

CHARTERED SECRETARY

THE JOURNAL FOR CORPORATE PROFESSIONALS

Focus on

The Indian Financial Code for Tomorrow's India



» **568**

SEBI Mutual Funds
(Amendment)
Regulations, 2013



**THE INSTITUTE OF
Company Secretaries of India**

IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

2nd CSIA International Conference on Corporate Governance for Sustaining Prosperity and Posterity

(held on April 5-6, 2013 at New Delhi)



On the dais from left: S. N. Ananthasubramanian (President, Council of the ICSI), Dr. Anil Khandelwal (Former CMD, Bank of Baroda), Peter Turnbull (President, CSIA), Naved Masood (Secretary, MCA), Nesar Ahmad (Chairman, CSIA Conference Organising Committee) and Sachin Pilot (Hon'ble Minister of State for Corporate Affairs I/C, Government of India), addressing.

Quotes from Hon'ble Minister's Speech

“.....About four hundred thousand students are currently undertaking this course to become company secretaries, so a decade ago this job was perhaps not as sought out but today because of the importance of companies, the regulatory issues and the kind of compliances that we have to deliver, this job is really becoming a top ranking job and people across the country are aspiring to become Company Secretaries.....”

“.....we as far as the Indian Government is concerned are more than willing to partner with the Institute not just in India but globally to make sure that we develop a profession that we are all proud of. That one had the best and the brightest talent coming in and taking on this leadership role. And in the years to come, I hope that the role and the performance and the job of the Company Secretary grows from strength to strength.....”

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At a Glance

Articles (A 149 - 187)

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Part - I : Articles on Indian Financial Code

FSLRC and Regulator- Government interface >> P-510

Dr. K. P. Krishnan

The report of the FSLRC proposes to significantly revamp the financial sector regulatory governance architecture. However, its observations and recommendations on regulatory governance are important not just for financial regulators, but regulatory governance in India in general. Independent regulators at the national level have existed for a while, and their effectiveness has at best been mixed. This is due to the ad-hoc establishment of new regulators, and their poor legislative design. They have not had the benefit of the perspective on regulatory design that the FSLRC has taken while proposing a revamp of the financial sector regulatory architecture. The FSLRC report proposes the enactment of the Indian Financial Code, which sets out in detail uniform standards for administrative behaviour, for drafting subordinate legislation, and mechanisms for regulatory independence and accountability. This article looks at the interface between the regulator and the government, and analyses this proposed regulatory architecture, especially the mechanisms of oversight, independence, and accountability.

Financial Sector Legislative Reforms Commission (FSLRC) Recommendations on Monetary Policy: Some Fundamental Issues >> P-515

Dr. Prachi Mishra

The FSLRC recommendation for developing a radically new monetary policy framework is a major step towards modernization of the institutional architecture for policy making in India. The three areas of fundamental reform are an explicit mandate to the central bank, an empowered monetary policy committee (MPC), and increased transparency. The Commission aims at a big overhaul on transparency by proposing to release the statement of monetary policy objectives and the voting record/rationale statements of MPC into the public domain. The recommendations, however, may fall short of achieving the goals of autonomy of the central bank and its accountability to the public.

Consumer protection in the Indian Financial Code >> P-520

Shubho Roy, Renuka Sane, Susan Thomas

The IFC has approached Consumer Protection as a problem which has two parts. As in the Consumer Protection Act, 1986 it sets up a system to redress consumer complaints after an event has occurred. However, unlike most other Indian legislation, IFC also proposes a system to prevent consumer interests being undermined before a financial product or service is sold. The draft laws also carves out unsophisticated and small consumers from the larger set of consumers of financial services. This is done to provide extra legal action to such consumers.

FSLRC: Transformational and Pioneering; But will it set the cat among the pigeons? >> P-524

S. Ramesh

Financial Sector Legislative Reforms Commission (FSLRC) presented its report to the Finance Minister in March this year. The FSLRC has proposed a sector-

neutral Indian Financial Code to replace multiple and old financial sector laws, splitting the regulation between the Reserve Bank of India and a new Unified Financial Regulatory Agency that will oversee the remaining financial sector. While this new horizontal structure could serve the interests of the consumers of financial services much better, there may be practical issues to contend with. A principles-based approach may open every regulation drafted by a regulator to judicial challenge and may be perhaps a little bit ahead of its time in India. If these changes have to have an impact on the broader financial sector in India in the future, there would have to be widespread changes in the functioning of the Government and the Judiciary.

Financial Consumer Protection Under the Draft Indian Financial Code >> P-528

Rajkumar S. Adukia

The primary objective of financial consumer protection is to guard consumer interests and promote public awareness. Part IV of the draft Indian Financial Code i.e. 56 clauses covered under Chapters 17 to 31 deals extensively with this aspect. Some of the rights and protections proposed for consumers under the Draft Code are - protection against unfair terms of contract, protection against misleading and deceptive conduct, right to receive the support to enter into suitable contract, right to receive reasonable quality of service, and right to data privacy and security. The draft Code has also proposed the creation of a unified Financial Redress Agency where consumers of all financial products would be able to submit complaints.

Report on FSLRC and draft IFC Emphasis on principles/techniques adopted by the Commission >> P-535

Narendra Singh, Arpita Banerjee

The Financial Sector Legislative Reforms Commission (FSLRC) was formed in March 2011 with a view to rewrite and harmonise financial sector laws. Although, entire financial legislative reform was ambitious, nevertheless, full scale revamp was the need of the day as piecemeal amendments in the existing legislations are inadequate to meet the evolving technology and financial innovations. Certainly, there was need for streamlining the financial sector regulations, reducing the number of regulators and giving them clear mandate to discharge their duties effectively. The Commission after detailed deliberations have come up with its Report and draft Indian Financial Code 2013 which is based on certain elements and principles. This article is an endeavour to analyze the elements on which the financial laws are proposed to be based and the principle techniques adopted by the Commission in resolving the gaps, overlaps and inconsistencies in the financial sector regulations.

Part - II : Other Articles

New Law Relating to Income Taxation on Buyback of shares by Companies >> P-540

T.N. Pandey

During the budget exercises for the year 2013-14 an anti-tax avoidance measure by way of tax on buy-back of shares in the cases of unlisted companies has been introduced. It was noticed that some companies to avoid dividend distribution tax, instead of distributing dividends to the shareholders were passing on the



accumulated profits to them by way of payment of higher prices through buying back shares where the capital gains arising on such shares in the hands of the shareholders were not chargeable to tax or were taxable at lower rate of tax. This loophole in the IT Act has been plugged. This article has examined the various aspects of the new law and has concluded saying that the new effort to check leakage of tax may have some teething troubles, but once settled, it would work in the interest of revenue.

Immunity under the Trade Unions Act, 1926

» P-543

K Gopalakrishnan Nair, Lakshmi G. Nair

The Trade Unions Act, 1926 is one of the principal legislations that regulate the functioning of the Trade Unions in India. Sections 17 and 18 of the said Act provide immunity to the trade unions and the members of these trade unions. It is interesting to look at the jurisprudence pertaining to these Sections and analyse the scope of this immunity and the extent to which the trade unions or the members enjoy this immunity. This article intends to analyse that. To understand this, the authors have examined several case-laws pertaining to these Sections in the Act, which have been pronounced by the Supreme Court and the various High Courts in India. The authors believe that such an analysis will sketch the rights and restrictions of a trade union and its members under the Trade Unions Act and would be helpful in determining whether the acts of the trade unions or its members are protected under the law in India.

» Legal World (LW 49 - 59)

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- ▶ **LW.41.5.2013** Delhi High Court explains the provisions of sections 20 and 21 of the Companies Act with respect to change of name of a company.
- ▶ **LW.42.5.2013** Delhi High Court upholds the decision of the single judge to keep out a secured debtor from the scheme of compromise with creditors.
- ▶ **LW.43.5.2013** Delhi High Court declines to wind up a company on the grounds of bonafide dispute.
- ▶ **LW.44.5.2013** SAT upholds the SEBI order holding a stock broker violating the Takeover regulations but reduces the quantum of penalty.
- ▶ **LW.45.5.2013** Resulting company is entitled to claim the write-off of bad debts of the demerged units.[Del]
- ▶ **LW.46.5.2013** Bombay High Court refuses to grant injunction against encashment of bank guarantee.
- ▶ **LW.47.5.2013** Supreme Court directs Sterlite Industries to pay damages of Rs.100 crore for polluting environment.
- ▶ **LW.48.5.2013** Workman has no vested right over the post-retirement extension of his services which is a contingent right.[Del]
- ▶ **LW.49.5.2013** Delhi High Court remands the matter to Tribunal to decide afresh the issue whether the employee is workman or not

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- ▶ Circular on Infrastructure Debt Fund
- ▶ Establishment of Local Office of the SEBI at Hyderabad
- ▶ Establishment of Local Office of the SEBI at Lucknow
- ▶ Redress of investor grievances through SEBI Complaints Redress System (SCORES)
- ▶ SEBI Mutual Funds (Amendment) Regulations, 2013
- ▶ Establishment of Connectivity with both depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement
- ▶ SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2013
- ▶ Rationalisation of Debt Limits
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- ▶ Investment by Navratna Public Sector Undertakings (PSUs), OVL and OIL in unincorporated entities in oil sector abroad
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- ▶ Public Provident Fund Scheme, 1968 (PPF, 1968) and Senior Citizens Savings Scheme, 2004 (SCSS, 2004) Revision of interest rates
- ▶ Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Eighth Amendment) Regulations, 2013
- ▶ Standardization and Enhancement of Security Features in Cheque Forms/Migrating to CTS 2010 standards
- ▶ External Commercial Borrowings (ECB) Policy – Corporates under Investigation
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From the President



"Don't worry when you are not recognized, but strive to be worthy of recognition."

- Abraham Lincoln



Dear Professional Colleagues,

Recognition is when we are sought for with conviction by the society for our abilities to deliver value and its time we recognise this. It is a validation of one's knowledge and skill-sets in meeting specified, assigned tasks and this should, over time, result in role enrichment apart from role enhancement. The placement as KMP is itself a worthy recognition though it would be unwise to ignore the unspoken language of good corporate governance in the Companies Bill, 2012 and we should invest in ourselves in order to wake up to a different tomorrow. The Chief Governance Officer (CGO) is waiting to happen; we can't wait to be invited but should strive hard to be considered naturally worthy of being conferred the status by the Board of Directors of the Company. On similar lines, our members in practice are expected to transfix their attention from attestation to implementation demanding enlarged responsibility and adherence to higher ethical standards. The keynote address on "Moving from Company Secretary to Corporate Governance Professional", covering all these and much more delivered by Dr. Anil K. Khandelwal at the 2nd CSIA International Conference, reproduced in this issue for the benefit of all, could indeed become a to-do manual for realising our future prospects and innate potential.

It's extremely gratifying to inform of the recognition conferred on PCS by the Government of Maharashtra which has notified the amendment to Section 82 of the Maharashtra Value Added Tax Act, 2002, including *inter alia* our practising members to appear before any authority, including Tribunal. On a personal note, this marks culmination of relentless efforts made since 2005 and I am confident that our practising members would seize this opportunity to expand their areas of leadership and influence and soon emerge as professionals worthy of this recognition. Needless to

add, seminars, workshops and study circles would be conducted across the State by ICSI-WIRC and Chapters in the Region to prepare and train our members in this latest area of practice. I am equally sanguine that my esteemed colleagues in the Council from other regions would also represent our cause effectively to different state authorities thus contributing to our wider acceptability leading to official recognition.

I along with a delegation of the institute had the privilege to meet Mr. Sachin Pilot, Hon'ble Minister of State (I/C), Ministry of Corporate Affairs and apprised him of the various initiatives undertaken by the Institute, including those promoting corporate governance. The ICSI delegation also met Mr. Naved Masood, Secretary, Mr. M. J. Joseph, Additional Secretary, Ms. Renuka Kumar, Joint Secretary, Mr. Manoj Kumar, Joint Secretary, Mr. Amardeep Singh Bhatia, Joint Secretary and Mr. Suresh Pal, Joint Secretary, Ministry of Corporate Affairs and apprised them of our steps in implementing ICSI's Vision and Mission and the Top Ten Goals for effective stakeholder satisfaction.

I am pleased to inform that ICSI's contribution to the newly inaugurated premises of the Company Law Board (Eastern Bench) in Kolkata in the form of providing a well stacked Library is indeed an innovative and a significant step. Compliments are due to Mr. Ashok Pareek, my colleague in the Council, Mr. Deepak Khaitan, Chairman, EIRC and his band of dedicated members as also all those who joined hands, for their commendable efforts in making possible this unique initiative. In a similar vein, I am pleased to inform that the third court room in the premises of Company Law Board, Principal Bench, New Delhi was inaugurated by Mr. Sachin Pilot, Hon'ble Minister(I/C) Ministry of Corporate Affairs, at which many of our members from the Delhi and NCR recorded their presence. This, I am sure, will go a long way in facilitating speedy disposal of cases.



We shall remain ever grateful to Hon'ble Justice Deshmukh, Chairman, Company Law Board for this progressive initiative.

I along with a delegation of the Institute met Mr. T. S. Vijayan, Chairman, IRDA, Mr. R. K. Nair, Whole-time Member, IRDA and Senior Executives in late March 2013 and apprised them of our efforts to build capacity of our members in the area of insurance and risk management and the steps being initiated towards strengthening the hands of IRDA in ensuring regulatory compliance.

In sequence to the adoption of our Vision and Mission 2020 and the Top Ten Goals for the 11th Council to pursue and perform, the Council, at its Meeting held on 4th April, 2013, approved the Strategic Action Plan (SAP) detailing various tasks to be accomplished within specified timelines, delegating levels of authority and delineating responsibilities to its constituents. As part of institutional governance, a Committee to review the Company Secretaries Act, 1980 has been formed and I am pleased to inform that Justice B. N. Srikrishna, eminent jurist and former Judge of Supreme Court of India has consented to be its Chairman.

The 2nd CSIA International Conference was organised by the Institute on April 5-6, 2013 at Hotel Ashok, New Delhi on the theme "Corporate Governance for Sustaining Prosperity and Posterity". Mr. Sachin Pilot, Hon'ble Minister of State(I/C), Ministry of Corporate Affairs was the Chief Guest and Mr. Naved Masood, Secretary, Ministry of Corporate Affairs was the Guest of Honour. Dr. Anil K Khandelwal, Former Chairman and Managing Director, Bank of Baroda delivered the keynote address and the Conference was well attended by Indian and overseas delegates.

The Presentation Ceremony of the 12th ICSI National Awards for Excellence in Corporate Governance was held alongside the conference on April 5, 2013 at Hotel Ashok, New Delhi. Hon'ble Mr. Justice M. N. Venkatachaliah, Former Chief Justice of India, was the Chief Guest and Prof. Chris Pierce, Chief Executive Officer, Global Governance Services Ltd., UK was the Keynote Speaker. Justice Venkatachaliah gave away the Awards to two best companies (in alphabetical order), namely, Indian Oil Corporation Limited, and HCL Technologies Limited. The Company Secretaries of these two Companies were also presented Awards for their excellent efforts in putting in place good corporate governance practices. Certificates of Recognition were presented to other top five companies (in alphabetical order), namely, CMC Ltd., Engineers India Ltd., Oil and Natural Gas Corporation Ltd., Persistent Systems Ltd. and Power Grid Corporation of India Ltd.

ICSI Life Time Achievement Award was presented to Shri Deepak S Parekh, Chairman, Housing Development Finance Corporation Ltd. for translating excellence in corporate governance into reality. Both these events evoked appreciation from far and wide and also received extensive media coverage.

As you are aware, the Report of the Financial Sector Legislative Reforms Commission (FSLRC) submitted to the Hon'ble Finance Minister in March 2013 contains far reaching recommendations, including a proposal for enactment of the Indian Financial Code. In order to facilitate a healthy

debate on the recommendations of the FSLRC among the people who matter in financial markets and to sensitise various professionals, including Company Secretaries, about the likely reforms path in the financial markets, it was thought fit to organise a series of seminars on the Indian Financial Code throughout the country.

Towards this end, the first Seminar was held in Hyderabad on April 20, 2013 which was inaugurated by Mr. T. S. Vijayan, Chairman, IRDA and the Keynote Address was delivered by Dr CKG Nair, (Secretary, FSLRC), Economic Adviser, Department of Economic Affairs, Ministry of Finance.

The Seminar in Mumbai, supported by BSE was held on April 27, 2013, and inaugurated by Justice B. N. Srikrishna, Eminent Jurist, Former Judge, Supreme Court of India and Chairman, FSLRC, and Dr. Ajay Shah, Eminent Economist and Professor, National Institute of Public Finance and Policy, delivered the Keynote Address.

Mr. P. Chidambaram, Hon'ble Finance Minister of India has kindly accepted our request to inaugurate the ICSI National Seminar on Indian Financial Code on May 22, 2013 at New Delhi. The endeavour is to assemble all those connected with the Report to participate in a discussion on the Recommendations of the Report covering the following sub-themes: Regulatory Regime: Architecture, Governance, Approaches; Financial Firms: Micro-Prudential Regulations, Consumer Protection, Resolution; Macro Finance: International Markets, Public Debt Management, Systemic Risks and Markets; and Markets: Market Regulation, Market Development and Monetary Policy.

I appeal to all to attend the seminar, if convenient; and follow up the FSLRC report which, if implemented, could herald a New Financial Sector Regulatory Order having significant consequences on market governance with which we are all inevitably and inextricably associated.

It would certainly be within our call of duty to assimilate the responses received, the wisdom gained from these Seminars and present them to the authorities for their use.

It would be fair to conclude with the profound words of Victor Hugo who said:


"All the forces in the world are not so powerful as an idea whose time has come."

With kind regards,

Yours sincerely,

Thane

April 30, 2013.


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FSLRC and Regulator-Government interface

➤ The broad principles relating to regulatory governance embedded in the FSLRC report are (i) independence and accountability; (ii) regulatory design based on a complete picture of financial firm's activity and avoiding sectoral regulators (iii) uniformity in institutional design of regulators on issues like qualification, tenure, remuneration, grounds of removal etc. and (iv) increasing and utilising economies of scale to address resource utilisation issues. This article explains these principles.

The Report of the Financial Sector Legislative Reforms Commission (FSLRC or the Commission) submitted on March 22, 2013 seeks to bring about a paradigm shift in the governance and regulatory architecture of the financial sector. The Terms of Reference of the FSLRC mandate were not limited to just the examination of existing financial sector legislation. The TOR also required the FSLRC to examine important issues of regulatory governance such as the need for greater clarity of legislative intent and mechanisms for oversight and accountability.¹

The FSLRC report advocates the enactment of a new legislation, the Indian Financial Code, to replace a number of existing financial sector laws. The existing sector-specific regulators are proposed to be subsumed into one, additional regulatory agencies are proposed, and functions of some existing regulators re-imagined. The Indian Financial Code also sets out in detail, uniform standards for administrative behaviour, for drafting subordinate legislation, among others.

This article looks at the recommendations on the subject of regulatory governance generally and more specifically on the



regulator-government interface. It highlights the issues in the existing financial regulatory governance architecture, including those highlighted by the FSLRC. It then moves on to an examination of the principles of regulatory governance that inform the Commission's report. Lastly, it examines the proposed

¹ Terms of Reference of the Financial Sector Legislative Reforms Commission, Ministry of Finance, Govt. of India (Available at: http://finmin.nic.in/fslrc/fslrc_index.pdf, visited on 15/04/13).



regulatory architecture and governance mechanisms, with a special focus on mechanisms of oversight, independence, and accountability. It is the view of this author that as and when acted upon, the recommendations of the FSLRC on these issues can significantly impact overall governance in India and not merely in Indian finance.

Regulatory governance at present

The idea of an independent regulator is relatively new. Modern regulators of this kind at a national level go back to the Inter-state Commerce Commission (ICC) of the United States created in 1887. In India, though a law created the RBI in 1934, it was not designed to be an independent regulator. The original RBI Act of 1934 was amended many times to convert a private commercial entity into a regulator. Post independence, in 1953, the Forward Markets Commission (FMC) was created by a Parliamentary law but in the mould of a traditional government department. Therefore, it perhaps cannot be characterized as an independent regulator though it was and is statutory. The first really modern regulator in India is the SEBI created by an executive order in 1988 and sanctified by a Parliamentary law in 1992.² Subsequently India has created many regulators in the financial and other sectors and such bodies have also come up in many States.

As a general proposition, it would be fair to say that the Indian experience with regulators is rather mixed. A few have been reasonably successful, but most have been less than optimal in their outcomes. It is the view of the author that a lot of this is on account of poor legislative design. A number of existing regulatory agencies have not had the benefit of a perspective towards regulatory governance that the FSLRC has adopted. Rather, most of them (including regulators outside the financial sector) have been established and evolved in an ad-hoc manner.³ Looking beyond financial sector regulators to other regulators as well, this has often resulted in gaps in regulatory governance and/or overlaps in regulation with government agencies.

As such, the FSLRC has identified certain important issues with regard to our existing regulatory architecture. Some such issues are: (a) gaps in regulation for financial instruments, (b) overlaps in regulation, leading to wastage of scarce manpower resources, (c) regulatory arbitrage, leading to forum-shopping, and (d) an existing shortage of talent spread thin between multiple sectoral regulators. The major recommendation of FSLRC in this area is that there should be a unified set of provisions on regulatory governance for all areas of finance. The Commission has recommended that there is merit in moving away from a sectoral approach when designing a financial regulatory system. It mentions that it is “economic purpose and market failures” that

» The proposed funding mechanism in the Indian Financial Code is therefore a significant departure from the funding mechanisms of many existing regulators. Control over its funds would also allow regulators greater flexibility in utilizing such resources for research, consumer protection, capacity development, and dispersal of information for the benefit of consumers.

must inform the institutional design of financial regulators, and not sub-sectors of finance.

Regulatory governance principles in the FSLRC report

Four broad principles relating to regulatory governance architecture which be clearly discerned from the FSLRC report, are: (a) independence and accountability, (b) regulatory design based on a complete picture of a financial firm's activity, and avoiding sectoral regulators, (c) uniformity in the institutional design of regulators on issues pertaining to qualifications, tenure, remuneration and grounds for removal, and (d) increasing and utilizing economies of scale to address resource utilization issues. These four principles are explained below.

Independence and accountability:

The Report states that to be truly independent, legal and administrative processes that clearly separate the functioning of the regulator from the Government must accompany physical separation from the government. The FSLRC has also followed the principle of separation of powers within the proposed regulatory bodies, particularly by separating the adjudicatory function from other regulatory functions. According to the FSLRC's report, the clear enunciation of regulatory objectives and principles is another aspect of such independence. Regulators should have a specific “toolkit” of powers to pursue such objectives, and the independence to decide how to pursue them.

Financial independence is another aspect of regulatory independence the FSLRC stresses on. It recommends independent sources of funding for regulators through the charging of fees from regulated entities for the services provided by the regulator. At present, (financial and non-financial) regulators are funded by a variety of mechanisms. Some are funded directly by the relevant ministry through appropriations made by Parliament. SEBI funds itself through fees it levies for the services provided by it. In certain cases, the regulator collects such dues

² Securities and Exchange Board of India Act, 1992.

³ See, for example: Rahul Mukherji, Interests, Wireless Technology, and Institutional Change: From Government Monopoly to Regulated Competition in Indian Telecommunications, *The Journal of Asian Studies*, Vol. 68, No. 2 (May, 2009), pp. 491-517.



Article

FSLRC and Regulator-Government interface

» The Indian Financial Code therefore proposes to subsume a number of existing sector specific financial regulators (SEBI, IRDA, PFRDA, FMC) into a Unified Financial Authority. The UFA would be the primary consumer protection and micro-prudential regulator for sectors other than banking and payment systems, which would remain with the RBI. There would also be a single appellate mechanism or the FSAT for appeals from all regulatory agencies. In addition, an independent consumer protection regulator, a public debt management agency, and a resolution corporation would make up the other financial sector regulators.

through fees and fines, but the utilization of the same is subject to the control of the relevant ministry. In the financial sector all regulators are free from resource constraints but some have been accused of charging excess fees as the law confers powers to levy fees without any guidance or principle. The proposed funding mechanism in the Indian Financial Code is therefore a significant departure from the funding mechanisms of many existing regulators. Control over its funds would also allow regulators greater flexibility in utilizing such resources for research, consumer protection, capacity development, and dispersal of information for the benefit of consumers.

The FSLRC Report also proposes a number of ways to strengthen accountability mechanisms for regulators. Such accountability mechanisms exist both with regard to regulated entities and consumers at large, as well as to Parliament. The bedrock principles on which the Indian Financial Code details these mechanisms towards financial firms and the general public are two-fold: (a) the regulator has a duty to explain its actions to regulated entities as well as the general public, and (b) regulatory actions and changes should be made only after giving prior information, and a chance for interested parties to make themselves heard.

Accountability to Parliament has been strengthened by creating reporting requirements that mandate the regulator "to disclose how it fared on pursuing its desired outcomes and at what cost". At present, some regulators are required to furnish annual reports of their activities and utilization of its funds to Parliament via the Central Government. These reports often do not give an accurate



picture of the effectiveness of the regulator in pursuing its stated objectives. Measuring outcomes and costs would give a clearer picture of the effectiveness of the regulator, and draw a clearer linkage between the outcomes sought to be achieved, and the costs required for achieving such outcomes. As the report states: "...Measurement systems for assessing the performance of regulators should include an assessment of the regulator's processes on metrics such as, the time taken for granting an approval, measurement of efficiency of internal administration systems, costs imposed on regulated entities and rates of successful prosecution for violation of laws..."⁴

The FSLRC also mandates that auditing of regulatory agencies be done by the CAG. The CAG now mandatorily audits some financial sector regulatory agencies in accordance with their statute whereas firms of chartered accountants audit some regulators. Given the enormous powers of the regulators, it will be a brave chartered accountant who actually does a tough audit of a regulator.

One issue that may however require greater clarity is whether activities such as tariff fixation should also be subject to audit. A controversy arose back in 1999-2000 with respect to tariff fixation by the TRAI, and at that juncture, tariff fixation was kept out of the CAG's purview. The Parliamentary Standing Committee had, however, recommended that tariff fixation and similar activities should be subject to audit, since Government revenues are affected in such circumstances.⁵ Another issue revolves around achieving greater clarity on who acts on any negative comments

⁴ FSLRC Report, Para. 3.6, p. 27.

⁵ 13th Report of the Standing Committee on Information Technology, Functioning of Telecom Regulatory Authority of India (TRAI), Lok Sabha Secretariat, September 2000.



in an audit, and through what mechanisms.

Moving beyond sector-specific regulation

As stated above, the FSLRC report states that regulatory laws should be animated by economic purpose and market failures in need of correction, rather than sector specific regulation. According to the Report one benefit of adopting consistent regulatory standards across sectors would be to prevent regulatory arbitrage. The lines separating banking, or insurance or mutual funds are becoming increasingly hard to define, and a fractured, sector specific approach causes not just arbitrage, but also conflicts between sectoral regulators. This was most clearly brought to light in the tussle between SEBI and IRDA over ULIPs.⁶ A non-sectoral approach would potentially eliminate such conflicts and overlaps to a great extent.

The Indian Financial Code therefore proposes to subsume a number of existing sector specific financial regulators (SEBI, IRDA, PFRDA, FMC) into a Unified Financial Authority. The UFA would be the primary consumer protection and micro-prudential regulator for sectors other than banking and payment systems, which would remain with the RBI. There would also be a single appellate mechanism or the FSAT for appeals from all regulatory agencies. In addition, an independent consumer protection regulator, a public debt management agency, and a resolution corporation would make up the other financial sector regulators.

The Report however clarifies that while the governance architecture and mechanisms would be non-sectoral, subordinate

legislation framed by regulators would need to be sector-specific.

Uniformity and certainty in matters of tenure, pay, eligibility and removal

The FSLRC has presented a unified set of provisions and made detailed recommendations on the structure of the regulatory agency, composition of its Board, selection of Board members, functioning of the Board, resource allocation of the regulator, including powers to levy fees, principles of levying fees, and performance assessment and reporting.

The practical importance of these recommendations will be apparent if one looks at the actual practice in one just area of government-regulator interface. This is in the area of appointment of regulators. As a rule, most present legal provisions in this regard are vague and do not follow any standard principle. The many variations in the terms and processes of the appointments clearly point to a systemic problem. For example in the last decade or so, there have been governors of the RBI who were varying given a 3 year term extended by 3 more years, a single 5 year term and a 3 year term extended by 2 years. There have been Deputy Governors who were given terms of over 5 years, exactly 5 years, 3 years, 3+2 years and 2 years & 3 months, extended by 9 months! A major part of the problem is the RBI Act, which prescribes no age limit for Deputy Governor or Governor, no process for appointment and no limits on terms.

Similar is the story with SEBI. One Chairman was appointed for 5 years, and extended for another two years, when the law then provided for a 3-year term. The term of another was not extended beyond 3 years when the law provided for a 5-year term. While recently Whole Time Members (WTM) have been given 5-year terms, the Chairman was given only a three year term. One WTM was appointed for 3 years, completed this, demitted office & was then given a fresh term, while the terms of two identically placed WTMs were not renewed. If all this points to confusion and mindlessness, it also translates into the effective lack of operational autonomy for the regulators given the uncertainty of tenure and the ability of the government to pick and choose individuals in the regulatory agency who are "fit" for extension and who are "not". Contrast this with fixed terms prescribed in the Constitution for Election Commissioners and the CAG and the obvious consequences in terms of institutional effectiveness.

The FSLRC recommends that selection of the Board of the Financial Regulator be done by the Government on the recommendations of a Selection Committee. The Indian Financial Code contains details regarding the composition of the Selection Committee, and the criteria the Committee must judge a candidate by. Boards will consist of a Chairperson, Executive Members, Non-executive Members (experts), and government nominees. The creation of the post of an Administrative Law Member is a significant point of departure from existing design of regulatory

⁶ IRDA wins ULIP battle, Business Standard, June 20, 2010 (Available at http://www.business-standard.com/article/finance/irda-wins-ulip-battle-11006200012_1.html, visited on 16/04/13).



Article

FSLRC and Regulator-Government interface



Financial independence is crucial to allow a regulator to be nimble in developing and utilizing its capacity. The FSLRC recommends that regulators be funded primarily through fees. This would ensure that the regulated entities bear the cost of regulation rather than the general public, and the regulator can also expand or decrease capacity with a growth or reduction in the size of the regulated market.

agencies. The Administrative Law Member will be an executive member responsible for "...reviewing the performance and carrying out the oversight of a designated set of employees of the regulator, referred to as administrative law officers."

The FSLRC recommends a uniform tenure of five years for all Board members, including the Chairperson. The age of retirement should be equivalent to the age of retirement for similar senior government positions. Salaries and entitlements, once fixed by the Government, cannot be varied to the detriment of the incumbent members of the Board. Board members except the Chairperson can be reappointed for another five-year term. However, such re-appointment will not be automatic. The Selection Committee will have to consider the incumbent member again. These proposals should significantly reduce the issues raised earlier in this section.

Resource utilization

Today many regulators, if not most, have to submit their estimates of expenditure to the Central Government and the government in turn gets such funds as appropriations from Parliament. This potentially creates a risk of interference, or a capture of regulatory processes by those who control the purse strings. Once regulatory objectives have been clearly specified, the regulator must have financial independence to pursue the same without interference. The FSLRC Report alludes to the problem of insufficient capacity with financial regulators, and correctly links it to financial independence. Financial independence is crucial to allow a regulator to be nimble in developing and utilizing its capacity. The

FSLRC recommends that regulators be funded primarily through fees. This would ensure that the regulated entities bear the cost of regulation rather than the general public, and the regulator can also expand or decrease capacity with a growth or reduction in the size of the regulated market. It recommends the levy of a flat fee for certain services, and fees based on transactional volume for other services. These specifications in the Indian Financial Code will also ensure that excessive fees are not charged.

Conclusion: Takeaways from the FSLRC Report

The FSLRC Report, in addition to the four principles elucidated earlier, also contains detailed recommendations regarding the working of regulatory agencies, including the drafting process of Rules and Regulations, their obligations to consumers and other regulated entities, norms of transparency to be followed, and over-arching principles regulating the behaviour of the boards of regulators themselves. This, for the first time in India, proposes to embed principles of regulation, and detailed processes of regulatory functioning within the parent legislation rather than subordinate legislation framed by the Government. There is a good case for extending these principles to sectors beyond finance to all statutory regulators.

Boards of some regulatory agencies have no regulatory powers at all with regulatory functions including the drafting of regulations being done entirely by the staff of the agency without any clearance of the board. In the case of some other agencies board level clearance is mandatory for issuing regulations. Orders passed by some regulatory agencies have no appeal/recourse of any kind. Issues of jurisdictional overlap between sectoral regulators and the relevant Ministries abound. Importantly, many sectoral regulators such as Electricity Regulators in some States were created to ensure private participation in infrastructure development, but without according the necessary independence and insulation to regulators that the performance of regulatory functions demands.

It is these and many similar aspects of regulatory governance and accountability that need to be legislatively reformed in India. The FSLRC recommendations directly address these and will go a long way in remedying this governance deficit in regulatory structure and design.

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Financial Sector Legislative Reforms Commission (FSLRC) Recommendations on Monetary Policy: Some Fundamental Issues

➤ The FSLRC Report has recommended a radical shift in the thinking on monetary policy and accordingly advocated a strong combination of independence and accountability for the Reserve Bank of India in so far as the monetary policy is concerned and has proposed to vest the RBI with an array of powers for achieving the said objective. This article makes a critical appraisal of these proposals.

INTRODUCTION

The FSLRC recommendations on monetary policy are a bold attempt to develop a modern institutional architecture for monetary policy decision-making in India. The existing framework is based primarily on the RBI Act of 1934, without any substantial amendments.

The key recommendations can be grouped into four parts. First, the Commission proposes the Central Government (in “consultation” with the Governor) to establish the objective of the central bank, and to specify a quantifiable numerical target to be achieved in the medium-term. The Central Government would also define what a failure to achieve the target means; and the statement would be released in the public.

Second, the Commission envisages an empowered seven-member Monetary Policy Committee (MPC) with five external members appointed by the Central Government (two of them

appointed in consultation with the Central Bank Governor). Each of the seven members will have a vote; and their statements/rationale for the policy would be released in the public domain three weeks after the policy statement. The Governor would have the power to override the MPC only in exceptional circumstances.

Third, the Commission envisages a board with twelve members with the number of executive members not exceeding 50 percent, which would oversee the functioning of the central bank and its organizational structure, and would be assisted by two Advisory Councils.

Fourth, the Advisory Councils would have a significant role in the regulation-making process in the areas of micro-prudential regulations, and consumer protection in banking; they will produce regular reports for the Board on different issues, and make specific recommendations for reform.

This article presents a critical evaluation of the FSLRC recommendations. Section I argues that recommendations indeed represent a fundamental shift in the thinking of monetary policy. Section II discusses the proposal to have the Central Government decide the objective of monetary policy. Section III focuses on the

* The views expressed are those of the author and do not necessarily represent those of the institutions to which the author belongs.



Article

Financial Sector Legislative Reforms Commission (FSLRC) Recommendations on Monetary Policy: Some Fundamental Issues

➤ One major concern in having the Central Government decide the objective of monetary policy and its details could be that the Government may not have the necessary expertise to answer the question of what should the central bank target, and what the specifics of the target should look like.

topic of Monetary Policy Committee. Section IV and V discuss whether the draft Code makes progress towards enhancing the autonomy and accountability of the central bank. Section VI discusses the instruments of monetary policy. Section VII concludes.

Section I: A Radical Shift in the thinking on Monetary Policy

The FSLRC recommendation for developing a radically new framework is a major step towards modernization of the institutional architecture for monetary policy making in India.

The Commission needs to be lauded indeed for emphasizing the need for thinking seriously about establishing a new structure in line with a changing global environment. The existing framework is primarily governed by the RBI Act of 1934 with few rather minor amendments till 2006.

Two features of the recommendations are particularly noteworthy:

- It gives an explicit mandate to the central bank, with a well-specified numerical target. This is a major improvement over the existing RBI Act, which does not specify any explicit objective for the central bank. This will be a big reform, which will mark a fundamental shift in the framework of monetary policy making in India. For example, if the Central Government decides on the objective of price stability, this would imply that RBI would formally become an explicit inflation-targeting (IT) central bank. Therefore, the whole gamut of institutions for IT will have to be put in place. Although this will be a major step, it will come with a host of challenges.
- An empowered MPC - with five external members who will be experts in the field of monetary policy and finance – to be enshrined in the law is also a major leap from the existing legislation.

- The move towards transparency whereby the objectives of the central bank and statements of the MPC will be made available in the public domain is also an important step towards enhancing the credibility of the central bank.

Section II: Central Government to establish the objective of Monetary Policy

Although the Commission has suggested that the central bank should have an explicit mandate, it has transferred the onus to the Central Government to determine what the precise mandate should be. The Commission has perhaps set aside the more difficult question of explicitly specifying what the central bank should target.

What does international experience suggest? In fact, most countries enshrine an objective of monetary policy in the central banking law (see Table 1). For example, price stability as the main goal of monetary policy is enshrined in the laws of most inflation targeting central banks. In many cases the central bank law also states subsidiary objectives e.g. the central bank will support economic prosperity and welfare more broadly. Since the 2008-09 global financial crisis, the legal mandates of several central banks, including the Bank of England, have been expanded to include financial stability.

Although the broad objectives are in the law, operational target (e.g. 2 percent inflation) is typically decided by the central bank in consultation with the Government; but is not stated explicitly in the law. The Government rarely decides the operational target by itself. For example, out of the 27 fully-fledged inflation-targeting central banks — for 15 of them, the Government and central bank jointly determine the inflation target. In nine cases the central bank sets the target, and in three cases, Norway, South Africa and the United Kingdom, the Government sets the target.² It is not very clear why the FSLRC recommendations deviate from this practice: enshrine the broader objective in the law; with the operational target being decided jointly by the Government and the central bank.

One major concern in having the Central Government decide the objective of monetary policy and its details could be that the Government may not have the necessary expertise to answer the question of what should the central bank target, and what the specifics of the target should look like. Should the central bank explicitly target economic activity? Should it target the exchange rate? Should it target financial stability? What should be the numerical target for the objectives? In what time frame should the central bank aim to achieve them? What constitutes deviations from the target? All these are highly technical questions; typically the expertise to answer these questions resides in central banks;

² Source. Centre for Central Banking Studies Handbook – No. 29. State of the art of inflation targeting – 2012. (<http://www.bankofengland.co.uk/education/Documents/ccbs/handbooks/pdf/ccbshb29.pdf>)



and they might be the most suited to have a final word on the targeting framework.

Another concern is that the Government issuing the statement on the objectives might be in conflict with the goal of making the central bank more independent. For example, in the current times, one could envisage the government to set an objective for the central bank to maximize growth – forcing the central bank to cut rates even though such policies could possibly fuel inflationary pressures.

On the contrary if the Government decides to set an explicit inflation target for the RBI, the draft law suggests no further role for the Government in the fight against inflation. The recommendations seem to suggest that the Government will take the final decisions on the targets; but the central bank will be the one accountable for achieving those targets. This might reduce incentives of the Government for credible fiscal consolidation, or any supply side measures to curb inflationary pressures.

The essential idea behind the joint determination of targets, which are becoming increasingly common in inflation targeting regimes, is that the Government would be making an explicit commitment to achieving it; and this would promote better co-ordination — or at least no conflict — between fiscal and monetary policy. And Government involvement in setting the target would add democratic legitimacy to the policy, which can help command public support.

The FSLRC recommendations suggest that while the Government will set the objectives rather than setting them jointly with the central bank, there will not be any clear advantages of the Government involvement in terms of some form of accountability of the Government.

foreign exchange matters.

China	Law of the People's Republic of China on the People's Bank of China, December 27, 2003; Last Amendment : December 27, 2003	The objective of the monetary policy is to maintain the stability of the value of the currency and thereby promote economic growth.
Japan	Bank of Japan Act (Act No.89 of June 18, 1997); last Amendment: December 1, 2008	(1) The purpose of the Bank of Japan, or the central bank of Japan, is to issue banknotes and to carry out currency and monetary control. (2) In addition to what is prescribed in the preceding paragraph, the Bank of Japan's purpose is to ensure smooth settlement of funds among banks and other financial institutions, thereby contributing to the maintenance of stability of the financial system.
Korea, Republic of	Bank 01 Korea Act, law No.5491 Promulgated on December 31, 1997. last Amendment : law No. 10303 Promulgated on May 17,2010	(1) The Bank of Korea shall set a price stability target in consultation with the Government. (2) The Bank of Korea shall set and publish the operational direction for monetary and credit policies every year. (3) The Bank of Korea shall do its best to achieve the price stability target as provided for in Paragraph (1).
Philippines	The New Central Bank Act of 1993 - Republic Act No.76S3 (RA76S3)	The primary objective of the Bangko Sentral is to maintain price stability conducive to a balanced and sustainable growth of the economy. It shall also promote and maintain monetary stability and the convertibility of the peso.
Singapore	The Monetary Authority of Singapore Act (Chapter 186); Last Amendment: 15 January 2010	The principal objects of the Authority shall be:(a) to act as banker to, and financial agent of, the Government; (b) to promote, within the context of the general economic policy of the Government, monetary stability and credit and exchange conditions conducive to the growth of the economy; (c) to foster a sound and progressive financial services sector; (d) to exercise the powers and to perform the duties and functions that are transferred to the Authority under section 21; and (e) to exercise the powers and to perform the duties and functions conferred on the Authority under the BusinessTrusts Act 2004 and by any other written law.
United States	The Federal Reserve Act; last Amendment: 2010	The Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate longterm interest rates. [12 USC 225a. As added by act of November 16, 1977 (91 Stat. 1387) and amended by acts of October 27, 1978

Table 1. Objectives of monetary policy : International Experience

Country	Objectives of Monetary Policy
	Where the objective is stated
Argentina	Central Bank of the Argentine Republic's Charter; last Amendment : September 2003 BCRA shall primarily and essentially maintain the value of legal tender. BCRA shall be empowered to regulate the amount of money and the level of lending within the economic system and to issue monetary, financial and exchange rules according to the legislation in force.
Chile	Law 18,840, Basic Constitutional Act of the Central Bank of Chile; Last Amendment: 2010 The Bank shall have as its purposes to look after the stability of the currency and the normal functioning of the internal and external payment systems. The authority of the Bank, for these purposes, shall include that of regulating the amount of currency and credit in circulation, the performance of credit transactions and foreign exchange, as well as the issuance of regulatory provisions regarding monetary, credit, financing and



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(92 Stat. 1897); Aug. 23, 1989 (102 St at. 1375); and Dec. 27, 2000 (114 Stat. 3028).]

Euro Area Consolidated Version of the Treaty on the Functioning of the European Union

1. The primary objective of the European system of Central Banks (herein after referred to as 'the ESCB') shall be to maintain price stability. Without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 119.

Source. IMF Monetary and Capital Markets Department.

Section III: Monetary Policy Committee (MPC)

The Commission has taken a major step by proposing a seven-member empowered MPC. In particular, five external members are envisioned to be "independent" experts in the field – and each will have one vote – is a move towards making the monetary policy decisions more scientific, and based on economics rather than politics.

There are at least three pre-conditions for truly empowering the MPC. First, it is imperative that the external members are truly impartial, are trained in the profession, and they are not serving the Government in any form. The fundamental shift required in the conduct of monetary policy in India is to make the RBI accountable to the public rather than to the Government. RBI will need to convince the panel of experts, and not the Government of their thinking on monetary policy. The selection of an independent panel of experts might pose a real challenge given that three of them will be straight appointments by the Government without any consultation even with the Governor.

Second, the members of the MPC should have reasonable long terms of office (typically 4 to 5 years or more) and should not be subject to removal from office except under extraordinary circumstances such as malfeasance or criminal behavior. In this context, it would be useful for the draft law to specify clearly the terms and length of appointment of the MPC.

Third, in the Indian context, it might be beneficial to release the voting record, and the rationale statements of the MPC members sooner rather than with a three week lag, as proposed by the Commission. The shorter the lag, the more accountable will the MPC be to the public. Also it might be hard for the Government to insist for example on a rate cut when inflation is high and rising, since the public will know that a rate cut might go against expert advice.

Section IV: Do the Recommendations Enhance Central Bank Independence?

Grilli, Masciandaro, and Tabellini (1991) have defined political autonomy as the ability of the central bank to select the final objectives of monetary policy.³ The authors assign to the central banks one point for each of the following eight criteria if satisfied: (i) the Governor is appointed without Government involvement; (ii) the Governor is appointed for more than five years; (iii) the board of directors is appointed without Government involvement; and (iv) it is appointed for more than five years; (v) there is no mandatory participation of Government representatives in the board (vi) no Government approval is required in formulating monetary policy (vii) there are requirements in the charter forcing the central bank to pursue monetary stability amongst its primary objectives; and (viii) there are legal protections that strengthen the central bank's position in the event of a conflict with the Government.

The draft law does not seem to make significant progress on any of these aspects to increase political autonomy of the central bank. For example, the Governor will continue to be appointed with Government involvement, typically for a period of 5 years (with extension). Similarly, the Board will also continue to be appointed by the Government. The Board will have 50 percent of its members from the executive. Government itself will decide the objectives of monetary policy – contradicting the principle of no Government approval in the formulation of monetary policy. Finally, the commission does not envision any legal framework to strengthen



³ Grilli, V., D. Masciandaro, and G. Tabellini, 1991, "Political and Monetary Institutions and Public Financial Policies in the Industrial Countries," *Economic Policy*, Vol. 13, pp. 341–92.



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the central bank's position if it is in disagreement with the Government.

Section V: Instruments of Monetary Policy

The Report envisages that “monetary policy can generally be conducted using only one instrument, the control of the short-term policy rate”. The number of instruments, however, cannot be decided independently of the objectives. If the objectives that the Central Government wants to target are more than one, then the optimal number of instruments is likely to be higher than one as well. In that sense, the recommendation might be a bit redundant. Emerging markets typically might want to target the exchange rate in addition to inflation if large deviations from its equilibrium value tend to be costly due to Dutch disease, or balance-sheet effects. In that case, it might be optimal to use both exchange rate and policy rate: one instrument for each target.

Section VI: Accountability

The Commission recommends that the Central Government along with specifying the nominal target also define a substantial failure to achieve the target. In case of a failure to achieve the target, the Governor would write a letter to the Government explaining why the target was missed; and a proposed plan of action with a concrete time horizon to achieve the target. This mechanism of accountability was originally put together for the Bank of England in 1997, whereby it included a requirement for an open letter written by the Governor on behalf of the MPC to the Government if inflation deviated from target by more than 1 percentage point in either direction. Out of 27 countries operating a fully-fledged inflation-targeting regime, 7 have an open letter as part of their accountability mechanism.

Another important accountability mechanism, more commonly used by inflation-targeters, is parliamentary hearings, whereby the central bank appears before parliament to provide testimony on monetary policy. All industrialized countries, and one half of

emerging and developing countries have some form of parliamentary hearing as part of their inflation-targeting framework. In the context of India, having the central bank testify before the legislature could have been a major step towards making the central bank to the people, and not to any ruling government.

Section VII: Conclusions

To summarize, the essence of the FSLRC recommendations in the area of monetary policy can be evaluated on three markers: transparency; autonomy of the central bank, and its accountability. On transparency, the recommendations indeed aim to do a big overhaul by proposing to release the statement of monetary policy objectives and the voting record/rationale statements of MPC into the public domain.

The recommendations, however, may fall short of achieving fully the goals of autonomy and accountability.

The draft law does not seem to make any substantial progress to increase the political autonomy of the central bank as measured by standard measures of central bank independence. In particular, the proposal for the central bank objectives and numerical targets to be decided by the Central Government is likely to be in conflict with the principle of giving “goal independence” to the central bank – goal independence being defined as the central bank having the autonomy in setting the objective of monetary policy. Typically across countries, while the broad goal of a central bank (e.g. price stability) is enshrined in the law; the operational target say for an inflation-targeting central bank is decided by “consultations” between the central bank and the government. The current draft does not take a call on the difficult question of what the RBI should target – and leaves it to the Government to decide the objective as well as the operational target.

Had the broad goal of monetary policy been enshrined in the law, goal independence would have become a second order question, as is true in most advanced and emerging economies. Then the big question would have been whether the central bank has instrument independence – whether the central bank conducts monetary policy to achieve the inflation objective independent of government influence. Here, while the MPC in principle is envisaged to give instrument independence to achieve the objectives – in practice it will be a challenge to get the external members to be truly independent – given that at least three of them will be appointed straight by the government.

On accountability, the draft law could have been clearer about steps to enhance accountability to the “public” rather than to the government. While a written letter from the central bank to the government may be in the direction of increasing accountability to the government – accountability to the public would probably be greatly enhanced by allowing the RBI to testify before the legislature as is the practice in most advanced countries, and increasingly in emerging and developing economies. CS



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Consumer protection in the Indian Financial Code

➤ By creating clear principles based on definition of what constitutes consumer protection and the methods of addressing them the draft Indian Financial Code proposed by FSLRC introduces modern legislative practices and principles of good governance and law in financial regulation.

INTRODUCTION

The interests of the individual customer of financial products (as opposed to physical goods) has become the concern for two broad reasons:

- First, there are layers of intermediation in between the customer and the product provider in the form of distributors and agents, which make it difficult to pinpoint who was at fault in the customer making the purchase of the financial product.

Did the product brochure not clearly define the full details of the product features to the customer before purchase? Did the agent check that the product was suitable to the customer, or did they sell the product to the customer because of a bonus or a target? Was the company not able to deliver the promises they made to the customer at the time of delivery?

- Second, customers can only realise the outcomes from the product that they purchased long after their purchase. Mutual funds are typically three to five year products. Term insurance can have maturities that go up to 15 and 20 years. Pension outcomes are realised only after retirement. Unlike in the case of other goods and services, there is no immediate

feedback to the customer about the quality of their purchase.

Due to these reasons, financial sector regulation today, all over the world, has a new emphasis on customer protection. The form of the protection comes in two parts, where the first part focusses on ensuring that financial customers understand clearly what they are purchasing and whether it is suitable for the customer. The second part focusses on setting up systems of redressal for the customer once it is established that they have sound cause for grievance.

In most countries with developed financial systems and markets, the second area - that of customer redressal - is reasonably well established, while the first area is being developed. In India, traditional financial market systems neither have a focus on ensuring that products sold are suitable for customers, nor are there well-established and well-tested redressal systems for aggrieved customers. The Indian Financial Code (referred to as IFC, henceforth) that is the outcome of two years of deliberations by the Financial Sector Legislative Reforms Commission (henceforth referred to as FSLRC) makes explicit provisions to take care of both of these lapses.

THE PROBLEMS IN FINANCIAL DISTRIBUTION

The main financial products available to retail customers in India,

* The views in this article are authors' own and not those of their employers.



bank savings, mutual funds, small saving schemes, insurance and pensions are sold by agents. These include Independent Financial Advisers (IFAs) who might be banks and brokers who are paid by the product provider i.e. the insurance company or the mutual funds. This implies that for every policy sold, the product provider pays the agent a commission. The only exception is the NPS where pension funds are restricted to only managing investments. Customer interface is handled by entities called as points-of-presence (PoPs).

The objective of distributors is to achieve maximum commissions. The product that provides high commissions is the product that gets sold regardless of whether it is suitable for the customer. As the customer is often ignorant about financial products, and does not pay the distributor directly, the distributor has no incentive to service the customer.

In recent times, a lot has been written about the mis-selling that has occurred in Indian finance. For example, it has been estimated that the lack of clarity about fees by mutual funds and mis-selling of ULIPs by insurance agents have caused losses of more than trillion rupees to the customer.

It is not that such mis-selling has occurred in an environment of no regulation. Financial regulation in India is oriented towards product regulation, i.e. each product is separately regulated. For example, fixed deposits and other banking products are regulated by the Reserve Bank of India (RBI), small savings products by the Government of India (GoI), mutual funds and equity markets by the Securities and Exchange Board of India (SEBI), insurance by the Insurance Regulatory Development Authority of India (IRDA) and the New Pension Scheme by the Pension Fund Regulatory and Development Authority (PFRDA).

All these regulators have a key mandate to protect the interests of customers - these may be investors, policy holders or pension fund subscribers, depending on the product. Each regulator have their own rules on registration, code of conduct, commissions and fees to monitor the product providers and distributors. RBI, SEBI and IRDA have grievance redress procedures through sector financial Ombudsmen services. However, while these are present in letter, the evidence that they are effective in providing relief to customers of these sector in practice is very weak. In addition, financial customers have access to redressal under a set of other legislation including the Sale of Goods Act, 1930, the Consumer Protection Act, 1986, and the Competition Act, 2002. The Consumer Protection Act 1986 enables the creation of consumer courts for more speedy redressal of individual customer grievance, that are outside of the sector Ombudsmen and other dispute resolution mechanisms set up by the sector regulators.

However, the current regulations are not geared towards engendering a system that keeps the customers interest in mind at the point of sale. An objective definition of good advice is

» With multiple regulators in India, there are varying regulatory requirements which often leads to regulatory arbitrage. An example of this is the similarity between mutual funds and ULIPs, the first which is regulated by the SEBI and the second which were regulated by the IRDA.

difficult in the best of circumstances. In addition, there is no basic definition of whether a product is suitable for a specific customer is not in place in India. There is no standard to which distributors can be held responsible for what they sell because the basic principle of *caveat emptor* holds in all cases and becomes the cornerstone of defense for agents, distributors and product providers in the financial sector.

With multiple regulators in India, there are varying regulatory requirements which often leads to regulatory arbitrage. An example of this is the similarity between mutual funds and ULIPs, the first which is regulated by the SEBI and the second which were regulated by the IRDA. SEBI imposes very different levels of disclosure and ongoing transparency on the outcomes of mutual funds compared to the standards of disclosure required by the IRDA. In an example on differing standards of regulation on distributors, employees of banks who come under regulation by the RBI can distribute financial products such as mutual funds and insurance products, without adhering to the rules and regulation of SEBI and IRDA.

Thus, while there has been a ban on upfront commissions on the sale of mutual funds, a cap on commissions on the sale of ULIPs, and greater responsibility on advisors in recent times, the rules on how products must be sold to customers remain fragmented across the different sectors. This is exacerbated in the case of financial planners. This segment works across the different product sectors, is very small, and fall between the regulatory cracks, since no one regulator thinks holistically about how these planners must treat their customers when they are sold a mutual fund or an insurance product or a pension product.

Another disconcerting development in Indian finance is a parallel system for low-income workers. Micro-finance institutions, for example, have become the de-facto distributors of credit and other financial products to poor households. There is an effort towards bringing these under a separate legislation through the Micro Finance Institutions (Development and Regulation) Bill,



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Consumer protection in the Indian Financial Code

» The approach of the IFC on creating special rights for retail consumers is based on the conclusion that there is a market failure in financial services. The typical retail consumer is usually not in a position to determine the long term implications of financial services. This may include details of fees payable, the risks attached with the service, implications in the longer term, etc.

2011. As distributors of financial products, they invariably also play the role of advisors. However, there does not seem to be adequate appreciation of this function in the regulatory debate. Organisations such as chit-funds appear to be completely out of the purview of any financial sector regulator.

For any market to work, it is critical that the interests of the customer are protected. One step that regulation can and has started to deal with is to align the interests of the distributor with that of the customer. The world over, this is being done both through improved remuneration structures within the product provider firms, and through greater responsibility *via* regulation. The new remuneration structures move away from an emphasis of higher rewards to the sales persons for mere sales of products, but for lower customer complaints and law suits as a consequence of those sales. The greater responsibility *via* regulation is implemented by putting the onus of the suitability of the product centrally on the product provider rather than the customer, which indicates a move away from the principle of *caveat emptor*, or 'buyer beware'.

THE IFC APPROACH

The IFC has approached consumer protection as a problem which has two parts. As in the Consumer Protection Act, 1986, it sets up a system to redress consumer complaints after an event has occurred. However, unlike most other Indian legislation, IFC also proposes a system to prevent consumer interests being undermined before a financial product or service is sold.

The IFC creates the following legislative rights for all consumers of financial services as follows:

1. The right to expect professional diligence from financial service providers.
2. Protection against unfair contract terms and unfair conduct.
3. Right that the financial service provider shall maintain the



confidentiality of the information provided by the consumer.

4. Right to get fair disclosure from the financial service provider.
5. Right to a dispute settlement system that must be maintained by the financial service provider.

The draft law also carves out unsophisticated and small consumers from the larger set of consumers of financial services. This is done to provide extra legal protection to such consumers. For retail consumers, the draft law provides for three further rights:

1. The right to receive suitable advice before a financial service is sold to the retail consumer.
2. The right that financial advisors of the consumer does not have any conflict of interest in any advice provided.
3. The right to access a special redress system created under law and maintained by the financial regulators.

The right to receive suitable advice requires the financial service provider to collect and analyse relevant information about the retail consumer and determine whether the financial service is appropriate for the retail consumer.

The approach of the IFC on creating special rights for retail consumers is based on the conclusion that there is a market failure in financial services. The typical retail consumer is usually not in a position to determine the long term implications of financial services. This may include details of fees payable, the risks attached with the service, implications in the longer term, etc.

The regulator has been provided with three important principles which will guide its regulation making process for consumer protection which will determine the level of care the financial



service provider must undertake before selling a financial service:

1. The level of information the consumer has and the ability of the consumer to process the information.
2. The nature and quantum of risk involved in the financial service.
3. The extent the retail consumer depends on the financial service provider to make the decision to purchase the financial service.

For *post facto* determination of violation of consumer rights under the draft law, the financial sector regulators are required to establish a dispute settlement system. This settlement system is called the Financial Redress Agency.

It will be set up on lines of some Ombudsman systems present in the banking and insurance sector today but will have some additional features. The features visualised for the Financial Redressal Agency include:

1. The agency will be required to maintain a system taking in complaints in various forms like electronic, telephonic, written or in person.
2. It will be required to maintain a completely electronic system so that all disputes can be resolved without requiring any party to be physically present at any place.
3. To avoid conflicts of interest the redress agency will have separate management and control of the redress system.
4. The redress agency will accept complaints from all financial services, thereby removing the requirement of retail consumers to find the appropriate financial service ombudsman.
5. The redress agency will first try to mediate the dispute and in the event of failure of the mediation provide and order

through a process of adjudicating the merits of the dispute.

6. The redress agency will also maintain detailed records of complaints and provide them to the financial regulators. This information will then be used to identify practices which lead to disputes and be an input in creating further regulations governing consumer protection.

The FSLRC noted that excessive consumer protection also has negative consequences of which two of the more important ones are that: (1) It can retard innovation in the financial markets. (2) The cost of determining appropriate financial service for the retail household increases the cost of the financial service as all costs are ultimately borne by the consumer. As a consequence, the IFC creates the following checks to prevent excessive consumer protection regulations:

1. Whenever a financial service regulator makes a regulation on consumer protection it must estimate the cost of compliance with the regulation, especially the final costs to be borne by the consumers.
2. There is no requirement to determine appropriate financial products for sophisticated and large consumers. This will allow financial service providers to introduce innovative products where the consumer is expected to have the requisite expertise to determine the requirement of the financial service.
3. There is no requirement to obtain prior approval from the regulator before introducing a new financial service. The draft law uses a 'file-and-use' approach where the financial service provider has to provide the details of the financial service to the regulator and then can immediately start selling the financial service. The regulator however, has the right to intervene within a specified time if it determines that the financial service does not comply with the requirements of the law.
4. The regulator is required to use the regulator instrument which causes the least disruption when a financial service is found to be inappropriate for a certain situation. This prevents the regulator from 'banning' a financial service at the first instance.

CONCLUSION

The approach of the report of the FSLRC and the draft IFC is quite similar to a number of legislative changes which have happened in many other countries, but have not been introduced in India. The principles of unfair conduct and unfair terms have been introduced in many legislations in Australia, Canada, the U.K. and the USA. These changes reflect the current thinking on consumer protection principles in these jurisdictions. While present Indian laws sometimes contain a general principle requiring the regulator to protect the interests of the consumer, by creating clear principles based definition of what constitutes consumer protection and the methods of addressing them the draft law introduces modern legislative practices and principles of good governance and law in financial regulation.

