



**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 21, 2010

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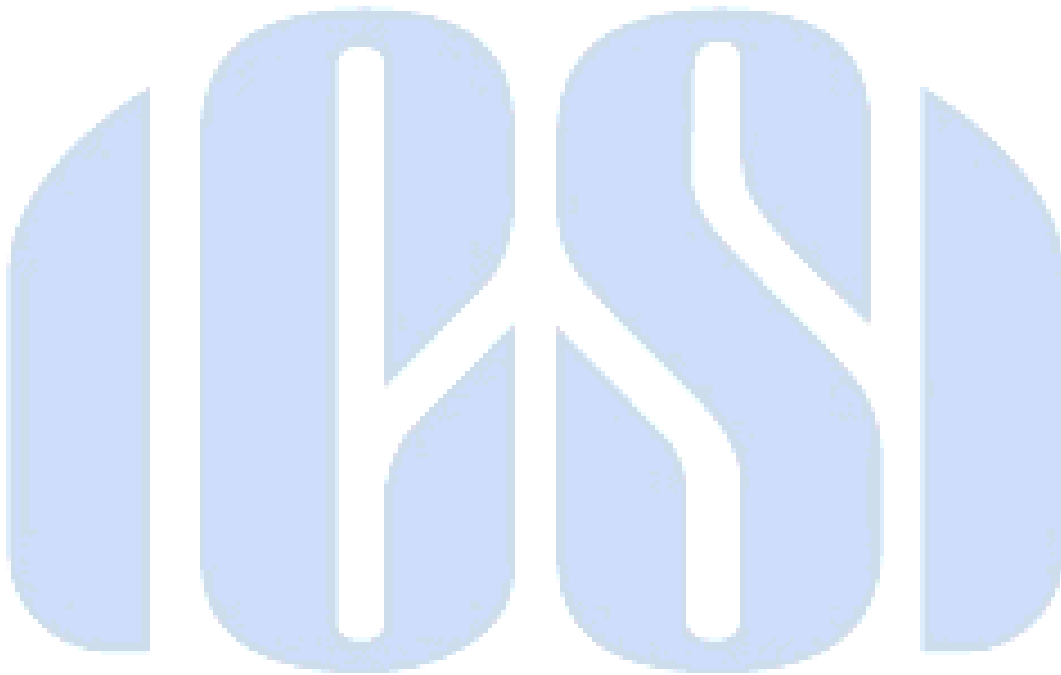
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FROM

ICS

**ELECTION TO THE 11th COUNCIL OF THE ICSI HELD ON 10th &
11th DECEMBER, 2010
- NOTIFICATION REGARDING DECLARATION OF RESULT**



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

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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>

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SMART ORDER ROUTING (SOR) - CLARIFICATION**CIRCULAR**

CIR/MRD/DP/ 36 /2010

December 09, 2010

To

All Stock Exchanges

Dear Sir / Madam,

Sub: Smart Order Routing (SOR) - Clarification

1) This is further to the SEBI circular no. CIR/MRD/DP/26/2010 dated August 27, 2010 regarding 'Introduction of Smart Order Routing'. Upon examination of the circulars issued by the stock exchanges having nationwide terminals and representations received from few market participants, it has been decided to modify the aforesaid circular as under:

(i) The point 3(vii) of the aforesaid circular is modified as follows:

Stock Broker shall communicate to all clients the features, possible risks, rights, responsibilities and liabilities associated with the smart order routing facility. The client desirous of availing such facility shall do so by entering into a broker-client agreement, as applicable. For the existing clients, the same shall be implemented through an addendum to the existing broker-client agreement, as applicable.

(ii) Stock exchange shall permit smart order routing for all orders, without restricting to any specific type of order. The choice on order types shall be left to the client.

(iii) If stock exchange desires to advise its brokers to seek re-approval, it may do so only in case of –

(a) Inclusion of a new stock exchange for offering SOR facility; and/or,

(b) Material changes in the software/system of the smart order routing facility.

(iv) The point 3(iv) of the SEBI circular no. CIR/MRD/DP/26/2010 dated August 27, 2010 is modified as follows:

Stock exchange shall communicate its decision to the broker within 30 calendar days from the date of receipt of complete application by the stock exchange. Stock exchange shall not consider testing and demonstration of the SOR system/software as a criterion for declaring the application of the broker as 'complete'. Further, testing and demonstration of SOR system/software, if required, shall be suitably scheduled within the aforesaid period of 30 calendar days.

(v) In case of rejection of the application on smart order routing of a stock broker, the stock exchange shall communicate such reasons of rejections to the stock broker. Further, the decision of the stock exchange on the SOR application of the stock broker and reasons for rejection of the SOR application shall also be

communicated to all the other stock exchanges where the broker's SOR facility intends to route orders.

