nominee accompanied by the certificates evidencing death of all the joint shareholders, register the Shares in the name of the nominee within a period of 15 days.**
- 2.3 Where Shares are held in joint names and where such holders have together appointed a nominee, the company should on receipt of written request from the nominee accompanied by the certificate evidencing the death of all the joint shareholders, register the Shares in the name of any other person elected by him within a period of 15 days.**

Where joint holders have jointly appointed a nominee, Shares should vest in the nominee, only in the event of death of all the joint holders. In the case of death of some holders, the remaining holders are entitled to vary the nomination.

Without nomination

- 2.4 Where Shares are held in joint names and no nominee has been appointed, on death of the last holder who has left a Will, the company should on receipt of written request from the legal heir, accompanied by the certificate evidencing the death of the shareholder and the Probated Will, register the Shares in the name of the legal heir within a period of 15 days.**

The Board may at its discretion waive the requirement of probating the Will on production of other satisfactory evidence about the genuineness of the Will.

- 2.5 Where Shares are held in joint names and the last of the surviving shareholders has also died intestate without appointing a nominee, the company should on receipt of written request from legal heir accompanied by the certificate evidencing the death of the shareholder and the Succession Certificate or Letter of Administration, register the Shares in the name of the legal heir within a period of 15 days.**
- 2.6 Where Shares are held in joint names and the last of the surviving shareholders has also died intestate without appointing a nominee, the company should on receipt of written request from legal heir accompanied by the certificate evidencing the death of the shareholder and the Succession Certificate or Letter of Administration, together with duly executed transfer deed, register the Shares in the name of any other person elected by him within a period of 15 days.**

3. OTHER REQUIREMENTS

- 3.1 On transmission, share certificates will be endorsed in the name(s) of the person(s) to whom the Shares are transmitted.**

Where the claimant for transmission of Shares is unable to produce the original share certificates, the company should issue duplicate share certificates after following the procedure for the same.

- 3.2 Every company should maintain a register containing particulars of every transmission.**

The Register of Transmission should be placed before the Board or Committee to authorize registration of transmission. In token of approval, the Chairman of the Board or Committee should date and initial at the end of the last entry in the Register for each set of approvals.

The Company Secretary or any other authorised person should make necessary changes in the Register of Members.

- 3.3 The register and records pertaining to transmission should be preserved permanently and kept in the custody of the secretary of the company or any other person authorized by the Board for the purpose.**

Detailed reference pertaining to this Register has been made in the Secretarial Standard on Registers & Records (SS-4).

EFFECTIVE DATE

This Standard is effective from



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LIMITED REVISION OF SECRETARIAL STANDARD ON MEETINGS OF THE BOARD OF DIRECTORS (SS-1)

The Secretarial Standard on Meetings of the Board of Directors (SS-1) stands modified by the Council as under:

Existing Para 8.1 of SS-1	Amended Para 8.1 of the proposed SS-1
<p>Within <u>seven days</u> from the date of the Meeting of the Board or Committee or of an adjourned Meeting, the draft Minutes thereof should be circulated to all the members of the Board or the Committee, as the case may be, for their comments.</p>	<p>Within <u>fifteen days</u> from the date of the Meeting of the Board or Committee or of an adjourned Meeting, the draft Minutes thereof should be circulated to all the members of the Board or the Committee, as the case may be, for their comments.</p>
<p>The Directors should forward their comments on the draft Minutes within <u>fifteen days</u> from the date of circulation thereof, so that the Minutes are finalized and entered in the Minutes Book within the specified time limit of thirty days.</p>	<p>The directors should forward their comments on the draft Minutes within <u>seven days</u> from the date of circulation thereof, so that the Minutes are finalized and entered in the Minutes Book within the specified time limit of thirty days.</p>

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CAPITAL MARKET UPDATES

- [Views/Suggestions invited on SEBI \(Public Offer and Listing of Securitised Debt Instruments\) Regulations, 2007](#)
- [Supervision of branches of depository participants](#)
- [Extension of time for uploading of NAVs of Fund of Fund Schemes](#)
- [Circular on filing fees for offer documents and fixed deposits](#)

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Views/Suggestions invited on draft SEBI(Public Offer and Listing of Securitised Debt Instruments) Regulations, 2007

SEBI has placed draft SEBI(Public Offer and Listing of Securitised Debt Instruments) Regulations, 2007 on its website for public comments.

