



**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**

**December 02, 2010**

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# FORTHCOMING PROGRAMME

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

16th December,  
2010  
New Delhi

## 10<sup>th</sup> ICSI National Award for Excellence in Corporate Governance, 2010

### Celebrating a Decade of Redefining Excellence

Dear Member,

It's that time of the year once again when we all rise and recognize the best governed companies of India. As in the past, the glorious **ICSI National Award for Excellence in Corporate Governance** would be awarded to the two best governed companies in India. Additionally **ICSI Lifetime Achievement Award for Translating Excellence in Corporate Governance into reality** would also be conferred.

Before the award function, there will be a panel discussion on "Governance and CSR" by panelists of eminence.

The award function is scheduled to be held at New Delhi on Thursday, the December 16, 2010.

All are invited to grace this gala event and benefit intellectually from the thought provoking **Panel Discussions**.

Regards,

CS N K Jain  
Secretary & CEO  
The ICSI



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# SEBI UPDATE

## **Circular for Mutual Funds**

Cir / IMD / DF / 19 / 2010

November 26 ,2010

All Mutual Funds/Asset Management Companies (AMCs)/  
Trustee Companies/Boards of Trustees of Mutual Funds

Dear Sir/Madam,

### **Sub: Circular for Mutual Funds**

#### **A. Interval Schemes/Plans**

1. It has been noticed that certain Scheme Information Documents provide that the subscription to the scheme can be made during a specific period (known as specified transaction period) and the repurchase of units is permitted on all business days subject to applicable loads (except for redemption during specified transaction period when no load is charged). These schemes are generally referred to as 'interval schemes'.

2. As per the current regulation, there is no restriction on tenure of securities in which interval scheme can invest. This read with daily redemption option may result in asset liability mismatch. In line with the changes made in the SEBI (Mutual Funds) Regulations, 1996 regarding close ended schemes, it has been decided that, henceforth, for all interval schemes/plans

i. The units shall be mandatorily listed.

ii. No redemption/repurchase of units shall be allowed except during the specified transaction period (the period during which both subscription and redemption may be made to and from the scheme). The specified transaction period shall be of minimum 2 working days.

iii. Minimum duration of an interval period in an interval scheme/plan shall be 15 days.

iv. Investments shall be permitted only in such securities which mature on or before the opening of the immediately following specified transaction period.

#### **Explanation:**

In case of securities with put and call options the residual time for exercising the put option of the securities shall not be beyond the opening of the immediately following transaction period.

#### **3. Applicability:**

The AMC shall ensure compliance with the requirements mentioned in Clause 2 from the date of next specified transaction period or April 1, 2011 whichever is later.

Schemes for which observations (final) under Regulation 29 of SEBI (Mutual Funds) Regulations, 1996 have been issued but are yet to be launched would be required to carry out the changes in Scheme Information Document and file the same with SEBI before the launch.

**B. Uniform cut-off timings for applicability of Net Asset Value (NAV) of Mutual Fund scheme(s)/plan(s).**

1 As per the current regulations, in respect of purchase of units in liquid schemes, irrespective of the time of receipt of application, where the funds are not available for utilization before the cut-off time, the closing NAV of the day immediately preceding the day on which the funds are available for utilization shall be applicable;

In respect of purchase of units in Income/ Debt oriented schemes (other than liquid fund schemes and plans) with amount equal to or more than Rs. 1 crore, irrespective of the time of receipt of application, the closing NAV of the day on which the funds are available for utilization shall be applicable.

It is observed that mutual funds are deploying funds without receiving clear funds in the scheme account. As a matter of good practice and to avoid systemic risk, it has been decided to modify certain provisions of the SEBI Circular No. SEBI/IMD/CIR No.11/78450/06 dated October 11, 2006 as per the following details.

2 With regard to Clause 5(1) of SEBI Circular No. SEBI/IMD/CIR No.11/78450/06 dated October 11, 2006 which specifies cut-off timings for liquid fund schemes and plans, it is clarified that for determining the applicable NAV

a. The following cut-off timings shall be observed by a mutual fund in respect of purchase of units in liquid fund schemes and their plans, and the following NAVs shall be applied for such purchase:

i. where the application is received upto 2.00 p.m. on a day and funds are available for utilization before the cut-off time without availing any credit facility, whether, intra-day or otherwise – the closing NAV of the day immediately preceding the day of receipt of application;

ii. where the application is received after 2.00 p.m. on a day and funds are available for utilization on the same day without availing any credit facility, whether, intra-day or otherwise – the closing NAV of the day immediately preceding the next business day ; and

iii. irrespective of the time of receipt of application, where the funds are not available for utilization before the cut-off time without availing any credit facility, whether, intra-day or otherwise – the closing NAV of the day immediately preceding the day on which the funds are available for utilization.

b. For allotment of units in respect of purchase in liquid schemes, it shall be ensured that:

- i. Application is received before the applicable cut-off time.
- ii. Funds for the entire amount of subscription/purchase as per the application are credited to the bank account of the respective liquid schemes before the cut-off time.
- iii. The funds are available for utilization before the cut-off time without availing any credit facility whether intra-day or otherwise, by the respective liquid schemes.

c. For allotment of units in respect of switch-in to liquid schemes from other schemes, it shall be ensured that :

- i. Application for switch-in is received before the applicable cut-off time.
- ii. Funds for the entire amount of subscription/purchase as per the switch-in request are credited to the bank account of the respective switch-in liquid schemes before the cut-off time.
- iii. The funds are available for utilization before the cut-off time without availing any credit facility whether intra-day or otherwise, by the respective switch-in schemes.

