Dear All,

“Don’t walk behind me; I may not lead. Don’t walk in front of me; I may not follow. Just walk beside me and be my friend.” – Albert Camus

As I write, we all are in festive mood and celebrations. I am sure this communiqué, through some more accomplishments and initiatives of ICSI-WIRC would add to your joy and happiness. ICSI-WIRC completed yet another successful month witnessing various new initiatives. Let me present some of the highlights of major developments at ICSI-WIRC since my last communiqué.

- **CSBF Cultural Evening**: I am pleased to share that ICSI-WIRC organised its first cultural evening on 3rd November, for the benefit of CSBF and I do compliment Nagpur Chapter for rising up to the occasion for this noble cause. The surplus out of the program would be contributed to ICSI CSBF, which in turn would be utilised for the benefit of CS members.

- **Release of new Publication – ‘Supreme Court on SEBI Law’**: ICSI-WIRC released its another new publication, ‘Supreme Court on SEBI Law’. This is first of its kind of publication and I do compliment Mr. Prakash Pandya, Chairman, Professional Research & Publications Committee, ICSI-WIRC and Ms Sailashri Bhaskar for making this unique publication a reality.

- **Students’ Conference jointly with Aurangabad Chapter**: In the series of students’ conferences being organised across the region, ICSI-WIRC organised another such conference jointly with Aurangabad Chapter.

- **ICSI-WIRC Investor Awareness Quarter**: I am pleased to share that we had successfully launched ICSI-WIRC Investor Awareness Quarter. As I communicate, ICSI-WIRC had already organised, jointly with MCA and BSE, twenty investor awareness programmes in various parts of Maharashtra including remote areas. I thank all those members and volunteers who are helping WIRO accomplishing this mammoth task of organising 100 such programs in a short span of 3 months, as desired by MCA.
Besides, several other initiatives are underway including some of the first of their kind of programs such as the following:

- **Inter-region sports meet**: ICSI-WIRC would be hosting the first inter-region sports meet where all the four regions across the nation would be participating.

- **State Conferences**: State Conferences in the States of Chattisgarh, Goa and Maharashtra would be organised in the month of January, 2013. Chapters of these States are gearing up for making these grand Conferences a big success.

- **All-Four Regional Councils’ Joint Programs**: A series of programmes are being organised jointly by all the four regional councils, the details of which would be circulated soon.

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<td>1st Inter-region Sports Meet hosted by WIRC</td>
<td>1st – 2nd Dec, ‘12</td>
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<td>‘Triveni’ (Bhopal, Nagpur &amp; Raipur) Chapters’ Joint Program</td>
<td>7th – 8th Dec, ‘12</td>
<td>Pench Tiger Resort, Nagpur</td>
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<td>Four Regional Councils’ Joint Program hosted by NIRC</td>
<td>15th – 16th Dec, ’12</td>
<td>Jalandhar &amp; Amritsar</td>
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<td>1st Chattisgarh State Conference</td>
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<td>1st Maharashtra State Conference</td>
<td>5th – 6th Jan, ’13</td>
<td>Pune</td>
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<td>Annual Regional PCS Conference</td>
<td>9th – 10th Jan, ’13</td>
<td>Vadodara</td>
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<td>1st Goa State Conference</td>
<td>12th – 13th Jan, ‘13</td>
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I appeal all members to participate in large numbers and make these initiatives successful. Please do write at wirc.chairman@icsi.edu /cschairman.wirc@gmail.com Your suggestions and inputs would help achieve the overall objectives towards our theme of the year 2012 - “Educate, Empower & Execute”.

Best Wishes and Season’s Greetings,

Cordially – Mahavir Lunawat
November 16, 2012
Dear Readers,

"Leadership is the ability to establish standards and manage a creative climate where people are self-motivated toward the mastery of long term constructive goals, in a participatory environment of mutual respect, compatible with personal values”.

Mike Vance

Season Greeting to all.

With the elapse of time, profession of Company Secretary is getting wider and has expanded its wings to various new emerging areas like Banking, Insurance, Credit rating etc. In the National Convention at Aamby Valley, Hon'ble Vice President Mr. S. N. Ananthasubramaniam informed that talks with Indian Banking Association has reached to the advance stage and probably there will be vacancies of more than 5000 jobs in the Banking Sector for Company Secretaries in the Credit and other Departments which requires high level of responsibilities, integrity and reliability. Simultaneously, Institute is working in exploring many such opportunities which will not only create new avenues but also inspire our members to think out of the box and create more visibility in the outer world.

There seems to be a general understanding that the role of a Company Secretary is confined to secretarial and compliance jobs only – however, the current dynamic market is an ideal platform for the company secretaries to break this ice and create a space in more strategic role of the corporates.

As the company secretaries are considered to be closer to the board of a company and given the subject background they have [be it corporate laws, tax, accounting], they should help the board in drawing up strategies, planning the transactions and executing the same with a panache in light of the existing fiscal and regulatory regime and considering the proposed changes in the law – there is an urgent need among the professionals and the budding professionals to put a paddle on the gas and take themselves a notch above so that they are considered as a non disposable asset by the corporates – there is no denying fact that the value of Company Secretaryship as a profession lies in our hand and we can add to it through our hardwork, attitude and will to perform at highest level with integrity and precision.

In this edition we have covered such articles like Out of Control, External Commercial Borrowings, etc. which definitely provide a new vision to the professionals.

Happy reading!!!

CS Amit Kumar Jain

“I feel a very unusual sensation - if it is not indigestion, I think it must be gratitude.” - Benjamin Disraeli
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Monthly TARIFF for advertisement in Focus

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Annual Contract : (1) Out of 12 issues you have to remit only 10 issue charges, i.e. 2 issues will be free. (2) *For Principle Sponsorship: Out of 12 issues you have to remit only 9 issue charges (i.e. 3 issues will be free) – INR 9,00,000.

Half Yearly Contract : (1) Out of 6 issues you have to remit only 5 issue charges, i.e. 1 issue will be free. (2)* For principle Sponsorship: Out of 6 issues you have to remit only 5 issue charges, i.e. 1 issue will be free.

Term of Payment : Advance Payment in favour of ‘WIRC of ICSI’ by way of a Cheque / Demand Draft payable at Mumbai along with your release order / advertisement material.

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Disclaimer
The ICSI is not in any way responsible for the result of any action taken on the basis of the advertisement published in the journal.
1. REGISTRATION OF CHARGES

A mere money decree passed by a Court of law does not entitle Annexure unsecured creditor to be treated as a secured creditor. To claim status of a secured creditor, either charge is to be created by parties or charge has to be created by operation of law or by decree of Court. Appellant had advanced a loan to company-in-liquidation for allotment of Non-Convertible Debentures (NCD). On company’s failure to issue NCDs, appellant obtained a decree in its favour from Debt Recovery Tribunal (DRT). Official Liquidator rejected appellant’s claim as secured creditor on ground that appellant’s charge was not registered under section 125. A charge was created by company-in-liquidation nor a charge was created by operation of any law or by decree of DRT. Merely because appellant was in possession of a decree for recovery, did not mean that appellant became a secured creditor. Since there was no charge in favour of appellant he could not be considered as a secured creditor.

- INDUSTRIAL DEVELOPMENT BANK OF INDIA V. THAPAR AGRO MILLS LTD. [2011] 108 SCL 348/12 110 (DELHI)

2. POWER OF COURT TO GRANT RELIEF

High Court will have same power to relieve an alleged offender as Criminal Court has under section 633(1). Pursuant to an inspection under section 209A of books of account and other records of company, Registrar of Companies (ROC) issued eight show-cause notices against company and its said directors, i.e., Petitioners. Show-cause notices related to alleged failure to disclose facts or information and error in accounting. Petitioners filed instant application under section 633(2) for discharging them from offences alleged in show-cause notices. According to company disclosures were properly made and it adopted and applied an accounting standards which was thought by a professionally qualified auditor to be proper. On facts, it could not be said that directors and other officers of company who were Petitioners from committed offences alleged in show-cause notices. According to company disclosures were properly made and it adopted and applied an accounting standards which was thought by a professionally qualified auditor to be proper. On facts, it could not be said that directors and other officers of company who were Petitioners from committed offences alleged in show-cause notices.

- DHUNSERI PETROCHEM & TEA LTD. V. ROC [2011] 108 SCL 482/12 197 (CAL)

3. POWER OF COMPANY LAW BOARD UNDER SECTION 186

Exercising power under section 186, CLB is not required to enter upon a consideration of various allegations and counter-allegations as regards management of company. Appellants were promoters of company ‘Z’. Respondent had acquired equity shares of ‘Z’. Its shareholding was 46.85 per cent of equity capital of ‘Z’. Appellant as well as Respondent had filed company petitions under sections 397 and 398. Both company petitions were pending before CLB. Respondent filed an application under section 186 seeking a direction for convening an extraordinary general meeting of ‘Z’ immediately to consider appointment of nominee directors on behalf of respondent on board of ‘Z’. CLB impugned order granted permission to respondent to convene extraordinary general meeting of ‘Z’. Since there were serious disputes among parties with regard to management of ‘Z’ and nominee directors of respondent were not there on board, CLB rightly directed convening of extraordinary general meeting in exercise of powers conferred under section 186. Since impugned direction was only for purpose of ensuring that independent directors were appointed to board of ‘Z’ representing majority shareholders so that company’s affairs were regulated in best manner, there was absolutely no justifiable reason to find fault with such order.

- DR. JAYARAM CHIGURUPATI V. RANBAXY LABORATORIES LTD. [2011] 108 SCL 196 (AP)

4. POWER OF COURT TO GRANT RELIEF SECTION 633(2) – ALLEGATIONS THAT ACCOUNTING STANDARDS WERE NOT COMPLIED WITH

Where most of allegations are technical in nature, relating to non-compliance of accounting standards, which have not affected the entire accounting procedure adopted by the company or in disclosure of the true affairs of the company, and the petitioners, who apprehend to be prosecuted for the alleged violations, have not only acted honestly but also have acted reasonably in maintenance of the account of the company, the petitioners are entitled to be excused under sub-section (2) of section 633 – PRADIP KUMAR KHAITAN V. R O C [2012] 106 CLA 298 (ORL)

5. RESOLUTION OF BOARD OF DIRECTORS CANNOT BE VOIDED FOR NOT RE-DISCLOSING PERSONAL INTEREST IN A CONTRACT/ARRANGEMENT WHEN DISCLOSURE WAS MADE IN PREVIOUS MEETING WHICH IS ON RECORD – SECTION 299

Spirit of section 299 behind disclosure of interest by a director is to put other directors and company to notice of the interest held by any of the directors in the matter under consideration. Such disclosure is necessarily of such interest or right which the other directors are not aware of. Where the directors are fully aware of the interest of directors concerned and the relevant information is already on record, the resolution cannot be voided merely for non-reiteration of the information in the format of formal disclosure which is mere empty formality – RAVI RAJ GUPTA V. HANSRAJ GUPTA 7 CO. [2011] 106 CLA 310 (DEL)

“There is no greater difference between men than between grateful and ungrateful people.” - R.H. Blyth
Even oral lease understanding is sufficient to entail
Inter-branch payments aren’t deductible on grounds of
MPs couldn’t be said to be ignorant of law still no penalty levied
Rajat Gupta’s ‘Big heart and helping hand’ rescues him -
Contempt proceedings can’t be initiated if petitioner himself
Transfer of any property after initiation of forfeiture proceedings
SC reverses its earlier ruling and nods to initiation of
OECD’s key recommendations for India stress on DTC,
26 taxmann.com 123 (DELHI - ITAT)
[2012] 26 taxmann.com 6 (BANG. - ITAT)

Deeming fiction of deemed dividend can’t be extended further to cover deemed shareholders as well -
Even if contract is termed as ‘turnkey project’, only profit attributable to PE in India shall be taxed in India - NATION
Mere filing of Form 3CEB and maintaining documents don’t prove transactions with AE -
No place for sec. 43B disallowance in India-Mauritius DTAA;
Contempt proceedings can’t be initiated if petitioner himself
Unless company itself accepts its defunctness, its name
SC : Brought forward MAT credit not vulnerable to sec. 234B interest -
Accusing a broker for violating SEBI regulations can’t label
deposit of bonus payable into an earmarked bank account isn’t
gives tips to revenue to widen the tax base -
Period of lease in two different agreements can’t be clubbed together to determine deemed ownership -
Disclosing ITR details under RTI Act may invade individual’s privacy; can be allowed if it’s in public interest -
Availment of credit isn’t dependent on time; Rule 4 only
Even oral lease understanding is sufficient to entail
definition of deemed dividend can’t be extended further
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CIRCULARS AND NOTIFICATIONS

CS Piyush Bindal, Practising Company Secretary, Bhopal

MINISTRY OF CORPORATE AFFAIRS

1. QUALITY OF XBRL FILINGS CERTIFIED BY PROFESSIONAL MEMBERS.
   General Circular No. 33/2012
   Source: www.mca.gov.in
   XBRL Filing of Financial Statements by a select class of companies for FY 2010-11 was mandated vide Ministry of Corporate Affairs Notification GSR No. 748(E) dated 05.10.2011. The E-forms were duly certified by CS/CA/CWA Professionals for their completeness & correctness in their representation with respect to audited financial statement of the Company.