(vi) In addition to the point 3(xix) of the SEBI circular no. CIR/MRD/DP/26/2010 dated August 27, 2010, stock exchange shall permit SOR approved brokers to offer SOR facility through all their servers irrespective of their location in India.

2) The Stock Exchanges are advised to:

i. put in place the adequate systems and issue the necessary guidelines for implementing the above decision.

ii. make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above

iii. bring the provisions of this circular to the notice of the stock brokers and also disseminate the same on their website.

iv. communicate to SEBI, the status of the implementation of the provisions of this circular in the Monthly Development Report.

3) This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Yours faithfully,

Harini Balaji

Deputy General Manager
harinib@sebi.gov.in

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NOTIFICATION UNDER REGULATION 3 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (CERTIFICATION OF ASSOCIATED PERSONS IN THE SECURITIES MARKETS) REGULATIONS, 2007.

**GAZETTE OF INDIA
EXTRAORDINARY
PART - III - SECTION 4
PUBLISHED BY AUTHORITY
NEW DELHI, DECEMBER 10th, 2010
SECURITIES AND EXCHANGE BOARD OF INDIA
NOTIFICATION**

Mumbai, the 10th December, 2010

Notification under regulation 3 of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007.

No. LAD-NRO/GN/2010-11/21/29390 - In terms of sub-regulation (1) of regulation 3 of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007 (the Regulations), the Board is empowered to require, by notification, any category of associated persons as defined in the Regulations to obtain requisite certification(s).

2. Accordingly, it is notified that with effect from the date of this notification, the following category of associated persons, i.e., persons associated with a registered stock-broker/trading member/clearing member in recognised stock exchanges, who are involved in, or deal with, any of the following, namely: -

- (a) assets or funds of investors or clients,
- (b) redressal of investor grievances,
- (c) internal control or risk management, and
- (d) activities having a bearing on operational risk, shall be required to have a valid certification from the National Institute of Securities Markets (NISM) by passing the NISM-Series-VII: Securities Operations and Risk Management Certification Examination as mentioned in the NISM communiqué/Press Release NISM/Certification/Series-VII: SORM/2010/01 dated November 11, 2010, read with Annexures-I and II thereto.

Provided that the stock-broker/trading member/clearing member shall ensure that all persons associated with it and carrying on any activity specified in this paragraph as on the date of this notification obtain valid certification within two years from the said date of notification.

Provided further that a stock-broker/trading member/clearing member who employs any associated persons specified in this paragraph after the date of this notification shall ensure that the said associated persons obtain valid certification within one year from the date of their employment.

**C. B. BHAVE
CHAIRMAN
SECURITIES AND EXCHANGE BOARD OF INDIA
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HALF YEARLY REPORT BY TRUSTEES

CIRCULAR

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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AMENDMENTS TO THE EQUITY LISTING AGREEMENT

CIRCULAR

CIR/CFD/DIL/10/2010

December 16, 2010

To
All Stock Exchanges

Dear Sir/Madam,

Sub: Amendments to the Equity Listing Agreement

1. In line with the objective of enhancing the quality of disclosures made by listed entities, it has been decided to effect certain amendments to the Equity Listing Agreement ("the LA") with respect to various continuous disclosures made by listed entities.

2. The full text of amendments to be effected in the LA is given in the **Annexure** hereto. A gist of the said amendments is as follows: -

(I) Amendments to Clause 35 – Disclosure relating to shareholding pattern

(a) Disclosure of shareholding pattern prior to listing of securities

Entities which seek listing of their securities post-IPO shall mandatorily submit their shareholding pattern as per Clause 35 of the LA one day prior to the date of listing, in order to ensure public dissemination of updated shareholding pattern. The stock exchanges shall upload the same on their websites before commencement of trading in the said securities.

(b) Disclosure of shareholding pattern of listed entities pursuant to material changes in the capital structure

With a view to ensure public dissemination of the shareholding pattern pursuant to capital restructuring in listed entities, it has been decided that in all cases wherein the change in capital structure due to such restructuring exceeds +/- 2% of the paid

up share capital of the entities, the listed entities shall file a revised shareholding pattern with the stock exchanges within 10 days from the date of allotment of shares pursuant to such change in the capital structure, as per the format specified in clause 35 of the LA alongwith a footnote on what necessitated the filing of the revised shareholding pattern. The stock exchanges shall upload the same on their websites immediately.

(c) Disclosure in respect of Depository Receipts

In the case of listed entities which have issued Depository Receipts (DRs) overseas, in order to ensure a holistic and true picture of the promoter/promoter group holding in such entities, it has been decided that details of 'shares held by custodians and against which DRs have been issued' which are presently required to be disclosed in Table (I) (a) of Clause 35 shall be further

segregated as those pertaining to the 'promoter/promoter group' and to the 'public'.