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FSLRC: Transformational and Pioneering; But will it set the cat among the pigeons?

➤ If the revolutionary changes proposed by the FSLRC have to have an impact on the broader financial sector in India in the future, there would have to be widespread changes in the functioning of the Government and the Judiciary. It remains to be seen if such a transformation would be possible or will this Report live to be only an exemplary intellectual endeavour.

The Financial Sector Legislative Reforms Commission (FSLRC) was set up by the Indian Government in pursuance of the announcement made in Union Budget 2010-11, to examine the regulatory structure and the laws governing the financial sector. The FSLRC was founded on the assumption that financial sector regulation and oversight in India needed to be overhauled to keep pace with a rapidly evolving financial sector in India and abroad and to assess its soundness for addressing the emerging requirements in a rapidly changing world.

Today, India has over 60 Acts and multiple rules/ regulations that govern the financial sector. The genesis of many of the Acts, rules, regulations that govern the financial sector in India can be traced back more than half a century in some cases. The RBI Act and the Insurance Act were enacted in 1934 and 1938 respectively and the Securities Contracts Regulation Act, which governs securities transactions, was legislated in 1956. Let's take the banking regulations, they were established before ATMs, credit cards, internet banking, investment

advisory services, private banking, selling mutual funds and debt products, direct selling agents, vehicle loans, derivatives and a whole lot of other new products and services existed. These Acts have been amended time and again to keep pace with a changing reality. The result is a framework which is at times complex, ambiguous, inconsistent, and occasionally open to regulatory arbitrage.

Systems Prevalent in other Countries

There are a number of systems in place in other countries with respect to financial regulation. The United States has a Financial Stability Oversight Council that looks at monitoring risks to the US financial system and being a consultative council to facilitate communication among financial regulators. The United Kingdom formerly had a unified regulator, the Financial Services Authority formed in 1997. The Financial Services Authority has been disbanded and replaced by the Financial Services Act. This Act gives the Bank of England responsibility for financial stability, bringing together macro and micro prudential regulation, creates a new regulatory



» One of the key recommendations the FSLRC has proposed is a sector-neutral Indian Financial Code to replace multiple and old financial sector laws, splitting the regulation between the Reserve Bank of India and a new 'Unified Financial Regulatory Agency' (UFRA) that will oversee the remaining financial sector.

structure consisting of the Bank of England's Financial Policy Committee, the Prudential Regulation Authority and the Financial Conduct Authority. The Financial Conduct Authority is responsible for regulating and policing the banking system. The Prudential Regulation Authority carries out the prudential regulation of financial firms, including banks, investment banks, building societies and insurance companies. The Australians basically have two regulatory bodies - the Australian Prudential Regulation Authority (APRA) that governs the financial institutions and the Australian Securities & Investments Commission (ASIC) that governs corporate conduct.

Key Recommendations of FSLRC

There clearly is no 'one size fits all' situation with regard to a subject as complex as regulation especially in a country like ours which has its own inherent systemic issues. It was against this backdrop, that the FSLRC, headed by Justice Srikrishna, was set up to review and recast the legal and institutional structures of the financial sector. The FSLRC presented its Report to the Finance Minister in March this year. The Report looked at two important aspects of the Financial Sector- the numerous laws governing the financial sector and the multiple regulatory setups across the sector. Some of the recommendations of the Commission are truly game changing.

One of the key recommendations the FSLRC has proposed is a sector-neutral Indian Financial Code to replace multiple and old financial sector laws, splitting the regulation between the Reserve Bank of India and a new 'Unified Financial Regulatory Agency' (UFRA) that will oversee the remaining financial sector. UFRA will be solely responsible for the oversight of the securities and commodities market, insurance and pensions. In short, the Securities and Exchange Board of India (SEBI),

Forward Markets Commission (FMC), Insurance Regulatory and Development Authority (IRDA) and Pension Fund Regulatory and Development Authority (PFRDA) would be merged into this new agency. The RBI would have the role of a macro-prudential regulator. Such a unified structure would ensure more information sharing and hence better flow of information for consumers. The present arrangement has gaps for which no regulator is in charge and certain overlaps and these problems may increase. Financial firms will harness technological and financial innovation, trying to get by under the framework which suits them. However, there could be issues in the integration of current market regulators as power centres would decrease and along with them, the number of powerful officers. It may even be that various departments of the unified regulator act as quasi regulators. A welcome and much needed recommendation is greater accountability of regulators, together the UFRA and the RBI will have to do a cost benefit analysis of any proposed regulation and assign an external or global agency to review their performance after three years.

The Commission has recommended a change from regulation with sectoral focus like mutual funds, insurance, capital markets and into nine broad heads namely - consumer protection, micro-prudential regulation, resolution, capital control, systemic risk, development, monetary policy, public debt management and foundations of contracts and property. Today, each agency like the SEBI or the IRDA looks after one type of financial service or one area. In the FSLRC's recommendations, this would be replaced by a horizontal structure whereby the basic regulatory and monitoring functions of all areas would be done by a Unified Financial Regulatory Agency (UFRA). All consumer complaints, regardless of the area will be handled by a Financial Redressal



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Agency (FRA). There will be a single tribunal, the Financial Sector Appellate Tribunal (FSAT) which will hear appeals regarding the entire sector.

Such an approach emphasises that regulation should flow from the economic and legal concern that the law seeks to address and should significantly reduce regulatory arbitrage, gaps and overlaps. The regulators will draft sector specific subordinate regulation which will have to be consistent with the broad principles. Principles can't be taken advantage of by changing technology and innovation, however, subordinate regulations will have to be revised by the regulators and interpretation of principles by the judiciary would set precedents which may change as the financial world changes.

This new horizontal structure should serve the interests of the consumers of financial services much better. However, there may be practical issues, a principles-based approach may open every regulation drafted by a regulator to judicial challenge.

An important feature of the Report from the common man's point of view is the consumer focus—there are recommendations like having a single redressal forum for the first time in India. The Financial Redressal Agency (FRA) proposes to shift the onus of professional diligence and protection against unfair contract terms and conduct on the seller. As a result, financial service providers will have a greater responsibility to protect consumer interests and consumers shall have the right to receive suitable advice and access to an agency for redressal of grievances. There is even a recommendation for suitable compensation to consumers in case of violation by financial service providers. For the first time, consumer protection is proposed to be part of law.

A consumer of finance doesn't care very much which regulator is regulating the company he is transacting with. Banks, by selling conflicting sectoral products — banking and housing finance, or mutual funds and insurance, for instance — often end up confusing consumers and potentially mis-selling products that help their bottom line and that of advisors rather than consumers. In a process that often designed with some haziness, consumers seeking protection end up buying not term cover but an endowment, not a mutual fund but a ULIP. The cost is thrown on the consumer, for whom, the whole sector has been designed, in the first place.

Another important recommendation is that RBI will be divested of its powers over management of public debt, which is currently one of its subsidiary functions. The Debt Management Bill proposes a separate debt management office to be attached to the finance ministry.

It also recommends empowering the existing Financial Stability and Development Council, by making it a statutory body responsible for managing risk and crises in the financial system. The Report also recommends setting up of a financial data cell, which will look out for systemic risk in the financial sector, especially the ones arising out of the financial conglomerates.

The Commission further recommends that policy decisions shall be made by a council comprising two members of the RBI along with external members from the Government. The other recommendation is that the Government in consultation with the Governor will give the central bank quantifiable monitorable objectives; the RBI will need to state reasons why it has failed to achieve the objectives and what remedial action it will take to achieve these objectives. Also, the Commission proposes to keep regulation of capital inflows with the



The regulators will draft sector specific subordinate regulation which will have to be consistent with the broad principles. Principles can't be taken advantage of by changing technology and innovation, however, subordinate regulations will have to be revised by the regulators and interpretation of principles by the judiciary would set precedents which may change as the financial world changes.

Government and outflows with the RBI. However, if the RBI has no say in inflows it could be constrained to take monetary policy measures, both direct and indirect and administrative actions to deal with the consequences of such flows. Such a move may also create a super-regulator in the finance ministry and take away a lot of the autonomous powers of the RBI. NBFC's and Housing Finance Companies are also to be kept outside the purview of RBI. This effectively means there will need to be far more cooperation and coordination between the RBI and the Finance Ministry. RBI might be uncomfortable with the fact that their judgment and policy making will not be unilateral anymore and will be driven by the Government's, particularly the Finance Ministry's views. The autonomy and independence of the Council will need to be clear. It needs to be examined who the members of the Council are and will they be independent or part of the Government or RBI. In the absence of a clear arrangement, bias of council members towards a particular side could prove detrimental for decision-making. Quantifiable targets to be given to the RBI are a first, and it will need to be seen how this concept is executed. There is a possibility that introducing Government involvement in the RBI's decision-making might lead to bureaucratic red tape. In a council that will largely have Government representatives, it needs to be ensured that political loyalties and ambition do not colour policy decisions of the RBI.

Dissents

There are notes of dissent within the Report mainly on points like capital controls, role of the Ministry of Finance, principles based approach, regulation of NBFCs and authorization requirements. These raise a variety of interesting and valid points some of which have been covered above. These dissents are valuable as they highlight the various view points within the commission and add insights and inputs to the broader debate that is required on this report.

Scope of the Recommendations

The Report is transformative in many ways and has a consumer centric approach which is very welcome. The Report's scope was very wide and it does not limit itself to recommendations, it has also presented the draft law — the Indian Financial Code. There are 16 Acts of Parliament that will have to be repealed including The Securities Contracts (Regulation) Act, 1956, The Securities and Exchange Board of

India Act, 1992, The Reserve Bank of India Act, 1934, The Insurance Act, 1938, The Banking Regulation Act, 1949 and others, 50 Acts would need to be amended. The Report's recommendations are, in many cases, quite a distance away from the current position and will surely create a lot of discussion and debate before being enacted.

Just merging existing setups under a single banner may not actually eliminate the regulatory arbitrage, as would be obvious to anyone who is familiar with the gap between theory and practice. There is a practical fear that SEBI, IRDA, FMC and PFRDA etc. could easily continue operating as isolated departments of a nominally unified financial regulator.

While this new horizontal structure could serve the interests of the consumers of financial services much better, there may be practical issues to contend with. A principles-based approach may open every regulation drafted by a regulator to judicial challenge. Hence, principle based approach to regulation may be perhaps a little bit ahead of their time in India. Our system has worked for too long on rule based regulation and the judiciary may not be ready for the slew of cases that may follow in case such an approach is adopted.

Other recommendations which may prove to be difficult to get through could include repealing existing laws which provide special privileges to entities like Life Insurance Corporation (LIC), State Bank of India (SBI), associate banks of SBI, EXIM Bank, National Housing Bank, NABARD, SIDBI and General Insurance Corporation to create a level playing field between regulated entities, irrespective of their ownership structure.

Conclusion

It must be remembered that India is used to incremental changes and evolution as opposed to a revolution. The Commission could have focused on evolution, less reform but better acceptability and chances of implementation, but in many ways, it chose revolution. If these changes have to have an impact on the broader financial sector in India in the future, there would have to be widespread changes in the functioning of the Government and the Judiciary. It remains to be seen if such a transformation would be possible or will this report live to be only an exemplary intellectual endeavour! If implemented, it will definitely set the cat among the pigeons!!

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Financial Consumer Protection Under the Draft Indian Financial Code

➤ The FSLRC has recommended the adoption of a consolidated, non sector specific consumer protection framework for the entire financial system that will empower and require the regulators to pursue consumer protection for the financial activities regulated by them and accordingly the draft Indian Financial Code has approached the problems of consumer protection from two fronts namely prevention and cure.

INTRODUCTION

“There is a strong link between protecting consumers from abusive products and practices, and safety and soundness of financial system.”¹

Around the world, about 150 million new consumers join the financial market each year. The need and means to protect financial consumers has become an important issue for all countries.

World over the focus has increased on financial consumer protection with the release of G20 High Level Principles on Financial Consumer Protection². The G20 has endorsed high level principles for financial consumer protection and states that

“All financial consumers should be treated equitably, honestly and fairly” and “special attention should be dedicated to the needs of vulnerable groups”. The Principles, which are voluntary and designed to complement existing international financial principles or guidelines are applicable across all financial market sectors. They cover ten key areas:

- i. legal, regulatory and supervisory framework;
- ii. the role of oversight bodies;
- iii. the equitable and fair treatment of consumers;
- iv. disclosure and transparency;
- v. financial education and awareness;
- vi. responsible business conduct of financial services providers and authorized agents;
- vii. the protection of consumer assets against fraud and misuse;
- viii. the protection of consumer data and privacy;
- ix. complaints handling and redress; and
- x. competition.

The global financial crisis has highlighted the need for more effective financial consumer protection measures as consumers face more sophisticated and complex financial markets. The availability of information has grown both in quantity and complexity and the pace of change, in terms of new product

¹ (Nagavalli Annamalai, a lead counsel at the World Bank).

² The Group of Twenty (G20) Finance Ministers and Central Bank Governors was established in 1999 to bring together systemically important industrialized and developing economies to discuss key issues in the global economy. The G20 consists of the Ministers of Finance and Central Bank Governors of 19 countries, namely: Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, Republic of Korea, Turkey, United Kingdom and United States of America, as well as the European Union, represented by the rotating Council presidency and the European Central Bank.



developments, product innovations, and technological advances, has increased dramatically. The complexity of financial markets and the existence of market failures in the form of information asymmetries, market externalities and differences in the bargaining powers of consumers and service providers, have also created the need for a higher standard of protection for financial consumers.

Financial Consumer Protection under the Draft Indian Financial Code

Currently, the strategy in Indian finance is focused on the doctrine of caveat emptor - let the buyer beware. Beyond protection from fraud and provisions to ensure full disclosure, consumers are generally left to their own devices. The FSLR Commission felt that consumers of financial services are more vulnerable than consumers of ordinary goods and services, hence higher standards of protection ensured by special efforts of the State are justified. The vulnerability of consumers reflects a major gap in Indian financial regulation, which has to be addressed. As such, the Commission recommended the adoption of a consolidated, non-sector-specific, consumer protection framework for the entire financial system that will empower and require regulators to pursue consumer protection for the financial activities regulated by them. In this context, the draft Code has approached the problems of consumer protection on two fronts: prevention and cure.

In India, so far, the financial regulatory structure has been defined by sector, with multiple laws and often multiple agencies covering various sectors. This has led to inconsistent treatment, and regulatory arbitrage. Regulators have sometimes been lax in developing required protections out of notions of facilitating growth in the industry. These problems could be reduced by having a single principles-based law which would cover the entire financial system. The Commission felt that an overarching

» The consumer protection part of the Code has three components: an enumerated set of rights and protections for consumers, an enumerated set of powers in the hands of the regulator, and principles that guide what power should be used under what circumstances. The details of consumer protection would, of course, lie in the subordinated legislation to be drafted by financial regulators.

principle based body of law would allow regulatory flexibility, consistent treatment of consumers across all aspects of their engagement with the financial system, fairness and ultimately a more stable financial system.

The basic objective of consumer protection is to guard consumer interests and to promote public awareness. While pursuing these objectives, the regulator is empowered to make regulations to determine the manner and extent to which the protections under the law will apply to the users of different financial products and services.

Part IV (i.e. Chapters 17 to 31) of the Draft Code deals with Financial Consumer Protection.

The consumer protection part of the Code has three components: an enumerated set of rights and protections for consumers, an enumerated set of powers in the hands of the regulator, and principles that guide what power should be used under what circumstances. The details of consumer protection would, of course, lie in the subordinated legislation to be drafted by financial regulators.

Objectives and Principles

The objectives of consumer protection are to guard consumer interests and to promote public awareness.

The Regulator should discharge its functions and exercise its powers with the objective of – protecting and furthering the interests of consumers and promoting public awareness of matters relating to financial products and financial services.

The Regulator should have regard to the following principles while discharging its functions and exercising its powers –

- a) the level of protection required by a consumer and the level of care required from a financial service provider, which may vary depending on –
 - i. the level of knowledge, experience and expertise of the



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Financial Consumer Protection Under the Draft Indian Financial Code



Essential to any effective framework is the existence of an oversight body that has the mandate, resources and powers to effectively protect consumers of financial services. Generally consumer protection has been seen as less of a priority and been subservient to prudential supervision. For ensuring financial consumer protection, regulators should be able to set minimum standards for financial products to ensure fair contract terms and charges, and comprehensibility.

- consumer;
- ii. the nature and degree of risk embodied in the financial product or financial service being availed by the consumer;
- iii. the appropriateness of a financial product or financial service for different classes of consumers; and
- iv. the extent of dependence of the consumer on the financial service provider;
- b) consumers must ordinarily take responsibility for their transactional decisions;
- c) any obligation imposed on a financial service provider should be reasonably commensurate with the benefits for consumers, considered in general terms, which are expected to result from the imposition of that obligation;
- d) competition in the markets for financial products and financial services is desirable in the interests of consumers and therefore –
 - i. barriers to competition owing to adverse effects of regulatory actions should be minimised; and
 - ii. there should be competitive neutrality in the treatment of financial service providers;
- e) facilitating access to financial products and financial services is desirable in the interests of consumers; and
- f) innovation in financial products and financial services is desirable in the interests of consumers.

If the Regulator perceives a conflict between any of the principles contained above, or if more than one interpretation is possible, then the Regulator must reconcile and manage the conflict giving preference to the principle which would be the most relevant for furthering its objectives.

The Regulator must also take into account information received from the Redress Agency while discharging its functions and exercising its powers. The Redress Agency must, through the Data Centre, share information on complaints received, considered, settled and determined by it, with the Regulator on an ongoing basis, in order to facilitate the Regulator in effectively carrying out its functions.

Protection of Consumers

The Commission has suggested six types of protection for all consumers –

i. Right to professional diligence

Consumers should be assured that any interaction that they have with a financial service provider will be carried out in good faith and in line with honest market practices.

A financial service provider must exercise professional diligence while entering into a financial contract or discharging any obligations under it.

“Professional diligence” means the standard of skill and care that a financial service provider would be reasonably expected to exercise towards a consumer, commensurate with –

- (a) honest market practice;
 - (b) the principle of good faith;
 - (c) the level of knowledge, experience and expertise of the consumer;
 - (d) the nature and degree of risk embodied in the financial product or financial service being availed by the consumer; and
 - (e) the extent of dependence of the consumer on the financial service provider.
- ii. **Protection against unfair contract terms**
- The Draft Code declares unfair terms in financial contracts that have not been explicitly negotiated between the parties to be void.
- A term is unfair if it –
- a) causes a significant imbalance in the rights and obligations of the parties under the financial contract, to the detriment of the consumer; and
 - b) is not reasonably necessary to protect the legitimate interests of the financial service provider.

The factors to be taken into account while determining whether a term is unfair, include –

- a) the nature of the financial product or financial service dealt with under the financial contract;
- b) the extent of transparency of the term;
- c) the extent to which the term allows a consumer to compare it with other financial contracts for similar financial products or financial services; and
- d) the financial contract as a whole and the terms of any other contract on which it is dependent.

If a term of a financial contract is determined to be unfair, the parties will continue to be bound by the remaining terms of the financial contract to the extent that the financial contract is capable of enforcement without the unfair term.



Unfair terms in a financial contract will not apply if it –

- a) defines the subject matter of the financial contract;
- b) sets the price that is paid, or payable, for the provision of the financial product or financial service under the financial contract and has been clearly disclosed to the consumer; or
- c) is required, or expressly permitted, under any law or regulations.

The exemption under clause (b) above will not apply to a term that deals with the payment of an amount which is contingent on the occurrence or non-occurrence of any particular event.

iii. Protection against unfair conduct

The draft Code protects the consumer from any unfair conduct that is geared towards unfairly influencing the consumer's transactional decisions.

Unfair conduct in relation to financial products or financial services is prohibited.

"Unfair conduct" means an act or omission by a financial service provider or its financial representative that significantly impairs, or is likely to significantly impair, the ability of a consumer to make an informed transactional decision and includes –

- a) misleading conduct
- b) abusive conduct and
- c) such other conduct as may be specified.

Conduct of a financial service provider or its financial representative in relation to a determinative factor is considered misleading if it is likely to cause the consumer to take a transactional decision that the consumer would not have taken otherwise, and the conduct involves –

- a) providing the consumer with inaccurate information or information that the financial service provider or financial representative does not believe to be true; or
- b) providing accurate information to the consumer in a manner that is deceptive.

A conduct of a financial service provider or its financial representative in relation to a financial product or financial service is considered abusive if it –

- a) involves the use of coercion or undue influence; and
- b) causes or is likely to cause the consumer to take a transactional decision that the consumer would not have taken otherwise.

iv. Protection of personal information

Any information relating to an identifiable person belongs to that person and should be protected from unauthorized use. The draft Code provides safeguards for consumers to be able to access their personal information held by service providers and ensure that the information is accurate and complete.

"Personal information" means any information that relates to a consumer or allows a consumer's identity to be inferred, directly or indirectly, and includes –

- i. name and contact information;
- ii. biometric information, in case of individuals;
- iii. information relating to transactions in, or holdings of, financial products;
- iv. information relating to the use of financial services; or
- v. such other information as may be specified.

A financial service provider should –

- a) not collect personal information relating to a consumer in excess of what is required for the provision of a financial product or financial service;
- b) maintain the confidentiality of personal information relating to consumers and not disclose it to a third party, subject to certain exceptions.
- c) make best efforts to ensure that any personal information relating to a consumer that it holds is accurate, up to date and complete;
- d) ensure that consumers can obtain reasonable access to their personal information, subject to any exceptions that the Regulator may specify; and
- e) allow consumers an effective opportunity to seek modifications to their personal information to ensure that the personal information held by the financial service provider is accurate, up to date and complete.

A financial service provider can disclose personal information relating to a consumer to a third party only if – it has obtained prior written informed consent of the consumer for the disclosure, after giving the consumer an effective opportunity to refuse consent; the consumer has directed the disclosure to be made; the Regulator has approved or ordered the disclosure; the disclosure is required under any law or regulations; the disclosure is directly related to the provision of a financial product or financial service to the consumer; the disclosure is made to protect against or prevent actual or potential fraud, unauthorised transactions or claims.

v. Requirement of fair disclosure

There is a positive obligation on financial service providers to provide consumers with all the information that is relevant for them to make informed decisions. This includes disclosures required to be made prior to entering a financial contract and continuing disclosures regarding material changes to previously provided information or the status or performance of a financial product.

The draft Code empowers the regulator to make differing provisions regarding the types of information required to be disclosed, the manner in which disclosures must be made and the appropriate time-periods for making required disclosures.



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A financial service provider must ensure fair disclosure of information that is likely to be required by a consumer to make an informed transactional decision. In order to constitute fair disclosure, the information must be provided –

- a) sufficiently before the consumer enters into a financial contract, so as to allow the consumer reasonable time to understand the information;
- b) in writing and in a manner that is likely to be understood by a consumer belonging to a particular category; and
- c) in a manner that enables the consumer to make reasonable comparison of the financial product or financial service with other similar financial products or financial services.

A financial service provider should provide a consumer that is availing a financial product or financial service provided by it, with the following continuing disclosures –

- a) any material change to the information that was required to be disclosed at the time when the consumer initially availed the financial product or financial service;
- b) information relating to the status or performance of a financial product held by the consumer, as may be required to assess the rights or interests in the financial product or financial service; and
- c) any other information that may be specified.

vi. Redress of complaints

The draft Code has adopted a two-tier approach for the redress of consumer complaints - first at the level of the financial service provider and subsequently at the level of the redress agency (for retail consumers).

A financial service provider must have in place an effective mechanism to receive and redress complaints from its consumers in relation to financial products or financial services provided by it, or on its behalf, in a prompt and fair manner.

A financial service provider must inform a consumer, at the commencement of relationship with the consumer and at such other time when the information is likely to be required by the consumer, of –

- a) the consumer's right to seek redress for any complaints, including through the Redress Agency; and
- b) the processes followed by the financial service provider to receive and redress complaints from its consumers.

The Regulator should make regulations on the processes to be followed by a financial service provider to receive and redress complaints from its consumers in an effective manner. The regulations should provide for –

- a) the process to be followed by a consumer to file a complaint with a financial service provider and the time-period within which the complaint must be filed; and



- b) the process to be followed by a financial service provider to receive and redress complaints and the time limits for each step of the process.

Three additional protections for retail consumers have also been suggested by the Commission. These protections are needed due to the generally low levels of knowledge and experience of retail consumers.

i. Assessment of suitability

The draft Code requires that any person who advises a retail consumer in relation to the purchase of a financial product or service must obtain relevant information about the needs and circumstances of the consumer before making a recommendation to the consumer. The retail advisor should ensure that the advice given is suitable for the retail consumer after due consideration of the relevant personal circumstances of the retail consumer.

This is due to the fact that retail consumers may often be in a situation where they are not able to fully appreciate the features or implications of a financial product, even with full disclosure of information to them, thus enforcing the need for a thorough suitability assessment of the products being sold to them.

ii. Dealing with conflict of interests

In case of conflict, the interests of consumers should take precedence. This is to ensure good consumer protection so as to align the incentives of financial service providers with those of consumers.

A retail advisor should provide a retail consumer with



information regarding any conflict of interests, including any conflicted remuneration that the retail advisor has received or expects to receive for making the advice to the retail consumer and give priority to the interests of the retail consumer if the advisor knows, or reasonably ought to know, of a conflict between its own interests and the interests of the retail consumer; or the interests of the concerned financial service provider and interests of the retail consumer, in cases where the advisor is a financial representative. The information should be given to the retail consumer in writing and in a manner that is likely to be understood by the retail consumer and a written acknowledgement of the receipt of the information should be obtained from the retail consumer.

Powers and functions of the Regulator

Essential to any effective framework is the existence of an oversight body that has the mandate, resources and powers to effectively protect consumers of financial services. Generally consumer protection has been seen as less of a priority and been subservient to prudential supervision. For ensuring financial consumer protection, regulators should be able to set minimum standards for financial products to ensure fair contract terms and charges, and comprehensibility.

Under the Code, “Regulator” means the Reserve Bank or the Financial Authority, as applicable, in accordance with the allocation of responsibilities and “Regulators” means both the Regulators, as the context may require. “Financial Authority” means the Unified Financial Authority. The unified financial authority will implement the consumer protection provisions and micro-prudential provisions for the entire financial system, apart from banking and payments.

The general functions of a regulator will include –

- making regulations to carry out the purposes of the law;
- issuing guidance to financial service providers;
- supervising the conduct of financial service providers to ensure compliance with the law; and
- taking appropriate enforcement actions to deal with any violations.

In addition to the general functions of rule-making, supervision and enforcement, the draft Code also contains the following specific provisions –

i. Registration of individuals dealing with consumers

A financial service provider must ensure that no individual deals with consumers in connection with the provision of a financial product or financial service by it or on its behalf, including as an employee or financial representative, unless that individual is registered with the Regulator.

ii. Information on new products

A financial service provider should file specified information with the Regulator in relation to –
any financial product that it proposes to offer to consumers; or any material variation to a financial product already offered to consumers.

A financial service provider should not offer a financial product to consumers unless it has filed the specified information with the Regulator in respect of the financial product; and a period of sixty days has elapsed from the date of filing of the specified information with the Regulator. If the Regulator does not seek any additional information or clarifications, the financial service provider can commence offering the product to consumers after the expiry of the period of sixty days.

iii. Power to specify modifications

The regulator should be able to intervene in situations where certain features or aspects of a financial product or service are found to be harmful for consumers after it has been introduced in the market. The draft Code therefore allows the regulator to specify modifications in the terms and conditions of particular financial contracts or the process of delivering particular financial services. Such regulatory interventions must therefore be accompanied by a statement explaining the other interventions that were considered by the regulator to address the problem and the reasons why such interventions were found to be inadequate. This statement is in addition to the regular requirements of the regulation-making process.

Redress Agency

The draft Code envisages the creation of a new statutory body to redress complaints of retail consumers through a process of mediation and adjudication. The redress agency will function as a



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unified grievance redress system for all financial services. To ensure complete fairness and avoid any conflicts of interest, the redress agency will function independently from the regulators. This proposed redress mechanism will replace the existing financial sector-specific ombudsman systems such as the banking ombudsman and the insurance ombudsman although retail consumers will continue to have the option to approach other available forums, such as the consumer courts and regular courts.

The Redress Agency will redress the complaints of retail consumers, received directly or forwarded by the Regulator, in cases where –

- a) the complainant has already made a complaint to the respondent and –
 - i. the respondent has failed to resolve the complaint within the time period specified by the Regulators; or
 - ii. the complainant is not satisfied with the resolution of the complaint by the respondent;
- b) proceedings concerning the subject-matter of the complaint are not pending before any other competent court, tribunal or other authority set up by or under any other law for the time being in force; and
- c) a final order on the subject-matter of the complaint has not been made by any other court, tribunal or other authority.

The draft Code requires the redress agency to put in place adequate systems, processes, technology and infrastructure to enable it to efficiently discharge its functions. The Code also empowers the regulators to impose service level requirements on the redress agency with measurable targets on matters such as the total cost to parties for proceedings before it, compliance cost for financial firms and time-periods for each step of the redress process. The redress agency has the discretion to open offices anywhere in the country. A party that is dissatisfied with the adjudicator's orders will have the right to bring an appeal before the FSAT (Financial Sector Appellate Tribunal) and appeals from FSAT will lie before the Supreme Court.

Hence the Complaints handling and redress mechanisms should be accessible, affordable, independent, fair, accountable, timely and efficient.

Competition

Competition in financial services should be promoted by making it easier for consumers to search, compare and (where appropriate) switch between products and providers easily and at a reasonable cost (which is clearly disclosed).

Presently the Competition Commission of India (CCI) is the authority responsible for competition issues in India. It is charged with the duty of fostering greater competition in all areas of the economy. A structured mechanism for interaction and co-operation between the CCI and financial regulators is provided under the

Draft Code.

The CCI should review draft regulations issued by the regulator for public comments and provide its inputs on the potential competition implications, if any. The regulator must consider the representation made by CCI before finalizing the regulations.

The CCI should be empowered to monitor the effects on competition of any regulatory actions and practices on an ongoing basis. If the regulator and the CCI disagree on the course of action to be taken, the CCI will have the power to direct the regulator to take specified actions to address the negative effects on competition identified by the CCI.

The draft Code also requires the CCI and the regulator to enter into a memorandum of understanding to establish the procedures for co-operation between them, which may be modified by them from time to time.

Advisory Council on Consumer Protection

The Draft Code provides for creation of an advisory council on consumer protection to monitor and contribute towards the regulator's consumer protection objectives. The advisory council will be responsible for –

- a) making representations, in the form of advice, comments or recommendations, on the regulator's policies and practices;
- b) reviewing, monitoring, and reporting to the regulator on the effectiveness of its policies and practices;
- c) creating reports stating its views on all draft regulations published by the regulator.

Financial awareness

Financial awareness means the understanding and knowledge of members of the public regarding financial matters, including, the benefits of financial planning; rights and protections available to consumers of financial products and financial services; and features, costs, risks and benefits of different financial products and financial services.

The Regulator should undertake measures to promote financial awareness. The Regulator can establish a separate body corporate to carry out the promotion of financial awareness. The regulator should ensure that appropriate mechanisms are in place to achieve and monitor the achievement of the financial awareness objective. The regulator can also make regulations to effectively discharge its function of financial awareness.

Conclusion

The Commission has extensively dealt with the protection of financial consumers in the draft Indian Financial Code thus paving the way for effective mechanisms to address the concerns of financial consumers. Once the Code sees the light of the day, it is most likely to ensure financial consumer protection as envisaged by the Commission.

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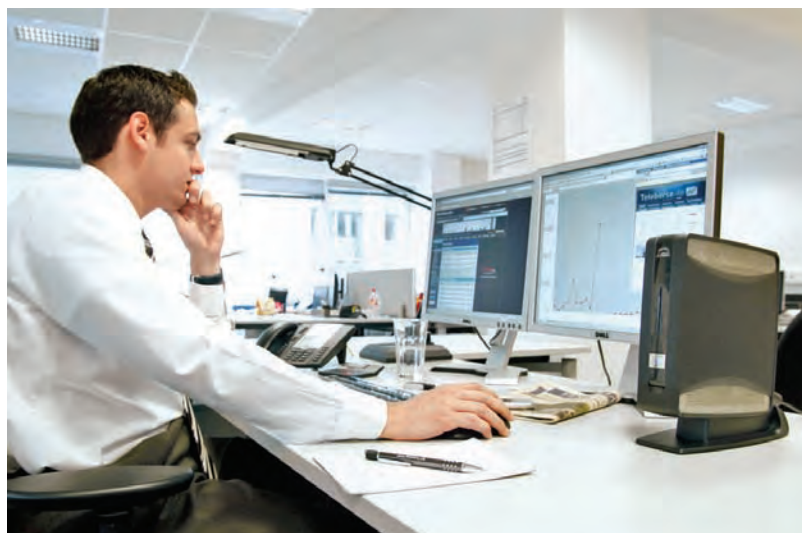
Report on FSLRC and draft IFC

Emphasis on principles/techniques adopted by the Commission

- The FSLRC has focussed on establishing sound regulatory agencies which will continually interpret principles based in the light of contemporary changes and draft subordinate legislations. The principles on the basis of which the commission has proceeded and its approach have briefly been outlined here.

BACKGROUND

The Financial Sector Legislative Reform Commission was formed under the Chairmanship of Justice (Retd.) B. N. Srikrishna by the Government of India, Ministry of Finance, in March, 2011 in pursuance to the announcement made by the Finance Minister in the budget of 2010-11 to revise and synchronize financial sector legislations, rules and regulations. The Commission has devised an extensive plan to draft the Indian financial code on a systemic structure which would meet the contemporary and future requirements of the financial sector. At present, a labyrinth of over sixty Acts and multiple rules and regulations govern the financial sector of our country. The archaic laws need to be either repealed or amended aptly, e.g. the Reserve Bank of India Act, Insurance Act, The Public Debt Act and Securities Contracts (Regulation) Act which dates back to 1934, 1938, 1944 and 1956 respectively, to suit the present



day need. Further, the increasing gaps, overlaps, inconsistencies between the financial sector requirements and the present regulatory framework requires to be reduced, hence it was felt necessary to set up the

* The views expressed in this article are solely the views of the authors and are not connected in any way with the views of the Company/or the Group where the authors are employed.



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➤ The Commission has also taken the financial regulatory governance approach while drafting the Code. In this approach, the Parliament drafts the laws to establish the regulatory authorities, defines their roles and responsibilities and sets them in motion. These regulatory authorities then draft detailed regulations for regulating the financial sector in accordance with the changing market conditions, technological and financial innovations.

Commission to revisit, simplify and rewrite the financial sector legislations.

This resulted in the formation of the Commission which came out with its Report and the draft Indian Financial Code ('the Code' or 'the financial Code') on financial sector reforms on 22nd March 2013.

This article essentially examines the principles on which the financial laws are proposed to be based, and also looks at the basis on which the draft Code has been framed.

ELEMENTS OF FINANCIAL LAWS

The Commission pointed that Regulation is not an end in itself; but exists in order to address failures. Accordingly, the Commission has provided that the task of financial laws is to be based on the following nine elements/ components :

Consumer protection

In pursuit of consumer protection, the Regulator must place burden upon financial firms of doing more than mere adoption of 'buyer beware' approach. The purpose of financial regulations is to intervene in the relationship between financial firms and their customers, and address failures.

Micro-prudential regulation

Monitor the failure probability and intervene to reduce the failure of promises made to consumers. If financial firms take lower risk, it would improve the extent to which promises by financial firms to consumer are upheld.

Resolution

A specialised resolution capability which can swiftly and efficiently wind up stressed financial firms and protects the interests of small customers is required which would watch all financial firms. This is primarily because Indian financial

system was traditionally dominated by public sector firms and consumers never perceived the possibility of their failure. Nevertheless, over the last couple of decades, private financial firms have come up and possibility of their failure exists.

Capital controls

The Ministry of Finance ('MoF') would make 'rules' that control inbound capital flows (and their repatriation) and that Reserve Bank of India ('RBI') would make 'regulations' about outbound capital flows. The implementation of all capital controls would vest with the RBI. The Report proposes equal treatment of all foreign investors (i.e. FIIs, FVCIs, QFIs, NRIs, etc.). Additionally, there is also a problem of unequal treatment, as foreign investors are not treated at par with Indian investors.

Systemic Risk

Need for measurement of systemic risk and undertake interventions at the scale of the entire financial system that diminish systemic risk and not just deal with the failure of one financial firm at a time. There is need to monitor, identify and address risks from system-wide perspective and not a sectoral perspective.

Development and re-distribution

Objectives to be achieved through sound principles of public administration and law. Regulators to take initiatives in development whereas in re-distribution, the Government would issue notifications in the Gazette, instructing regulators to impose certain requirements upon financial firms.

Monetary policy

The Commission suggested a strong combination of independence and accountability for RBI in its conduct of monetary policy. The MoF would put out a statement defining a quantitative monitorable 'predominant' targets and subsidiary targets which would be pursued when there are no difficulties in meeting the predominant target.

Public debt management

The management of public debt requires an integration of all onshore and offshore liabilities of the Government. Presently, this information is fragmented across RBI and the MoF. The problem of debt management for the Government includes the tasks of cash management and an overall picture of the contingent liabilities of the Government. These functions are integrated into a single agency through the draft Code.

Foundations of contracts and property

Adequate information must be available for an investor to make an informed decision about valuation and subsequently continuous flow of the same through which the investor can make informed decisions.

The principles on the basis of which the draft Code has been



prepared has to be analysed for debating whether the draft Code will efficiently serve the modern and rapidly changing financial sector requirements.

PRINCIPLES/ APPROACH OF THE COMMISSION

Shifting away from a sectoral perspective

The Commission has focused on the nine components, as discussed above, while preparing the draft Code. The strategy followed by the Commission while drafting the Code differs a lot from the current Indian regulatory scenario. The Commission in its report suggested that Indian laws should now shift their focus from sectoral perspective like having separate laws for insurance or banking sectors and instead should focus on a non-sectoral approach. Likewise, in the draft Code, a single regulatory agency named as Unified Financial Authority ('UFA') would be responsible for governance of all the financial sectors except for banking sector which would continue to be governed by RBI. Further, since many legislations are proposed to be repealed e.g. The Securities Contracts (Regulation) Act, 1956 ('SCRA'), The Securities & Exchange Board of India Act, 1992 ('SEBI Act'), The Depositories Act, 1996 ('Depositories Act') and The Foreign Exchange Management Act, 1999 which regulate the capital market of our country, hence the different governing authorities as established under these laws would also be subsumed/quashed and UFA would be the single regulatory authority.

Although this may prove to be beneficial from many view points e.g. there would be consistent treatment across all financial sectors and there will be no scope for regulatory

arbitrage but increasing Government control by vesting substantial powers under the Government (taking away powers from capital market regulators and merging it into UFA) appears to be risky because over the years regulators like SEBI has brought expertise into capital market related financial regulations. During the last two decades, SEBI has brought sea changes in capital market regulations which have been tested and stood tall in turbulence. Further, Government intervention for all sectors may not be practicable because Government agencies are often deterrent to changes and take time to adapt to changing needs of the financial environment of the country. Thus, for a vibrant economy, the regulator should promptly detect the need of the hour and make apt changes in the governance policies. This would be somewhat restricted in case of Government control.

Adopting a principles-based approach

The Commission has adopted a principles-based approach while drafting the Code. It believed that laws enacted by the Parliament should only embed the broad principles and should not give out specific details. These principles should be framed in such a way as to stand the test of time and they should be continuously linked to the evolving technological world, institutional arrangements and financial sector processes through two specified methods, i.e. revision of the subordinated/delegated legislations and judicial interpretation. Such a principles-based approach may have been successful in case of the Evidence Act and Contract Act but when the same would be applied on the financial regulations which deal with array of laws related to different fields like banking, insurance, capital market, etc., it might prove to be a mammoth task for the regulators. For example, the micro-prudential regulation is proposed to be based on eleven principles as outlined in the Report. If the laws for micro-prudential regulation relating to capital market or insurance or banking are to be based on those eleven principles then the burden on regulatory laws (i.e. the subordinate legislations) to be formulated for bringing clarity to the legislative laws would increase immensely. Therefore, the regulators will be over-burdened with the drafting of subordinate legislations as well as revising such legislations based on those principles.

Further, since the laws are written as per the broad principles and detailed specifications will be provided through subordinate legislations, there would be frequent disagreements requiring judicial interpretation of principles which does not exist currently e.g. for regulating the securities market, we currently have SCRA, SEBI Act/Regulations which provides detailed laws on prevention of undesirable transactions in securities by regulating the dealings therein and protecting the interest of investors and does not require specific judicial interpretation. In the absence of detailed specifications, the workload of the judiciary is expected to increase.





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Formation of UFA appears to be huge task as it will need to implement the consumer protection provisions and micro-prudential provisions for the entire financial system except for banking and payments. Certainly, UFA would yield benefits in terms of economies of scale in the financial system as it reduce the identification of the regulatory agency with one sector and it would help to address the difficulties of finding the appropriate talent in Government agencies.

Considering the above facts the Commission had proposed to set up a common appellate tribunal called Financial Sector Appellate Tribunal ('FSAT') that will be the appellate authority of the entire financial system and also review the validity of the legislations. The Securities Appellate Tribunal ('SAT') will be subsumed in FSAT. Presently, the functions of SAT is confined to hear and decide appeals of matters pertaining to securities and to promote the development of, and to regulate the securities market and matters connected therewith and hence SAT pronounces verdict promptly. The functions of FSAT will be manifold as it will decide the plethora of appeals relating to the entire financial sector whether it relates to securities or insurance or banking.

Financial regulatory governance approach

The Commission has also taken the financial regulatory governance approach while drafting the Code. In this approach, the Parliament drafts the laws to establish the regulatory authorities, defines their roles and responsibilities and sets them in motion. These regulatory authorities then draft detailed regulations for regulating the financial sector in accordance with the changing market conditions, technological and financial innovations. The prime task of the financial laws then becomes the establishment of the regulatory authorities and ensuring their proper functioning. Keeping the above principle in mind, the draft Code spells out the establishment and functioning of the different regulatory authorities like UFA, FSAT, etc. who in turn will develop the regulations that will be used to govern the financial structure. The Commission has focused on four key areas for setting up the regulatory authorities:

- a. Clarity on objectives and avoiding conflicts of interest;
- b. Precisely defined powers;
- c. Operational and political independence; and
- d. Accountability mechanisms.

The most important amongst these are independence of the regulatory bodies and their accountability. Mere precisely defined powers would not be enough if the regulatory authorities are not vested with independent decision making powers and there should be restricted Government intervention to the

extent possible. Accountability is also of utmost importance as in the absence of the same the regulatory authorities might become arbitrary.

In the existing capital market legislations, there are certain inconsistencies, overlapping, conflict of interest which would be eliminated once the draft Code is implemented based on the above four principles.

Drafting approach

After surveying the drafting techniques adopted domestically (compound and archaic words) and internationally (plain and simple), the Commission decided to use plain language technique to the extent possible. Nevertheless, the Commission has tried to balance the vague phrases which sometime convey the requisite meaning and the plain/precise phrase without compromising on the essence of the law.

While preparing the draft Code, the Commission, to the extent possible, used active voice, plain, simple and short sentences e.g. 'in case/ or if' instead of 'in the event of'; and 'if/ or when' for 'provided that'; and avoided the following:-

- ❖ Double negatives and complex sentences;
- ❖ The use of explanations, exceptions, 'non-obstante', 'notwithstanding' and 'subject to';
- ❖ Latin words e.g. 'mutatis mutandis', 'ultra vires', 'ex parte', and 'bona fide' etc.; and
- ❖ Un-numbered paragraphs

The said drafting approach of the Commission is admirable as it would certainly benefit the large consumer bases that are still not conversant with archaic words and phrases.

Ownership neutrality and Competition

Another principle which the Commission has followed is ownership neutrality where governance standards are independent of the form and ownership structure of the organization. This means that the same regulatory structure would be applicable to public companies, private companies, foreign entities, partnership firms and co-operatives which will in turn create competitive neutrality. Governance requirement of foreign and Indian organizations will be at par if the ownership neutrality principle is followed. This will have dual



effects; on one hand the regulator will have less complexity and more consistency since there would be similar regulations guiding both the domestic and foreign entities and on the other hand the private companies and co-operatives would require to follow more stringent governance and compliance structure which at present are applicable to public companies and foreign entities.

Institutions like SBI and LIC which were established under Special Acts like the State Bank of India Act, 1955 and the Life Insurance Corporation Act, 1956 which confer special privileges by virtue of having government guarantee induces unfair competitive advantage to these institutions as against other private organizations. The Ownership neutrality and competition principle targets these Acts and recommends the abolition of such unfair competition in the financial market by repealing such Acts and converting them into companies under the Companies Act, 1956.

The present work allocation amongst RBI, SEBI, Insurance Regulatory and Development Authority ('IRDA'), Pension Fund Regulatory and Development Authority ('PFRDA') and Forward Markets Commission ('FMC') have evolved over the years and consequently there are certain overlapping in the existing regulatory system which consume the energy of the policy makers. Further, these overlapping are expected to grow due to technological and financial innovation in the years to come. Keeping the above facts in view, the Commission proposed the following regulatory architecture.

FINANCIAL REGULATORY ARCHITECTURE

In line with the international experience, the Commission suggested following three alternative Regulatory architecture:-

- ❖ A single financial regulator;
- ❖ A 'twin peaks model' where one agency focuses on consumer protection and the other on micro-prudential regulation; and
- ❖ A fragmented approach, where there are multiple agencies.

It has been highlighted that accountability, conflict of interest, a complete picture of the firms, avoiding sectoral regulators and economies of scale in Government agencies should be guiding factor for alternative Regulatory architecture.

The report feature seven agencies according to which RBI will continue to exist, SAT and Deposit Insurance and Credit Guarantee Corporation of India ('DICGC') will be subsumed into the FSAT and Resolution Corporation respectively, creation of Financial Redress Agency ('FRA'), Public Debt Management Agency ('PDMA'), Financial Stability and Development Council ('FSDC') will become a full-fledged statutory agency and merger of the existing SEBI, FMC, IRDA and PFRDA into a new UFA.

Formation of UFA appears to be huge task as it will need to



implement the consumer protection provisions and micro-prudential provisions for the entire financial system except for banking and payments. Certainly, UFA would yield benefits in terms of economies of scale in the financial system as it reduce the identification of the regulatory agency with one sector and it would help to address the difficulties of finding the appropriate talent in Government agencies.

Subsumation of SAT into FSAT is also a welcome idea as it would be single regulator which will hear appeals against RBI for its regulatory functions, UFA, decisions of the FRA, against the Central Government in its capital control functions and some elements of the work of the FSDC and the Resolution Corporation.

WAY FORWARD

The Commission has done commendable work in preparing detailed Indian Financial Code and once the Central Government plans to move ahead, it would require excellent planning in implementing the same. The Commission has already highlighted that the implementation of the Code need to be managed and co-ordinately well by the focussed team within MoF otherwise it could create difficulty in existing system as financial system is very dynamic.

Further, the Government would require sufficient time which could be about 2-3 years as the Code requires replacing most of the legislations pertaining to existing financial system, amendment in substantial number of legislations, finalisation of subordinate legislations, creation of PDMA, FSDC, UFA and FSAT etc. This would also require huge infrastructure particularly Information Technology.



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New Law Relating to Income Taxation on Buyback of shares by Companies

➤ The liability to dividend distribution tax by unlisted companies cannot be avoided by resorting to buy back of securities in view of the proposed Chapter XII-DA introduced by Finance Bill 2013.

The Finance Minister, while presenting the Budget for the year 2013-14, has attempted to plug a loophole in the Income-tax Act, 1961 concerning avoidance of Dividend Distribution Tax (DDT) by unlisted companies through the route of buyback of shares. The background necessitating the change and about the provisions in the law required to be made have been mentioned in para 146 of the budget speech of the FM and read as under:

“146. Some tax avoidance arrangements have come to notice, and I propose to plug the loopholes. Some unlisted companies have avoided dividend distribution tax by arrangements involving buyback of shares. I propose to levy a final withholding tax at the rate of 20 percent on profits distributed by unlisted companies to shareholders through buyback of shares.”

THE RATIONALE AND CHANGES REQUIRED

The rationale has been stated in the Explanatory Memorandum to Finance Bill as under:

“Existing provisions of section 2(22)(e) provide the definition of dividends for the purposes of the income-tax Act. Section 115-O provides for levy of Dividend Distribution Tax (DDT) on the company at the time when company distributes, declares or pays any dividend to its shareholders.



Consequent to the levy of DDT the amount of dividend received by the shareholders is not included in the total income of the shareholder.

The consideration received by a shareholder on buy-back of shares by the company is not treated as dividend but is taxable as capital gains under section 46A of the Act.

A company, having distributable reserves, has two options to distribute the same to its shareholders either by declaration and payment of dividends to the shareholders,

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➤ Unlisted Companies, as part of tax avoidance scheme, are resorting to buy back of shares instead of payment of dividends in order to avoid payment of tax by way of DDT particularly where the capital gains arising to the shareholders are either not chargeable to tax or are taxable at a lower rate.

or by way of purchase of its own shares (i.e. buy back of shares) at a consideration fixed by it. In the first case, the payment by company is subjected to DDT and income in the hands of shareholders is exempt. In the second case the income is taxed in the hands of shareholder as capital gains.

Unlisted Companies, as part of tax avoidance scheme, are resorting to buy back of shares instead of payment of dividends in order to avoid payment of tax by way of DDT particularly where the capital gains arising to the shareholders are either not chargeable to tax or are taxable at a lower rate.

In order to curb such practice it is proposed to amend the Act, by insertion of new Chapter XII-DA, to provide that the consideration paid by the company for purchase of its own unlisted shares which is in excess of the sum received by the company at the time of issue of such shares (distributed income) will be charged to tax and the company would be liable to pay additional income-tax @ 20% of the distributed income paid to the shareholder. The additional income-tax payable by the company shall be the final tax on similar lines as dividend distribution tax. The income arising to the shareholders in respect of such buy back by the company would be exempt where the company is liable to pay the additional income-tax on the buy-back of shares."

SCHEME OF TAXATION OF CAPITAL GAIN IN BUY BACK OF SHARES

Buy back can be resorted to by companies – both listed and unlisted- through the medium of section 77A of the Companies Act, 1956. This section allows a company to purchase its own shares or other specified securities subject to certain conditions. Such purchase of its own shares or other specified securities in accordance with the scheme provided in the section is permissible. Explanation (a) to section 77A defines 'other

specified securities' to include employees' stock option or other securities as may be notified by the Central Government from time to time.

Section 46A was inserted in the Act by the Finance Act, 1999 with effect from AY 2000-01 to clarify the tax implications of buy back in the hands of the shareholder/holder of specified securities. Section 46A clarifies that the difference between the value of consideration received by the shareholder and cost of acquisition shall be taxed as capital gains. Consequential amendments were also made to section 2(22) by inserting clause (iv) to clarify that any payment made by a company on purchase of its own shares in accordance with the provisions contained in section 77A of the Companies Act, 1956 shall not be regarded as deemed dividend under section 2(22)(e). Only a genuine buy back is excluded from the definition of 'dividend' by section 2(22)(iv) and exempt from DDT under section 115-O. It has been held by Authority for Advance Rulings that a colourable buy back will attract DDT (A Mauritius *In re* (2012) 2- Taxmann.com 52 (AAR Delhi)).

CBDT'S CIRCULAR CONCERNING BUY-BACK TRANSACTIONS

CBDT vide its circular no. 779 dated 14.9.1999, at the time of introduction of the scheme of buy back in the IT Act, 1961 (Act) explained this scheme in the following way:

"Clarification of tax issues arising out of the provision to allow buy-back of shares by the companies

28.1 The Companies (Amendment) Ordinance, 1998 [subsequently enacted as the Companies (Amendment) Act, 1999] inserted section 77A in the Companies Act, 1956, which allows a company to purchase its own shares subject to certain conditions. The shares bought back have to be extinguished and physically destroyed and the company is precluded from making any further issue of securities within a period of 24 months' from such buy-back.

28.2 The above newly introduced provision of buy-back of shares threw up certain issues in relation to the existing provisions of the Income-tax Act. The two principal issues are whether it would give rise to deemed dividend under section 2(22) of the Income-tax Act and whether any capital gains would arise in the hands of the shareholder. The legal position on both the issues were far from clear and settled and there was apprehension that there will be unnecessary litigation unless the issues are clarified with finality.

28.3 The Act, therefore, has amended clause (22) of section 2 of the Income-tax Act by inserting a new clause to



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New Law Relating to Income Taxation on Buyback of shares by Companies

provide that dividend does not include any payment made by a company on purchase of its own shares in accordance with the provisions contained in section 77A of the Companies Act, 1956. It has also inserted a new section, namely, section 46A in the Income-tax Act, to provide that any consideration received by a shareholder or a holder of other specified securities from any company on purchase of its own shares or other specified securities shall be, subject to provision contained in section 48, deemed to be the capital gains.”

HOW SECTION 46A WORKS?

For attracting tax on capital gains the following ingredients will be required to be considered:

- A shareholder or a holder of other specified securities must receive consideration from any company for purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities.
- The difference between the cost of acquisition and the value of consideration received by the shareholder or the holder of other specified securities, as the case may be, shall be deemed to be the capital gains arising to such shareholder or the holder of other specified securities, as the case may be.
- The calculation of capital gains as in (b) above shall be subject to the provisions of section 48.
- Capital gains calculated as in (b) and (c) above shall be taxed in the year in which such shares or other specified securities were purchased by the company.

SHAREHOLDERS/HOLDERS OF SECURITIES

Though the companies buying back the shares shall be subjected to additional tax burden, the shareholders/securities holders whose shares/securities are bought shall stand to gain and they will not be subjected to tax on capital gain arising consequent to buy back in situations where companies pay such additional tax @ 20%. The pre-changed regime taxed the resultant capital gains in the hands of the shareholders. Also, as the proposed tax is on the company as the final tax the shareholders will not be able to claim any credit for such tax in their assessments

SOME OTHER ASPECTS OF THE NEW SCHEME REQUIRING CLARIFICATION

- Problem may arise where the shares are not bought from the 1st shareholders. How will the tax base be determined in their cases?
- How the cost be determined where the shares bought back also include bonus shares? Will the cost be prorated?
- How the cost will be determined (to work out the excess amount) when the shares have been issued in different tranches?

The CBDT need to clarify these issues by way of a circular in the same way as it did when section 46A was introduced.

WHETHER THE OPERATION OF NEW LAW CAN BE FRUSTRATED BY RESORTING TO ‘REDUCTION OF CAPITAL’ ROUTE UNDER THE COMPANIES ACT?

Section 100 of the Companies Act, 1956* captioned ‘Special Resolution for Reduction of Capital’ provides that a company limited by shares or a company limited by guarantee and having a share capital may reduce its share capital if (1) there is authority in the Articles, (2) a Special Resolution is passed, and (3) such reduction is confirmed by the Tribunal. The question of reduction of share capital is a domestic affair to be decided by the majority of the shareholders and the company will decide the extent and mode of reduction and the application of the moneys released thereby. The Tribunal (NCLT) in confirming the reduction must safeguard the interests of creditors and minority shareholders and see that it is fair and reasonable. A company can also apply for cancellation of Share Premium Account. When the company applies for sanction of special resolution for cancellation of its Share Premium Account (now Securities Premium Account), the Tribunal (NCLT) would consider as to whether the interest of the majority of the shareholders were taken into account, whether it was, in fact, fair to the preference shareholders. Tribunal (NCLT) may sanction the cancellation even though the company’s conduct was not to the satisfaction of the Tribunal (NCLT). The interests of the minority shareholders have also to be taken into account.

Though the procedure for reduction of capital/cancellation of securities premium account is rather onerous it may be considered worthwhile where high stakes in the form of payment of additional tax is involved to by-pass the new law. The route may not be easy because NCLT will have to be satisfied about the *bona fide* of the scheme for reduction of capital/cancellation of securities premium account. Reduction of tax liability may not be a ground to justify the proposal for reduction/cancellation.

CONCLUDING COMMENTS

The new effort to check leakage of tax is likely to have some teething problems, but once settled, it will work in the interest of revenue and shareholders/securities holders who will be spared from income tax liability on capital gains to which they are presently being subjected.

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* As amended by the Companies (Second Amendment) Act, 2002. However the amendment is yet to be brought into effect. National Company Law Tribunal is yet to be constituted. The term ‘Tribunal’ meaning NCLT was substituted for “Court”. Editor.



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Immunity under the Trade Unions Act, 1926

➤ Sections 17 and 18 of the Trade Unions Act, 1926 provide immunity to the trade unions, members and office-bearers of the trade unions from liability for certain acts. However, this immunity is available only if certain conditions as specified have been fulfilled. The scope of this immunity and the extent to which the trade unions or the members enjoy this immunity has been examined in this article.

INTRODUCTION

Freedom of speech and expression has been provided by Article 19 of the Constitution of India. Conducting demonstrations, and holding *dharmas* have been recognized as a part of this freedom of speech and expression and a Trade Union has the right to do so in a non-violent manner. Sections 17 and 18 of the Trade Unions Act, 1926, also reflect this. These sections provide immunity to the Trade Unions and to the office-bearers and members of the Trade Unions if certain conditions are fulfilled.

Section 17

Section 17 of the Trade Unions Act states that an office-bearer or member of a registered Trade Union shall not be liable for punishment under sub-section (2) of Section 120B of the Indian Penal Code, in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in Section 15, unless the agreement is an agreement to commit an offence. Firstly, one should notice that this immunity is only available to a member of the Trade Union registered under this Act. This section gives protection to a Trade Union which has committed an offence of criminal

conspiracy under Section 120A of the I.P.C. Criminal Conspiracy has been defined as 'when two or more persons agree to do or cause to be done an illegal act or an act by illegal means, such an agreement is designated as 'criminal conspiracy'.¹ The punishment for this offence is given under Section 120B of the I.P.C. Section 17 of the Trade Unions Act provides protection to the members or office bearers from punishment under section 120B in respect of any agreement as long as it is an agreement to further the objects stated in section 15. However, this agreement between the parties should not be an agreement to commit an offence.

The scope and extent of this immunity was clearly examined in *Ruikar v. Emperor*.² In this case, the main issue was whether abetment of the offence of molestation would get the protection of Section 17 of the Trade Unions Act. The facts of the case are as follows. The Nagpur Textile Union of which the applicant in this case was the president had determined a strike of textile workers in Nagpur on the ground that certain conditions in the terms of settlement of a strike were not fulfilled by the Empress Mills in Nagpur. Although the strike was ordered, at the first meet it had not met with the response they had expected. The

¹ Section 120A, the Indian Penal Code.

² AIR 1935 Nag 149.



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applicant then made a speech supporting the strike and in the course of his speeches encouraged and advocated the picketing of the mills. He also called for volunteers to carry on picketing. One day, however, some women picketers were harassed and taken away by the police. The applicant brought his wife to one of the mill gates and gave her instructions to beat anyone who interfered with her. The applicant in this case was convicted for the offence of abetment of molestation. The accused in this case contended that there was a definite conflict between the section relating to abetment and Section 17 of the Trade Unions Act. The court, while recognizing the rights of a Trade Union to call a strike and their immunity if they commit acts in the furtherance of trade disputes, held that the immunity does not extend to an agreement to commit an offence under the Indian Penal Code and such acts would make the officers or members liable for criminal conspiracy. The court held that the Criminal Law Amendment Act was a part of the Criminal law of the land and hence an agreement to commit an offence under this Section would be like an agreement to commit murder and immunity under Section 17 of the Trade Unions Act cannot be extended to such agreements.