3 With regard to Clause 6(2A) of SEBI Circular No. SEBI/IMD/CIR No. 11/142521/08

dated October 24, 2008 which specifies the applicability of NAV for income/debt oriented mutual fund schemes/plans other than liquid schemes, it is clarified that for determining the applicable NAV

a. For allotment of units in respect of purchase in income/debt oriented mutual fund schemes/plans other than liquid schemes, it shall be ensured that:

- i. Application is received before the applicable cut-off time.
- ii. Funds for the entire amount of subscription/purchase as per the application are credited to the bank account of the respective schemes before the cutoff time.
- iii. The funds are available for utilization before the cut-off time without availing any credit facility whether intra-day or otherwise, by the respective scheme.

b. For allotment of units in respect of switch-in to income/debt oriented mutual fund schemes/plans other than liquid schemes from other schemes, it shall be ensured that:

- i. Application for switch-in is received before the applicable cut-off time.
- ii. Funds for the entire amount of subscription/purchase as per the switch-in request are credited to the bank account of the respective switch-in income/debt oriented mutual fund schemes/plans before the cut-off time.
- iii. The funds are available for utilization before the cut-off time without availing any credit facility whether intra-day or otherwise, by the respective switch-in income/debt oriented mutual fund schemes/plans.

### **C. Encumbrance of the scheme property**

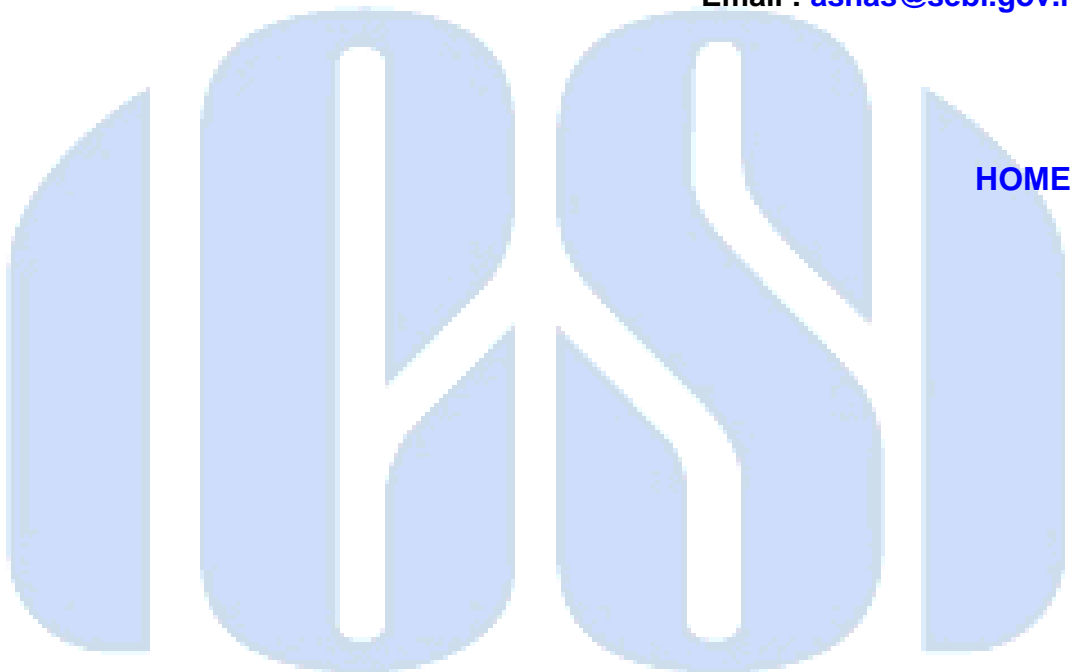
Fourth Schedule of Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 provides that the AMC shall not acquire any of the assets out of the scheme property which involves the assumption of any liability which is

unlimited or which may result in encumbrance of the scheme property in any way. AMC's are advised to strictly adhere to the said provision.

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

**Asha Shetty**  
**Deputy General Manager,**  
**Investment Management Department**  
**Telephone -022-26449258**  
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**Circular on Allocation of Government debt & corporate debt investment limits to FIIs**

CIR/IMD/FIIC/18 /2010

November 26, 2010

To  
All Foreign Institutional Investors  
through their designated Custodians of Securities

Dear Sir/Madam

**Sub: Allocation of Government debt & corporate debt investment limits to FIIs**

1. Government increased the current limit of FII investment in Government Securities by US \$ 5 billion. The incremental limit shall be invested in securities with residual maturity of over five years. Further current limit of FII investment in corporate bonds is also increased by US \$ 5 billion. This incremental limit shall be invested in corporate bonds with residual maturity of over five years issued by companies in the infrastructure sector.