2. A random scrutiny of XBRL Filing of Financial Statements by a few companies for to MCA FY 2010-11 reveals significant variations in disclosures in published results & XBRL Filings due to incorrect ‘mapping’ of disclosures. It has been observed that few disclosures were ‘mapped’/ ‘tagged’ with incorrect accounting concept despite availability of appropriate element in taxonomy. It has also been observed that provisions of ‘Block Text Tagging’ and/or ‘footnote’ have been inappropriately used to report disclosures like subsidiary details, related party transactions, Director’s Report, etc., even when appropriate elements were available in the taxonomy for such disclosures.

3. Such filing are inaccurate and do not adequately represent true & fair view of the state of affairs of the company as per section 211 of the Companies Act, 1956. Such XBRL filings, apart from being misleading, also dilute the effectiveness of XBRL for stakeholders’ usage relating to the companies. It is unfortunate that the Professionals have certified the authenticity of such data, for which they are liable to be penalized. Such lapses defeat the very purpose of introducing XBRL filings which are meant to elicit more detailed & refined information as to the affairs of the companies.

   Please note that XBRL Filings are being minutely scrutinized to see if similar mistakes also appear in a larger sample.

4. It is bounden duty of Institutes to direct its members to take necessary steps to improve the quality of XBRL filings for FY 2011-12 to be undertaken by its members. The Institute may conduct further trainings, issue guidelines, etc so that such quality related issues are appropriately resolved.

5. This may be accorded high priority.

2. FILING OF BALANCE SHEET AND PROFIT AND LOSS ACCOUNT IN EXTENSIBLE BUSINESS REPORTING LANGUAGE (XBRL) MODE FOR THE FINANCIAL YEAR COMMENCING ON OR AFTER 1.4.2011.
   General Circular No. 34/2012
   Source: www.mca.gov.in
   In continuation of the Ministry’s General Circular No. 16/2012 dated 06.07.2012 on the subject cited above, it is stated that the time limit to file the financial statements in XBRL mode without any additional fee/ penalty has been extended upto 15th December, 2012 or within 30 days from the date of their AGM, whichever is later.

1. All other terms and conditions of the General Circular No. 16/2012 dated 06.07.2012 will remain the same.

3. DEFAULT BY COST AUDITORS IN FILING FORM 23D AGAINST THE CORRESPONDING FORM 23C.
   General Circular No. 35/2012
   Source: www.mca.gov.in
   Ministry of Corporate Affairs vide General Circular No. 15/2011 dated 11.04.2011 had prescribed a revised procedure to be followed for appointment of cost auditors. As per the revised procedure, each company is required to e-file its application with the Central government in the prescribed form 23C within ninety days from the date of commencement of each financial year, which shall be approved by MCA within 30 days.

2. Upon approval by MCA, the company is required to issue formal letter of appointment to the Cost Auditor, who shall, within 30 days of receipt of such letter of appointment, inform the central government in the prescribed form 23D along with a copy of such appointment.

3. It is however observed that, since April 1, 2011, though all the appointment applications made by the Companies concerned in Form 23C have already been approved by the MCA, a large number of cost auditors have defaulted in filing the required form 23D within the stipulated time. In many cases, the default period is even more than a year. This has been viewed very seriously by the Ministry.

4. Keeping in view the initial operation of the revised procedure, all the defaulting cost auditors are requested to file the required form 23D that have already become due till date, by December 16, 2012, positively. In case of any further default, names of such defaulting members shall be sent to the institute on December 17, 2012, intimating the Institute to initiate Disciplinary proceedings against them under the relevant provisions of Cost & Work Accountants Act, 1959.

5. In cases where the company concerned, after approval of Form 23C, has failed to issue the formal letter of appointment to the Cost Auditor, they shall do so within 15 days of the issue of this circular enabling the cost auditor to file required form 23D within the extended time indicated above. In case of non-compliance, the company and every officer thereof who is found to be in default shall be punishable as per provisions of the Companies Act, 1956.

6. The Institute is requested to circulate this for the information of all concerned.

“Gratitude is an opener of locked-up blessings.” - Marianne Williamson
4. **APPOINTMENT OF COST AUDITOR BY COMPANIES.**

   *General Circular No. 36/2012*

   *Source: www.mca.gov.in*

In continuation of the General Circular No. 15/2011 dated 11th April 2011, Ministry hereby makes the following changes:

(a) The company shall, within thirty days from the date of approval by MCA of the application made to the Central Government in the prescribed Form 23C seeking its prior approval for the appointment of cost auditor, issue formal letter of appointment to the cost auditor, as approved by the Board.

(b) The cost auditor shall, within thirty days of the date of formal letter of appointment issued by the company, inform the Central Government in the prescribed form 23D, along with a copy of such appointment.

(c) In case of change of cost auditor caused by the death of existing cost auditor, companies are allowed to file fresh e-form 23C, without any additional fee, within 90 days of the date of death. The additional fee payable as per the Companies (Fees on Applications) Rules, 1999 [as amended] shall become applicable after expiry of the said 90 days. Accordingly, e-forms 23C and 23D are being modified to capture such details.

(d) In case of change of cost auditor for reasons other than death of the existing cost auditor, companies are required to file fresh E-form 23C with applicable fee & additional fee, clearly specifying the reasons of change. In case of change due to resignation of the existing cost auditor, e-form 23C should be accompanied by the resignation letter of the existing cost auditor. In case of change due to the management policy of periodical rotation, then attach a copy of the Board approved rotational policy with the e-form 23C. In any other case, the change should be duly justified and supported with the relevant documents.

(e) In order to ensure compliance of section 224(1-B) of the Companies Act 1956, required changes are being made in the MCA21 system to restrict the number of cost audit approvals to the limits specified in section 224(1-B) through a counter on the membership number of the sole proprietor or partner of the firm. It will be further ensured that in case of a sole proprietor, he has completed the audit and submitted the cost audit report. In case of a partnership firm, the partner so appointed or any other partner of the same firm is allowed to complete the audit & submit cost audit report subject to his total numbers not exceeding the limit specified in section 224(1-B).

2. MCA is regularly receiving requests from the companies and cost auditors for making corrections in the e-forms 23C & 23D in respect of minor typographical errors or other mistakes such as incorrect financial year, incorrect name of the cost auditor or the cost audit firm, incorrect PAN number, incorrect scope of audit, etc. In MCA21 system, no changes are permitted in the approved e-forms. Therefore, all companies and cost auditors are hereby informed to carefully verify all particulars before uploading e-forms 23C or 23D on the MCA21 portal. In any rare case, if still any error/mistake is observed, it should be brought to the notice of MCA well before its approval enabling it to return the said e-form for re-submission after making the required corrections. Else, the companies and cost auditors shall be required to file fresh e-forms 23C & 23D containing correct particulars, along with the applicable fee and additional fee.

3. If a company or the cost auditor contravenes any provisions of this circular, the company and every officer thereof who is found to be in default, and the cost auditor in case he is in default, shall be punishable as per applicable provisions of the Companies Act, 1956.

4. The modifications contained in this circular shall be effective from the financial year commencing on or after the 1st day of January, 2013.

5. The Institute is requested to bring this to the general information of all Members in practice, and of the corporate sector.

5. **EXAMINATION OF BALANCE SHEETS BY ROC's.**

   *General Circular No. 37/2012*

   *Source: www.mca.gov.in*

It is considered expedient to issue the following circular for general information.

2. Every company registered under the provisions of the Companies Act, 1956 is required to file its Balance Sheet annually with the office of Registrar of Companies within whose jurisdiction the registered office of the Company is located. Presently, there are more than 8 lakh companies registered with various offices of the ROCs located all over the country. Balance Sheets of all the companies who carry out the filing are available for public inspection on the portal of this Ministry (http://www.mca.gov.in). The underlying idea behind the filing of Balance Sheets and other documents which require similar filings is to publicly disclose information which reflects various aspects of the working of a company so that the Company’s public accountability is maintained. It is neither intended nor feasible for the Registrars to scrutinize or verify the contents of filing except on a random basis. Companies and its Directors and officials are liable to be penalized for any incorrect, false or misleading information that such filing disclose. In the following cases, however, the Registrars routinely scrutinize balance sheets:

   (i) of Companies again whom there are complaints;
   (ii) of Companies which have raised money from the public through public issue of shares/debentures etc.;
   (iii) in cases where the auditors have qualified their reports.
   (iv) Default in payment of matured deposits and debentures.
   (v) References received from other regulatory authorities pointing out violations/irregularities calling for action under the Companies Act, 1956.

3. After the scrutiny steps are initiated wherever necessary to obtain explanation and clarification and to institute inspections, investigations and prosecutions wherever warranted.

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“Gratitude is the music of the heart, when its chords are swept by the breeze of kindness.” - Author Unknown
This is a well known fact that private companies are less governed as compared to public companies and hence, chances of mismanagement are more in private companies. Generally, private companies are formed by relatives, families and such number of directors are appointed on the Board of the Directors of the companies so as to comply with the minimum requirements of the Companies Act, 1956 (the “Act”). In most of the cases, private companies, which are family companies and have been formed on principles of quasi-partnerships, have directors representing specific groups. The absence of adequate provisions in the Act and in the charter documents of such private companies with regard to governance of companies often leads to filing of petitions under Section 397/398 of the Act i.e. Oppression and Mismanagement. One of the very common allegations in these matters is illegal removal of directors/ unauthorized removal of directors by showing false resignation letters. Hence, it becomes very important to know when does resignation takes effect in actual and what should be the form of a resignation letter.

Resignations: When Effective?

Section 284 of the Act specifies the manner in which a director can be removed from his post before expiry of his term. Further Section 283 provides certain grounds on which the office of director ceases, however, the Act does not specify any provision relating to cessation from directorship with their own wish and thus the only exit way available to a director is to tender a resignation. Since the Act does not contain any specific provision in this regard, one needs to refer to the Articles of the Association (“AoA”) of the Company. In the absence of any provision in the AoA, the terms and conditions of appointment of a Director can be seen. The Madras High Court in T. Murari v. State of Tamilnadu held that “In the absence of any provision in respect of resignation under the Act or under the articles of association of the company, the resignation tendered by a director or Managing Director unequivocally in writing will take effect from the time when such resignation is tendered.”

However, it is to be noted that director’s resignation takes effect only when resignation is accepted by the company in the general or board meeting and not from the date of communication of same by the director, if the AoA of the Company contains specific provision in this regard. Further, the resigning director would also require to fulfill such additional conditions as may be specified in the AoA of the Company. In nutshell, as the Act does not contemplate any provision for resignation, same would be completely governed by AoA of the Company. In absence of any such provision in AoA also, ordinary and common laws shall prevail. In S.S. Lakshmana Pillai v. Registrar of Companies the Madras High Court held as follows:

“In the absence of any provision in the articles, the ordinary rule of common law as regards resignation by an officer/agent must be followed viz., intimation by notice given either to the company or to the Board and acceptance of the same by them. Where a resignation states that it is to take effect on acceptance or the Articles so require, acceptance is necessary to end the tenure of office. Where, however, the resignations says that it is take effect immediately, acceptance is not necessary, unless the articles or any provision of law makes it necessary. Any form of resignation, whether oral or written, is sufficient, provided that the intention to resign is clear. It is however advisable that the resignation is in writing and also indicates the time when it is to take effect, so that it may serve as a record of reference in case of controversy. In the absence of any indication otherwise, a resignation takes effect immediately. Resignation will not, however, relieve him from any accountability or other liability which he may have incurred while in office.”

A director resigning at a board meeting should make clear whether the resignation is with immediate effect or from the end of the meeting, as he or she is a party to the decisions of the board up until resignation.

In S.B. Shankar v. Amman Steel Corporation the court held that where the resignation letter states that it has to take effect immediately, the date of resignation letter is taken to the date on which the director has resigned. Thus unless the AoA of the Company concerned contain any specific provision about the acceptance of resignation by the Board of Directors of the company, the resignation from directorship takes effect immediately i.e., from the date of the resignation letter.