Section 40 of the Indian Penal Code states that an act is an 'offence' if it is punishable under any special law or local law with imprisonment for a term of 6 months or more. Thus Section 17 of the Trade Unions Act relieves the members and workmen of punishment only if the same does not amount to an 'offence' under this Section. For example, if the members of a Trade Union are guilty of an act for which the punishment has been prescribed in the I.P.C., they are liable for criminal conspiracy irrespective of whether this is an offence punishable with less than 6 months because it falls within the definition of 'offence' under Section 40 of I.P.C. However, if the members of the

Trade Union have committed an act which has been defined in a special law, for which the punishment prescribed is less than 6 months, then the members are not liable because it does not fall within the definition of 'offence' under Section 40. However the members of the Trade Union would not be entitled to immunity under this Section if the agreement in issue is not for the purpose of furthering any object under Section 15.

There are few other cases which have reiterated the scope and extent of the immunity provided under Section 17. In *Indian Bank v. Federation of Indian Bank Employees Union and Anr.*³, the plaintiff bank applied for an injunction in the court to restrain the Trade Union from holding any meeting or staging any demonstration or conducting any other similar form of direct action within the premises of the plaintiff bank's office or any of its offices and branches in Tamil Nadu. They also wanted a restraint order to prevent the Trade Union from obstructing directly or otherwise officers, employees, members of the public. The court examined at length the scope of the immunity of the Trade Union and its employees under Section 17 and Section 18 of the Trade Unions Act *vis-a-vis* the freedom of speech and expression under Article 19 of the Constitution. Freedom of speech and expression was examined by the court in *Kameshwar Prasad v. State of Bihar*.⁴ In this case, it was held that "demonstration is manifestation of the feelings of an individual or a group. It is thus a communication of one's ideas to others to whom it is intended to be conveyed. It is in effect therefore, a form of speech or of expression. A demonstration might take the form of an assembly and even then the intention is to convey to the person or authority to whom the communication is intended, the feelings of the group which assembles. It necessarily follows that there are form of demonstration which would fall within the freedoms guaranteed by Arts. 19(1)(a) and 19(1)(B) It is needless to add that from the very nature of things a demonstration may take various forms; it may be noisy and disorderly, for instance stone throwing by a crowd may be cited as an example of a violent and disorderly demonstration and this would not obviously be within Art.19(1)(a) or (b). It can equally be peaceful and orderly as happens when the members of the group merely wear some badge drawing attention to their grievances."

The court then held that demonstration was recognized as a fundamental right in Kameshwar Prasad's case and hence cannot be easily taken away by an injunction restraining the Trade Unions from conducting any form of demonstration. With respect to Sections 17 and 18 of the Trade Unions Act, if the Trade Unions indulged in unlawful activities which would constitute cognizable offences in the Indian Penal Code, the immunity under Sections 17 and 18 of the Trade Unions Act would not be available. The court opined that it would be wrong

³ 1982 ILLJ 123 Mad.

⁴ 1962 ILLJ 294.



to infer that Trade Unions indulge only in violent activities and they do not hold peaceful demonstrations. If the Trade Union has peacefully held a demonstration even inside the factory premises, the immunity under the Trade Unions Act would be available and this cannot be restrained by an injunction by virtue of the freedom given under Article 19.

In *Jay Engineering Works v. State of West Bengal*,⁵ the petitioner company filed a suit against the respondents who had committed *gherao* and had encircled the managers of the company for more than 33 hours and had given them very little food. The court first looked into what constituted '*gherao*'. The court held that *gherao* often took violent forms and is often accompanied by wrongful restraint, and or wrongful confinement and occasionally accompanied by assault, criminal trespass, mischief to person and property, unlawful assembly and various other criminal offences. Surrounding or encircling the managers of the company under restraint inevitably results in wrongful restraint or even wrongful confinement which are offences punishable under the Indian Penal Code.

The court stated that the immunity under Sections 17 and 18 does not extend to an agreement to commit an offence of molestation, intimidation or violence, where they amount to an offence. When a gathering or demonstration leads to the commission of an offence or where criminal force is used, the act loses the immunity. When the workers wrongfully restrain any person of the management and confine him during a *gherao*, they are guilty under Sections 339 and 340 of the I.P.C and a concerted intention to commit this offence would make the office bearers and members of the trade union guilty for criminal conspiracy under Section 120A and the immunity would not be available to the Trade Union.⁶

Section 18,

Section 18 of the Trade Unions Act gives immunity to Trade Unions from civil suits in certain cases. This Section has two limbs. The first limb states that no suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any office-bearer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the trade union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour at his will.

The second limb of Section 18 states that a registered Trade Union shall not be liable in any suit or legal proceeding in any civil court in respect of any tortious act done in contemplation or

» It should be noted that the immunity under the first sub-section of Section 18 applies to a Trade Union, office bearer and member whereas the immunity under the second sub-section extends only to the Trade Union and not to the agent of the trade union.

furtherance of a trade dispute by an agent of the Trade Union if it is proved that the agent acted without the knowledge, or contrary to the instructions of the executive of the Trade Union.

It should be noted that the immunity under the first sub-section of Section 18 applies to a Trade Union, office bearer and member whereas the immunity under the second sub-section extends only to the Trade Union and not to the agent of the trade union.

To know the scope of the first limb of this Section it is important to understand what constitutes 'breach of contract.' What amounts to the tort of inducing a breach of contract has been a touchy subject. It was first discussed in *Lumley v. Gye*.⁷ In this case, the defendant induced an opera singer to break her contract of service with her employer by offering her a higher sum. The court held that although the means were lawful, this constituted a tort of inducement to breach of contract because this was done with an intention to do so. Later cases like *Rookes v. Barnard*⁸ also elaborate on this. In this case, the plaintiff was employed as a draughtsman by British Overseas Airways Corporation (B.O.A.C.) in their design office at the London airport. The defendants were the officials of the Association of Engineering and Shipbuilding Draughtsmen (A.E.S.D.), a registered Trade Union. All members of the Union had contracted with A.E.S.D. that they will not resort to any strike in the event of any dispute. The plaintiff resigned from the membership of the Union and on his refusal to rejoin the Union, all the members of the union in the design office passed a resolution that if his services were not terminated, the members of the A.E.S.D. would withdraw their labour. The B.O.A.C. was informed of this resolution by the defendants and the employers dismissed the person. The plaintiff sued the defendants for wrongfully inducing B.O.A.C. to terminate his services. The court held that although the defendants in this case were pursuing their interests, they had threatened the employer of

⁵ A.I.R. 1967 Cal. 407

⁶ Page 20, *Jay Engineering Works v. State of West Bengal*, A.I.R. 1967 Cal. 407.

⁷ (1853) 2 E & B 216.

⁸ (1965) A.C. 1129.



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withdrawal of labour and they were liable for intimidation.

In *Quinn v. Leatham*,⁹ the plaintiff was a wholesale butcher and the defendants objected to his employing a non-union butcher. The defendant requested the plaintiffs to replace the non-union member with a member of union but the plaintiff refused to do so. The plaintiffs then approached one of the plaintiff's biggest and regular customers and threatened him with dire consequences if he did not stop buying meat from the butcher. The plaintiff suffered a loss after the customer stopped buying meat from him. When a suit was filed by the plaintiff employer, the court held that he was entitled to compensation because although there was no 'breach of contract', the defendants were liable because their acts amounted to interference with the right of a trader to trade as he pleases, by threats addressed to third parties.

Section 18 (1) of the Trade Unions Act, 1926 states that if these acts are done in contemplation or furtherance of a trade dispute, the same would not be maintainable in a civil court. The important aspect to be noted in this Section is that the immunity is available to the Trade Union, the members and office bearers only if the act is done in furtherance or contemplation of a trade dispute. These terms indicated that a trade dispute must either be subsisting or imminent which depends on the facts of each case.¹⁰ The court in *Conway v. Wade*¹¹ held that this is an objective determination and cannot be left to the thoughts or perception of the person who committed the acts. The legislature did not intend any immunity to be given to a mischief maker who tries to stir up a mischief. Furthermore, the court held that the acts must have been done in furtherance of a trade dispute and not out of some private animosity between the parties.

Section 18(2) gives immunity to any tortious act done by an agent of Trade Union in furtherance of a trade dispute if proved that such person acted without the knowledge of the Trade Union or against its instructions. This relieves the principal of liability if some tort is committed by the agent. However, it should be noted that this does not relieve the agent of liability. Moreover, this Section only protects the principal in respect of any tortious acts done by the agent.

In *Standard Chartered Bank v. Hindustan Engineering*¹², the plaintiff, the Standard Chartered Bank received a letter from the defendant Trade Union where the defendants threatened that they would have a demonstration before the plaintiff bank situated in Delhi. This was on the ground of some differences between the President of the Trade Union and the plaintiff bank. The court hence had to examine the scope and extent of the immunity given to the Trade Union. The court held that although Article 19(1)(a) provides the Trade Union the freedom of expression to hold demonstration, they don't have a right to hold it however they want and in any place they want. The Unions can hold the demonstration only at 50 or 100 metres away from the suit property of the plaintiff and the court passed an injunction to that effect. In *Ram Singh v. Ashok Foundary*,¹³ a revision petition was filed against an order passed by the Civil Court restraining the Trade Union from holding demonstrations in the premises of the plaintiff within a distance of 50 metres and the order also restrained them from preventing the ingress and egress of the workers in that establishment. The defendants in this case contended that the suit wasn't maintainable because the respondents in this case contended that although Section 18 provides the Trade Union with immunity, it would not cover cases where an illegal act is committed or some violent

⁹ (1901) A.C. 495.

¹⁰ Norman Citrine, *Citrine's Trade Union Law* 581 (London: Stevens and Sons Ltd., 1967).

¹¹ [1909] A.C. 522. taken from Supra note 10.

¹² 95 (2002) DLT 182.

¹³ 1993 (1) CLR 362.



Section 18(2) gives immunity to any tortious act done by an agent of Trade Union in furtherance of a trade dispute if proved that such person acted without the knowledge of the Trade Union or against its instructions. This relieves the principal of liability if some tort is committed by the agent. However, it should be noted that this does not relieve the agent of liability. Moreover, this Section only protects the principal in respect of any tortious acts done by the agent.

measures are adopted. However, the court held that the 50 metres distance fixed by the Trial Court was unreasonable and unjust and this interfered with the rights of speech and expression of the Trade Unions under Article 19 and removed this restriction. In *Kamgar Sabha v. Hindustan Ciba Geigy*¹⁴, the Trade Union wanted some demands to be accepted by the company. The company refused to accept them. Some unlawful activities of sabotage and putting up of derogatory posters condemning the management was put up and certain incidents of violence were also challenged. The respondent company declared a lock out. As soon as the lock out was declared, the workers started threatening the contractors and other contractual laborers who had been engaged by the respondents of dire consequences. There were also allegations of beating up of workers and preventing them from not going into the factory complex. The company filed a suit. The lower court issued an interim order that the Trade Union was not supposed to hold any demonstration within 100 metres from the main gate. On appeal, the court felt that the distance fixed was too high. The High Court held that as long as the demonstrations were peaceful and orderly, it was an unimpeachable right of the Trade Union and this depended on the facts of the case. The court while reducing the distance, held that the Trade Union could not block or obstruct the employees and could not resort to unlawful activities.

In *Superior Crafts v. Centre of Trade Union and others*,¹⁵ the Trade Union misbehaved with a lady employee of the firm and when she called the police, the Union members assaulted the police officer and forcibly stopped other employees from entering the premises of the firm. The court held that Section 18 of the Trade Unions Act did not extend to activities which may amount to an offence. Although the right to peacefully conduct demonstrations is an important right of the Trade Union, they cannot disrupt the working and functioning of the firm or obstruct other employees. The court passed an injunction order restraining them from holding demonstrations within 50 metres of the office and obstructing the entry and egress of other workers. One other case that took a similar view was *Delhi Public School v. Delhi State School Karmachari Union and ors*¹⁶

where the court held that if violent measures were resorted to, the immunity under Section 18 would be lost.

In *Central Bank of India v. Central Bank Officers Association*¹⁷, slogans were shouted and dharnas were held inside the premises of the bank. The civil court passed an order restraining the Trade Union from doing anything inside the premises of the bank in such a manner that the ingress or egress of the public was affected. The Trade Union argued before the High Court that Section 18 was applicable and the civil court had no jurisdiction in this case and the plaintiff had a right to carry on agitation in the premises of the bank. The plaintiffs argued that the passage had been blocked by the Trade Union and the demonstration was not held in a peaceful manner. The court accepted the contention of the plaintiffs and held that the evidence before them indicate that the activities of the Trade Union were unlawful and this took them out of the protective sphere of Section 18. The court opined that even though the demonstrations, dharnas etc. are a right of the Trade Union, an uncontrolled irresponsible agitation of the Trade Union cannot be allowed to continue when the assertion of rights may hurt the very institution which is a public service institution. However, the court also held that a distance of more than 100 metres or 200 metres cannot be imposed keeping in mind the congestion and lack of space. However, the demonstration should not be conducted in such a way that the ingress and egress on the employees or customers are affected. In *Federation of Western Cine v. Filmalaya Private Ltd*,¹⁸ the court held that 'workmen' in Section 18 also includes ex-workmen and for getting the protection under section 18, lawful means must be used and no illegal acts like violence should be committed. Thus, the court on appeal upheld the injunction of the Trial Court but held that they are entitled to carry on the demonstration outside the premises.

In *Shahdol Pipe Works and another v. Zila Kamgar Sangh*¹⁹, the Trade Union members of the partnership firm collected at the main gate and obstructed the ingress and egress of the workers

¹⁴ (1995) 1 LLN 771.

¹⁵ 2008 Indlaw DEL 464.

¹⁶ AIR 2002 Delhi 36

¹⁷ (1998) 1 LLN 941.

¹⁸ (1981) 83 BOMLR 423.

¹⁹ (2004) 4 MP LJ 474.



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who were willing to work and threatened them with dire consequences. They used criminal force against these persons and intimidated them and this resulted in a loss to the factory. The firm contended that it was entitled for an injunction order against the Trade Union and also compensation for the loss. The court held that under Section 18, the civil court did not have jurisdiction normally, but if the Trade Union engaged in acts of violence and intimidation and coercion, a suit would lie in the civil court. The court would not go into the merits of the strike and whether the strike was started out of some valid reason. Moreover, the court held that the Trade Union was a registered Trade Union and hence could not be liable for a tortious act carried out in contemplation or furtherance of a trade dispute and hence could not be liable for compensation.

In *Rohtas Industries Staff Union v. State of Bihar*²⁰, the petitioner Trade Union went on a strike because of the non-implementation of the bonuses and the matter was referred to the arbitration tribunal. The arbitration tribunal held that the workers had committed a tort of conspiracy and were not protected by the immunity under Section 18 and were liable to pay compensation. The High Court looked at whether a tort of conspiracy had been caused. The court held that the dominant purpose test must be used and according to this test one should look at the dominant purpose or motive with which the demonstration had been conducted. The test is not whether a resulting damage was caused to the employer. In this case, the court looked into whether the main object of the workers was the furtherance of their interests. The court opined that although damage was caused to the employer, the strike itself was conducted for the issue of bonus. The arbitrators held that they would not get the protection of Section 18 because they had failed to comply with the provisions of Section 23(b) and (c) of the Industrial Disputes Act. The High Court held that this was not the right way to proceed and the illegality of the act because of a contravention of the provisions of Section 26 of the Industrial Disputes Act did not have an impact on their immunity. In this case, the court based its view on the fact that the illegality complained of was a minor offence for which the punishment

prescribed was imprisonment up to 1 month and this did not fall within 'offence' under Section 40 of I.P.C. However, activities like blocking the movement of workers, raw materials and the vehicles of the company have been held to not get the protection of Section 18.²¹ In *Ahmedabad Textile Research v. Atira Employees Union*,²² the court held that an injunction could not be granted merely because there was a demonstration and shouting of slogans and holding of placards. These acts are not violent so as to take the case out of the protection of Section 18. A demonstration or dharna can even be held inside the premises as long as it is peaceful and non violent.

Indian courts have uniformly held that if violent measures have been resorted to, the immunity under Section 18 would be lost.

Conclusion

Section 17 of the Trade Unions Act provides immunity to a Trade Union from liability to punishment for criminal conspiracy provided in Section 120B of the Indian Penal Code. The immunity is restricted to agreements between the members for furthering any object provided in Section 15. Furthermore, an agreement to commit an offence would not be protected under this Section even if it is for the purpose of furthering the objects of the Trade Union. Section 18 of the Trade Unions Act on the other hand states that the civil court shall not be competent to try any case in respect of any act done in contemplation or furtherance of a trade dispute merely because it induces another to break a contract of service, interferes with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour at will. A 'trade dispute' as defined in Section 2 of the Trade Unions Act should be imminent or subsisting to get protection under this Section. Moreover, the immunity is restricted to torts. Section 18(2) protects the Trade Union if an agent of the Trade Union has committed a tortious act in contemplation of furtherance of a trade dispute if it is proved that the person acted without the knowledge or in contravention of the instructions of the Trade Union. Here again, the immunity protects the principal only as long as the conditions are fulfilled.

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²⁰ 1976 AIR 425.

²¹ *Simpson and Group Company Workers v. Amco Batteries*, (1992) 1 LLJ 266.

²² (1994) 11LLJ 912 Guj.



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Corporate Laws

LW.41.5.2013

VOV COSMETICS PVT LTD & ORS v. UNION OF INDIA
& ORS [BOM]

Writ Petition No. 2519 of 2012

S.J. Vazifdar & Mrs.Mridula Bhatkar, JJ.
[Decided on 05/04/2013]

Companies Act, 1956 - Sections 20 and 22 – incorporation of companies with identical names - later company directed to change its name merely on the ground that names are identical - whether tenable - Held, No.

Brief facts

Petitioner company and Respondent No.4 companies are incorporated with identical name with the words “VOV cosmetic”. As far as the respondent No. 4 - VOV Cosmetic Private Limited is concerned, it is sufficient to note that it was incorporated by that name on 5th May, 2011 i.e. prior to the incorporation of petitioner No.1 under the said Act.

Petitioner Nos. 3 and 4 are the directors/promoters of petitioner No.1. Petitioner No.2 - Pioneer Products is presently a partnership firm of which petitioner Nos.3 and 5 are the partners.From the year 1986, petitioner No. 5 carried on business of manufacturing and marketing cosmetics in the firm name and style of Pioneer Products as the sole proprietor thereof. The products were sold under the mark “VOV”.

By and under a deed of partnership dated 20h February, 2012, petitioner Nos.3 and 5 carried on business in the firm name and style of petitioner No.2 - Pioneer Products. Petitioner No.2 continued the business of manufacturing and marketing cosmetic products hitherto carried on by petitioner No.5.

Petitioner No.5 permitted petitioner Nos. 2 and 3 to use the said mark “VOV”. The petitioners had also made various applications for the registration of the said mark. With a view to expand their

business they incorporated the petitioner No.1 company on 15th September, 2011. On 23rd April, 2012, respondent No. 4 filed an application under section 22 of the said Act to rectify the first petitioner’s name, so as not to resemble its name and not to use the word VOV Cosmetic in the rectified name. The names of petitioner No.1 and respondent No.4 are not merely deceptively similar, but are virtually identical.

Upon receipt of the fourth respondent’s application, petitioner No.1 was issued a notice dated 14th May, 2012, calling upon it to show cause why it ought not be directed under section 22 of the Act to change its name. The petitioners admitted that their applications for registration of their trademarks, which included as a dominant part thereof, the word “VOV”, were pending. It was admitted before the Regional Director that the marks of petitioner No.1 and respondent No.4 were not registered.

By the impugned order, the Regional Director appears to have proceeded on the basis that the moment it is found that a name of the subsequently registered company is identical with or resembles the name of a company in existence, it should be deemed to be an undesirable name. Respondent No.2 proceeded on the basis that in that event, the provisions of section 22(1)(i) are attracted and the name of such subsequently registered company is to be rectified / changed.

Decision: Appeal allowed. Matter remanded.

Reason

Respondents submitted that where, through inadvertence or otherwise, a company is registered by a name which is identical with or too nearly resembles the name by which a company in existence has been previously registered, the Central Government is bound to direct such subsequently registered company to change its name in the manner provided in section 22(1). They contended that in such a case the Central Government has no option but to order the name to be changed. We are unable to agree.

Firstly, section 20 does not bar the Central Government from registering by a name which is identical with or too nearly resembles the name by which a company in existence has been previously registered. In other words, section 20 does not provide that a name by which a company desires to be registered is not undesirable merely because it is identical with or too nearly resembles the name by which a company in existence has been previously registered. Whether such name is undesirable or not would depend on the facts and circumstances of the case. This is clear from sub-section (2) of section 20 which provides that such a name “may be deemed to be undesirable” by the Central Government within the meaning of sub-section (1). It is merely a presumption which is clear from the use of the word “may” in sub-section (2). If it were otherwise, instead of the word “may”, the Legislature would have used the word “shall”. Indeed if it were otherwise, the language of the section would have been entirely different. It would have provided for a bar to the



registration of a company by a name which is identical with or too nearly resembles the name by which a company has been previously registered.

This is with good reason. Companies alone are not entitled to own trademarks. Any person is entitled to own a trademark. The inclusion of a mark in the name of a company constitutes the use of a mark and the same can, therefore, be restrained by an injunction in an action for infringement and/or passing off. Section 20, therefore, safeguards the proprietary rights and interests of the owners of a trademark against infringers. Were it otherwise, an infringer could easily defeat the rights of the proprietor of the mark by the simple expedient of having a company registered by a name, a prominent and dominant part whereof contains the mark of another. In such a case, it could not be said that the name by which the subsequent applicant seeks registration of a company is undesirable though he is the proprietor of the mark entitled to use the same to the exclusion of others.

It was contended on behalf of the respondents that, in any event, the language of section 22 is entirely different from that of section 20. It was contended that under section 22, the Central Government is bound to direct the change in the name of a company if it is inadvertently or otherwise registered by a name which is identical with or too nearly resembles the name by which a company in existence has been previously registered.

The submission is not well founded. Section 22 also confers discretion upon the Central Government in such cases. Thus, even assuming that the subsequent company is, through inadvertence or otherwise, registered by a name which is identical with or too nearly resembles a name by which a company in existence has been previously registered, it does not follow as a matter of course that it should be directed by the Central Government to change its name. This is clear from the use of the words "if the Central Government so directs" in section 22(1)(b). The word "if" indicates that it does not follow as a rule that merely because a company is, through inadvertence or otherwise, registered by a name which is identical with or too nearly resembles the name by which a company in existence has been previously registered, it is bound to be ordered to change its name. The Central Government must satisfy itself that the name by which the subsequent company registered through inadvertence or otherwise is undesirable. Section 22 complements section 20 for it takes care of a situation where despite the provisions of section 20, a company is, through inadvertence or otherwise, registered by a name that is undesirable by providing for the rectification of the name of such company.

There appears to be good reason for conferring such discretion upon the Central Government even where a subsequently registered company is registered by an identical name or a name that closely resembles the name of a previously registered company through inadvertence or otherwise. If, for instance, the subsequent registration is merely through inadvertence, there is no reason why

its name should be changed despite the fact that the Central Government comes to the conclusion that the name is not undesirable. There may also be cases where the facts that transpire after such inadvertent registration warrant the continuation of the registration by the said name. Take for instance a case where after the inadvertent registration, the company obtains a registration of the trademark under the Trademarks Act or where such a company obtains an injunction restraining the previously registered company from using the mark as part of its corporate name. It would be an empty formality for the Central Government to first require the change in the name and thereafter entertain a fresh application under section 20.

The word "otherwise" in section 2(1) is not defined in the Act. It is neither possible nor necessary to provide an exhaustive list of circumstances that fall within its ambit. It would include cases where a party makes an application fraudulently or by suppressing material. In the present case, therefore, one of the issues that would arise is whether the statement in the application for registration to the effect that the mark was registered in the name of petitioner No.3 was deliberate or inadvertent. If it is found to be deliberate, the question would arise whether by reason thereof alone, an order for change in the name must follow irrespective of the facts of the case prior to the incorporation and even thereafter. We keep this question open.

The impugned order has been passed only on the basis that the name of petitioner No.1 is almost identical to the name of respondent No.4 which was registered earlier. It was not even based on the incorrect statement made in Form 1 by petitioner No.3 - the promoter of petitioner No.1 and the Chartered Accountant of petitioner No.1. This is clear from the order which stated that, that was a separate matter which was not dealt with in the order. It could certainly be a relevant factor, but it was not made the basis of the order.

In an application for rectification of a name under section 22, it is necessary for the Regional Director to consider various aspects. It is neither possible nor desirable to exhaustively enumerate them. Suffice it to state that merely because the name of a company subsequently registered is identical with or too nearly resembles the name of a company which has already been registered, *albeit*, through inadvertence or otherwise, it does not follow that an order for rectification is bound to be passed.

The impugned order is, therefore, liable to be quashed and set aside only on this ground. The Registrar of Companies shall, after affording the parties an opportunity of being heard, pass a fresh order after considering the relevant facts in an application under section 22.

CS

LW.42.05.2013

LAKSHMIJI SUGAR MILLS COMPANY & ANR v. UNION OF





INDIA & ORS [DEL]

Co. Appeal Nos. 28-29/2006

Sanjay Kishan Kaul & Indermeet Kaur, JJ.

[Decided on 21/03/2013]

Companies Act, 1956 - Sections 391 & 394 - compromise with creditors - court sanctioned the scheme and kept out one creditor out of the scheme - whether correct - Held, Yes.

Brief facts

The appellant is aggrieved by the finding returned by the learned Company Judge in its order dated 31.03.2006. The learned Company Judge while sanctioning the Scheme proposed by the appellants held that the Sugar Development Fund (SDF), a Government Company shall remain outside the Scheme. This order was challenged by filing an application (C.A. No. 504/2006) under Rules 9 and 6 of the Company (Court) Rules 1959 seeking modification of the order dated 31.03.2006; the submission that the SDF has been inadvertently kept out of the Scheme was negative and the order dated 26.04.2006 had rejected this argument of the appellants.

Decision: Appeal dismissed.

Reason

In the order dated 31.03.2006, the learned Company Judge had noted that the fact finding returned by the Chairperson (of the secured creditors) was incorrect. This is also evident from the record. Record shows that A. Ramachandran who was appearing on behalf of the IFCI (Nodal Agency of SDF) did not have the requisite authority to cast its vote on behalf of the SDF and had thus been precluded from casting its vote. It has wrongly been recorded in the report dated 22.07.2005 that the SDF has voted in favour of the Scheme. The submission of the learned counsel for the appellant that a 3/4th majority of the secured creditors had voted in favour of the Scheme is thus incorrect. Section 392 of the said Act envisages a situation of 3/4th majority of the creditors present and voting. The SDF was neither present and nor did it vote. This is substantiated from the record.

Company Application No. 109/2005 in para 11 had enlisted the list of secured creditors (as noted *supra*) computing their liability. An amount of Rs. 182 lacs had been shown as due to the IDBI. A sum of Rs. 149.60 lacs was due to the IIBI. This is mentioned in the proposed scheme of arrangement itself. The amount due to the SDF comprised of the principal figure of Rs. 728.60 lacs with an interest quotient of Rs.722.81 lacs equivalent to Rs.1451.41 lacs. The letter dated 18.10.2005 (prior to the date of the convening of the meeting of the secured creditors) addressed by the IFCI to the advocate of the promoters clearly and categorically stated that SDF has to remain outside the Scheme as the extant rules of the SDF did not permit a re-structure of its debt; it should therefore be kept outside the purview of the scheme. SDF had also not voted in the

Scheme. Submission of the appellant that 75% of the secured creditors had voted in favour of the Scheme is thus an incorrect fact.

The Central Government had given two loans to the Company. The first loan was of Rs. 561.10 lacs which were notified as a custodian loan. The second loan of Rs. 728.60 lacs was given by the SDF. Under the proposed Scheme, the promoters had proposed to reduce the loan of Rs. 561.10 lacs to nil and the loan of Rs 728.60 lacs to 25%. Admittedly, the settlement with the other two secured creditors i.e. the IDBI and the IIBI was a settlement of 40% of their total dues. In this context, the submission of the learned counsel for the respondent that there was no justification or reason as to why the SDF would have accorded consent to a reduced figure of 25% is a submission not without force. Even otherwise within the same class all creditors had to be treated at parity and within the said class, there could not be any discrimination. All the secured creditors have been classified as a single class. Payment of 40% of the dues to IDBI and IIBI with a reduced payment of 25% to the SDF and a nil payment for the custodian loan to government was *prima facie* an unfair proposal.

The majority decision of the same class of voters should be just and fair to the class as a whole in order to bind the dissenting members of that class. This was clearly not so in the instant case. It is in fact the duty of the court to go through the proposed Scheme carefully and find out whether all the provisions of law and directions of the court as to the conduct of meetings have been complied with and whether Scheme is in the interest of the Company as well that of its creditors and only then it should be given effect to. The court is not a mere rubber stamp or a post office. It is incumbent upon the Court to be satisfied *prima facie* that the Scheme is genuine, *bona fide* and in the interests of the creditors and the Company. The Court may refuse to put its seal of approval if the purpose of the Scheme is not *bona fide*.

The order dated 31.03.2006 had noted that the promoters of the Scheme had in fact pointed out that the loans of the Central Government should be kept outside the scope of the Scheme and their claim could be apportioned. While expressing its reservation to the proposed Scheme, the Single Judge had however noted that it could in no manner be presumed that the Central Government had agreed to entirely waive off its custodian loan of Rs.561.10 lacs to nil or to reduce SDF loan (also a government loan) from Rs.728.60 lacs to Rs. 182.15 lacs. Both these loans being central government loans were permitted to be treated as outside the Scheme. The different parameters for settlement with the IDBI and IIBI by paying of 40% of their total dues whereas the government dues of which the custodian loan was sought to be reduced to nil and the SDF loan being reduced to 25% of its principal was also noted. These distinct parameters applied *qua* different secured creditors was against fairness. Accordingly, on the specific request of the learned counsel for the promoters, a concession was granted and the government loans which included not only the custodian loan but also the SDF



loan were kept outside the Scheme.

The scheme of arrangement, as noted *supra*, was in fact sanctioned only to benefit the class of unsecured creditors and the employees as apart from the OTS settlement with the IDBI and IIBI, the Scheme envisaged payment to the said persons. The Company Judge had noted that in the eventuality that the Scheme is not sanctioned there could be no other alternate but to wind up the company because the dues of the Company were enormous.

In this background, the submission of the leaned counsel for the appellant that it was an inadvertent mistake and error which had crept in the order the Company Judge while excluding SDF from the Scheme is mis-understood. It was deliberately and intentionally noted and for the reasons as discussed (*supra*) that the SDF loan also being a government loan, both the custodian loan and the SDF were to be excluded from the purview of the Scheme. The Company Judge has ample power to pass such an order. CS

LW.43.05.2013

ZHUHAI HANSEN TECHNOLOGY CO LTD v. SHILPI CABLE TECHNOLOGIES LTD [DEL]

Co.Pet. No. 333 of 2012

S. Muralidhar, J.
[Decided on 19/03/2013]

Companies Act, 1956 - Sections 433(e), 434 - contract for the supply of cables - disputes as to payment - respondent raised the issues of defects in goods, non delivery due to petitioner's act of preparing incomplete despatch documents - whether bonafide defense - Held, Yes.

Brief facts

The Petitioner and the Respondent had entered into three separate contracts. One was for the supply of cables and the other two for supply of accessories, i.e., Jumpers, Connectors and Surge Arrestors. Both the parties have been dealing with each other for over seven years. Disputes arose between the parties and the petitioner claimed the payment for the cables supplied. Respondent denied its liability on two grounds that the goods supplied were of defective quality and that petitioner had prepared incomplete documentation which resulted in non receipt of the goods.

Petitioner moved the High court for the winding up, which was resisted by the respondent company.

Decision: Petition dismissed.

Reason

The first issue to be decided by the Court is whether there is any

admission of liability by the Respondent and if there is no such admission, whether the denial by the Respondent of its liability constitutes a sham defence?

In the present case, there were undoubtedly three separate contracts entered into between the parties. One was for the supply of cables and the other two for supply of accessories, i.e., Jumpers, Connectors and Surge Arrestors. Both the parties have been dealing with each other for over seven years. The Petitioner itself being the manufacturer of cables and accessories knew that for the purpose of the business of the Respondent the mere supply of cables without the accessories could not be sufficient. The Respondent was in turn supplying cables and accessories to the telecom service providers including Tata Tele Services Limited ('TTL'). The mere supply of cables to TTL would not have constituted a complete delivery of goods. The peak period in the telecom industry for the supply of cables was the first three months of the year. Therefore, the failure on the part of the Petitioner to supply the accessories would adversely affect the corresponding obligations of the Respondent to its customers.

For some reason the Petitioner has in its narration of facts not referred to two emails, the first dated 26th March 2009 whereby the Respondent asked for reasons why it had not received Jumpers, Surge Arrestors and Connectors by that date. The second was the email dated 3rd April 2009 again adverting to the above issue. This explains the emails dated 9th May 2009 and 22nd May 2009 by which the Respondent asked the Petitioner to stop despatching further cables. It is apparent that there were disputes between the parties on whether the supplies by the Petitioner were complete and whether the Respondent was justified in not accepting delivery of the consignments. It is difficult, in the circumstances, and at this stage, to conclude that the defence of the Respondent is a sham one.

The second issue concerns the documents that had to accompany the shipment. In terms of the MOU, L/C had to be opened by the Respondent. The L/C was opened in its favour by its banker, i.e., SBI. For some reason, despite IOB no longer being the banker of the Respondent, the B/L was made to the order of IOB. The Respondent requested the Petitioner to have the B/L amended so that the payments could be released. Even for DP mode the documents had to be amended by making it 'To Order' without mentioning any banker's name on it. The Petitioner did not manage to do this.

The B/L for the five shipments was made to the order of IOB which was no longer a banker of the Respondent. This was a CIF contract and as explained by the Supreme Court, in *Phulchand Exports Limited v. O.O.O. Patriot* (2011) 10 SCC 300, one of the requirements was that the shipping documents had to accompany the despatch of the consignments. These include the invoices, B/L and the policy of insurance. In other words, "the essential feature of a CIF contract is that delivery is satisfied by delivery of



documents and not by actual physical delivery of the goods. Shipping documents required under a CIF contract are bill of lading, policy of insurance and an invoice." With the documents accompanying the consignments not in order, they had to necessarily be amended as requested by the Respondent to facilitate the payment even on DP basis. For some reason this was not facilitated by the Petitioner. The contention of the Respondent that the above facts do not reflect any deliberate failure to make payment cannot in the circumstances be rejected as a sham defence.

For the purposes of Sections 55 and 56 SGA, the Petitioner would have to show that the neglect or refusal by the Respondent to pay for the goods was wrongful. This would require the examination of evidence to find out whether the buyer was justified in refusing to pay for the goods.

Subsequently on 24th May 2010 the Respondent raised the issue of defective quality of the cables and attached photographs of the damaged lengths of the cables with nail marks. Thus, it appears that it was not the first time that this objection was raised. Yet, the complete picture will become clear only when the evidence that may be adduced by both parties is examined in detail in the civil suit stated to be pending. It is not possible for this Court to conclude at this stage that the refusal by the Respondent to make payment for the goods was deliberate or wrong.

While the pendency of a suit will not *per se* preclude the exercise of the winding up jurisdiction of the Company Court, on the facts of the present case, the Court is not persuaded to hold that the Respondent is unable to pay its debts and is, therefore, required to be wound up under Sections 433(e) and 434 of the Act. It is clarified that the present decision is limited to the context of the prayer for winding up of the Respondent and is not intended to prejudice the contentions of the parties on merits in the pending suit. CS

LW.44.05.2013

TROPICAL SECURITIES & INVESTMENTS PVT LTD v. SEBI
[DEL]

Appeal No.31 of 2013

Jog Singh, Member

[Decided on 02/04/2013]

SEBI Takeover Regulations - Regulation 7 - Share broker - Acquisition of shares on own account - failure to make disclosure - whether liable for punishment - Held, Yes.

Brief facts

The Board carried out investigation into the alleged trading in the

scrip of PPL in 2001 to ascertain whether any of the provisions of the SEBI Act or the rules and the regulations made thereunder was violated. It was found that during the period March 5, 2001 to July 6, 2001, the appellant had acquired 7,00,000 (seven lac) shares of PPL from Clip Securities Pvt. Ltd. which was 13.59% of the total paid up capital of PPL. It further noticed that the appellant had purchased 3,12,301 shares on its own account which was 6.06% of the paid up capital of PPL. The appellant was, therefore, required to make disclosure of its acquisition of shares of PPL in accordance with the provisions of Regulations 7 of the Takeover Regulations. The appellant, however, failed to make the mandatory disclosure as above and failed to comply with the provisions of Regulation 7 of the Takeover Regulations and, therefore, show-cause notice dated February 27, 2007 was issued to the appellant asking it to show cause as to why inquiry should not be held and as to why penalty be not imposed as provided under Section 15H & 15A(b) of the Act. After affording reasonable opportunity of hearing to the appellant, the adjudicating officer found the appellant guilty of the aforesaid violations and imposed a penalty of Rs.2,50,000/- as stated above vide its order dated December 17, 2012.

Decision: Appeal dismissed.

Reason

Both the learned counsel for the parties have been heard at length and the pleadings and documents on record have been perused. Undoubtedly, the appellant had acquired 7,00,000 (seven lac) shares of PPL from Clip Securities Pvt. Ltd. amounting to 13.59% of the total paid-up capital of PPL. The appellant had also purchased 3,12,301 shares on his own account in quick succession during the period under investigation. This admittedly amounts to 6.06% of the total paid-up capital of PPL in addition to 13.59% already acquired. A bare reading of Regulation 7 of the Takeover Regulations in question makes it clear that the appellant was required in law to make the disclosure of the aggregate of shareholding/voting rights in PPL to the company (PPL) as well as to the stock exchanges where the shares of the target company have been listed, i.e., BSE, CSE, ASE and HSE. In fact, as per the mandate of Regulations, it was required to make the disclosure within four working days of acquiring such huge number of shares/voting rights, which the appellant admittedly did not do.

In this background, the Tribunal does not find any legal infirmity in the impugned order dated December 17, 2012 passed by the learned adjudicating officer Shri D. Ravi Kumar, and the same is hereby upheld. However, keeping in view of the totality of facts and circumstances of the case and also the fact that the appellant has ceased to carry on the business of broker since 2001 after suffering huge losses as claimed by it, the Tribunal is of the considered opinion that a penalty of Rs.1 lac would meet the ends of justice. With this modification, the impugned order dated December 17, 2012 is upheld and the appeal is dismissed with no order as to costs. CS



Tax Laws

LW.45.05.2013

COMMISSIONER OF INCOME TAX v. TIMES BUSINESS SOLUTION LTD [DEL]

ITA No. 209/2013]

Badar Durrez Ahmed & R.V.Easwar, JJ.
[Decided on 09/04/2013]

Sections 394 of the Companies Act, 1956 read with Section 36(1)(vii) of the Income Tax Act, 1961 – Demerger of companies - Resulting company claimed bad debts - whether allowable - Held, yes.

Brief facts

The assessee company, consequent upon a scheme of demerger under section 391 to 394 of the Companies Act, 1956, had acquired all the assets and liabilities of two web based portals that were hitherto being operated by the assessee's holding company. Those web based portals were acquired as going concerns. Shareholders of the holding company were issued shares in the assessee company pursuant to the demerger. The assessee thereafter continued to run and operate the two web portals and derived income by way of online services, co-branded income, advertisements and management of events. In the very first year of operation, after the said demerger, the assessee company had written off bad debts amounting to Rs.3,63,31,432/- in its books. According to the assessing officer these debts related to the years 2003 to 2006 when the web portals were run and operated by the holding company and that the assessee could not have written off the bad debts as such act contravened section 36(1)(vii) of the Income-tax Act, 1961. Consequently, he rejected the claim in respect of the bad debts written off.

Thereupon, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) who, held that the assessee was entitled to write off the irrecoverable bad debts although, the said debts had been acquired from the holding company. The Revenue took the matter to the Tribunal which upheld the decision of the first appellate authority.

Decision: Appeal dismissed.

Reason

Before the Commissioner of Income Tax (Appeals) a point was also raised by the revenue that there must be some evidence to show that the debts had in fact become bad. A similar argument was also sought to be raised by the learned counsel for the revenue before us. However, we find that the Commissioner of Income Tax (Appeals) has adequately addressed this issue by placing reliance on the Supreme Court decision in the case of *T.R.F. Limited v. CIT*: 323 ITR 397(SC) wherein the Supreme Court clearly held that after the amendment which took effect from 01.04. 1989, it was not necessary for the assessee to establish that a debt, in fact, had become irrecoverable. The Supreme Court further observed that it was enough if the bad debts were written off as irrecoverable in the accounts of the assessee. There is no dispute about this fact insofar as the present case is concerned. The assessee had written off the debts in question as irrecoverable in its accounts.

The Income Tax Appellate Tribunal has merely confirmed the decision of the Commissioner of Income Tax (Appeals). We find no infirmity in the decision of the Commissioner of Income Tax (Appeals) or in the decision of the Tribunal. No question of law, what to speak of substantial question of law, arises for our consideration.

CS



General Laws

LW.46.05.2013

M/S. ABG KANDLA CONTAINER TERMINAL LTD v. AXIS BANK LTD & ANR [BOM]

Notice of Motion No. 2 of 2013 in Suit No. 1 of 2013

S.J. Kathawalla, J.
[Decided on 12/04/2013]

Encashment of bank guarantee - contract between the plaintiff and defendant No.2 for executing a project - plaintiff furnished performance guarantee to defendant - disputes arose – defendant threatened to encash the BG - plaintiff sued seeking



injunction - whether injunction could be granted - Held, No.

Brief facts

The above Suit is filed by the Plaintiff for declarations that: (i) the Suit Bank Guarantee has ceased to be operative and that the first Defendant is not bound to make any payment thereunder; (ii) the first Defendant is not entitled to recover the amounts that may be paid by it under the Suit Bank Guarantee to the second Defendant from the Plaintiff and debit the account of the Plaintiff towards the same and (iii) the first Defendant's demand made on the Plaintiff vide their e-mail dated 4th December 2012 is wrongful, non-est and of no effect whatsoever and not binding upon the Plaintiff. The Plaintiff has also sought a permanent injunction restraining the first Defendant from making payment to the second Defendant purportedly due under the Suit Bank Guarantee and for restraining the Defendant No.1 from demanding payment from the Plaintiff and/or debiting the account of the Plaintiff towards payment that may be made under the Suit Bank Guarantee, and/or in any way acting in furtherance of the e-mail dated 4th December 2012.

The Plaintiff has also taken out the above Notice of Motion in the Suit seeking an order restraining the Defendant No.1 (Bank) from claiming or demanding payment from the Plaintiff or debiting the account of the Plaintiff towards payment that may be made under the Suit Bank Guarantee and/or in any manner acting in furtherance of the e-mail dated 4th December 2012 and also restraining Defendant No.1 from making any payment to Defendant No.2 of any amount under the Suit Bank Guarantee.

Decision: Notice of motion dismissed.

Reason

I have considered the submissions advanced on behalf of the Plaintiff as well as Defendant No.2. The recitals of the Suit Bank Guarantee dated 20th June 2006, sets out the background as regards the Project and the purpose of incorporating the Plaintiff as a Special Purpose Vehicle (SPV) i.e. to fulfil and perform the obligations of the Licensee in accordance with the terms of the RFP document and the License Agreement. It is *inter alia* mentioned in recital (2) of the Suit Bank Guarantee that the RFP document stipulated that a Performance Guarantee be given by the Licensee to the Licensor for due and faithful compliance of its obligations, till commencement of full fledged commercial operations at berth No. 12 under the License Agreement. In recital (3) it is mentioned that the Defendant No.2 has sought an unconditional and irrevocable Bank Guarantee till commencement of full fledged commercial operations at berth No. 12 under the terms of the License Agreement and the Guarantor has agreed to provide a Guarantee. After making a general mention as set out herein, the terms of contract of the Bank Guarantee between the Plaintiff and the Defendant No.1 Bank are set out in the Suit Bank Guarantee.

Admittedly, the License Agreement pertains to the project of development, operations, management and maintenance of Berths 11 and 12 in Kandla Port as Container Terminal on Build, Operate

and Transfer ("BOT") basis for a period of thirty years. From the aforesaid terms of the contract, it is clear that the Licensee has confirmed to construct the Container Terminal in accordance with the terms and conditions specified in the License Agreement and that Defendant No.1 Bank has agreed that on receipt of a written demand from Defendant No.2 stating that the Licensee has failed to fulfil its obligations under the License Agreement as stated in clause (1), i.e. *qua* construction of the Container Terminal, the Bank shall without demur pay to the Defendant No.2 the amount not exceeding Rs. 9,50,00,000/- within seven days of receipt of such written demand. The Bank has further agreed that the said payment shall be made by the Bank to Defendant No.2 without any reference to the Plaintiff or any other person and irrespective of whether the claim of the Defendant No.2 is disputed by the Plaintiff or not.

The Defendant No.2 has therefore invoked the Bank Guarantee by complying with the procedure agreed under the contract of the Bank Guarantee, and the Bank is bound to make the agreed payment to Defendant No.2 within seven days from the receipt of the said letter without any demur, without any reference to the Plaintiff or any other person and without taking any cognizance of any dispute raised/created by the Plaintiff in this regard. Only because the Plaintiff has confirmed in the Bank Guarantee that it shall construct the Container Terminal in accordance with the terms and conditions specified in the License Agreement does not make the Guarantee conditional.

All the submissions advanced on behalf of the Plaintiff to contend that the Suit Bank Guarantee is conditional by relying on the definition of "Container Terminal" in the License Agreement and insistence that the letter of invocation be read with the letter addressed by the Defendant No.2 to the Plaintiff, *inter alia* informing the Plaintiff about the invocation, are untenable and baseless and made only with the intention of creating confusion in the matter.

It is therefore trite law that the Court can restrain encashment of bank guarantee in cases of established fraud in issuance of the bank guarantee. The fraud has to be absolutely egregious vitiating the foundation of the bank guarantee. In the present case, the Petitioner has failed to make out any case of fraud. The allegations of fraud made by the Petitioner are merely bald assertions and do not establish a case of fraud much less fraud of an egregious nature. As set out herein, the bank guarantee is an unconditional and irrevocable guarantee. As held by the Supreme Court, encashment of an unconditional and irrevocable bank guarantee ought not to be enjoined by Courts unless the case falls within recognized exceptions laid down by the Supreme Court. Again, an unconditional and irrevocable Bank Guarantee is an independent contract and whether encashment of the same ought to be permitted or not has to be considered without any reference to the underlying or main contract or to the disputes/claims thereunder. The allegations therefore made by the Petitioner that the invocation of the Bank Guarantee is vitiated by fraud, cannot be accepted and the said contention is rejected.

CS



LW.47.5.2013

STERLITE INDUSTRIES (INDIA) LTD & ORS v. UNION OF INDIA & ORS[SC]

Civil Appeal Nos. 2776-2783 of 2013 (Arising out of SLP (C) Nos. 28116-28123 of 2010)

A. K. Patnaik & H. L. Gokhale, JJ.
[Decided on 02/04/2013]

Pollution control – copper plant operating to the detriment of marine environment - High Court ordered the closure of the plant - whether tenable - Held, No.

Whether the polluting plant must pay damages - Held, Yes.

Brief facts

The appellant - company applied and obtained 'No Objection Certificate' on 01.08.1994 from the Tamil Nadu Pollution Control Board (for short 'the TNPCB') for setting up a copper smelter plant (for short 'the plant') in Melavittan village, Tuticorin. On 16.01.1995, the Ministry of Environment and Forests, Government of India, granted environmental clearance to the setting up of the plant of the appellants at Tuticorin subject to certain conditions including those laid down by the TNPCB and the Government of Tamil Nadu. On 17.05.1995, the Government of Tamil Nadu granted clearance subject to certain conditions and requested the TNPCB to issue consent to the proposed plant of the appellants. Accordingly, on 22.05.1995, the TNPCB granted its consent under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 (for short 'the Air Act') and under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (for short 'the Water Act') to the appellants to establish the plant in the SIPCOT Industrial Complex, Melavittan village, Tuticorin Taluk.

The environmental clearance granted by the Ministry of Environment and Forests, Government of India, and the consent orders under the Air Act and the Water Act granted by the TNPCB were challenged before the Madras High Court in W.P. Nos.15501, 15502 and 15503 of 1996 by the National Trust for Clean Environment. While these writ petitions were pending, the appellants set up the plant and commenced production on 01.01.1997. Writ Petition No.5769 of 1997 was then filed by V. Gopalsamy, General Secretary, MDMK Political Party, Thayagam, praying for *inter alia* a direction to the appellants to stop forthwith the operation of the plant. Writ Petition No. 16861 of 1991 was also filed by Shri K. Kanagaraj, Secretary, CITU District Committee, District Thoothukudi, for directions to the State of Tamil Nadu, TNPCB and the Union of India to take suitable action against the appellant-company for its failure to take safety measures due to which there

were pollution and industrial accidents in the plant. A Division Bench of the High Court heard Writ Petition Nos. 15501 to 15503 of 1996, Writ Petition No.5769 of 1997 and Writ Petition No.16861 of 1998 and by the common judgment dated 28.09.2010, allowed and disposed of the writ petitions with the direction to the appellant-company to close down its plant at Tuticorin. By the common judgment, the High Court also declared that the employees of the appellant-company would be entitled to compensation under Section 25FFF of the Industrial Disputes Act, 1947 and directed the District Collector, Tuticorin, to take all necessary and immediate steps for the re-employment of the workforce of the appellant-company in some other companies/factories/organizations so as to protect their livelihood and to the extent possible take into consideration their educational and technical qualifications and also the experience in the field. Aggrieved, the appellant has filed these appeals against the common judgment dated 28.09.2010 of the Division Bench of Madras High Court and on 01.10.2010, this Court passed an interim order staying the impugned judgment of the High Court.

Decision: Appeal allowed.

Reason

We have, therefore, to examine whether there were materials before the High Court to show that the plant of the appellants did not maintain the standards of emission and effluent as laid down by the TNPCB and whether there were no remedial measures other than the closure of the industry of the appellants to protect the environment. We find on a reading of the impugned judgment of the High Court that it has relied on the report of NEERI of 2005 to hold that the plant site itself is severely polluted and the ground samples level of arsenic justified classifying the whole site of the plant of the appellant as hazardous waste.

In fact, this Court passed orders on 25.02.2011 directing a joint inspection by NEERI (National Engineering and Research Institute) with the officials of the Central Pollution Control Board (for short 'the CPCB') as well as the TNPCB. Accordingly, an inspection was carried out during 6th April to 8th April, 2011 and 19th April to 22nd April, 2011 and a report was submitted by NEERI to this Court. On 18.07.2011, this Court directed the Tamil Nadu Government and the TNPCB to submit their comments with reference to the NEERI report. On 25.08.2011, this Court directed TNPCB to file a synopsis specifying the deficiencies with reference to the NEERI report and suggest control measures that should be taken by the appellants so that this Court can consider the direction to be issued for remedial measures which can be monitored by the TNPCB. Accordingly, the TNPCB filed an affidavit dated 30.08.2011 along with the chart of deficiencies and measures to be implemented by the appellants and on 11.10.2011, this Court directed the TNPCB to issue directions, in exercise of its powers under the Air Act and the Water Act to the appellants to carry out the measures and remove the deficiencies indicated in the chart. Pursuant to the order dated 11.10.2011, the TNPCB issued directions to the



appellants and on 17.01.2012, the appellants claimed before the Court that they have removed the deficiencies pointed out by the TNPCB and on 27.08.2012, this Court directed that a joint inspection be carried out by TNPCB and CPCB and completed by 14th September, 2012 and a joint report be submitted to this Court.

From the conclusion in the joint inspection report of CPCB and TNPCB, it is clear that out of the 30 directions issued by the TNPCB, the appellant-company has complied with 29 directions and only one more direction under the Air Act was to be complied with. As the deficiencies in the plant of the appellants which affected the environment as pointed out by NEERI have now been removed, the impugned order of the High Court directing closure of the plant of the appellants is liable to be set aside.

We may now consider the contention on behalf of the interveners that the appellants were liable to pay compensation for the damage caused by the plant to the environment. The NEERI reports of 1998, 1999, 2003 and 2005 show that the plant of the appellant did pollute the environment through emissions which did not conform to the standards laid down by the TNPCB under the Air Act and through discharge of effluent which did not conform to the standards laid down by the TNPCB under the Water Act. As pointed out by Mr. V. Gopalsamy and Mr. Prakash, on account of some of these deficiencies, TNPCB also did not renew the consent to operate for some periods and yet the appellants continued to operate its plant without such renewal.

For such damages caused to the environment from 1997 to 2012 and for operating the plant without a valid renewal for a fairly long period, the appellant-company obviously is liable to compensate by paying damages. In *M.C. Mehta and Another v. Union of India and Others* [(1987) 1 SCC 395], a Constitution Bench of this Court held:

“The enterprise must be held to be under an obligation to provide that the hazardous or inherently dangerous activity in which it is engaged must be conducted with the highest standards of safety and if any harm results on account of such activity, the enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that it had taken all reasonable care and that the harm occurred without any negligence on its part.”

The Constitution Bench in the aforesaid case further observed that the quantum of compensation must be co-related to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect and the larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it.

Considering the magnitude, capacity and prosperity of the appellant-company, we are of the view that the appellant-company should be held liable for a compensation of Rs. 100 crores for having polluted the environment in the vicinity of its plant and for having operated the plant without a renewal of the consents by the TNPCB for a

fairly long period and according to us, any less amount, would not have the desired deterrent effect on the appellant-company. The aforesaid amount will be deposited with the Collector of Thoothukudi District, who will invest it in a Fixed Deposit with a Nationalized Bank for a period of five years. The interest therefrom will be spent for improving the environment, including water and soil, of the vicinity of the plant after consultation with TNPCB and approval of the Secretary, Environment, Government of Tamil Nadu.

We now come to the submission that we should not grant relief to the appellants because of misrepresentation and suppression of material facts made in the special leave petition that the appellants have always been running their plant with statutory consents and approvals and misrepresentation and suppression of material facts made in the special leave petition that the plant was closed at the time the special leave petition was moved and a stay order was obtained from this Court on 01.10.2010. There is no doubt that there has been misrepresentation and suppression of material facts made in the special leave petition but to decline relief to the appellants in this case would mean closure of the plant of the appellants. The plant of the appellants contributes substantially to the copper production in India and copper is used in defence, electricity, automobile, construction and infrastructure etc. The plant of the appellants has about 1300 employees and it also provides employment to large number of people through contractors. A number of ancillary industries are also dependent on the plant. Through its various transactions, the plant generates a huge revenue to Central and State Governments in terms of excise, custom duties, income tax and VAT. It also contributes to 10% of the total cargo volume of Tuticorin port. For these considerations of public interest, we do not think it will be a proper exercise of our discretion under Article 136 of the Constitution to refuse relief on the grounds of misrepresentation and suppression of material facts in the special leave petition.

In the result, the appeals are allowed and the impugned common judgment of the High Court is set aside. The appellants, however, are directed to deposit within three months from today a compensation of Rs.100 crores with the Collector of Thoothukudi District, which will be kept in a fixed deposit in a Nationalized Bank for a minimum of five years, renewable as and when it expires, and the interest therefrom will be spent on suitable measures for improvement of the environment, including water and soil, of the vicinity of the plant of the appellants after consultation with TNPCB and approval of the Secretary, Environment, Government of Tamil Nadu. In case the Collector of Thoothukudi District, after consultation with TNPCB, finds the interest amount inadequate, he may also utilize the principal amount or part thereof for the aforesaid purpose after approval from the Secretary, Environment, Government of Tamil Nadu. By this judgment, we have only set aside the directions of the High Court in the impugned common judgment and we make it clear that this judgment will not stand in the way of the TNPCB issuing directions to the appellant-company, including a direction for closure of the plant, for the protection of environment in accordance with law.



We also make it clear that the award of damages of Rs. 100 Crores by this judgment against the appellant-Company for the period from 1997 to 2012 will not stand in the way of any claim for damages for the aforesaid period or any other period in a civil court or any other forum in accordance with law. CS



Labour & Industrial Laws

LW.48.05.2013

JEET SINGH & YASHPAL SINGH v. DELHI TRANSPORT CORPORATION [DEL]

WP (C) 4510/2012 WP (C) 6764/2012

Pradeep Nandrajog & Pratibha Rani, JJ.
[Decided on 18/04/2013]

Industrial Disputes Act, 1947 - Section 33(2)(b) - Right to employment - reinstatement after retirement - contingent right - whether claimed as vested right to employment - Held, No.

Brief facts

Two petitions of similar nature had been decided by this common order. The petitioners, who are drivers in the DTC, were dismissed from the services before they attained their age of retirement i.e. 55 years. As per the policy of the management they can be employed till the age of 60 if they found to be medically fit for each year. The tribunal held that their dismissal were wrong and directed their reinstatement with back wages. However, at the time of passing of the award, the petitioners had attained the age of retirement so they could not be reinstated. The petitioners claimed their reinstatement and also wages for the 5 year period i.e. from 55 years to 60 years.

Decision: Petition dismissed.

Reason

Undisputedly, the applicable Service Rules framed by DTC require Drivers to superannuate when they attain the age of 55 years. Further right to serve upto the age of 60 years is contingent upon the incumbent being found medically fit each year on attaining the

age of 55 years and onwards till the age of 60 years.

In legal parlance this would translate to : Drivers under DTC have a vested right to serve till the age of 55 years subject to disciplinary action being taken against them and have a contingent right to serve till the age of 60 years. The condition constituting the contingency is being found to be medically fit at the age of 55 years, 56 years, and so on till the age of 60 years.

Violation of a vested right would have different consequences vis-à-vis violation of a contingent right. Consequences of violating a vested right are reasonably foreseeable; and in the context of a right to serve till a fixed term, it would be reasonably foreseeable that ensuing damages would be the wages which would have been earned by the employee, subject to the law pertaining to mitigation of damages by the employee. But, the consequence of violation of a contingent right in the form of damages would be in the realm of uncertainty and speculation, for the reason what would have happened when the contingency envisaged came into being would not be known.

One would have no idea as to what would be the medical condition of the two petitioners when they turned 55 years of age. Their right to further serve was contingent upon being found medically fit. If they were found to be medically unfit, that would have been the end of their service.

Though not strictly applicable, but a principle of law which emerges from the decision of the Supreme Court in as [AIR 1992 SC 1020] *Baikuntha Nath Das & Anr. v. Chief Medical Officer, Baripada & Anr* can be applied with analogy. To our mind the aforementioned decision guides us in the destination which we have to reach. The guidance is that issues pertaining to vested and contingent rights in service jurisprudence have to be applied by recognizing the difference between a vested right and a contingent right.

Pertaining to Yashpal Singh, we may record that on March 26, 2008 upon a medical examination he was found unfit, a decision which he questions with reference to his driving licence being renewed by the Transport Department on March 24, 2008 based upon a Doctor's opinion that he was fit. But we do not go into this issue for the reason Yashpal Singh attained the age of 55 years in the year 2003 and by the year 2008 he was 60 years of age.

We hold that the petitioners would be entitled to back wages only till they attained the age of 55 years because their vested right was to serve till they attained the age of 55 years. To serve beyond 55 years the right was a contingent right upon being found medically fit. CS

LW.49.05.2013

HONGKONG & SHANGHAI BANKING CORPORATION LTD v. UOI & ORS [DEL]



W.P. (C) 11344/2009

P.K.Bhasin, J.
[Decided on 22/04/2013]

Industrial Disputes Act, 1947 - Section 2(s) - workman - tribunal held the respondent to be workman without examining the evidences produced by the management-whether tenable - Held, No.

Brief facts

Respondent no.2, joined the petitioner bank in March, 1986 as a Lady Confidential Secretary and subsequently she came to be designated as 'Senior Confidential Secretary' on 1st October, 2004, which designation she continued to have till the termination of her employment with the petitioner-bank. Due to restructuring in the bank sometime in the year 2005 the post which respondent no.2 was holding at that time became redundant. The petitioner bank, however, had offered her some other positions but she had not shown her willingness to accept any of those positions. She was also offered a severance/redundancy package but that was also not acceptable to her since she considered she was entitled to get much more than what was being offered to her and consequently the employer-employee relationship between the petitioner-bank and respondent no.2 came to an end w.e.f. 1st October, 2005.

