



**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 07, 2010

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FORTHCOMING PROGRAMMES

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Celebrating a Decade of Redefining Excellence

10th ICSI National Award for Excellence in Corporate PRESENTATION CEREMONY

December 16, 2010

Scope Convention Centre
Core 8, Scope Complex
Lodi Road, New Delhi

Invitation

Dear Professional Colleague,

We are pleased to inform you that the Presentation Ceremony for **10th ICSI National Award for Excellence in Corporate Governance, 2010** is scheduled to be held on **Thursday, December 16, 2010 at New Delhi**. Hon'ble Finance Minister, Mr. Pranab Mukherjee has kindly consented to be the Chief Guest and present the Awards. Hon'ble Mr. Justice R C Lahoti, Former Chief Justice of India and Chairman, Jury has agreed to grace the occasion as Guest of Honour. Mr. Philip Armstrong, Head, Global Corporate Governance Forum will deliver the key note address.

The Presentation of ICSI National Award shall be preceded by a Panel Discussion by eminent panelists, drawn from captains of the industry, senior government officials and professionals.

We cordially invite you to grace the Presentation Ceremony and the Panel Discussion at **4:00 pm at Scope Convention Centre, Core 8, Scope Complex, Lodi Road, New Delhi**.

With kind regards,

(N K JAIN)

SECRETARY & CEO



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India Corporate Week, December 14-21, 2010



THE INSTITUTE OF
Company Secretaries of India



Ministry of Corporate Affairs
Government of India

**INDIA
CORPORATE
WEEK**
December 14 – 21, 2010

SUSTAINABLE BUSINESS

PROGRAMMES / EVENTS BEING ORGANISED ALL OVER INDIA BY ICSI

Seminars /Workshops/ Conferences
Professional Development Programmes
Chain Programmes
Panel discussions
Elocution Contest/ Competition
Debate/Quiz
Study Circle Meetings
Investor Awareness Programmes
Release of Publications.

All are invited to support, participate and make it a grand success

For details please log on www.icsi.edu

MCA UPDATE

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

Dear Corporates,

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

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

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

Source: www.mca.gov.in

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Circular on Easy Exit Scheme, 2011

F. No. 2/7/2010-CL V
Government of India
Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi

Dated the 3rd December, 2010

To
All Regional Director,
All Registrar of Companies.

Subject: Easy Exit Scheme, 2011

Sir,

It has been observed that certain companies have been registered under the Companies Act, 1956, but due to various reasons some of them are inoperative since incorporation or commenced business but became inoperative later on and are not filing their due documents timely with the Registrar of Companies. These companies may be defunct and are desirous of getting their names strike off from the Register of Companies.

2. In order to give an opportunity to the defunct companies, for getting their names strike off from the Register of Companies, the Ministry had launched a Scheme namely, "Easy Exit Scheme, 2010" under Section 560 of the Companies Act, 1956 during May-Aug, 2010. A large number of companies availed this scheme. However, on huge demands from corporate sector, the Ministry has decided to re-launch the Scheme as, "Easy Exit Scheme, 2011" under Section 560 of the Companies Act, 1956. The details of the Scheme are as under: -

(i) The Scheme shall come into force on the 1st January, 2011 and shall remain in force up to 31st January, 2011.

(ii) **Definitions** - In this Scheme, unless the context otherwise requires, -

- (a) "company" means a company registered under the Companies Act, 1956;
- (b) "Collective Investment Management Company" means the company as defined in clause (h) of sub-regulation of 2 of Securities and Exchange Board of India (Collective Investment Companies) Regulations, 1999;

- (c) "defunct company" means a company registered under the Companies Act, 1956 which is not carrying over any business activity or operation on or after the 1st April, 2008 and includes a company which has not raised its paid up capital as provided in sub sections (3) and (4) of section 3 of the Companies Act, 1956;
- (d) "Non-Banking Financial Company" means a company as defined under clause (f) of section 45-I of the Reserve Bank of India Act, 1934;
- (e) **"Scheme" means the "Easy Exit Scheme, 2011" (EES, 2011), being specified through this Circular;**
- (f) "vanishing company" means a company, registered under the Companies Act, 1956 and listed with Stock Exchange which, has failed to file its returns with Registrar of Companies and Stock Exchange for a consecutive period of two years, and is not maintaining its registered office at the address notified with the Registrar of Companies or Stock Exchange and none of its Directors are traceable.

