



**THE INSTITUTE OF
Company Secretaries of India**
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

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CS UPDATE

Mar 05, 2010

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Forthcoming Programmes

- Program on DRAFTING & OPINION WRITING at Navi Mumbai on March 13, 2010

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Program on

DRAFTING & OPINION WRITING

| | | |
|-----------------------------|--|---|
| Background | <p>Clearly drafted documents improve compliance and decrease litigation, Four key criteria of Clarity, Correctness, Conciseness and Consciousness in drafting documents helps in conveying the meaning clearly, simply and effectively.</p> <p>Opinion writing is something that all lawyers and Companies Secretaries do. While doing this, they are using their writing and thinking skills, their ability to manage factual information, to carry out legal research, to draft and to advise.</p> <p>Communication skills form an important part of opinion writing; thinking skills and drafting skills are an important part of advocacy.</p> <p>In learning drafting and opinion writing, one is actually learning skills, aptitudes and a way of thinking that helps prepare for all aspects of a lawyer's and Company Secretary's work. To focus on some of these aspects, ICSI-Centre for Corporate Governance, Research & Training (CCGRT) is organising a one day program on the above subject.</p> | |
| Day, Date & Time | Saturday , March 13, 2010 | 10.00am – 05.00pm with lunch and background material |
| Venue | "Rainbow Hall" Grand Hotel, 17 Shri S R Marg, Ballard Estate, Mumbai – 400 001 | |
| Focus of Coverage | Drafting & Opinion Writing <ul style="list-style-type: none"> • Principles of Drafting • Format requirements for legal documents • Plain English tools • Contents of opinion, how opinions should be set out • Use of Law in an opinion • Illustration of opinion writing and sample opinion | |
| Speakers include | Eminent speakers with practical exposure to the subject will address the participants. | |
| Fees : | <p>General : Rs. 2500/- per participant</p> <p>Members of ICSI, ICAI, ICWAI & Faculty Members (25% Discount) : Rs. 1875/- per participant</p> <p>To cover the cost of backgrounder, kit, lunch and other organisational expenses.</p> | |

Annual Members of ICSI-CCGRT can attend the program free of Cost

For Registration : The Fees may be drawn by way of D.D / local cheque payable at Mumbai in favour of "ICSI-CCRT A/c" and sent to The Program Co-ordinator, ICSI-CCGRT , Plot No. 101, Sector -15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614.

☎022-2757 7814, 022 – 4102 1504, Fax-022-2757 4384, email : ccgrt@vsnl.net

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RBI Updates

- **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) Amendment Rules, 2009 - Obligation of Banks/Financial Institutions**

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RESERVE BANK OF INDIA

Date: Mar 03, 2010

**StCBs/DCCBs - Prevention of Money-laundering - Amendment Rules, 2009 -
Obligation of banks / Financial institutions**

**RBI/2009-10/336
RPCD.CO.RF.AML.BC. No.59/07.40.00/2009-10**

March 3, 2010

The Chairmen/CEOs of all State / Central Co-operative Banks

Dear Sir,

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) Amendment Rules, 2009 - Obligation of Banks/Financial Institutions

As you are aware Government of India vide its Notification No.13/2009/F.No.6/8/2009-ES dated November 12, 2009, has amended 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 copy of the Notification is enclosed](#) for ready reference.

2. Some of the salient features of the amendment, relevant to state and central co-operative banks are as under:

- Clause (ca) inserted in sub-rule (1) of Rule 2 defines "non-profit organization"
- Clause (BA) inserted in sub-rule (1) of Rule 3 requires banks/ financial institutions to maintain proper record of all transactions involving receipts by non-profit organizations of value more than rupees ten lakh or its equivalent in foreign currency.
- The amended Rule 6 provides that the records referred to in rule 3 should be maintained for a period of ten years from the date of transactions between the client and the banking company/financial institution.
- A proviso has been inserted in sub-rule (3) of Rule 8, which requires that banks /financial institutions and its employees should keep the fact of furnishing suspicious transaction information strictly confidential.
- Rule 9, now requires banks/financial institutions to verify identity of the non-account based customer while carrying out transaction of an amount equal to or exceeding rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected.
- The amended sub-rule (1) of Rule 9, in terms of clause (b) (ii) requires verification of

identity of the customer for **all** international money transfer operations.