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1(1976) 46 Com. Cases, 613 (Mad)
2(1977) 47 Com. Cases 652
3(2002) 51 CLA 341

“Gratitude is an art of painting an adversity into a lovely picture.” - Kak Sri
Notice Period for Tendering Resignation

As mentioned above, the resignation terms are governed by the AoA and/or the terms of appointment of a director. If the AoA or the terms of appointment requires a notice period to be fulfilled, the resignation can take effect only after meeting such requirement of notice period. However, if there is no specific provision in the AoA, a director can resign without giving a reasonable notice as held in OBC Caspian Ltd v Thorp.4

It is to be noted that in case of voluntary resignation of a permanent director when permitted under the AoA, is not dependent upon its acceptance by the company. The permanent director is entitled to relinquish his office as held in Fateh Chand Kad v. Hindsons (Patiala) Ltd.5

Form and Content of Resignation Letters

A resignation letter should be addressed to the company or the Board of Directors of the Company. If addressed to a third party, such resignations are not acceptable by the Company. It is to be noted that any form of resignation should specify the intention to resign clearly and the date from which such resignation will take effect, any form of resignation will surely not relieve a director from any accountable or any other liabilities.

Oral Resignations: How Much Effective?

Oral resignation at a board meeting will be effective if that resignation and its effective timing are clear and unambiguous and the resignation is accepted by the other directors present, but it is wise to follow up an oral resignation with written confirmation to the company chairman or to the company secretary or as required by the articles.

An oral resignation given by the resigning director in the general meeting and on acceptance of same by the members, it can be effective and valid even if the AoA of the Company requires a written notice as held in Glossop v. Glossop.6 This international view has also been affirmed in India in State v. Sitaram7 by the Patna High Court and by Delhi High Court in Mohan Chandra v. Institute of Chartered Accountant8.

Effect of Filling of Necessary Forms with Concerned Registrar of Companies (RoC)

Section 302(2) of the Act casts a legal obligation on the company to inform the registrar of the companies by filling Form 32 giving particulars of changes, if any, in the office of director. If such a form is filed with the registrar of companies it is a proof of a director ceasing to be a director but, it is not an act to be complied with in order to make resignation valid. Resignations once made, take effect immediately and the concerned RoC is informed formally in terms of provisions of the Act. However, mere non filing of requisite form with the concerned RoC does not invalidate the resignation of a director. The Bombay High Court in Dushyant D Anjaria V. Wall Street Finance Ltd held that “…..The resignation of a Director would be effective from the date it was submitted, for the reason that the letter brings out clearly the intention of the person to resign. So far as the formalities like filing up Form 32 and sending it to the Registrar of Companies were concerned, it was for the company to comply with them in conformity with the provisions of Sec. 302 or Sec. 303 of the Companies Act. Where there was delay or negligence on the part of the company in intimating the Registrar about the date of resignation, the Director who had resigned could not be saddled with responsibility and liability for such delay….“

Liability of Resigning Directors

Section 5 of the Act defines “Officer in Default” mentioning a list of officers who will be prosecuted for any violation or offence under the Act. The list includes ‘directors’ also. It is pertinent to note that for the purpose of the said section, the default in reference to an officer means the default during his tenure. In other words, if a default is committed when a person was not even an ‘officer in default’, he cannot be prosecuted and held liable for such default. In the similar way, if it is proved that a director at the time of the contravention was in-charge of and responsible to the company for the conduct of its business, he will be held liable even if resigns afterwards.

Concluding above, a director who has resigned would not be liable for anything that happens subsequently. However, he can still be held liable for any mischief or offence made during his directorship.

5 (1957) 27 Com Cases 340
6 Registrar of Companies v. Orissa Paper Products Ltd., (1988) 63 Comp cases 460 (Ori)
7 (1907) 2 Ch 370
8 AIR 1967 Pat 433
9 AIR 1972 Del 91
10(2001) Comp. Cas. 655 (Bom)
11(2003) 53 CLA 265

“If you have lived, take thankfully the past.” - John Dryden
Resignation of Directors

In case of Pandurang Camotim Sancolarcar V. Suresh Prabhakar Prabhu it was held that when the articles of association provided that the resignation would be effective from the date it was tendered and when the respondent had raised a defence that he resigned on 6.5.1996, the fact of his resignation was not in dispute, what was in dispute was only the date of resignation. Clearly it was a case where the respondent had resigned on 6.5.1996 and ceased to have any connection with the company. It was held that he was not in charge of the management of the day to day affairs of the company subsequent to his resignation.

The Kerala High Court while dealing with a prosecution case against a Managing Director in Achutha Pai V. Registrar of Companies, put additional restriction on resignation of managing directors. In this case, the Managing Director who was prosecuted for default under Section 220 of the Companies Act, 1956 contended that he was not liable as he had resigned before the last date for filing accounts. The court held that a Managing Director combines two capacities, namely, manager and director. Hence, resignation of a managing director becomes effective only when the company accepts the resignation and relieves him from his duties as manager as well.

Resignations by Nominee Directors

It is quite common to appoint nominee directors on a Board of Directors of a Company by lenders. Sometimes, nominee directors are also appointed by another company as its representative pursuant to Shareholders’ Agreement or Joint Venture Agreements. The general law pertaining to resignations is that a resignation is effective once it is tendered. However, the nominee directors so appointed by a nominator owe some duties towards the appointing authority and cannot resign from the directorship without consent of the appointing authority. Any appointment or removal of such nominee directors are governed by AoA of the agreement as entered into with the Company. Where nomination is done by an appointing authority, the resignation should be served to the appointing authority and not to the Company. Since the nominees have been nominated by such authority only, they acquire the position of agent of the appointing authority and such agency can be terminated only by service to the principal. Once consented by the appointing authority, the nominee director may intimate company also.

Cases with Forged Resignation Letters

As mentioned above, now-a-days, many cases have seen where forged and fabricated resignation letters have been used to show the illegal removal of directors. These cases are quite common in private companies which are lesser regulated and are quasi partnership kind of companies. Forged signatures are used to oust a group/person from the management of a company. Such practice of using forged resignation letters ultimately leads to taking actions before Company Law Boards (CLB) and other appropriate authorities. Thousands of cases under section 397/398 of the Act are pending with CLBs. Such actions in all cases have been proved to be time consuming and puts heavy cost burden on parties to such dispute. The records available in public domain i.e. records available with the Ministry are updated as soon as any form is filed. So, immediately on approval of a Form 32 filed for removal of directors, the name of the removed director, even if removed illegally with the fabricated signature, will disappear from the records of the company.

Presently, RoC approves all forms intimating the resignations of directors without giving any chance of hearing to the removed director. As like in transfers, obtaining consent of transferor has been made mandatory before registering any transfers, such system and procedure also needs to be put in place so that the removed director gets a chance to put his stand. The Ministry should formulate the process under which the removed director is intimated before removal. Though, with the time, Ministry’s efforts in this respect are commendable as intimation of any removal is intimated to directors vide email, however, yet not sufficient. System should be such so as to provide a prior intimation to the directors before approval of any such form in order to enable them to take necessary action within time.

Conclusion

From the several judicial pronouncements, some of which have been quoted in this write-up, we may conclude that:

1. Resignations are governed by AoA of a Company and if no such provisions are there in the AoA, resignations will be in accordance with the common laws.

2. Resignations are effective only after acceptance of same by the Company in board or general meeting as the case may be. However, resignations may take effect immediately after tendering if so provided by the AoA of the concerned company.

3. Non filing of requisite form with the concerned RoC does not invalidate the resignations.

4. Persons cannot be held liable for any breach or default by the Company subsequent to their resignations from the post of directorships. However, they may be held liable for any default made during their tenure of directorship.

“...as each day comes to us refreshed and anew, so does my gratitude renew itself daily. The breaking of the sun over the horizon is my grateful heart dawning upon a blessed world.” - Terri Guillemets
In day to day working and also in strategic planning, a Professional comes across the term and concept of “Control”. Few of the instances are the appointment of a Director in a Company, drafting the Articles of Association, drafting of Joint Venture Agreements, drafting of the Shareholders Agreement, finalizing Financial Policies, a listed company acquiring shares of other companies (listed or unlisted), Reporting and Disclosures requirements of the Accounting Standards and implications under the Income Tax Act.

The term is very widely defined in the Corporate Laws. Sometimes, we, as Professionals happen to think that whether the definition or the concept of “Control” has gone out of Control? Why is it so difficult to quantify / define “Control” Or Why can’t we have one definition for the concept?

In this Article, I have analyzed the definition of “Control” by referring the Dictionary and corporate laws (existing and proposed):

(I) Blacks Law Dictionary:

(1) Control (as Noun) - The direct or indirect power to direct the management and policies of a person or entity, whether through ownership of voting securities, by contract, or otherwise; the power or authority to manage, direct or oversee.

(2) Control (as Verb) - To exercise power or influence over.

(II) The Companies Act, 1956:

Section 4 of the Companies Act, 1956 relates to the “Meaning of Holding Company and Subsidiary”. As per Section 4 of this Act, the companies (“S1 & S2”) will be subsidiaries of company (“H”) if:

a) H controls the composition Board of directors of S1 / S2 or;

b) H holds more than half of the nominal value of its equity share capital of S1 / S2 or

c) S2 is a Subsidiary of S1 and S1 is a subsidiary of H.

In Section 4 (2) of this Act, the term “control over the composition of the Board of Directors” has been further elaborated as H may on its own discretion and without the consent of any other person, can appoint or remove all or a majority of the directors in S1/S2.

(III) SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011:

In these Regulations, “Control” is defined in Regulation 2 (1) (e) and it includes:

1) The right to appoint majority of the directors or,

2) The right to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner:

This definition in SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 is subject to the proviso that a director or officer of a Target Company shall not be considered to be in control over such target company, merely by virtue of holding such position –i.e. the position of the Director.

Therefore, in these Regulations, the emphasis on more on the right to appoint directors and right to control the management / policy decisions of the company.

(IV) Accounting Standard (AS) – 18 Related Party Disclosures:

“Control” is defined in Clause 10 of AS – 18. The emphasis is on:

a) Ownership of voting power or

b) Control over composition of Board or

c) Directing the management / policy decisions through substantial interest in the voting power of a company.
(V) Consolidated Financial Statements (AS – 21) 
& Accounting for Investments in Associates in 
Consolidated Financial Statements (AS – 23):

“Control” is defined in Clause 5 of AS – 21 and in Clause 3 of AS – 23. In both the cases, it includes:

a) Ownership of more than half of the voting power of an enterprise or;

b) Control over the composition of the Board of Directors / Governing body with an intention to obtain economic benefits from its activities.

(VI) Financial Reporting of Interests in Joint Ventures 
(AS – 27):

As AS – 27 relates to Financial Reporting of Interests in Joint Ventures, the Clause 3 of the AS has defined both “Joint Control” and “Control”.

“Joint Control” is the contractually agreed sharing of control over an economic activity. “Control” is the power to govern the financial and operating policies of an economic activity so as to obtain benefits from it.

Now, the AS – 27 does not specifically have any provision relating to holding of voting power and control over the composition of the Board of a Company.

(VII) The Companies Bill, 2011:-

It shall include:

a) Right to appoint majority of the Directors or

b) Right to control the management or policy decisions exercisable by a person (individually or in concert), directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner.

The definition is as per Clause 2 (27) of the Bill. If, we observe keenly, the definition of “Control” in the Companies Bill, 2011 very similar to the definition of “Control” under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

(VIII) The Income Tax Act, 1961:

In Income Tax Act, 1961 – the term “Control” / “Substantial Interest” / has been defined in various sections and the same is elaborated as under:

1) Section 40A relates to “Expenses or payments not deductible in certain circumstances”.

The concept of “substantial interest” for the purpose of Section 40A (2b) is given in the Explanation to the Section which states that a person shall be deemed to have a substantial interest (in case of business or profession), if he, at any time during the Previous Year, is the beneficial owner of shares carrying not less than 20% of the voting power.

2) Section 92A of the Income Tax Act, 1961 relates to “Meaning of Associated Enterprise”. The “Associated Enterprise”, in relation to another Enterprise, means an Enterprise:

(a) Which participates in the management or control or capital of the other enterprise; (here the relation is between two enterprises) or

(b) In respect of which one or more persons who participate in its management or control or capital, are the same persons who participate in the management or control or capital of the other enterprise (here there is a relation between two enterprises through one or more person).

Such participation can directly or indirectly, or through one or more intermediaries.

There are 13 Tests in the Section (and any one can be applied), to determine, if two enterprises shall be deemed to be Associated Enterprises (“Alpha” and “Beta” mentioned wherever necessary). Some of them are listed as under:

(a) Holding of not less than 26% of the Voting Power (directly or indirectly);

(b) Loan advanced by Alpha to Beta constitutes not less than 51% of Book Value of the Total Assets of Beta;

(c) Alpha guarantees not less than 10% of the Total Borrowings of Beta;

(d) Beta appoints more than half of the Board of Directors / Members of the Governing Board of Alpha or

(e) Same person appoints more than half of the directors / Members of Governing Board of each of Alpha and Beta;

(f) Alpha is wholly dependent on the Intellectual Property (IP) of Beta for its manufacturing or processing activity; or

(g) Beta supplies 90% or more of the raw materials.