2. It has been decided that above incremental limits, shall be allocated to the market participants through bidding process and first come first served process. The unutilized limit from past allocations shall also be allocated to the market participants through bidding process and first come first served process.

**3. Manner of identification of companies eligible as "Infrastructure"**

3.1. For incremental limit in corporate debt category investment can be made in corporate bonds of companies which would be classified as infrastructure companies in terms of the External Commercial Borrowings (ECB) Policy.

3.2. FIIs shall satisfy themselves before investing in instruments under this incremental limits that issuer is in infrastructure sector in terms of the ECB policy.

3.3. Custodians will confirm compliance that their clients investments are in bonds issued for infrastructure companies and have residual maturity of more than 5 years in their report to SEBI.

4. **Allocation through bidding process:** The bidding for these limits shall be done on the BSE from 15:30 hrs to 17:30 hrs, on December 02, 2010, in terms of SEBI circular IMD/FII&C/37/2009 dated February 06, 2009, subject to the modifications stated below:-

**4.1. Government debt long term & Corporate Debt infra long term:**

4.1.1. In partial amendment to clause 3 (h) of the aforesaid circular IMD/FII & C/37/2009, no single entity shall be allocated more than Rs.2000 cr. of the investment limit. Where a single entity bids on behalf of multiple entities, then such bid would be limited to INR 2000 cr. for every such single entity.

4.1.2. In partial amendment to clause 3 (c) and 3(d) of the aforesaid circular IMD/FII & C/ 37/2009, the minimum amount which can be bid for shall be Rs.200 cr. and the minimum tick size shall be Rs.100 cr.

**4.2. Corporate Debt – Old limit:**

4.2.1. In partial amendment to clause 3 (h) of the aforesaid circular IMD/FII & C/37/2009, no single entity shall be allocated more than Rs.600 cr. of the

investment limit. Where a single entity bids on behalf of multiple entities, then such bid would be limited to INR 600 cr. for every such single entity.

4.2.2. In partial amendment to clause 3 (c) and 3(d) of the aforesaid circular IMD/FII &C/ 37/2009, the minimum amount which can be bid for shall be Rs.100 cr. and the minimum tick size shall be Rs.50 cr.

**5. Allocation through first come first serve process (FCFS):** In terms of SEBI circular dated January 31, 2008, the Government debt long term & corporate debt (for both old and incremental) limits shall be allocated in the FCFS basis subject to the following conditions:-

5.1. The remaining amount in government debt & corporate debt after bidding process shall be allocated among the FIIs/sub-accounts on a FCFS basis.

5.2. The debt requests in this regard shall be forwarded to the dedicated email id [fii\\_debtrequests@sebi.gov.in](mailto:fii_debtrequests@sebi.gov.in). The window for FCFS process shall open at 08:30 AM IST, December 02, 2010.

5.3. Maximum limit per request under this process shall be INR 49 cr.

5.4. A non-utilisation charge would be levied at average successful bid premium (in respective bidding process) for non-utilized part from the allocation in first come first serve.

**6. Time period for utilisation of debt limit**

6.1. In partial amendment to clause 4 of the aforesaid circular IMD/FII & C/37/2009, time period for utilization of the corporate debt limits allocated through bidding process (for both old and long term infra limit) shall be 90 days. However, time period for utilization of the Government debt limits allocated through bidding process shall remain 45 days.

6.2. Further, please refer to paragraph 2 of circular no. IMD/FII&C/35/2008 dated November 06, 2008, wherein it has been stated that debt limit allocated through first come first serve process shall be utilized within 11 working days from the date of the allocation. It has now been decided that the time period for utilization of the corporate debt limits allocated through first come first serve process (for both old and incremental limit) shall be 22 working days. Time period for utilization of the Government debt limits allocated through first come first serve process shall remain unchanged at 11 working days.

6.3. Please refer to paragraph 2 of circular no. IMD/FII&C/30/2008 dated July 04, 2008, wherein it has been stated that a period of upto five business days shall be allowed for replacement of the disposed off/ matured debt instrument/ position. It has now been decided that time period for replacement of the disposed off/ matured debt instrument/ position for corporate debt shall be 15 working day. 'Working days' would mean working days of SEBI. The above mentioned circulars stand amended to that extent. Period of replacement of the disposed off/ matured debt instrument/ position for Government debt will continue to be at 5 working days.

6.4. Utilisation period is summarized in the below table:

Allocation window	Existing utilisation period	Revised Utilisation Period			
		G-sec		Corporate Debt	
		Old	Long Term	Old	Infra 5 year
FCFS (working Day)	11	11	22	22	22
Bidding (Calendar days)	45	45	45	90	90
Re-purchase (working Day)	5	5	5	15	15

6.5. Custodians shall monitor the investments made under the individual limits and submit a report to SEBI on a fortnightly basis.

**7. Multiple bid order from single entity:** It has been decided that in the bidding process a bidder shall be allowed to bid for more than one entity provided

7.1. It provides due authorization to act in that capacity by those entities

7.2. It provides the stock exchanges, the allocation of the limits inter se for the entities it has bid for to exchange with 15 minutes of close of bidding session.