The Institute seek your views and suggestions on the draft regulations and would appreciate to receive the same by July 16,2007 so as to finalise the views of the Institute for sending to SEBI.

The draft regulations are available on the link <http://www.sebi.gov.in/commreport/publicregu1.pdf>

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CHIEF GENERAL MANAGER

MARKET INTERMEDIARIES REGULATION AND SUPERVISION DEPARTMENT

MIRSD/DPS-III/ Cir - 9 /07

July 3, 2007

The Chairman & Managing Director National Securities Depository Ltd. Trade World, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel, Mumbai – 400 013	The Managing Director & CEO Central Depository Services (India) Ltd. Phiroze Jeejeebhoy Towers, Dalal Street, Fort, Mumbai 400 023
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Dear Sir/s,

Sub: Supervision of branches of depository participants

1. It has come to SEBI's notice that the Depository Participants (DPs) are operating through branch offices which are having Depository Participant Modules (DPMs) directly linked to the Depository server and branch offices which are connected through back offices software of the DP. Certain DPs are connected with the Depository through one or more DPMs. Some of the DPs have offline branches which function either as full fledged braches offering all DP services or only as collection centre.
2. In terms of Regulation 46 of the SEBI (Depositories and Participants) Regulations, 1996, every DP shall have adequate mechanism for the purpose of reviewing, monitoring and evaluating its internal accounting controls and systems. Further, clause 19 of the Code of Conduct for Participants contained in the Third Schedule to the Regulations inter alia states that the DP shall ensure that it has satisfactory internal control procedure in place. It is clarified that these provisions apply to DPs in respect of all their branches also. DPs are therefore required in terms of these provisions to put in place appropriate mechanisms to ensure that their branches are carrying on the operations in compliance with the applicable regulations, bye-laws, etc. Further, DPs are also required to put in place suitable internal control systems to ensure that all branches are exercising due diligence in opening accounts, complying with KYC requirements, in ensuring systems safety in complying with client instructions, manner of uploading client instructions, in verifying signatures and in maintaining client records, etc. DPs shall also ensure that the

branches are suitably integrated. The DPs whose systems do not measure up to the above are hereby advised to ensure such compliance immediately.

3. Depositories shall examine the adequacy of the above mechanisms during their inspections of DPs. The Depositories shall also carry out surprise inspections/ checks of the DP branches apart from the regular inspection of the DPs.
4. Depositories shall also put in place appropriate mechanisms for monitoring opening of branches by DPs.
5. The Depositories are advised to:-
 - a. Bring the provisions of this circular to the notice of the DPs of the Depositories and also to disseminate the same on the website;
 - b. Include the aforesaid clarifications, as applicable, in the advertisement campaigns released by them from time to time for better understanding of the investors;
 - c. Make amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision immediately, as may be applicable/necessary;
 - d. Communicate to SEBI the status of the implementation of the provisions of this circular in the Monthly Development Report.
6. This circular is being issued in exercise of the powers conferred by Section 11 (1) of Securities and Exchange Board of India Act, 1992 to protect the interest of investors in securities and to promote the development of, and to regulate, the securities market.

Yours faithfully,

P K Kuriachen

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July 11, 2007

EXECUTIVE DIRECTOR

INVESTMENT MANAGEMENT DEPARTMENT

SEBI/IMD/CIR No.5 /96576/2007

June 25, 2007

**All Mutual Funds Registered with SEBI,
Association of Mutual Funds in India (AMFI)**

Dear Sirs,

Sub: Extension of Time for Uploading of NAVs of Fund of Fund Schemes.