“You say grace before meals. All right. But I say grace before the concert and the opera, and grace before the play and pantomime, and grace before I open a book, and grace before sketching, painting, swimming, fencing, boxing, walking, playing, dancing and grace before I dip the pen in the ink.” - G.K. Chesterton
and consumables required for the manufacture or processing carried out by Alpha; or

(h) Alpha manufactures and processed goods / articles and sells to Beta and prices & conditions are influenced by Beta or

(i) There exists between Alpha and Beta, any relationship of mutual interest, as may be prescribed.

The relationship defined in Section 92A of the Income Tax Act, 1956 is the widest of all (in my view) because it not only considers voting rights and power to appoint Directors; but also covers Control through granting of loan, guarantee of loan, dependency on IP for manufacturing; supply of raw material, control over prices and finalization of terms and conditions.

Really out of Control? :

As seen above, there are many definitions of “Control” in the various legislations and only few are discussed above. So, has the definition of “Control” become out of Control and not manageable? Why can’t the all the laws in a country have the one single definition for a legal concept?

The reason, in my view, is that every legislation has its own objective and principles. Broadly speaking, the objective of Company Law is to manage and administer the working of the Companies in India, whereas the objective of Taxation Laws is to ensure the tax is not evaded by the Companies through complicated transactions and the objective of Accounting is to ensure that the Financial Statements give a true and fair view of the state of affairs of the company and also ensure adequate discil requirements. Hence, accordingly the definition is drafted in a particular legislation to meet its objectives.

Further, the common thread / theme in the above definitions of “Control” is:

(1) Control over the composition of the Board of Directors / Right to appoint Directors;

(2) Ownership of Voting Rights;

(3) Control and Management over the Policies decisions / Management decisions;

Now, the quantum of such theme and the manner of exercising control or influence will depend upon the respective Legislations and its objective.

Here, the “Quantum” means the percentage of the voting rights held and manner of exercising control or influence can be, direct or indirect; individually or in concert; by any agreement, etc.

CONCLUSION:

At the time of decision making, a Professional is required to take comprehensive and complete view of all the applicable laws from the point of view of change in “Control”. Having only one and a limited perspective of the law would not assist the management of the Company in taking informed decisions.

Acknowledgement: Special Thanks to C.A. Gaurav Jangale for his valuable contribution.

The regulations governing the Insider Trading are sharp and stringent in the foreign countries like United States, UK. Rajat Gupta’s conviction in the matter is a recent development abroad. In India the SEBI regulations and provisions contained in the Securities Contract and Regulations Act lays down the principle.

A person who is a director of a listed company associated with certain price sensitive information which is used or deemed to be used to benefit himself or his relatives or shared in any way that would influence the price of shares traded in the Stock Exchanges. The SEBI and Tribunals and Courts cannot hold a person to be an insider, unless they have a clinching evidence of such an Insider trading. In other words, a mere presumption or otherwise of sharing of such a price sensitive information would not make a person guilty. According to experts abroad Insider Trading has to be proved beyond doubt. The Director acting in a company in a fiduciary capacity cannot share price sensitive information at all which influences the stock market in any manner. The mere fact that the said director has acted in concert based on the information and accrued the impugned benefit out of such information he is held to be an insider trader. It is not necessary to prove the guilt since the guilt cannot be rebutted. The communication channels abroad are so well developed and refined that mere telephonic conversation on phone exchanging the information on impugned Investments in certain securities prior to the date of transaction would be deemed to be adequate proof to holding it to be Insider Trading.

In India, the Insider Trading cases are of a recent origin and of course are not rampant. SEBI cannot hold any one as an insider merely on the fact that it has gathered certain information which might presumably be termed as an Insider Trading. SEBI also cannot arbitrarily create any nexus between erratic movements of share prices with those of transactions carried out by the officials connected with the company. There must exist clinching evidence proving someone as Insider Trader.

SEBI INSIDER TRADING REGULATION ACT, 1992 defines Insider means any person who is or was connected with the company or is deemed to have been connected with the company, and who is reasonably expected to access to unpublished price sensitive information in respect of securities of company or has received or has had access to such unpublished price sensitive information.

Price Sensitive information means any information which relates directly or indirectly to a company and which if published is likely to materially affect the price of securities of the company.

A recent matter of Japee Group Associates is a case in question. SEBI held an independent Director of a Company to be an Insider as he possessed Trial Balance of a Company 5 days prior to the Board Meeting (12TH October) where the profits and dividends were declared on 17th October. The Independent Director prior to the date on which the price sensitive information was tabled before the Board and shared with the public bought through his nominee, his wife, 8400 shares of the said company. The Directors wife having purchased these shares was a beneficiary to a sudden spurt in the prices of said scrip. Hence, the Independent Director was deemed to have committed Insider Trading and therefore liable to penalty.

The arguments put forward by the counsels pleading Independent Director is that the shares from the market have been acquired/purchased by ID’s wife before the price sensitive information being exchanged. A mere access to the Trial Balance would not tantamount to sharing of price sensitive information. The Financial Accounts disclosing the Dividends, Rights, Bonus, Profits etc. have been announced only on the date of Board Meeting. It would have been said to be Insider Trading had she purchased the shares on the day of Board Meeting when the price sensitive information has been disseminated. The argument is fully tenable and the ID’s wife is not guilty as she has not acted upon the information shared by her husband since she bought shares in the ordinary course 5 days(12TH oct.) before the date of sharing of price sensitive information.

Moving forward, she has been regularly trading with the securities. The defendant also argued before the authorities that the quantity of shares purchased was so small that it cannot be classified under Insider Trading although the prices of shares sharply increased over a period of time. The authorities did not have any clinching evidence proving the ID to be adjudged as an Insider Trader.

It is alarming to note that SEBI imposed a penalty of a whopping sum of Rs. 30 lacs on the Independent Director who did not fall recourse to sensitive information.

This action of SEBI is unpardonable in as much as they found no clinching evidence to the entire episode. In the earlier matter of RANBAXY too SEBI held similar action of Insider Trading in the year 2008( Kaul’s Case ). It is imperative, therefore, judicially speaking, the finest Insider Trading Laws and Regulations must be in place, in the absence, those not guilty would be punished. Professionally qualified and learned persons would be discouraged to accept the position of Independent Directorship in a Listed Company.

“Praise the bridge that carried you over.” - George Colman

CS K. G. Saraf, Practising Company Secretary, Mumbai
EXTERNAL COMMERCIAL BORROWINGS (ECB) – A SOURCE OF FOREIGN CURRENCY BORROWINGS

CS Vidya Shembekar, Company Secretary, Mumbai

PART - II

(B) APPROVAL ROUTE

Applicants are required to submit an application for ECB through designated AD bank to Reserve Bank of India, Central Office, ECB Division along with necessary documents. The borrower must obtain a Loan Registration Number (LRN) from RBI before drawing down the ECB. Borrowers are required to submit ECB-2 Return certified by the designated AD bank on monthly basis so as to reach DSIM, Reserve Bank within seven working days from the close of month to which it relates.

Eligible Borrowers

The following types of proposals for ECB are covered under the Approval Route:

a) On lending by the EXIM Bank for specific purposes will be considered on a case by case basis.

b) Banks and financial institutions participated in the textile or steel sector restructuring package as approved by the Government are permitted to the extent of their investment in the package and assessment by the RBI based on prudential norms. Any ECB availed for this purpose so far will be deducted from their entitlement.

c) ECB with minimum average maturity of 5 years by NBFCs from financial institutions and bank defined under ECB policy to finance import of infrastructure equipment for leasing to infrastructure projects.

d) NBFCs, categorized as IFCs, by RBI, are permitted to avail of ECBs, including the outstanding ECBs, beyond 50% of their owned funds, for on-lending to the infrastructure sector as defined under the ECB policy, subject to their complying with certain conditions.

e) Foreign Currency Convertible Bonds (FCCBs) by Housing Finance Companies having minimum net worth as defined under the ECB policy, listed on the BSE or NSE and having minimum size of FCCB of USD 100 million.

f) Special Purpose Vehicles, or any other entity notified by the RBI, set up to finance infrastructure companies / projects exclusively, will be treated as Financial Institutions and ECB by such entities will be considered under the Approval Route.

g) Multi-State Co-operative Societies engaged in manufacturing activity and financially solvent and which submits its up-to-date audited balance sheet.

h) SEZ developers can avail of ECBs for providing infrastructure facilities within SEZ, as defined in the extant ECB policy.

i) Developers of National Manufacturing Investment Zones (NMIZs) can avail of ECB for providing infrastructure facilities within SEZ, as defined in the extant ECB policy.

j) Eligible borrowers under the automatic route other than corporates in the services sector viz. hotel, hospital and software can avail of ECB beyond USD 750 million or equivalent per financial year.

k) Corporates covered under hotels, hospitals and software sector can avail of ECB beyond USD 200 million or equivalent per financial year.

l) Service sector units, other than those in hotels, hospitals and software, subject to the condition that the loan is obtained from foreign equity holders.

"If a fellow isn't thankful for what he's got, he isn't likely to be thankful for what he's going to get." - Frank A. Clark
m) Corporates which have violated the extant ECB policy and are under investigation by the RBI and / or Directorate of Enforcement are allowed to avail of ECB only under the approval route.

n) Cases falling outside the purview of the automatic route limits and maturity period.

**Amount and Maturity**

Eligible borrowers under the automatic route other than corporate in the services sector viz. hotel, hospital and software can avail of ECB beyond USD 750 million or equivalent per financial year. Corporate in hotels, hospitals and software sector are allowed to avail of ECB beyond USD 200 million or its equivalent in a financial year for meeting foreign currency and / or Rupee capital expenditure for permissible end-uses. The proceeds of the ECBs should not be used for acquisition of land.

Indian companies which are in the infrastructure sector can avail of ECBs in Renminbi (RMB), subject to an annual ceiling of USD one billion for the entire sector, pending further review.

**Bridge Finance**

Indian companies which are in the infrastructure sector, as defined under the extant ECB policy are permitted to import capital goods by availing of short term credit (including buyers’ / suppliers’ credit) in the nature of ‘bridge finance’, under the approval route, provided the bridge finance shall be replaced with a long term ECB. The long term ECB shall comply with all the extant ECB norms; and prior approval from Reserve Bank is obtained for replacing the bridge finance with a long term ECB.

**ECB for working capital for civil aviation sector**

Airline companies registered under the Companies Act, 1956 and possessing requisite license from DGCA for passenger transportation are eligible to avail of ECB for working capital. The ECBs can be raised with a minimum average maturity period of three years.

The overall ECB ceiling for the entire civil aviation sector is USD One billion and any individual airline company can avail ECB up to USD 300 million. This limit can be utilized for working capital as well as refinancing of the outstanding working capital Rupee loan(s) availed of from the domestic banking system. ECB availed for working capital/refinancing of working capital will not be allowed to be rolled over.

**Guarantee**

Issuance of guarantee, standby letter of credit, letter of undertaking or letter of comfort by banks, financial institutions and NBFCs relating to ECB is not normally permitted. Applications for providing guarantee/standby letter of credit or letter of comfort by banks, financial institutions relating to ECB in the case of SME will be considered on merit subject to prudential norms.

Issue of guarantees, standby letters of credit, letters of undertaking and letters of comfort by banks in respect of ECB by textile companies for modernization or expansion of textile units will be considered under the Approval Route subject to prudential norms.

**Security**

The choice of security to be provided to the lender / supplier is left to the borrower. However, creation of charge over immovable assets and financial securities, such as shares, in favour of the overseas lender is subject to FEMA Regulation as amended from time to time. Powers have been delegated to Authorised Dealer Category I banks to issue necessary NOCs under FEMA.

**Parking of ECB proceeds**

Borrowers are permitted to either keep ECB proceeds abroad or to remit these funds to India, pending utilization for permissible end-uses. ECB proceeds meant only for foreign currency expenditure can be retained abroad pending utilization. The rupee funds, however, will not be permitted to be used for investment in capital markets, real estate or for inter-corporate lending.

ECB proceeds parked overseas can be invested in the liquid assets and monetary instruments of one year maturity having minimum rating as indicated by RBI. The funds should be invested in such a way that the investments can be liquidated as and when funds are required by the borrower in India.

Any contravention of the ECB guidelines will be viewed seriously and will invite penal action under the Foreign Exchange Management Act (FEMA), 1999. The designated AD bank is also required to ensure that the ECB proceeds meant for Rupee expenditure are repatriated to India immediately after drawdown.

**Prepayment**

(a) Prepayment of ECB up to USD 500 million may be allowed by the AD bank without prior approval of the Reserve Bank subject to compliance with the stipulated minimum average maturity period as applicable to the loan.

(b) Pre-payment of ECB for amounts exceeding USD 500 million would be considered by the Reserve Bank under the Approval Route.