**8. FII investment into “to be listed” debt securities:**

8.1. Please refer to point 3 of circular no. IMD/FII/20/2006 dated April 05, 2006, wherein it has been stated that FII investments shall be restricted to only listed debt securities of companies. It has now been decided that FIIs are allowed to invest in primary debt issues only if listing is committed to be done within fifteen days.

8.2. In the circumstances that the debt issue cannot be listed within 15 days of issue for any reasons whatsoever, then the holding of FIIs/sub-accounts if disposed off shall be sold off only to domestic participants/investors until the securities are listed.

A copy of this circular is available at the web page “F.I.I.” on our website [www.sebi.gov.in](http://www.sebi.gov.in). The custodians are requested to bring the contents of this circular to the notice of their FII clients.

Yours faithfully,

**Jeevan Sonparote**  
**General Manager**  
**+91-22-26449110**  
**[jeevans@sebi.gov.in](mailto:jeevans@sebi.gov.in)**

December 02, 2010

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

CIR/MRD/DP/ 35 /2010

December 01, 2010

To,  
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 months of July and August 2010.
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 the Monthly/Quarterly Development Report.

Yours faithfully,

**Harini Balaji**  
**Deputy General Manager**  
**022-26449372**  
email: [harinib@sebi.gov.in](mailto:harinib@sebi.gov.in)

**Annexure A**

<b>Sr. No.</b>	<b>Name of the Company</b>	<b>ISIN No.</b>
1	Gagan Polycot India Limited	INE297L01011
2	Jay Energy And S. Energies Limited	INE315L01011
3	Sirhind Steel Limited	INE299L01017
4	Neelkanth Technologies Limited	INE546F01013
5	The Naihati Jute Mills Company Limited	INE724E01019
6	Baroda Extrusion Limited	INE927K01015
7	Hindustan Fluorocarbons Limited	INE806J01013
8	New Horizon Leasing & Finance Limited	INE240L01011
9	Rajkamal Synthetics Limited	INE376L01013
10	Fusion Fittings (I) Limited	INE284L01019
11	Runeecha Textiles Limited	INE373L01010
12	Pro Fin Capital Services Limited	INE732K01019
13	Arcadia Mercantile Capital Limited	INE365L01016
14	Teesta Agro Industries Limited	INE757D01011
15	Elpro Packaging Limited	INE051E01017
16	Goyal Achal Sampatti Vikas And Niyojan Nigam Limited	INE408L01014

# MCA UPDATE

## FILING OF ANNUAL RETURN etc. FOR THE CURRENT YEAR

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### ATTENTION CORPORATES!

IN ORDER TO ENSURE SMOOTH FILING IN THIS MONTH FOR YOUR ANNUAL DOCUMENTS (ANNUAL RETURN etc.) **PLEASE FILE EARLY WITHOUT WAITING FOR LAST DAY!!** YOUR COOPERATION IS HIGHLY APPRECIATED.

WE APPRECIATE YOUR SUPPORT IN FILING YOUR ANNUAL DOCUMENTS (BALANCE SHEET etc.) IN TIMELY MANNER IN THE MONTH OF OCTOBER. WE HAD A RECORD FILING OF 70040 ON 29TH OCTOBER 2010.

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Source: [www.mca.gov.in](http://www.mca.gov.in)

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**ADDITIONAL FEES REVISED w.e.f 5<sup>TH</sup> 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 :-

<b>Period of Delay</b>	<b>Fixed rate of additional fee</b>
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](http://www.mca.gov.in)**

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### **Amendments in form 1 and form 32**

The Central Government vide its notification no. G.S.R. 848 (E) dated 15<sup>th</sup> October, 2010 has amended the Companies (Central Government's) General Rules and Forms, 1956 with the introduction of the Companies (Central Government's) General Rules and Forms (Third Amendment), 2010.

In the Companies (Central Government's) General Rules and Forms, 1956, in Annexure 'A',—

**(i) in Form No. 1,—**

(a) in serial number 8, under the heading, Particulars of Promoters (first subscribers to the MOA), at the bottom after the entry Name of the company, the following shall be inserted, namely:—

"Whether the subscriber has been convicted by any court for any offence involving moral turpitude or economic or criminal offences or for any offences in connection with the promotion, formation or management of a company - Yes/NO - If yes, provide details."

(b) in Declaration, after serial number (vi), the following Declarations as serial numbers (vii and viii) shall be inserted, namely:—

"(vii) That the subscribers have given declaration of details of his/her conviction by any court for any offences involving moral turpitude or economic or criminal offence or for any offences in connection with the promotion, formation or management of a company;

(viii) That the subscribers have given declaration that he/she has not been declared as proclaimed offender by any Economic Offence Court or Judicial Magistrate Court or High Court or any other Court. "

**(ii) In form No. 32,—**

(a) in Verification I, after serial number 3, the following Verification as serial number 4, shall be inserted namely:—

"4. It is also confirmed that the appointed directors(s) whose particulars are given above, has given a declaration to the company that he/she has not been declared as proclaimed offender by any Economic Offence Court or Judicial Magistrate Court or High Court or any other Court."