(iii) **Applicability: -**

- (a) Any "defunct company" which has active status on Ministry of Corporate Affairs portal may apply under EES, 2011 in accordance with the provisions of this Scheme for getting its name strike off from the Register of Companies;
- (b) Any defunct company which is a Government Company shall submit 'No Objection Certificate' issued by the concerned Administrative Ministry or Department or State Government along with the application under this Scheme;
- (c) The purpose of the Scheme is to allow eligible companies to avail of this opportunity to exit from the Register of Companies after fulfilling the requirements laid down herewith and the decision of the Registrar of Companies in respect of striking off the name of company shall be final.

(iv) **Scheme not applicable to certain companies: -** The Scheme does not cover the following companies namely: -

- (a) listed companies;
- (b) companies that have been de-listed,
- (c) companies registered under section 25 of the Companies Act, 1956;
- (d) vanishing companies;

- (e) companies where inspection or investigation is ordered and being carried out or yet to be taken up or where completed prosecutions arising out of such inspection or investigation are pending in the court;
- (f) companies where order under section 234 of the Companies Act, 1956 has been issued by the Registrar and reply thereto is pending or where prosecution if any, is pending in the court;
- (g) companies against which prosecution for a non-compoundable offence is pending in court;
- (h) companies accepted public deposits which are either outstanding or the company is in default in repayment of the same;
- (i) company having secured loan ;
- (j) company having management dispute;
- (k) company in respect of which filing of documents have been stayed by court or Company Law Board (CLB) or Central Government or any other competent authority;
- (l) company having dues towards income tax or sales tax or central excise or banks and financial institutions or any other Central Government or State Government Departments or authorities or any local authorities.

(v) Procedure for making an application:-

- (a) Any defunct company desirous of getting its name strike off the Register under Section 560 of the Companies Act, 1956 shall make an application in the Form EES, 2011, annexed;
- (b) The Form EES, 2011, should be filed electronically on the Ministry of Corporate Affairs portal namely www.mca.gov.in accompanied by filing fee of Rs. 3,000/-;
- (c) In case, the application in Form EES, 2011, is not being digitally signed by any of the director or Manager or Secretary, a physical copy of the Form duly filled in, shall be signed manually by a director authorised by the Board of Directors of the company and shall be attached with the application Form at the time of its filing electronically;
- (d) In all cases, the Form EES, 2011, shall be certified by a Chartered Accountant in whole time practice or Company Secretary in whole time practice or Cost Accountant in whole time practice;
- (e) The company shall disclose pending litigations if any, involving the company while applying under this Scheme;

(f) The Form shall be accompanied by an affidavit annexed at Annexure- A of Form EES, 2011, which should be sworn by each of the existing director(s) of the company before a First Class Judicial Magistrate or Executive Magistrate or Oath Commissioner or Notary, to the effect that the company has not carried on any business since incorporation or that the company did some business for a period up to a date (which should be specified) and then discontinued its operations and has not carried on any business after the 1st April, 2008, as the case may be;

(g) The Form EES, 2011 shall further be accompanied by an Indemnity Bond, duly notarized, as annexed at Annexure B of Form EES, 2011, to be given by every director individually or collectively, to the effect that any losses, claim and liabilities on the company, will be met in full by every director individually or collectively, even after the name of the company is struck off the register of Companies;

(h) The Company shall also file a Statement of Account annexed at Annexure C, prepared as on date not prior to more than one month preceding the date of filing of application in Form EES, 2011, duly certified by a statutory auditor or Chartered Accountant in whole time practice, as the case may be.