Respondent no.2 considered herself to be an industrial workman and entitled to challenge her employer's decision to snap the employer-employee relationship under the provisions of the Industrial Disputes Act, 1947 and accordingly she approached the Labour Department of the Central Government to refer the dispute raised by her regarding the termination of services by the petitioner-bank to the Tribunal. Since conciliation efforts failed, the Central Government made a Reference to the Tribunal requiring it to adjudicate the dispute as to whether the services of the respondent no.2 had been terminated legally and validly.

The learned Presiding Officer of the Tribunal thereafter gave his Award, which is now under challenge at the instance of the petitioner bank, holding that respondent no.2 herein was a 'workman' and further that her services had been terminated illegally and unjustifiably. As a consequence of these conclusions, respondent no.2 was directed to be reinstated in service with all consequential benefits including full back wages. Feeling aggrieved by the impugned Award this writ petition was filed by the petitioner bank.

Decision: Matter remanded to Tribunal


Reason

The only point which this Court has been called upon by the petitioner bank to decide is whether respondent no.2 was a 'workman' or not.

Now I come to that part of the final Award of the Tribunal where the Tribunal dealt with this controversy between the parties. From these paragraphs of the impugned Award it becomes evident that the Tribunal accepted the respondent no.2 to be a workman by simply considering her part of the story and accepting the same without even making any reference to the oral as well as voluminous documentary evidence adduced from the side of the petitioner bank. It was rightly submitted by the learned senior counsel for the petitioner bank that the learned Presiding Officer of the Tribunal had not given even treatment to the employer while deciding the reference and the adjudication of the dispute whether respondent no.2 was a workman or not simply by considering her evidence only and totally ignoring the bank's evidence by observing that the bank had not placed on record even a scrap of paper to show that she was performing supervisory or managerial functions is not a complete adjudication of the dispute which was expected to be done by the Tribunal after dealing with employer's evidence also and giving some reasons as to why the employee's evidence was being accepted in preference to the employer's evidence. It was also rightly contended by the learned senior counsel that if bank's evidence had been noticed and examined and then a conclusion had been arrived at by the Tribunal that respondent no.2 was a workman the petitioner would have got an opportunity to contend before this Court that the rejection of the bank's evidence was for erroneous reasons.

In view of the fact that the Tribunal has not even adverted to the petitioner bank's evidence, oral as well as documentary, in the Award, I am of the view that it may not be appropriate for the writ Court to give its findings of fact, for the first time, based on an appreciation of the bank's evidence also which is to be done by the Tribunal. It was the primary duty of the industrial adjudicator, which in the present case has not been done and, therefore, the proper course would be to ask the Tribunal to give its findings afresh on the dispute whether respondent no.2 was a workman or not after dealing the petitioner bank's evidence also, oral as well as documentary.

Accordingly, it is ordered that before this Court gives its final decision in the matter the Tribunal is directed to give its fresh decision only on the point whether respondent no.2 herein was a workman or not after fresh and proper analysis of the evidence adduced from both the sides and then to return its decision to this Court. It is needless to state that both the sides would be given an opportunity to make their submissions once again only on the said aspect of the matter, if they would so desire.

The matter shall now be taken up by the Tribunal on 15th April, 2013 at 2 p.m., before which date the record of the Tribunal shall be sent back, and fresh decision shall be given within a month and forwarded to this Court immediately alongwith the records. On receipt of the decision of the Tribunal the Registry shall place this petition before the Court once again and then the parties shall be given an opportunity to respond to the fresh findings of the Tribunal also. 



From the Government



Corporate Laws

01 Circular on Infrastructure Debt Fund

[Issued by the Securities and Exchange Board of India vide CIR/ MD/ DF/7/2013 dated 23.04.2013]

Amendments to SEBI (Mutual Funds) Regulations, 1996

1. Please find enclosed a copy of the gazette notification No. LAD-NRO/GN/2013-14/03/5652 dated April 16, 2013, pertaining to the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2013 for your information and implementation.

Placement Memorandum

2. Private Placement to less than 50 investors has been permitted as an alternative to New Fund Offer to the public, in case of Infrastructure Debt Funds (IDF). In case of private placement, the mutual funds would have to file a Placement Memorandum with SEBI instead of a Scheme Information Document and a Key Information Memorandum. However, all the other conditions applicable to IDFs offered through the NFO route like kind of investments, investment restrictions, etc. would be applicable to IDFs offered through private placement.
3. In terms of regulation 49-OA of the SEBI (Mutual Funds) Regulations, 1996, the Placement Memorandum shall be filed with SEBI as per the format prescribed at Annexure.
4. The Asset Management Companies shall ensure that the Placement Memorandum is uploaded on their respective websites after allotment of units, and on the website of such recognized Stock Exchange, where it is proposed to be listed, at the time of listing of the scheme.

FII's which are long term investors

5. The universe of strategic investors in the IDF has been expanded to include, inter alia, FIIs registered with SEBI which are long term investors subject to their existing investment limits. With reference to regulation 49L of the SEBI (Mutual Funds) Regulations, 1996 the following categories of FIIs are designated as long term investors

only for the purpose of IDF:

- a. Foreign Central Banks
- b. Governmental Agencies
- c. Sovereign Wealth Funds
- d. International/Multilateral Organizations/ Agencies
- e. Insurance Funds
- f. Pension Funds

Investments by the IDF scheme

6. With reference to regulation 49P (1) of the SEBI (Mutual Funds) Regulations, 1996, it may be noted that the investments in bank loans shall be made only through the securitization mode.

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 the 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.

Parag Basu

General Manager

ANNEXURE

PLACEMENT MEMORANDUM

NAME OF THE SCHEME

(Type of Scheme- Closed Ended / Interval)

Private placement of Units of Rs. 10 lakh each during the

Placement period

Placement Period Opens on: _____

Placement Period Closes on: _____

Scheme re-opens on : _____

Name of Mutual Fund :

Name of Asset Management Company :

Name of Trustee Company :

Addresses, Website of the entity :

The particulars of the Scheme have been prepared in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations 1996, (herein after referred to as SEBI (MF) Regulations) as amended till date. These units being privately placed have not been approved or recommended by SEBI nor has SEBI certified the accuracy or adequacy of the Placement Memorandum. It is to be distinctly understood that this Placement Memorandum should not, in anyway, be deemed or construed that the same has been cleared or vetted by SEBI.

The investors are advised to refer to the Statement of Additional Information (SAI) for details of _____ Mutual Fund, Tax and Legal issues and general information on www._____. (website address).

This Placement Memorandum is dated _____.



Instructions:

- A Mutual Fund is free to add any other disclosure, which in the opinion of the Trustees of the Mutual Fund (Trustees) or the Asset Management Company (AMC) is material for the investor, provided that such information is not presented in an incomplete, inaccurate or misleading manner. Care should be taken to ensure that inclusion of such information does not, by virtue of its nature, or manner of presentation, obscure or impede understanding of any information that is required to be included in the Placement Memorandum.
- Care should therefore be taken to present the information in the Placement Memorandum in simple language and in a clear, concise and easily understandable manner.
- The scheme shall not have a name or title which may be deceptive or misleading. The Scheme's name should be consistent with its statement of investment policy.

TABLE OF CONTENTS

HIGHLIGHTS/SUMMARY OF THE SCHEME – This section shall include the following:

Investment objective
Liquidity
Benchmark
Transparency/NAV Disclosure
Minimum Application Amount

I. INTRODUCTION

A. RISK FACTORS

Standard Risk Factors as per Scheme Information Document Format:

Scheme Specific Risk Factors:

- Risk associated with investment in the Infrastructure Sector
- Risk associated with investment in Infrastructure Debt Instruments
- Risk associated with investment in Infrastructure Projects
- Risk associated with investing in Equities
- Risk associated with investing in Bonds
- Risks associated with Investing in Bank Deposits
- Risks associated with Investing in Convertibles including mezzanine financing instruments
- Risks associated with investing in Securitized Debt
- Risks associated with investing in unrated/below investment grade securities
- Any other risk factors

B. REQUIREMENT OF MINIMUM INVESTORS IN THE SCHEME

(Applicability for a Close ended scheme / Interval scheme)

The Scheme(s) and individual Plan(s) under the Scheme(s) shall have a minimum of 5 investors and no single investor shall account for more than 50% of the corpus of the Scheme(s)/Plan(s). These conditions will be complied with immediately after the close of the Placement Period itself i.e.

at the time of allotment. In case of non-fulfilment with the condition of minimum 5 investors, the Scheme(s)/Plan(s) shall be wound up in accordance with Regulation 39 (2) (c) of SEBI (MF) Regulations automatically without any reference from SEBI. In case of non-fulfilment with the condition of 50% holding by a single investor on the date of allotment, the application to the extent of exposure in excess of the stipulated 50% limit would be liable to be rejected and the allotment would be effective only to the extent of 50% of the corpus collected. Consequently, such exposure over 50% limits will lead to refund within 5 days of the date of closure of the Placement Period.

For interval scheme the aforesaid provision will be applicable at the end of initial placement period and further specified transaction period(s).

C. SPECIAL CONSIDERATIONS, if any

D. DEFINITIONS - All terms used in the Placement Memorandum shall be defined in this Section.

Instructions:

- Language and terminology used in the Placement Memorandum shall be as provided in the Regulations. Any new term if used shall be clearly defined.
- The term 'scheme' shall be used uniformly to indicate the different schemes of a Mutual Fund.

E. DUE DILIGENCE BY THE ASSET MANAGEMENT COMPANY AND THE TRUSTEE

The Asset Management Company shall submit a Due Diligence Certificate duly signed by the Compliance Officer/Chief Executive Officer/Managing Director/Whole time Director/Executive Director of the Asset Management Company and countersigned by a director of the trustee company/trustee from the board of trustees to SEBI, which reads as follows:

It is confirmed that:

- The final Placement Memorandum forwarded to SEBI is in accordance with the SEBI (Mutual Funds) Regulations, 1996 and the guidelines and directives issued by SEBI from time to time.
- All legal requirements connected with the launching of the scheme as also the guidelines, instructions, etc., issued by the Government and any other competent authority in this behalf, have been duly complied with.
- The disclosures made in the Placement Memorandum are true, fair and adequate to enable the investors to make a well informed decision regarding investment in the proposed scheme.
- The intermediaries named in the Placement Memorandum and Statement of Additional Information are registered with SEBI and their registration is valid, as on date.

II. INFORMATION ABOUT THE SCHEME

- TYPE OF THE SCHEME** – (close ended /interval)
- WHAT IS THE INVESTMENT OBJECTIVE OF THE SCHEME?**
- HOW WILL THE SCHEME ALLOCATE ITS ASSETS?**



From the Government

The asset allocation will be as follows:

Instrument	Indicative Allocation		Risk Profile
	Minimum	Maximum	
Debt securities or securitized debt instruments of infrastructure companies or projects or special purpose vehicles which are created for the purpose of facilitating or promoting investment in infrastructure or bank loans in respect of completed and revenue generating projects of infrastructure companies or special purpose vehicle.	90%	100%	-
Equity shares, convertibles including mezzanine financing instruments of companies engaged in infrastructure, infrastructure development projects; or money market instruments and bank deposits	0%	10%	-

D. WHERE WILL THE SCHEME INVEST?

This includes a brief narration on the types of instruments in which the scheme will invest and the concerned regulations and limits applicable shall also be mentioned.

Portfolio Rebalancing – Briefly describe about the conditions which may lead to portfolio rebalancing and also in the event of asset allocation falling outside the limits, in what time period does the Mutual Fund will review and rebalance the same.

E. WHAT ARE THE INVESTMENT STRATEGIES?

Information about investment approach and risk control should be included in simple terms.

F. FUNDAMENTAL ATTRIBUTES

Following are the Fundamental Attributes of the scheme, in terms of Regulation 18 (15A) of the SEBI (MF) Regulations:

i. Type of the scheme

- Close ended/Interval scheme

ii. Investment Objective

- Main Objective
- Investment Pattern - The tentative portfolio break-up with minimum and maximum asset allocation, while retaining the option to alter the asset allocation for a short term period on defensive considerations.

iii. Terms of Issue

- Liquidity provisions such as listing, repurchase, redemption.
- Aggregate fees and expenses charged to the scheme.
- Any safety net or guarantee provided.

In accordance with Regulation 18(15A) of the SEBI (MF) Regulations, the Trustees shall ensure that no change in the fundamental attributes of the Scheme(s) and the Plan(s) / Option(s) thereunder or the trust or fee and expenses payable or any other change which would modify the Scheme(s) and the Plan(s) / Option(s) thereunder and affect the interests of Unitholders is carried out unless:

- A written communication about the proposed change is sent to each Unitholder and an advertisement is given

in one English daily newspaper having nationwide circulation as well as in a newspaper published in the language of the region where the Head Office of the Mutual Fund is situated; and

- The Unitholders are given an option for a period of 30 days to exit at the prevailing Net Asset Value without any exit load.

G. BENCHMARK AND ITS JUSTIFICATION

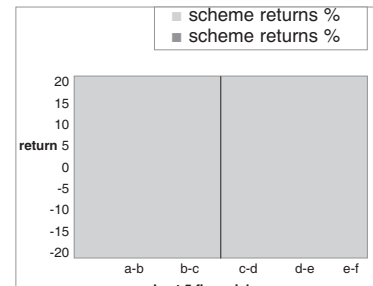
H. WHO MANAGES THE SCHEME?

Name, age, qualification and experience in the infrastructure sector of the fund manager to the scheme to be disclosed. The experience of the fund manager should include last 10 years experience and also the name of other schemes under his /her management.

I. WHAT ARE THE INVESTMENT RESTRICTIONS?

All the investment restrictions as contained in Chapter VI-B (Infrastructure Debt Fund Schemes) to SEBI (Mutual Funds) Regulations, 1996 and applicable restrictions of the Seventh Schedule should be incorporated. Further in case the fund follows any internal norms vis-à-vis limiting exposure to a particular security or sector, etc. apart from the aforementioned investment restrictions the same needs to be disclosed.

J. HOW HAS THE SCHEME PERFORMED?

[In case of a new scheme, this is not applicable hence give the statement- "This scheme is a new scheme and does not have any performance track record"]	Compounded Annualised Returns	Scheme Returns %	Bench mark Returns %
	Returns for the last 1 year		
	Returns for the last 3 years		
	Returns for the last 5 years		
	Returns since inception		
Or			
[In case of a scheme in existence, the return figures shall be given for that scheme only, as per the For a scheme which is in existence for more than 1 year, the returns given will be Compounded Annualized Returns and for scheme which is in existence for less than 1 year, the returns would be absolute returns since inception.	Absolute Returns for each financial year for the last 5 years		
			

K. Indicative Portfolio based on type of assets

Indicative % of investment to be made in various securities to be mentioned below with the ratings mentioned against each type of instrument.

All investments shall be based on the rating prevalent at the time



of investment. However, in case of an instrument having dual ratings, the most conservative publicly available rating would be considered.

L. Valuation Policy for the assets of the scheme

A detailed valuation policy for the assets of the scheme based on the overarching principle of fair valuation and valuation done 'in good faith' shall be given.

M. Extension in the tenure of the scheme: As stipulated in Regulations

III Placement Details

A. PLACEMENT PERIOD

Offer Price: This is the price per unit that the investors have to pay to invest during the Placement Period.	Rs. 10 lakh per unit
Minimum Amount for Application	Rs. 1 crore and in multiples of Rs.10 lakh thereafter.
Minimum Target amount This is the minimum amount required to operate the scheme and if this is not collected during the Placement Offer Period, then all the investors would be refunded the amount invested without any return. However, if AMC fails to refund the amount within five business days, interest as specified by SEBI (currently 15% p.a.) will be paid to the investors from the expiry of five working days from the date of closure of the subscription period.	Rs. _____
Details of strategic investors and amounts committed by them	
Plans / Options offered	
Specified transaction period (for interval schemes)	
Dividend Policy	
Allotment*	
Refund	
Dividend	
Redemption	
Who can invest	
Listing of fully paid up units	
Mandatory quoting of bank mandate and PAN number by investors	
Pledge/Lien	
Capital Commitments	
Subsequent Drawdowns	
Default on Capital Calls and the interest or penalty thereon, with the interest or penalty being retained in the scheme.	
Restrictions, if any, on the right to freely retain or dispose of units being offered.	
Accounts Statements	During subscription, and subsequent capital calls Consolidated Account Statement Annual Account Statement
Transaction Charges	

* Allotment shall be made within five working days of the closure of the Placement Period.



B. PERIODIC DISCLOSURES

Net Asset Value This is the value per unit of the scheme on a particular day. You can ascertain the value of your investments by multiplying the NAV with your unit balance.				
Portfolio disclosures				
Half Yearly Results				
Annual Report				
Taxation The information is provided for general information only. However, in view of the individual nature of the implications, each investor is advised to consult his or her own tax advisors/authorised dealers with respect to the specific amount of tax and other implications arising out of his or her participation in the schemes. (mention the tax rates as per the applicable tax laws)	Resident	Non Resident Investor	Mutual Fund	
Tax on Dividend Capital Gains: Long Term Short Term				
Jurisdiction				
Investor Services				

C. COMPUTATION OF NAV

Describe briefly the policies of the Mutual Fund with regard to computation of NAV of the scheme in accordance with SEBI (Mutual Funds) Regulations, 1996.

Rounding off policy for NAV as per the applicable guidelines shall be disclosed.

D. FEES AND EXPENSES

This section outlines the expenses that will be charged to the scheme.

a. PLACEMENT EXPENSES

These expenses are incurred for the purpose of various activities related to the Placement process. The same may be borne by the AMC/trustee/sponsor.

b. ANNUAL SCHEME RECURRING EXPENSES

These are the fees and expenses for operating the scheme. These expenses include Investment Management and Advisory Fee charged by the AMC, Registrar and Transfer Agents' fee, marketing and selling costs etc. as given in the table below:

The AMC has estimated that upto _____ % of the daily net assets of the scheme will be charged to the scheme as expenses (Give slab wise break up depending on the assets under management.) For the actual current expenses being charged, the investor should refer to the website of the mutual fund.



From the Government

Particulars	% of daily Net Assets	
	Regular Plan (the name of the plan as applicable)	Direct Plan (the name of the plan as applicable)
Investment Management & Advisory Fee		
Marketing and selling expenses including agent's commission if any		
Brokerage and transaction cost		
Registrar services for transfer of units sold or redeemed		
Fees and expenses of trustees		
Audit fees		
Custodian fees		
Costs related to investor communication		
Costs of fund transfer from location to location		
Costs of providing account statements and dividend/redemption cheques and warrants		
Insurance premium paid by the fund		
Winding up costs for terminating a fund or a scheme		
Cost of statutory advertisements		
Listing fees		
Investor Awareness and Education Initiatives#		
Such other costs as may be approved by the Board*		
Total Recurring Expenses		

(* To be specified as permitted under the Regulation 52 of SEBI (MF) Regulations)

(# At least 2 bps)

Commission/ Distribution expenses will not be charged In case of Direct Plan.

The AMC may charge additional expenses not exceeding 0.20% of daily net assets of the Scheme incurred towards different heads of fees and expenses.

Additional expenses may be charged up to 30 basis points on daily net assets of the Scheme as per Regulation 52 of SEBI Regulations, if the new inflows from beyond top 15 cities are at least (a) 30% of gross new inflows in the Scheme or (b) 15% of the average assets under management (year to date) of the Scheme, whichever is higher.

Provided that if inflows from such cities is less than the higher of (a) or (b) above, such additional expenses on daily net assets of the Scheme shall be charged on proportionate basis.

Provided further that expenses charged under this clause shall be utilized for distribution expenses incurred for bringing inflows from such cities.

Provided further that amount incurred as expense on account

of inflows from such cities shall be credited back to the Scheme in case the said inflows are redeemed within a period of one year from the date of investment.

BROKERAGE AND TRANSACTION COST:

Brokerage and transaction cost incurred for the purpose of execution of trade may be capitalized to the extent of 12bps for cash market transactions. Any payment towards brokerage and transaction cost, over and above the said 12 bps for cash market transactions may be charged to the scheme within the maximum limit of Total Expense Ratio (TER) as prescribed under regulation 52 of the SEBI (Mutual Funds) Regulations, 1996. Any expenditure in excess of the said prescribed limit (including brokerage and transaction cost, if any) shall be borne by the AMC or by the trustee or sponsors.

Any expenditure in excess of the limits specified in Regulation 52(6) and 52(6A)(a) shall be borne by the asset management company or trustees or sponsors.

Service Tax:

1. Mutual funds /AMCs may charge service tax on investment and advisory fees to the scheme in addition to the maximum limit of TER as prescribed in regulation 52 of the Regulations.
2. Service tax on other than investment and advisory fees, if any, shall be borne by the scheme within the maximum limit of TER as per regulation 52 of the Regulations.
3. Service tax on brokerage and transaction cost paid for asset purchases, if any, shall be within the limit prescribed under regulation 52 of the Regulations.

The mutual fund would update the current expense ratios on the website within two working days mentioning the effective date of the change.

c. TRANSACTION CHARGES as per SEBI Circulars

IV. Rights of Unitholders

Please refer to SAI for details.

V. Penalties, Pending Litigation or Proceedings, Findings of Inspections or Investigations for which Action May have been Taken or is in the Process of Being Taken by any Regulatory Authority

Disclosure of such penalties, pending litigations, etc shall be given as per the requirements in the Scheme Information Document.

Notwithstanding anything contained in this Placement Memorandum, the provisions of the SEBI (Mutual Funds) Regulations, 1996 and the Circulars and guidelines there under shall be applicable.



02 Establishment of Local Office of the SEBI at Hyderabad

[Issued by the Securities and Exchange Board of India vide Notification No. LAD-NRO/GN/2013-14/05/5666. dated 22.04.2013 Published in the Gazette of India Extraordinary Part -III-Section-4 dated 22.04.2013]

In exercise of the powers conferred by sub-section (4) of section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board has established its Local Office at Hyderabad under the administrative control of its Southern Regional Office at Chennai. The Local Office so established shall look after the regulatory aspects of investor protection, facilitating redressal of investor grievances, financial and investor education and such other functions as may be assigned from time to time, and its role and responsibility shall extend to the areas falling under the territorial jurisdiction of the State of Andhra Pradesh.

U. K. Sinha

Chairman

03 Establishment of Local Office of the SEBI at Lucknow

[Issued by the Securities and Exchange Board of India vide Notification No. LAD-NRO/GN/2013-14/04/5655. dated 17.04.2013 Published in the Gazette of India Extraordinary Part -III-Section-4 dated 17.04.2013]

In exercise of the powers conferred by sub-section (4) of section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board has established its Local Office at Lucknow under the administrative control of its Northern Regional Office at New Delhi. The Local Office so established shall look after the regulatory aspects of investor protection, facilitating redressal of investor grievances, financial and investor education and such other functions as may be assigned from time to time, and its role and responsibility shall extend to the areas falling under the territorial jurisdiction of the State of Uttar Pradesh.

U. K. Sinha

Chairman

04 Redress of investor grievances through SEBI Complaints Redress System (SCORES)

[Issued by the Securities and Exchange Board of India vide CIR/OIAE/1/2013 dated 17.04.2013]

1. Pursuant to the provisions of Section 15C SEBI Act, 1992, all listed companies are hereby called upon to

redress the grievances of investors and inform them within 30 days of the receipt of the complaints. The details of investor grievances relating to the respective companies are available at the webpage <http://scores.gov.in/admin>, accessed through the respective SCORES user ID and password of each company. The companies which are yet to obtain SCORES user ID and password are required to send their details as per the enclosed Form-A to SEBI (hard copy) and by email to scores@sebi.gov.in and obtain the SCORES user ID and password. Failure to obtain the SCORES user ID and password within 30 days of issue of this circular would not only be deemed as non redressal of investor grievances but also indicate wilful avoidance of the same.

2. Failure by companies to file Action Taken Reports under SCORES within 30 days of date of receipt of the grievance may also attract the provisions of Sec 15A(a) of the SEBI Act, 1992.
3. The Stock Exchanges are accordingly advised to bring the provisions of this Circular to the notice of all the companies whose securities are listed in the exchanges and to disseminate the same through their websites. Further, the Stock Exchanges should also arrange for adequate publicity of this circular through newspaper advertisements or other means, on urgent basis.
4. 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.
5. This Circular is available on SEBI website at www.sebi.gov.in.

Gyan Bhushan

Chief General Manager

ANNEXURE

AUTHENTICATION FOR SCORES

1. Name of the Company:
2. Whether complaints processed through: ☐ RTI ☐ Company
3. Please Indicate the following:
Name of the RTI (if through RTI):
Whether complaints can be passed to them
☐ manually by the company ☐ directly to RTI
4. The details of the concerned person of the company to whom User id and password will be sent:
Name
Email id
Telephone No.
Fax No.

Place:
Date:

Signature:
Name:
Designation:
Company Seal:

Note : A scanned copy can be sent by email to scores@sebi.gov.in followed by hard copy to Office of the Investor Assistance and Education, Securities and Exchange Board of India, Plot no. C4-A, G block, Bandra Kurla Complex, Mumbai 400051.





05 SEBI Mutual Funds (Amendment) Regulations, 2013

[Issued by the Securities and Exchange Board of India vide Notification No. LAD-NRO/GN/2013-14/03/5652 dated 16.04.2013. Published in the Gazette of India Extraordinary Part -III-Section-4 dated 16.04.2013]

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996, namely:-

1. These Regulations may be called the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2013.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996, –
 - (i) in regulation 2, -
 - (A) in sub-regulation (q), -
 - (I) for the symbol “;” the symbol “:” shall be substituted;
 - (II) the following new proviso shall be inserted, namely,-

“Provided that infrastructure debt fund schemes may raise monies through private placement of units, subject to the conditions specified in these regulations;”
 - (B) sub-regulation (sa) shall be numbered as sub-regulation (sb) and any reference thereto in any regulation framed or any circular or guideline issued by the Board, shall be read accordingly;
 - (C) after sub-regulation (s), the following new sub-regulation shall be inserted, namely-

“(sa) “private placement” means any offer of units of a mutual fund scheme or invitation to subscribe such units to a select group of persons, by a mutual fund (other than by way of public offer) through issue of a placement memorandum and which is not being calculated to result, directly or indirectly in the units becoming available for subscription or purchase by persons other than those receiving the offer or invitation;”
 - (ii) in regulation 49L, in clause (3), after sub clause (iii), the following new subclauses shall be inserted, namely,-
 - “(iv) Systemically Important Non Banking Financial Companies registered with Reserve Bank of India;
 - (v) Foreign Institutional Investors registered with the Board, subject to their applicable investment limits, which are long term investors in terms of

- the norms specified by SEBI.”
- (iii) after regulation 49N, the following new regulation shall be inserted, namely-

“Offering period.

49NA. No scheme of an infrastructure debt fund, in the case of a public offer, shall be open for subscription for more than forty five days.”

- (iv) in regulation 49-O, in sub-regulation (1), -
 - (A) the words “interval period not longer than one month” shall be substituted with the words “specified transaction period of not more than forty five days”;
 - (B) the full stop shall be substituted with the symbol “:” ;
 - (C) the following proviso shall be inserted, namely-

“Provided that the tenure of the scheme may be extended to two years subject to approval of two-thirds of the unitholders by value of their investment in the scheme.”
- (v) after regulation 49-O, a new sub-regulation shall be inserted, namely-

“Private Placement.

49-OA. (1) The units of an infrastructure debt fund scheme may be offered through private placement to less than fifty persons , subject to approval by the trustees and the board of the asset management company.

- (2) The offer made under sub-regulation (1), shall be subject to the following:
 - (a) A placement memorandum, in the manner as specified by the Board, shall be filed by the mutual fund with the Board at least seven days prior to the launch of the scheme; and
 - (b) the mutual fund shall pay to the Board, filing fee as specified in the Second Schedule.”
- (vi) in regulation 49P, -
 - (A) in sub- regulation (1) -
 - (I) for the full stop, the symbol “:” shall be substituted;
 - (II) the following new provisos shall be inserted, namely-

“ Provided that the funds received on account of re-payment of principal, whether by way of pre-payment or otherwise, with respect to the underlying assets of the scheme, shall be invested as specified in this sub-regulation:

Provided further that if the investments specified in this subregulation are not available, such funds may be invested in bonds of Public Financial Institutions and Infrastructure Finance Companies.”
 - (B) in sub-regulation (5), -



- (I) after the words “or project or special purpose vehicle”, a full stop shall be inserted;
- (II) the symbols and words “,which are rated below investment grade or unrated:” shall be omitted;
- (III) the proviso shall be omitted;
- (C) after sub-regulation (5), the following new sub-regulation and proviso shall be inserted, namely,-
 “(5A) The overall investments by an infrastructure debt fund scheme in debt instruments or assets of infrastructure companies or projects or special purpose vehicles, which are created for the purpose of facilitating or promoting investment in infrastructure or bank loans in respect of completed and revenue generating projects of infrastructure companies or projects or special purpose vehicles, which are rated below investment grade or are unrated, shall not exceed 30% of the net assets of the scheme:
 Provided that the overall investment limit may increase upto 50% of the net assets of the scheme with the prior approval of the trustees and the board of the asset management company.”
- (D) in sub-regulation (6), for clause (iv), the following shall be substituted, namely, -
 “(iv) any asset or securities owned by the sponsor or asset management company or their associates in excess of 30% of the net assets of the scheme, provided that-
 (a) such investment is in assets or securities not below investment grade;
 (b) the sponsor or its associates retains atleast 30% of the assets or securities, in which investment is made by the scheme, till the assets or securities are held in the scheme portfolio; and
 (c) approval for such investment is granted by the trustees and full disclosures are made to the investors regarding such investment.”
- (vii) in Second Schedule, in paragraph I, in item D, -
 (A) after the words “Filing fees for offer documents” the words “and placement memoranda” shall be inserted;
 (B) after the words “amount raised in the new fund offer” and before the symbol and words “, subject to a minimum of”, the words and symbol “or by way of private placement, as the case may be” shall be inserted.

U. K. Sinha
Chairman

06 Establishment of Connectivity with both depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement

[Issued by the Securities and Exchange Board of India vide CIR/MRD/DP/12 /2013 dated 08.04.2013]

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.
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.

Manindar Cheema
Deputy General Manager

Annexure A

Sr. No.	Name of the Company	ISIN
1.	Vinaditya Trading Company Limited	INE952M01019
2.	Neogem India Limited	INE552E01014
3.	Kampani Consultants Limited	INE590J01013
4.	FICS Consultancy Services Limited	INE651J01013
5.	Esha Media Research Limited	INE328F01016
6.	Kumar Wire Cloth Manufacturing Company Limited	INE840A01011
7.	Marigold Glass Industries Limited	INE414C01011
8.	Indra Industries Limited	INE924N01016



07 SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2013

[Issued by the Securities and Exchange Board of India vide Notification No. LAD-NRO/GN/2013-14/01/8129 dated 05.04.2013 Published in the Gazette of India Extraordinary Part -III-Section-4 dated 05.04.2013]

In exercise of the powers conferred by section 30 of the Securities And Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992, namely:-

1. These Regulations may be called the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) (Amendment) Regulations, 2013.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992,—
 - (i) in regulation 2,—
 - a. in clause (ae), after the words “currency derivatives segment of an exchange” the words “or debt segment of a stock exchange” shall be inserted;
 - b. after clause (c), following clause shall be inserted; namely:-
“(ca) “proprietary trading member” means a member of debt segment of a stock exchange which trades only on its own account or as permitted by its sectoral regulator;”;
 - c. in clause (fa), after the words “currency derivatives segment of a stock exchange” the words “or debt segment of a stock exchange” shall be inserted;
 - d. in clause (gd), after the words “currency derivatives segment of a stock exchange” the words “or debt segment of a stock exchange” shall be inserted.
 - (ii) After Chapter III B, the following new Chapter shall be inserted, namely:-

“CHAPTER III C

REGISTRATION OF TRADING MEMBER OR PROPRIETARY TRADING MEMBER OR CLEARING MEMBER OR SELF CLEARING MEMBER OF DEBT SEGMENT

Application for registration of trading member or proprietary trading member or clearing member or self clearing member.

16S. (1) An application for grant of certificate of registration by a trading member or proprietary trading member of debt segment of a stock exchange shall be made in Form AC of Schedule I, through the concerned debt segment of a stock exchange of which he is a member.

(2) An application for grant of certificate of registration by a clearing member or self-clearing member of the clearing

corporation, shall be made in Form AC of Schedule I, through the concerned clearing corporation of which he is a member: Provided that a proprietary trading member or a trading member who also seeks to act as a self-clearing member shall make separate applications for each activity in Form AC of Schedule I.

(3) The debt segment of the stock exchange or clearing corporation, as the case may be, shall forward such application to the Board with its recommendation as early as possible but not later than thirty days from the date of its receipt.

Furnishing of information, clarification, etc.

16T. (1) The Board may require the applicant under this Chapter or the concerned stock exchange or segment or clearing corporation, as the case may be, to furnish such other information or clarifications, regarding the trading and settlement in debt segment and matters connected thereto as may be necessary, to consider the application for grant of a certificate.

(2) The applicant under this Chapter or its principal officer shall, if so required, appear before the Board for personal representation.

Consideration of application.

16U. (1) The Board shall take into account the following conditions for the grant of certificate of registration, namely, whether an applicant under this Chapter—

- (a) is eligible to be admitted as a trading member or proprietary trading member of debt segment of a stock exchange;
- (b) is eligible to be admitted as a clearing member or self-clearing member of a clearing corporation;
- (c) has the necessary infrastructure like adequate office place, equipment and manpower to effectively undertake his activities;
- (d) is subjected to disciplinary proceedings under the rules, regulations and byelaws of any stock exchange with respect to his business as a member of any segment of the stock exchange or a member of the clearing corporation involving either himself or any of his partners, directors or employees;
- (e) has any financial liability which is due and payable to the Board under these regulations.

(2) An applicant under this Chapter who desires to act as a trading member or proprietary trading member, in addition to complying with the requirements of sub-regulation (1), shall have a net worth of fifty lakh rupees and shall deposit a sum with the stock exchange as specified by the Board from time to time.

(3) An applicant under this Chapter who desires to act as a clearing member in addition to complying with the requirements of sub-regulation (1), shall have a minimum net worth of three crore rupees and shall deposit a sum as



specified by the Board with the clearing corporation.

(4) An applicant under this Chapter who desires to act as a self-clearing member, in the debt segment of a stock exchange, in addition to complying with the requirements of sub-regulation (1), shall have a minimum net worth of one crore rupees and shall deposit a sum as specified by the Board with the clearing corporation:

Provided that the deposit requirement specified in sub-regulation (3) or (4) shall not be applicable when a member clears and settles all the trades only on gross basis for both securities and funds, without using settlement or trade guarantee fund.

Explanation.- For the purpose of sub-regulations (2), (3) and (4), the expression 'net worth' shall mean the network as specified under Chapter III B.

Procedure for registration.

16V. The Board on being satisfied that the applicant under this Chapter is eligible, shall grant a certificate in Form DC of Schedule I, to such applicant and send intimation to that effect to the debt segment of the stock exchange or clearing corporation, as the case may be.

Conditions of registration.

16W. The provisions of regulation 6A shall be applicable *mutatis mutandis* to any registration granted by the Board under regulation 16V.

Procedure where registration is not granted.

16X (1) Where an application for the grant of a certificate under regulation 16S does not fulfil the requirements specified in regulation 16U, the Board may reject the application after giving the applicant a reasonable opportunity of being heard. (2) The refusal to grant the certificate of registration shall be communicated by the Board within 30 days of such refusal to the debt segment of the stock exchange or clearing corporation, as the case may be, and to the applicant stating therein the grounds on which the application has been rejected.

(3) An applicant, if aggrieved by the decision of the Board under sub-regulation (2), may apply to the Board for reconsideration of its decision within a period of thirty days from the date of receipt of such communication.

(4) The Board shall reconsider an application made under sub-regulation (3) and communicate its decision as soon as possible in writing to the applicant and to the debt segment of the stock exchange or clearing corporation, as the case may be.

Effect of refusal of certificate of registration.

16Y. An applicant, whose application for the grant of a

certificate of registration has been rejected by the Board, shall not, on and from the date of receipt of the communication under sub-regulation (2) or sub-regulation (4) of regulation 16X, deal in or settle the debt contracts as a member of the debt segment of a stock exchange or a clearing corporation, as the case may be.

Payment of fees and consequences of failure to pay fees.

16Z. (1) Every applicant eligible for grant of a certificate as a trading member or proprietary trading member or clearing member or self-clearing member under this Chapter shall pay such fee and in such manner as specified in Schedule IVB.

(2) Where such trading member or proprietary trading member or clearing member or self-clearing member fails to pay the fees as provided in subregulation (1), the Board may suspend or cancel the certificate of registration after giving an opportunity of being heard, whereupon the trading member or proprietary trading member or clearing member or self-clearing member shall cease to deal in or settle the debt contracts as a member of debt segment of stock exchange or clearing corporation, as the case may be.

(3) A trading member or proprietary trading member or clearing member or selfclearing member of any other segment, who has been allowed to trade or clear in the debt segment, shall pay fees as specified in Schedule IVB.

Trading member or proprietary trading member or clearing member or self-clearing member to abide by the code of conduct, etc.

16ZA. (1) The code of conduct for the stock brokers specified in Schedule II, shall *mutatis mutandis* apply to the trading member or proprietary trading member or clearing member or self-clearing member under this Chapter and such members shall at all times abide by that code of conduct.

(2) The trading member or proprietary trading member or clearing member or self-clearing member specified in Chapter III C shall abide by the code of conduct as specified in the rules and bye-laws of debt segment of the stock exchange.

(3) The trading member under this Chapter shall obtain details of the prospective clients in 'know your client' format as specified by the Board before executing an order on behalf of such client.

(4) The trading member under this Chapter shall furnish 'risk disclosure document' disclosing the risk inherent in trading in debt instruments to the prospective clients in the form specified by debt segment of the stock exchange.

(5) The trading member or proprietary trading member or clearing member or self-clearing member under this Chapter shall deposit margin or any other deposit and shall maintain position or exposure limit as specified by the Board or the concerned stock exchange for debt segment or clearing corporation from time to time.



From the Government

Explanation.- For the purposes of this regulation, the term “debts instruments” shall mean and include debt securities and any other such instrument specified by the Board.

Applicability of Chapters IV, V and VI.

16ZB. (1) The provisions of Chapters IV, V and VI shall mutatis mutandis apply to trading member or proprietary trading member or clearing member or self-clearing member under this Chapter and such members shall abide by the provisions of the said Chapters.

(2) In the Chapters referred to in sub-regulation (1), the words ‘stock broker’ shall refer to trading member or proprietary trading member or clearing member or self-clearing member under this Chapter and the words ‘stock exchange’ shall refer to debt segment of a stock exchange or clearing corporation, as the case may be.

(3) The Board may issue such directions under section 11B of the Act and Securities Contracts (Regulation) Act to the trading member or proprietary trading member or clearing member or self-clearing member under this Chapter as may be deemed appropriate and such member shall abide by such directions.

(4) In case of violation of any regulation, the trading member or proprietary trading member or clearing member or self-clearing member specified in Chapter III C shall be liable to penalty as specified in Chapter VI.”

(iii) In Schedule I, –

(a) after Form AB, the following Form shall be inserted, namely:-

“FORM AC

Securities and Exchange Board of India (Stock Brokers and Sub-brokers)
Regulations, 1992
[Regulation 16S]

Application form for registration as a trading member or proprietary trading member or clearing member and/or self-clearing member of debt segment of a stock exchange with the Securities and Exchange Board of India

1. Name of the debt segment of a stock exchange/clearing corporation of which the applicant is the member and the tenure of membership.
2. Name of the member with Code No.
3. Whether the applicant is to act as a trading member or proprietary trading member or clearing member and/or self-clearing member.
4. If the applicant is to act as a trading member or proprietary trading member, the applicant is required to furnish the name and details of the clearing member or self-clearing member through whom he intends to clear and settle his trade.
5. Address of the member.
6. Trade name of member.

7. Net worth of the applicant along with necessary documents in support thereof.
8. Whether the application is accompanied by a requisite fee as per Schedule IVB of the Regulations as applicable to the applicant.
9. Copy of certificate of registration in case the applicant is already registered as a member of the stock exchange or clearing corporation under these Regulations.
10. In case the applicant is not already registered as a member of the stock exchange or clearing corporation under these Regulations, following additional information shall be provided:
 - i. Form of organisation: sole proprietorship/partnership/corporate body/financial institution/any other (names of proprietor/ partners/directors).
 - ii. Copy of the memorandum and articles of association or the partnership deed as the case may be.
 - iii. Educational qualifications of proprietor/partners/ directors, etc.
 - iv. Date of admission to membership to debt segment of a stock exchange/clearing corporation.
 - v. Details in case the applicant or its director or partner is convicted of any economic offence any time.
 - vi. Details in case the applicant or its director or partner is declared insolvent/bankrupt or declared defaulter by any exchange or clearing corporation.
 - vii. Details in case the applicant or its director or partner is subjected to any proceedings or penalty by the Board under the SEBI Act or any of the regulations framed under the SEBI Act at any time.
 - viii. Fax, telex, email and phone number(s).

11. Declaration :

I declare that the information given in this form is true and in the event of any information furnished is false, misleading or suppression of facts, my certificate of registration is liable to be cancelled by SEBI without assigning any reasons whatsoever.

Dated.....

Signature

Recommendation of the debt segment of a stock exchange, clearing corporation

This is to certify that.....is a member of this debt segment or Clearing Corporation and is recommended for registration with the Securities and Exchange Board of India.

Signature
Name
Designation”

(b) after Form DB, the following Form shall be inserted,



namely:-

“FORM DC

Securities and Exchange Board of India (Stock Brokers and Sub-brokers)
Regulations, 1992
[Regulation 16V]

Certificate of Registration

In exercise of the powers conferred by sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992, read with the rules and regulations made thereunder, the Board hereby grants a certificate of registration to.....
..... a member of the
.....debt segment/ clearing corporation as trading member / proprietary trading member / clearing member / self-clearing member for dealing in debt segment/clearing and settlement of trades in debt segment and for carrying on such other activities as are permitted by segment(s) of a stock exchange/clearing corporation subject to the conditions prescribed therefor, from time to time, by the Board.

Registration number allotted is as under:

.....

This certificate shall be valid till it is suspended or cancelled in accordance with the Regulations.

Date : By order
For and on behalf of Securities and Exchange Board of India.”

(iv) After Schedule IVA, the following new Schedule shall be inserted, namely:-

“SCHEDULE IVB [Regulation 16Z(1)]

FEES TO BE PAID BY THE TRADING MEMBER OR PROPRIETARY TRADING MEMBER OR CLEARING MEMBER OR SELF-CLEARING MEMBER OF DEBT SEGMENT/CLEARING CORPORATION

1. A clearing member or self clearing member shall every financial year pay a fee of rupees fifty thousand till his registration is in force, in the manner specified below:—
 - (a) for the first financial year along with the application for registration;
 - (b) for the subsequent financial years before 1st June of that financial year.
2. Every trading member or proprietary trading member shall pay to the Board every financial year, a fee in respect of the transactions undertaken by him on the debt segment of a recognised stock exchange, at the rate of 0.00001 per cent. of his turnover (Rs.1 per crore).

Explanation.—For the purpose of this clause, the expression ‘turnover’ shall include the aggregate value of the trades executed, including both sale and purchase transactions, by the trading member or proprietary trading member on the debt segment of the recognised stock exchange.

3. (1) Every recognised stock exchange shall collect from every trading member or proprietary trading member the fee payable under clause 2 in respect of his turnover in the debt segment of the stock exchange in accordance with the provisions of its bye-laws. Every clearing corporation shall collect from every clearing member and self-clearing member a fee payable under clause 1 in accordance with the provisions of its bye-laws.
(2) The fee collected by a recognised stock exchange and/or clearing corporation under sub-clause (1) during a calendar month shall be paid by the stock exchange or clearing corporation to the Board by the fifth working day of the following calendar month.
(3) All recognised stock exchanges and/or clearing corporation shall maintain such registers and furnish such returns or information to the Board in respect of the fee collected under this Schedule, as may be specified by the Board.
(4) Without prejudice to sub-clause (3), a recognised stock exchange shall also be liable to furnish such information or explanations to the Board as may be required by it in respect of fee collected or liable to be collected under this Schedule.
4. A trading member or proprietary trading member who also acts as a self clearing member shall pay the annual fee separately, as applicable to each category as specified in clauses 1 and 2 above.
5. (1) Nothing contained in clause 3 shall affect the primary liability of a trading member or proprietary trading member to pay the fees under clause 2 or shall preclude the Board from recovering any such fee remaining unpaid by any trading member directly from him.
(2) Where due to default of the trading member or proprietary trading member any fee which was liable to be paid on his behalf under clause 3 remains unpaid or is paid belatedly, he shall, without prejudice to any other action that may be taken under the Act, rules or regulations, pay an interest of 15 per cent. per annum for every month of delay or part thereof to the Board.
(3) Every trading member or proprietary trading member shall be liable to furnish such information or explanations to the Board as may be required by it in respect of fee paid or payable under this Schedule.
6. The financial year shall mean the year commencing from 1st April and ending on 31st March of the following year.”

U. K. Sinha
Chairman





08 Rationalisation of Debt Limits

[Issued by the Securities and Exchange Board of India vide CIR/IMD/FIIC/6/2013 dated 01.04.2013]

1. The Government of India has issued a Press Release dated March 23, 2013 wherein, inter alia, the following measures have been proposed to simplify the framework of FII debt limits :

a. Merger of existing debt limits into following two broad categories :

- i. Government securities of US\$ 25 billion (by merging Government Debt – Old of US\$ 10 billion and Government Debt – Long Term of US\$ 15 billion).
- ii. Corporate bonds of US\$ 51 billion (by merging US\$ 1 billion for QFIs, US\$ 25 billion for FIIs and US\$ 25 billion for FIIs in long term infra bonds).

b. On account of the room created by unifying the debt categories, the current SEBI auction mechanism of allocating debt limits for corporate bonds, shall be replaced by the 'on tap system' currently in place for infrastructure bonds.

2. Accordingly, in partial modification of Para 4 of the SEBI circular CIR/IMD/FIIC/3/2013 dated February 08, 2013, the categories of Government Debt Old (US\$ 10 billion) and Government Debt Long Term (US\$ 15 billion) shall be merged into a single category named 'Government Debt' and the combined limit shall be US\$ 25 billion, equivalent to INR 124,432 crores.

3. Further, in partial modification to Para 4 of the SEBI circular CIR/IMD/FIIC/3/2013 dated February 08, 2013, the following categories of debt limits shall be merged into a single category named 'Corporate Debt' :

- a. Corporate Debt – Old for FIIs (US\$ 20 billion)
- b. Corporate Debt – Old for QFIs (US\$ 1 billion)
- c. Corporate Debt – Long Term (US\$ 5 billion)
- d. Corporate Debt Long Term Infra (US\$ 12 billion)
- e. QFI investment in debt mutual fund schemes which invest in infra (US\$ 3 billion)
- f. Investment in IDF(US\$ 10 billion)

The combined limit for this 'Corporate Debt' category would be US\$ 51 billion equivalent to INR 244,323 crores

4. The table summarizing the categories of debt investment

limits is as follows :

S. No	Type of Instrument	Cap (US\$ bn)	Cap (INR Crore)	Eligible Investors	Remarks
1	Government Debt	25	124,432	FIIs and QFIs	Eligible investors may invest in Treasury Bills only up to US\$ 5.5 billion within the limit of US\$ 25 billion
2	Corporate Debt	51	244,323	FIIs and QFIs	Eligible investors may invest in Commercial Papers only up to US\$ 3.5 billion within the limit of US\$ 51 billion
Total		76	368,755		

5. Vide circular CIR/IMD/FIIC/12/2012 dated April 27, 2012, SEBI had indicated that the auction of debt limits would be conducted on 20th of every month (if 20th is holiday, auction shall be done on the next working day), based on availability of free limits at the end of respective previous month. In partial modification of the said circular, it has been decided that FIIs can now invest in Corporate Debt without purchasing debt limits till the overall investment reaches 90% after which the auction mechanism would be initiated for allocation of the remaining limits, as currently in place for Corporate Debt Long Term Infrastructure bonds.
6. It is clarified that consequent to the changes as above, the facility of re-investment provided vide SEBI circular CIR/IMD/FIIC/18/2010 dated November 26, 2010 as well as the restrictions on re-investment as given in the SEBI circulars CIR/IMD/FIIC/1/2012 dated January 03, 2012, CIR/IMD/FIIC/22/2012 dated November 07, 2012 and CIR/IMD/FIIC/1/2013 dated January 01, 2013 shall no longer apply in respect of limits held/investments made by FIIs in the Corporate Debt category, till the limits are available on tap.
7. It is further clarified that for those FIIs which had obtained Debt limits in the debt limit auctions held on February 20, 2013 and on March 20, 2013, the time period for utilization of Corporate Debt limits allocated through the bidding process shall be 60 days , in terms of the SEBI circular CIR/IMD/FIIC/22/2012 dated November 07, 2012.
8. The status of utilization of debt limits as on March 31, 2013 indicating the quantum of limits which are freely available for investments by FIIs and QFIs shall be put on the SEBI website and thereafter, the monitoring of investments by FIIs and the dissemination of daily data shall be done by the depositories in the same manner as is being done in the case of QFIs. For this purpose e, the mechanism laid down in Para 4 of the SEBI circular CIR/IMD/FIIC/ 17/2012 dated July 18, 2012 shall apply mutatis mutandis. The custodians shall provide the



necessary data to the depositories on a daily basis for this purpose. Accordingly, the present practice of dissemination of fortnightly debt utilization status shall be discontinued.

This circular shall come into effect immediately. This circular is issued in exercise of powers conferred under SEBI 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.

A copy of this circular is available at the web page "F.I.I." on our website www.sebi.gov.in. The custodians are requested to bring the contents of this circular to the notice of their FI clients..

S Madhusudhanan
Deputy General Manager

09 Amendment to SEBI {(Know Your Client) Registration Agency} Regulations, 2011 and relevant circulars

[Issued by the Securities and Exchange Board of India vide CIR/MIRSD/ 4 /2013 dated 28.03.2013]

1. Please refer to SEBI circular nos. MIRSD/Cir- 26 /2011 dated December 23, 2011 and MIRSD/ Cir-5 /2012 dated April 13, 2012.
2. The Securities and Exchange Board of India {KYC (Know Your Client) Registration Agency} Amendment Regulations, 2013 have been notified vide No. LADNRO/ GN/2012-13/35/6998 with effect from March 22, 2013 whereby the requirement for sending original KYC documents of the clients to the KRA has been removed (copy enclosed).
3. The aforesaid circulars dated December 23, 2011 and April 13, 2012 shall stand modified to that extent. The other provisions of these circulars shall remain unchanged.
4. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 and Regulation 17 of the SEBI (KYC (Know Your Client) Registration Agency) Regulations, 2011 to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.

A. S. Mithwani
Deputy General Manager



Banking/ Economic Laws

10 Investment by Navratna Public Sector Undertakings (PSUs), OVL and OIL in unincorporated entities in oil sector abroad

[Issued by the Reserve Bank of India vide RBI/2012-13/480 A.P. (DIR Series) Circular No.99 dated 23.04.2013.]

- Attention of the Authorised Dealer (AD - Category I) banks is invited to the Notification No. FEMA.120/ RB-2004 dated July 7, 2004 [Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004] (the Notification), as amended from time to time, and A.P. (DIR Series) Circular No. 59 dated May 18, 2007 and para 3(i) of A.P. (DIR Series) Circular No. 48 dated June 03, 2008 in terms of which Navratna Public Sector Undertakings (PSUs) and ONGC Videsh Ltd (OVL) and Oil India Ltd (OIL) are allowed to invest in overseas unincorporated entities in oil sector (for exploration and drilling for oil and natural gas, etc.), which are duly approved by the Government of India, without any limits under the automatic route.
2. On a review, it has now been decided that such facility is also extended to the overseas investments in the incorporated JV / WOS in oil sector (for exploration and drilling for oil and natural gas, etc.) by the Navratna Public Sector Undertakings (PSUs) and ONGC Videsh Ltd (OVL) and Oil India Ltd (OIL), which are duly approved by the Government of India, without any limits under the automatic route.
 - 3.. All the other terms and conditions prescribed under the Circulars and Notification under reference shall remain un-changed.
 4. AD - Category I banks may bring the contents of this circular to the notice of their constituents and customers concerned.
 5. The directions contained in this circular have been



From the Government

issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

Rashmi Fauzdar
Chief general Manager

11 Foreign investment in India by SEBI registered FIIs in Government Securities and Corporate Debt

[Issued by the Reserve Bank of India vide RBI/2012-13/465, A.P. (DIR Series) Circular No.94 dated 01.04.2013.]

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to Schedule 5 to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 notified vide Notification No. FEMA.20/2000-RB dated May 3, 2000, as amended from time to time, in terms of which SEBI registered Foreign Institutional Investors (FIIs) and long term investors may purchase, on repatriation basis Government securities and non-convertible debentures (NCDs) / bonds issued by an Indian company subject to such terms and conditions as mentioned therein and limits as prescribed for the same by RBI and SEBI from time to time.

2. Attention of AD Category-I banks is also invited to A.P.(DIR Series) Circular No.80 dated January 24, 2013 in terms of which the present limit for investments by FIIs and long term investors in Government securities is USD 25 billion and for corporate debt is USD 51 billion (including sub-limit of USD 25 billion each for bonds of infrastructure sector and non-infrastructure sector and USD 1 billion for QFIs in non-infrastructure sector).
3. On a review, to simplify the existing limits, it has now been decided to merge the existing debt limits into two broad categories as under:
 - (i) **Government Debt limit:** Government securities of USD 25 billion by merging the existing sub-limits under Government securities [(a)USD 10 billion for investment by FIIs in Government securities including Treasury Bills and (b) USD15 billion for investment In Government dated securities by FIIs and long term investors]; and
 - (ii) **Corporate Debt Limit:** Corporate debt of USD 51 billion by merging the existing sub-limits of Corporate debt [(a) USD 1 billion for Qualified Foreign Investors (QFIs), (b) USD 25 billion for investment by FIIs and long term investors in non-infrastructure sector and (c) USD 25 billion for investment by FIIs/QFIs/long term investors in infrastructure sector].

4. A summary of revised position is given below:

Instrument/s	Limit	Eligible Investor	Remarks
Government securities including Treasury Bills	USD 25 billion	FIIs, QFIs and Long terms investors registered with SEBI – Sovereign Wealth Funds (SWFs), Multilateral Agencies, Pension/ Insurance/ Endowment Funds, Foreign Central Banks.	Eligible Investors may invest in Treasury Bills only upto USD 5.5 billion within the limit of USD 25 billion.
Eligible instruments as referred to in Schedule 5 of Notification No. FEMA 20 /2000-RB dated 3rd May 2000.	USD 51 billion	FIIs, QFIs, Long terms investors registered with SEBI - SWFs, Multilateral Agencies, Pension/ Insurance/ Endowment Funds, Foreign Central Banks .	Eligible Investors may invest in Commercial Papers only upto USD 3.5 billion within the limit of USD 51 billion.

5. The Non-Resident Indians were not subject to any limit for investment in Government Securities as well as corporate debt. They will continue to be regulated as per extant guidelines.
6. The above changes will come into effect from April 1, 2013. The operational guidelines in this regard will be issued by SEBI.
7. AD Category – I banks may bring the contents of this circular to the notice of their constituents and customers concerned.
8. Reserve Bank of India has since amended the relevant Regulations vide Notification No. FEMA.272/2013-RB dated March 26, 2013, notified vide G.S.R.No.195(E) dated April 01, 2013.
9. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Rudra Narayan Kar
Chief General Manager-in-Charge

12 Public Provident Fund Scheme, 1968 (PPF, 1968) and Senior Citizens Savings Scheme, 2004 (SCSS, 2004) Revision of interest rates



[Issued by the Reserve Bank of India vide No. RBI/2012-13/458 dated 28.03.2013.]

Please refer to our circular RBI/2011-12/359 dated January 20, 2012 regarding interest rates on small savings schemes, wherein it was indicated that as per Government's decision on revision of interest on small savings schemes, the interest rates on various small savings schemes for every financial year will be notified by the Government before April 01st of that year.

2. The Government of India has now vide their Office Memorandum (OM) No. 6-1/2011-NS.II (Pt.) dated March 25, 2013, advised the rate of interest on various small savings schemes for the financial year 2013-14. Accordingly, the rates of interest on PPF, 1968 and SCSS, 2004 for the financial year 2013-14, effective from April 01, 2013, on the basis of the interest compounding/ payment built-in in the schemes, will be as under:

Scheme	Rate of Interest w.e.f. 01.04.2012	Rate of Interest w.e.f. 01.04.2013
5 year SCSS, 2004	9.3%p.a	9.2%p.a
PPF, 1968	8.8%p.a	8.7%p.a

3. The contents of this circular may be brought to the notice of the branches of your bank operating the PPF, 1968 and SCSS, 2004 schemes. These should also be displayed on the notice boards of your branches for information of the PPF, 1968 & SCSS, 2004 subscribers.

Sangeeta Lalwani
General Manager

13 Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Eighth Amendment) Regulations, 2013

[Issued by the Reserve Bank of India vide Notification No. FEMA. 272/2013-RB dated 26.03.2013.]

In exercise of the powers conferred by clause (b) of sub-section (3) of Section 6 and Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India hereby makes the following amendments in the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 (Notification No. FEMA. 20/2000-RB dated 3rd May 2000) namely:-

1. Short Title & Commencement

- (i) These Regulations may be called the Foreign

Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) (Eighth Amendment) Regulations, 2013.

- (ii) They shall come into force from April 1, 2013.

2. Amendment of Schedule 5

In the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, (Notification No.FEMA 20/2000-RB dated 3rd May 2000), in Schedule 5,

- (A) In paragraph 1,
 - (i) in clause (e), for the words "the total holding of all FII's put together", the words "the total holding of all eligible investors put together" shall be substituted;
 - (ii) in clause (f), for the words "provided that the investment by all FII's in Perpetual Debt instruments (Tier I)" the words "provided that the investment by all eligible investors in Perpetual Debt instruments (Tier I)" shall be substituted;
 - (iii) in clause (f), the words "The investment by FII's in Debt capital instruments (Tier II) shall be within the limits stipulated by SEBI for FII investment in corporate debt " shall be deleted.
 - (iv) in clause (g), the words "subject to residual maturity as stipulated by Reserve Bank from time to time" shall be deleted.
 - (v) in clause (h), the words "subject to residual maturity as stipulated by the SEBI and the Reserve Bank from time to time" shall be deleted.
 - (vi) in clause (i), the words "subject to residual maturity as stipulated by the Reserve Bank and SEBI from time to time" shall be deleted.

(B) In paragraph 1A, after clause (iv), the following new clause shall be added, namely:

"(v) QFI may purchase, on repatriation basis through SEBI registered Qualified Depository Participant(QDP), either directly from the issuer or through a registered broker on recognized Stock Exchange in India the following securities, subject to terms and condition as specified by the SEBI and the Reserve Bank from time to time;

- (a) dated Government securities/ treasury bills;
- (b) commercial papers issued by an Indian company ;
- (c) Security Receipts issued by Asset Reconstruction Companies provided that the total holding by an individual QFI in each tranche of scheme of Security Receipts shall not exceed 10 per cent of the issue and the total holdings of all eligible investors put together shall not exceed 49 per cent of the paid up value of each tranche of scheme of Security Receipts issued by the Asset Reconstruction Companies;
- (d) Perpetual Debt instruments eligible for inclusion as



From the Government

Tier I capital and Debt capital instruments as upper Tier II capital issued by banks in India to augment their capital (Tier I capital and Tier II capital as defined by Reserve Bank, and modified from time to time) provided that the investment by eligible investors in Perpetual Debt instruments (Tier I) shall not exceed an aggregate ceiling of 49 per cent of each issue, and investment by individual QFI shall not exceed the limit of 10 per cent of each issue;

- (e) listed and unlisted non-convertible debentures/bonds issued by an Indian company in the infrastructure sector, where 'infrastructure' is defined in terms of the extant ECB guidelines;
- (f) non-convertible debentures / bonds issued by Non-Banking Finance Companies categorized as 'Infrastructure Finance Companies'(IFCs) by the Reserve Bank;
- (g) Rupee denominated bonds/units issued by Infrastructure Debt Funds."