1. Please refer to SEBI Circulars No. SEBI/Cir No.5/63714/06 dated March 29, 2006 and SEBI/Cir No.11/171/01 dated February 09, 2001 on disclosure of NAV.
2. In view of the practical difficulties being faced by the Mutual Funds in uploading the NAV of Fund of Fund Schemes on AMFI's website and their own website it has been decided that the time limit for uploading of NAV for fund of fund Schemes shall be extended to 10:00 am the following business day.
3. In view of this, the NAVs of these Schemes shall appear in the Newspapers with one day time lag. The published NAV's would be made available with an asterix explaining that the NAVs are with one day/or the actual time lag.
4. All delays beyond 10:00 am would be reported to AMFI and SEBI as stipulated in the Circular No. SEBI/Cir No.5/63714/06 dated March 29, 2006.
5. This circular is issued in exercise of powers conferred under section 11(1) of the Securities and Exchange Board of India Act, 1992, read with the provisions of regulation 77 of SEBI (Mutual Funds) Regulations, 1996 to protect the interests of Investors in securities and to promote the development of, and to regulate the securities market.

Yours faithfully

R K Nair

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July 11, 2007

EXECUTIVE DIRECTOR

INVESTMENT MANAGEMENT DEPARTMENT

SEBI/IMD/CIR No.4 /95754/07

June 11, 2007

All Mutual Funds Registered with SEBI

Association of Mutual Funds in India (AMFI)

Dear Sirs,

We are enclosing a copy of the following gazette notification for your information and implementation:

1. [No.11/LC/GN/2007/2518](#), dated May 28, 2007 pertaining to SEBI (Mutual Funds) (Amendment) Regulations 2007 on filing fees for offer documents and deployment of funds in short term deposits of scheduled commercial banks.
2. This circular, is available on SEBI website at www.sebi.gov.in under the category "Mutual Funds - Circulars".
3. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with the provisions of Regulation 77 of SEBI (Mutual Funds) Regulations, 1996.

Yours faithfully,

R. K. Nair

Encl : a/a

THE GAZETTE OF INDIA

EXTRAORDINARY

PART -III - SECTION 4

PUBLISHED BY AUTHORITY

NEW DELHI, TUESDAY, MAY 29, 2007

SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION

Mumbai, the 28th May, 2007

SECURITIES AND EXCHANGE BOARD OF INDIA

(MUTUAL FUNDS) (AMENDMENT) REGULATIONS, 2007

No.11/LC/GN/2007/2518. – 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 (Mutual Funds) Regulations, 1996, namely :-

1. These Regulations may be called the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2007.
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 (Mutual Funds) Regulations, 1996, -

(i) In the Second Schedule, in paragraph I, for item D, the following item shall be substituted, namely:-

“D. Filing fees for offer documents	0.03 per cent of the amount raised in the new fund offer, subject to a minimum of rupees one lakh and a maximum of rupees one crore.”
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(ii) In the Seventh Schedule, for paragraph 8, the following paragraph shall be substituted, namely:-

“8. Pending deployment of funds of a scheme in terms of investment objectives of the scheme, a mutual fund may invest them in short term deposits of schedule commercial banks, subject to such Guidelines as may be specified by the Board.”

[ADVT. III/IV/69ZB/2007/Exty.]

M. DAMODARAN

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA

Footnotes:

- (1) The Securities and Exchange Board of India (Mutual Funds) Regulations, 1996, the Principal Regulations were published in the Gazette of India on December 9, 1996 vide S.O. No. 856(E).
- (2) The Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 were subsequently amended –
 - (a) on April 15, 1997 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 1997 vide S.O. No.327(E).