(i) In the case of 100% Government companies, if no Board is in existence, an officer not below the rank of Deputy Secretary of the concerned administrative Ministry may be authorized to enter his name and other details in Form EES, 2011 and in Annexure A, B and C in place of name and other details of the directors and also to sign the said documents before filing.

(vi) Simplified procedure for Registrar of Companies for removal of name of defunct companies:-

(a) The Registrar of Companies, on receipt of the application, shall examine the same and if found in order, shall give a notice to the company under section 560(3) of the Companies Act, 1956 by e-mail on its e-mail address intimated in the Form, giving thirty days time, stating that unless cause is shown to the contrary, its name be struck off from the Register and the company will be dissolved;

(b) The Registrar of companies shall put the name of applicant(s) and date of making the application(s) under EES, 2011, on daily basis, on the MCA portal www.mca.gov.in, giving thirty days time for raising objection, if any, by the stakeholders to the concerned Registrar;

(c) In case of company(s) like Non-Banking Financial Company(s), Collective Investment Management Company(s) which are regulated by other Regulator(s) namely RBI, SEBI, the Registrar of Companies, at the end of every week, after the Scheme commences, shall send intimation of such companies availing EES, 2011, during that period to the concerned Regulator(s) and also an intimation in respect of all companies availing EES, 2011, during that period to the office of the Income Tax Department giving thirty days time for their objection, if any;

(d) The Registrar of Companies immediately after passing of time given in sub-paras (a) to (c) of this Para and on being satisfied that the case is otherwise in order, shall strike its name off the Register and shall send notice under sub-section (5) of section 560 of the Companies Act, 1956 for publication in the Official Gazette and the applicant company under this Scheme shall stand dissolved from the date of publication of the notice in the Official Gazette.

Yours faithfully,

(Monika Gupta)
Assistant Director

NOTE: To view Form EES, 2011 and the proforma of various attachments required to be send along with it, kindly visit the website of Ministry of Corporate Affairs i.e. www.mca.gov.in

SEBI UPDATE

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Views solicited on Report of the Committee on 'Review of Ownership and Governance of Market Infrastructure Institutions'

SEBI has placed a Report of the Committee on 'Review of ownership and governance of Market Infrastructure Institutions' on its website for public comments.

The report *inter-alia* covers the following:

1. Ownership norms: Structure of Market Infrastructure Institutions (MIIs), ownership norms for the MIIs, ownership and control of an MII in another class of MII, foreign participation etc.
2. Governance norms: The board composition for MIIs and disclosures to be made by board members.
3. Measures for conflicts resolution: Appointment and compensation for senior management of the MII including MD/CEO, measures to ensure autonomy of regulatory departments and requirements for a compliance officer etc.
4. Other issues including Listing of MIIs, net worth requirements, distribution of profits of MIIs, related businesses that can be entered into by MIIs etc.

We attach a copy of the Report and would appreciate to receive the views/suggestions on the same on sonia.baijal@icsi.edu by December 24, 2010 for sending to SEBI.

Link: <http://www.sebi.gov.in/commreport/ownershipreport.pdf>

Circular on Half yearly report by Trustees

Cir/ IMD/ DF/20/2010

December 06, 2010

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

Dear Sir/Madam,

Sub: Half yearly report by Trustees

1. Gold Exchange Traded mutual fund schemes (Gold ETFs) can invest in gold as per circular SEBI/IMD/CIR No. 4/58422/06 dated January 24, 2006.
2. It has been decided that physical verification of gold underlying the Gold ETF units shall be carried out by statutory auditors of mutual fund schemes and reported to trustees on half yearly basis.
3. The confirmation on physical verification of gold as above shall also form part of half yearly report by trustees to SEBI. Accordingly, the following is added to Annexure II of the circular MFD/CIR/09/014/2000 dated January 5, 2000:
 - a. 'Whether the assets of Gold ETF are invested in gold as per the asset allocation mentioned in the Scheme Information document ?, and
 - b. Whether physical verification of gold was conducted by statutory auditor?'
4. This shall come into effect from the half yearly report ending April 2011 by trustees to SEBI.
5. The said circular stands modified to this extent. All other conditions in the said circular remain unchanged.
6. 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 provisions of regulation 77 of SEBI (Mutual Funds) Regulations, 1996 to protect the interests of the 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
Tel no. 022-26449250
Email- ashas@sebi.gov.in
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RBI UPDATE