(II) Amendments to Clause 40A – Minimum public shareholding

Department of Economic Affairs, Ministry of Finance vide its notification dated June 4, 2010 and August 9, 2010 amended the Rule 19(2)(b) of Securities Contracts (Regulation) Rules, 1957 ("the Rules"), which requires a company which has issued shares under Rule 19 (2) (b) (ii) of the Rules to raise its public shareholding to the specified minimum in the manner specified by SEBI. In order to align the requirements in the LA with the amended Rules and to specify the manner in which public shareholding may be raised to the prescribed minimum, it has been decided to amend the LA to provide that: -

(i) the company agrees to comply with the requirements specified in Rule 19(2) and Rule 19A of the Rules,

(ii) Where the company is required to achieve the level of public shareholding as specified in Rule 19(2) and/or 19A of the Rules,, it shall adopt any of the following methods to raise the public shareholding to the required level:

- (a) issuance of shares to public through prospectus; or
- (b) offer for sale of shares held by promoters to public through prospectus; or
- (c) sale of shares held by promoters through the secondary market.

For adopting methods as specified at point (c) the company agrees to take prior approval of the Specified Stock Exchange, which may impose such conditions as it may deem fit.

(III) Amendments to Clause 5A - Uniform procedure for dealing with unclaimed shares

While the existing clause 5A in the equity listing agreement addresses and resolves the practical difficulties of companies which have issued shares in electronic mode; it does not address the difficulties faced by companies which had in the past issued shares in physical mode. These share certificates may have remained unclaimed by the shareholders due to insufficient/incorrect information or for any other reason. Thus it has been decided to amend the clause to provide for the aforesaid procedure.

(IV) Amendment to Clause 20 & 22- Corporate Announcement

In order to enable investors to manage their cash/securities flows efficiently and to enhance process transparency, it has been decided to mandate companies to have a pre-announced fixed pay date for payment of dividends and for credit of bonus shares.

(V) Amendment to Clause 21 - Notice Period

Consequent to amendment in clause 20 & 22, as above, it has been decided to amend the Clause 21 by removing references to dividend payments.

(VI) Insertion of Clause 53 - Disclosures regarding agreements with the media companies

In order to ensure public dissemination of details of agreements entered into by corporates with media companies, it has been decided that the listed entities shall disclose details of such agreements on their websites and also notify the stock exchange of the same for public dissemination.

(VII) Insertion of Clause 54 – Maintenance of a website

In order to ensure/enhance public dissemination of all basic information about the listed entity, it has been decided to mandate that the listed entities maintain a functional website that contains certain basic information about them, duly updated for all statutory filings, including agreements entered into with media companies, if any.

3. The above listing conditions are specified in exercise of the powers conferred under Section 11 read with Section 11A of the Securities and Exchange Board of India Act, 1992. The said listing conditions should form part of the existing Listing Agreement of the stock exchange. A text of amendments in the Listing Agreement is enclosed as **Annexure**.

4. Applicability

- a. The provisions of para (2)(I)(a), 2(I)(b) and (2)(I)(c) above, (2)(II), (2)(III) and 2 (VI) shall be applicable with immediate effect.
 - b. The provisions of para (2) (IV) and (2) (V) shall be applicable for all board / shareholders' meetings convened for this purpose on or after January 01, 2011.
 - c. The provisions of para (2) (VII) above shall be applicable with effect from April 01, 2011.
5. All stock exchanges are advised to ensure compliance with this circular and carry out the amendments in their Listing Agreement as per the Annexure to this circular.
6. This circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and "Issues and Listing".

Yours faithfully,

Sunil Kadam
General Manager
+91-22-26449630
sunilk@sebi.gov.in
Encl: as above

Note: For more detail

<http://www.sebi.gov.in/circulars/2010/circfddil102010.pdf>

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RBI UPDATE

A TECHNICAL PAPER ON "INFLATION INDEXED BONDS (IIBS)"

The Reserve Bank of India has, today, placed on its website a [technical paper on 'Inflation Indexed Bonds'](#) for public comments. Comments on the technical note may be forwarded to the Chief General Manager, Internal Debt Management Department, Reserve Bank of India, Central Office Building, 23rd floor, S.B. Road, Mumbai-400001 or [emailed](#) latest by December 31, 2010.

Background

In India, a variant of indexed bonds, i.e. Capital Index Bond (CIB), 2002 was issued on December 29, 1997 wherein only principal repayments at the time of redemption were indexed to inflation. Based on the past experience and feedback from market participants, a new version of IIB has been designed with protection from inflation to both interest payments and principal repayments linking them to Wholesale Price Index (WPI) for all commodities.