**Refinancing/rescheduling of an existing ECB**

Existing ECB may be refinanced by raising a fresh ECB at a higher all-in-cost subject to the condition that the enhanced all-in-cost does not exceed the all-in-cost ceiling prescribed as per the extant guidelines.

“The unthankful heart... discovers no mercies; but let the thankful heart sweep through the day and, as the magnet finds the iron, so it will find, in every hour, some heavenly blessings!” - Henry Ward Beecher
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Debt Servicing

The designated AD bank has general permission to make remittances of installments of principal, interest and other charges in conformity with the ECB guidelines issued by Government / Reserve Bank from time to time.

Conversion of ECB into Equity

(i) Conversion of ECB into equity is permitted subject to the following conditions:

(a) The activity of the company is covered under the Automatic Route for Foreign Direct Investment or Government (FIPB) approval for foreign equity participation has been obtained by the company, wherever applicable.

(b) The foreign equity holding after such conversion of debt into equity is within the sectoral cap, if any,

(c) Pricing of shares is as per the pricing guidelines issued under FEMA, 1999 in the case of listed/ unlisted companies.

(ii) In case of full or partial conversion of ECB, the Borrowers are required to report the same to RBI in form FC-GPR as well as in form ECB-2 submitted to the RBI within seven working days from the close of month to which it relates.

Delegation of powers to Authorised Dealers

Any changes in the terms and conditions of the ECB after obtaining Loan Registration Number from RBI, required the prior approval of RBI. The powers have been delegated to the designated AD Category-I banks to approve the requests from the ECB borrowers, subject to specified conditions and the changes should be promptly reported to Reserve Bank of India in Form 83.

(a) Changes/modifications in the drawdown/ repayment schedule

Designated AD Category-I banks may approve changes/modifications in the drawdown/ repayment schedule of the ECBs already availed, both under the approval and the automatic routes, provided the average maturity period, as declared while obtaining the Loan Registration Number is maintained.

(b) Changes in the currency of borrowing

Designated AD Category-I banks may allow changes in the currency of borrowing, if so desired, by the borrower company, in respect of ECBs availed of both under the automatic and the approval routes, provided there is no change in the terms and conditions of the ECB. Designated AD banks should ensure that the proposed currency of borrowing is freely convertible.

(c) Change of the AD bank

Designated AD Category-I banks may allow change of the existing designated AD bank by the borrower company for effecting its transactions pertaining to the ECBs subject to No-Objection Certificate (NOC) from the existing designated AD bank and after due diligence.

(d) Changes in the name of the Borrower Company

Designated AD Category-I banks may allow changes in the name of the borrower company subject to production of supporting documents evidencing the change in the name from the Registrar of Companies.

(e) Change in the recognized lender

Designated AD Category-I banks may approve the request from the ECB borrowers with respect to change in the recognized lender, subject to the Authorised Dealer ensuring that the new lender is a recognized lender as per the extant ECB norms, there is no change in the other terms and conditions of the ECB and the ECB is in compliance with the extant guidelines.

(f) Cancellation of LRN

The designated AD Category-I bank may directly approach DSIM for cancellation of Loan Registration Number for ECBs availed, both under the automatic and approval routes, subject to ensuring that no draw down for the said LRN has taken place and the monthly ECB-2 returns till date in respect of the LRN have been submitted to DSIM.

(g) Change in the end-use of ECB proceeds

The designated AD Category-I bank may approve requests from ECB borrowers for change in end-use in respect of ECBs availed under the automatic route, provided the proposed end-use is permissible under the automatic route as per the extant ECB guidelines and there is no change in the other terms and conditions of the ECB and monthly ECB-2 returns till date in respect of the LRN have been submitted to RBI. However, change in the end-use of ECBs availed under the approval route will continue to be referred to the Foreign Exchange Department, Central Office, Reserve Bank of India.

(h) Reduction in amount of ECB

The designated AD Category-I bank may approve requests from ECB borrowers for reduction in loan amount in respect of ECBs availed under the automatic route, provided the consent of the lender for reduction in loan amount has been obtained, the average maturity period of the ECB is maintained, monthly ECB-2 returns in respect of the LRN has been submitted to RBI and there are no changes in the other terms and conditions of the ECB.
Securitisation – A Brief Introduction

Mandar S. Bhatavadekar

I. MEANING:

Securitisation is the process of pooling and repackaging of homogeneous illiquid financial assets into marketable securities that can be sold to investors. In traditional methods of corporate finance, a corporation raises equity/obligations to own assets. In securitisation, a corporation creates and ‘securitises’ assets - that is, transfers assets in form of securities.

II. PARTICIPANTS:

• Originator
• Obligor
• SPV
• Investors
• Rating Agency
• Administrator or Servicer
• Guarantor/Insurer
• Structurer/ Merchant Banker

III. PROCESS OF SECURITIZATION:

1. The lender (originator) provides various types of loans to borrowers (obligor).
2. Out of these loans, the originator pools certain loans together and sells these to a securitisation company (SPV).
3. The securitisation company makes payment (consideration) to the originator for the loans purchased.
4. These loans are converted into a pool of securities by the securitisation company for the purpose of issuing Pass Through or Pay Through Certificates (PTCs)
5. These PTCs are then rated by Credit Rating Agencies (e.g. CRISIL).
6. The PTCs are sold to individual investors (QIBs)
7. The recovery from original borrower are obtained by original lender (in case of Pass Through Certificates) and by securitisation company (in case of Pay Through Certificates). If collection is made by original lender, he is under obligation to pass on the money to the securitisation company.
8. The securitisation company then, makes payment to the investors.

Securitisation Process:

IV. KEY CONCEPTS:

1. Credit Enhancement:

This refers to the various means that attempt to buffer investors against losses on the asset collateralising their investment. Credit enhancement is often essential to secure a high level of credit rating.

Credit Enhancement methods:

a) Internal Credit Enhancement :

• Credit Tranching: As SPV issues two or more tranches of securities and establishes a predetermined priority in their servicing.
• Over Collateralization: The originator set aside asset in access of the collateral required to be assigned to the SPV. The cash flow from these assets must first meet any overdue payments
in the main pool.

- Cash collateral: These works same as the over collateralization.

b) External Credit Enhancement:
- Insurance: Full insurance is provided against the losses on the asset.
- Third Party Guarantee: This method involve a limited/full guarantee by third party to cover losses.
- Letter of credit: For structures with credit rating below the level sought for the issue.

2. Pass through certificates and Pay through certificates:

The securities could represent a direct claim of the investors on all that the SPV collects from the receivables transferred to it in this case, the securities are called “pass through certificates” or “beneficial interest certificates” as they imply certificates of proportional beneficial interest in the assets held by the SPV.

Alternatively, the SPV might be reconfiguring the cash flow by reinvesting it, so as to pay the investors on fixed dates, not matching the dates when the transferred receivables are collected by the SPV. In this case, the securities held by the investors may be called “pay through certificates.”

3. Excess spread:

It is the difference between the weighted average rate of interest inherent in the receivables (this is true for loans or loan-type transactions) and the weighted average funding cost of the transaction.

V. STRUCTURING AND CASH FLOW SCHEME:

a) Creation of Classes of securities with probabilities of Losses

Suppose probability of having no loss at all is about 13.6%. The probability of 1% loss in the pool is about 27%, and likewise, the probability of 2% of the pool being lost is also about 27%. However, as we move to the right hand side, the probabilities start declining sharply. The probability of a 7% loss is only 0.3%, and that of losing 10% is 0.003%.

With those numbers, an originator company can, via the SPV, create four classes of securities Class D taking the bottom 3% of the liabilities, Class C 2% of the liabilities, Class B 2% of the liabilities, and class A the balance 93%. The losses up to 3% will be taken by class D, losses from 3.01% to 5% will be taken by class C, from 5.01% to 7% by class B, and losses in excess of 7% will be taken by class A.

b) Cash Flow scheme of Securitisation

(To be continued in next issue)
OTHER EMERGING AREAS

PROFESSIONALS NOT LIABLE FOR WRONG ADVICE

CS Mohammed Aabid, Company Secretary

Professionals cannot be held liable for criminal prosecution if their advice causes pecuniary loss to the client, unless they were part of a conspiracy in the fraudulent transaction, the Supreme Court has ruled.

The apex court said that professionals like lawyers, doctors, chartered accountant, company secretary and surgeons cannot be expected to give 100 per cent assurance to their clients or patients of success, unless there was a deliberate attempt to defraud the victim.

In Central Bureau of Investigation, Hyderabad v. K. Narayana Rao, the lawyer concerned, being a panel advocate representing a bank, delivered a series of legal opinions relating to the title to several properties. The bank lent monies on the strength of the legal opinions, which were found to be erroneous. The lending transaction was found to be part of a larger scheme by several persons to defraud the bank. The Central Bureau of Investigation (CBI), after investigation, filed charges against the lawyer. These charges were quashed by the Andhra Pradesh High Court, against which the CBI appealed to the Supreme Court.

In its judgment, the Supreme Court considered the legal position on two counts. First, it determined whether the High Court has the requisite powers to quash charges under section 482 of the Criminal Procedure Code, a matter that falls squarely within the domain of criminal law and procedure. Second, the court also considered the role of a lawyer issuing a title opinion on behalf of the bank, and the responsibility of such lawyer, particularly under criminal law. It is with the second aspect that we are concerned.

In the present case, the lawyer issued a customary title opinion after considering all the documents provided by the parties. The opinion provided conclusions on whether the owner possessed the necessary title to the property to be able to convey the same to the purchaser. It was specifically found that a substantial part of the opinion was based on photocopies of documents, and few originals were provided. After considering the available evidence, the court concluded that there was insufficient material to conclude that the lawyer was acting as a conspirator so as to be charged for the offence to defraud the bank.

The Supreme Court sought to lay down the standards of lawyers in such circumstances:

1) In the banking sector in particular, rendering of legal opinion for granting of loans has become an important component of an advocate’s work. In the law of negligence, professionals such as lawyers, doctors, architects and others are included in the category of persons professing some special skills.

2) The only assurance which such a professional can give or can be given by implication is that he is possessed of the requisite skill in that branch of professional which he is practising and while undertaking the performance of the task entrusted to him, he would be exercising his skill with reasonable competence. This is what the person approaching the professional can expect. Judged by this standard, a professional may be held liable for negligence on one of the two findings, viz., either he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence in the given case, the skill which he did possess.

3) Mere negligence unaccompanied by any moral delinquency on the part of a legal practitioner in the exercise of his profession does not amount to professional misconduct.

4) Therefore, the liability against an opining advocate arises only when the lawyer was an active participant in a plan to defraud the Bank. In the given case, there is no evidence to prove that [the lawyer] was abetting or aiding the original conspirators.

5) However, it is beyond doubt that a lawyer owes an “unremitting loyalty” to the interests of the client and it is the lawyer’s responsibility to act in a manner that would best advance the interest of the client. Merely because his opinion may not be acceptable, he cannot be mulcted with the criminal prosecution, particularly, in the absence of tangible evidence that he associated with other conspirators. At the most, he may be liable for gross negligence or professional misconduct if it is established by acceptable evidence.

“If you count all your assets, you always show a profit.” - Robert Quillen
While this may seem to exonerate lawyers from criminal liability for erroneous opinions, the ruling must be read in its specific context. What was in question in that case was the charge of criminal conspiracy, which now seems to be difficult to establish against erring lawyers. To that extent, it may stated that the risk to lawyers is somewhat contained. However, this decision does not deal with the specific issue of liability for gross negligence or professional misconduct, on which the court has left the door open. Moreover, this decision is specifically in the context of criminal liability for conspiracy to defraud, and does not touch upon the issues if civil liability for professional negligence or misconduct, which might continue to operate if circumstances so justify.

"The ingredients of the offence of criminal conspiracy are that there should be an agreement between the persons who are alleged to conspire and the said agreement should be for doing of an illegal act or for doing, by illegal means, an act which by itself may not be illegal," the bench said.

The apex court said a lawyer does not tell his client that he shall win the case in all circumstances nor would a physician assure the patient of full recovery in every case.

"A surgeon cannot and does not guarantee that the result of surgery would invariably be beneficial, much less to the extent of 100 per cent for the person operated on," the bench said.

The court said a professional may be held liable for negligence on one of the two findings, viz., either he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence in the given case, the skill which he did possess.

"Therefore, the liability against an opining advocate arises only when the lawyer was an active participant in a plan to defraud the bank.

"In the given case, there is no evidence to prove that A-6 (Rao) was abetting or aiding the original conspirators," the bench remarked.

The apex court said the essence of criminal conspiracy is an agreement to do an illegal act and such an agreement can be proved either by direct evidence or by circumstantial evidence or by both.

"Even if some acts are proved to have committed, it must be clear that they were so committed in pursuance of an agreement made between the accused persons who were parties to the alleged conspiracy.