(C) In paragraph 1B,

(1) for the clause (i), the following shall be substituted:

"(i) Long term investors like Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds which are registered with SEBI as eligible investors in Infrastructure Debt Funds may purchase on repatriation basis Rupee Denominated bonds/units issued by Infrastructure Debt Funds."

(2) the following shall be substituted for the existing clause (iii), namely:

"(iii) Long term investors like Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds and Pension Funds and Foreign Central Banks registered with SEBI may purchase, on repatriation basis, either directly from the issuer of such securities or through registered stock broker on a recognised Stock Exchange in India, the following securities, subject to the terms and conditions as specified by the SEBI and the Reserve Bank from time to time, namely:

- (a) dated Government securities/ treasury bills;
- (b) commercial papers issued by an Indian company ;
- (c) units of domestic mutual funds;
- (d) listed non-convertible debentures/bonds issued by an Indian company;
- (e) listed and unlisted non-convertible debentures/bonds issued by an Indian company in the infrastructure sector, where 'infrastructure' is defined in terms of the extant ECB guidelines;
- (f) non-convertible debentures/bonds issued by Non-Banking Finance Companies categorized as 'Infrastructure Finance Companies'(IFCs) by the Reserve Bank ;
- (g) Security Receipts issued by Asset Reconstruction

Companies provided that the total holding by an individual long term investor in each tranche of scheme of Security Receipts shall not exceed 10 per cent of the issue and the total holdings of all eligible investors put together shall not exceed 49 per cent of the paid up value of each tranche of scheme of Security Receipts issued by the Asset Reconstruction Companies;

- (h) Perpetual Debt instruments eligible for inclusion as Tier I capital and Debt capital instruments as upper Tier II capital issued by banks in India to augment their capital (Tier I capital and Tier II capital as defined by Reserve Bank, and modified from time to time) provided that the investment by all eligible investors in Perpetual Debt instruments (Tier I) shall not exceed an aggregate ceiling of 49 per cent of each issue, and investment by individual long term investor shall not exceed the limit of 10 per cent of each issue;
- (i) primary issues of non-convertible debentures / bonds provided such non-convertible debentures / bonds are committed to be listed within 15 days of such investment. In the event of such non-convertible debentures / bonds issued not being listed within 15 days of issuance, for any reason, then the long term investor shall immediately dispose of those non-convertible debentures / bonds either by way of sale to a third party or to the issuer and the terms of offer to long term investors should contain a clause that the issuer of such debt securities shall immediately redeem / buyback those securities from the long term investors in such an eventuality."

(D) In paragraph 2, in sub-paragraph (1A),

the clause (iv) shall be substituted with the following, namely

"(iv) bonds / units issued by Infrastructure Debt Funds."

Rudra Narayan Kar
Chief General Manager-in-Charge

14 Standardization and Enhancement of Security Features in Cheque Forms/Migrating to CTS 2010 standards

[Issued by the Reserve Bank of India vide RBI/2012-13/444 dated 18.03.2013.]

A reference is invited to our circular DPSS.CO.CHD.No. 955/04.07.05/2012-13 dated December 14, 2012. On a review of the progress made by banks so far in migration to CTS-2010 standard cheques and in consultation with



- a few banks and Indian Banks Association, it has been decided to put in place the following arrangements for clearing of residual non-CTS-2010 standard cheques beyond the cutoff date of March 31, 2013.
- All cheques issued by banks (including DDs / POs issued by banks) with effect from the date of this circular shall necessarily conform to CTS-2010 standard.
 - Banks shall not charge their savings bank account customers for issuance of CTS-2010 standard cheques when they are issued for the first time. However, banks may continue to follow their existing policy regarding cheque book issuance for additional issuance of cheques, in adherence to their accepted Fair Practices Code.
 - All residual non-CTS-2010 cheques with customers will continue to be valid and accepted in all clearing houses [including the Cheque Truncation System (CTS) centers] for another four months up to July 31, 2013, subject to a review in June 2013.
 - Cheque issuing banks shall make all efforts to withdraw the non-CTS-2010 Standard cheques in circulation before the extended timeline of July 31, 2013 by creating awareness among customers through SMS alerts, letters, display boards in branches/ATMs, log-on message in internet banking, notification on the web-site etc.
 - A progress report in this regard to be submitted to this department in the format prescribed in the annex, enabling monitoring of the progress made by banks in respect of migration to CTS-2010 standard cheques.
 - In addition, the bank-wise volume of inward clearing instruments processed in the Cheque Processing Centers will be monitored with respect to the CTS-2010 / non-CTS-2010 standard cheques presented on them.
 - No fresh Post Dated Cheques (PDC)/Equated Monthly Installment (EMI) cheques (either in old format or new CTS-2010 format) shall be accepted by lending banks in locations where the facility of ECS/RECS (Debit) is available. Lending banks shall make all efforts to convert existing PDCs in such locations into ECS/RECS (Debit) by obtaining fresh mandates from the borrowers.
- The above instructions are issued under section 18 of the Payment and Settlement Systems Act 2007 (Act 51 of 2007).
 - Please acknowledge receipt and confirm compliance.

Vijay Chugh

Chief General Manager

Annex

Report showing the progress made in the issuance of CTS-2010 standard cheques and replacement of non-CTS-2010 standard cheques for the month of

(Consolidated report to be submitted by the corporate/head office of all cheque issuing banks to the Department of Payment and Settlement Systems, Central Office, Reserve Bank of India, Mumbai before 10th of the succeeding month)

- Name of the Bank :
- Date with effect which the bank has commenced issuing CTS-2010 Standard cheques across all branches :
- Number of accounts to which CTS-2010 standard instruments are yet to be issued
 - Savings Bank Accounts :
 - Business Accounts :
- Briefly describe the efforts taken by the bank to replace the non-CTS-2010 standard cheques with the CTS-2010 standard compliant cheques

15 External Commercial Borrowings (ECB) Policy – Corporates under Investigation

[Issued by the Reserve Bank of India vide RBI/2012-13/429 A.P. (DIR Series) Circular No. 87 dated 05.03.2013.]

Attention of Authorized Dealer Category - I (AD Category - I) banks is invited to the A.P. (DIR Series) Circular No. 71 dated June 30, 2009 and Third Amendment to FEMA Notification No.3 (FEMA 197/2009-RB) dated September 22, 2009.

- As per the extant guidelines, corporates that are under investigation by any law enforcing agencies like the Directorate of Enforcement (DoE), etc. are not allowed to access ECB under the Automatic route. Any request by such corporates for ECB is examined by the Reserve Bank under the approval route.
- On a review, it has been decided to permit all entities to avail of ECBs under the automatic route as per the current norms, notwithstanding the pending investigations / adjudications / appeals by the law enforcing agencies, without prejudice to the outcome of such investigations / adjudications / appeals. Accordingly, in case of all applications where the borrowing entity has indicated about the pending investigations / adjudications / appeals, Authorised Dealers while approving the proposal shall intimate the concerned agencies by endorsing the copy of the approval letter. The same procedure will be followed by the Reserve Bank of India also while approving such proposals.
- The modifications to the ECB guidelines will come into force with immediate effect. All other aspects of the ECB policy, under the Automatic route such as amount of ECB, eligible borrower, recognised lender, end-use, all-in-cost ceiling, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements remain unchanged.
- Necessary amendments to the Foreign Exchange



From the Government

Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 dated May 3, 2000 have been issued vide Notification No.FEMA.256/2013-RB dated February 06, 2013, notified vide G.S.R.No.125(E) dated February 26, 2013.

6. AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers concerned.
7. The Directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Rudra Narayan Kar
Chief General Manager-in-Charge

16 The Prevention of Money-Laundering (Amendment) Act, 2012*

[Issued by the Ministry of Law and Justice (Legislative Department) dated 04.01.2013 Published in the Gazette of India Extraordinary Part -II-Section-1 dated 04.01.2013.]

An Act further to amend the Prevention of Money-laundering Act, 2002.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. Short title and commencement

- (1) This Act may be called the Prevention of Money-laundering (Amendment) Act, 2012.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 2

In section 2 of the Prevention of Money-laundering Act, 2002 (15 of 2003) (hereinafter referred to as the principal Act), in sub-section (1),—

- (i) after clause (f), the following clause shall be inserted, namely:—
'(fa) "beneficial owner" means an individual who ultimately owns or controls a client of a reporting entity or the person on whose behalf a transaction is being conducted and includes a person who exercises ultimate effective control over a juridical person;';

- (ii) after clause (h), the following clause shall be inserted, namely:—

'(ha) "client" means a person who is engaged in a financial transaction or activity with a reporting entity and includes a person on whose behalf the person who engaged in the transaction or activity, is acting;';

- (iii) after clause (i), the following clauses shall be inserted, namely:—

'(ia) "corresponding law" means any law of any foreign country corresponding to any of the provisions of this Act or dealing with offences in that country corresponding to any of the scheduled offences;

(ib) "dealer" has the same meaning as assigned to it in clause (b) of section 2 of the Central Sales Tax Act, 1956 (74 of 1956.);';

- (iv) clause (ja) shall be omitted;

- (v) for clause (l), the following clause shall be substituted, namely:—

'(l) "financial institution" means a financial institution as defined in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934) and includes a chit fund company, a housing finance institution, an authorised person, a payment system operator, a non-banking financial company and the Department of Posts in the Government of India;';

- (vi) for clause (n), the following clause shall be substituted, namely:—

'(n) "intermediary" means,—

- (i) a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser or any other intermediary associated with securities market and registered under section 12 of the Securities and Exchange Board of India Act, 1992; (15 of 1992); or

- (ii) an association recognised or registered under the Forward Contracts (Regulation) Act, 1952 (74 of 1952) or any member of such association; or

- (iii) intermediary registered by the Pension Fund Regulatory and Development Authority; or

- (iv) a recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956.);';

- (vii) in clause (q), the words "and includes a person carrying on designated business or profession" shall be omitted;

- (viii) in clause (ra), in sub-clause (i), for the word "remits", the words "transfers in any manner" shall be substituted;

- (ix) after clause (s), the following clauses shall be inserted, namely:—

'(sa) "person carrying on designated business or

* No. 2 of 2013. Received the assent of the President of India on the 3rd January 2013 and published for general information.



profession” means,—

- (i) a person carrying on activities for playing games of chance for cash or kind, and includes such activities associated with casino;
 - (ii) a Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 (16 of 1908) as may be notified by the Central Government;
 - (iii) real estate agent, as may be notified by the Central Government;
 - (iv) dealer in precious metals, precious stones and other high value goods, as may be notified by the Central Government;
 - (v) person engaged in safekeeping and administration of cash and liquid securities on behalf of other persons, as may be notified by the Central Government; or
 - (vi) person carrying on such other activities as the Central Government may, by notification, so designate, from time to time;
- (sb) “precious metal” means gold, silver, platinum, palladium or rhodium or such other metal as may be notified by the Central Government;
- (sc) “precious stone” means diamond, emerald, ruby, sapphire or any such other stone as may be notified by the Central Government;’;
- (x) after clause (v), the following shall be inserted, namely:—

‘Explanation.—For the removal of doubts, it is hereby clarified that the term “property” includes property of any kind used in the commission of an offence under this Act or any of the scheduled offences;

(va) “real estate agent” means a real estate agent as defined in clause (88) of section 65 of the Finance Act, 1994 (32 of 1994.);’;

- (xi) after clause (w), the following clause shall be inserted, namely:—

‘(wa) “reporting entity” means a banking company, financial institution, intermediary or a person carrying on a designated business or profession;’.

3. Amendment of section 3

In section 3 of the principal Act, for the words “proceeds of crime and projecting”, the words “proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming” shall be substituted.

4. Amendment of section 4

In section 4 of the principal Act, the words “which may extend to five lakh rupees” shall be omitted.

5. Amendment of section 5

In section 5 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

- “(1) Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that—
- (a) any person is in possession of any proceeds of crime; and
 - (b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter,
- he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of the order, in such manner as may be prescribed:

Provided that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974) or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or a similar report or complaint has been made or filed under the corresponding law of any other country:

Provided further that, notwithstanding anything contained in clause (b), any property of any person may be attached under this section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that if such property involved in money laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act.”.

6. Amendment of section 8

In section 8 of the principal Act,—

- (i) in sub-section (1), after the words and figure “section 5, or, seized”, the words “or frozen” shall be inserted;
- (ii) in sub-section (3),—
 - (a) in the opening portion, for the words and figures “record seized under section 17 or section 18 and record a finding to that effect, such attachment or retention of the seized property”, the words



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and figures “record seized or frozen under section 17 or section 18 and record a finding to that effect, whereupon such attachment or retention or freezing of the seized or frozen property” shall be substituted;

- (b) in clause (a), for the words “scheduled offence before a court; and”, the words “offence under this Act before a court or under the corresponding law of any other country, before the competent court of criminal jurisdiction outside India, as the case may be; and” shall be substituted;

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

“(b) become final after an order of confiscation is passed under sub-section (5) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60 by the Adjudicating Authority”;

- (iii) in sub-section (4), for the words “possession of the attached property”, the following shall be substituted, namely:—

“possession of the property attached under section 5 or frozen under sub-section (1A) of section 17, in such manner as may be prescribed:

Provided that if it is not practicable to take possession of a property frozen under sub-section (1A) of section 17, the order of confiscation shall have the same effect as if the property had been taken possession of.”;

- (iv) for sub-sections (5) and (6), the following sub-sections shall be substituted, namely:—

“(5) Where on conclusion of a trial of an offence under this Act, the Special Court finds that the offence of money-laundering has been committed, it shall order that such property involved in the money-laundering or which has been used for commission of the offence of money-laundering shall stand confiscated to the Central Government.

(6) Where on conclusion of a trial under this Act, the Special Court finds that the offence of money-laundering has not taken place or the property is not involved in money-laundering, it shall order release of such property to the person entitled to receive it.

(7) Where the trial under this Act cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced but could not be concluded, the Special Court shall, on an application moved by the Director or a person claiming to be entitled to possession of a property in respect of which an order has been passed under sub-section (3) of section 8, pass appropriate orders regarding confiscation or

release of the property, as the case may be, involved in the offence of money-laundering after having regard to the material before it.”.

7. Amendment of section 9

In section 9 of the principal Act,—

- (i) in the opening portion, for the words, brackets and figures “sub-section (6) of section 8”, the words, brackets, figures and letter “sub-section (5) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60” shall be substituted;

- (ii) in the first proviso,—

(a) for the words “Adjudicating Authority”, the words “Special Court or the Adjudicating Authority, as the case may be,” shall be substituted;

(b) after the words “or seized”, the words “or frozen” shall be inserted.

8. Amendment of section 10

In section 10 of the principal Act, in sub-section (2), for the words, brackets and figures “sub-section (6) of section 8”, the words, brackets, figures and letter “sub-section (5) or sub-section (6) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60” shall be substituted.

9. Substitution of new section for section 12

For section 12 of the principal Act, the following section shall be substituted, namely:—

Reporting entity to maintain records

“12. (1) Every reporting entity shall—

(a) maintain a record of all transactions, including information relating to transactions covered under clause (b), in such manner as to enable it to reconstruct individual transactions;

(b) furnish to the Director within such time as may be prescribed, information relating to such transactions, whether attempted or executed, the nature and value of which may be prescribed;

(c) verify the identity of its clients in such manner and subject to such conditions, as may be prescribed;

(d) identify the beneficial owner, if any, of such of its clients, as may be prescribed;

(e) maintain record of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to its clients.

(2) Every information maintained, furnished or verified, save as otherwise provided under any law for the time being in force, shall be kept confidential.

(3) The records referred to in clause (a) of sub-section (1) shall be maintained for a period of five years from the date of transaction between a client and the



reporting entity.

- (4) The records referred to in clause (e) of sub-section (1) shall be maintained for a period of five years after the business relationship between a client and the reporting entity has ended or the account has been closed, whichever is later.
- (5) The Central Government may, by notification, exempt any reporting entity or class of reporting entities from any obligation under this Chapter.”.

10. Insertion of new section 12A

After section 12 of the principal Act, the following section shall be inserted, namely:—

Access to information

- “12A. (1) The Director may call for from any reporting entity any of the records referred to in sub-section (1) of section 12 and any additional information as he considers necessary for the purposes of this Act.
- (2) Every reporting entity shall furnish to the Director such information as may be required by him under sub-section (1) within such time and in such manner as he may specify.
 - (3) Save as otherwise provided under any law for the time being in force, every information sought by the Director under sub-section (1), shall be kept confidential.”.

11. Amendment of section 13

In section 13 of the principal Act,—

- (i) in sub-section (1), for the words, brackets and figures “call for records referred to in sub-section (1) of section 12 and may make such inquiry or cause such inquiry to be made, as he thinks fit”, the words “make such inquiry or cause such inquiry to be made, as he thinks fit to be necessary, with regard to the obligations of the reporting entity, under this Chapter” shall be substituted;
- (ii) after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) If at any stage of inquiry or any other proceedings before him, the Director having regard to the nature and complexity of the case, is of the opinion that it is necessary to do so, he may direct the concerned reporting entity to get its records, as may be specified, audited by an accountant from amongst a panel of accountants, maintained by the Central Government for this purpose.

(1B) The expenses of, and incidental to, any audit under sub-section (1A) shall be borne by the Central Government.”;
- (iii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If the Director, in the course of any inquiry, finds

that a reporting entity or its designated director on the Board or any of its employees has failed to comply with the obligations under this Chapter, then, without prejudice to any other action that may be taken under any other provisions of this Act, he may—

- (a) issue a warning in writing; or
 - (b) direct such reporting entity or its designated director on the Board or any of its employees, to comply with specific instructions; or
 - (c) direct such reporting entity or its designated director on the Board or any of its employees, to send reports at such interval as may be prescribed on the measures it is taking; or
 - (d) by an order, impose a monetary penalty on such reporting entity or its designated director on the Board or any of its employees, which shall not be less than ten thousand rupees but may extend to one lakh rupees for each failure.”;
- (iv) after sub-section (3), the following Explanation shall be inserted, namely:—
- “Explanation.—For the purpose of this section, “accountant” shall mean a chartered accountant within the meaning of the Chartered Accountants Act, 1949.” (38 of 1949)

12. Substitution of new section for section 14

For section 14 of the principal Act, the following section shall be substituted, namely:—

No civil or criminal proceedings against reporting entity, its directors and employees in certain cases

“14. Save as otherwise provided in section 13, the reporting entity, its directors and employees shall not be liable to any civil or criminal proceedings against them for furnishing information under clause (b) of sub-section (1) of section 12.”.

13. Substitution of new section for section 15

For section 15 of the principal Act, the following section shall be substituted, namely:—

Procedure and manner of furnishing information by reporting entities

“15. The Central Government may, in consultation with the Reserve Bank of India, prescribe the procedure and the manner of maintaining and furnishing information by a reporting entity under sub-section (1) of section 12 for the purpose of implementing the provisions of this Act.”.

14. Amendment of section 17

In section 17 of the principal Act,—

- (i) in sub-section (1),—
 - (a) in clause (iii), after the word “money-laundering,”, the word “or” shall be inserted;
 - (b) after clause (iii), the following clause shall be



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inserted, namely:—

“(iv) is in possession of any property related to crime,”;

- (c) in clause (d), after the words “such record or”, the words “property, if required or” shall be inserted;
- (d) for the proviso, the following proviso shall be substituted, namely:—

“Provided that no search shall be conducted unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973 (2 of 1974), or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or in cases where such report is not required to be forwarded, a similar report of information received or otherwise has been submitted by an officer authorised to investigate a scheduled offence to an officer not below the rank of Additional Secretary to the Government of India or equivalent being head of the office or Ministry or Department or Unit, as the case may be, or any other officer who may be authorised by the Central Government, by notification, for this purpose.”;

- (ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where it is not practicable to seize such record or property, the officer authorised under sub-section (1), may make an order to freeze such property whereupon the property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned:

Provided that if, at any time before its confiscation under sub-section (5) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60, it becomes practical to seize a frozen property, the officer authorised under sub-section (1) may seize such property.”;

- (iii) in sub-section (2), after the words, “immediately after search and seizure” the words “or upon issuance of a freezing order” shall be inserted;

- (iv) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The authority seizing any record or property under sub-section (1) or freezing any record or property under sub-section (1A) shall, within a period of thirty days from such seizure or freezing, as the case may be, file an application, requesting for retention of such record or property seized under sub-section (1) or for continuation of the

order of freezing served under sub-section (1A), before the Adjudicating Authority.”.

15. Amendment of section 18

In section 18 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

“Provided that no search of any person shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973, (2 of 1974) or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or in cases where such report is not required to be forwarded, a similar report of information received or otherwise has been submitted by an officer authorised to investigate a scheduled offence to an officer not below the rank of Additional Secretary to the Government of India or equivalent being head of the office or Ministry or Department or Unit, as the case may be, or any other officer who may be authorised by the Central Government, by notification, for this purpose.”;

16. Substitution of new sections for section 20 and section 21

For sections 20 and 21 of the principal Act, the following sections shall be substituted, namely:—

“20. Retention of property

- (1) Where any property has been seized under section 17 or section 18 or frozen under sub-section (1A) of section 17 and the officer authorised by the Director in this behalf has, on the basis of material in his possession, reason to believe (the reason for such belief to be recorded by him in writing) that such property is required to be retained for the purposes of adjudication under section 8, such property may, if seized, be retained or if frozen, may continue to remain frozen, for a period not exceeding one hundred and eighty days from the day on which such property was seized or frozen, as the case may be.
- (2) The officer authorised by the Director shall, immediately after he has passed an order for retention or continuation of freezing of the property for purposes of adjudication under section 8, forward a copy of the order along with the material in his possession, referred to in sub-section (1), to the Adjudicating Authority, in a sealed envelope, in the manner as may be prescribed and such Adjudicating Authority shall keep such order and material for such period as may be prescribed.
- (3) On the expiry of the period specified in sub-section (1), the property shall be returned to the person from



whom such property was seized or whose property was ordered to be frozen unless the Adjudicating Authority permits retention or continuation of freezing of such property beyond the said period.

- (4) The Adjudicating Authority, before authorising the retention or continuation of freezing of such property beyond the period specified in sub-section (1), shall satisfy himself that the property is *prima facie* involved in money-laundering and the property is required for the purposes of adjudication under section 8.
- (5) After passing the order of confiscation under sub-section (5) or sub-section (7) of section 8, the Court or the Adjudicating Authority, as the case may be, shall direct the release of all property other than the property involved in money-laundering to the person from whom such property was seized or the persons entitled to receive it.
- (6) Where an order releasing the property has been made by the Court under sub-section (6) of section 8 or by the Adjudicating Authority under section 58B or sub-section (2A) of section 60, the Director or any officer authorised by him in this behalf may withhold the release of any such property for a period of ninety days from the date of such order, if he is of the opinion that such property is relevant for the appeal proceedings under this Act.

21. Retention of records

- (1) Where any records have been seized, under section 17 or section 18 or frozen under sub-section (1A) of section 17 and the Investigating Officer or any other officer authorised by the Director in this behalf has reason to believe that any of such records are required to be retained for any inquiry under this Act, such records may if seized, be retained or if frozen, may continue to remain frozen, for a period not exceeding one hundred and eighty days from the day on which such records were seized or frozen, as the case may be.
- (2) The person, from whom records seized or frozen, shall be entitled to obtain copies of records.
- (3) On the expiry of the period specified under sub-section (1), the records shall be returned to the person from whom such records were seized or whose records were ordered to be frozen unless the Adjudicating Authority permits retention or continuation of freezing of such records beyond the said period.
- (4) The Adjudicating Authority, before authorising the retention or continuation of freezing of such records beyond the period specified in sub-section (1), shall satisfy himself that the records are required for the purposes of adjudication under section 8.

- (5) After passing of an order of confiscation under sub-section (5) or sub-section (7) of section 8, the Adjudicating Authority shall direct the release of the records to the person from whom such records were seized.
- (6) Where an order releasing the records has been made by the Court under sub-section (6) of section 8 or by the Adjudicating Authority under section 58B or sub-section (2A) of section 60, the Director or any other officer authorised by him in this behalf may withhold the release of any such record for a period of ninety days from the date of such order, if he is of the opinion that such record is relevant for the appeal proceedings under this Act.”.

17. Amendment of section 22

In section 22 of the principal Act, in sub-section (1), after the words “a survey or a search,”, the words “or where any record or property is produced by any person or has been resumed or seized from the custody or control of any person or has been frozen under this Act or under any other law for the time being in force,” shall be inserted.

18. Amendment of section 23

In section 23 of the principal Act, for the words and figure “under section 8, it shall, unless otherwise proved to the satisfaction of the Adjudicating Authority”, the words and figure “under section 8 or for the trial of the money-laundering offence, it shall unless otherwise proved to the satisfaction of the Adjudicating Authority or the Special Court” shall be substituted.

19. Amendment of section 24

For section 24 of the principal Act, the following section shall be substituted, namely:—

“24. Burden of Proof

In any proceeding relating to proceeds of crime under this Act,—

- (a) in the case of a person charged with the offence of money-laundering under section 3, the Authority or Court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering; and
- (b) in the case of any other person the Authority or Court, may presume that such proceeds of crime are involved in money-laundering.”.

20. Amendment of section 26

In section 26 of the principal Act, in sub-section (2), for the words “banking company, financial institution or intermediary”, the words “reporting entity” shall be substituted.



21. Amendment of section 44

In section 44 of the principal Act, in sub-section (1),—

- (i) for clause (a) the following clause shall be substituted, namely:—

“(a) an offence punishable under section 4 and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed:

Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or”;

- (ii) in clause (b), for the words “cognizance of the offence for which the accused is committed to it for trial”, the words and figure “cognizance of offence under section 3, without the accused being committed to it for trial” shall be substituted;

- (iii) after clause (b), the following clauses shall be inserted, namely:—

“(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

- (d) a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973, (2 of 1974) as it applies to a trial before a Court of Session.”.

22. Amendment of section 50

In section 50 of the principal Act, in sub-section (1), in clause (b), for the words “banking company or a financial institution or a company”, the words “reporting entity” shall be substituted.

23. Amendment of section 54

In section 54 of the principal Act,—

- (i) in the opening portion, for the word “officers”, the words “officers and others” shall be substituted;

- (ii) for clause (d), the following clause shall be substituted, namely:—

“(d) members of the recognised stock exchange referred to in clause (f) of section 2 and the officers of the stock exchanges recognised under section 4 of the Securities Contracts (Regulation) Act, 1956; (42 of 1956)

- (iii) after clause (h), the following clauses shall be inserted, namely:—

“(ha) officers of the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999; (41 of 1999.)

(hb) officers of the Forward Markets Commission established under section 3 of the Forward Contracts (Regulation) Act, 1952; (74 of 1952.)

(hc) officers and members of the recognised association recognised under section 6 of the Forward Contracts (Regulation) Act, 1952; (74 of 1952.)

(hd) officers of the Pension Fund Regulatory and Development Authority;

(he) officers of the Department of Posts in the Government of India;

(hf) Registrars or Sub-Registrars appointed by the State Governments under section 6 of the Registration Act, 1908; (16 of 1908.)

(hg) registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; (59 of 1988.)

(hh) officers and members of the Institute of Chartered Accountants of India constituted under section 3 of the Chartered Accountants Act, 1949 (38 of 1949);

(hi) officers and members of the Institute of Cost and Works Accountants of India constituted under section 3 of the Cost and Works Accountants Act, 1959 (23 of 1959);

(hj) officers and members of the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980 (56 of 1980);

- (iv) in clause (j), for the words “banking companies”, the words “reporting entities” shall be substituted.

24. Insertion of new sections 58A and 58B

After section 58, the following sections shall be inserted, namely:—

“58A. Special Court to release the property

Where on closure of the criminal case or conclusion of a trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering has not taken place or the property in India is not involved in money-laundering, the Special Court may, on an application moved by the concerned person or the Director, after notice to the other party, order release of such property to the person entitled to receive it.

58B. Letter of request of a contracting State or authority for confiscation or release the property

Where the trial under the corresponding law of any other country cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced



but could not be concluded, the Central Government shall, on receipt of a letter of request from a court or authority in a contracting State requesting for confiscation or release of property, as the case may be, forward the same to the Director to move an application before the Special Court and upon such application the Special Court shall pass appropriate orders regarding confiscation or release of such property involved in the offence of money-laundering.”.

25. Amendment of section 60

In section 60 of the principal Act,—

- (i) in sub-section (1), for the words and figures “property under section 5 or where an Adjudicating Authority has made an order confirming such attachment or confiscation of any property under section 8”, the words, figures, brackets and letter “property under section 5 or for freezing under sub-section (1A) of section 17 or where an Adjudicating Authority has made an order relating to a property under section 8 or where a Special Court has made an order of confiscation relating to a property under sub-section (5) or sub-section (6) of section 8” shall be substituted;
- (ii) in sub-section (2),—
 - (a) for the words “attachment or confiscation”, the words “attachment, seizure, freezing or confiscation” shall be substituted;
 - (b) for the word and figure “section 3”, the words “a corresponding law” shall be substituted;
- (iii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Where on closure of the criminal case or conclusion of trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering under the corresponding law of that country has been committed, the Adjudicating Authority shall, on receipt of an application from the Director for execution of confiscation under sub-section (2), order, after giving notice to the affected persons, that such property involved in money-laundering or which has been used for commission of the offence of money-laundering stand confiscated to the Central Government.”.

26. Amendment of section 63

In section 63 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Notwithstanding anything contained in clause (c) of sub-section (2), a person who intentionally disobeys any direction issued under section 50 shall also be liable to be proceeded against under section 174 of the Indian Penal Code (45 of 1860).”.

27. Substitution of new section for section 69

For section 69 of the principal Act, the following section shall be substituted, namely:—

“69. Recovery of fine or penalty

Where any fine or penalty imposed on any person under section 13 or section 63 is not paid within six months from the day of imposition of fine or penalty, the Director or any other officer authorised by him in this behalf may proceed to recover the amount from the said person in the same manner as prescribed in Schedule II of the Income-tax Act, 1961 for the recovery of arrears and he or any officer authorised by him in this behalf shall have all the powers of the Tax Recovery Officer mentioned in the said Schedule for the said purpose.”.

28. Amendment of section 70

In section 70 of the principal Act, the Explanation shall be numbered as Explanation 1 thereof and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

“**Explanation 2**— For the removal of doubts, it is hereby clarified that a company may be prosecuted, notwithstanding whether the prosecution or conviction of any legal juridical person shall be contingent on the prosecution or conviction of any individual.”.

29. Amendment of section 73

In section 73 of the principal Act, in sub-section (2),—

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

“(aa) the manner of provisional attachment of property under sub-section (1) of section 5;”;
- (ii) after clause (e), the following clause shall be inserted, namely:—

“(ee) the manner of seizing or taking possession of property attached under section 5 or frozen under sub-section (1A) of section 17 or under sub-section (4) of section 8;”;
- (iii) clause (h) shall be omitted;
- (iv) in clause (i), for the words “the time within which”, the words “the nature and value of transactions and the time within which” shall be substituted;
- (v) for clause (j), the following clauses shall be substituted, namely:—

“(j) the manner and the conditions in which identity of clients shall be verified by the reporting entities under clause (c) of sub-section (1) of section 12;

(jj) the manner of identifying beneficial owner, if any, from the clients by the reporting entities under clause (d) of sub-section (1) of section 12;

(jjj) the period of interval in which the reports are sent



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by the reporting entities or any of its employees under clause (c) of sub-section (2) of section 13;”;

(vi) after clause (p), the following clause shall be inserted, namely:—

“(pp) the manner in which the forwarding of the order for retention or continuation of freezing of the property and the period of keeping such order and material under sub-section (2) of section 20;”.

30. Amendment of the Schedule

In the Schedule to the principal Act,—

(i) for Part A, the following Part shall be substituted, namely:—

“PART A PARAGRAPH 1

OFFENCES UNDER THE INDIAN PENAL CODE (45 OF 1860)

Section	Description of offence
120B	Criminal conspiracy.
121	Waging or attempting to wage war or abetting waging of war, against the Government of India.
121A	Conspiracy to commit offences punishable by section 121 against the State.
255	Counterfeiting Government stamp.
257	Making or selling instrument for counterfeiting Government stamp.
258	Sale of counterfeit Government stamp.
259	Having possession of counterfeit Government stamp.
260	Using as genuine a Government stamp known to be counterfeit.
302	Murder.
304	Punishment for culpable homicide not amounting to murder.
307	Attempt to murder.
308	Attempt to commit culpable homicide.
327	Voluntarily causing hurt to extort property, or to constrain to an illegal act.
329	Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.
364A	Kidnapping for ransom, etc.
384 to 389	Offences relating to extortion.
392 to 402	Offences relating to robbery and dacoity.
411	Dishonestly receiving stolen property.
412	Dishonestly receiving property stolen in the commission of a dacoity.
413	Habitually dealing in stolen property.
414	Assisting in concealment of stolen property.
417	Punishment for cheating.
418	Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.
419	Punishment for cheating by personation.
420	Cheating and dishonestly inducing delivery of property.
421	Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.
422	Dishonestly or fraudulently preventing debt being available for creditors.
423	Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
424	Dishonest or fraudulent removal or concealment of property.

467	Forgery of valuable security, will, etc.
471	Using as genuine a forged document or electronic record.
472 and 473	Making or possessing counterfeit seal, etc., with intent to commit forgery.
475 and 476	Counterfeiting device or mark.
481	Using a false property mark.
482	Punishment for using a false property mark.
483	Counterfeiting a property mark used by another.
484	Counterfeiting a mark used by a public servant.
485	Making or possession of any instrument for counterfeiting a property mark.
486	Selling goods marked with a counterfeit property mark.
487	Making a false mark upon any receptacle containing goods.
488	Punishment for making use of any such false mark.
489A	Counterfeiting currency notes or bank notes.
489B	Using as genuine, forged or counterfeit currency notes or bank notes.

PARAGRAPH 2

OFFENCES UNDER THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985 (61 OF 1985)

Section	Description of offence
15	Contravention in relation to poppy straw.
16	Contravention in relation to coca plant and coca leaves.
17	Contravention in relation to prepared opium.
18	Contravention in relation to opium poppy and opium.
19	Embezzlement of opium by cultivator.
20	Contravention in relation to cannabis plant and cannabis.
21	Contravention in relation to manufactured drugs and preparations.
22	Contravention in relation to psychotropic substances.
23	Illegal import into India, export from India to transshipment of narcotic drugs and psychotropic substances.
24	External dealings in narcotic drugs and psychotropic substances in contravention of section 12 of the Narcotics Drugs and Psychotropic Substances Act, 1985.
25A	Contravention of orders made under section 9A of the Narcotic Drugs and Psychotropic Substances Act, 1985.
27A	Financing illicit traffic and harbouring offenders.
29	Abetment and criminal conspiracy.

PARAGRAPH 3

OFFENCES UNDER THE EXPLOSIVE SUBSTANCES ACT, 1908 (6 OF 1908)

Section	Description of offence
3	Causing explosion likely to endanger life or property.
4	Attempt to cause explosion, or for making or keeping explosives with intent to endanger life or property.
5	Making or possessing explosives under suspicious circumstances.

PARAGRAPH 4

OFFENCES UNDER THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967 (37 OF 1967)

Section	Description of offence
10 read with section 3	Penalty for being member of an unlawful association, etc.



11 read with Penalty for dealing with funds of an unlawful association.
section 3

13 read with Punishment for unlawful activities.

section 3

16 read with Punishment for terrorist act.

section 15

16A Punishment for making demands of radioactive substances, nuclear devices, etc.

17 Punishment for raising fund for terrorist act.

18 Punishment for conspiracy, etc.

18A Punishment for organising of terrorist camps.

18B Punishment for recruiting of any person or persons for terrorist act.

19 Punishment for harbouring, etc.

20 Punishment for being member of terrorist gang or organisation.

21 Punishment for holding proceeds of terrorism.

38 Offence relating to membership of a terrorist organisation.

39 Offence relating to support given to a terrorist organisation.

40 Offence of raising fund for a terrorist organisation.

16

PARAGRAPH 5

OFFENCES UNDER THE ARMS ACT, 1959

(54 OF 1959)

Section	Description of offence
25	To manufacture, sell, transfer, convert, repair or test or prove or expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition to contravention of section 5 of the Arms Act, 1959. To acquire, have in possession or carry any prohibited arms or prohibited ammunition in contravention of section 7 of the Arms Act, 1959. Contravention of section 24A of the Arms Act, 1959 relating to prohibition as to possession of notified arms in disturbed areas, etc. Contravention of section 24B of the Arms Act, 1959 relating to prohibition as to carrying of notified arms in or through public places in disturbed areas. Other offences specified in section 25.
26	To do any act in contravention of any provisions of section 3, 4, 10 or section 12 of the Arms Act, 1959 in such manner as specified in sub-section (1) of section 26 of the said Act. To do any act in contravention of any provisions of section 5, 6, 7 or section 11 of the Arms Act, 1959 in such manner as specified in sub-section (2) of section 26 of the said Act. Other offences specified in section 26.
27	Use of arms or ammunition in contravention of section 5 or use of any arms or ammunition in contravention of section 7 of the Arms Act, 1959.
28	Use and possession of fire arms or imitation fire arms in certain cases.
29	Knowingly purchasing arms from unlicensed person or for delivering arms, etc., to person not entitled to possess the same.
30	Contravention of any condition of a licence or any provisions of the Arms Act, 1959 or any rule made thereunder.

PARAGRAPH 6

OFFENCES UNDER THE WILD LIFE (PROTECTION) ACT, 1972

(53 OF 1972)

Section	Description of offence
51 read with section 9	Hunting of wild animals.
51 read with section 17A	Contravention of provisions of section 17A relating to prohibition of picking, uprooting, etc., of specified plants.
51 read with section 39	Contravention of provisions of section 39 relating to wild animals, etc., to be Government property.
51 read with section 44	Contravention of provisions of section 44 relating to dealings in trophy and animal articles without licence prohibited.
51 read with section 48	Contravention of provisions of section 48 relating to purchase of animal, etc., by licensee.
51 read with section 49B	Contravention of provisions of section 49B relating to prohibition of dealings in trophies, animals articles, etc., derived from scheduled animals.

PARAGRAPH 7

OFFENCES UNDER THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956

(104 OF 1956)

Section	Description of offence
5	Procuring, inducing or taking person for the sake of prostitution.
6	Detaining a person in premises where prostitution is carried on.
8	Seducing or soliciting for purpose of prostitution.
9	Seduction of a person in custody.

PARAGRAPH 8

OFFENCES UNDER THE PREVENTION OF CORRUPTION ACT, 1988

(49 OF 1988)

Section	Description of offence
7	Public servant taking gratification other than legal remuneration in respect of an official act.
8	Taking gratification in order, by corrupt or illegal means, to influence public servant.
9	Taking gratification for exercise of personal influence with public servant.
10	Abetment by public servant of offences defined in section 8 or section 9 of the Prevention of Corruption Act, 1988.
13	Criminal misconduct by a public servant.

PARAGRAPH 9

OFFENCES UNDER THE EXPLOSIVES ACT, 1884

(4 OF 1884)

Section	Description of offence
9B	Punishment for certain offences.
9C	Offences by companies.

PARAGRAPH 10

OFFENCES UNDER THE ANTIQUITIES AND ARTS TREASURES ACT, 1972

(52 OF 1972)

Section	Description of offence
25 read with section 3	Contravention of export trade in antiquities and art treasures.
28	Offences by companies.



From the Government

PARAGRAPH 11

OFFENCES UNDER THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 (15 OF 1992)

Section	Description of offence
12A read with section 24	Prohibition of manipulative and deceptive devices, insider trading and substantial.
24	Acquisition of securities or control.

PARAGRAPH 12

OFFENCES UNDER THE CUSTOMS ACT, 1962 (52 OF 1962)

Section	Description of offence
135	Evasion of duty or prohibitions.

PARAGRAPH 13

OFFENCES UNDER THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976 (19 OF 1976)

Section	Description of offence
16	Punishment for enforcement of bonded labour.
18	Punishment for extracting bonded labour under the bonded labour system.
20	Abetment to be an offence.

PARAGRAPH 14

OFFENCES UNDER THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986 (61 OF 1986)

Section	Description of offence
14	Punishment for employment of any child to work in contravention of the provisions of section 3.

PARAGRAPH 15

OFFENCES UNDER THE TRANSPLANTATION OF HUMAN ORGANS ACT, 1994 (42 OF 1994)

Section	Description of offence
18	Punishment for removal of human organ without authority.
19	Punishment for commercial dealings in human organs.
20	Punishment for contravention of any other provisions of this Act.

PARAGRAPH 16

OFFENCES UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000 (56 OF 2000)

Section	Description of offence
23	Punishment for cruelty to juvenile or child.
24	Employment of juvenile or child for begging.
25	Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to juvenile or child.
26	Exploitation of juvenile or child employee.

PARAGRAPH 17

OFFENCES UNDER THE EMIGRATION ACT, 1983 (31 OF 1983)

Section	Description of offence
24	Offences and penalties.

PARAGRAPH 18

OFFENCES UNDER THE PASSPORTS ACT, 1967 (15 OF 1967)

Section	Description of offence
12	Offences and penalties.

PARAGRAPH 19

OFFENCES UNDER THE FOREIGNERS ACT, 1946 (31 OF 1946)

Section	Description of offence
14	Penalty for contravention of provisions of the Act, etc.
14B	Penalty for using forged passport.
14C	Penalty for abetment.

PARAGRAPH 20

OFFENCES UNDER THE COPYRIGHT ACT, 1957 (14 OF 1957)

Section	Description of offence
63	Offence of infringement of copyright or other rights conferred by this Act.
63A	Enhanced penalty on second and subsequent convictions.
63B	Knowing use of infringing copy of computer programme.
68A	Penalty for contravention of section 52A.

PARAGRAPH 21

OFFENCES UNDER THE TRADE MARKS ACT, 1999 (47 OF 1999)

Section	Description of offence
103	Penalty for applying false trade marks, trade descriptions, etc.
104	Penalty for selling goods or providing services to which false trade mark or false trade description is applied.
105	Enhanced penalty on second or subsequent conviction.
107	Penalty for falsely representing a trade mark as registered.
120	Punishment of abetment in India of acts done out of India.

PARAGRAPH 22

OFFENCES UNDER THE INFORMATION TECHNOLOGY ACT, 2000 (21 OF 2000)

Section	Description of offence
72	Penalty for breach of confidentiality and privacy.
75	Act to apply for offence or contravention committed outside India.

PARAGRAPH 23

OFFENCES UNDER THE BIOLOGICAL DIVERSITY ACT, 2002 (18 OF 2003)

Section	Description of offence
55 read with section 6.	Penalties for contravention of section 6, etc.

PARAGRAPH 24

OFFENCES UNDER THE PROTECTION OF PLANT



VARIETIES AND FARMERS' RIGHTS ACT, 2001 (53 OF 2001)

Section Description of offence

- 70 read with section 68 Penalty for applying false denomination, etc.
- 71 read with section 68 Penalty for selling varieties to which false denomination is applied.
- 72 read with section 68 Penalty for falsely representing a variety as registered.
- 73 read with section 68 Penalty for subsequent offence.

PARAGRAPH 25

OFFENCES UNDER THE ENVIRONMENT PROTECTION ACT, 1986 (29 OF 1986)

Section Description of offence

- 15 read with section 7 Penalty for discharging environmental pollutants, etc., in excess of prescribed standards.
- 15 read with section 8 Penalty for handling hazardous substances without complying with procedural safeguards.

PARAGRAPH 26

OFFENCES UNDER THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974 (6 OF 1974)

Section Description of offence

- 41(2) Penalty for pollution of stream or well.
- 43 Penalty for contravention of provisions of section 24.

PARAGRAPH 27

OFFENCES UNDER THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981 (14 OF 1981)

Section Description of offence

- 37 Failure to comply with the provisions for operating industrial plant.

PARAGRAPH 28

OFFENCES UNDER THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF MARITIME NAVIGATION AND FIXED PLATFORMS ON CONTINENTAL SHELF ACT, 2002 (69 OF 2002)

Section Description of offence

- 3 Offences against ship, fixed platform, cargo of a ship, maritime navigational facilities, etc.”;

- (ii) in Part B, paragraphs 1 to 25 shall be omitted;
- (iii) in Part C, serial number (2) and the entries relating thereto shall be omitted.

P. K. Malhotra

Secretary to the Government of India

17 The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012*

[Issued by the Ministry of Law and Justice (Legislative Department) dated 04.01.2013 Published in the Gazette of India Extraordinary Part -II-Section-1 dated 04.01.2013.]

An Act further to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short Title and Commencement -

- (1) This Act may be called the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:
- Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

CHAPTER II

Amendments to the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

2. Amendment of section 2

In section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) (hereafter in this Chapter referred to as the principal Act), in clause (c), after sub-clause (iv), the following sub-clause shall be inserted, namely:—

“(iva) a multi-State co-operative bank; or”.

3. Amendment of section 5

In section 5 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) On acquisition of financial assets under sub-section

* No. 1 of 2013. Received the assent of the President of India on the 3rd January 2013 and published for general information.



From the Government

(1), the securitisation company or reconstruction company, may with the consent of the originator, file an application before the Debts Recovery Tribunal or the Appellate Tribunal or any court or other Authority for the purpose of substitution of its name in any pending suit, appeal or other proceedings and on receipt of such application, such Debts Recovery Tribunal or the Appellate Tribunal or court or Authority shall pass orders for the substitution of the securitisation company or reconstruction company in such pending suit, appeal or other proceedings.”.

4. Amendment of section 9

In section 9 of the principal Act, after clause (f), the following clause shall be inserted, namely:—

“(g) to convert any portion of debt into shares of a borrower company:

Provided that conversion of any part of debt into shares of a borrower company shall be deemed always to have been valid, as if the provisions of this clause were in force at all material times.”.

5. Amendment of section 13

In section 13 of the principal Act,—

(a) in sub-section (3A), for the words “within one week”, the words “within fifteen days” shall be substituted;

(b) after sub-section (5), the following sub-sections shall be inserted, namely:—

“(5A) Where the sale of an immovable property, for which a reserve price has been specified, has been postponed for want of a bid of an amount not less than such reserve price, it shall be lawful for any officer of the secured creditor, if so authorised by the secured creditor in this behalf, to bid for the immovable property on behalf of the secured creditor at any subsequent sale.

(5B) Where the secured creditor, referred to in sub-section (5A), is declared to be the purchaser of the immovable property at any subsequent sale, the amount of the purchase price shall be adjusted towards the amount of the claim of the secured creditor for which the auction of enforcement of security interest is taken by the secured creditor, under sub-section (4) of section 13.

(5C) The provisions of section 9 of the Banking Regulation Act, 1949 (10 of 1949) shall, as far as may be, apply to the immovable property acquired by secured creditor under sub-section (5A).”.

(c) in the opening portion of sub-section (9), and in the Explanation thereto, for the words “three-fourth”, occurring at both the places, the words “sixty per cent” shall be substituted.

6. Amendment of section 14

In section 14 of the principal Act,—

(a) in sub-section (1), the following provisos shall be

inserted, namely:—

“Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorised officer of the secured creditor, declaring that—

(i) the aggregate amount of financial assistance granted and the total claim of the Bank as on the date of filing the application;

(ii) the borrower has created security interest over various properties and that the Bank or Financial Institution is holding a valid and subsisting security interest over such properties and the claim of the Bank or Financial Institution is within the limitation period;

(iii) the borrower has created security interest over various properties giving the details of properties referred to in sub-clause (ii) above;

(iv) the borrower has committed default in repayment of the financial assistance granted aggregating the specified amount;

(v) consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a nonperforming asset;

(vi) affirming that the period of sixty days notice as required by the provisions of sub-section (2) of section 13, demanding payment of the defaulted financial assistance has been served on the borrower;

(vii) the objection or representation in reply to the notice received from the borrower has been considered by the secured creditor and reasons for non-acceptance of such objection or representation had been communicated to the borrower;

(viii) the borrower has not made any repayment of the financial assistance in spite of the above notice and the Authorised Officer is, therefore, entitled to take possession of the secured assets under the provisions of sub-section (4) of section 13 read with section 14 of the principal Act;

(ix) that the provisions of this Act and the rules made thereunder had been complied with:

Provided further that on receipt of the affidavit from the Authorised Officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets:

Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief Metropolitan Magistrate, as the case may be, on the date of commencement of this Act.”;



- (b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The District Magistrate or the Chief Metropolitan Magistrate may authorise any officer subordinate to him,—

- (i) to take possession of such assets and documents relating thereto; and
- (ii) to forward such assets and documents to the secured creditor.”;

- (c) in sub-section (3), after the words “the District Magistrate”, the words “any officer authorised by the Chief Metropolitan Magistrate or District Magistrate” shall be inserted.

7. Insertion of new section 18C

After section 18B of the principal Act, the following section shall be inserted, namely:—

“18C. Right to lodge a caveat

(1) Where an application or an appeal is expected to be made or has been made under sub-section (1) of section 17 or section 17A or sub-section (1) of section 18 or section 18B, the secured creditor or any person claiming a right to appear before the Tribunal or the Court of District Judge or the Appellate Tribunal or the High Court, as the case may be, on the hearing of such application or appeal, may lodge a caveat in respect thereof.

- (2) Where a caveat has been lodged under sub-section (1),—

- (a) the secured creditor by whom the caveat has been lodged (hereafter in this section referred to as the caveator) shall serve notice of the caveat by registered post, acknowledgement due, on the person by whom the application has been or is expected to be made under sub-section (1);
- (b) any person by whom the caveat has been lodged (hereafter in this section referred to as the caveator) shall serve notice of the caveat by registered post, acknowledgement due, on the person by whom the application has been or is expected to be made under sub-section (1).

- (3) Where after a caveat has been lodged under sub-section (1), any application or appeal is filed before the Tribunal or the court of District Judge or the Appellate Tribunal or the High Court, as the case may be, the Tribunal or the District Judge or the Appellate Tribunal or the High Court, as the case may be, shall serve a notice of application or appeal filed by the applicant or the appellant on the caveator.

- (4) Where a notice of any caveat has been served on the applicant or the Appellant, he shall periodically

furnish the caveator with a copy of the application or the appeal made by him and also with copies of any paper or document which has been or may be filed by him in support of the application or the appeal.

- (5) Where a caveat has been lodged under sub-section (1), such caveat shall not remain in force after the expiry of the period of ninety days from the date on which it was lodged unless the application or appeal referred to in sub-section (1) has been made before the expiry of the said period.”.

8. Amendment of section 23

In section 23 of the principal Act, after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the Central Government may, by notification, require registration of all transactions of securitisation, or asset reconstruction or creation of security interest which are subsisting on or before the date of establishment of the Central Registry under sub-section (1) of section 20 within such period and on payment of such fees as may be prescribed.”.

9. Insertion of new section 26A

After section 26 of the principal Act, the following section shall be inserted, namely:—

“26A. Rectification by Central Government in matters of registration, modification and satisfaction, etc.

- (1) The Central Government, on being satisfied—

- (a) that the omission to file with the Registrar the particulars of any transaction of securitisation, asset reconstruction or security interest or modification or satisfaction of such transaction or; the omission or mis-statement of any particular with respect to any such transaction or modification or with respect to any satisfaction or other entry made in pursuance of section 23 or section 24 or section 25 of the principal Act was accidental or due to inadvertence or some other sufficient cause or it is not of a nature to prejudice the position of creditors; or
 - (b) that on other grounds, it is just and equitable to grant relief,
- may, on the application of a secured creditor or securitisation company or reconstruction company or any other person interested on such terms and conditions as it may seem to the Central Government just and expedient, direct that the time for filing of the particulars of the transaction for registration or modification or satisfaction shall be extended or, as the case may require, the omission or mis-statement shall be rectified.



From the Government

- (2) Where the Central Government extends the time for the registration of transaction of security interest or securitisation or asset reconstruction or modification or satisfaction thereof, the order shall not prejudice any rights acquired in respect of the property concerned or financial asset before the transaction is actually registered.”.

10. Substitution of new section for section 30

For section 30 of the principal Act, the following section shall be substituted, namely:—

“30. Cognizance of offences

- (1) No court shall take cognizance of any offence punishable under section 27 in relation to non-compliance with the provisions of section 23, section 24 or section 25 or under section 28 or section 29 or any other provisions of the Act, except upon a complaint in writing made by an officer of the Central Registry or an officer of the Reserve Bank, generally or specially authorised in writing in this behalf by the Central Registrar or, as the case may be, the Reserve Bank.
- (2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.”.

11. Insertion of new section 31A

After section 31 of the principal Act, the following section shall be inserted, namely:—

“31A. Power to exempt a class or classes of banks or financial institutions

- (1) The Central Government may, by notification in the public interest, direct that any of the provisions of this Act,—
- shall not apply to such class or classes of banks or financial institutions; or
 - shall apply to the class or classes of banks or financial institutions with such exceptions, modifications and adaptations, as may be specified in the notification.
- (2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the

issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.”.

CHAPTER III

Amendments to the Recovery of Debts due to Banks and Financial Institutions Act, 1993

12. Amendment of section 2

In the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993), (hereafter in this Chapter referred to as the principal Act), in section 2, in clause (d), after sub-clause (v), the following sub-clause shall be inserted, namely:—

“(vi) a multi-State co-operative bank;”.

13. Amendment of section 15

In section 15 of the principal Act, in sub-section (2) the following proviso shall be inserted, namely:—

“Provided that the Central Government, during the pendency of the inquiry against the Presiding Officer or a Chairperson, as the case may be, may, after consulting the Chairperson of the Selection Committee constituted for selection of Presiding Officer or Chairperson, Pass an order suspending the Presiding Officer or the Chairperson, if it is satisfied that he should cease to discharge functions as a Presiding Officer or Chairperson, as the case may be.”.

14. Amendment of section 18

In section 18 of the principal Act, the following proviso shall be inserted, namely:—

“Provided that any proceedings in relation to the recovery of debts due to any multi-State co-operative bank pending before the date of commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) shall be continued and nothing contained in this section shall, after such commencement, apply to such proceedings.”.

15. Amendment of section 19

In section 19 of the principal Act,—

- after sub-section (1), the following sub-section shall be inserted, namely:—
- “(1A) Every bank being, multi-State co-operative bank referred to in subclause (vi) of clause (d) of section 2, may, at its option, opt to initiate proceedings under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) to recover debts, whether due before or after the date of



commencement of the Enforcement of the Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 from any person instead of making an application under this Chapter.

(1B) In case, a bank being, multi-State co-operative bank referred to in sub-clause (vi) of clause (d) of section 2 has filed an application under this Chapter and subsequently opts to withdraw the application for the purpose of initiating proceeding under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) to recover debts, it may do so with the permission of the Tribunal and every such application seeking permission from the Tribunal to withdraw the application made under sub-section (1A) shall be dealt with by it as expeditiously as possible and disposed of within thirty days from the date of such application: Provided that in case the Tribunal refuses to grant permission for withdrawal of the application filed under this sub-section, it shall pass such orders after recording the reasons therefor.”;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) If any application filed before the Tribunal for recovery of any debt is settled prior to the commencement of the hearing before that Tribunal or at any stage of the proceedings before the final order is passed, the applicant may be granted refund of the fees paid by him at such rates as may be prescribed.”;

(c) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) The defendant shall, within a period of thirty days from the date of service of summons, present a written statement of this defence:

Provided that where the defendant fails to file the written statement within the said period of thirty days, the Presiding Officer may, in exceptional cases and in special circumstances to be recorded in writing, allow not more than two extensions to the defendant to file the written statement.”;

(d) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) After hearing of the application has commenced, it shall be continued from day-to-day until the hearing is concluded:

Provided that the Tribunal may grant adjournments if sufficient cause is shown, but no such adjournment shall be granted more than three times to a party and where there are three or more parties, the total number of such adjournments shall not exceed six:

Provided further that, the Presiding Officer may grant

such adjournments on imposing such costs as may be considered necessary.”;

(e) after sub-section (20), the following sub-section shall be inserted, namely:—

“(20A) Where it is proved to the satisfaction of the Tribunal that the claim of the applicant has been adjusted wholly or in part by any lawful agreement or compromise in writing and signed by the parties or where the defendant has repaid or agreed to repay the claim of the applicant, the Tribunal shall pass orders recording such agreement, compromise or satisfaction of the claim.”.

16. Amendment of section 31

In section 31 of the principal Act, after the proviso, the following proviso shall be inserted, namely:—

“Provided further that any recovery proceedings in relation to the recovery of debts due to any multi-State co-operative bank pending before the date of commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 under the Multi-State Co-operative Societies Act, 2002 (39 of 2002), shall be continued and nothing contained in this section shall apply to such proceedings.”.

17. Amendment of section 36

In section 36 of the principal Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

“(cc) the rate of fee to be refunded to the applicant under sub-section (3A) of section 19 of the Act.”

P. K. Malhotra

Secretary to the Government of India

Announcement

Revised guideline for availing 45 days leave during 15 months training

The Council of the Institute has revised the guideline for grant of leave during the 15 months training to the students of Company Secretaryship Course by withdrawing 45 days or balance leave to trainees who have passed Final/Professional Programme examination and allowed only 15 casual leaves to the candidates undergoing training who have passed Final/Professional Programme examination.

The leave of 45 days during the training will be applicable only for Intermediate/Executive Programme passed students for preparation of Professional Programme examination.

The decision will be effective on the students commencing training on or after 1st March 2013



News From the Institute



Institute News

Members Admitted

Sl. No.	Name	Membership No.	Region
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FELLOWS*

1	Ms Harmeet Kaur Gujral	FCS - 7104	NIRC
2	Sh. Shreyanshkumar Mohan Lal Jain	FCS - 7105	WIRC
3	Sh. A Rajesh	FCS - 7106	SIRC
4	Sh. Rajeev Lochan	FCS - 7107	NIRC
5	Sh. C R Mohanakumar	FCS - 7108	SIRC
6	Sh Jose Thomas	FCS - 7109	SIRC
7	Sh. K P Gopi Mohan	FCS - 7110	SIRC
8	Sh. Krishna Kanahya Bajoria	FCS - 7111	EIRC
9	Sh. Arun Kumar Sridharan	FCS - 7112	SIRC
10	Sh. Manoj Kumar Mewara	FCS - 7113	WIRC
11	Sh. Sanjay B Upadhyay	FCS - 7114	WIRC
12	Sh Rohit Shadeja	FCS - 7115	NIRC
13	Sh. Ulhas S Bhat	FCS - 7116	SIRC
14	Sh. Abhishek Anand	FCS - 7117	NIRC
15	Sh. Sandeep Pravin Parekh	FCS - 7118	WIRC
16	Sh. S K Shashidar	FCS - 7119	SIRC
17	Sh. Mahesh Grandhi	FCS - 7120	SIRC
18	Sh. Umesh Kumar Agrawal	FCS - 7121	NIRC
19	Ms. Razia Shaik	FCS - 7122	SIRC
20	Ms. Shilpi Gupta	FCS - 7123	NIRC
21	Sh. Praveen Kumar	FCS - 7124	WIRC
22	Sh. Milind Arvind Wagh	FCS - 7125	WIRC
23	Sh Deepak Kumar Sinha	FCS - 7126	NIRC
24	Mrs. Ritu Arora	FCS - 7127	NIRC
25	Sh. Thirupathi Vodnala	FCS - 7128	NIRC
26	Mrs. Pooja Prasad Oak	FCS - 7129	WIRC
27	Sh. Mukund Laxmanrao Shinde	FCS - 7130	WIRC

ASSOCIATES*

1	Mr. Ashish Agrawal	ACS - 32202	EIRC
2	Ms. Shikha Poddar Dhingra	ACS - 32203	SIRC
3	Mr. Aditya Tiwari	ACS - 32204	EIRC
4	Mr. Rajat Sharma	ACS - 32205	EIRC
5	Ms. Nancy Agarwal	ACS - 32206	EIRC
6	Ms. Aarti Goswami	ACS - 32207	NIRC
7	Mr. Pradip Kumar Shaw	ACS - 32208	EIRC
8	Ms. Aditi Jain	ACS - 32209	EIRC
9	Mr. Himansu Srivastava	ACS - 32210	NIRC
10	Mr. Vibhu Mishra	ACS - 32211	NIRC
11	Ms. Divya Vijay	ACS - 32212	NIRC
12	Mr. Venkatesh N	ACS - 32213	SIRC
13	Ms. Princi Kapoor	ACS - 32214	NIRC
14	Ms. Ritika Tandon	ACS - 32215	NIRC
15	Mr. Sameer Kumar	ACS - 32216	NIRC
16	Mr. Daljit Singh	ACS - 32217	NIRC
17	Mr. Ram Lal Nath	ACS - 32218	NIRC
18	Mr. Manoj Sharma	ACS - 32219	NIRC
19	Mr. Banne Singh Tanwer	ACS - 32220	NIRC

Programme on "ICSI National Award for Excellence in Corporate Governance 2012" on DD-National Channal



08 minutes programme on "ICSI National Award for Excellence in Corporate Governance 2012" was telecast on DOORDARSHAN National Network (DD 1) during the show "GOOD EVENING INDIA" at 5.30 PM on Monday, the 8th April 2013.