- Proviso to Rule 9 (1) regarding the verification of identity of the client within a reasonable time after opening the account/ execution of the transaction has been deleted.

3. Accordingly, in view of amendments to the above Rules, State and Central Co-operative Banks are required to :

(i) Maintain proper record of all transactions involving receipts by non- profit organizations of value more than rupees ten lakh or its equivalent in foreign currency and to forward a report to FIU-IND of all such transactions in the prescribed format every month by the 15th of the succeeding month.

(ii) In case of transactions carried out by a non-account based customer, that is a walk-in customer, where the amount of transaction is equal to or exceeds rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected, the customer's identity and address should be verified. Further, if a bank has reason to believe that a customer is intentionally structuring a transaction into a series of transactions below the threshold of Rs.50, 000/- the bank should verify identity and address of the customer and also consider filing a suspicious transaction report (STR) to FIU-IND.

4. State and Central Cooperative Banks are advised to strictly follow the amended provisions of PMLA Rules and ensure meticulous compliance to these Rules.

Yours faithfully,

(R.C.Sarangi)
Chief General Manager

Encl: As above

Notification No. 13/2009 - Amendment to Rules

Notification No. 13/2009 dated 12-11-2009 amends rule 2, 3, 5, 6,7, 8, 9 and 10 of the Rules notified by Notification No. 9/2005.

MINISTRY OF FINANCE
(Department of Revenue)
NOTIFICATION
New Delhi, the 12th Nov, 2009

G.S.R 816(E) - In exercise of the powers conferred by clauses (a), (b) and (c) of sub-section (1) of section 12 and section 15 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, in consultation with the Reserve Bank of India, hereby makes the following rules further to amend 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) Amendment Rules, 2009.
- (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 (hereinafter referred to as the principal rules), - in rule 2, in sub-rule(1), -

(a) after clause (c), the following clause shall be inserted, namely:-

‘(ca) “non profit organisation” means any entity or organisation that is registered as a trust or a society under the Societies Registration Act, 1860 (21 of 1860) or any similar State legislation or a company registered under section 25 of the Companies Act, 1956 (1 of 1956);’;

(b) after clause (f), the following clause shall be inserted, namely:-

‘(fa) “Regulator” means a person or an authority or a Government which is vested with the power to license, authorise, register, regulate or supervise the activity of banking companies, financial institutions or intermediaries, as the case may be;’;

(c) for clause (g), the following clause shall be substituted, namely:-

‘(g) “Suspicious transaction” means a transaction referred to in clause (h), including an attempted transaction, whether or not made in cash, which to a person acting in good faith -

(a) gives rise to a reasonable ground of suspicion that it may involve proceeds of an offence specified in the Schedule to the Act, regardless of the value involved; or

(b) appears to be made in circumstances of unusual or unjustified complexity; or

(c) appears to have no economic rationale or bonafide purpose; or

(d) gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism;’.

3. In the principal rules, in rule 3, in sub-rule (1), after clause (B), the following clause shall be inserted, namely:-

“(BA) all transactions involving receipts by non-profit organisations of value more than rupees ten lakh, or its equivalent in foreign currency;”.

4. In the principal rules, in rule 5, for the words “the Reserve Bank of India or the Securities and Exchange Board of India, or the Insurance Regulatory Development Authority, as the case may be,”, where ever they occur, the words, “its Regulator,” shall be substituted.

5. In the principal rules, for rule 6, the following rule shall be substituted, namely:-

“6. Retention of records of transactions– The records referred to in rule 3 shall be maintained for a period of ten years from the date of transactions between the client and the banking company, financial institution or intermediary, as the case may be.”.

6. In the principal rules, in rule 7, for the words “the Reserve Bank of India or the Securities and Exchange Board of India, or the Insurance Regulatory Development Authority, as the case may be,” where ever they occur, the words, “its Regulator,” shall be substituted;

7. In the principal rules, in rule 8,-

(a) in sub-rule (1), for the word, brackets and letters, “clauses (A) and (B)”, the word, brackets and letters “clauses (A), (B) and (BA)” shall be substituted;

(b) after sub-rule (3), the following proviso shall be inserted at the end, namely:-

“Provided that a banking company, financial institution or intermediary, as the case may be, and its employees shall keep the fact of furnishing information in respect of transactions referred to in clause (D) of sub-rule (1) of rule 3 strictly confidential.”.