"In other words, an offence of conspiracy cannot be deemed to have been established on mere suspicion and surmises or inference which are not supported by cogent and acceptable evidence," Justice Sathasivam said.

The apex court, however, said, it is beyond doubt that a lawyer owes an "unremitting loyalty" to the interests of the client and it is the lawyer's responsibility to act in a manner that would best advance the interest of the client.

"At the most, he may be liable for gross negligence or professional misconduct if it is established by acceptable evidence and cannot be charged for the offence under Sections 420 (cheating) and 109 (abetment) of IPC along with other conspirators without proper and acceptable link between them," the bench said.

CONCLUSION

- Professionals like lawyers, doctors, surgeons, Chartered Accountant, Company Secretaries etc cannot be held liable for criminal prosecution if their advice causes pecuniary loss to the client, unless they were part of a conspiracy in the fraudulent transaction, the Supreme Court has ruled.

- Professionals cannot be expected to give 100 per cent assurance to their clients or patients of success, unless there was a deliberate attempt to defraud the victim.

- "The only assurance which such a professional can give or can be given by implication is that he is possessed of the requisite skill in that branch of profession which he is practising and while undertaking the performance of the task entrusted to him, he would be exercising his skill with reasonable competence,

- professional may be held liable for negligence on one of the two findings, viz., either he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence in the given case, the skill which he did possess.

- "Merely because his opinion may not be acceptable, he cannot be mulcted with the criminal prosecution, particularly, in the absence of tangible evidence that he associated with other conspirators.

- In deciding whether a professional has acted against moral turpitude, background of each case has to be looked into and to assess whether such practioner had deliberately acted with ill-faith and malafide intention.

"He is a wise man who does not grieve for the things which he has not, but rejoices for those which he has.” - Epictetus
CSBF

Safeguarding and caring for your well being

COMPANY SECRETARIES BENEVOLENT FUND

Saathi Haath Badhana

The Institute of Company Secretaries of India

In Pursuit of Professional Excellence

Statutory body under an Act of Parliament

Education Allowance
- Upto ₹20,000 per child subject to a maximum of two children in case of the member leaving behind minor children (one time payment)

Benefits to Members admitted to the CSBF after attaining the age of 60 years
The members above the age of 60 years can be admitted to the Fund. However, in the event of death, financial assistance would be released @ ₹40,000 for every completed year of membership or part thereof in excess of six months subject to a minimum of ₹50,000 and maximum of ₹2,00,000

ICSI has established the Company Secretaries Benevolent Fund (CSBF) in the year 1976 which seeks to create security umbrella for dependent family members

OBJECTIVE
- Benevolence
- Financial assistance to the families
- Medical assistance
- Assistance for Children Education

Nature of Fund
- Fund is a society registered with the Registrar of Societies, New Delhi under the Societies Registration Act, 1860
- Fund is managed by the Committee consisting of 12 members.
- President, Vice President and Secretary of the ICSI are ex-officio members of the Managing Committee of the Fund
- The Fund is recognized under Section 12A of the Income Tax Act.

Financial position of the Fund (as on 31.03.2012)
- Corpus ₹ 6,31,24,964
- Investments ₹ 6,57,31,018
- Total assistance provided in the year 2011-12: ₹ 21,11,481

An Appeal

The Company Secretaries Benevolent Fund (CSBF) was instituted with an objective of extending financial assistance to its members and their families in times of distress. In recent past, in some of the tragic incidences, although the Institute was able to extend the financial help to the families of the members immediately, the Institute would have been able to provide better financial assistance if the membership of CSBF had been larger. Therefore, appeal to those Company Secretaries who have not yet become members of CSBF to apply for membership immediately. The members who are already members of CSBF are requested to donate generously for the noble cause. The donations to the fund are exempted under section 80G of the Income Tax Act, 1961. For details refer to the website: www.icsi.edu

N.K. Jain
SECRETARY & CEO

Benefits

Upto the age of 60 years
- Upto ₹3,00,000 in deserving cases on receipt of request subject to the Guidelines approved by the Managing Committee from time to time
- Group Life Insurance Policy for a sum of ₹2,00,000

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

Reimbursement of Medical expenses
- Upto ₹60,000

Total number of members as on 31/08/2012 - 5,903
- And it's all so easy to become a member of the CSBF.
- Make an application in Form A (available on the Institute's Web Portal: www.icsi.edu/csbf)
- Form A and remittance of one time subscription amount of ₹7,500 can be submitted ONLINE through Institute's Web Portal: www.icsi.in. No transaction charges for online payment will be charged from the Members.
- Alternatively, send / deposit Form A alongwith Demand Draft payable at New Delhi in favour of "Company Secretaries Benevolent Fund" at any of the Offices of the Institute / Regional Offices / Chapters.
For further clarification/information please contact Membership Section of the Institute at
Telephone no. 45341049 / 45341047 FaxNo. - 24636467
E-mail id: csbf@icsi.edu; member@icsi.edu

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In Pursuit of Professional Excellence
Statutory body under an Act of Parliament
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Tel: 22853700, 22854031 Fax: 22856100 Websit: www.icsi.edu; www.cicsi.com

November, 2012
The Western India Regional Council (WIRC) of the Institute of Company Secretaries (ICSI) organizes number of high quality professional development programmes on contemporary issues and on topics of emerging importance. In order to facilitate the members to register for the programmes and pay fees and get benefits, ICSI-WIRC is pleased to announce continuation of its popular Programme Membership Scheme, on quarterly basis.

The details of the Scheme are as follows:

Credit Hours: Credit Hours would be granted to member(s) attending programme as per guidelines of the ICSI.

Validity: The Membership is valid for Three Months from the date of registration(subject of maximum of 3 full day Programmes).

Annual Fees:

1. Individual Members of ICSI: Rs.2,000/- (Individual Members will not be eligible to depute any other person.)
2. Corporate Members: Rs. 3,000/- (Corporate Members may depute any one person from their organization/ Firm of PCS to attend the programme, who need not be a member.)
3. Senior Citizen members (Age – above 60 years): Rs. 1,500/-

Members will be provided with free backgrownders and refreshments during the Seminars / Programmes.

The fee may be paid by way of cheque / demand draft in favour of “WIRC of ICSI” payable at Mumbai and forward the same to ICSI-WIRC, 13 Jolly Maker Chambers No. 2, First Floor, Nariman Point, Mumbai – 400021.

Educate, Empower and Execute
### TAX RELATED COMPLIANCES

#### CENTRAL EXCISE ACT RELATED COMPLIANCE

<table>
<thead>
<tr>
<th>Sr No</th>
<th>Things you need to do</th>
<th>Sections / Rules / Clauses prescribing the activities to be done</th>
<th>Acts / Regulations / Circulars under which the Sections / Rules / Clauses is covered</th>
<th>Due Date before which you need to comply the activity</th>
<th>You need to submit this to</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pay excise duty on the goods removed from the factory or warehouse for the previous month</td>
<td>Rule 8(1) Central Excise Rules, 2002</td>
<td></td>
<td>December 5</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>2</td>
<td>Pay excise duty on the goods removed from the factory or warehouse for the previous month (E-payment)</td>
<td>Rule 8(1) Central Excise Rules, 2002</td>
<td></td>
<td>December 6</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>3</td>
<td>Submit monthly Central Excise E.R.1 Return (E.R. 2 return for 100% EOU / units in FTZ / SEZ)</td>
<td>Rule 12 (1) / 17 (3) Central Excise Rules, 2002</td>
<td></td>
<td>December 10</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>4</td>
<td>Submit monthly return return by manufacturer of Final Product (N.A. for SSI)</td>
<td>Rule 9(7) CENVAT Credit Rules, 2004</td>
<td></td>
<td>December 10</td>
<td>Superintendent of Central Excise</td>
</tr>
<tr>
<td>5</td>
<td>Submit return containing information of principal input for the preceding month E.R.6</td>
<td>Rule 9A CENVAT Credit Rules, 2004</td>
<td></td>
<td>December 10</td>
<td>Superintendent of Central Excise</td>
</tr>
<tr>
<td>6</td>
<td>Submit monthly Return for availing of CENVAT Credit for preceding month in Form No. ER No. 11</td>
<td>Rule 9(7) &amp; Rule 12 CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td></td>
<td>December 10</td>
<td>Superintendent of Central Excise</td>
</tr>
<tr>
<td>7</td>
<td>Submit monthly return for receipt of inputs &amp; capital goods for the preceding month in Form No. ER.2</td>
<td>Rule 9(7) &amp; Rule 12 CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td></td>
<td>December 10</td>
<td>Superintendent of Central Excise</td>
</tr>
<tr>
<td>8</td>
<td>Deposit duty on goods cleared during a calendar month, where an assessee is availing of the exemption under a notification based on the value of clearances of goods from factory or warehouse, in a Financial Year</td>
<td>Second Proviso to Rule 8(1) Central Excise Rules, 2002</td>
<td></td>
<td>December 15</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>9</td>
<td>Monthly payment of excise duty for the preceding month SSI Units</td>
<td>Rule 8 CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td></td>
<td>December 15</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>10</td>
<td>Monthly payment of excise duty for the preceding month SSI Units in (E-payment)</td>
<td>Rule 8 CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td></td>
<td>December 16</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>11</td>
<td>Deposit duty on goods cleared during a calendar month, where an assessee is availing of the exemption under a notification based on the value of clearances of goods from factory or warehouse, in a Financial Year [E-Payment]</td>
<td>Second Proviso to Rule 8(1) Central Excise Rules, 2002</td>
<td></td>
<td>December 16</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>12</td>
<td>Submit a revised return if required for rectifying the errors in the original return in Form ST-3 for the period April to September</td>
<td>Rules 7B and Rule 9 (11) The Finance Act, 1994 read with Cenvat Credit Rules, 2004</td>
<td>Within 60 days of the submission of original return</td>
<td>Superintendent of Central Excise</td>
<td></td>
</tr>
</tbody>
</table>

#### INCOME TAX RELATED COMPLIANCE

<table>
<thead>
<tr>
<th>Sr No</th>
<th>Things you need to do</th>
<th>Sections / Rules / Clauses prescribing the activities to be done</th>
<th>Acts / Regulations / Circulars under which the Sections / Rules / Clauses is covered</th>
<th>Due Date before which you need to comply the activity</th>
<th>You need to submit this to</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Deposit TDS from salaries for the previous month in Challan No. 281</td>
<td>Section 192 Income Tax Act, 1961</td>
<td></td>
<td>December 7</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
<tr>
<td>2</td>
<td>Deposit TDS on interest on Securities, Dividends other than dividends referred to in Section 1150, Interest other than interest on Securities, Winnings from Lotteries &amp; crossword puzzles, Winnings from Horse Races</td>
<td>Section 193, Section 194 to Section 194BB Income Tax Act, 1961</td>
<td></td>
<td>December 7</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
<tr>
<td>3</td>
<td>Deposit TDS on Contractor’s Bill / Rent Advertising / Professional Service Bill deducted in the previous month</td>
<td>Section 194C to Section 194H Income Tax Act, 1961</td>
<td></td>
<td>December 7</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
<tr>
<td>4</td>
<td>Deposit TDS on payment to non-resident, Foreign company being holder of mutual fund units, Units held by an offshore fund, Income from foreign currency bond, Income of FIIs from securities</td>
<td>Section 195, Section 196 A to 196 D Income Tax Act, 1961</td>
<td></td>
<td>December 7</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
<tr>
<td>5</td>
<td>Payment of Tax Collected at Source</td>
<td>Section 206 Income Tax Act, 1961</td>
<td></td>
<td>December 7</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
<tr>
<td>6</td>
<td>Payment of Securities Transaction Tax for the previous month (Challan No. ITNS 283)</td>
<td>Section 192 Income Tax Act, 1961</td>
<td></td>
<td>December 7</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
</tbody>
</table>

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“What a miserable thing life is: you’re living in clover, only the clover isn’t good enough.” – Bertolt Brecht, Jungle of Cities, 1924
### FINANCE ACT & SERVICE TAX RELATED COMPLIANCE

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Reference</th>
<th>Date</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pay Service tax collected during the previous month by persons other than individuals, proprietors and partnership firms in G.A.R-7</td>
<td>Section 68 read with Rule 6 and The Finance Act, 1994 read with The Service Tax Rules, 1994</td>
<td>December 5</td>
<td>Service Tax Authorities</td>
</tr>
<tr>
<td>2</td>
<td>Pay Service tax collected during the previous month by persons other than individuals, proprietors and partnership firms in G.A.R-7 (E-payment)</td>
<td>Section 68 read with Rule 6 and The Finance Act, 1994 read with The Service Tax Rules, 1994</td>
<td>December 6</td>
<td>Service Tax Authorities</td>
</tr>
</tbody>
</table>