- (b) on January 12, 1998 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 1998 vide S.O. No.32(E).
- (c) on December 08, 1999 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 1999 vide S.O. No.1223(E).
- (d) on March 14, 2000 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2000 vide S.O. No.235 (E).
- (e) on March 28, 2000 by the Securities and Exchange Board of India (Appeal to the Securities Appellate Tribunal) (Amendment) Regulations, 2000 vide S.O. No.278(E).
- (f) on May 22, 2000 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2000 vide S.O. No.484 (E).
- (g) on January 23, 2001 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2001 vide S.O. No.69 (E).
- (h) on May 29, 2001 by the Securities and Exchange Board of India (Investment Advice by Intermediaries) (Amendment) Regulations, 2001 vide S.O. No.476(E).
- (i) on July 23, 2001 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2001 vide S.O. No.698(E).
- (j) on February 20, 2002 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2002 vide S.O. No.219 (E).
- (k) on June 11, 2002 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2002 vide S.O. No.625 (E).
- (l) on July 30, 2002 by the Securities and Exchange Board of India (Mutual Funds) (Third Amendment) Regulations, 2002 vide S.O. No.809(E).
- (m) on September 9, 2002 by the Securities and Exchange Board of India (Mutual Funds) (Fourth Amendment) Regulations, 2002 vide S.O. No.956(E).
- (n) on September 27, 2002 by the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 vide S.O. No.1045(E).
- (o) on May 29, 2003 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2003 vide S.O.No. 632(E).
- (p) on January 12, 2004 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2004 vide F.No SEBI/LAD/DOP/4/2004.
- (q) on March 10, 2004 by the Securities and Exchange Board of India (Criteria for Fit and Proper Person) Regulations, 2004 vide S.O. No. 398(E).
- (r) on January 12, 2006 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2006 vide S.O.No. 38(E).
- (s) on May 22, 2006 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2006 vide S.O.No. 783(E).
- (t) on August 3, 2006 by the Securities and Exchange Board of India (Mutual Funds) (Third Amendment) Regulations, 2006 vide S.O.No. 1254(E).
- (u) on December 27, 2006 by the Securities and Exchange Board of India (Mutual Funds) (Fourth Amendment) Regulations, 2006 vide F. No. SEBI/LAD/DOP/82534/2006.

- (v) on December 27, 2006 by the Securities and Exchange Board of India (Mutual Funds) (Fifth Amendment) Regulations, 2006 vide F. No. SEBI/LAD/DOP/83065/2006.



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FEMA UPDATES

- [Advance Remittance for import of aircrafts/ helicopters/ other aviation related purchases](#)

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RBI/2006-2007/447**A. P. (DIR Series) Circular No. 77****June 29, 2007**

To,

All Category - I Authorised Dealer Banks

Madam / Sir,

**Advance Remittance for Import of aircrafts /
helicopters / other aviation related purchases**

Attention of Authorised Dealer Category - I (AD Category - I) banks is invited to A. P. (DIR Series) Circular No.15 dated September 17, 2003 in terms of which AD Category - I banks have been permitted to make advance remittance up to USD 1,000,000 (USD one million) or its equivalent, without bank guarantee or an unconditional, irrevocable standby Letter of Credit, for import of goods into India, subject to specified conditions.

2. With a view to further liberalising and simplifying the procedure for import of goods into India, it has been decided, as a sector specific measure, to allow airline companies, which have been permitted by the Directorate General of Civil Aviation to operate as a schedule air transport service, to make advance remittance without bank guarantee, up to USD 50 million. Accordingly, AD Category - I banks may, henceforth, allow advance remittance, without bank guarantee or an unconditional, irrevocable standby Letter of Credit, up to USD 50 million, for direct import of each aircraft / helicopter / other aviation related purchases.

3. The remittances for the above transactions shall be subject to the following conditions :

a) The AD Category - I banks should undertake the transactions based on their commercial judgment and after being satisfied about the bonafide of the transactions. KYC and due diligence exercise should be done by the AD Category - I banks for the Indian importer entity and the overseas manufacturer company as well.

b) Advance payments should be made strictly as per the terms of the sale contract and are made directly to the account of the manufacturer (supplier) concerned.

c) AD Category - I bank may frame their own internal guidelines to deal with such cases, with the approval of their Board of Directors.

d) In the case of a Public Sector Company or a Department / Undertaking of Central / State Governments, the AD Category - I bank shall ensure that the requirement of bank guarantee has been specifically waived by the Ministry of Finance, Government of India for advance remittances exceeding USD100,000.

e) Physical import of goods into India is made within six months (three years in case of capital goods) from the date of remittance and the importer gives an undertaking to furnish documentary evidence of import within fifteen days from the close of the relevant period. It is clarified that where advance is paid as milestone payments, the date of last remittance made in terms of the contract will be reckoned for the purpose of submission of documentary evidence of import.

f) Prior to making the remittance, the AD Category – I bank may ensure that the requisite approval of the Ministry of Civil Aviation / DGCA / other agencies in terms of the extant Foreign Trade Policy has been obtained by the company for import.

g) In the event of non-import of aircraft and aviation sector related products, AD Category – I bank should ensure that the amount of advance remittance is immediately repatriated to India.