The Programme also included exclusive interview of CS S. N. Ananthasubramanian, President, Council of the ICSI.

20	Ms. Deepti Sharma	ACS - 32221	NIRC
21	Ms. Payal Sharma	ACS - 32222	SIRC
22	Ms. Deepika Lodhi	ACS - 32223	NIRC
23	Ms. Usha Daswani	ACS - 32224	NIRC
24	Ms. Nazia	ACS - 32225	NIRC
25	Mr. Arun Kumar	ACS - 32226	NIRC
26	Ms. Dhritika Arora	ACS - 32227	NIRC
27	Mr. Vivek Tripathi	ACS - 32228	NIRC
28	Ms. Madhuri Jindal	ACS - 32229	NIRC
29	Ms. Hiteshi Jain	ACS - 32230	NIRC
30	Ms. Komal Sharma	ACS - 32231	SIRC
31	Mr. Aashish Kumar K Jain	ACS - 32232	SIRC
32	Ms. Sangita Bastawadi	ACS - 32233	SIRC
33	Ms. Nupura Hemant Lad	ACS - 32234	WIRC
34	Mr. Pankaj Surendra Ghorpade	ACS - 32235	WIRC
35	Mr. Gaurav Bhagavanbhai Siddhapura	ACS - 32236	WIRC
36	Ms. Mayuri Navnit Joshi	ACS - 32237	WIRC
37	Ms. Meena Ashok Raika	ACS - 32238	WIRC
38	Ms. Smita Balakrishna Shetty	ACS - 32239	WIRC
39	Ms. Prachi Harishkumar Chheda	ACS - 32240	WIRC
40	Ms. Palak Sokal	ACS - 32241	WIRC
41	Ms. Akanksha Valbani	ACS - 32242	WIRC
42	Ms. Saloni Ajay Sharma	ACS - 32243	WIRC
43	Mr. Shailesh Vallabhabhai Rakhasiya	ACS - 32244	WIRC
44	Mr. Abhishek Komalchandra Gemawat	ACS - 32245	WIRC
45	Mr. Tushar Santosh Tendulkar	ACS - 32246	WIRC
46	Ms. Sneha Tejas Gandhi	ACS - 32247	WIRC
47	Ms. Divya Patodia	ACS - 32248	EIRC
48	Ms. Kanchan Shukla	ACS - 32249	NIRC
49	Mr. Amarjyoti Das	ACS - 32250	NIRC
50	Mr. Amey Ajit Patwardhan	ACS - 32251	WIRC
51	Ms. Dayashree Manjappa Shetty	ACS - 32252	WIRC
52	Mr. Mayank Kumar Goel	ACS - 32253	NIRC
53	Ms. Ginni Singhal	ACS - 32254	NIRC
54	Mr. Nitin Agarwal	ACS - 32255	WIRC
55	Mr. Rajeev Ranjan	ACS - 32256	EIRC
56	Mr. Asish Ghosh	ACS - 32257	EIRC
57	Ms. Asha Nair	ACS - 32258	EIRC
58	Mr. Satyajit Ghosh	ACS - 32259	EIRC
59	Ms. Dolly Jhabak	ACS - 32260	EIRC
60	Mr. Alok Kumar Singh	ACS - 32261	EIRC
61	Mr. Amresh Kumar	ACS - 32262	EIRC
62	Ms. Suruchi Gupta	ACS - 32263	NIRC
63	Ms. Sheetal Chhikara	ACS - 32264	NIRC
64	Ms. Ashi Jain	ACS - 32265	NIRC
65	Ms. Richa Sharma	ACS - 32266	NIRC
66	Ms. Meenakshi	ACS - 32267	NIRC
67	Ms. Divya Singh	ACS - 32268	NIRC
68	Mr. Anil Kumar	ACS - 32269	NIRC
69	Mr. Avinash Chandra	ACS - 32270	NIRC
70	Ms. Shalini	ACS - 32271	NIRC
71	Mr. Vishal Khara	ACS - 32272	NIRC
72	Mr. Nilesh Sharma	ACS - 32273	WIRC
73	Ms. Rupanshi Dubey	ACS - 32274	NIRC
74	Mr. Mahesh Kumar Goyal	ACS - 32275	NIRC

* Admitted on 20th March, 28th March and 10th April, 2013



75	Ms. Pallavi K Balkur	ACS - 32276	SIRC	3.	Sh. Hariprasad Reddy R.	ACS - 18437	SIRC
76	Mr. Zoheb S Sayani	ACS - 32277	SIRC	4.	Sh. Ajay Pratap Singh	FCS - 5253	WIRC
77	Ms. Hemali Rajeev Mehta	ACS - 32278	WIRC	5.	Sh. Sanjeev Kumar	ACS - 11730	NIRC
78	Ms. Pranali Kamlesh Chavan	ACS - 32279	WIRC	6.	Sh. Mohan Lal	ACS - 11301	WIRC
79	Ms. Shrima Shridhar Shetty	ACS - 32280	WIRC	7.	Sh. Sanjay Bhura	ACS - 16214	EIRC
80	Mr. Avinash Ramgopal Sharma	ACS - 32281	WIRC	8.	Sh. Ajay Kumar Mohanty	ACS - 21347	SIRC
81	Mr. Hatim Ali Asger Rampurawala	ACS - 32282	WIRC	9.	Sh. Vishal Ranjan Lala	ACS - 15444	NIRC
82	Mr. Mehulsinh Digrajsinh Jadeja	ACS - 32283	WIRC	10.	Sh. Amit Kumar Gupta	ACS - 16501	NIRC
83	Ms. Krishma Kanak Kothari	ACS - 32284	WIRC	11.	Sh. Bijoy Kumar Roy	ACS - 5702	EIRC
84	Mr. Vinaykumar Dashrathbhai Navlakha	ACS - 32285	WIRC	12.	Sh. H S Gahla	ACS - 11937	WIRC
85	Ms. Anjana Varghese	ACS - 32286	SIRC	13.	Sh. P.S.M. Hameed Najimudeen	ACS - 15200	SIRC
86	Ms. Promila Aggarwal	ACS - 32287	NIRC	14.	Sh. Hitesh Mehra	ACS - 13114	NIRC
87	Ms. Nirmohi Sunil Deshpande	ACS - 32288	WIRC	15.	Ms. Tannu Mehta	ACS - 27945	NIRC
88	Mr. Manishkumar Bankebihari Vyas	ACS - 32289	WIRC	16.	Sh. Vattavanna Govindan Kutty	FCS - 1641	WIRC
89	Mr. Chandra Shekhar Laddha	ACS - 32290	WIRC	17.	Ms. Garima Chawla	ACS - 17789	NIRC
90	Mr. Mohammad Tausif Shamim	ACS - 32291	EIRC	18.	Sh. Vipin Agarwal	ACS - 8889	NIRC
91	Ms. Sangeeta Ganpat Panchal	ACS - 32292	WIRC	19.	Sh. Lesley Joseph	ACS - 10766	SIRC
92	Ms. Lisa Ajay Somaiya	ACS - 32293	WIRC	20.	Sh. Sivaram Raja	ACS - 1971	SIRC
93	Ms. Megha Gupta	ACS - 32294	EIRC	21.	Ms. Bhairavi Kiran Kapadia	FCS - 5964	WIRC
94	Ms. Puja Kumari	ACS - 32295	EIRC	22.	Sh. Manish Khanna	ACS - 17333	NIRC
95	Ms. Hiral Pravin Sidhpura	ACS - 32296	WIRC	23.	Sh. Nabal Kishor Sharma	ACS - 15476	EIRC
96	Mr. Saurabh Anil Deole	ACS - 32297	WIRC	24.	Sh. Bhaskar Chandran	ACS - 8595	EIRC
97	Ms. Shrishty Khaitan	ACS - 32298	EIRC	25.	Sh. Subrahmanyam Appala	ACS - 23059	SIRC
98	Ms. Kanika Sikka	ACS - 32299	NIRC	26.	Sh. Ashwani Kumar Sharma	ACS - 14214	NIRC
99	Ms. Surbhi Garg	ACS - 32300	NIRC	27.	Sh. Punit Anand	ACS - 13490	NIRC
100	Mr. Anshul Garg	ACS - 32301	NIRC	28.	Sh. Parveen Kumar Gupta	ACS - 6015	NIRC
101	Mr. Devendra Khanderao Khade	ACS - 32302	WIRC	29.	Sh. Sanjay Aggarwal	ACS - 8007	NIRC
102	Mr. Rakesh Kumar	ACS - 32303	NIRC	30.	Sh. Rakesh Kumar Bhalla	FCS - 2729	WIRC
103	Mr. Amresh Joshi	ACS - 32304	NIRC	31.	Ms. Poonam Rajesh Bedichandani	ACS - 17715	WIRC
104	Ms. Jyoti Goel	ACS - 32305	EIRC	32.	Ms. Nupur Gupta	ACS - 29546	NIRC
105	Ms. Tanushree Purohit	ACS - 32306	NIRC	33.	Sh. Vishesh Singhvi	ACS - 21746	NIRC
106	Mr. Vikas Rawat	ACS - 32307	NIRC	34.	Sh. Bipin Bhalabhai Bhavsar	FCS - 1117	WIRC
107	Ms. Ritika Chandna	ACS - 32308	NIRC	35.	Ms. Deepti Dhebane	ACS - 19826	WIRC
108	Ms. Neha Sharma	ACS - 32309	NIRC				
109	Mr. Yash Gupta	ACS - 32310	NIRC				
110	Ms. Heena Sehgal	ACS - 32311	NIRC				
111	Mr. Naresh Kumar Sharma	ACS - 32312	NIRC				
112	Ms. Shilky Singhal	ACS - 32313	NIRC				
113	Ms. Perneeka Virmani	ACS - 32314	NIRC				
114	Ms. Chhavi	ACS - 32315	NIRC				
115	Mr. Nitin Tyagi	ACS - 32316	NIRC				
116	Mr. Ravi Deep Jhamb	ACS - 32317	NIRC				
117	Ms. Nikita Bansal	ACS - 32318	NIRC				
118	Mr. Mohit Arora	ACS - 32319	NIRC				
119	Ms. Garima	ACS - 32320	NIRC				
120	Ms. Neha Jain	ACS - 32321	NIRC				
121	Ms. Namita Singal	ACS - 32322	NIRC				
122	Ms. Chandni Duggal	ACS - 32323	NIRC				
123	Ms. Rupali Miya Bazaz	ACS - 32324	NIRC				
124	Ms. Suman Bung	ACS - 32325	SIRC				
125	Ms. Ekta Hareshbhai Bhalala	ACS - 32326	WIRC				
126	Ms. Padyal Swati Janardan	ACS - 32327	WIRC				
127	Mr. Ravi Patidar	ACS - 32328	WIRC				
128	Ms. Manali Shirishbhai Shah	ACS - 32329	WIRC				
129	Ms. Prerna Rakesh Jain	ACS - 32330	WIRC				
130	Ms. Darsha Mahesh Sanghvi	ACS - 32331	WIRC				
131	Ms. Priya Dinesh Porwal	ACS - 32332	WIRC				
132	Mr. Sushil Kumar	ACS - 32333	NIRC				
133	Mr. Pushkar Atul Donde	ACS - 32334	WIRC				
134	Mr. Abhishek Namdeo Manchekar	ACS - 32335	WIRC				
135	Ms. Himali Kiribhai Gosalia	ACS - 32336	WIRC				
136	Ms. Amruta Shashikant Bhagwat	ACS - 32337	WIRC				
137	Mr. Akash Gupta	ACS - 32338	WIRC				
138	Ms. Bijal Bharat Parmar	ACS - 32339	WIRC				
139	Ms. Arati Ashok Godbole	ACS - 32340	WIRC				
140	Mr. Udit Kishorchandra Mehta	ACS - 32341	WIRC				
141	Mr. B S Harikrishna	ACS - 32342	SIRC				
142	Ms. Pratibha Rathi	ACS - 32343	NIRC				

Restored*

1.	Sh. T S Rajagopalan	ACS - 4972	SIRC
2.	Sh. R Swaminathan	ACS - 10141	SIRC

* Restored from 21st March 2013 to 20th April, 2013

Certificate of Practice

Sl. No.	Name	ACS/FCS No.	C P No.	Region
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ISSUED**

1	Ms. Shilpi Ojha	ACS - 29704	11760	NIRC
2	Mr. Varun Kumar Jindal	ACS - 31601	11761	NIRC
3	Ms. Swati Arora	ACS - 31867	11762	NIRC
4	Ms. Priyanka Jain	ACS - 27706	11763	NIRC
5	Mr. Arun Kumar Singh	ACS - 28762	11764	NIRC
6	Mr. Prabhat Ranjan	ACS - 31916	11765	EIRC
7	Ms. Tarang Gupta	ACS - 31086	11766	NIRC
8	Ms. Punita Dinesh Joothawat	ACS - 32097	11767	WIRC
9	Ms. Hetal Dilip Shah	ACS - 32113	11768	WIRC
10	Ms. Radha Supriya Mulakala	ACS - 28588	11769	SIRC
11	Ms. Chitra Sreeshan	ACS - 12590	11770	SIRC
12	Mrs. Priyanka Sengupta	ACS - 20302	11771	EIRC
13	Sh. V N Balasubramanian	ACS - 8039	11772	SIRC
14	Mrs. Sujata Arya	ACS - 23012	11773	NIRC
15	Sh. Pushkar Wadekar	ACS - 24687	11774	WIRC
16	Sh. Sanjay Kumar Gupta	FCS - 7042	11775	NIRC
17	Mr. Muni Shekhar	ACS - 32053	11776	NIRC
18	Sh. Prakash Pentareddy	ACS - 26711	11777	SIRC
19	Ms. Sindhu K.S	ACS - 30031	11778	SIRC
20	Ms. Siddhi Jain	ACS - 24614	11779	WIRC
21	Sh. Anil Urs	FCS - 1905	11780	SIRC
22	Mr. Rajeev Ranjan Chaudhary	ACS - 32074	11781	NIRC
23	Sh. Dhiraj Kumar Sinha	ACS - 16014	11782	SIRC
24	Ms. Pooja Raju Thanawala	ACS - 31473	11783	WIRC
25	Ms. Rajni Bafna	ACS - 30685	11784	EIRC
26	Mr. Tarun Arora	ACS - 31255	11785	NIRC
27	Mr. Manish Kumar Agrahari	ACS - 31791	11786	NIRC

* Issued During the Month of March, 2013





News From the Institute

28	Ms. Anuhya Shailesh Dalvi	ACS - 32125	11787	WIRC
29	Mr. Satyendra Shirish Kakade	ACS - 28846	11788	WIRC
30	Ms. Sweta Dhuwalia	ACS - 31918	11789	EIRC
31	Ms. Ashmika Poddar	ACS - 31954	11790	EIRC
32	Mr. Umesh Jayantilal Mistry	ACS - 32192	11791	WIRC
33	Mr. Manish Rakesh	ACS - 29424	11792	NIRC
34	Ms. Umang Chachan	ACS - 25804	11793	EIRC
35	Sh. K Venkataeswara Rao	FCS - 471	11794	SIRC
36	Ms. Jahanvi M Trivedi	ACS - 24777	11795	WIRC
37	Mr. Vikash Pareek	ACS - 30619	11796	EIRC
38	Ms. Sulekha Jangid	ACS - 21924	11797	NIRC
39	Ms. Piyusha Mantri	ACS - 16462	11798	WIRC
40	Ms. Patel Radhika Damjibhai	ACS - 31050	11799	WIRC
41	Ms. Ekta Nopany	ACS - 30584	11800	EIRC
42	Sh. Rajendra Jain	ACS - 12348	11801	WIRC
43	Mr. Narasimha H S	ACS - 31238	11802	SIRC
44	Mr. Shivakumar P Shankaran	ACS - 31890	11803	WIRC
45	Mr. B Viswanath	ACS - 30700	11804	SIRC
46	Mr. Rao Kushalkumar Harishchandra	ACS - 32054	11805	WIRC
47	Ms. Sandhya Rani Guntha	ACS - 32010	11806	WIRC
48	Ms. Vaishali Anilkumar Goradia	ACS - 31991	11807	WIRC
49	Mrs. Minakshi Lakhota	ACS - 21725	11808	WIRC
50	Ms. Yogita Rupchand Daswani	ACS - 31379	11809	WIRC
51	Ms. Sanaia Anil Shah	ACS - 26546	11810	WIRC
52	Ms. Karuna Gupta	ACS - 23321	11811	NIRC

CANCELLED*

1	Mr. Vishnu Karbharee Salunke	ACS - 30831	11285	WIRC
2	Mr. Kalyan Ramaswamy	ACS - 10995	9226	SIRC
3	Ms. Krupa Choksi	ACS - 14819	8221	WIRC
4	Ms. Nidhi Jaawahar	ACS - 9822	10175	WIRC
5	Ms. Vandana Kaushik	ACS - 31054	11672	NIRC
6	Ms. Khusboo Bhura	ACS - 25628	9912	EIRC
7	Ms. Esha Sharma	ACS - 26211	9436	NIRC
8	Ms. Divya Maheshwari	ACS - 24290	9626	NIRC
9	Mr. Rajesh P.	ACS - 25647	11529	SIRC
10	Mrs. Shefali Mittal	ACS - 28641	10962	NIRC
11	Ms. Swati Tiwari	ACS - 21460	8632	WIRC
12	Ms. Sheetal Kokate	ACS - 24092	9295	NIRC
13	Ms. Risha Kalra	ACS - 18887	6631	NIRC
14	Mr. Dinesh Kumar	FCS - 4726	11146	NIRC
15	Ms. Nidhi Goel	ACS - 26016	9358	NIRC
16	Mr. Chirag Ashok Kumar Vajani	ACS - 25683	11345	WIRC
17	Ms. Monika Jain	ACS - 25480	11476	NIRC

Licentiate ICSI

Sl. No.	Name	Licentiate No.	Region
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ADMITTED**

1	Mr. Ranjit B. Sangaonkar	6511	WEST
2	Ms. Manisha Vasdev	6512	NORTH
3	Mr. Ravi Jagdishbhai Trivedi	6513	WEST
4	Mr. Rahul Prakash Ravi	6514	WEST
5	Ms. Nidhi Grover	6515	NORTH
6	Mr. Abdullah Rashid Fakih	6516	WEST
7	Ms. Malathi S	6517	SOUTH
8	Ms. Pooja Muttneja	6518	NORTH
9	Ms. Keerti Kulkarni	6519	SOUTH
10	Mr. Vivek Bang	6520	EAST
11	Mr. Suresh Marpu	6521	SOUTH
12	Ms. Veena Mangesh	6522	SOUTH
13	Ms. Bharathi. K	6523	SOUTH

* Cancelled During the Month of March, 2013

** Admitted During the Month of March, 2013

Payment of Annual Membership and Certificate of Practice Fee for the Year 2013-14

The annual membership fee and certificate of practice fee for the year 2013-14 **became due for payment w.e.f. 1st April, 2013.**
The last date for payment of fee is 30th June 2013.

The membership and Certificate of Practice fee is as follows:-

- 1] Annual Associate Membership fee **Rs. 1125/-**
- 2] Annual Fellow Membership fee **Rs. 1500/-**
- 3] Annual Certificate of Practice fee **Rs. 1000/-(*)**

* ***The certificate of practice fee must be accompanied by a declaration in form D duly completed in all respects and signed. The requisite form 'D' is available on the website of Institute www.icsi.edu and also published elsewhere in this issue.***

MODE OF REMITTANCE OF FEE

The fee can be remitted by way of :

- (i) Online (through payment Gateway of the Institute's web-site (www.icsi.in)) by following the steps given below:-
 - a) Go to the portal www.icsi.in <http://www.icsi.in>
 - b) Login in to your profile by selecting the option Membership -- > Associate/Fellow
 - c) Enter your Membership number in the box provided.
 - d) Enter your password in the box provided (Click on Reset if creating for the first time)
 - e) After Logging in click on the link 'Annual membership Fee'
 - f) Click on Proceed for Payment button for payment through online payment gateway.
 - g) Keep the generated acknowledgement for future reference and record.
- (ii) Credit card at the Institute's Headquarter at Lodi Road, New Delhi or Regional Offices located at Kolkata, New Delhi, Chennai and Mumbai.
- (iii) Cash/ local cheque drawn in favour of 'The Institute of Company Secretaries of India', payable at New Delhi at the Institute's Headquarter or Regional/ Chapter Offices located at Kolkata, New Delhi, Chennai, Mumbai and Chandigarh, Jaipur, Bangalore, Hyderabad, Ahmedabad, Pune respectively. Out Station cheques will not be accepted. However, at par cheques will be accepted.
- (iv) Demand draft / Pay order drawn in favour of 'The Institute of Company Secretaries of India', payable at New Delhi (indicating on the reverse name and membership number).

For queries, if any,

the members may please contact Mr. D.D. Garg, Admn. Officer or Mrs. Vanitha Dhanesh on telephone Nos.011-45341062/64 or Mobile No.9868128682 / through e-mail ids: annualfee@icsi.edu, cp@icsi.edu

APPLICATION FOR THE ISSUE/RENEWAL/RESTORATION* OF CERTIFICATE OF PRACTICE

See Reg. 10, 13 & 14

To
The Secretary to the Council of
The Institute of Company Secretaries of India
'ICSI HOUSE', 22, Institutional Area,
Lodi Road, New Delhi - 110 003

Sir,

I furnish below my particulars

- (i) Membership Number FCS/ACS:
- (ii) Name in full:
(in block letters) Surname Name
- (iii) Date of Birth:
- (iv) Professional Address:
- (v) Phone Nos. (Resi.) (Off.)
- (vi) Mobile No Email id
- (vii) Additions to or change in qualifications, if any:

1. Submitted for (tick whichever is applicable):

(a) Issue (b) Renewal (c) Restoration

2. (a) Particulars of Certificate of Practice issued / surrendered/Cancelled earlier

Sl. No	Certificate of Practice No.	Date of issue of CP	Date of surrender / Cancellation of CP

3. i. I state that I am/shall be engaged in the profession of Company Secretary only on whole-time basis and not in any other profession, business, occupation or employment. I am not enrolled as an Advocate on the rolls of any Bar Council and do not hold certificate of practice from any professional body including ICAI and the ICWAI.
- ii. I state that as and when I cease to be in practice, I shall duly inform the Council and shall surrender forthwith the certificate of practice as required by the Company Secretaries Act, 1980, and the regulations made thereunder, as amended from time to time.
- iii. I hereby undertake that, I shall adhere to the mandatory ceiling of not more than eighty companies in aggregate in a calendar year in terms of the **Guidelines for Issuing Compliance Certificate and Signing of Annual Return** issued by the Institute on 27th November, 2007.
- iv. I state that I have issued / did not issue advertisements during the year 20 - in accordance with the **Guidelines for Advertisement by Company Secretary in Practice** issued by the Institute*.
- v. I state that I issued Corporate Governance compliance certificates under Clause 49 of the listing agreement during the year 20 -*
- vi. I state that I have / have not undertaken Audits under Section 55A of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 during the year 20 -*
- vii. I state that I have / have not maintained a register of attestation/certification services rendered by me/my firm in accordance with the **Guidelines for Requirement of Maintenance of a Register of Attestation/Certification Services Rendered by Practising Company Secretary/Firm of Practising Company Secretaries** issued by the Institute. *
4. I send herewith Bank draft drawn on Bank Branch bearing No for Rs towards annual certificate of practice fee for the year ending 31st March
5. I further declare that the particulars furnished above are true and correct.

Yours faithfully,

(Signature)

Place:

Encl.

Date:

* Applicable in case of renewal or restoration of Certificate of Practice





Company Secretaries Benevolent Fund

MEMBERS ENROLLED REGIONWISE AS LIFE MEMBERS OF THE COMPANY SECRETARIES BENEVOLENT FUND*



Sl. No.	LM No.	Name	Mem No.	City
EIRC				
1	10010	SH. NARAYAN CHANDRA MUKHERJEE	ACS - 2302	JAMSHEDPUR
NIRC				
2	9997	SH. NAYAN JAIN	ACS - 26318	NEW DELHI
3	9999	SH. NAND LAL SARDANA	FCS - 5205	NEW DELHI
4	10001	MR. VIBHU MISHRA	ACS - 32211	LUCKNOW
5	10002	MS. DIVYA CHAWLA	ACS - 25206	FARIDABAD
6	10003	SH. ANKUSH AGGARWAL	ACS - 25049	NEW DELHI
7	10004	MRS. SIMPAL SINGH VERMA	ACS - 20798	LUDHIANA
8	10008	SH. KAPOOR CHAND GARG	ACS - 21287	RAMPURA PHUL
9	10011	MR. MAYANK KUMAR GOEL	ACS - 32253	NEW DELHI
10	10013	MS. MAMATA CHAKRABORTY	ACS - 27236	NEW DELHI

11	10016	SH. KRISHAN KUMAR	ACS - 18018	GURGAON
12	10017	MR. MANISH KUMAR SHARMA	ACS - 29351	NOIDA

SIRC

13	9998	SH. GOVINDARADDI KURTAKOTI	ACS - 23141	BANGALORE
14	10000	MR. R MOHAN KUMAR	ACS - 29562	COIMBATORE
15	10005	MR. OM PRAKASH CHOUBEY	ACS - 30096	HYDERABAD
16	10006	MR. SHAINSHAD ADUVANNI	ACS - 27895	COIMBATORE
17	10012	SH. R A KRISHNAN	FCS - 379	CHENNAI
18	10014	MS. SUMAN BUNG	ACS - 32325	HYDERABAD
19	10015	MR. B S HARIKRISHNA	ACS - 32342	HYDERABAD
20	10018	SH. P T KUPPUSWAMY	ACS - 234	CHENNAI

WIRC

21	9996	MS. BHAVANA PARMANAND SHEWAKRAMANI	ACS - 26572	THANE
22	10007	MR. MANOJ DESHPANDE	ACS - 27043	NAGPUR
23	10009	MR. BRIJESH HARESH THAKKAR	ACS - 30355	MUMBAI

* Enrolled from 21st March 2013 to 23rd April, 2013



List of Companies Registered for Imparting Training During the Month of March 2013

Region	Training Period	Stipend (Rs.)
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Eastern

Bio Whitegold Industries Ltd. Godrej Waterside, DP Block, Sector-V, Salt Lake, Electronic Complex Kolkata-700091	15 Months & 3 Months Practical Training	Suitable
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Symphony Gases (Pvt.) Ltd. Belgram, Dist. Burdwan, West Bengal-713141 <i>symphonygas@rediffmail.Com</i>	15 Months Training	7000/-
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North Eastern Electric Power Corporation Ltd. Brookland Compound, Lower New Colony, Shillong-793003, Meghalaya, India	15 Months Training	Suitable
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Hills Cement Company Ltd. Training Village-Mynkree, 116km Stone, NH 44, Lumshnong, Jaintia Hills Meghalaya-793200	15 Months	Suitable
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D.R. Steel Construction Co. Pvt. Ltd. 2, N.C. Dutta Sarani(Clive Ghat Street) 3rd Floor, Suite#6 Kolkata-700001, West Bengal <i>drsc@vsnl.net</i>	15 Months Training	Suitable
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Northern

Shri Lal Mahal Ltd. B16, Bhagwan Dass Nagar New Delhi-110026 <i>lalmahal@lalmahal.in</i>	15 Months & 3 Months Practical Training	Suitable
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Cambridge University Press India Pvt. Ltd. 4381/4, Ansari Road, Daryaganj New Delhi-110002 <i>india@cambridge.org</i>	15 Months Training	Suitable
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H M Aluminium Alloys Pvt. Ltd. 411, IVth Floor Alankar Plaza, A-10, Central Spine Vidhyadhar Nagar Jaipur-302023, Rajasthan	15 Months & 3 Months Practical Training	Suitable
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Magneti Marelli Powertrain India Pvt. Ltd. Plot No.1, Sub Plot 25 & 32, Maruti Supplier's Park Sector 3A IMT Manesar Gurgaon-122051	15 Months Training	Suitable
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India Shelter Finance Corporation Ltd. Indo Asia House, Level 3 56 Institutional Area, Sector-44, Gurgaon-122002 Haryana	15 Months & 3 Months Practical Training	3500/-
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Bhadra International India Pvt. Ltd. B-4/62, Safdarjung Enclave, New Delhi-110029 <i>info@bhadra.in</i>	15 Months & 3 Months Practical Training	Suitable
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TV 18 Home Shopping Network Ltd. 7th Floor, FC-24, Sector-16A, Film City, Noida-201301(U.P.) <i>roshni.tondon@network18online.com</i>	15 Months Training	7000/-
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KM Trans Logistics Pvt. Ltd D-80, New Anaj Mandi, Outside Chand Pole Jaipur-302001, Rajasthan <i>jaipur@kundanmal.com</i>	15 Months Training	3500/-
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New Delhi Centre For Sight Pvt. Ltd. B-5/24, Safdarjung Enclave, New Delhi-110029	15 Months Training	Suitable
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SSP Catering India Pvt. Ltd. Building 10A, 4th Floor DLF Cyber City Phase-II Gurgaon-122002, Haryana	3 Months Practical Training	Suitable
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Amit Colonizers Ltd. 25, Anaj Mandi Ghat Gate Bazar Jaipur-302003, Rajasthan <i>info@amitcolonizers.com</i>	15 Months Training	Suitable
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Asian Townsville Farms Ltd. 12/78, Basement, Vikram Vihar Lajpat Nagar-IV New Delhi-110024 <i>info@atfl.in</i>	15 Months & 3 Months Practical Training	4000/-
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News From the Institute

Jain Studios Ltd. Jain Studios Campus, Scindia Villa, Ring Road, Sarojini Nagar New Delhi-110023 <i>jsl@jaintv.Com</i>	15 Months Training	Suitable	WSP Consultants India Ltd. FC-24, 2nd Floor Sector-16A, Film City Noida-201301, (U.P.)	15 Months Training	Suitable
Lalitpur Power Generation Company Ltd. Bajaj Bhawan Jammalal Bajaj Marg B-10, Sector-3, Noida-201301, NCR Delhi	15 Months & 3 Months Practical Training	Suitable	Southern AMR India Ltd. Plot No.88, Sari Konda Mansion, Phase-III, Kamalapur Colony, Hyderabad-500073 Andhra Pradesh <i>info@amrgroup.in</i>	15 Months & 3 Months Practical Training	Suitable
Kanchan India Ltd. 19-20, Bhilwara Textile Market, Pur Road Bhilwara-311001 Rajasthan <i>kanchanbhl@rediffmail.com</i>	15 Months & 3 Months Practical Training	Suitable	India Cements Capital Ltd. Dhun Building No. 827, Anna Salai, Chennai-600002 <i>ceo@icccaps.com</i>	15 Months Training	Suitable
Artificial Limbs Manufacturing Corporation of India G.T. Road, Kanpur-209217 Uttar Pradesh <i>alimco_hq@vsnl.net</i>	15 Months & 3 Months Practical Training	Suitable	Innovision Foods Pvt. Ltd. 221/298, Singasandra, Hosur Road, Bangalore-560068 <i>innovision@vsnl.net</i>	15 Months Training	Suitable
International Traceability Systems Ltd. E-133, Okhla Industrial Estate, Phase-III New Delhi- 110020 <i>info@itsltd.in/project@itsltd.in</i>	15 Months & 3 Months Practical Training	Suitable	Vijai Electricals Ltd. 6-3-648/1 & 2, Off Raj Bhavan Road, Somajiguda Hyderabad-500082 Andhra Pradesh <i>finance@vijai.co.in</i>	15 Months Training	Suitable
Assotech Realty Pvt. Ltd. 10, Sagar Apartments, 6, Tilak Marg New Delhi-110001	15 Months Training	Suitable	Western Astec Lifesciences Ltd. Elite Square, 7th Floor, 274 Perin Nariman Street, Fort Mumbai-400001 <i>ah@astecls.com</i>	15 Months Training	Suitable
Jammu & Kashmir State Industrial Development Corporation Ltd. 4th Floor, Jawahar Lal Nehru Udyog Bhawan Rail Head Complex Jammu	15 Months Training	3000/-	Amiantit Fiberglass Industries India Pvt. Ltd. Village- Navelim (Near Amona) Taluka- Bicholim, North Goa-403505 <i>info@amiantit.in</i>	15 Months & 3 Months Practical Training	Suitable
Cement Corporation of India Ltd. Core-5, Scope Complex, 7, Lodhi Road, New Delhi- 110003 <i>cci_co@cementcorporation.co.in</i>	15 Months & 3 Months Practical Training	8000/-	Exclusive Securities Ltd. 113, B-Block, 1st Floor Silver Mall, 8-A, RNT Marg Indore-452001(M.P.) <i>bhagwan@sancharnet.in</i>	15 Months Training	3500/-
Mentor India Ltd. B-9, Mentor House Govind Marg, Sethi Colony Jaipur-302004, Rajasthan <i>mentor@mentorindiagroup.com</i>	15 Months Training	Suitable	Kallappanna Awade Ichalkaranji Sahakari Bank Ltd. Janata Bank Bhavan Main Road, Ichalkaranji-416115 Dist. Kolhapur (Maharashtra) <i>ijsbho@rediffmail.com</i>	15 Months Training	Suitable
Janki Corp Ltd. Mandpiya Chouraha Chittor Road Bhilwara-311001, Rajasthan <i>jankicorp@yahoo.co.in</i>	15 Months & 3 Months Practical Training	Suitable			



Laabh Hotel Pvt. Ltd. 303/304, Milestones Near Drive-In-Cinema Opposite TV Tower, Thaltez Ahmedabad-380054, Gujarat <i>laabhhotel@yahoo.com</i>	15 Months & 3 Months Practical Training	4500/-	Maneesh Pharmaceuticals Ltd. 21-24, Kalpataru Court Dr. C.G. Marg, Chembur Mumbai-400074 Maharashtra <i>info@maneeshpharma.com</i>	15 Months & 3 Months Practical Training	5000/-
Prestige Feed Mills Ltd. 30, Jaora Compound, M.Y.H. Road, Indore-452001(M.P.) <i>info@prestigeindia.com</i>	15 Months & 3 Months Practical Training	Suitable	Darwin Platform Capital Ltd. H-Wing, Unit No.127 Ansa Industrial Estate, Saki Vihar Road, Sakinaka, Andheri (East) Mumbai-400072, Maharashtra	3 Months Practical Training	Suitable
BLB Mall Management Co. Pvt. Ltd. Centre Square, Nr. Genda Circle Sarabhai Chemicals Vadodara- 390007 <i>info@monalisaindia.com</i>	15 Months & 3months Practical Training	Suitable	Camex Ltd. Camex House, 2nd Floor, Stadium-Commerce Road Navrangpura-380009, Ahmedabad <i>camextld@vsnl.net</i>	15 Months Training	4000/-
Aroni Commercial Ltd. 209-210 Arcadia Building 2nd Floor, 195 Nariman Point Mumbai-400021 Maharashtra	15 Months Training	5000/-	Everstone Capital Advisors Pvt. Ltd. One Indiabulls Centre, 16th Floor, Tower 2A, Jupiter Mills Compound, Senapati Bapat Marg Elphinstone Road Mumbai-400013, Maharashtra	15 Months Training	Suitable
Mahindra & Mahindra Financial Services Ltd. 4th Floor, "A" Wing, Mahindra Towers, Dr. G.M. Bhosale Marg, P.K. Kurne Chowk, Worli Mumbai-400018, Maharashtra	3 Months Practical Training	Suitable	Lancer Laser Tech Ltd. 1434P/2 Chhatral Mehsana, National Highway Distt. Mehsana Village- Rajpur Rajpur- 382715, Gujarat <i>info@lancerlaser.com</i>	15 Months & 3 Months Practical Training	Suitable
Vividha Finance & Investments Co. Pvt. Ltd. Virgo Heights, 16th Floor 16th Road, Bandra(W) Mumbai-400050, Maharashtra <i>info@vividhafinance.com</i>	15 Months & 3 Months Practical Training	5000/-	G.G. Dandekar Machine Works Ltd. 211/A, MIDC, Butibari Industrial Area Village- Kinhi, Tal. Hingana, Nagpur-441122, Maharashtra	3 Months Practical Training	Suitable
Jyoti CNC Automation Ltd Plot No.2839 Lodhika(Metoda) GIDC, Kalawad Road, Rajkot-360021 <i>info@jyoti.Co.In</i>	15 Months Training	Suitable	Bhavnagar Energy Company Ltd. Block No.8, 3rd Floor Udyog Bhavan, Sector-11 Gandhinagar-382011, Gujarat <i>San_3in@Hotmail.Com</i>	15 Months Training	Suitable
Allscripts (India) Pvt. Ltd. 1st Floor, Wing 4, Cluster C, Eon Free Zone, MIDC, Kharadi Knowledge Park Pune-411014, Maharashtra	15 Months Training	Suitable	L&T Housing Finance Ltd. The Metropolitan, C-26/C-27, 3rd Floor, E-Block, Bandra- Kurla Complex, Bandra(E) Mumbai-400051 Maharashtra <i>Kkritinarula@lthousingfinance.com</i>	15 Months Training	Suitable
K.S. City Pvt. Ltd. 301, Silver Arc Plaza 20/1, New Palasia Indore, Madhya Pradesh	15 Months Training	Suitable	Sun Techno Overseas Ltd. 320, Vrundavan Enclave, Near Reliance Petrol Pump, 132ft Ring Road Near Aec Cross Road, Naranpura, Ahmedabad-380013, Gujarat <i>suntechnooverseas@gmail.com</i>	15 Months & 3 Months Practical Training	Suitable
Gea Pharma Systems (India) Pvt. Ltd. Block No. 8, Phase-B, Village Dumad, Savli Road Vadodara-391740, Gujarat <i>pharma-india@geagroup.com</i>	15 Months Training	Suitable			



News From the Institute

Morgan Stanley Advantage Service Pvt. Ltd.
S T Yadav Rd, Goregaon (East)
Mumbai-400063, Maharashtra,
samta.mehta@morganstanley.com

15 Months &
3 Months
Practical Training

Suitable

CS BUNTY MUBARAKALI HUDDA
Company Secretary in Practice
29, Classic Villa
Opp. Zerf Dairy
Juhapura-Sarkhej Road
Ahmedabad -380 055

PCSA – 3342

Sadbhav Engineering Ltd.
“Sadbhav House”,
Opp. Law Garden Police Chowki,
Ellisbridge, Ahmedabad-380006
Gujarat

3 Months
Practical Training

2500/-

CS AJEET SINGH VERMA
Company Secretary in Practice
H.No. 2, Prahladpur, Delhi Cantt
New Delhi -110 010

PCSA – 3343

NSSL Ltd.
T-44/45, Midc Industrial Area,
Hingna Road
Nagpur-440016, India
contact@nsslindia.com

15 Months &
3 Months
Practical Training

3500/-

CS ARCHIT AGARWAL
Company Secretary in Practice
F-172, 2nd Floor, Dilshad Colony
Delhi – 110 095

PCSA – 3344

Omkar Speciality Chemicals Ltd.
Unit-111, B-34, M.I.D.C.
Badlapur(East), Thane-421503
Maharashtra, India
omkarchem@vsnl.com

3 Months
Training

Suitable

CS RASHMI RANJAN SATAPATHY
Company Secretary in Practice
N/6-127, Irc Village, Nayapalli
Bhubaneswar -751 015

PCSA – 3345

Spanco Nagpur Discom Ltd.
5th Floor, Narang Tower,
Palm Road, Civil Lines,
Nagpur-440001,
Maharashtra

15 Months &
3 Months
Practical Training

5000/-

CS SHWETA AGARWAL
Company Secretary in Practice
C-104, 1st Floor, Jasmine Gardens
Indrapuram, Ghaziabad -201 301

PCSA – 3346

Cooper Corporation Pvt. Ltd.
L-3, Addl. MIDC,
Post- Kodoli,
Satara- 415004
centrifugal@coopercorp.in

15 Months
Training

8000/-

CS VIGHNESHWAR BHAT
Company Secretary in Practice
No. 24, 3rd Floor, Comfort Towers
10th Cross, Wilson Garden
Bangalore -560 027

PCSA – 3347

Champion Finsec Ltd.
A-2/102, Shree Apartment,
Veraval (Shapar)-360024

15 Months &
3 Months
Practical Training

Suitable

CS KIRAN N P
Company Secretary in Practice
LIG 34, 1st Stage, K H B Colony
Gopala, Shimoga -577 201

PCSA – 3348

CS NISHA NAHATA
Company Secretary in Practice
160, Bangur Avenue
Block –A, Kolkata -700 055

PCSA – 3349

CS POOJA MAHESHWARI
Company Secretary in Practice
501-502, Bldg No. 7 Sec-2
Shanti Garden, Mira Road (E)
Thane -401 107

PCSA – 3350

CS ASHAQ NAJAMUL HUSSAIN MIR
Company Secretary in Practice
2nd Floor, Nath Complex Shaheed Gunj
Srinagar -190 001

PCSA – 3351

CS JAPNA CHOUDHARY
Company Secretary in Practice
Radhey Shyam Colony, Phase -1
Muradanagar, Ghaziabad -201 206

PCSA – 3352

CS AJAY KUMAR SIWACH
Company Secretary in Practice
H.No. -50, Sector -11C
Faridabad – 121 006

PCSA – 3353

List of Practising Members
Registered for the
Purpose of
Imparting Training
During the Month of
March, 2013



CS V. RADHAKRISHNAN
Company Secretary in Practice
A-J-55, New No -27
Fourth Street
Annanagar
Chennai -600 040

PCSA – 3341



CS MANISHA ARORA Company Secretary In Practice A1/256, Sector -55, Sushantlok –II Gurgaon -122 011	PCSA – 3354	CS DEVESH PANDEY Company Secretary in Practice A-12, Lower Ground Floor Lajpat Nagar III New Delhi - 110 024	PCSA – 3364
CS PRADEEP KUMAR ARORA Company Secretary in Practice H -102, Siddh Apartment 107, I. P. Extension Delhi -110 095	PCSA – 3355	CS VIJAY KUMAR Company Secretary in Practice A-114/14, 4-1/2 Pusta Som Bazar, Gamri Delhi- 110 053	PCSA – 3365
CS ANUSHREE ABHIJEET DIXIT Company Secretary in Practice 32, Keshav Hari Society Old Agra Road, B/H Kalika Temple Shri Hari Kute Marg Nashik -422 002	PCSA – 3356	CS SWINKY BATHLA Company Secretary in Practice 9, New Gandhi Nagar Opposite Sanyas Ashram Ghaziabad – 201 002	PCSA – 3366
CS HARNEET KAUR Company Secretary in Practice 8, Raj Vihar, Paper Mill Road Saharanpur -247 001	PCSA – 3357	CS NISHI SINGH Company Secretary in Practice B-11, Bhuwaneshwar Nagar Colonv Orderly Bazar, Varanasi- 221 002	PCSA – 3367
CS RAHUL JAIN Company Secretary in Practice Sai Srinivasa Arcade 2-1-392/1/3/11, Near Fever Hospital 'X'roads, Near Nallakuta Hyderabad- 500044	PCSA – 3358	CS MADHUR NANDKISHOR AGRAWAL Company Secretary in Practice 16, Mauli Complex, Behind Air Besides Durga Mata Temple Jawahar Colony Road Aurangabad – 431005	PCSA – 3368
CS NITESH AGARWAL Company Secretary in Practice Sai Srinivasa Arcade 2-1-392/1/3/11, Near Fever Hospital 'X'roads, Near Nallakuta Hyderabad-500044	PCSA – 3359	CS GAURAV DEVSDAS SHENOY Company Secretary in Practice 12, Samarth Co-Op. Society Ganeshpur, Hindalga Belgaum – 590 118	PCSA – 3369
CS NITIN HASMUKHLAL PARIKH Company Secretary in Practice 737 Fortune Tower Sayajigunj, Vadodar- 390 005	PCSA – 3360	CS HONEY SATPAL Company Secretary in Practice Plot No. 17-18, Sandeep Motor Street Opp. Allahabad Bank Jodhpur – 342 003	PCSA – 3370
CS SADASHIV T. KHARMATE Company Secretary in Practice C-203, Om Sai Shravan Chs Opp Shimpoli Telephone Exchnage Kastur Park Road, Borivli(W) Mumbai -400 092	PCSA – 3361	CS PRACHI VIJ Company Secretary in Practice F-182, Vikas Puri New Delhi- 110 018	PCSA – 3371
CS ARVIND KUMAR YADAV Company Secretary in Practice 509 Rajhans Complex Nr. Nirmal Hospital Civil Char Rasta, Ring Road Surat – 395 002	PCSA – 3362	CS JANKI SHAH Company Secretary in Practice 104, Puja Flats, Nr. IDBI Bank Ghodbod Road, Surat – 395 007	PCSA – 3372
CS ARUN KUMAR SINGH Company Secretary in Practice H-144, Gurudwara Street Swarm Park, New Delhi- 110 041	PCSA – 3363	CS NITIN GOYAL Company Secretary in Practice C-193, Ground Floor DDA Flats, New Ranjeet Nagar New Delhi – 110 008	PCSA – 3373
		CS MOHIT Company Secretary in Practice H. No. 321, H Block Nanak Pura, New Delhi – 110 021	PCSA – 3374



News From the Institute

CS SRINIVASAN K. V.

Company Secretary in Practice
Flat No. F, Second Floor, Marutham
Kurinji Apartment
No.12a Nedunchezian
Street, Vijayalakshmiapuram,
Ambattur
Chennai - 600 053

CS ARUN KUMAR SHARMA

Company Secretary in Practice
1-11-240/5/1, 4th Floor
Dugar Arcade
Shyamal Building
Begumpet, Hyderabad – 500016

CS SANDEEP KUMAR

Company Secretary in Practice
C-1/94, Lawrence Road
Keshav Puram
New Delhi-110 035

CS REKHA KEJRIWAL

Company Secretary in Practice
Flat No:11, Kedarnath Appt
117/P/5, Kakadeo
Kanpur – 208 025

CS MANISHA MALI

Company Secretary in Practice
D/O Girish Kumar Mali
'Ganga Sadan', Jalchakki
Kankroli, Rajsamand – 313 324

CS NEERAJ JINDAL

Company Secretary in Practice
H.No. 3030, First Floor
Sector 27 – D, Chandigarh – 160 019

CS MOHD SHAKEEL KAYAMKHANI

Company Secretary in Practice
Office No: 101& 102
G Block, Khajanchi Market
K.E.M Road, Bikaner – 334 001

CS PRANAY PATEL

Company Secretary in Practice
305-A, Anmol Tower
Greater Kailash Road
15/2 Old Palasia
Indore – 452 018

CS GAUTAM RAGHUNANDAN MALLAYA

Company Secretary in Practice
37/3184, 2nd Floor
Sheraton Complex, P. V. Sami
Road, Chalappuram, Kozhikode – 673 002

CS VIKASH GUPTA

Company Secretary in Practice
3016/5, 1st Floor, Street No- 12 A
Ranjeet Nagar, Nr Shiv Chowk
New Delhi- 110 008

PCSA – 3375

PCSA – 3376

PCSA – 3377

PCSA – 3378

PCSA – 3379

PCSA – 3380

PCSA – 3381

PCSA – 3382

PCSA – 3383

PCSA – 3384

CS KALYANI SRINIVASAN

Company Secretary in Practice
New No. 7, Old No. 29B
Ram Nagar I, Main Road, Nanganallur
Chennai - 600 061

PCSA – 3385

CS ISHA NAHATA

Company Secretary in Practice
Owners Court, 6 May Fair Road
3rd Floor, Room No - 31
Kolkata - 700 019

PCSA – 3386

CS SAPNA JAIN

Company Secretary in Practice
E-4, Shree Complex Uditnagar
Distt. Sundergarh, Rourkela

PCSA – 3387

CS DHIREN N. P.

Company Secretary in Practice
100, 2nd Floor, R.V. Road
Opp. Lalbagh West Gate
Bangalore – 560 004

PCSA – 3388

READERS' WRITE

The erstwhile POINTS OF VIEW column of Chartered Secretary has been re-captioned as READERS' WRITE. Members are invited to send in their queries and views for consideration for publication in this column for soliciting views/ comments from other members of the Institute.

ARTICLES ON ETHICS, ENVIRONMENT, ETC.

As recommended by the Editorial Advisory Board, it has been decided to publish one article on Ethics/ Environment in every issue of Chartered Secretary. Members and others having expertise and ability to pen articles on the above topics may send in their articles for consideration by the Board for publication in the journal. In this regard members may also refer to the Guidelines for Article Writers published elsewhere in this issue.

The articles may please be arranged to be sent electronically to Deputy Director (Publications) of the Institute at ak.sil@icsi.edu



News From the Regions

➤ Eastern India Regional Council

Full Day Seminar on Laws relating to Debentures & Competition

The ICSI-EIRC organised a full day seminar on Laws relating to Debentures and Competition which was followed by a Fellowship & Cultural Programme on the occasion of Basant Utsav. The guest speakers were CS Vinod Kothari, Past Chairman, ICSI-EIRC, CS Anjan Kr. Roy, Past Chairman, ICSI-EIRC. CS Deepak Kr. Khaitan, Chairman, ICSI-EIRC in his welcome address talked about the significance of the event in the ever changing regulatory scenario.

CS Vinod Kothari addressed on Recent Amendments in Public Deposit Rules-Impact on Issue of Debentures. His presentation gave insight into the definition and kinds of debentures operating in both Indian and international finance market, various rules and regulations applicable for issue of debentures, instruments like perpetual debt instrument, perpetual debenture and contingent convertible debentures. He talked about the constraints for the Indian debenture market which include certain rules and DRR regulation and added that the Finance Ministry is considering various policies for promotion of Bond market at domestic level. He explained various concepts like private placement, public offer, issues related with OCD, kinds of mortgages and the difference between a mortgage and a charge, pledge of shares, movable property mortgage under the English Law. While emphasizing on Companies (Acceptance of Deposits) Rules, 1975, he talked about how a private company can avail Foreign Institutional Investment by way of issuing debentures and listing those instruments in the stock market.

The topic "Discussion on Sections 3 and 4 of The Competition Act, 2002 in view of the recent case Laws was addressed by CS Anjan Kr. Roy. Roy made a resourceful presentation on Competition Law in India as well as its applicability and effect in today's trade and industry. He explained the constitution and structure of the Competition Commission of India and its way of working in settling disputes and to promote and sustain competition in markets, Competition Commission of India is one of the best professional forums in country for preventing practices which may have adverse effect on competition. He explained the concept of Anti Competitive Agreements in light of various case laws and topics like appreciable adverse effect, dominance, dominant position, investigation

procedure, unfair trade practices, cartel like behaviour, price parallelism, and various other issues regarding competition law. He emphasized various judgments delivered by Competition Commission of India from time to time and the circumstances in which they were given. He concluded his presentation by thanking the audience.

Panel Discussion on Best Governance Practices & Investor Protection in India

On 23.3.2013 the ICSI-EIRC organised a Panel Discussion on Best Governance Practices & Investor Protection in India at Kolkata. CS Sanjay Kr. Gupta, Past Chairman, ICSI-EIRC, Chairman- Audit Committee, Energy Development Company Limited moderator of the discussion introduced the theme of the discussion by defining investor protection as a tool to encourage the common investor to invest their money and to protect their investment simultaneously. He asked for the opinion regarding investor protection and current scenario of safeguarding interest of the investors in India.

P. K. Choudhury, Chairman & Group CEO, ICRA Limited in his deliberation shared his concerns regarding Corporate Governance system prevailing in India. He talked about the definition of Good governance and how the dynamism and structure of an economy can be sustained by efficient governance mechanism. In this era of consumerism, corporate entities are enjoying tremendous amount of power hence standardisation of disclosure requirement needs to be established for effective governance. He said that now due to complexity of structure and operations of large corporate entities calls for compliance of regulation not only by letter but also with the spirit of law.

CA Kamal Agarwal, Partner, SRBC & Co. in his deliberation said that Investor protection and Corporate Governance is one of the highest levels of governance initiatives essential for the better functioning of economy. Corporate Governance means equal treatment for all shareholders, providing priority to each shareholder, importance of independent directors, etc. He then spoke on clause 49 of the listing agreement, the upcoming Companies Bill new rules of portfolio management, practices of audit committee, etc.

Balwinder Singh, Advisor, Ministry of Corporate Affairs, Government of India spoke on the reason and effect of corporate failure, tools for good Governance practice, various modes of board management & their implementation process. He said that the new Bill provides tools for good Governance, regulatory system with reference to MCA, SEBI, RBI. He then pointed out that the aim of investor awareness should be to protect minority shareholder. He said that there should be more regulation on schemes like CIS, the pyramid market strategy, etc. He said that the solution to this type of problems is to fix the jurisdiction of the agencies and to arrest malpractices.

Prof. (Dr.) Suman K. Mukerjee, Dean & Principal, Bhartiya Vidya Bhavan Institute of Management Science spoke on the history of regulation in the financial market and explained the reason why people invest in chit funds. He said that the reasons are Government



News From the Institute & Regions

policy, lack of saving opportunities, no Banks, inflation, interest rate, etc. He said that the Govt. should implement Governance practices in public sectors undertaking and government companies. He said that in good corporate governance environment there is protection of shareholder interests, minority group interests. It is to be understood that by protecting shareholders we are also serving the nation because revolutionary changes in business society helps in value creation.

S V Kishnamohan, Regional Manager, the Securities & Exchange Board of India said that companies with good corporate governance always have trust of the investors. He then spoke on the issue of capital markets, judgement of investors, refined KYC policies. He said that as an investor for making investment decision one should learn about the company. He said that investor education, does not mean financial literacy.

Study Circle Meeting

On 13.4.2013 the EIRC of the ICSI organised its 2nd Study Circle Meeting on Dealing with interest of Directors under section 274, 297 and 299 of the Companies Act, 1956 at the premises of the regional office. The discussion was led by CS Rajesh Poddar, Past Chairman, ICSI-EIRC and Deputy Company Secretary, ITC Ltd. CS Deepak Kumar Khaitan, Chairman, ICSI-EIRC in his welcome address said that Study Circle Meetings are great source of learning and updating oneself as it is a closely held forum for both the professionals and the students. It is also useful for raising queries and solving problems by mutual discussion. The discussion started with Sec 274 of the Companies Act, 1956, with reference to various grounds for disqualification of a director as stated in the provision of Section 274. Poddar explained the provision in great detail and threw light on topics such as moral turpitude, actual practice of appointment of a director, declaration to be made by a director under section 274, etc. He said that as a director holds a position of trust in a company, the main purpose of the provision of section 274 is check the integrity of the person who enjoys the fiduciary position as a director. The participants present took part in the discussion on clause "g" of sub-section 1 of section 274, as this particular clause has manifold impact upon the directorship of a person in not only the company in question but also in other companies in which such person holds the office of a director. Then the participants discussed the provision in the light of Director's Disqualification Rules and practical queries were also solved during the discussion. Various issues were raised such as, effect of section 297 and 299 upon the working of the Board, disclosure requirement under section 299 and 297, interest of a director in a contract, consequences of non-disclosure of interest, role of the directors and auditors in securing the independence of the Board, etc.

Investor Awareness Programme

On 23.3.2013 the EIRC of the ICSI supported by MCC Chamber of Commerce & Industry organised an Investor Awareness Programme of MCA at Kolkata.

The Chief Guest of the programme was Sachin Pilot, Hon'ble Union Minister of Corporate Affairs, Government of India.

CS Deepak Kr. Khaitan, Chairman, ICSI – EIRC in his inaugural address said that it was an honour and privilege to host the programme in the Eastern Region of the country and thanked the Hon'ble Minister for being a role model. He said that the purpose of investor Awareness Programmes is to help general public to be aware of the investment opportunities available to them and the investments that people make encourage industry and trade which further helps in overall growth of the economy and at the same time these programmes also make existing investors aware of their rights and the grievance redressal mechanisms available to them.

CS Ashok Pareek, Council Member, the ICSI in his address said that such programmes create awareness, helps in growth of economy, financial markets and added that these programmes are of much importance in rural and semi urban areas where people should be educated to make wise decision about investing their hard earned money.

CS Anil Murarka, Past President, the ICSI said that Investor Awareness Programmes are being conducted by ICSI under the aegis of IEPF to educate the investors so that they are aware of the redressal mechanisms, etc. He said that earlier there were instances of fraud etc. where investors have lost their hard earned money and due to these type of incidents a need was felt to organize such Investor Awareness Programmes.

Deepak Jalan, President, MCC Chamber of Commerce & Industry said that India and China are front runners in the global market now and so it is essential for India to revive the economy, achieve sustainable growth, implement Corporate Governance Initiatives etc. He said that investors while investing their money should practice a systematic and consistent approach and should read and understand the company and the business well before investing.

H.K. Dwivedi, Principal Secretary, Ministry of Finance, Government of West Bengal said that the Government's focus is on financial inclusion and financial literacy and we should ensure that these two processes reach each and every part of India. The people should be made aware of investment avenues which are safe and reliable other than the traditional choices now available and also be made aware about the risks associated with the avenues so that they may make wise and informed investment decisions.

Sachin Pilot in his address said that Investor Awareness is an important topic for the whole of India. He expressed his views on creating investor awareness by citing a clear example from the proposed Companies Bill, 2012 where for the first time the term "fraud" has been defined in totality. He said that there are organizations which are raising money and are vanishing – which is a common occurrence in rural and semi urban areas and hence there is now an importance of educating the general population about safe investing.



He congratulated the youngsters of India for being the smartest youth population that a country can have. He also said that what we lack today is awareness which we need to create among the masses and to make them realize the value of their hard earned money.

He said that the entire country has to be addressed by means of seminars, workshops, conferences, classes, e-teaching in various regions and languages so that every Indian can protect his hard earned money. He said that the general concern of the Ministry is to protect the small investors. He asked one and all to learn and make use of the best possible facilities available around so that we can progress at a faster speed. He also talked about the efforts that the Government, is taking to protect investors and said that more Investor Awareness Programmes will be conducted in rural, semi urban and urban areas. He said that the help of technology will be taken to disseminate information to investors and to address investor grievances, etc.

HOOGHLY CHAPTER

Half Day Workshop on Sections 295, 297, 299, 301 and 314 of the Companies Act, 1956

On 10.2.2013 the Hooghly Chapter of EIRC of The ICSI organized a half day workshop on Sections 295, 297, 299, 301 and 314 of The Companies Act, 1956 at Howrah Maidan. CS Gautam Dugar, Chairman – Hooghly Chapter in his welcome address said that the Chapter is always instrumental and willing to organize such programmes for knowledge updation of students along with the members. CS Manoj Banthia, Past Chairman – EIRC of the ICSI was the guest speaker who in his address said that when the Companies Bill 2012 is imminent it is more important to understand the intricacies of the sections which are in use today. He deliberated on sections 295, 297, 299, 301 and 314 of the Companies Act, 1956 which are also known as – Related Party Transactions. CS Jamshed Alam, Chapter Secretary coordinated the programme. The workshop was attended by more than 170 delegates including students.