For complete notification please visit [www.mca.gov.in](http://www.mca.gov.in)

## **Amendments in Companies (Director Identification Number) Rules 2006**

The Central Government vide its notification no. G.S.R. 849 (E) dated 15<sup>th</sup> October, 2010 has amended the Companies (Director Identification Number) Rules 2006 with the introduction of the Companies (Director Identification Number) Rules 2006, (Amendment), 2010.

1. In the Companies (Director Identification Number) Rules 2006,  
(i) in Form DIN-1, in the declaration, at the bottom of serial number 14, the following declarations shall be inserted namely :—

'\*/ I also confirm that I am not restrained/ disqualified/removed of, for being appointed as Director of a company under the provisions of the Companies Act, 1956 including Sections 203, 274 and 388E of the said Act.

\* I further confirm that I have not been declared as proclaimed offender by any Economic Offence Court or Judicial Magistrate Court or High Court or any other Court".

- (ii) in Form DIN-3, under Verification, the following Verifications shall be added namely:—

"It is hereby confirmed that the appointed Director(s) whose particulars are given above, has given declaration to the company that he/ she is not restrained/disqualified/removed of, for being appointed as Director of a company under the provisions of the Companies Act, 1956 including Sections 203, 274 and 388E of the said Act.

It is also confirmed that the appointed Director(s) whose particulars are given above, has given a declaration to the company that he/she has not been declared as proclaimed offender by any Economic Offence Court or Judicial Magistrate Court or High Court or any other Court".

For complete notification please visit [www.mca.gov.in](http://www.mca.gov.in)

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## Limits upto which a Nidhi or Mutual Benefit Society may accept deposits

The Central Government vide its notification no. G.S.R. 881 (E) dated 3<sup>rd</sup> November, 2010 made some amendments in the notification no. GSR 555(E) dated 26-7-2001. The amended portion (as indicated in bold) has been given as follows:

*A Nidhi or Mutual Benefit Society may accept deposits not exceeding twenty times of its Net Owned Funds (NOF) as per last audited balance sheet:*

**Provided in the case of Nidhi incorporated on or before the 26<sup>th</sup> July, 2001 having deposits in excess of the aforesaid limits, the same shall be brought to the specified limit by increasing the Net Owned Fund position or alternatively by reducing the deposit according to the time table given below:**

Ratio of net owned fund to Deposits (as on 31-3-2010)	Date by which the company has to achieve prescribed ceiling of 1:20
(a) More than 1:20 but upto 1:25	By 31-3-2011
(b) More than 1:25 but upto 1:30	By 31-3-2012
(c) More than 1:30 but upto 1:40	By 31-3-2013
(d) More than 1:40 but upto 1:45	By 31-3-2014
(e) More than 1:45 but upto 1:50	By 31-3-2015

Within the aforesaid limit a Nidhi or Mutual Benefit Society *can open the following kinds of deposit accounts*, subject to the conditions stipulated therein:

- (A) **FIXED DEPOSIT ACCOUNT:** Fixed deposit account can be opened for a minimum period of **6 months** and a maximum period of 60 months;
- (B) **RECURRING DEPOSIT ACCOUNT:** Recurring deposit account can be opened for a minimum period of 12 months and maximum period of 60 months;
- (C) **SAVING DEPOSIT ACCOUNT :** The maximum balance at any given time qualifying for interest shall not exceed **Rs. 50,000/-** and the rate of interest shall not be more than 2% *above* the rate of interest payable on savings bank account *by* nationalised banks;

For complete notification please visit [www.mca.gov.in](http://www.mca.gov.in)

**Adherence by Nidhi or Mutual Benefit Society to prudential norms for revenue recognition and classification of assets in respect of mortgage loans or jewel loans**

The Central Government vide its notification no. G.S.R. 880 (E) dated 3<sup>rd</sup> November, 2010 made some amendments in the notification no. GSR 309(E) dated 30-4-2002.

In the said notification, in clause (1) in sub-clause (ii), in item (a) –

(i) After the table and before the Explanation, the following note shall be inserted, namely: -

**Note :** The estimated realizable value of the collateral security to which such Nidhi or the mutual benefit society has valid recourse may be reduced from the aggregate outstanding amount if the proceedings for sale of mortgaged property have been initiated in a court of law within the previous two years of the interest, income or installment.

(ii) For the table occurring after Explanation, the following table shall be substituted, namely: -

For the period ended	Extent of provision
31-3-2010	Un provided balance on an equal basis over the 5 years.
31-3-2011	
31-3-2012	
31-3-2013	
31-3-2014	
31-3-2015	

(iii) Below the Table as so substituted, after the second proviso, the following proviso shall be inserted, namely: -

Provided also that the outstanding Non-performing assets as at 31-3-2010 would be worked out and provide according to the note under the clause (ii) (a) on equal installments till 31-3-2015.

For complete notification please visit [www.mca.gov.in](http://www.mca.gov.in)

# RBI UPDATE

## Issuance and Operation of Prepaid Payment Instruments

RBI/2010-11/289

DPSS. CO. AD. No. / 780 / 02.27.004 / 2010-11

November 24, 2010

The Chairmen and Managing Directors / Chief Executive Officers of All Scheduled Commercial Banks

**Madam/ Dear Sir**

### **Issuance and Operation of Prepaid Payment Instruments**

Please refer to our Policy Guidelines for issuance and operation of Prepaid Payment Instruments issued vide our circular DPSS.CO.PD.No.1873 /02.14.06/ 2008-09 dated April 27, 2009 on the above subject.