### THE MAHARASHTRA STATE TAX RELATED COMPLIANCE

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Reference</th>
<th>Date</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Submit monthly return and payment of tax for the previous month in Form 209 by Dealer to whom a certificate of Entitlement has been granted for availing incentives by way of exemption</td>
<td>Rule 18 and The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder</td>
<td>December 1</td>
<td>Sales Tax Authorities</td>
</tr>
<tr>
<td>2</td>
<td>Submit monthly return and pay tax for the previous month (if tax liability during the previous year exceeds Rs. 1 Lakh)</td>
<td>Rules 17 / 18 and 41 and The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder</td>
<td>December 25</td>
<td>Sales Tax Authorities</td>
</tr>
<tr>
<td>3</td>
<td>Submit monthly return of Professional Tax if tax liability is Rs. 20 thousand or more in Form No. III (Return-cum-challan)</td>
<td>Rule 11 (3) (c) and The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975</td>
<td>December 31</td>
<td>Profession tax Authorities</td>
</tr>
<tr>
<td>4</td>
<td>Submit quarterly return if Professional tax liability of Rs.5 thousand or more but less than Rs. 20 thousand</td>
<td>Rule 11 (3) (b) and The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975</td>
<td>December 31</td>
<td>Profession tax Authorities</td>
</tr>
<tr>
<td>5</td>
<td>Credit Professional Tax deducted in the previous month in Form III</td>
<td>Rule 17 and The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975</td>
<td>Within 15 days of such deduction</td>
<td>Profession Tax Authorities</td>
</tr>
</tbody>
</table>

### COMPANY LAW RELATED COMPLIANCE

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Reference</th>
<th>Date</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Payment of monthly Provident Fund dues (Corporate) for previous month in prescribed challan</td>
<td>Section 418 and Companies Act, 1956</td>
<td>December 15</td>
<td>(i) Post Office Saving Bank Account or (ii) Special Account with SBI or any Scheduled Bank</td>
</tr>
</tbody>
</table>

### ECONOMIC, INDUSTRIAL & LABOUR LAW RELATED COMPLIANCE

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Reference</th>
<th>Date</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pay monthly Provident Fund dues (non-corporate)</td>
<td>Paragraph 38 and Employees’ Provident Funds Scheme, 1952</td>
<td>December 15</td>
<td>Provident Fund Authorities</td>
</tr>
<tr>
<td>2</td>
<td>File monthly return for employees leaving in form No. 10/ joining in form No. 5 during the previous month</td>
<td>Paragraph 20(2) read with Paragraph 36(1) &amp; (2) and The Employees Pension Scheme, 1995 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>December 15</td>
<td>Provident Fund Commissioner</td>
</tr>
<tr>
<td>3</td>
<td>File monthly return in Form no. 2(IF) of employees entitled for membership of Insurance Fund</td>
<td>Paragraph 10 and The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>December 15</td>
<td>Provident Fund Commissioner</td>
</tr>
<tr>
<td>4</td>
<td>File monthly return in Form no. 3(IF) for members of Insurance Fund leaving service during the previous month</td>
<td>Paragraph 10 and The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>December 15</td>
<td>Provident Fund Commissioner</td>
</tr>
<tr>
<td>5</td>
<td>File monthly return in Form no. F4(PS) of members joining service during the month</td>
<td>Paragraph 10 and The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>December 15</td>
<td>Provident Fund Commissioner</td>
</tr>
<tr>
<td>6</td>
<td>Pay ESI contribution for previous month i.e. November</td>
<td>Regulation 31 and Employee State Insurance Act, 1948 Employees State Insurance (Gen) Regulations</td>
<td>December 21</td>
<td>ESIC Authority</td>
</tr>
</tbody>
</table>

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“Not what we say about our blessings, but how we use them, is the true measure of our thanksgiving.” - W.T. Purkiser
7. Submit monthly return of Provident Fund for the previous month in Form No. 12A
   Paragraph 38, Employees' Provident Funds Scheme, 1952
   December 25
   Provident Fund Commissioner

8. In case of graduate, technician or technician (vocational), send a Form Apprenticeship 6 in Schedule III
   Section 2 read with Rule 14(10), Apprentice Act 1961 and Apprenticeship Rules, 1962
   December 31
   Director - Regional Board of Apprenticeship Training

9. Submit annual return in Form D
   Rule 5
   December 25
   Provident Fund Commissioner

10. Submit half-yearly return of the auction in Form IX
    Rule 11(ii)
    December 31
    State Pollution Control Board

11. Submit return of declaration in Form 3 & 1-A
    Regulation 14
    Within 10 days from the date of receiving the relevant papers
    ESIC Authority

12. Issue Notice for payment of Gratuity and Notice for Inadmissible claim in Form L&M
    Section 8
    Within 15 days of receipt of application
    Applicant employee or legal heir

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**RBI (NBFC) RELATED COMPLIANCES**

1. File return of exposure of capital markets in Form NBS-6
   Para 22
   NBFC-D Prudential Norms Directions, 2007
   December 7
   RBI

2. File a monthly return in prescribed format (NBC-ND)
   Circular No. DNBs (RID) CC No. 57/02.02.15/2005-06
   Department of Non-Banking Supervision, RBI
   December 7
   RBI

3. File Prudential Norms Return in Form NBS - 2
   Para 21
   NBFC-D Prudential Norms Directions, 2007
   December 31
   RBI

---

**SEBI RELATED COMPLIANCES**

1. Certificate on demat/remat of shares
   Regulation 54(5)
   SEBI (Depositaries & Participants) Regulations, 1996
   Within 15 days of receipt of security from the participant
   Stock Exchanges

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**IRDA RELATED COMPLIANCES**

Though all precautions have been taken in compiling this calendar, WIRC of ICSI should not be held responsible in case of any discrepancy. In case of doubt, please refer to relevant law/rules.

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**Tentative PDC Calendar - December, 2012**

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<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Date</th>
<th>Day</th>
<th>Venue</th>
<th>Programme</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1-Dec-12</td>
<td>Saturday</td>
<td>Essar House, 11, Keshav Rao Khadye Marg, Mahalaxmi, Mumbai - 400034</td>
<td>Dadar Study Circle Meeting</td>
<td>Good Governance for Sustainability</td>
</tr>
<tr>
<td>2</td>
<td>1-Dec-12</td>
<td>Saturday</td>
<td>AC Auditorium, 1st Floor, ICSI- WIRC Premises, Jolly Makers Chamber No. 2, Nariman Point, Mumbai 400021</td>
<td>Full Day Seminar</td>
<td>To be decided</td>
</tr>
<tr>
<td>3</td>
<td>2-Dec-12</td>
<td>Sunday</td>
<td>Kandivali</td>
<td>Kandivali Study Circle Meeting</td>
<td>To be decided</td>
</tr>
<tr>
<td>4</td>
<td>9-Dec-12</td>
<td>Sunday</td>
<td>A V Hall, Don Bosco High School, L.T. Road, Vazira Naka, Borivali (West), Mumbai – 400091</td>
<td>Borivali Study Circle Meeting</td>
<td>To be decided</td>
</tr>
<tr>
<td>5</td>
<td>15-Dec-12</td>
<td>Saturday</td>
<td>AC Auditorium, 1st Floor, ICSI- WIRC Premises, Jolly Makers Chamber No. 2, Nariman Point, Mumbai 400021</td>
<td>Full Day Seminar</td>
<td>Emerging Opportunities in the CS Profession</td>
</tr>
<tr>
<td>6</td>
<td>16-Dec-12</td>
<td>Sunday</td>
<td>Reema Mehta College of Commerce &amp; Management Studies, Near Flyover, 150 Feet Road, Opp. Maxus Mall, Bhayandar(W), Dist. Thane - 401101</td>
<td>Bhayander Study Circle Meeting</td>
<td>To be decided</td>
</tr>
<tr>
<td>7</td>
<td>21-Dec-12</td>
<td>Friday</td>
<td>AV Hall, 1st Floor, New SNDT, Cama Lane, Ghatkopar (W), Mumbai- 400 077</td>
<td>Ghatkopar Study Circle Meeting</td>
<td>Preferential Allotment under SEBI (ICDR) Regulations, 2009 and Open Offer under SEBI Takeover Regulations, 2011</td>
</tr>
<tr>
<td>8</td>
<td>22-Dec-12</td>
<td>Saturday</td>
<td>To be decided</td>
<td>Full Day Seminar</td>
<td>To be decided</td>
</tr>
<tr>
<td>9</td>
<td>28-Dec-12</td>
<td>Friday</td>
<td>AC Auditorium, 1st Floor, ICSI- WIRC Premises, Jolly Makers Chamber No. 2, Nariman Point, Mumbai 400021</td>
<td>Study Circle Meeting</td>
<td>To be decided</td>
</tr>
<tr>
<td>10</td>
<td>30-Dec-12</td>
<td>Sunday</td>
<td>Sardar Vallabhbhai Engineering College, Bhavan’s College Campus, Near Navrang Cinema &amp; Vrindavan Restaurant, Andheri (West), Mumbai</td>
<td>Andheri Study Circle Meeting</td>
<td>To be decided</td>
</tr>
</tbody>
</table>
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“We thank Thee, O Father of all, for... all the soul-help that sad souls understand.” - Will Carleton
ICSI-WIRC’s 41st Foundation Day Celebrations & Investor Awareness Programme

Date: 13th October 2012
Venue: Sunderbai Hall, Churchgate, Mumbai
Topics: Foundation Day Celebrations and Discussion on Investor Awareness
Chief Guest / Speakers: Shri Paresh Nagada, Deputy Manager, BSE, Shri P.K. Malhotra, Acting Presiding Officer, SAT, Shri. S M A Miliath, Regional Director MCA, Shri Ashish Chauhan, Interim CEO, BSE, Shri S N Ananthasubramanian, Vice President, ICSI, Shri B Narasimhan, Central Council Member, ICSI, Shri Mahavir Lunawat, Chairman, ICSI-WIRC, Shri S P Tulsian, Investment Advisor
Delegates: Around 275 participants were present for the function

Seminar on Non Banking Financial Companies (NBFCs)

Date: 20th October 2012
Venue: ICSI-WIRC premises, Nariman Point, Mumbai
Topics: Non Banking Financial Companies (NBFCs)
Chief Guest / Speakers: Shri V.R. Narasimhan, Executive Vice President, Kotak Mahindra Bank Limited, inaugurated the Seminar. Shri Jayesh Thakur, Associate Director, Tax & Regulatory Services, PWC and Shri Neeraj Verma, from Mahindra
Delegates: 47 participants were present
Other features: Overview of NBFC & RBI’s Regulatory Perspective Part I and Part II and the Structure of NBFCs and its regulation – Practical implications.

Seminar on Raising of Fund in International Market- ECB, FCCB, GDR

Date: 27th October 2012
Venue: ICSI-WIRC premises, Nariman Point, Mumbai
Topics: Raising of Fund in International Market- ECB, FCCB, GDR

KANDIVALI STUDY CIRCLE MEETING ON TRANSFER PRICING

Date: 14th October, 2012
Venue: Kandivali Recreation Club, Kandivali (West), Mumbai 400 067
Topics: “Transfer Pricing”
Chief Guest / Speakers: Mr. Jinesh Bhagdev, Head – Business Support eSupport Outsourcing Services Pvt. Ltd & Proprietor - Jinesh R. Bhagdev & Co., Chartered Accountants
Delegates: 71 Participants had attended the Meeting
Other features: CS. Jatin Popat was the Programme Coordinator.
Mr. Jinesh Bhagdev addressed in details the Background, Important Features and Functions, Methods of Transfer Pricing & Applicability of Transfer Pricing to International & Domestic Transactions with Associated Enterprises with Power Point Presentation.