4. Prior approval of the concerned Regional Office of the Reserve Bank will be required in case of any deviation from the above stipulations or for cases which are not covered under the provisions of this circular.

5. AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers.

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

Yours faithfully,

(Salim Gangadharan)
Chief General Manager

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BANKING UPDATES

- [UCBs – Branch Licensing Policy Relaxed](#)
- [Master Circular on Exemptions from the provisions of RBI Act, 1934](#)

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RBI/2007-2008/79

UBD.CO.LS.CIr.No. 01/07.01.000/2007-08

July 4, 2007

The Chief Executive Officer of All
Primary (Urban) Co-operative Banks

Dear Sir/Madam,

Annual Policy Statement for the Year 2007-08
-Relaxation in Branch Licensing Policy for Urban Cooperative Banks

Please refer to [para 208](#) of the Annual Policy Statement 2007-08 (copy enclosed).

2. As announced therein, it has been decided to allow Urban Cooperative Banks (UCBs) to open new branches/Extension Counters (ECs). The eligibility criteria for new branch/EC licences are as under:

- a) The bank should be registered under the Cooperative Societies Act of the States that have signed MoU with Reserve Bank of India or under the Multi State Co-operative Societies Act, 2002.
- b) The bank should be licensed and have an elected Board of Directors with at least two professionals in it.
- c) Subject to overall supervisory comfort, the bank should comply with the following mutually exclusive, performance/financial parameters:
 - i) CRAR should not be less than 9%
 - ii) Net NPAs should be below 10%
 - iii) There should not have been default in maintenance of CRR/SLR in the preceding financial year
 - iv) It should have made Net Profit in the financial year just ended
 - v) The Net worth should not be less than Rs.10 crore
 - vi) The average net worth per branch including the additional centres for which licences are sought, should not be less than Rs.2.00 crore per branch in A and B centres and Rs.1.00 crore in C and D centres (refer [Annex I](#)). For this purpose, extension counters would also be treated as branches.

3. Banks satisfying the above mentioned conditions would be eligible for additional branches/ECs not exceeding 10% of their existing branch network, over a period of two years.

4. Currently, scheduled UCBs not classified in Grade II, III, IV are allowed to open ECs without prior approval of RBI and upgrade them into branches after completion of three years. In view of the policy now put in place, **all** banks are required to obtain prior authorisation for opening extension counters.

5. Eligible UCBs may apply for licences for branches/extension counters to the Regional Office concerned in the proforma given in [Annex II](#), along with a copy of the relative board note and resolution.

Yours faithfully

(N. S. Vishwanathan)
Chief General Manager-in-Charge

Annual Policy Statement for the year 2007-08**a) Licensing of branches of UCBs**

208. It was indicated in the Annual Policy Statement of May 2004 that fresh issuance of licences to UCBs would be considered only after a comprehensive policy on UCBs, including an appropriate legal and regulatory framework for the sector, is put in place and a policy for improving the financial health of the UCB sector is formulated. As a sequel thereto, grant of licences for opening of new branches was also put on hold. Keeping in view the positive developments in the UCB sector, it is proposed:

to consider granting of branch licences to well managed and financially sound UCBs in States that have signed MoUs, subject to fulfillment of certain parameters.