Saraswati Puja Celebration

On 15.2.2013 the Chapter celebrated Saraswati Puja on the occasion of Basant Panchami at Chapter premises. The Puja was attended by a good number of Members and Students who on the occasion prayed the deity for wisdom.

Half Day Workshop on Stay Positive, Stay Motivated

On 17.2.2013 the Chapter organized a half day workshop on Stay Positive, Stay Motivated at the Chapter Conference Hall, Rishra. Rajesh Chura, President, Dalmia Securities Pvt. Ltd. was the guest speaker who explained the benefits of positive thinking through some practical examples. He showed how one can get optimum result even when he is in the midst of a difficult situation in life. CS Jamshed Alam, Chapter Secretary coordinated the programme.

Around 30 delegates were present on the occasion.

Investor Awareness Programmes

On 27.2.2013 the Hooghly Chapter of EIRC of the ICSI in collaboration with Ministry of Corporate Affairs, Govt. of India organized an Investor Awareness Programme at Rishra. CS Anil Dubey discussed how a new investor should make an informed decision about investment. He further discussed the nomination facility available with shares and other securities. Again on 28.2.2013 the Chapter in collaboration with Ministry of Corporate Affairs, Govt. of India organized an Investor Awareness Programme at Howrah. Ashok Gangwal, Senior Stock Analyst, Shree Bahubali International Limited discussed share trading. CS Gautam Dugar, Chairman – Hooghly Chapter, discussed the rights of investors.

Seminar on Union Budget 2013

On 2.3.2013 the Hooghly Chapter of EIRC of the ICSI organized a free seminar on Union Budget 2013 in association with Terapanth Professional Forum (Kolkata Branch) at Bhikshu Granthagar of Mahasabha Bhawan, Kolkata.

CA Amitabh Kothari, Managing Partner – Kothari & Co. and CA Arun Agarwal, Eminent Tax Consultant were the guest speakers who elucidated the salient features of Union Budget and replied the queries of the delegates. More than 90 delegates attended the seminar.

Full Day Workshop on Meeting & Role of Directors and Stress Management

On 3.3.2013 a full day workshop on the above topics were organized by the Chapter at Sarat Sadan, Howrah Maidan. In the morning session, S M Gupta, Past Chairman, EIRC-ICSI was the guest speaker who explained the role of directors and said that prime duty of the director of a company is to safeguard the principal of the investor, update all the developments of market to him.

In the afternoon session, Brahmakumari Shreyashi Di discussed the topic stress management and how one can overcome the difficult situations in his life. CS Jamshed Alam, Secretary, Hooghly Chapter coordinated the programme. More than 200 delegates including students participated in the programme.

Foundation Day

On 8.3.2013 Members and Students of the Hooghly Chapter celebrated the 5th anniversary of the Foundation Day of the Chapter. On the occasion CS Gautam Dugar, Chairman and CS Rakesh Ghorawat, Vice-Chairman, Hooghly Chapter honoured the students who secured top 3 positions among the students who cleared the CS Main December 2012 Examinations from the centers of Hooghly Chapter. CS Jamshed Alam, Chapter Secretary coordinated the programme.

Investor Awareness Programmes

On 16.3.2013 the Chapter in collaboration with Ministry of Corporate



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Affairs, Govt. of India organized an Investor Awareness Programme at Pushkarna Brahma Bagicha, Liluah, Howrah. CS Jamshed Alam, Chapter Secretary discussed how a new investor should make an informed decision about investment. He further discussed the need of Demat account. On 17.3.2013 the Chapter in collaboration with Ministry of Corporate Affairs, Govt. of India organized another Investor Awareness Programme at Chapter Conference Hall, Rishra. CS Rakesh Ghorawat, Vice-Chairman of the Chapter discussed how a new investor should make an informed decision about investment. He further discussed the nomination facility available with shares and other securities.

Yet again on 24.3.2013 the Chapter in collaboration with Ministry of Corporate Affairs, Govt. of India organized an Investor Awareness Programme at Sarat Sadan, Howrah Maidan. CS Santosh Jain, Vice-President, SKP Stock Broking Pvt. Ltd. discussed the current scenario of Indian Stock Market.

Full Day Workshop

On 24.3.2013 a Full day Workshop was organized by Hooghly Chapter.

The first session was on Emerging Careers for Company Secretaries. Writer of the best-seller "Missing Varrun" and renowned motivational speaker CA Amar Agarwal was the guest speaker who deliberated on different career options - conventional and unconventional, available for the students of CS course.

The General Manager of Philips Carbon Black Limited, CS Kaushik Mukherjee was the guest speaker in the second session where he discussed the role of Independent Directors in the context of The Companies Bill, 2012.

There was cultural programme performed by the students after the learning session. CS Jamshed Alam, Chapter Secretary coordinated the programme. Around 150 delegates were present on the occasion.

Half Day Workshop

On 31.3.2013 the Chapter organized a half day workshop on An Insight into Takeover Regulations 2011 at Chapter conference Hall, Rishra. CS Payel Jain, Senior Manager (Investment Banking), Microsec Capital limited was the guest speaker who said that new regulations are landmark not only for the capital market but also in India's M&A landscape. The new code is expected to facilitate business growth, especially through easier and faster processes and increased measures for transparency and governance.

NORTH EASTERN CHAPTER

Celebration of Saraswati Puja

On 15.2.2013 the North Eastern Chapter of EIRC of the ICSI celebrated Saraswati Puja at its premises. The Chapter on the day was seen decked up in gorgeous colours and decorations and was crowded since morning.

Study Circle Meeting on Budget 2013 and Dividend Distribution and Stock Exchange Compliances

On 8.3.2013 the NE Chapter of EIRC of the ICSI organised a Study Circle Meeting and Professional Development Programme on Budget 2013 and Dividend Distribution and Stock Exchange Compliances at Guwahati. Raj Kumar Sharma, Immediate Past Chairman, NE chapter explained in detail all the aspects of Budget 2013, the advantages and disadvantages of Budget 2013.

Anjan Talukdar, former Chairman, N.E. Chapter spoke on Dividend Distribution & Stock Exchange Listing Compliances. With power point presentation he gave regulatory insights into the provisions relating to 'Dividend' in the Companies Act, the SEBI Guidelines and the Stock Exchange Listing Agreement. The significance of 'Dividend' and the strategic policy relating to Dividend for corporate entities were discussed at length. He gave an analytical presentation of the statutory duties and parameters, the sources and criteria for dividend, entitlement, accounting provisions, taxation, mode of payment, agencies & institutions involved in the process and the detailed steps to be taken with special reference to the 'Secretarial Standard' and case studies. He also highlighted the pre-declaration compliances, steps during declaration & payment and post-payment compliances relating to dividend distribution and the Investors Education & Protection Fund of the Central Government.

The Question-Answer session followed and several participants raised various important queries pertaining to the topics. The queries were satisfactorily responded by the speakers on the occasion. The interactions were marked with overwhelming response.

Study Circle Meeting on CSR & Corporate Governance and Companies Bill 2012

On 22.3.2013 the North Eastern Chapter (Guwahati) of EIRC of the ICSI organised a Study Circle Meeting and Professional Development Programme on CSR & Corporate Governance and Companies Bill 2012 at Guwahati.

CS S. Gangopadhyay, former President, The ICSI in his address on CSR & Corporate Governance explained in detail all the aspects of CSR & Corporate Governance.

CS Mamta Binani, former Chairperson, EIRC of the ICSI spoke on Companies Bill 2012 with power point presentation. She explained in detail the provisions of the Bill and quoted some suitable examples to explain her point. During the Question-Answer session that followed, several participants raised various queries pertaining to the topics which were ably replied by the speakers. The interactions were marked with overwhelming response.

CS



> Northern India Regional Council

One Day Seminar on Joint Venture Collaboration & Shareholders Agreement

On 23.3.2013 NIRC-ICSI organized a one day seminar on Joint Venture Collaboration & Shareholders Agreement at New Delhi. CS Devinder Kumar, Executive Director, Steel Authority of India Ltd. was the Chief Guest and CS R K Garg, Director Finance, Petronet LNG Ltd. was the Guest of Honour on the occasion. Around 450 members were present in the inaugural session of the seminar.

Inaugural session: CS Vineet K Chaudhary anchored the inaugural session. He in his address said that the joint venture collaborations and shareholders agreements are created with a long term prospective and bonding. He explained the concept of joint venture collaborations and shareholders agreement with the help of an example of marriage and said that the essential ingredients in both the cases are more or less the same.

CS M G Jindal, Chairman, NIRC – ICSI in his welcome address briefly explained the concept of Joint Venture Collaboration and Shareholders Agreement and assured that by listening to the rich deliberations of the eminent speakers of the seminar members will be immensely benefitted.

CS NPS Chawla, Secretary, NIRC – ICSI in his theme introduction stated the entire coverage of the programme.

Guest of Honour CS R K Garg while addressing the gathering thanked NIRC-ICSI for giving him the opportunity. He shared his practical experience with the delegates. While addressing, he said that the aim and objective of the joint venture should be clearly defined and should form part of the agreement in the right perspective for its successful survival. He discussed the Joint venture of the Petronet LNG Ltd. which was formed in the year 1998.

Chief Guest CS Devinder Kumar shared his rich experience with the delegates. He shared & explained the various objectives of the Joint Ventures viz. access to the technology, expertise, in order to undertake economic activity etc. He discussed about the various JV agreements of Steel authority of India Ltd. He also explained the essential conditions and the elements of the Joint Venture Agreements. He mentioned that periodical evaluation of the performance of the Joint Venture Company is also required to be done and the report may be placed before the Audit Committee or the Board.

After the inaugural session various queries were asked by the

members and were suitably replied by the Chief Guest and the Guest of Honour. CS Manish Gupta arranged the presentation of mementoes to the Best Participants & Best Presenters of 172nd Management Skills Orientation Programme.

First Technical Session: CS Ranjeet Pandey anchored the first technical session. Shivpriya Nanda, Partner, J Sagar Associates spoke on “Critical aspects of Collaboration, Shareholder & Joint Venture Agreement”. She explained about the need & types of the Joint Ventures, the prerequisites & due diligence requirements to be complied with before entering into Joint Venture Agreement, also explained the various key terms of the Joint Venture/ Shareholders’ agreement.

Manish Lamba, Vice President (Legal), Bharti Enterprises Ltd. spoke on the topic “Joint Venture: Practical Aspects”. While addressing the gathering firstly he discussed the history of the joint ventures. He discussed in detail the various practical problems being faced by the corporates while drafting Joint Ventures agreements and deciding on what to write & not to write in the Joint Venture agreements. He discussed the Joint Venture of Google & Microsoft.

Madhavan Srivatsan, Partner, Desai & Diwanji spoke on “Technology Transfer, IPR’s, Employment & Distribution Agreements”. He gave a deep insight into the various ancillary agreements in a Joint Venture agreement. He also discussed the structure of various ancillary agreements, discussed in detail the Technology Transfer Agreement, Intellectual Property Rights Agreement, Distribution Agreements and Employment Agreements etc. After the session various queries were asked by the members and were suitably replied by the speakers.

Second Technical Session: CS Hitender Mehta, Past Chairman, NIRC-ICSI anchored the second technical session.

Dr. Sanjeev Kumar, Director (Corporate & Legal Affairs), Bajaj Hindusthan Ltd. spoke on “Dispute Resolution Mechanism vis a vis Joint Venture Collaborations & Shareholders Agreement.” He discussed the International Business Transactions & its various types. He also discussed in detail the probable disputes, regulating laws & methods of dispute resolution namely litigation & Alternate Dispute Resolution.

CS P K Mittal spoke on “Drafting & Pleading before Quasi Judicial Authorities with case studies”. He very elaborately with the help of various case studies discussed the important points to be kept in mind while drafting any petition.

After the session various queries were raised by the members which were suitably replied by the speakers.

Vaishali Study Group Meeting on Practical Aspects of Service Tax

On 9.3.2013 at the Vaishali Study Group Meeting on Practical



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Aspectsof Service Tax Abhishek Jain, Partner, BMR & Associates and Anshul Aggarwal Associate Director of BMR& Associates were the speakers.

West Zone Study Group Meeting on Procedure for Compounding under FEMA

On 9.3.2013 the West Zone Study Group conducted a Meeting on Procedure for Compounding under FEMA. CS Sanjiv Dagar was the speaker.

Participation in the First XWarrior Race

On 10.3.2013 NIRC participated in the XWarrior Race.

Study Circle Meeting on Companies Bill, 2012

On 15.3.2013 at a Study Circle Meeting on Companies Bill, 2012 (1st week) CS R S Bhatia, CS G P Sahi, CS Satwinder Singh, CS Rajiv Bajaj and CS (Dr.) S Chandrasekaran were the speakers. On the second week of the study circle meeting held on 21.3.2013, CS G.P. Madaan, CS Ashok Tyagi, CS Ranjeet Pandey and CS Harish Kumar were the speakers. In the third week of the study circle meeting held on 28.3.2013 CS S Koley, CS Manish Khanna and CS Kapil Manocha were the speakers.

One Day Capacity Building Workshop on Amended Schedule VI & Valuation

On 17.3.2013 at the One Day Capacity Building Workshop on Amended Schedule VI & Valuation, Ravindra Vadali, Managing Director & Founder, Rhapsody Accounting and Advisory Services Pvt. Ltd. and Rajiv Singh, Director & Co-Founder, Explico Consulting Pvt. Ltd were the speakers.

Golf Tournament

On 17.3.2013 the Regional Council organized a Golf Tournament.

One Day Seminar on Joint Venture Collaborations & Shareholders Agreements

On 23.3.2013 the Regional Council organised a One Day Seminar on Joint Venture Collaborations & Shareholders Agreements. The Chief Guest and the speakers were Chief Guest: CS Devinder Kumar, Executive Director, Steel Authority of India Ltd.; Guest of Honour: CS R KGarg, Director Finance, Petronet LNG Ltd.; Speakers: Shivpriya Nanda (Partner, J Sagar Associates), Manish Lamba (Vice President–Legal, Bharti Enterprises Ltd.), Madhavan Srivatsan (Partner, Desai & Diwanji), Dr. Sanjeev Kumar, (Director -Corporate & Legal Affairs, Bajaj Hindusthan Ltd.) and CS P.K.Mittal (Council Member, the ICSI).

East Zone Study Group Meeting on

Companies Bill, 2012

On 23.3.2013 the East Zone Study Group Meeting on Companies Bill, 2012 was organised. CS Harish Kumar was the speaker.

Members Family Get-Together (Picnic) & Holi Milan

On 24.3.2013 Members Family Get-Together (Picnic) & Holi Milan was organised by NIRC of the ICSI.

North Zone Study Group Meeting on Service Tax-Understanding the Negative List Regime and Procedures

On 24.3.2013 at the North Zone Study Group Meeting on Service Tax-Understanding the Negative List Regime and Procedures, Siddharth Srivastava, Managing Partner in SKS Associates (Law Firm) was the speaker.

Meeting of Company Secretaries in Practice on Payment of Stamp Duty-New Arena

On 25.3.2013 at the Meeting of Company Secretaries in Practice on Payment of Stamp Duty-New Arena, CS Saurabh Kalra was the speaker.

South Zone Study Group Meeting on Corporate Social Responsibility and Sustainability Reporting

On 26.3.2013 at the South Zone Study Group Meeting on Corporate Social Responsibility and Sustainability Reporting, CS Rajiv Bajaj was the speaker.

Inauguration of 173rd MSOP

On 5.3.2013 the 173rd MSOP conducted by NIRC – ICSI was inaugurated. The valedictory session was held on 22.3.2013 wherein CS Harish K Vaid, Vice-President, the ICSI was the Chief Guest.

Investor Awareness Programmes

The Regional Council organised the following Investor Awareness Programmes. On 7.3.2013 an Investor Awareness Programme on Understanding the Capital Market was held at Hans Raj College, Delhi. CS J K Bareja, CS Anupam Jha, CS Bharat Bhushan & T.R. Mehta were the speakers; on 17.3.2013 the Programme was held at Virendra Public School, Timarpur, Delhi; on 19.3.2013 at Pitam Pura, Delhi; on 25.3.2013 at Jain College of Higher Studies & School of Law, Delhi Prof. (Dr.) S P Narang, CS Anupam Jha & T.R. Mehta were the speakers. The investor awareness programme on Recent Developments in Capital Market was held at Delhi Institute of Rural Development, Nangli Poon, Delhi. CS J.K. Bareja, CS Anupam Jha & T.R. Mehta were the speakers; on 29.3.2013 at Central Park, Mukherjee Nagar, Delhi. CS J.K.



Bareja and CS Suman Kumar were the speakers. On 30.3.2013 at Pitampura, Delhi. Shyam Lal Garg, Hon'ble Member, Delhi Legislative Assembly was the Chief Guest. CS J K Bareja and T R Mehta were the speakers.

Career Awareness Programmes

NIRC organised Five Career Awareness Programmes during the month of March, 2013 in various schools & colleges located in Delhi and surrounding areas. CS J K Bareja and Himanshu Sharma addressed in the programmes. The students were apprised about the mode of registration in the course, syllabus, structure of the course and also the avenues available after completion of the Company Secretaryship Course both in employment and in practice.

CHANDIGARH CHAPTER Seminar on Budget 2013

On 12.3.2013 the Chapter organized a Seminar on Budget-2013 in the PHD Chamber of Commerce & Industry. The Chief Guest was Kusum Bansal, IRS, Special Secretary, Finance, Government of Haryana and the key speakers were CA Arinjay Jain and CA Priyajit Ghosh, both Senior Managers of KPMG from Gurgaon. CA Arinjay Jain explained the various Budget proposals on Direct Tax whereas CA Priyajit Ghosh covered all the Budget proposals on Indirect Taxes in a very lucid manner. The speakers then replied the queries raised by the participants.

Kusum Bansal addressed and guided the participants in a cogent manner. The seminar was attended by a large number of professionals and students. CS Vishwajeet Gupta, Chapter Secretary co-ordinated the Seminar.

Seminar on Takeover Code – New Dimensions

On 27.2.2013 the Chapter organised a seminar on Takeover Code-New Dimensions at Chandigarh. B.B. Mittal, General Manager, Union Bank of India was the Chief Guest. CS Manoj Kumar, Asst. Vice President, Corporate Professionals Capital Pvt. Ltd. was the key speaker.

Manoj Kumar in his power-point presentation explained in detail the evolution SEBI Takeover Regulations, its objective, the critical aspect of the Regulations and its practical implications based on his practical experience. He also explained the amendments in the Regulations as proposed by SEBI in its meeting dated 18.1.2013 along with their need and significance. The Seminar was interactively attended by over a hundred professionals like Company Secretaries. The queries of the participants were also addressed by the Speaker.

B B.Mittal vividly explained the significance of Takeover Regulations for inorganic growth of corporates and congratulated the Chapter for organising such seminars for enhancing knowledge and skills of professionals.

The other members Vishwajeet Gupta, Chapter Secretary coordinated the seminar.

LUCKNOW CHAPTER Career Awareness Programme

On 10.4.2013 the Lucknow Chapter of NIRC of the ICSI organized a full day Career Awareness Programme at National PG College premises, Lucknow. Canopy of ICSI has been installed at the college premises, and made sure that the Brand ICSI is visible to all the students/parents and to all those who visited the college. The canopy was managed by Maitreya. Brochures, Pamphlets of CS Course were distributed to all the students and information regarding admission in the CS Course along with the course fee/syllabus were disseminated to the students and parents who visited the ICSI stall. Pamphlets were distributed to more than 300 students during the day. CS Anuj Kumar Tiwari, Chapter Secretary was present during the programme and provided guidance and information to the students regarding the prospects of the company secretaryship course. Parents visited the ICSI stall were counseled by CS Anuj Kumar Tiwari who were also requested to visit the Chapter/ICSI website for knowing more about the CS Course.

CS

Southern India Regional Council

Colloquium on Union Budget 2013

On 2.3.2013 The ICSI – SIRC organized a colloquium on Union Budget – 2013. K Vaitheeswaran, Advocate and Tax Consultant, Chennai spoke on the impact of Budget with respect to indirect taxation. S Srikanth, Management Consultant, Chennai deliberated on the impact of Budget with respect to direct taxation.

In his address, K Vaitheeswaran informed the members that there is no significant amendment to the rules and regulations and the valuation, procedure has been left untouched. He further explained that there is no increase in the general Cenvat rates and in the peak rate of customs duty except for specific items. Vaitheeswaran also focused on the prosecution and recovery. While speaking on legislative changes in customs, he narrated that section 47 has been amended to provide for interest if import duty is not paid within two days from the date on which bill of entry is returned to him for payment of duty.

S Srikanth presented the analysis on direct taxes. He explained that the Finance Bill 2013 takes basic exemption to Rs.2.2 lakhs for individuals having income below Rs.5 Lakhs. He also explained that a new section 80EE is inserted in the Income-tax



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Act, 1961 to provide an additional deduction of Rs. 1 lakh in respect of interest on loan taken for residential house property to individuals. He also focused on the provisions relating to interest on housing loan, investment allowance to manufacturing companies, dividend from foreign subsidiary companies, TDS on transfer of immovable properties, additional tax on buy back of shares, etc. The members actively interacted with both the speakers.

Study Circle Meeting on Personal Laws and Company Law

On 15.3.2013 R Shankaranarayanan R, Advocate spoke on the Personal laws and Company Law at the Study Circle Meeting organized by the ICSI – SIRC. Shankaranarayanan elaborated the members with various updates on the company law. He opined that the CS can be more successful if they know the provisions of Civil Procedure Code, Limitation Act, Evidence Act and Arbitration and Conciliation Act. He also explained when the provisions of Special Marriages Act, Indian Succession Act and Hindu Succession Act would apply. He also focused on the other laws related to the CS profession. The members actively interacted with the speaker.

ICSI President's Press Meet

On 18.3.2013 the ICSI – SIRC organized a press meet. CS Ananthasubramanian S N, President, The ICSI addressed at the meeting. The President explained in detail about the various initiatives of the ICSI and explained that the ICSI has plans to develop a model for corporate governance rating and the Institute will build on its existing insights and exposure to governance practices in terms of the Corporate Governance awards that it has been giving for the last 12 years. He also informed that the ICSI had developed a questionnaire and critically evaluated companies for handing out corporate governance awards and all the collective wisdom will now be tapped to develop the ICSI's own rating model for corporate governance. The President announced that the ICSI has implemented the new syllabus for Executive Programme from 1.2.2013 and for the Professional Programme from 1.9.2013. He also threw light on the proposed new training structure for the students.

Inauguration of 15th Management Skills Orientation Programme [MSOP]

On 20.3.2013 the 15th batch of MSOP was inaugurated by S Krishnan, IAS, Secretary, Expenditure, Finance Department, Government of Tamilnadu, Chennai. Earlier Sarah Arokiaswamy, Joint Director, ICSI – SIRC in her welcome address explained the guidelines about the programmes and urged the participants to be interactive during the fifteen day programme.

In his address, CS Ramasubramaniam C, Treasurer, ICSI – SIRC advised the participants to make best use of the programme in updating their knowledge. He also introduced the Chief Guest

to the participants. A request to permit the PCS to do the VAT audit in Tamilnadu like that in Kerala was made to S Krishnan.

In his inaugural address Krishnan lauded the CS profession as a noble and important profession in the existing business scenario. Krishnan advised the participants to be updated on the various laws related to the CS profession as the management depends more on the CS regarding compliance, governance and other legal matters. He also urged the participants to work on their communication skills and informed the participants that the Government of Tamilnadu is trying to convert the trusts and societies into companies, so as to streamline their effective functioning and the government will look upon CS in coping up with the legal formalities involved. Krishnan concluded by urging to act according to the spirit of legislation.

Campus Placement organized by the ICSI – SIRC

On 21.3.2013 The ICSI – SIRC organized a Campus Placement at ICSI – SIRC House, Chennai for members and students. Twenty members and twenty students participated in the event. Some of the participants appeared in more than one company/PCS. 12 Companies and 7 Practising Company Secretaries were enlisted for participating in the Campus Placement for selecting Company Secretaries/Trainees for them. Office of the Registrar of Companies, Tamilnadu, MCA, Chennai also participated in the campus placement to select trainees to undergo six months training at their office. All the Companies/PCS shortlisted their candidates and will conduct final round of interview at their place, finalize the candidates and inform the ICSI – SIRC.

The Campus Placement was organized by the Training and Placement Committee of the ICSI – SIRC comprising CS Dr. Baiju Ramachandran, Vice Chairman, ICSI - SIRC as its Chairman, and CS Sandeep S, PCS and CS Soy Joseph, PCS as its members. The members and students expressed their thanks to the ICSI - SIRC for conducting the campus placement.

Investor Awareness Programme

On 26.3.2013 The ICSI – SIRC organized an Investor Awareness Programme in association with Central Government Women Employees' Welfare Association, Shastri Bhavan, Chennai. CS Srikanth S, Management Consultant and Secretary, Tamilnadu Investors Association, Chennai was the speaker for the programme. S Meenakshi, Deputy Registrar of Companies, Chennai spoke on the occasion. CS Henry Richard, Registrar of Companies, Tamilnadu, Chennai presided over the function.

In his address S Srikanth explained in detail the ways in which shares are traded in the market. He also spoke in nutshell about the trading mechanism involved in the share market. He elaborated the audience about the e – gold scheme and Rajiv Gandhi Equity Scheme, which were well received by the audience.



Study Circle Meeting on Secretarial Standards 1 & 2 relating to Board Meeting and General Meeting in line with the Companies Bill 2012

On 29.3.2013 at the Study Circle Meeting on Secretarial Standards 1 & 2 relating to Board Meeting and General Meeting in line with the Companies Bill 2012 CS Sridharan R, Council Member, The ICSI was the speaker and addressed the members on SS 1 and 2. Sridharan, talking about the need for Secretarial Standards, explained that the companies follow diverse secretarial practices and, therefore, there is a need to integrate harmonies and standardize such practices so as to promote uniformity and consistency. While speaking about the SS 1, Sridharan threw elaborate focus on the notices, quorums, attendance at meetings, committees, minutes and accounts. The speaker also opined that the Secretarial Audit will be a boon to the members. On SS 2, he explained the members on presence of directors and auditors at meetings, voting, proxies, poll and adjournment of meetings. The members actively interacted with the speaker.

Career Awareness Programmes

On 4.3.2013 The Regional Council conducted Career Awareness Programmes at Department of Commerce, Government Arts College and Department of Commerce Trinity College of Arts and Science Namakkal; on 5.3.2013 the programmes were held at Department of Postgraduate Studies and Research in Commerce, Periyar University, and Department of Commerce Padmavani College of Arts & Science, Salem; on 6.3.2013 at Department of Management Studies, Periyar Institute of Management Studies [PRIMS] and at Department of Management Studies, VSA College of Technology, Salem. Dr. V. Balaji, Assistant Education Officer, SIRO addressed in these programmes.

BANGALORE CHAPTER Inauguration of 12th Management Skills Orientation Programme

On 11.3.2013 the Bangalore Chapter of SIRC of the ICSI organised the inaugural function of the 12th Management Skills Orientation Programme (MSOP). CS Subramanyam S, (Past Chairman, Bangalore Chapter of the ICSI) Founder President & CEO, Ascent Consulting Services Private Limited, Bangalore was the Chief Guest.

The Chief Guest inaugurated the 12th MSOP and thereafter the 49 Participants introduced themselves. The Chief Guest in his address narrating the Company Secretary as one of the principal officers of the organization highlighted the requisites of Company Secretary and advised the participants to develop cross functional expertise. He then insisted on up gradation of one's corporate knowledge so as to focus on management needs. He also stated that a Company Secretary is always expected to be a solution provider which imbibes enormous ground work, thorough

information and preparedness to meet the client expectation.

On 27.3.2013 at the Valedictory function CS K. Narayana Swamy, (Past Chairman, SIRC of the ICSI), Practising Company Secretary, Bangalore was the Chief Guest. Shruthi and Abhilash U, participants, shared their feedback about the MSOP Programme.

The Chief Guest in his address to the participant stated it's the day of celebration to all the budding professionals. He stated that above all this was the need to enjoy one's work, maintain high levels of integrity and honesty and learn to be a team player and add value to any work undertaken. The Chief Guest then distributed the Best Participant award to Medha Gokhale and the prizes for the Best Project to the team comprising Rohit M Shenoy, Shruthi P, Apoorva G and Sonam Pachisia for the Project on "Corporate Governance".

Career as a Company Secretary

On 12.3.2013 with a view to increase the media visibility of CS course and Profession, the ICSI-Bangalore Chapter had arranged a Live Programme Career as a Company Secretary. The Live Programme was broadcast on All India Radio, FM Rainbow 101.3 MHz and the half an hour programme was aired in regional language Kannada across Bangalore and its nearby districts. On 12.3.2013 CS Dwarakanath C, Chairman, SIRC of the ICSI addressed students' queries in an exclusive interview during the Programme "Lunch Box" between 1.00 and 1.30 PM.

Seminar on the Companies Bill, 2012

On 16.3.2013 the Chapter organised a Full Day Seminar on The Companies Bill, 2012 at Bangalore. CS B Chandra, Practising Company Secretary & Former Deputy Registrar of Companies, Chennai; CS P Sriram, Company Secretary, P Sriram & Associate, Company Secretaries, Chennai; Dr. B Ravi, Past Chairman, SIRC of the ICSI & Practising Company Secretary, Chennai and CS R Vittal, Former Company Secretary, Sasken Communication Technologies Ltd., Bangalore were the speakers.

First Technical Session - New Concepts under Companies Bill:

CS B. Chandra in her presentation on "New Concepts under Companies Bill" highlighted the structure of the Bill and some new definitions on types of companies like, dormant company, small company etc. Some Changes in existing concepts of "Private Company" was also dealt with in detail. She gave comparative analysis of existing laws and proposed Bill of section 4(7) with respect to incorporation, commencement of business, etc. Further she dealt with the new concepts as per the Companies Bill under the financial aspects of the company.

Second Technical Session on Secretarial Audit: Guest speaker CS P Sriram, Company Secretary, P Sriram & Associate,



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Company Secretaries, Chennai in his presentation on Secretarial Audit gave a detailed analysis between Companies Act, 1956 & Companies Bill, 2012. He highlighted that clause 204 of the new Companies Bill mandates the secretarial audit and also briefly discussed section 314 under the Companies Bill, 2012.

Third Technical Session on Direction to Directorship: Guest speaker CS R Vittal, Former Company Secretary, Sasken Communication Technologies Ltd., Bangalore in his presentation on Direction to Directorship highlighted the new aspects of directors as per the new Companies Bill 2012.

Fourth Technical Session on Role & Opportunities for CS: Guest speaker Dr. B Ravi, Past Chairman, SIRC of the ICSI & Practising Company Secretary, Chennai was the speaker who in his presentation highlighted the new roles and opportunities available to a Company Secretary as per the new Companies Bill 2012. The new legislation is seen as a step towards bringing Indian corporate sector in line with global trends and an attempt to meet the changing global environment. The new law promises investor democracy and addresses the public concern over corporate accountability and responsibility while introducing some industry friendly provisions. Overall, the legislation is perceived to be progressive and futuristic duly envisaging the technological and legal developments. The Programme was very well attended by 199 Members and Students.

Live Phone in Programme on CS - Career as a Company Secretary

On 19.3.2013 the Bangalore Chapter of the ICSI organised at its premises a one hour Live Phone-in Programme on CS -Career as a Company Secretary, telecast on Doordarshan Kannada Channel, DD Chandana during "Morning Live Show Hello Geleyare". CS Gopalakrishna Hegde, Central Council Member, The ICSI and CS Manjunatha Reddy M, Chairman, Bangalore Chapter of the ICSI addressed the queries of the students between 8.00 AM and 9.00 AM on DD Chandana. Students enquired about CS course from various places of Karnataka, especially from the rural and semi urban places. The importance of the role of Company Secretary, admission procedure, fee structure, mode of study, New syllabus, new examination pattern for foundation programme, exposure in the CS career and attractive salary Packages in the industry were discussed during the programme. A large number of students were benefitted from the programme.

Half Day Seminar on Structured Mediation-the most Popular ADR Option

On 30.3.2013 the Bangalore Chapter of the ICSI organised a Half Day Seminar on "Structured Mediation - The Most Popular Alternative Dispute Resolution Option" at the Institute of Agricultural Technologists. B. C. Thiruvengadam, Senior Partner,

Thiru & Thiru, Advocates, Solicitors & I.P.R. Attorneys, Bangalore was the speaker. Thiruvengadam in his presentation on "Structured Mediation - The Most Popular Alternative Dispute Resolution Option" stated that speedy mode of disputes resolution is the need to cope up with the rapid globalization of trade and commerce. Be it courts, tribunals or arbitrations, the world is gradually losing its faith primarily because that they are slow and not cost effective. He also highlighted that the Developed economies now resort to Structured Mediation as the appropriate dispute resolution mechanism for commercial and corporate disputes. He further explained in detail the purpose and meaning of Structured Mediation with role play activity. He also stated that the benefits of structured mediation are better than other modes of Alternative Dispute Resolution Mechanisms. The programme was attended by around seventy members including students.

Career Awareness Programmes

On 12.3.2013 the Bangalore Chapter of the ICSI conducted a Career Awareness Programmes at Pallangathi Advappa College, Tiptur, around 150 km away from Bangalore. Nagendra D. Rao, Secretary, SIRC and Manjunath Reddy, Bangalore Chapter Chairman addressed in the Programme which was attended by around 300 plus students. The Speakers explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc, the role of a Company Secretary and importance of the profession of Company Secretary in the changing economic scenario. They also highlighted the opportunities available to anyone who has completed the Company Secretaryship course and also enumerated the emerging areas of practice and the changing role of a Company Secretary. What would be the mindset and preparation required from a student who wanted to pursue the Company Secretaryship Course were also stated by the speakers. Brochures explaining brief details of the Company Secretaryship Course were distributed to the students.

COIMBATORE CHAPTER

Union Budget 2013

On 1.3.2013 Union Budget 2013 - a Joint Programme of ICSI with The Auditors association of Southern India (TAASI) and Institute of Chartered Accountants of India and Cost Accountants of India on the topic Union Budget 2013 was conducted. Eminent speakers like CA G. Karthikeyan, CA Paul Thangam and CS A.R. Viswanathan deliberated on various aspects of the Budget 2013. The event was graced by more than 61 members who availed 2 Programme Credit Hours.

Career Fair – Dinamalar Gateway

On 10.3.2013 the Chapter participated in Career Awareness Programme organized by Dinamalar. Over 750 pamphlets were distributed amongst the participants of Dinamalar Gateway and Shyama Vijayaraghavan, Assistant Education Officer of the Chapter Office educated more than 100 students and parents on



importance of the Company Secretaries and opportunities available to the profession. CS P. Eswaramoorthy, Chapter Chairman and CS Hariram.R, Treasurer Coimbatore Chapter of ICSI of SIRC also participated in the event.

Modify corporate strategies and procedural aspects of mergers and demergers

CMA C.K. Anantharaman, Management Advisor, Coimbatore and B. Dhanaraj, Advocate, Chennai interacted in detail about mergers as corporate strategies and also various procedures involved in mergers and demergers. The session was an interactive one with 31 members and 26 students benefiting from the programme. The programme carried for members 2 Programme Credit Hours and for students 4 PDP hours.

KOCHI CHAPTER

Investor Awareness Programme

On 6.4.2013 the Chapter organized an Investor Awareness Programme on Stock Market – Myth & Reality at the premises of M/s. Frankfinn Institute of Air Hostess Training, Aluva. Sponsored by the Ministry of Corporate Affairs, Govt. of India, the programme was led by Sharon K Abraham, Research Analyst. CS Jayan K. Chapter Chairman also attended the programme. The students and faculty members of Frankfinn Institute actively interacted with the resource person on various issues of the stock market in general and airline industry in particular. The speaker replied to the queries raised by the participants. The authorities of Frankfinn Institute thanked Kochi Chapter for the initiative.

Career Awareness Programme

On 30.3.2013 the Chapter participated in the career counseling drive organized by the Alappuzha Chapter of Institute of Chartered Accountants of India at ICAI Alappuzha Chapter premises. Members and Representatives of all the three professional institutes viz. CA, CS and Costing Institute were present at the venue to guide the participants and provide them with invaluable insight into each profession. The Kochi Chapter of ICSI actively participated in the programme and received several enquiries regarding the Course. CS Priyanka Gopi represented Kochi Chapter of ICSI in the career awareness drive.

Joint Seminar on Indirect Taxes – Budgetary Changes 2013, Current Issues and Challenges

On 23.3.2013 the Kochi Chapter of ICSI, along with the Cochin Chapter of Institute of Cost Accountants of India, Cochin Chamber of Commerce and Industry and the Cochin Chapter of Indo American Chamber of Commerce organized a joint seminar on the above topic at Cochin. The Speakers of the programme were two attorneys, Adv. G Shivadass and Adv. PM Prabhakaran,

from the renowned tax firm Lakshmi Kumaran & Sridharan. There was active participation from the members and students of the ICSI. The points of discussion were mainly the legislative changes brought in by the Union Budget 2013 in the areas of Customs, Excise, Service Tax etc. Also, the major changes, practical difficulties and lacunae in the proposed law of taxation were widely discussed. It was a fully interactive session where the Speakers addressed the practical queries raised from the audience while simultaneously dealing with the legal aspects of taxation.

MADURAI CHAPTER

Symposium on Budget -2013

On 8.3.2013 a symposium on Budget -2013 was conducted by the Madurai Chapter of The ICSI & The ICAI in association with the Sourashtra Chamber of Commerce (SCC), Madurai at SCC Premises, Madurai. E.R. Kumaresan, President, SCC, Madurai presided and delivered the welcome address. CS S. Kumararajan, Chapter Chairman introduced the speakers of the day. CAP.V. Rajarajeswaran, Chartered Accountant, Madurai and CA G. Saravanakumar, Chartered Accountant, Madurai addressed highlighting the salient features of Budget-2013 with focus on Direct Taxes and Indirect Taxes respectively.

One day Seminar on Companies Bill, 2012

On 16.03.2013 the Chapter organised a one day seminar on Companies Bill, 2012 at Madurai. The Chief Guest of the programme was Henry Richard, Registrar of Companies, Tamilnadu, Chennai. The First Technical Session was on Incorporation, Share capital and Debentures, Acceptance of Deposits, Accounts. The Speaker of the session was Henry Richard. The Second Technical Session was on Management & Administration, Declaration & Payment of Dividend, Appointment & qualification of Directors and Appointment and Remuneration of Managing Personnel. The Speaker of the session was R. Sridharan, Practising Company Secretary and Central Council Member of the ICSI, New Delhi. The Third Technical Session was on Merger and Amalgamation. The Speaker of the session was CS.C.V. Madhusudhanan, Practising Company Secretary, M/s. KSR & Co, Coimbatore.

MANGALORE CHAPTER

Full Day Programme

On 6.4.2013 the Chapter conducted a full day programme at The Karnataka Bank Auditorium, Kodialbail, Mangalore. In the First Technical Session CS Chethan Nayak K, Practising Company Secretary of Mangalore, spoke about Review of Recent Changes in Service Tax. He started his presentation by explaining various Indirect Taxes in India in Central, State and Local levels. Coming to the Service Tax, he explained the various features of Service Tax. Negative and Positive list of services were also explained by



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him. Further he explained Abatement and also Reverse Charge Mechanism. Valuation of Service for charging service tax was explained thoroughly to the delegates by the resource person. Next he gave highlights of the Finance Bill 2013. He also explained Service Tax Voluntary Compliance Encouragement Scheme, 2013 and concluded his presentation by stating various opportunities for the Practising Company Secretaries in the field of service Tax. The queries raised by the participants were satisfactorily replied by the resource person after the presentation.

Thereafter CS Ahalada Rao V., Practising Company Secretary, and Director - B5 Consulting Pvt. Ltd., Hyderabad, began his presentation on Companies Bill 2012 vis-a-vis Companies Act, 1956. He started his presentation by stating the journey of Companies Bill till now. Next he explained the need for Companies Bill 2012. The comparison of new Companies Bill, 2012 was made with the Companies Act, 1956 in respect of Sections: Chapters/Parts and Schedules. Further, various existing, new and deleted concepts were explained by him. Next the concept of One Person Company was explained in detail by the resource person. He explained the various concepts in the Companies Bill 2012 like Memorandum and Articles of Association, Certificate of Incorporation, Offer of Sale, Issue and Allotment of Securities, Share Capital and Debentures, Acceptance of Deposits, Registration of charge, Financial Statement and Annual Return, Annual General Meeting, Secretarial Audit, Secretarial Standards, Corporate Social Responsibility, Dividend, Directorships, Buy Back of Shares, Audit and Audit Committee, Board Meeting, Nomination and Remuneration Committee, Shareholders Relationship Committee, Related Party Transactions, Compromises and Arrangements, Registered Valuer, Winding up and Strike off of Company, Dormant Company etc. in comparison with the Companies Act, 1956. After the conclusion of his presentation, participants raised many queries which were ably replied by the resource person.

After lunch the Third Technical Session was started by Karunya Sagar Dasa, President, ISKCON, Mangalore & Unit President, Akshaya Patra, Mangalore, on "Stress Management". He stated his presentation by explaining how stress arises. He also stated the various reasons like lack of disciplined schedule, irregular food habits, pollution of outside, long working hours etc. are the causes for stress. He then explained how a person can tackle stress. He concluded his presentation by stating that stress cannot be out of our system but it can only be managed.

The Fourth and Final Session of the day was taken once again by CS Ahalada Rao V., on the "Analysis on New Schedules of the Companies Bill, 2012". He made Comparison of various Schedules under the Companies Act, 1956 and the Companies Bill, 2012. Further he explained the important schedules of the Companies Bill 2012. Later he gave a presentation on Valuation of Tangible and Intangible Assets, Companies Bill, 2012. Also

valuation by Registered Valuers and the role of a Company Secretary on valuation was explained by the resource person. After his presentation there was lively question and answer session. The queries raised by the delegates on the new Companies Bill 2012 were satisfactorily replied by the resource person.

SALEM CHAPTER

Professional Development Programme on Budget Meet – 2013

On 17.3.2013 the Chapter conducted a half-day Professional Development Programme on Budget Meet – 2013 at Salem. The programme was attended by members, Office Bearers and students of the Chapter.

CA Sree Raman while explaining in detail the various proposals drawn in the Budget including certain tax benefits given to the individuals and corporate, highlighted the importance of a Budget exercise in a country like India and stressed the need for an Economic Survey of India being prepared by the Reserve Bank of India every year which sets the tone for any Budget before being presented in the Parliament. He further stated that low industrial activity, not-robust-agriculture, slow growth in infrastructure, keeping in abeyance of new projects etc. have contributed to a heavy expenditure on the exchequer coupled with high food and fuel subsidies, etc. He indicated that the Economic Survey is the indicator of the GDP of India.

Investor Awareness Programmes

On 23.3.2013 the Chapter conducted an Investor Awareness Programme at Salem. Nearly 150 students participated in the programme apart from college professors and professionals from the Institutes of Chartered Accountants, Cost Accountants and Company Secretaries.

The programme was presided over by E Selvaraj, Regional Director. Dr M Manuneethi Cholan, Registrar of Companies, Coimbatore also participated.

Earlier, CS N Santhanam, Chapter Secretary highlighted the theme of the seminar.

E Selvaraj, in his presidential address, detailed the efforts taken by the Ministry of Corporate Affairs in protecting the interests of the small investors and in this respect he welcomed the initiative taken by the Chapter in organizing a programme for the students exclusively since the students must be aware of the knowledge of what to invest, when to invest and in which to invest so that they could harvest the benefits once they become old in life. He also informed that SEBI has also brought out a number of booklets and also arranging programmes to educate the young students about investing and advantages thereon. Dr M Manuneethi Cholan in his special address, advised the students



as to how to invest recalling his college days and said that a small investment to start with would go a long way in making them self-reliant, confident and enthusiastic and they could deploy their savings for national cause. CA Shankar BA elaborated the nature of investments to be made in securities and the precautions to be adopted. On 23.3.2013 the Chapter Conducted another Investor Awareness Programme on New Avenue for Retail Investors in association with the National Stock Exchange of India Limited and the Rotary Club of Salem North. Rotarians, investing public, Chartered Accountants, Cost Accountants and Company Secretaries, industrialists numbering 120 participated in the programme.


The programme was presided over by E Selvaraj, Regional Director, Southern Region, Ministry of Corporate Affairs, Chennai and Dr M Manuneethi Cholan, Registrar of Companies, Coimbatore also participated.

CS Boopalan, Chapter Treasurer introduced the theme to the audience. He recalled what are the various options available to the retail investors and stated that the investors should consult those who have knowledge in this field and they should think twice before taking any such decisions.

E Selvaraj, in his presidential address, appreciated the Salem Chapter of the ICSI in organizing the programme in association with the Rotary Club of Salem North and the National Stock Exchange of India Limited. He said that he is happy to note that the Rotary Club is pursuing its activities for the cause of Peace and in this respect the Institute has thought it fit to have such a programme in their premises.

Dr M Manuneethi Cholan, in his key note address, dwelt on the efforts taken by the Ministry of Corporate Affairs in educating the investors. He recalled how he and E Selvaraj, Regional Director made efforts to caution the investors to keep away from lucrative and unscrupulous investments so that their hard earned money could be well saved to take care of their future.

R Senthil Murugan, Assistant Manager, National Stock Exchange, Chennai gave his special address. He gave lot of tips to the retail investors while investing their money.

On the same day Members and Students meet was organized by the Chapter. E Selvaraj, Regional Director and Dr. M Manuneethi Cholan, Registrar of Companies, Coimbatore addressed the members and students. CA Sreeraman V in his address advised the members and students to be vigilant in their career, employment and practice and also keep themselves up to date of all the required Compliances of the Companies Act, 1956. 

Western India Regional Council

Programme on Labour Law Updates and Compliances

On 23.3.2013 ICSI-WIRC conducted a half day programme on Labour Law updates and Compliances at Maharashtra Chambers of Commerce and Industry, Mumbai. The programme commenced with the introductory remarks by B. V. Dholakia, Practising Company Secretary from Mumbai, who made the audience aware about the importance of labour laws and how important they are for the organization. The speakers for the programme were Suresh Patil, Vice President & Head – Corporate Human Resource Information Technology Calyx Chemicals & Pharmaceuticals Ltd and R. Balakrishnan, Practising Company Secretary from Pune who has been handling the secretarial and labour law compliances for his organization for over 28 years. Earlier Hitesh Kothari and Amit Kumar Jain, Regional Council Members of WIRC also shared their brief thoughts.

The First Technical Session was of Suresh Patil, who taking the audience through the journey of evolution of the various labour laws, both nationally and internationally categorized the various Acts under the labour laws for an easy understanding of the audience, going forward discussed about the need for compliance with labour laws. He went on to say that labour should be treated as partner in common task of development. He shared a calendar of compliance under various labour laws. Citing some live situations faced in his work place, he discussed the role of good professionals as bridge between the management and the workers. He said that it is very difficult to find good professionals today who not only have complete knowledge of labour laws but their practical implementation and ability to handle crisis situation involving labourers protecting the interest of both the management and the labour. He further discussed the role of professionals in policy making regarding HR, education, training and development of employees, corporate social responsibility and developing cordial industrial relations and employee relations.

R. Balakrishnan, the second speaker, highlighted the changed scenario as regards the previous decades in terms of the needs, aspirations and demands of the consumer of today and linking the same with the performance of the corporate which completely depend on the human capital. He explained the importance of identifying applicable labour laws; once the applicable laws are identified, then the responsibility can be fixed on officers and the departments and areas of concern can be addressed. He deliberated in detail on Safety, Health and Environment ('SHE') and expressed that all labour laws are encompassed in this term and accordingly he started explaining each and every law



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commencing from Factories Act, 1948, the term 'occupier' and various duties and responsibilities of the occupier and Supreme Court case law thereon. He further discussed few real life situations faced by some companies and solutions to them under the Factories Act, 1948. He discussed in detail provisions under various labour laws, their practical implementation, various registers to be maintained and penalty provisions. He suggested regular HR and safety audit to review periodically, labour law based compliances.

Ashish Garg, Secretary, WIRC opined that Labour laws are equally important for a Company Secretary like any other laws. He briefly touched upon various labour regulations citing recent examples from the industry. The programme was widely appreciated by the participants.

26th Management Skills Orientation Programme (MSOP)

On 4.3.2013 ICSI-WIRC organised its 26th Management Skills Orientation Programme.

Atul Mehta, Central Council Member, the ICSI delivered the inaugural address. He spoke on the changing role of Professionals and opined that the proposed Bill is giving a wider role for CS Professionals. He said that a Company Secretary should not restrict his limits only to secretarial areas, but should expose to other roles including tax, legal etc. He also spoke in brief various initiatives the Institute has undertaken for the development of the Profession.

The 15 days of MSOP was a proper blend of Soft Skills & Technical Sessions. Various topics like Communication & Presentation Skills, Etiquettes, Emotional Intelligence, Stress Management, From Classroom to Boardroom, FEMA, Revised Schedule VI, Inbound & outbound Investments, budgetary changes, New takeover code, opportunities in employment and Practice etc. were covered during MSOP.

The Project presentations were held on 18.3.2013. The group comprising Mittal Shah, Harshika Bhadracha, Priyamvada Rasal and Harshil Shah who made a presentation on "The various benefits associated with Special Economic Zones" was adjudged as the best project group. Mittal Shah and Mayur Shah were adjudged as the Best Presenters.

During the course of MSOP a visit was arranged to the Museum and Cheque clearing cell of RBI where the participants got exposure to various Central Bank operations, especially with regard to negotiable instruments.

On 20.3.2013 at the Valedictory session of the MSOP Dipankar Haldar, Executive Director & Company Secretary of The Shipping Corporation of India Limited was the Guest of Honour. He shared his experience with the participants. He complimented the efforts

taken by the Institute and requested the participants to take utmost benefit of all professional initiatives which are introduced by the Institute. In conclusion he distributed the certificates to the participants. Sajita Nair was adjudged as the Best Participant of the 26th MSOP.

AHMEDABAD CHAPTER

Meeting with Officials of the RoC

On 7.3.2013 the Chapter Chairman – CS Chetan B. Patel and Treasurer – CS Naveen Mandovara held meeting with various officers at ROCs office. They visited Regional Director, Asst ROCs. Dept. ROC, for representing difficulties faced by CS professionals regarding MCA 21 portals. They also discussed various Investor Awareness Programmes to be held jointly with MCA.

Two-day Seminar on Dynamics of CS Profession in Changing Scenario

On 23.3.2013 and 24.3.2013 the Ahmedabad Chapter of WIRC of the ICSI organized a Two Days Residential Seminar at Nadiad, Gujarat on Dynamics of CS Profession in Changing Scenario. The Seminar got overwhelming response by active participation of more than 200 participants throughout Gujarat and other regions. The opening session of the Seminar was addressed by President of the ICSI, S N Ananthasubramanian, CS Umesh Ved, Central Council Member, the ICSI, CS Hitesh Buch, Chairman – WIRC and CS Chetan Patel, Chairman – Ahmedabad Chapter. CS Rutul J. Shukla, Chairman - PDC Committee Ahmedabad Chapter briefed the participants about the theme and deliberations during various sessions in two days. CS Atul Mehta, Central Council Member, the ICSI was also one of the participants amongst many other Senior Members.

President in his inaugural address mentioned that the theme chosen by the Chapter is appropriate in today's contexts since lots of changes are happening in India and around the world. Infact, the CS professionals have to be dynamic in present competitive environment. He informed the members that ICSI is working to build our members as Chief Governance Officer (CGO) in employment. Thus our member will be at par like CEO and CFO. Further, he mentioned that CS in practice will have to be in diversified areas and therefore ICSI has in its new syllabus incorporated specialized areas like banking, commodity exchange etc.

The First Technical Session on Strategic Planning for Arrangement and Restructuring on the first day of Seminar was addressed by Anjay Majumdar, Practising Chartered Accountant. He said that there are many ways and means to go for restructuring and presented three important Case laws. The session was followed by Second Technical Session on Revival and Rehabilitation of Sick Industries addressed by Dr. Hiten Parikh, a Practising Chartered Accountant. He briefed the members about provision of



SICA and proposed provision in the Companies Bill.

The next Technical Session on Companies Bill was addressed by Past President of ICSI, Keyoor Bakshi who delivered important provisions of the Second part of the Bill in a lucid manner and emphasized that members of ICSI have to be very diligent while dealing with Merger, Amalgamation etc. This area of practice is considered to be high end practice and our members are competent to handle this aspect. Once the Bill is approved, the NCLT will be in place which will provide enormous opportunity to our members. Thereafter, Critical Aspects of the Companies Bill was dealt with by M. C. Gupta, a Practising Company Secretary. Gupta mentioned that in a Bill at various places "As may be prescribed" have been provided which is not correct since power of legislature cannot be taken away by administration as per Indian Constitution. He drew the attention of participants on the stringent Financial Penalty Provision proposed in the Bill.

On the second day of the Seminar the Fourth Technical Session on Company Secretary as Corporate Lawyer and Art of Advocacy was addressed by Tanvish Bhatt, Advocate & Partner, Wadia Ghandy & Co. which was followed by the Second Technical Session of the second day on SEBI Takeover Code, Insider Trading and Latest Amendments in Securities Laws addressed by CS Suryakant Vaishnav, Company Secretary & VP (Legal), Styrolution ABS (India) Limited, Vadodra. Vaishnav explained various provisions of Take-over Code and Insider Trading and warned the members to adhere to the provisions of the Code failing which heavy penalty with imprisonment can be imposed by the Law-Maker.

The second day's Third Technical Session was on Vetting of Corporate Deeds and Documentations which was addressed by Utkarsh Jani, Advocate. He shared his experience in vetting various Deeds & Documents. He lucidly explained the Provision of Shareholders' agreement coupled with applicability of the same in absence of provisions in AOA.

VADODARA CHAPTER

Programme on Union Budget 2013-14

On 2.3.2013 the Chapter organized a programme on Union Budget 2013-14 at Federation of Gujarat Industries, Vadodra. CA Milin Mehta, Chartered Accountant, Vadodra; Yogen Mahadevia, Advocate, Central Excise, Custom & Service were the speakers.

Full Day Seminar on the Companies Bill, 2012

On 10.3.2013 the Chapter organised a Full Day Seminar on The Companies Bill, 2012 at Vadodra. During the Inaugural session of the Seminar N M Mohnot, Managing Director, Steel Co. Gujarat Ltd.; CS Hitesh Buch, Chairman, WIRC; CS A C Shah, Chapter Chairman and CS Nishant Javlekar, Secretary, Vadodra Chapter marked their presence on the dais. N M Mohnot addressed the

gathering as the Chief Guest. CS S N Ananthasubramanian, President, the ICSI also joined the inaugural session and addressed the gathering. CS A C Shah honoured the President of the Institute on behalf of Vadodra Chapter. One hundred fifty nine Members, Students and Corporate Delegates attended the Seminar and participated actively.

First Technical Session: The speakers were Santosh Aggarwal and Shreyans Ravrani from M/s. S V Ghatalia & Co. and S. R. Batliboi & Co., Ahmedabad respectively. They discussed Amendments in Corporate Governance, CSR, Directors and Audit Committee, during the Session. CS S Samdani, Chaired the Session.

Second Technical Session: The speaker was CS Prakash Pandya, Member, WIRC. He discussed the New Concepts, Mergers, Acquisitions, Amalgamations, Managerial Remuneration, NCLT & NCLAT. CS Devesh Pathak, Chaired the Session.

Third Technical Session: During this Session CS S N Ananthasubramanian, President, the ICSI discussed and introduced the Participants on the role of CS under The Companies Bill, 2012.

CS Nishant Javlekar, Chapter Secretary delivered the concluding remarks of the entire programme.

Investor Awareness Programme

On 23.3.2013 at the behest of the Ministry of Corporate Affairs (MCA), Vadodra Chapter of the ICSI organized Investor Awareness Programme at its premises. CA Jagdish Thakkar, Capital Market Analyst and former President, Vadodra Stock Exchange Ltd. (VSE), made a Power Point Presentation (PPT) and explained various concepts/issues relating to the Capital Markets and expressed his expert views on how to become a smart investor in the Capital Markets. The benefit of the programme was availed by numerous participants - Members, Students and the Public. It was a very informative Seminar on Investment in Capital Markets. The faculty covered all aspects very well and the programme proved to be a very good learning experience for all the participants.

Study Circle Meeting on Rating of Corporate Governance Compliance

On 29.3.2013 the Vadodra Chapter of WIRC of the ICSI organized a Study Circle Meeting on Rating of Corporate Governance Compliance at its premises.

CS Vishvesh V Vachhrajani, "Kailashi", Company Secretary and Head - Legal, Styrolution ABS (India) Limited apprised the Members and Students on the theme of Rating of Corporate Governance Compliance. More than fifty CS Members and Students attended the Meeting. Many of the Members and Students actively participated in the discussions and exchanged views and question-answers. The Meeting proved very good for knowledge enrichment of the participants on the subject.



ICSI - CCGRT

Investor Awareness Programme with Focus on Union Budget

On 2.3.2013 The ICSI-CCGRT jointly with Forum of Free Enterprise and other organisations organised a half day awareness programme on Union Budget 2013-2014 at its premises in CBD Belapur, Navi Mumbai. The eminent speakers enriching the gathering on the subject were M R Shroff, Economist and B K Vatsaraj, Chartered Accountant. The speakers discussed the salient features of the Union Budget 2013 – 2014 covering the economic and taxation aspects in detail. They explained the implications of the Budget from investors' point of view. The queries put forth by the participants were well addressed by the speakers. The programme was well attended.

Two-days Programme on Appearing before NCLT and other Quasi Judicial Bodies

On 23 and 24.3.2013 ICSI-CCGRT conducted first of its series of Programmes/Workshops on Appearing before NCLT and other Quasi Judicial Bodies at its premises in order to equip the young company secretaries with the requisite skills enabling them to appear before NCLT & other quasi judicial bodies. During these two days, eminent speakers with practical exposure to the subject, including Prakash Pandya, PCS, Mumbai; Bakul Pandya, Advocate, Bombay High Court; Dr. S K Jain, PCS, Mumbai also Recipient of Great Achievers of India Award 1994 and Ms Prachi Manekar, Advocate, Mumbai enlightened the participants.

Prakash Pandya initiated the discussion on Provisions of the Act/Bill/ Regulations w.r.t. CLB/NCLT with some basics about CLB/NCLT including the nature of cases before CLB i.e. civil or criminal, the authority which decides the exact amount leviable in case of compounding matters and the method to evolve the same. He pointed out one of the key differences of the New Companies Bill, 2012 vis-a-vis the Companies Act, 1956 i.e. the establishment of National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT). He then stated the types of suits/cases that are taken up by the Company Law Board (CLB) which, on the enactment of the said Bill, will fall under the jurisdiction of NCLT and/or NCLAT. He threw light on the fact that the establishment of such Tribunal is expected to reduce the burden on High Courts for matters relating to compromises, arrangements, mergers, amalgamations and reconstruction of companies, winding up etc., Board for Industrial and Financial Reconstruction (BIFR) and Appellate Authority for Industrial and Financial Reconstruction (AAIFR). Further, it will also avoid multiplicity and levels of litigation before High Courts and quasi-judicial authorities since all such matters would then be heard and decided by the NCLT/ NCLAT.

He then explained the nature of matters that the CLB takes up - whether only civil or criminal. He explained various definitions as

given under the Bill relating to NCLT/ NCLAT and further threw some light on the Constitution of such Tribunals, Criterion for Appointment, Qualification of President and Members of Tribunal and also Appellate Tribunals. Going further, he discussed in brief the term of office, salary, allowances, removal of members and other terms and conditions of service of members under the said Bill. He also stated that the appeals will be now streamlined. Appeals against the order of the NCLT will go to NCLAT, exclusively dedicated for this purpose. Further appeal to the Supreme Court will only be on any question of law, thereby reducing the delay in appeals. Currently, the decisions of the Company Law Board are challenged on question of law before the High Court and then in the Supreme Court.