“AURANGABAD CHAPTER OF ICSI AND CAREER AWARENESS PROGRAMME

Date: 9th October, 2012
Venue: Atithi Hotel, Jalna Road, Aurangabad
Topics: “Celebration of Foundation day and Felicitation of students”
Delegates: 85 Total participants (Members and Students) 70 were present in the programme.
Other features: The chapter has organised Half day Programme on Schedule VI of Companies Act, 1956 and Recent changes in MCA forms along with felicitation of successful students of June, 2012 exams. Felicitation of Past office bearers of Aurangabad chapter and CS M R Kulkarni, and CS Madhu Ghatiya were present in the programme who were felicitated. Gautam Nandawat gave presentation on Schedule VI of Companies Act, 1956 and A.R. Joshi highlighted on recent changes in Annual Forms. Welcome by CS Mahesh Singh, and CS Sanjay Sachdeva and CS L A Jaipurkar addressed Audience. CS Ashish Gupta presented vote of thanks. CS L A Jaipurkar was the programme co-ordinator.
**Bhayander Study Circle Meeting on Disclosure of Related Party Transaction under Companies Act, 1956**

<table>
<thead>
<tr>
<th>Date</th>
<th>21st October, 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Venue</td>
<td>Reena Mehta college of commerce &amp; management studies, near fly-over, 150 feet road, opp. Maxus Mall, Bhayander (W), Dist. Thane - 401101</td>
</tr>
<tr>
<td>Topics</td>
<td>“Disclosure of Related Party Transaction Under Companies, Act 1956”</td>
</tr>
<tr>
<td>Chief Guest / Speakers</td>
<td>CA Vijay Joshi, (Practising Chartered Accountant)</td>
</tr>
<tr>
<td>Delegates</td>
<td>43</td>
</tr>
<tr>
<td>Other features</td>
<td>CS Uma Mondal introduced the speaker to the participant with welcome and at last CS M.M. Purohit gave vote of thanks to CA Vijay Joshi. CA Vijay Joshi addressed in detail with illustration.</td>
</tr>
</tbody>
</table>

**INDORE CHAPTER**

**Date** | 18th October, 2012 |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Venue</strong></td>
<td>Kastoorba Girls High Secondary School, Near Rajbada, Indore (M. P.)</td>
</tr>
<tr>
<td><strong>Topics</strong></td>
<td>Awareness about Company Secretary Course Eligibility of Admission in CS Scope &amp; Work Areas for CS Company Secretaries in Practice &amp; Employment Information About Institute &amp; its Affiliation</td>
</tr>
<tr>
<td><strong>Chief Guest / Speakers</strong></td>
<td>Ms. Reshma Khan – Programming Officer Other Staff of Indore Chapter</td>
</tr>
<tr>
<td><strong>Delegates</strong></td>
<td>250 Students of Class 12th</td>
</tr>
<tr>
<td><strong>Other features</strong></td>
<td>We have given Counselling to the Employees &amp; Management also for taking admission in CS Executive Programme &amp; About exemptions of Training &amp; Subjects on the basis of Experience &amp; Education.</td>
</tr>
</tbody>
</table>

**NAVI MUMBAI CHAPTER**

**Study Circle Meeting on two topics (1. Analysis on “REVISED SCHEDULE VI” to the Companies ACT, 1956 & 2. “STRESS MANAGEMENT WITH PRANIC HEALING MODALITY”**.

<table>
<thead>
<tr>
<th>Date</th>
<th>14th October, 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Venue</strong></td>
<td>Mini Conference Room in 2nd Floor at ICSI-CCGRT</td>
</tr>
<tr>
<td><strong>1st Topics</strong></td>
<td>Analysis on “REVISED SCHEDULE VI” to the Companies ACT, 1956</td>
</tr>
<tr>
<td><strong>Speakers</strong></td>
<td>CA Kintali T Nageswar Rao.</td>
</tr>
<tr>
<td><strong>2nd Topics</strong></td>
<td>“Stress Management with Pranic Healing Modality”</td>
</tr>
<tr>
<td><strong>Speakers</strong></td>
<td>CS Snehal Shah</td>
</tr>
<tr>
<td><strong>Delegates</strong></td>
<td>NAVI MUMBAI REGION CS MEMBERS</td>
</tr>
<tr>
<td><strong>Other features</strong></td>
<td>On 14th October 2012, A Study Circle Meeting was organized by the Navi Mumbai Chapter of WIRC of the ICSI. CS Snehal Shah addressed the participants on an interesting topic titled “Stress management with Pranic healing modality”. Also, CA Kintali T Nageswar Rao addressed the participants on topic titled “Analysis on Revised Schedule VI” to the Companies Act, 1956. Both of them explained the various aspects related to the topic and dealt in detail with numerous finer issues and simplified the entire concept with various examples. The programme was very interesting and interactive and well attended by many CS Members.</td>
</tr>
</tbody>
</table>

**PUNE CHAPTER**

**SCM ON OVERVIEW OF FOREIGN EXCHANGE BUSINESS**

<table>
<thead>
<tr>
<th>Date</th>
<th>19th October, 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Venue</strong></td>
<td>Cummins Hall, Pune chapter</td>
</tr>
<tr>
<td><strong>Topics</strong></td>
<td>Overview Of Foreign Exchange Business</td>
</tr>
<tr>
<td><strong>Chief Guest / Speakers</strong></td>
<td>Dr Hemant Abhyankar, HOD Bharti Vidya Peeth University</td>
</tr>
<tr>
<td><strong>Delegates</strong></td>
<td>46</td>
</tr>
<tr>
<td><strong>Other features</strong></td>
<td>One Credit Hour was allotted to members attending the same</td>
</tr>
</tbody>
</table>

**SCM ON RISK MANAGEMENT- A PERSPECTIVE & ENTERPRISE RISK MANAGEMENT**

<table>
<thead>
<tr>
<th>Date</th>
<th>20th October, 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Venue</strong></td>
<td>Cummins Hall, Pune chapter</td>
</tr>
<tr>
<td><strong>Topics</strong></td>
<td>Risk Management- A Perspective &amp; Enterprise Risk Management</td>
</tr>
<tr>
<td><strong>Chief Guest / Speakers</strong></td>
<td>CS Anil Khatri- Company Secretary &amp; Compliance Officer -Tech Mahindra Ltd</td>
</tr>
<tr>
<td><strong>Delegates</strong></td>
<td>42</td>
</tr>
<tr>
<td><strong>Other features</strong></td>
<td>One Credit Hour was allotted to members attending the same</td>
</tr>
</tbody>
</table>

“Gratitude is a quality similar to electricity: it must be produced and discharged and used up in order to exist at all.” - William Faulkner
Good health is equal to great wealth. As we move into the middle of the year, let’s take a fresh look at the rules of good health. Remember, good health doesn’t have to be elusive or cost a lot...all you need to stay healthy and fit are some discipline, and sensible eating habits.

RULE 1: Begin your day with a glass of warm water; this will help to detoxify your body, cleanse your system, and enhance bowel movements. It will also help to remove all toxins from the body early in the morning, thus aiding weight loss.

Rule 2: Before leaving for work energise yourself with a power packed breakfast. Have a healthy breakfast rich in dietary fibre like oats in milk, a whole wheat bread sandwich, filling smoothies, etc. Combine at least two food groups from these five categories: cereals, pulses, milk and milk products, fruits and vegetables, and nuts and oilseeds. Good examples are oats (cereal) with milk (dairy); or whole wheat sprouts sandwiches (cereal) with sprouts (pulses).

Rule 3: We all know that pulses are protein rich and full of fibre; remember however that sprouting increases their nutrient content. Sprouts are a powerhouse of good health; they aid weight loss, protect the liver, and enhance the glow on your face. Sprouts can be made from any pulses – ensure that you eat at least a bowl of sprouts everyday.

Rule 4: Stack your pantry with fibre-rich cereals like whole wheat, brown rice, or broken wheat and leave the refined items like maida, fried foods, sweets, cakes, and pastries for weekend outings.

Rule 5: Eat whatever you want to, but remember that moderation is the key to good health. Don’t suddenly stop eating fast foods or processed foods - gradually cut down their intake from four times a week to thrice, twice and then once a week. Cravings for sweet cannot be ignored forever, so instead of avoiding sweets completely, cut down the number of sweets you eat per day or per week. Do not give up your food cravings, especially for sweets, forever or at one go - enjoy them as occasional treats but remember to limit their intake.

Rule 6: Consume foods rich in omega 3 fatty acid such as fish. Vegetarians can opt for walnuts (3 to 4 walnuts per day), flaxseeds (1 tbsp flaxseeds per day), or soya bean (1/4 cup soya flour per day). Omega 3 fatty acids help lower triglycerides and increase HDL cholesterol (the good cholesterol). They may also act as an anticoagulant to prevent blood from clotting. Several other studies suggest that these fatty acids may also help lower high blood pressure.

Rule 7: Keep a watch on your water, oil and sugar consumption per day.
For normal body
Water Consumption: 8 glasses per day
Oil consumption: 25-30 gm (visible and invisible) per day
Sugar Consumption: 15 gm per day
To lose weight
Water Consumption: 8 to 10 glasses per day
Sugar Consumption: 5-7 gm per day

Rule 8: Always chew your food well - when food is not chewed well it creates problems in digestion. The old saying that recommends you chew your food 32 times is so true!

Rule 9: Exercise to stay fit. Remember, exercise is not just for sports people or for body builders; it can be of equal benefit to those who want to lead a healthy, disease-free life. Besides building muscles and making you physically strong, regular exercise (in any form) has many other benefits that ensure optimum health and life-long fitness.

How exercise helps burn calories

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>CALORIE EXPENDITURE PER MINUTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laying still</td>
<td>1.0</td>
</tr>
<tr>
<td>Washing clothes, tailoring</td>
<td>2.0</td>
</tr>
<tr>
<td>Washing floors, sweeping and ironing</td>
<td>2.2</td>
</tr>
<tr>
<td>Walking 5 km per hour speed</td>
<td>3.0</td>
</tr>
<tr>
<td>Shopping</td>
<td>3.0</td>
</tr>
<tr>
<td>Cleaning house</td>
<td>3.6</td>
</tr>
<tr>
<td>Gardening</td>
<td>5.0</td>
</tr>
<tr>
<td>Dancing</td>
<td>5.0</td>
</tr>
<tr>
<td>Walking fast</td>
<td>5.6</td>
</tr>
<tr>
<td>Dancing</td>
<td>6.0</td>
</tr>
<tr>
<td>Running (depending on the speed)</td>
<td>10 to 25</td>
</tr>
</tbody>
</table>

Rule 10: Whatever your daily routine or hours of work, do not compromise on your sleep. Try to get at least 6 to 8 hours of sleep every night. Sleep is like medicine for the mind and body.
And the best rule of all – laugh as much as you can, remembering that laughter always remains the best medicine!

“If you want to turn your life around, try thankfulness. It will change your life mightily.” - Gerald Good
To talk well and eloquently is a very great art, but that an equally great one is to know the right moment to stop.”
–Wolfgang Amadeus Mozart

Corporate etiquettes are becoming the latest buzzword amongst young Indian professionals. Be it business etiquette, international protocol, dining and entertaining skills, cross cultural consulting or presentation skills, soft skills has a role to play in all of the above. The most prominent challenge which Indian professionals face and which needs immediate attention is that Indians speak too fast and too loud. The problem magnifies when there is no chance given to others to speak. The reason behind these “noisy professionals” is that India is a busy and loud country. We grow up in noisy surroundings -- traffic, the celebration of festivals etc. We have to raise our volume often so that we are heard speaking on the phone, or while we are travelling or multitasking. So we never pay attention to our tone and volume while communicating. The real struggle begins here where we struggle during closed-door business meetings or while interacting with international professionals where the emphasis is on saying things in a soft and controlled tone.

Further there are many professionals who at times lack the skill of drafting a business letter or-mail. There is a lot of hesitance amongst professionals in indulging in small talk conversations before the start of the business meeting or party. Apart from the above there is also a requirement to update ourselves on the dining etiquette and improve the way we dress for certain occasions. In fact the dressing and dining manners are crucial part of business communication, and thus translates into success. The core reason behind communication problems is the lack of exposure extended in schools and colleges. For example in a class of forty students, usually there are only a couple of students who break the ice and communicate well. The same set of students are then trained and extended support to climb other echelons in life. The left over majority in school or college class usually rely on bookish knowledge for communication skills.

In today’s booming corporate culture the boss is often the most difficult person to communicate with in an organisation. The golden rule to be followed in this channel of communication is never to discuss your personal life with your boss. Stay away from gossip. When you do not have a choice, listen to what is said but do not share your opinion or add information. Be diplomatic. Be humble and do not harp too much upon how other people value your work.

While meeting International professionals, always choose business formal attire while meeting international clients. Speak softly and clearly. Ensure that adequate pre-meeting homework is done which specifically deals with -- details of the country they belong to, the company they represent and notable achievements, if any. Information like this will help in conducting meetings better. Indulging in small talk before a meeting or presentation yields fruitful results. Adequate distance should be maintained in seating arrangement. Ask them about their country and tell them about new developments in India that you think they may find interesting. Be a good listener. If you do not follow something they say, apologise and request them to explain it you again. Do not discuss topics related to race or religion.

To conclude, the concept of soft skills is of tremendous significance in current corporate culture. Hard core professionals need to groom themselves to meet the international standards.

“There is not a more pleasing exercise of the mind than gratitude. It is accompanied with such an inward satisfaction that the duty is sufficiently rewarded by the performance.” - Joseph Addison
“Gratitude is the music of the heart, when its chords are swept by the breeze of kindness.” - Author Unknown
A Reputed, Professionally Managed Investment/Trading Company having international affiliation requires following personnel for its office at Nariman Point

COMPANY SECRETARY

Candidate should be a member of the Institute of Company Secretaries of India.

The Candidate should have good knowledge of Secretarial and Legal matters such as compliance with various laws, filing of various documents/returns with the RoC, drafting of minutes/agreements, mergers & amalgamations, trade marks, stamp duty and FEMA.

Freshers can apply.

Salary & perquisites will not be a constraint for the right candidate.

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