ANNEX I

Category of Centre	Population
A	Over 10 lakh
B	5 lakh and above but less than 10 lakh
C	1 lakh and above but less than 5 lakh
D	Less than 1 lakh

ANNEX II**Format of the application for additional branch/extension counter licence**

1. Name of the bank

2. Address of the Registered Office/Head Office
3. Area of Operation
4. Whether bank has an elected Board of Directors?
5. If so, whether there are two professional directors?
6. No. of existing branches (List of branches to be annexed) and the population of the centre as per latest census
7. No. of existing extension counters (List to be annexed) and the population of the centre as per latest census
8. Net profit for the financial year ended
9. CRAR as on the date of latest Inspection
10. Net NPA as on the date of latest inspection
11. Net worth
12. Whether there were / are any default in CRR/SLR (If yes, give details and the reasons for the same)
13. Proposed centres for opening branch/extension counter and the population of the centre (as per latest census)
14. Business prospects in the proposed place of business within 12 months:
 - a) Deposits
 - b) Advances

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RBI/2007-2008/06

DNBS.PD. CC.No.101 /03. 02.04 / 2007-08

July 2, 2007

- (i) The Secretary, Ministry of Finance
- (ii) The Chairman, Securities and Exchange Board of India
- (iii) President of the Institute of Chartered Accountants of India
- (iv) President of the Institute of Company Secretaries of India
- (v) Associations of NBFCs

Dear Sir,

Master Circular- Exemptions from the provisions of RBI Act, 1934

The Bank has issued notifications from time to time exempting some entities from the requirements of Chapter III-B of the RBI Act, 1934 or part thereof. A [Master Circular](#) on the notifications issued upto June 30, 2007 has been prepared and placed on the RBI web-site (<http://www.rbi.org.in>).

2. While the Master Circular has been prepared to enable the users to have the benefit of a consolidated circular, for the purpose of operations, they should refer to the instructions/directions contained in the relevant notification. A list of Notifications on which this Master Circular is based is given at the end of the Master Circular.

Yours faithfully,

(P. Krishnamurthy)
Chief General Manager In-Charge

1. Introduction

The Bank has issued notifications from time to time exempting some entities from the requirements of Chapter III B of the RBI Act, 1934 or part thereof. A Master Circular on the basis of notifications issued upto June 30, 2006 has been prepared.

While the Master circular has been prepared to enable the users to have the benefit of a consolidated circular, for the purpose of operations, they should refer to the instructions/directions contained in the relevant notification. The Master Circular is based on notifications listed in the [Annex](#).

2 (i) Exemption from provisions of Chapter III B of the RBI Act, 1934 – Housing Finance Institutions.

The Bank has exempted a non-banking financial company which is a housing finance institution as defined in Section 2(d) of the National Housing Bank Act, 1987 from the provisions of Chapter III B of the RBI Act, 1934.

2(ii) Merchant Banking company :

A merchant banking company has been exempted from the provisions of Section 45-IA [Requirement of registration and net owned fund], Section 45-IB [Maintenance of liquid assets] and 45-IC [Creation of Reserve Fund] of the RBI Act, 1934 , Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 and Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998 subject to compliance with the following conditions:

- (a) It is registered with the Securities and Exchange Board of India as a Merchant Banker under Section 12 of the Securities and Exchange Board of India Act, 1992 and is carrying on the business of merchant Banker in accordance with the Securities and Exchange Board of India Merchant Banking (Rules) 1992 and Securities and Exchange Board of India Merchant Banking (Regulations) 1992;
- (b) acquires securities only as a part of its merchant banking business;
- (c) does not carry on any other financial activity referred to in Section 45I(c) of the RBI Act, 1934; and
- (d) does not accept or hold public deposits as defined in paragraph 2(1)(xii) of the Notification No. DFC 118/DG(SPT)-98 dated January 31, 1998.

2 (iii) Micro Finance Companies and Mutual Benefit Companies

Sections 45-IA, 45-IB and 45-IC of the Reserve Bank of India Act, 1934 (2 of 1934) shall not apply to any non-banking financial company

- which is
 - (a) engaged in micro financing activities, providing credit not exceeding Rs. 50,000 for a business enterprise and Rs. 1,25,000 for meeting the cost of a dwelling unit to any poor person for enabling him to raise his level of income and standard of living; and
 - (b) licensed under Section 25 of the Companies Act, 1956; and
 - (c) not accepting public deposits as defined in paragraph 2(1)(xii) of Notification No. 118 /DG(SPT)-98 dated January 31, 1998.
- being a mutual benefit company as defined in paragraph 2(1) (ixa) of the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 contained in Notification No. DFC.118/DG(SPT)-98 dated January 31, 1998). A “mutual benefit company” means a company not notified under section