Another important provision of the Bill is that a party to any proceeding before the NCLT or NCLAT may either appear in person or authorise company secretaries or cost accountants or legal practitioners or chartered accountants. Thus, it becomes critical for the company secretaries especially the younger lot to develop and brush up on their skills of appearing before such judicial and quasi judicial bodies. He stated that this is where programmes and workshops like this would be of immense help to the members and students.

In reply to a query raised about the pending cases with the CLB once NCLT comes and becomes active, he said that the professionals will have to wait for the rules that will be notified as and when the Bill is passed by the Rajya Sabha; only then the fate of such cases can be determined.

The other part of the day was taken up by Bakul Pandya, Advocate who made an elaborate presentation on Drafting Petitions and Applications for CLB/NCLT, Judicial and other Quasi Judicial bodies and Advocacy Skills. He commenced his session by putting forth very basic questions like why this profession, how to work with passion, living out of the box, how to expand horizons of one's profession etc. to make the participants realise the importance of these in their profession. Thereafter he gave an overview of the Indian Legal System, one of the oldest systems in the world having an integrated system of courts, the powers under the Constitution of India, the Indian Judiciary and type of relief sorted thereunder.

He further went on to explain the modes of dispute resolution consisting of – Litigation, Arbitration and Conciliation (Mediation) and the meaning of Pleading as given under Order 6 of CPC, 1908. He then elucidated in detail the object and principles of pleading, elements of persuasion, general code of conduct, body language during appearing before the Court i.e. what to avoid and what to keep in mind. He also spoke in detail about the various elements of drafting petitions and applications and care to be taken while doing the same. He then stated the appearances and drafting are co-related; drafting alone is not enough, presentation plays an equally important part.

To enable the participants to learn the advocacy skills and understand



the practical aspects of appearing before the CLB, much-awaited mock appearance before CLB was organised. Selected participants were given a case study and specific roles to play in the mock hearing. Suitable time was given to prepare and Bakul Pandya judged the mock hearing. The case pertained to section 17 of the Companies Act, 1956 i.e. shifting of Registered Office of the Company from one state to another. The various roles to be played by the participants included Presiding Officer, Regional Director, respective State Govt. representatives, Lawyer & MD of the Company, Trade Creditors, Provident Fund Commissioner, Labour Commissioner, Representative of the Employees Union, Income Tax Commissioner, ROC of the respective states, etc. The participants had to put forward their views/opinions, objections, arguments, if any, so as to convince and prove the point of the party they were representing before the CLB Presiding Officer. After the Mock Appearance Assignment, Bakul Pandya gave his feedback and explained them the intricacies of pleading and art of advocacy.

On the second day i.e. 24.3.2013, Dr. S K Jain along with two of his colleagues Rita and Sonali gave a demonstration of Hearing before CLB/NCLT through 4 different case studies to enable the participants to understand how the hearings are conducted.

Before commencing the Mock hearing, he addressed the participants and informed them that the CLB, Mumbai bench has its jurisdiction over states of Maharashtra, Goa, Gujarat, Madhya Pradesh and Chhatisgarh. Vimla Yadav handles the cases of all these states except Maharashtra and the cases of Maharashtra are handled by Ashok Kumar Tripathi. He added that the petition to be filed before the Bench must be legibly drafted in proper format, covering all the requirements and without fail, be supported with necessary affidavits. Going ahead he told that a Practising Company Secretary, Practising Chartered Accountant, Practising Cost Accountant, an Advocate, the petitioner or any other persons authorized are the persons who can appear before the bench of CLB. Here he emphasized that persons appearing before the CLB must follow the Dress Code strictly, failing which such person would be disallowed from representing the case. He then stated the dress code for both men and women. Thereafter Dr. Jain spoke about the reliefs that the Bench can provide to the parties viz. the Interim Relief i.e. relief that is provided while proceedings of a case are still going on and the Final Relief.

Moving on to the Mock Hearing session, Dr. Jain enacted the role of CLB Presiding Officer and two of his colleagues represented before him the petitioner and respondent side for 4 case studies in rotation. The cases pertained to whether the validity of the Annual General Meeting can be challenged before the CLB, Whether Arbitration Clause would be maintainable in a Petition filed under Section 397-398 of the Companies Act, 1956, Petition under Section 111A of The Companies Act, 1956 and the most interesting petition under section 397-398 of the Companies Act, 1956 i.e. Whether Cessation of Director due to Non-disclosure of interest is Justified. Each case was heard by Dr. Jain who then framed and explained the issues to the

participants and finally decided the same citing case laws. This exercise gave the participants a deep insight on practical aspects of the proceedings. Through these mock hearings, Dr. Jain made it clear that merely aggressive behavior before the Bench would not meet the object of convincing the presiding officer. One needs to have strong and true facts at his or her disposal. In conclusion, Dr. Jain shared few of his own practical experiences which were appreciated by the participants.

The last session was conducted by Prachi Manekar, who spoke on Appeals against the orders of CLB/NCLT & other Quasi Judicial Bodies – Law and Procedure. She commenced her address by discussing in detail the intricacies of 10F Appeal i.e. Appeal against the order of Company Law Board. She deliberated that there are four important facets of an appeal, they are-Maintainability of an Appeal, Jurisdiction of an Appeal, Limitations of an Appeal and Grounds of an Appeal.

She elaborated that any petition will be maintainable only if it is filed by any person aggrieved by any decision or order of Company Law Board on any question of law arising out of the order. Jurisdiction of the CLB would be based on the location of the registered office of the company. The appeal should be filed within 60 days of the communication of the order. Otherwise petitioner would have to file condonation of delay.

One of the crucial points which Prachi emphasized was that the ground of appeal should be a Question of Law and not a Question of Fact. With this, she enabled the participants to distinguish between a question of law and question of fact. In conclusion, she quoted that "Law is Fluid" which means that law can be bent in the desired direction if there are sufficient material facts and evidence to it but cautioned that it is only upto the extent it is not illegal.

The programme was very interactive and all the queries put forth by the participants were well addressed by the speakers. The programme left the participants wanting for more and recharged with skills that could take them to higher levels of professionalism. CS

CORRIGENDA

Page 316 of March, 2013 issue of Chartered Secretary

Head Notes of LW. 25.03.2013 be read as under:

"Companies Act, 1956 - Sections 433 and 434 - agreement for the sale of drug manufacturing process - part payment made - balance withheld due to disputes - whether winding up petition to be allowed - Held, No."

Page 434 of April 2013 issue of Chartered Secretary

LW.31.04.2013

Capt. Vijender Singh Chauhan v. Parsvnath Developers Ltd. (Del)

The case was decided on 15.03.2013 and not on 15.03.2012.

The inadvertent typo-errors are regretted.



News From the Institute & Regions ICSI - CCGRT



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

**CENTRE FOR
CORPORATE
GOVERNANCE,
RESEARCH &
TRAINING (CCGRT)**

In the age of dynamic changes, everything is changing very rapidly. The technology of today is getting obsolete tomorrow. Most of the countries have adopted or going to adopt IFRS which prescribe that Books of Accounts should be stated at fair valuation. It necessitates that as the organizations adjust their financial statements accordingly, the Company Secretaries also equip themselves with the intricacies & techniques of Valuation. Recognizing this, ICSI - CCGRT is launching this Certificate Course on Valuation, which has been modeled in self study, class room training, case study & presentation.

This Certificate Course would :

- Give an insight into various conceptual, technical & procedural aspects of valuation
- Provide a framework for business valuation & give practical exposure on applying the valuation principles in different situations.
- Enable to carry out the valuation assignments with confidence & commendable skills.

Certificate Course On Valuation



ELIGIBILITY

- Members of ICSI
- Final / Professional passed Students of CS course

FEES : ₹ 16,850/-

(15000 + Service Tax @12.36%)

(Covering cost of Classroom Training, Reference Material and Evaluation)

*Admission for 1st Batch Starts
from Monday, April 15, 2013 .*

Orientation lectures will be tentatively held on Thursday, May 16, 2013 at ICSI - CCGRT followed by 90hrs of Self Study, 30 hrs of Classroom Training & Evaluation thereafter. Details of Classroom Training, which will be held in June 2013, will be communicated in due course

ADMISSION

Please send in the duly filled in Registration form (available at www.icsi.edu/ccgrrt) alongwith supporting documents and Fees to The Dean, ICSI - CCGRT, at the below mentioned address. Fees may be drawn up by way of D.D / local cheque payable at Mumbai in favour of "ICSI - CCGRT A/c". Fees may also be deposited in the CCGRT A/c with Vijaya Bank/ICICI Bank.

For clarifications please contact us at: ☎ 022 - 27577814, 4102 1515 /10/32 ✉ : ccgrrt@icsi.edu

Participation restricted to ensure effectiveness

Accommodation on twin sharing basis available on first - come - first - serve basis on payment of additional charges



Gist of Proceedings of 2nd Corporate Secretaries International Association (CSIA) International Conference held on 5-6, April 2013 at New Delhi

Inaugural Session

The 2nd Corporate Secretaries International Association (CSIA) International Conference on the Theme “Corporate Governance for Sustaining Prosperity and Posterity” was inaugurated by the Chief Guest Mr. Sachin Pilot, Hon’ble Minister of State (I/C), Ministry of Corporate Affairs, Government of India at The Ashok, New Delhi on April 05, 2013. Mr. Naved Masood, Secretary, Ministry of Corporate Affairs, was the Guest of Honour and Dr. Anil K Khandelwal, Former Chairman and Managing Director, Bank of Baroda, was the key note speaker.

Mr. Sachin Pilot, in his inaugural address said that the company secretary call it as the gate keeper, the conscience keeper, the time keeper, there are various compliances that need to be adhered to and that very important job now lies upon the shoulders of the person who is working as a company secretary. In the last decade in India, the job, the profile, the scope of work, the importance of the responsibilities that the company secretaries handle has grown leaps and bounds, he added. As we enter an era where we are looking to have a regulatory regime that is more compliant to the practices around the globe, expressed Hon’ble Minister and emphasised that it’s important for each of the company secretaries that work in India to keep themselves completely updated as to the new regime in India, new compliances, new regulations, and also the various practices around the world.

Speaking on the compliances, that have become much more transparent, he said that the shareholders, the customers, the regulators, all are using technology to understand more of what’s happening within the company on the Board, the inclusion and the work of Independent Directors is becoming more and more demanding and it is not merely about fulfilling the requirements, it is not merely about adhering to the law of the land but to follow that in the spirit in which the law was created.

Speaking about the importance of the role of Company Secretary, Hon’ble Minister said that about four hundred thousand students are currently undertaking this course to become company secretaries, so a decade ago this job was perhaps not as sought out but today because of the importance of companies, the regulatory issues and the kind of compliances that we have to deliver, this job is really becoming a top ranking job and people across the country are aspiring to become company secretaries, he expressed.

While concluding, he said that the Indian government is more than willing to partner with the Institute not just in India but globally to make sure that we develop a profession, that we are all proud of. That one had the best and the brightest talent coming in and taking

on this leadership role. And in the years to come, the role and the performance and the job of the Company Secretary grows from strength to strength, added Hon’ble Minister.

Mr. Naved Masood, in his address appreciated the suitability of the theme –“Corporate Governance for Sustaining Prosperity and Posterity” and emphasised that sustainability makes robust common sense and is good for the system as a whole. He advised the institute to initiate more research based studies with institutes of international repute who has the similar mandate towards good governance. Mr. Masood also deliberated on CSR and its ethical dimensions.

Dr. Anil Khandelwal, in his address said that as part of moving to the level of governance professional, Company Secretaries need to take broader strategic view, adhere to highest ethical standards and integrate sustainability within the business. While referring to the importance of creating a clean company, he emphasised that Company Secretaries need to assume greater responsibility. While making suggestions for building the profession he said that 50% of the market capitalisation of a company is contributed by intangibles like quality of human resources, culture, technology, governance, etc. and added that the Company Secretary profession would need to understand the interplay of intangibles in their contribution to corporate valuation.

Mr. Peter Turnbull, President, CSIA, in his address while emphasising the fundamental importance of good governance said that good governance is a global matter. He said that good governance is good governance anywhere in the world. While elaborating the demographic developments of governance across the world, he said that CSIA is working towards furtherance of the interest of Corporate Secretaries who are at the front line of governance in every corner of the world.

Mr. Nesar Ahmad, Immediate Past President, The ICSI and CSIA & Chairman, CSIA Conference Organising Committee while speaking about CSIA said that sustainability of the environment, social development etc. will depend on good governance. He said that corporate should realise the intertwined relationship of economic, social and environmental aspects.

Mr. S.N. Ananthasubramanian, President, The ICSI thanked the dignitaries and the delegates while proposing the vote of thanks. He assured that ICSI would partner with Ministry of Corporate Affairs in furthering its endeavours towards good governance and sustainability.

First Session – Responsible Investment and Responsive Businesses

The first technical session was chaired by Mr. Ravi Narain, Vice-Chairman, National Stock Exchange of India Limited. Mr. J.N. Gupta,



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Managing Director, Stakeholder Empowerment Services Limited and Former Executive Director, SEBI and Dr. Cheah Foo Seong, Immediate Past President MAICSA, Malaysia and Secretary CSIA were the guest speakers.

Mr. Anil Murarka, Past President, The ICSI and CSIA, in his opening remarks said that responsible investment and responsible business has been redefined and redesigned with changing times. For a responsible business environment, it requires knowledge about the customer requirement and the quality of the product vis-a-vis change in the tastes of customer. He also highlighted the social, environmental and triple bottom line investment which provides long term value to the business.

Mr. Ravi Narain said that responsible investment is an investment strategy to generate financial as well as sustainable value to the business. CSR and ESG (Environmental, Social and Governance issues) must be integrated with the business activity and it is no longer a philanthropy. He opined that sustained growth of a business required sustained investment measures.

Dr. Cheah Foo Seong, said that sustainability is a difficult venture in a business model and that ESG Factors impact our business model to a large extent. He highlighted the UN Principles for Responsible Investment and focussed on implementation and disclosure requirements on ESG factors. He expressed that ultimately regulatory push is required to make the corporate business responsible.

Mr. J N Gupta, highlighted the importance of investment eco systems and emphasised on how investment eco systems impact market intermediaries, regulators and government, investors, lenders, service providers and society at large. He said that investment eco system maintains a balance in responsibility driving factors. While speaking about driving factors of responsibility, he said that successful investment requires an accurate analysis of risk and reward. Emphasizing that responsible investors give priority to ESG considerations in investment decisions he presented Indian and global case studies on ESG imbalance and added that these studies revealed that over the long-term, companies that voluntarily adopted Environmental and Social policies significantly outperformed the rest, both in terms of stock market and accounting performance. He concluded that entire economy has to work in balanced manner.

Second Session – Sustainability Reporting - Beyond Disclosures

The second technical session was chaired by Mr. Prashant Saran, Whole-Time Member, SEBI. Mr. Bharat Wakhlu, Resident Director, Tata Services Limited; Mr. Alok Sharma, Head- Corporate Sustainability, Larsen and Toubro Ltd. and Ms. April Chan, Past President, CSIA and Past President Honkong Institute of Chartered Secretaries, Hongkong were the guest speakers.

Mr. Prashant Saran, while emphasizing on the importance of strong reporting framework said that measurable matrices of the regulatory mandates are required in sustainability reporting and disclosures, and that enforcement of regulatory mandates require creation of a level playing field in the market, he added.

Mr. Bharat Wakhlu started the discussions by comparing the aspects Business for life Vs life for business. While emphasizing on aspects like trust, well being, transparency and legitimacy, he spoke about human well being and said that to create trust, businesses are to add value to human life. He reiterated that accountability and transparency are the primary factors that help in creating trust. He also said that business longevity depends on creation of trust and promotion of value addition to human life.

Ms. April Chan, emphasising on the importance of information under sustainability reporting for better investment decisions, spoke about the reporting pattern of a company with reference to sustainability and integrated reporting. She said that the reporting should bring together material information about an organisation's strategy, governance, performance and prospects in a way that reflects the commercial, social and environmental context within which it operates and leads to the creation of value. Ms. Chan also explained as to how different factors of integrated reporting complement each other and contribute to a long-term sustainable growth.

Mr. Alok Sharma, spoke about sustainability reporting-beyond voluntary disclosures. While speaking about the global challenges on sustainability reporting, he spoke about history of climate change and sustainability reporting, India's response and alignment, increasing demand for non-financial disclosures, global trends towards sustainability reporting, stakeholder engagement etc. While referring to India's response to sustainability reporting, he spoke about National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, 2011 released by Ministry of Corporate Affairs, the proposed CSR clause under the Companies Bill, 2012 and the SEBI mandate to publish Business Responsibility Report as part of Annual Report for specified companies. He also explained about the increasing demand from regulators, corporate, stakeholders, and investors for non-financial disclosures.

Third Session – The Journey - From CS to CGO (Corporate Governance Officer)

The third technical session was chaired by Mr. Ashish Kumar Chauhan, MD & Chief Executive Officer, BSE Limited. Mr. Joel Wolpert, Director, Chartered Secretaries Southern Africa, South Africa and Ms. Grace Tan, CEO, SAICSA, Singapore and Treasurer, CSIA were the guest speakers.

Mr. Sanjay Grover, Central Council Member, the ICSI and Member CSIA Conference Organising Committee in his opening remarks emphasized on the enhanced role of company secretaries under Companies Bill, 2012, as Key Managerial Personnel.

Mr. Ashish Kumar Chauhan, while referring to evolution of joint stock companies with reference to aspects such as innovation, reporting etc., spoke about the history of double entry system of book keeping, shares, joint stock companies, insider trading and so on. He said that Corporate Governance is as old as Joint Stock Company and referred to company secretaries as advisor who should be morally and legally correct.

Mr. Joel Wolpert, spoke about the role of company secretaries with



reference to Board and stakeholder expectations. He referred to factors such as corporate responsibility, value creation, equitable treatment of shareholders, integrity and ethical assurance, accountability and reporting etc. as hallmarks of corporate governance. He said that performance and conformance, as key focus areas of corporate governance. He spoke in brief about voluntary Corporate governance Codes based on comply or explain approach. While referring CS as CGO he spoke about the company secretary's Corporate Governance Role in the context of Board effectiveness, Board evaluation, effective communication.

Ms. Grace Tan, explained as to how Company Secretaries gave momentum to Sustainability Reporting and address challenges. She urged upon creation of international standards for sustainability reporting.

Fourth Session – Corporate Spirit and Spirituality

The fourth technical session was addressed by Bharat Wakhlu, Resident Director, Tata Services Limited; Mrs Savitha Wakhlu, Managing Director, Jagriti Communications and Mr. Aadesh Goyal, Executive Vice President and Global Head HR, Tata Communications Limited and International Teacher of Art of Living Courses

Mr. Bharat Wakhlu said that GDP is not an adequate measure of wealth creation and referred to the concept of Gross National Happiness. He spoke about Materiality vs. Happiness and said that we are spiritual being having human experience. He emphasised that the most important treasures are there in the mind and harnessing those to create outside wealth is just as critical. He said businesses would be disconnected from the society, if they do not understand this concept of human happiness.

Mrs. Savitha Wakhlu spoke about intent and its connectivity to spirituality, erasing ego for better relationships, bringing spirituality at workplace etc. She demonstrated breathing exercises also.

Mr. Sunil Bahri, Chairman ICSI Dubai Chapter shared his corporate experience in middle east and discussed about Integrating corporate spirit with personal goals.

Mr. Aadesh Goyal highlighted that governance and spirituality are deeply related. He said that breach of trust happens due to fear or greed and spirituality helps to come out of it. He said that deep commitment is required for being ethical and said that spirituality helps in remaining 100% ethical. Briefly explaining the seven layers of existence - body, breath, mind, intellect, memory, ego, he emphasized that meditation helps in bringing spirituality and dynamism.

Fifth Session- Convergence of Corporate Governance and Market Governance

Fifth technical session was chaired by Dr. Bhaskar Chatterjee, Director General, Indian Institute of Corporate Affairs. Dr. K P Krishnan, Principal Secretary, Government of Karnataka.; Dr. Madhukar Sinha, Professor, Centre for WTO Studies; Mr. Chris Pierce, CEO, Global Governance Services Limited, UK, were the guest speakers.

Dr. Bhaskar Chatterjee emphasized that company secretaries are strongly emerging as a corporate Governance officers. He said that shareholders can also act as pressure groups to enforce better governance. He highlighted that the Companies Bill also better empowers the small shareholders.

Dr. K P Krishnan, in his address said that Corporate governance was propounded by Adam Smith, the Scottish philosopher and a pioneer of political economy in 17th Century. Dr. Krishnan emphasized that sustainability should be legal centric approach, and for the sake of simplicity, Corporate Governance could be termed as the control mechanism between various stakeholders within the firm and included the board, the management, the committees etc, while the market aspects would cover the labour markets, capital markets, markets for control, banks, private equity, etc. He explained the convergence of corporate governance and market governance with the help research studies that better governed companies commanded higher market valuation, higher interest coverage ratio, were better leveraged, higher return on capital employed, their P/E ratio was higher and investors use the information on corporate governance practices to distinguish between companies.

Dr. Madhukar Sinha, while explaining the economic importance of services in the GDP of India, deliberated on the GATS Framework. He covered the Regulation of services provided by national and foreign service providers. He briefly explained the modes of Supply of Services between two different countries. Rights and Obligations under GATS with respect to trade in services for the member countries. Speaking on the Mutual Recognition Agreements Dr. Sinha explained Article VII which allows scope for recognition of education or other qualifications obtained by an individual supplier in other member states, without MFN obligations.

Mr. Chris Pierce, discussed developments across the globe with respect to Governance. He highlighted top ten trends posing challenges for the execution of Governance. Amongst them, some of the important trends are changing role of the company secretary, volume of laws, complexity of laws, dealing with litigation, increased use of technology and director professionalism. While speaking on professionalism, Mr. Pierce referred and appreciated the ten Secretarial Standards issued by Institute of Company Secretaries of India.

Concluding Remarks

CS M. S. Sahoo, Secretary, the ICSI highlighted the key take-aways from the conference in his concluding address. Referring to the Chinese curse "May you live in interesting times" he said that the profession of company/corporate secretaries was living in interesting times, full of challenges and opportunities. He opined that governance held the key to sustaining posterity and prosperity on the earth and, therefore, advocated appropriate governance mechanism in three spheres, namely, corporate, government and non-government organizations, which operate with the resources of others and exist to serve other stakeholders.

CS Sahoo noted that corporate social responsibility is a business and should not be considered charity. Just as the market matches the



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resources and ideas, it should match the resources with passion. NGOs should be enabled to issue “social shares” which could be listed and traded on the stock exchanges.

CS Sahoo lamented that there are very few long term stakeholders who are interested in corporate governance. Quite often employees and shareholders suffer from myopia and look for the earlier exit opportunity. It is the state which has maximum at stake and hence it has been rightfully taking measures to strengthen and promote corporate governance. This heightens the role of company secretaries who are regulated professionals and are defacto governance professionals. He elaborated the measures being taken by the Institute to promote corporate governance.

CS Sahoo observed that corporate governance and market governance are two sides of the same coin. One is the back office and the other the front office and that there should be an efficient transmission mechanism between the two. Disclosure mechanism is this transmission mechanism. Disclosures are important so that stakeholders make informed decisions.

On the Journey from CS to CGO, he said that every Chief Governance Officer should be a Company Secretary and not the other way around. He said that the law supports this and we need to re-engineer our capabilities to meet the evolving needs and should invite accountability. CS

PRIZE WINNER

JULY 2012

QUERY

A cheque was issued by Shri Krishan to Shri Govind for Rs.20, 000.00 for goods supplied. The cheque was dishonoured. Shri Govind lodged a complaint against Shri Krishan under the Negotiable Instruments Act, 1881. Through the said complaint can Shri Govind ask for compensation also?

WINNERS

1. **Ms. Shruti Rajgarhia**
Phoenix Towers, 'A' 18th Floor,
Flat No 1804, Senapati Bapat Marg,
Lower Parel, Mumbai- 400013.
2. None eligible

ANSWER

Solution:

The introduction of the cheque system in the market has made life across the globe, in the commercial and financial market easier, as individuals now prefer consummating transactions with a piece of paper called a “Cheque”, rather than carrying crisp currency notes of that value. But everything has its pros and cons and this rectangular piece of paper is no different. The situation under the scanner is one such example.

The circumstance that Shri Govind (complainant) is surrounded by falls under Section 138 of the Negotiable Instruments Act 1881. It states that any person who commits an offence of dishonour of a cheque for insufficiency or otherwise, shall be punished with imprisonment for a term which may be extended to two years, or with fine, which may extend to twice the amount of the cheque, or with both.

Thus, it can be seen that there is no mention of any compensation under Section 138 that the complainant Shri Govind can claim against the accused Shri Krishan for dishonouring the cheque. However, there is a fine that the Court can grant on the basis of the facts and circumstances of the case, which can go up to twice the amount of the cheque.

But if the complainant Shri Govind wants to claim compensation from the accused, he can do under Section 357 (l) (b) of the Criminal Procedure Code, 1973.

The Section reads as - “the Court imposes a sentence of fine or a sentence (including a death sentence) of which the fine forms a part, the Court, when passing a judgement, order the whole or any part of the recovered to be applied - (b) in the payment to any person of compensation, for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court”.

Filing a complaint under Section 138 of the Act imposes a criminal liability on the accused for the offence of dishonouring the cheque and not for the recovery of the cheque amount (which has to be enforced by a civil suit). But in practice, once the criminal complaint is filed under Section 138 of the Act, a civil suit is seldom filed to recover the amount of the cheque. This is done so because of the provision enabling the court to levy a fine linked to the cheque amount and the usual direction in such cases is for payment as compensation of the cheque amount, under Section 357 (1) (b) of the Criminal Procedure Code.

Therefore, it can be concluded that, Shri Govind can claim compensation to recover the loss suffered by him, on account of the dishonour of the cheque by Shri Krishan, but not under Section 138 of the Negotiable Instruments Act, 1881. He can do so under the Section 357(1)(b) of the Criminal Procedure Code.



From Company Secretary to Corporate Governance Professional

(Keynote address delivered by Dr. Anil K Khandelwal, Former CMD, Bank of Baroda) at the 2nd CSIA International Corporate Governance Conference held on April 5-6, 2013 at New Delhi

Hon'ble Minister, Mr. Sachin Pilot, Mr. Naved Masood, Secretary, Ministry of Corporate Affairs, Mr. Turnbull, President, CSIA, Mr. Nesar Ahmad, Chairman, CSIA Conference Organising Committee and Mr. S.N. Ananthasubramanian, President, ICSI and distinguished guests for today..... welcome.

I am extremely happy to be present this morning in the midst of company secretary professionals who have come from different parts of the world. The conference is organized at a time when the role of company secretary has come up for a major job enrichment. In this context I would like to make a mention of the new Companies Bill (pending before the Indian Parliament) which substantially enhances and upgrades the position of company secretary as it includes him as a key managerial personnel in the company. His position now parallels with CFO.

This is a path breaking provision in the new Bill in the sense that it showcases the strategic importance of a company secretary in the governance architecture.

We must understand why governance has become so important today. The financial crisis of 2008 has really revealed the shallow and fragile governance structures that has put the brightest and mightiest companies of the world collapse like a house of cards. The collapse of Bear Stearns, Lehman Brothers, Fannie Mae and Meryl Lynch, the symbol of bullish America capitulated to takeover bid. Washington Mutual tottered on the edge of becoming the largest commercial bank failures in the history.

It is a fallacy to believe that great companies fall on account of complacency and lack of innovations. As Jim Collins (2009) has rightly mentioned that the catastrophic decline of the companies can also be brought about by driven, intense, hard-working and creative people. Wall Street melt downs of 2008 happened because people went too far – too much risk, too much leverage, too much financial innovations, too much aggressive opportunism, too much growth. Obsession with growth may surely be an invitation to fall unless such growth is equally buttressed by adheres to sound governance structure and right kind of leadership across the organization who are with ethical orientation.

It was the conservative regulatory policies and embedded governance in our financial system that saved the day for India.

In this context, governance acquires much wider meaning than merely adherence to rules, regulations, disclosures, etc. The enterprise and suppliers of capital are equally under danger from other factors like senseless rules and mindless bureaucracy and absence of right people on key positions.

Too much of obsession with financial results and financial success without adhering to ethical and moral code can create intermittent crisis for corporates.

With the liberalization of economy, there is a widely pervading myth that everything should liberalise thereby meaning a sort of short cut in doing things. This is the bane of the problem. On the contrary, liberalised regimes require impeccable governance based on sound and uncompromising adherence to ethical code.

Corporate prosperity based on financial manipulations and non-adherence to rules and regulations must be rewarded with speedy and punitive enforcement machinery. There is either governance or mis-governance than anything like quasi governance. If we are clear of fundamentals and not apologetic in enforcement of rules and regulations irrespective of the size and might of the corporation, we can build prosperous and sustainable corporations.

Role of Company Secretary

What does it mean for a company secretary to become a governance professional? Is it just change of name, or does it carry additional weight of responsibilities? I strongly believe that, the movement of company secretary to governance professional is a paradigm shift, which the new Companies Bill recognizes. The opportunity must be seized by the profession to upgrade their roles.

In the governance role, the company secretary would be like chief of staff to Chairman and the Board. He may be asked to give independent view to other directors and in some ways he is a resource to the Board rather than to only CEO. The new Bill makes company secretary "Guardian of Company's Governance and an independent Advisor to the Board".

It would be unwise to assume that all our company secretaries are future ready to take up this role which requires new sets of behavioral and influencing skills, a new mind set from the traditional rule oriented mind to more strategic thinking to connect the Board with the management.



In this context, having an outstanding company secretary is no longer desirable but an essential element of good governance. They need to be increasingly seen as key communicators in a business in terms of helping to ensure that the Board as a whole and management are aligned in pursuit of company's overall strategy and goals.

The role needs to be evolved within the organization and this can happen only when the company secretary understands the business of the company apart from managing critical regulatory governance challenges. Besides this, the CS must also be a part of the management team which ensures that outstanding business results are delivered year after year. Good governance and reputation of the company invites more capital flow from investors which can be used for enhancement of business and multiplying the gains for stakeholders. When the context has changed, the text has also to change.

Some Suggestions for building the Profession

- a) Towards our endeavor to create governance professional, the CS will need to be able to take broader strategic view about the position of company within wider society, how it establishes in communicating its values, how it protects its reputation, how it adheres to highest ethical standards, and how it integrates sustainability within business and so on.
- b) Company Secretaries have to fully understand the commercial aspirations of the organization and provide guidance on what can be achieved within a governance framework and what is not possible within the framework. In some sense this role will have potential to bring him in conflict with functional heads. It is here that he will have to possess some extraordinary influencing skills to ensure and protect the trust of the company and its long term reputation. In this context, company secretaries not only have to demonstrate high IQ but also high EQ. Thus there is need for them for immense investment in self-development and leadership training.
- c) By their very description and with relationship to Governance, they got to be a different breed in terms of their own professional conduct and demonstrable highest level of ethical standards.
- d) In some ways company secretaries have unique opportunity for learning through watching and observing top business leaders interact on strategic issues. In fact, the board room experience itself is a great opportunity for them to learn and develop as a potential leader. Great leaders learn by observation.

Role of the Institute

In order to effectively move in this direction, the Institute of

Company Secretaries of India will have to invest in capability development of professionals. As the new role would demand in some ways a leadership role, the Institute can consider an advanced certification course for company secretaries after they complete about 10 years in the profession and in association with IIMs or any other management institutes, can offer advanced Training in general management & leadership as a preparation to qualify as a governance professional.

In view of the fact that today about 50% of the market capitalization of a company is contributed by the so called intangibles like quality of human resources, leadership, culture, technology and governance, the company secretary profession would need to understand the interplay of intangibles in their contribution to corporate valuation. In spite of financial success, lack of focus on intangibles can be a major risk factor and therefore, it is expected that governance professionals advise and ensure that the Board members adequately discuss and spend time to build an architecture of intangibles in the company. This is very important. With the same earnings, P/E of companies varies substantially because of intangible.

Finally, integration and internalization of their role will depend on how we provide regulatory protection to company secretaries specially when their role requires to sound early warning signals to Board about the happenings in the company which can bring them in direct conflict with the chief executive officer.

At a time when creating a clean company is the need of the day, the company secretary cannot be merely a mute spectator to violations in the company but to rise to the occasion to take an ethical stand and report the matter to the Board. This can only happen when as I said earlier; he is protected by certain inbuilt mechanisms to safeguard his position. I would therefore submit that :

- (a) Annual Appraisal of the company secretary should be done by the Board, apart from the inputs by the CEO.
- (b) His career decision and severance from the company must also be with the active involvement of the Board.

Before, I conclude, let me say that the Institute of Company Secretaries of India which is already playing an extremely important role under the leadership of its President, Mr. S N Ananthasubramanian and Secretary, Mr. M S Sahoo would do well to deliberate on some of these issues in a much more methodical manner.

I am indeed privileged to be part of this august assembly here for which I thank the Institute. CS

In preparation of this talk the author has actively drawn from two sources namely "How the Mighty Fall", Jim Collins (2009) and the paper "Elevating the role of the Company Secretary", Lintstock (May 2012).



THE INSTITUTE OF Company Secretaries of India

IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

ICSI House , 22 , Institutional Area, Lodi Road, New Delhi –110 003

Phones : 41504444, 45341000 Fax : 91-11-24626727

E-Mail : info@icsi.edu Website : www.icsi.edu

CAREER OPPORTUNITIES

The ICSI, a premier professional body constituted under an Act of Parliament, invites applications for the following posts at its headquarters, Regional offices and Chapter offices across India :-

Name of the Post	Pay Band & Grade Pay (Rs.)	Max. Age (as on 01.04.2013)	Total No. of Posts
DEAN, (equivalent to Director- on Contractual/ Assignment/ Retainership basis for two years at CCGRT, Belapur, Navi Mumbai)	37400-67000 with Grade Pay – 10000/-	58 years	1
Director (Finance & Accounts) /	37400-67000 with Grade Pay-10000/-	45 years	1
Joint Director (Finance & Accounts)	37400-67000 with Grade Pay -8700/-		
Director (IT) /	37400-67000 with Grade Pay-10000/-	45 years	1
Joint Director (IT)	37400-67000 with Grade Pay - 8700/-		
Director /	37400-67000 with Grade Pay-10000/-	45 years	3
Joint Director	37400-67000 with Grade Pay-8700/-		
Deputy Director (Finance & Accounts) /	15600 - 39100 with Grade Pay-7600/-	45 years	1
Assistant Director (Finance & Accounts)	15600 - 39100 with Grade Pay-6600/-		
Deputy Director (IT) /	15600 - 39100 with Grade Pay-7600/-	45 years	1
Assistant Director (IT)	15600 - 39100 with Grade Pay-6600/-		
Deputy Director /	15600 - 39100 with Grade Pay-7600/-	45 years	2
Assistant Director	15600 - 39100 with Grade Pay-6600/-		
Administrative Officer	15600 - 39100 with Grade Pay-5400/-	35 years	4
Education Officer	15600 - 39100 with Grade Pay-5400/-	35 years	2
System Analyst	15600 - 39100 with Grade Pay-5400/-	35 years	1
Desk Officer	9300 - 34800 with Grade Pay-4800/-	35 years	3
Assistant Education Officer	9300 - 34800 with Grade Pay-4800/-	35 years	9
Senior Programmer	9300 - 34800 with Grade Pay-4800/-	35 years	1
Assistant	5200-20200 with Grade Pay – 2400/-	35 years	74

For further details viz. qualification, experience, procedure for submission of application, etc., please visit our website www.icsi.edu/career with effect from **24th April, 2013**. Interested candidates must apply only through electronic application form (**On-line**) and no hard copy will be accepted. Last date for submission of application (On-line) is **13th May, 2013**. Reservation policy will be applicable as adopted by the "ICSI" in its Service Rules. The "ICSI" reserves the right to increase/decrease the number of vacancies for any post as per its requirement.



COMPANY SECRETARIES BENEVOLENT FUND

HOW TO BECOME THE LIFE MEMBER

Safeguarding and caring for your well being



Saathi Haath Badana
साथी हाथ बढ़ाना

Application for life membership of CSBF has to be submitted in the prescribed Form -A (available on the website of the Institute i.e. www.icsi.edu) and should be accompanied by Demand Draft or Cheque (payable at par) for ₹ 7500/- drawn in favour of “**Company Secretaries Benevolent Fund**” payable at New Delhi and the same can be deposited in the offices of any of the Regional Councils located at Delhi, Kolkata, Chennai and Mumbai. However, for immediate action, the applications should be sent to **The Secretary The Institute of Company Secretaries of India, 22, Institutional Area, Lodi Road, New Delhi -110 003.**

The members can also apply online by following the steps given below:

- The member has to visit the portal www.icsi.in
- The member has to login to self profile by selecting the option Member – Associate / Fellow
- The member has to enter his membership number.
- The member has to enter his password in the box provided (The member has to Click on Reset password if creating for the first time and follow the instructions)
- After Logging in the member has to click on the link 'Request for CSBF Membership'.
- The member has to click on Download link to download the Form 'A' i.e. Form for admission as a Member of CSBF.
- The member has to fill up the form complete in all respects.
- The member has to scan the duly filled in form and upload the same.
- After uploading the scanned form the member has to click on 'Proceed for Payment' button for payment through net banking.
- A copy of the Acknowledgement Number generated may be retained by the member for future reference.

Following benefits are presently provided by the CSBF:-

Financial Assistance in the event of Death of a member of CSBF:-

Upto the age of 60 years

- ◆ Group Life Insurance Policy for a sum of ₹ 2,00,000; and
- ◆ Upto ₹ 3,00,000 in deserving cases on receipt of request subject to the Guidelines approved by the Managing Committee from time to time.

Above the age of 60 years

- ◆ Upto ₹ 2,00,000 in deserving cases on receipt of request subject to the Guidelines approved by the Managing Committee from time to time.

Other benefits subject to the Guidelines approved by the Managing Committee from time to time :-

Reimbursement of Medical Expenses

- ◆ Upto ₹ 60,000/-

Financial Assistance for Children's Education (one time)

- ◆ Upto ₹ 20,000 per child (Maximum for two children) in case of the member leaving behind minor children.

For further information/clarification please contact Mrs. Meenakshi Gupta, Joint Director or Mr. J S N Murthy, Administrative Officer on telephone No. 011-45341049, Mobile No. 9868128682 or through e-mail member@icsi.edu or csbf@icsi.edu

FOR FURTHER DETAILS PLEASE VISIT : www.icsi.edu/csbf



CHARTERED SECRETARY

Advertisement Tariff

(With Effect from 1st April 2012)

BACK COVER (COLOURED)

Non - Appointment

Per Insertion	₹ 75,000
4 Insertions	₹ 2,70,000
6 Insertions	₹ 3,96,000
12 Insertions	₹ 7,65,000

COVER II/III (COLOURED)

Non - Appointment

Per Insertion	₹ 50,000
4 Insertions	₹ 1,80,000
6 Insertions	₹ 2,64,000
12 Insertions	₹ 5,10,000

FULL PAGE (COLOURED)

Non-Appointment Appointment

Per Insertion	₹ 40,000	₹ 10,000
4 Insertions	₹ 1,44,000	₹ 36,000
6 Insertions	₹ 2,11,200	₹ 52,800
12 Insertions	₹ 4,08,000	₹ 1,02,000

HALF PAGE (COLOURED)

Non-Appointment Appointment

Per Insertion	₹ 20,000	₹ 5,000
4 Insertions	₹ 72,000	₹ 18,000
6 Insertions	₹ 1,05,600	₹ 26,400
12 Insertions	₹ 2,04,000	₹ 51,000

PANEL (QTR PAGE) (COLOURED)

Per Insertion	₹ 10,000	₹ 3,000
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(Subject to availability of space)

EXTRA BOX NO.CHARGES

For 'Situation Wanted' ads.	₹ 50
For Others	₹ 100

MECHANICAL DATA

- Full Page - 18 x 24 cm
- Half Page - 9 x 24 cm or 18 x 12 cm
- Quarter page - 9 x 12 cm

- The Institute reserves the right not to accept order for any particular advertisement.
- The journal is published in the 1st week of every month and the advertisement material should be sent in the form of typed manuscript or art pull or open file CD before 20th of any month for inclusion in the next month's issue.

For further information write to:
The Editor,
"CHARTERED SECRETARY",



**THE INSTITUTE OF
Company Secretaries of Inc**
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Email : ak.sil@icsi.edu website : www.icsi.edu



Our Members

ATTENTION MEMBERS

POST MEMBERSHIP QUALIFICATION (PMQ)

EXAMINATION — JUNE, 2013

TIME TABLE & PROGRAMME

DATE AND DAY	GROUP	MORNING SESSION 09.00 A.M. To 12.00 Noon.
05.06.2013 Wednesday	I	Conceptual Framework of Corporate Governance
06.06.2013 Thursday	I	Corporate and Board Management
07.06.2013 Friday	I	Legal and Regulatory Framework of Corporate Governance
08.06.2013 Saturday	II	Board Committees and Role of Professionals
09.06.2013 Sunday	II	Corporate Governance — Codes and Practices

ATTENTION MEMBERS

COMPANY SECRETARIES EXAMINATIONS – JUNE, 2013

TIME-TABLE AND PROGRAMME FOR OMR BASED
FOUNDATION PROGRAMME (NEW SYLLABUS) EXAMINATION

Day & Date of Examination :
Saturday, the 1st June, 2013

Morning Session
Examination Timing: From 10.00AM —To 11.30 AM

PART	SUBJECTS
PART - 1	Business Environment and Entrepreneurship
PART - 2	Business Management, Ethics and Communication

After-noon Session
Examination Timing: From 01.30PM —To 03.00 PM

PART	SUBJECTS
PART - 3	Business Economics
PART - 4	Fundamentals of Accounting and Auditing

IDENTITY CARDS FOR MEMBERS

Members who are yet to get the Identity Card issued from the Institute are requested to apply for the same along with their latest two coloured passport size photographs in the format given below (indicating on the reverse the Name and Membership Number) to the Membership Section of the Institute at ICSI House, 22, Institutional Area, Lodi Road, New Delhi-110003. For queries, if any, contact on -

Phone No. 011 45341062

Mobile No. + 91 9868128682

Email Ids member@icsi.edu / ashish.tiwari@icsi.edu

Request for issue of Member's Identity Card

Please send latest two coloured passport size photographs mentioning your name & membership no. on the reverse of the photograph alongwith the following details:

Membership No. ACS/FCS
 Name
 (in block letters) (First Name) (Middle Name) (Surname)
 Date of birth
 Phone: Office: Residence:
 Mobile No.
 E-mail address

Passport
size coloured
photograph

Signature with date



ATTENTION MEMBERS

CHANGE OF ADDRESS

Member's attention is drawn to Regulation 3 of the Company Secretaries Regulations, 1982 according to which every member of the Institute is required to communicate to the Institute any change of professional address within one month of such change. The contravention of the same amounts to professional misconduct under clause (1) of Part II of the Second Schedule to the Company Secretaries Act, 1980.

Members are, therefore, requested to intimate the change in their professional address within the specified period.

A. The members may change their professional and residential address and other details online through Institute's portal www.icsi.in by following the steps given below:-

- i) Login to portal www.icsi.in
- ii) Login to self profile by entering the membership number and password
- iii) Once logged in, the member has to click on the Link 'Change of Address'
- iv) A window will be displayed with the option 'Professional' or 'Residential'
- v) Click on the relevant option i.e. 'Professional' or 'Residential' and change the details and click on 'go' button
- vi) A screen will be displayed with the options 'Existing details as per records' and 'Enter change details'
- vii) Change the details as required and press on 'submit' button

B. Members may also send their request for change of address to the Institute's email IDs at member@icsi.edu & aditya.mishra@icsi.edu from their e-mail ID as recorded with the Institute.

C. Members may send the request through electronic mode as described under A, B & C above. Otherwise, members may also send their request through post to the Membership Section of the Institute at ICSI House, 22 Institutional Area, Lodi Road, New Delhi - 110003.

For clarifications if any, members may contact Mr. Ashish Kumar Tiwari, Jr. Assistant at telephone no. 011 45341063 or Mr. D.D. Garg, Administrative Office at Telephone No. 011 45341062 or write at e-mails ashish.tiwari@icsi.edu & dd.garg@icsi.edu.

ATTENTION MEMBERS

UPLOADING OF SCANNED IMAGES OF PHOTOGRAPHS & SIGNATURES ON INSTITUTE'S WEBSITE

The Institute has reoriented its online services to capture the information pertaining to photographs and signatures of members. The members may upload the scanned image of their photograph and signature on the website of the Institute by following the steps given below:

1. Open the Institute's website www.icsi.edu.
2. At Homepage click on login button appearing on top of the website.
3. Click on 'Members' Tab and then click on 'Member Login' button.
4. Use your membership number as Axxxx for ACS and Fxxxx for FCS as your user name. For example, if the Associate Membership number of the member is 2502 then the user name should be written as A2502 and for FCS it should be written as F2502.
5. Your password shall be the same as used by you earlier on our portal www.icsi.in.
6. In case you have not created your password till date you may create your password by using www.icsi.in and then come back to the new portal www.icsi.edu after 48 hours.
7. Once logged in click on 'Members' tab followed by 'My Account' tab.
8. Click on the last tab 'Manage Image'.
9. Click on the browse button to upload your photograph and signature.
(The format of the file containing the photograph and signature should be in .jpeg format and the size of the file containing the photograph and signature should be maximum of 150 kb each).

In case the members are facing any problem in doing the same, the members are requested to send their images of photograph and signature from their email id registered with the Institute to email IDs at ashish.tiwari@icsi.edu For clarifications if any, members may contact Mr. J S N Murthy, Administrative Officer at jsn.murthy@icsi.edu 011 45341049.

A Governance Initiative

Information on Corporate Governance

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN - PUBLIC SECTOR COMPANIES (CORPORATE GOVERNANCE) RULES, 2013

The Securities and Exchange Commission of Pakistan, with the approval of the Federal Government has issued PUBLIC SECTOR COMPANIES (CORPORATE GOVERNANCE) RULES, 2013 in its gazette dated 8th March, 2013.

The rules will apply to 130 public sector companies after 90 days of their promulgation, or from mid-June 2013. The rules focus on empowering the boards of these entities, and also on creating greater transparency and accountability.

The rules provide that the Board of public sector companies shall have 40% of its total members as independent directors within two years of the notification of the Rules and shall have a majority of independent directors subsequently. It further provides that no person shall be elected or nominated as a director of more than five Public Sector Companies, simultaneously, including listed companies. The rules also propose that the position of the Chairman and CEO be separated to achieve an appropriate balance of power, increasing accountability and improving the board's capacity for decision making independent of management.

The detailed rules can be accessed at:

http://www.secp.gov.pk/CG/SRO_180_PublicSectorCompanies_CGRules_2013.pdf

Green Corner

Join the Reforestation movement: Protect Trees



Few movements in forest protection include:

- **Eco-forestry** -- where only carefully selected trees are cut down and are transported with minimal damage to the area; the forest ecosystem is preserved while commercial timber extraction is still permitted
- **Green business** -- focuses on recycled paper and wood products, wood alternatives and environmentally responsible consumerism
- **Land use planning** -- advocates environmentally friendly development techniques.
- **Community forestry** -- where concerned citizens come together to manage and participate in keeping their local forests viable and sustainable

Good Things Around

Protection of Foreign Tourists

The Union Ministry of Tourism has adopted the Code of conduct for "Safe & Honourable Tourism", which is a set of guidelines to encourage tourism activities to be undertaken with respect for basic rights like dignity, safety and freedom from exploitation of both tourists and local residents, in particular women and children. In addition to this Ministry of Tourism has advised all the State Governments/UT Administrations to deploy Tourist Police.

Remember

15 May : International Day of Families

29 May : International Day of UN Peacekeepers

31 May : World No-Tobacco Day

Moments of Thought

Our universities and academic institutions must take a lead in imparting education which would help us meet the moral challenge of our times. It must help us build a modern democracy based on values of human dignity and equality.

Hon'ble President Of India

Shri Pranab Mukherjee

At The 45Th Annual Convocation Of Utkal University, Bhubaneswar (25-04-2013)

Panel of Examiners for CS Examinations

INVITATION OF APPLICATIONS FOR PANEL OF EXAMINERS FOR THE COMPANY SECRETARIES EXAMINATIONS

The Institute is inviting applications for preparing a panel of Examiners for evaluation of answer books from qualified, competent and experienced persons in the following subjects of company secretaries examinations:

I	LEGAL DISCIPLINE SUBJECTS:	
	(a) Law:	
	(i) General and Commercial Laws	Executive Programme
	(ii) Tax Laws	Executive Programme
	(iii) Company Law	Executive Programme
	(iv) Economic and Labour Laws	Executive Programme
	(v) Securities Laws and Compliances	Executive Programme
	(b) Law and Practice:	
	(i) Company Secretarial Practice	Professional Programme
	(ii) Drafting, Appearances and Pleadings	Professional Programme
	(iii) Corporate Restructuring and Insolvency	Professional Programme
	(iv) Advanced Tax Laws and Practice	Professional Programme
	(c) Law and Management:	
	(i) Due Diligence and Corporate Compliance Management	Professional Programme
II	MANAGEMENT, ETHICS AND SUSTAINABILITY DISCIPLINE SUBJECTS:	
	(i) Strategic Management, Alliances and International Trade	Professional Programme
	(ii) Governance, Business Ethics and Sustainability	Professional Programme
III	ACCOUNTING AND FINANCE DISCIPLINE SUBJECTS:	
	(i) Company Accounts, Cost and Management Accounting	Executive Programme
	(ii) Financial, Treasury and Forex Management	Professional Programme

SCALE OF HONORARIUM FOR EVALUATION OF ANSWER BOOKS

Sr. No.	Stage of Examination	Rate
(i)	Executive Programme	₹ 80/- per answer book
(ii)	Professional Programme	₹ 100/- per answer book

QUALIFICATIONS:

A person applying for empanelment of his/her name as an Examiner should be holding professional qualification as member of the Institute of Company Secretaries of India/Institute of Cost Accountants of India/Institute of Chartered Accountants of India at least for five years and/or a Doctorate Degree/Postgraduate Qualification with at least second class in the disciplines of Law, Management, Finance, Accounting, International Trade, etc., with five years experience either in an academic position or in practice or in employment in the concerned field/discipline having relevance to the subjects of examinations.

DESIRABLE EXPERIENCE:

Persons having adequate experience of teaching and as Head Examiner/Examiner in subjects of Law, Management, Finance, Accounting, International Trade, etc., at graduate/post-graduate level or professional examinations or in writing book(s) or study material in the relevant subject(s) or any other specialised subjects at graduate/post-graduate level with relevant work experience having direct relevance to the aforesaid subject(s) of examination(s) will be preferred.

HOW TO APPLY:

Candidates fulfilling the above conditions and not registered as a student of the Institute may send their bio-data in the prescribed application form. **The prescribed application form may be downloaded from the Institute's website <http://www.icsi.edu/webmodules/member/forms/examnew.pdf>.** The blank application form can also be obtained by post from the **Joint Director (Examinations), The Institute of Company Secretaries of India, C - 37, Institutional Area, Sector - 62, NOIDA - 201 309 or by sending an e-mail to: exam@icsi.edu**





- 01 >> 2nd CSIA International Conference - First Session on Responsible Investment and Responsive Businesses – Sitting on the dais from Left: Dr. C.F. Seong (Immediate Past President, MAICSA and Secretary, CSIA), CS Anil Murarka (Past President, The ICSI), Ravi Narain (Vice Chairman, NSE Ltd.) and J.N. Gupta (MD, Stakeholder Empowerment Services Ltd. and former ED, SEBI).
- 02 >> Second Session on Sustainability Reporting Beyond Disclosures - Sitting on the dais from Left: CS Sutanu Sinha (CE, the ICSI), Bharat Wakhlu (Resident Director, Tata Services Ltd.), Prashant Saran (WTM, SEBI), April Chan (Past President, CSIA & Past President, HKICS) and Alok Sharma (Head, Corporate Sustainability, L&T Ltd.).
- 03 >> Third Session on The Journey from CS to CGO (Corporate Governance Officer) - Sitting on the dais from Left: Grace Tan (CEO, SAICSA and Treasurer, CSIA), CS Sanjay Grover (Central Council Member, the ICSI), Ashish Kumar Chauhan (MD & CEO, BSE Ltd.) and Joel Wolpert (Director, Chartered Secretaries Southern Africa).
- 04 >> Fourth Session on Corporate Spirit & Spirituality – Aadesh Goyal (Executive VP & Global Head HR, Tata Communications Ltd. & International Teacher of Art of Living Courses) addressing.
- 05 >> Fifth Session on Convergence of Corporate Governance and Market Governance – Sitting on the dais from Left: Dr. Madhukar Sinha (Professor, Centre for WTO Studies, IIFT), Dr. K.P. Krishnan (IAS, Principal Secretary, Government of Karnataka), Dr. Bhaskar Chatterjee (DG, IICA), Chris Pierce (CEO, Global Governance Services Ltd.) and Dr. S.K. Dixit (Director, The ICSI).
- 06 >> Valedictory Session – Sitting on the dais from Left: CS Nesar Ahmad (Past President, the ICSI), Peter Turnbull (President, CSIA), CS S.N. Ananthasubramanian (President, Council of the ICSI) and CS M.S. Sahoo (Secretary to the Council of the ICSI).
- 07 >> 12th ICSI National Awards for Excellence in Corporate Governance 2012 - Sitting on the dais from Left: CS M.S. Sahoo (Secretary to the Council of the Institute), Chris Pierce (CEO, Global Governance Services Ltd.), CS S.N. Ananthasubramanian (President, Council of the ICSI), Honble Justice M.N. Venkatchaliah (former Chief Justice of India), Harish K. Vaid (Vice President, Council of the ICSI) and Nesar Ahmad (Past President, the ICSI) and Sutanu Sinha (Chief Executive, the ICSI).



- 08 - 12 >> 12th ICSI National Awards for Excellence in Corporate Governance 2012 - Presentation of Certificate of Recognition for Excellence in Corporate Governance – Vivek Agarwal (Company Secretary and Head Legal) receiving the certificate on behalf of his company CMC Ltd. A.K. Purwaha (CMD), Rajan Kapur (Company Secretary) and their teammates receiving the certificate on behalf of their company Engineers India Ltd., N.K. Sinha (Company Secretary) receiving the certificate on behalf of his company Oil and Natural Gas Corporation Ltd., Vivek Sadhale (Company Secretary) and his teammates receiving the certificate on behalf of their company Persistent Systems Ltd. and R.T. Agarwal (Director Finance), Divya Tandon (Company Secretary) and Anjana Luthra Dy. Manager (Co. Secretariat) receiving the certificate on behalf of their company Power Grid Corporation of India Ltd. from Hon'ble Justice M.N. Venkatachaliah (former Chief Justice of India).
- 13 >> Presentation of Best Governed Company Award 2012 - R.S. Butola (Chairman) and his teammate receiving the trophy for the Best Governed Company 2012 for their company Indian Oil Corporation Ltd.
- 14 >> Anil Chanana (CFO) and Manish Anand (Company Secretary) receiving the trophy for the Best Governed Company 2012 for their company HCL Technologies Ltd.
- 15 >> Raju Ranganathan (Company Secretary, IOC) receiving the award for Company Secretary of the Awardee Company.
- 16 >> Manish Anand (Company Secretary, HCL Technologies Ltd.) receiving the award for Company Secretary of the Awardee Company.
- 17 >> ICSI Life Time Achievement Award for Translating Excellence in Corporate Governance into Reality – Madhumita Ganguly (Member, Executive Management, HDFC Ltd.) and Ankur Gupta receiving the award on behalf of Deepak S Parekh (Chairman, HDFC Ltd.).



Our Members

CONGRATULATIONS!

Ravi Batra, FCS, Chief Risk Officer, SRL Limited, on his being re-nominated as a Member of the Corporate Laws Committee of FICCI for the year 2013 (F/y 2013-14).

ANNOUNCEMENT

Partial modification in the eligibility criteria for eMSOP

The Council of the Institute at its 211th meeting has approved partial modification in the eligibility criteria for undergoing eMSOP for Professional/Final pass students who have completed all training requirements or exempted therefrom. The modified guidelines will be effective from 01st March 2013.

The modified criteria is as under :

- Candidates occupying senior positions or practising professionals (e.g.: Practising Chartered Accountants, Practising Cost Accountants & Practising Advocates), with atleast 10 years' experience and who have completed Company Secretaryship Final /Professional Programme exams four years prior to the application for undergoing e-MSOP; or
- Candidates occupying senior positions or practising professionals (e.g.: Practising Chartered Accountants, Practising Cost Accountants & Practising Advocates), with atleast 15 years' experience and who have completed Company Secretaryship Final/Professional Programme exams two years prior to the application for undergoing e-MSOP; or
- Candidates who are presently settled abroad and who have completed Company Secretaryship Final/ Professional Programme exams two years prior to the application for undergoing e-MSOP; or
- Candidates who have completed Company Secretaryship Final/Professional Programme exams five years prior to the application for undergoing e-MSOP.

ICSI GRIEVANCE SOLUTIONS CELL

The Institute in its endeavour to improve the service delivery mechanism to the Members, Students and other stakeholders has established a Grievance Solutions Cell. Please send your grievance, if any, at

grievance.solutions@icsi.edu



Prize query

Company Y proposes to change its registered office in the current year from the State of Tamil Nadu to the State of Andhra Pradesh where bulk of its manufacturing activities is located. Does this proposal require the approval of the Company Law Board? If, not support your answer with a self-contained note for obtaining the approval.

Conditions

- Answers should not exceed one typed page in double space.
- Last date for receipt of answer is 8th June, 2013.
- Two best answers will be awarded Rs. 1000 each in cash and the names of the contributors and their replies will be published in the journal.
- The envelope should be superscribed '**Prize Query May, 2013 Issue**' and addressed to :

Deputy Director (Publications)

The Institute of Company Secretaries of India, 'ICSI House', 22, Institutional Area, Lodi Road, New Delhi-110003.

KIND ATTENTION ! MEMBERS

Prize Query Scheme

Enhancement of the Prize Amount

MEMBERS will be glad to know that the prize money for replies to prize queries published in Chartered Secretary has now been enhanced to Rs.1000 in cash for each of the two best answers for the prize query published from July 2012 issue and onwards. The names of the winners and their replies will also be published in the journal.

The decision of the Board will be final and binding on the members and no query will be entertained once a decision is finalized about the prize winners. Further the Board has all the inherent powers to cancel any particular month's prize query scheme if sufficient number of responses are not received to make it a healthy competition.



COMPANY SECRETARIES

EXAMINATIONS - JUNE, 2013

TIME-TABLE & PROGRAMME

Date and Day	MORNING SESSION (9:00 AM TO 12:00 NOON)		AFTERNOON SESSION (1:30 PM TO 4:30 PM)
	FOUNDATION PROGRAMME	PROFESSIONAL PROGRAMME	EXECUTIVE PROGRAMME
2/6/2013 Sunday		Company Secretarial Practice (MODULE-I)	General and Commercial Laws (MODULE-I)
3/6/2013 Monday		Drafting, Appearances and Pleadings (MODULE-I)	Company Accounts, Cost and Management Accounting (MODULE-I)
4/6/2013 Tuesday		Financial, Treasury and Forex Management (MODULE-II)	Tax Laws (MODULE-I)
5/6/2013 Wednesday		Corporate Restructuring and Insolvency (MODULE-II)	Company Law (MODULE-II)
6/6/2013 Thursday	English and Business Communication	Strategic Management, Alliances and International Trade (MODULE-III)	Economic and Labour Laws (MODULE-II)
7/6/2013 Friday	Economics and Statistics	Advanced Tax Laws and Practice (MODULE-III)	Securities Laws and Compliances (MODULE-II)
8/6/2013 Saturday	Financial Accounting	Due Diligence and Corporate Compliance Management (MODULE-IV)	
9/6/2013 Sunday	Elements of Business Laws and Management	Governance, Business Ethics and Sustainability (MODULE-IV)	



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**THE INSTITUTE OF
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