2. As per paragraph 7.3 of the said Guidelines, non-bank persons issuing prepaid payment instruments are required to maintain their outstanding balance in an '**escrow account**' with a scheduled commercial bank. A set of conditions including the stipulation that the funds available in the 'escrow account' are to be used **only** for making payments to the participating merchant establishments, has also been prescribed for smooth operation thereof.

3. On a review of the extant arrangements, in order to give further protection to the merchants and holders of the prepaid payment instruments, it has been decided to mandate an exclusive clause in the agreement signed/to be signed between the issuer/operator and the bank maintaining 'escrow account', which would enable the bank to use the money in the 'escrow account' only for making payment to the merchants/holders in preference to the other creditors in the event of liquidation/bankruptcy of the issuer.

4. Accordingly, all the banks are advised to add the following paragraph in the agreement entered into with the issuer/operator of prepaid payment instruments for operating escrow account:

*"It is expressly agreed and confirmed that the amount lying in the escrow account is charged unto the holders of the prepaid payment instruments and the merchant establishments to pay the dues arising out of usage of the prepaid payment instruments or otherwise. Provided further, that the amount in the escrow account shall be deemed to be a security charged unto the participating merchant establishments or holders of the prepaid payment instruments issued by the issuer and to be utilised to redeem the dues arising out of usage of the said prepaid payment instruments in the first instance or otherwise to be paid to the holders of the same on surrender of the instrument and settlement of the dues in the event of the scheme being wound up or being directed by the Reserve Bank of India to be discontinued, as provided for in the operative guidelines issued by the Reserve Bank on April 27, 2009 on Issuance and Operation of Pre-paid Payment Instruments, as amended from time to time."*

5. You are also advised to necessarily record the charge of the holders of the prepaid payment instruments and/or the merchant establishments with the Registrar of Companies under Section 125 of the Companies Act, 1956.

6. Please ensure its compliance and confirm the same to this office latest by February 28, 2011. All new agreements entered into by banks (including renewals) for maintaining / operating escrow accounts from the date of this circular shall incorporate the provisions set out in Para 4 above.

7. This directive is issued under Section 18 of the Payment and Settlement Systems Act, 2007 (Act 51 of 2007).

Meanwhile please acknowledge the receipt of this circular.

Yours faithfully

Sd/-

(G. Padmanabhan)  
Chief General Manager

IRSI

**Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards as amended by Prevention of Money Laundering (Amendment) Act, 2009- Money changing activities**

RBI/2010-11/287 A.P. (DIR Series) Circular No.18  
A.P. (FL/RL Series) Circular No.01

November 25, 2010

To,

All Authorized Persons

Madam/ Sir,

**Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009- Money changing activities**

Attention of the Authorized persons is invited to the A.P. (DIR Series) Circular No. 17 [A.P.(FL/ RL Series) Circular No. 04] dated November 27, 2009 on Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by the Prevention of Money Laundering (Amendment) Act, 2009 in respect of money changing activities.

**Suspicion of money laundering/terrorist financing**

2. With a view to preventing the system of purchase and/ or sale of foreign currency notes/ Travellers' Cheques by Authorised Persons (APs) from being used, intentionally or unintentionally, by criminal elements for money laundering or terrorist financing, it is clarified that whenever there is suspicion of money laundering or terrorist financing or when other factors give rise to a belief that the customer does not, in fact, pose a low risk, APs should carry out full scale customer due diligence (CDD) before undertaking any money changing transaction.

**Filing of STR**

3. In terms of the instructions contained in Para 4.3 (iv) of the circular dated November 27, 2009 referred to above, APs should not undertake any transaction where they are unable to apply appropriate customer due diligence measures. Similarly, in terms of instructions contained in Para 4.4 (g) of the circular dated November 27, 2009, relationship with a business entity/ ies like a company/ firm / trusts and foundations should be established only after conducting due diligence by obtaining and verifying prescribed suitable documents. When a business relationship is already in existence and it is not possible to perform customer due diligence on the customer in respect of the business relationship, APs should



terminate the business relationship and make a Suspicious Transaction Report to FIU-IND. It is clarified that in the circumstances when an AP believes that it would no longer be satisfied that it knows the true identity of the customer (individual/business entity), the AP should also file an STR with FIU-IND.

### **Politically Exposed Persons (PEPs)**

4. In terms of instructions contained in Para 4.5 (iii) of the circular dated November 27, 2009 referred to above, the decision to undertake a transaction with a PEP should be taken at a senior level which should be clearly spelt out in the Customer Acceptance Policy. APs should also subject such transactions to enhanced monitoring on an ongoing basis. Similarly, where a customer subsequently becomes a PEP after a business relationship has already been established, enhanced CDD should be performed on such customers and decision to continue business relationship with the PEP should be taken at a sufficiently senior level. It is clarified that the instructions contained in paragraph 4.5 (iii) of the circular dated November 27, 2009 referred to above are also applicable to individual transactions/ business relationship where a PEP is the ultimate beneficial owner. Further, in regard to individual transactions/ business relationship in case of PEPs, it is reiterated that APs should have appropriate ongoing risk management procedures for identifying and applying enhanced CDD to PEPs, customers who are family members or close relatives of PEPs and individual transactions/ business relationship of which a PEP is the ultimate beneficial owner.