8. In the principal rules, in rule 9,-

(a) for sub-rules (1) and (2), the following sub-rules shall be substituted, namely:-

“(1) Every banking company, financial institution and intermediary, as the case may be, shall,

(a) at the time of commencement of an account-based relationship, identify its clients, verify their identity and obtain information on the purpose and intended nature of the business relationship, and

(b) in all other cases, verify identity while carrying out:

(i) transaction of an amount equal to or exceeding rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected, or

(ii) any international money transfer operations.

(1 A) Every banking company, financial institution and intermediary, as the case may be, shall identify the beneficial owner and take all reasonable steps to verify his identity.

(1 B) Every banking company, financial institution and intermediary, as the case may be, shall exercise

ongoing due diligence with respect to the business relationship with every client and closely examine the transactions in order to ensure that they are consistent with their knowledge of the customer, his business and risk profile.

(1 C) No banking company, financial institution or intermediary, as the case may be, shall keep any anonymous account or account in fictitious names.

(2) Where the client is an individual, he shall for the purpose of sub-rule (1), submit to the banking company, financial institution and intermediary, as the case may be, one certified copy of an 'officially valid document' containing details of his identity and address, one recent photograph and such other documents including in respect of the nature of business and financial status of the client as may be required by the banking company or the financial institution or the intermediary, as the case may be.

Provided that photograph need not be submitted by a client falling under clause (b) of sub-rule (1).";

(b) after sub-rule (6), the following sub-rule shall be inserted, namely:-

"(6 A) Where the client is a juridical person, the banking company, financial institution and intermediary, as the case may be, shall verify that any person purporting to act on behalf of such client is so authorised and verify the identity of that person.";

(c) for sub-rule (7), the following sub-rule shall be substituted, namely:-

"(7) (i) The regulator shall issue guidelines incorporating the requirements of sub-rules (1) to (6A) above and may prescribe enhanced measures to verify the client's identity taking into consideration type of client, business relationship or nature and value of transactions.

(ii) Every banking company, financial institution and intermediary as the case may be, shall formulate and implement a Client Identification Programme to determine the true identity of its clients, incorporating requirements of sub-rules (1) to (6A) and guidelines issued under clause (i) above.

9. In the principal rules, in rule 10, for the words "the Reserve Bank of India or the Securities and Exchange Board of India, or the Insurance Regulatory Development Authority, as the case may be," where ever they occur, the words, "its regulator," shall be substituted;

[Notification No 13/2009/F.No. 6/8/2009- ES]

(S.G.P. Verghese)
Under Secretary to the Government of India

Note: The principal rules were published in Part II, Section 3, Sub-section (i) of the Gazette of India, Extraordinary vide number G.S.R. No. 444(E), dated 1st July, 2005 and subsequently amended vide number G.S.R. No. 717(E), dated 13th December, 2005 and G.S.R. No. 389(E), dated 24th May, 2007.

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भारतीय प्रतिभूति और विनियम बोर्ड
Securities and Exchange Board of India

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SEBI/CFD/DIL/LA/1/2010/05/03

March 5, 2010

**The Managing Director / Executive Director / Administrator of
All Stock Exchanges**

Dear Sirs,

Sub: Disclosure of details of the allottees in the Qualified Institutional Placements (QIP) made by issuer company

1.0 It has been decided that the details of allottees and the corresponding pre and post QIP issue shareholding in the issuer company may be disclosed on the website of the stock exchanges. Accordingly, this circular is issued in exercise of powers conferred by sub-section (1) of Section 11 of the 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.

2.0 All the Stock Exchanges are advised to :

2.1 Ensure that the details of those allottees in QIP who have been allotted more than 5% of the securities offered in the QIP, viz names of the allottees and number of securities allotted to each of them, pre and post issue shareholding pattern of the issuer in the format specified in clause 35 of the Equity Listing Agreement shall be made available on the website of stock exchanges along with the final placement document.

2.2 communicate to SEBI the status of implementation of the requirements of this circular in the next Monthly Development Report.

3.0 Applicability

3.1 The aforesaid instruction shall come into force with immediate effect.

4.0 This circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and "Issues and Listing".

Yours faithfully,

Sanjay Purao

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