620A of the Companies Act, 1956 (1 of 1956) and carrying on the business of a non-banking financial institution, -

- on 9th January 1997; and
- having the aggregate of net owned funds and preferential share capital of not less than ten lakhs of rupees; and
- has applied for issue of certificate of registration to the Bank on or before 9th July 1997; and
- is complying with the requirements contained in the relevant provisions of the Directions issued under Section 637A of the Companies Act, 1956 to Nidhi Companies by the Central Government.

2(iv) Government Companies

- Sections 45-IB and 45-IC of the Reserve Bank of India Act, 1934 (2 of 1934), paragraphs 4 to 7 of the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 and Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998 except paragraph 13 A of the said directions relating to submission of information to Reserve Bank in regard to change of address, directors, auditors, etc. shall not apply to any non-banking financial company as defined in section 45-I(f) of the Reserve Bank of India Act, 1934 (2 of 1934) being a Government company as defined in section 617 of the Companies Act, 1956. A Government Company is a company in which not less than 51% of the paid up capital is held by the Central Government, or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments and includes a company which is subsidiary of a Government Company as thus defined.

2(v) Venture Capital Fund Companies

Section 45-IA and Section 45-IC of the Reserve Bank of India Act, 1934 (2 of 1934); Notification No. DFC.118/DG(SPT)-98 dated January 31, 1998; and Notification No. DFC.119 / DG(SPT)-98 dated January 31, 1998 shall not apply to a non-banking financial company, which is a venture capital fund company holding a certificate of registration obtained under Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) and not holding or accepting public deposit as defined in paragraph 2(1)(xii) of the Notification No. DFC.118/DG(SPT)-98 dated January 31, 1998.

2(vi) Insurance/Stock Exchange/Stock Broker/Sub-Broker

The provisions of Section 45-IA, 45-IB, 45-IC, 45MB and 45MC of the Reserve Bank of India Act, 1934 (2 of 1934) and provisions of Non-Banking Financial Companies Acceptance of Public Deposit (Reserve Bank) Directions contained in Notification No. DFC.118 / DG(SPT)-98 dated January 31. 1998, the Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998 dated January 31, 1998 shall not apply to any non-banking financial company not holding or

accepting public deposit as defined in paragraph 2(1)(xii) of the Notification No. DFC.118/DG(SPT)-98 dated January 31, 1998, and –

(a) doing the business of insurance, holding a valid certificate of registration issued under Section 3 of the Insurance Act, 1938 (IV of 1938);

(b) being a stock exchange, recognised under Section 4 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ; and

(c) doing the business of a stock-broker or sub-broker holding a valid certificate of registration obtained under Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992)

2(vii) Nidhi Companies

The provisions of Sections 45-IA, 45-IB and 45-IC of the Reserve Bank of India Act, 1934 (2 of 1934) shall not apply to any non-banking financial company

(a) Notified under Section 620A of the Companies Act, 1956 (1 of 1956), known as Nidhi Companies; and

Chit Companies

• (b) doing the business of chits, as defined in clause (b) of Section 2 of the Chit Funds Act, 1982 (No. 40 of 1982).

Annex

Sr. No.	Notification No.	Date
1.	Notification No. DFC(COC) No. 112 ED(SG)/97 read with circular DFC(COC) No. 4438/02.04/96-97	June 18, 1997
2.	Notification No. DFC 123/ED(G)-98	February 3, 1998
3.	Notification No 134, 135,138 / CGM(VSNM)- 2000 read with DNBS.(PD).CC.No. 12 /02.01/99-2000	January 13, 2000
4.	Notification No. 163 / CGM(CSM) – 2002 read with DNBS(PD)CC No.22 /02.59/ 2002-03	November 28, 2002
5.	Notification No. 164 / CGM(CSM) – 2003 read with DNBS (PD) CC No. 23 / 01.18 / 2002-03	January 8, 2003

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