### **Principal Officer**

5. With reference to Para 4.12 of the circular dated November 27, 2009 referred to above, regarding appointment and responsibility of the Principal Officer, it is clarified that the role and responsibilities of the Principal Officer should include overseeing and ensuring overall compliance with regulatory guidelines on KYC/ AML/ CFT issued from time to time and obligations under the Prevention of Money Laundering Act, 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009, rules and regulations made there under, as amended from time to time.

6. These guidelines would also be applicable mutatis mutandis to all agents/ franchisees of Authorised Persons and it will be the sole responsibility of the franchisers to ensure that their agents/ franchisees also adhere to these guidelines.

7. Authorised Persons should bring the contents of this circular to the notice of their constituents concerned.

8. The directions contained in this Circular are issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and also under the Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009 and 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

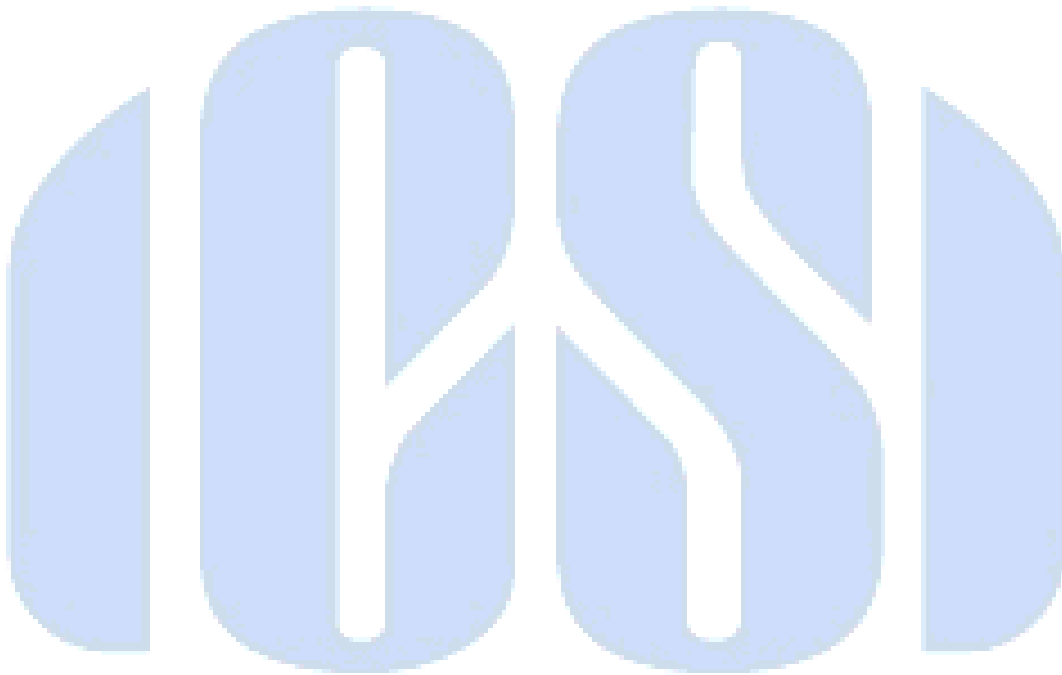
December 02, 2010

Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005, as amended from time to time. Non-compliance with the guidelines would attract penal provisions of the Acts concerned or Rules made there under.

Yours faithfully,  
**(Salim Gangadharan)**

**Chief General Manager-in-Charge**

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**Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards as amended by Prevention of Money Laundering (Amendment) Act, 2009- Cross Border Inward Remittance under Money Transfer Service Scheme**

RBI/2010-11/288

A.P. (DIR Series) Circular No.19

A.P. (FL Series) Circular No. 02

November 25, 2010

All Authorised Persons, who are Indian Agents under the Money Transfer Service Scheme.

Madam/ Sir,

**Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009- Cross Border Inward Remittance under Money Transfer Service Scheme**

Attention of all the Authorised Persons, who are Indian Agents [APs (Indian Agents)] under the Money Transfer Service Scheme (MTSS) is invited to the A.P. (DIR Series) Circular No. 18 [ A.P. (FL/ RL Series) Circular No. 05] dated November 27, 2009 on Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by the Prevention of Money Laundering (Amendment) Act, 2009 in respect of cross border inward remittances under the Money Transfer Service Scheme (MTSS).

**Suspicion of money laundering/terrorist financing**

2. With a view to preventing the system of cross border inward money transfer into India from all over the world under the MTSS from being used, intentionally or unintentionally, by criminal elements for money laundering or terrorist financing activities, it is clarified that whenever there is suspicion of money laundering or terrorist financing or when other factors give rise to a belief that the customer does not, in fact, pose a low risk, APs (Indian Agents) should carry out full scale customer due diligence (CDD) before making payment of any remittance.