Issuance of Non-Convertible Debentures (NCDs)

RBI/2010-11/299

IDMD.PCD.No. 24 /14.03.03/2010-11

December 06, 2010

All Market Participants

Dear Sirs,

Issuance of Non-Convertible Debentures (NCDs)

A reference is invited to the Issuance of Non-Convertible Debentures (Reserve Bank) Directions, 2010 dated June 23, 2010 issued vide circular IDMD.DOD.10/11.01.01(A)/ 2009-10 of same date covering the regulation of NCDs of maturity up to one year.

2. Taking into account the feedback received from the market participants, the Reserve Bank of India has issued an amendment Direction, i.e., Issuance of Non-Convertible Debentures (Reserve Bank) (Amendment) Directions, 2010, inter alia, permitting

- a. Financial Institutions (FIs) to invest in NCDs of maturity up to one year;
- b. Non-Banking Financial Companies including Primary Dealers that do not maintain a working capital limit to issue NCDs of maturity up to one year; and
- c. FIs to invest in NCDs of maturity up to one year subject to extant provisions of FEMA and SEBI guidelines issued in this regard.

3. The amendment Directions comes into immediate effect. A copy of the Directions is enclosed.

Yours faithfully,

(K K Vohra)
Chief General Manager

RESERVE BANK OF INDIA INTERNAL DEBT MANAGEMENT DEPARTMENT
CENTRAL OFFICE MUMBAI

**Issuance of Non-Convertible Debentures (Reserve Bank)
(Amendment) Directions, 2010**

IDMD.PCD. 23 /ED (HRK) - 2010 dated December 06, 2010

In exercise of its powers conferred under sections 45K, 45L and 45W of the Reserve Bank of India Act, 1934 and of all the powers enabling it in this behalf, and in partial modification of the Issuance of Non-Convertible Debentures (Reserve Bank) Directions, 2010 dated June 23, 2010, the Reserve Bank hereby notifies as follows: -

1. That the Non-Convertible Debentures (Reserve Bank) Directions 2010 dated June 23, 2010 (hereinafter referred to as the 'said Directions') are hereby amended as under:

2. Paragraph 3 of the said Directions is amended to read as follows:

3. Eligibility to issue NCDs

3.1 A Corporate shall be eligible to issue NCDs subject to the fulfillment of the following criteria, namely,

- i. the corporate has a tangible net worth of not less than Rs.4 crore, as per the latest audited balance sheet;
- ii. the corporate has been sanctioned working capital limit or term loan by bank/s or all-India financial institution/s; and
- iii. the borrowal account of the corporate is classified as a Standard Asset by the financing bank/s or institution/s.

3.2 However, paragraph 3.1 (ii) above shall not be applicable to Non-Banking Financial Companies (NBFCs) including Primary Dealers (PDs).

3. Paragraph 10 of the Directions is amended to read as under:

10. Investment in NCD

10.1 NCDs may be issued to and held by individuals, banks, PDs, other corporate bodies including Financial Institutions (FIs), Insurance Companies, Mutual Funds registered or incorporated in India, unincorporated bodies and Foreign Institutional Investors (FIIs).

10.2 Investments in NCDs by Banks/PDs shall be subject to the approval of the respective statutes governing them, and approval of their respective regulators.

10.3 Investments by the FIIs shall be subject to extant provisions of the Foreign Exchange Management Act (FEMA) and rules, regulations, notifications, directions or orders issued thereunder, and within such limits as may be set forth in this regard from time to time by the SEBI.

4. These Directions may be referred to as the Issuance of Non-Convertible Debentures (Reserve Bank) (Amendment) Directions, 2010 and shall be effective from today, i.e., December 06, 2010.

(H R Khan)
Executive Director