The technical paper sets out the structure of IIBs including method of indexation (principal or interest), inflation index lag, issuance method, and methodology to compute settlement price.

Salient features

- In the current structure of IIBs, the principal will be indexed and the coupon will be calculated on the indexed principal. This structure is the same as was set out in the discussion paper on Capital Indexed Bond issued by the Bank in 2005.
- Since the objective of the IIBs is to provide protection against actual inflation, the final WPI will be used for indexation.
- Final WPI with a lag of four months will be used as the Reference WPI for the first day of the calendar month in which 'Issue Date' and 'Set Date' falls.
- As and when WPI index is being revised on technical grounds (coverage, base year, etc.), the new WPI index will be used for indexation purpose and past value of new WPI index would be computed through a linking factor.
- In the primary auction, the IIB would be issued at par and investors would quote their bids in terms of **real yield**.
- In case of reissuance, investors would bid in terms of price and settlement price may be computed multiplying the sum of the cut-off price and accrued real interest by the Index Ratio.

Ajit Prasad
Assistant General Manager

Press Release : 2010-2011/810

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December 21, 2010

**PREVENTION OF MONEY-LAUNDERING SECOND AMENDMENT
RULES, 2010 - OBLIGATION OF AUTHORISED PERSONS**

RBI/2010-11/311

A.P. (DIR Series) Circular No. 24

A.P. (FL/RL Series) Circular No. 05

December 13, 2010

To,

All Authorised Persons

Madam/ 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) Second Amendment Rules, 2010-Obligation of Authorised Persons

The Government of India vide its Notification No. 10/2010-E.S./F.No.6/8/2009-E.S. dated June 16, 2010, 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 information and necessary compliance.

2. Any failure to comply with the requirements of the said Rules as amended, to the extent they are applicable to foreign exchange transactions, shall also be treated as failure to comply with the directions issued by the Reserve Bank of India under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999.

Yours faithfully,

(Salim Gangadharan)
Chief General Manager-in-Charge

MINISTRY OF FINANCE
(Department of Revenue)
NOTIFICATION
New Delhi, the 16th June, 2010

THE GAZETTE OF INDIA: EXTRAORDINARY Part II- Sec. 3 (i)

G.S.R. 508(E)- In exercise of the powers conferred by sub - section(1) read with clause(h), clause(i), clause(j) clause(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 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 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) Second Amendment Rules, 2010.

(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: -

(a) in rule 2 in sub-rule (1), after clause (g), the following Explanation shall be inserted, namely: -

Explanation: - Transaction involving financing of the activities relating to terrorism includes transaction involving funds suspected to be linked or related to, or to be used for terrorism, terrorist act or by a terrorist, terrorist organisation or those who finance or are attempting to financing of terrorism."

(b) in rule 9, for sub- rule (1A), the following sub- rule shall be substituted, namely: -

"(1A) Every banking company, financial institution and Intermediary, as the case may be, shall determine whether a client is acting on behalf of a beneficial owner, identify the beneficial owner and take all reasonable steps to verify his identity."

(c) in rule 9, for sub- rule (1B), the following sub - rule shall be substituted, namely: -

"(1B) 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 client, his business and risk profile and where necessary, the source of funds."

(d) in rule 9, for sub- rule (1C), the following sub- rule shall be substituted, namely: -

"(1C) No banking company, financial institution and Intermediary, as the case may be, shall allow the opening of or keep any anonymous account or account in fictitious names or account on behalf of other persons whose identity has not been disclosed or cannot be verified."

(e) in rule 9, after sub -rule (1C), the following sub- rule shall be inserted, namely: -

"(1D) When there are suspicions of money laundering or financing of the activities relating to terrorism or where there are doubts about the adequacy or veracity of previously obtained customer identification data, every banking company, financial institution and Intermediary shall review the due diligence measures including verifying again the identity of the client and obtaining information on the purpose and intended nature of the business relationship, as the case may be."

(f) in rule 10, after sub- rule (3), the following Explanation shall be inserted, namely: -

"Explanation: For the purpose of this rule: -

(i) the expression 'records of the identity of clients' shall include records of the identification data, account files and business correspondence.

(ii) the expression 'cessation of the transactions' means termination of an account or business relationship."

[Notification No. 10/2010- E. S. / F. No. 6/8/2009-E.S.]
S. R. MEENA, Under Secretary

Note - The principal rules were published in the Gazette of India , Extraordinary, Part II , Section 3, sub- section (i) vide number G.S.R. 444(E), dated the 1st July 2005 and subsequently amended by G.S.R.717(E) dated the 13th December 2005, G.S.R. 389(E) dated the 24 th May, 2007, G.S.R. 816(E) dated the 12th November 2009 and G.S.R. 76(E) dated the 12th February 2010.

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