**Filing of STR**

3. In terms of the instructions contained in Para 5.3 (iv) of the circular dated November 27, 2009 referred to above, AP (Indian Agent) should not make payment of any remittance where it is unable to verify the identity and/ or obtain required documents. It is clarified that in the circumstances when an AP (Indian Agent) believes that it would no longer be satisfied that it knows the true identity of the customer, the AP (Indian Agent) should also file an STR with FIU-IND.

**Politically Exposed Persons (PEPs)**

4. In terms of the instructions contained in Para 5.5 of the circular dated November 27, 2009 referred to above, the decision to undertake a transaction with a PEP should be taken at a senior level which should be clearly spelt out in the Customer Acceptance Policy. APs (Indian Agents) should also subject such transactions to enhanced monitoring on an ongoing basis. The above norms may also be applied to customers who become PEPs subsequent to establishment of the business relationship. It is clarified that the instructions contained in paragraph 5.5 of the circular are also applicable to transactions where a PEP is the ultimate beneficial owner. Further, in regard to transactions in case of PEPs, it is reiterated that APs (Indian Agents) should have appropriate ongoing risk management procedures for identifying and applying enhanced CDD to PEPs, customers who are family members or close relatives of PEPs and transactions of which a PEP is the ultimate beneficial owner.

**Principal Officer**

5. With reference to the Para 5.11 of the circular dated November 27, 2009 referred to above, regarding appointment and responsibility of the Principal Officer, it is clarified that the role and responsibilities of the Principal Officer should include overseeing and ensuring overall compliance with regulatory guidelines on KYC/ AML/ CFT issued from time to time and obligations under the Prevention of Money Laundering Act, 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009, rules and regulations made there under, as amended from time to time.

6. These guidelines would also be applicable mutatis mutandis to all Sub-agents of the Indian Agents under MTSS and it will be the sole responsibility of the APs (Indian Agents) to ensure that their Sub-agents also adhere to these guidelines.

7. Authorised Persons (Indian Agents) should bring the contents of this circular to the notice of their constituents concerned.

8. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and also under the Prevention of Money Laundering Act, (PMLA), 2002 as amended by Prevention of Money Laundering (Amendment) Act, 2009 and 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, as amended from time to time. Non-compliance with the guidelines would attract penal provisions of the Acts concerned or Rules made there under.

Yours faithfully,  
**(Salim Gangadharan)**

**Chief General Manager-in-Charge**

**Section 24 of Banking Regulation Act, 1949 -- Shortfall in Maintenance of Statutory Liquidity Ratio (SLR) – Additional Liquidity Support under Liquidity Adjustment Facility (LAF)**

RBI/2010-11/290

Ref. DBOD.No.Ret.BC. 63 /12.02.001/2010-11

November 30, 2010

All Scheduled Commercial Banks

Dear Sir,

**Section 24 of Banking Regulation Act, 1949 -- Shortfall in Maintenance of Statutory Liquidity Ratio (SLR) – Additional Liquidity Support under Liquidity Adjustment Facility (LAF)**

Please refer to our circular DBOD. No. Ret. BC. 60/12.02.001/2010-11 dated November 09, 2010 wherein it was advised that Scheduled Commercial Banks may avail of additional liquidity support under the LAF to the extent of up to 1.0 per cent of their Net Demand and Time Liabilities (NDTL) as on the reporting Friday of the second preceding fortnight till December 16, 2010. For any shortfall in maintenance of Statutory Liquidity Ratio (SLR) during November 9 – December 16, 2010 arising out of availment of this facility, banks may seek waiver of penal interest purely as an *ad hoc*, temporary measure.

2. As stated in the Press Release issued by the Reserve Bank of India on November 29, 2010, in order to provide further liquidity comfort, it has been decided to allow Scheduled Commercial Banks to avail of the additional liquidity support under the LAF to the extent of up to 2.0 per cent of their NDTL as on the reporting Friday of the second preceding fortnight with immediate effect up to January 28, 2011. For any shortfall in SLR maintenance arising out of availment of this facility, banks may seek waiver of penal interest on a fortnightly basis purely as an *ad hoc*, temporary measure. The liquidity support availed under this facility would, however, need to be reported on a daily basis.

Yours faithfully,

**(B. Mahapatra)**  
Chief General Manager -in-Charge

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**Liquidity Adjustment Facility – Liquidity Easing Measure**

RBI/2010-2011/291

FMD.MOAG. No. 55/01.01.01/2010-11

November 30, 2010

All Scheduled Commercial Banks (excluding RRBs) and Primary Dealers

Dear Sir,

**Liquidity Adjustment Facility – Liquidity Easing Measure**

In continuation of our circular FMD.MOAG.No.54/01.01.01/2010-11 dated November 9, 2010, it has been decided to conduct Second Liquidity Adjustment Facility (SLAF) on a daily basis at 4.15 pm up to January 28, 2011.

2. All other terms and conditions of the current LAF Scheme will remain unchanged.
3. Please acknowledge receipt.

Yours sincerely  
(P Krishnamurthy)

Chief General Manager

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