



Info Capsule

STEPS ARE UNDERWAY FOR SETTING-UP NATIONAL FINANCIAL REPORTING AUTHORITY (NFRA), AN INDEPENDENT BODY, TO TEST CHECK FINANCIAL STATEMENTS, PRESCRIBE ACCOUNTING STANDARDS AND TAKE DISCIPLINARY ACTION AGAINST ERRANT PROFESSIONALS; A SEPARATE INITIATIVE IS UNDERWAY TO DEVELOP A STATE-OF-THE-ART SOFTWARE APPLICATION TO PUT IN PLACE AN 'EARLY WARNING SYSTEM' (EWS) TO STRENGTHEN THE REGULATORY MECHANISM¹

Around 2.24 lakh companies have been struck-off till date for remaining inactive for a period of two (2) years or more; Around 3.09 lakh Directors disqualified who were on the Board of Companies that have failed to file Financial Statements and/or Annual Returns for a continuous period of three (3) financial years during 2013-14 to 2015-16. Over 3,000 disqualified Directors are Directors in more than 20 companies each, which is beyond the limit prescribed under the Law; To address the criminality angle, the Director, Additional Director or Assistant Director of SFIO have been recently authorized to arrest any person believed to be guilty of any fraud punishable under the Act.

Based on the massive drive undertaken by the Ministry of Corporate Affairs (MCA), Government of India, around 2.24 lakh companies have been struck-off till date for remaining inactive for a period of two (2) years or more.

Following the action of striking-off defaulting companies, restrictions have been imposed on operation of their bank accounts in accordance with the law. Further, Preliminary Enquiry on the basis of information received from 56 banks in respect of 35,000 companies involving 58,000 accounts has revealed that an amount of over Rs. 17,000 crore was deposited and withdrawn post demonetization. In one case, a company which had a negative Opening Balance on 8th November, 2016, deposited and withdrew Rs.2,484 crore post-demonetization.

Apart from the restrictions on bank accounts, action has also been taken to restrict sale and transfer of moveable and immovable properties of struck-off companies until they are restored. The State Governments have been advised to take necessary action in this regard by disallowing registration of such transactions.

One company was found to have as many as 2,134 accounts. The information with respect to such companies have been shared with enforcement authorities, including Central Board of Direct Taxes (CBDT), Financial Intelligence Unit (FIU), Department of Financial Services (DFS) and Reserve Bank of India (RBI) etc., for further necessary action. Companies have also been identified for inquiry/inspection/investigation under the Companies Act, 2013 and necessary action is underway.

The Prime Minister's Office has constituted a Special Task Force (STF) under the Joint Chairmanship of Revenue Secretary and Secretary, Corporate Affairs, to oversee the drive against such defaulting companies with the help of various enforcement agencies. The Special

¹ Available at: <http://pib.gov.in/newsite/erelease.aspx>

Task Force has so far met five (5) times and action has been initiated against several defaulting companies, which is expected to help in the drive against black money.

Separately, action has also been taken to disqualify Directors on the Board of Companies that have failed to file Financial Statements and/or Annual Returns for a continuous period of three (3) financial years during 2013-14 to 2015-16. Around 3.09 lakh Directors have been affected by this action. Preliminary enquiry has shown that over 3,000 disqualified Directors are Directors in more than 20 companies each, which is beyond the limit prescribed under the Law.

Further, in the light of the evidence with respect to abuse of the Corporate Structure through multi-layering, not more than two (2) layers are now permitted beyond the wholly owned subsidiary. This is in addition to the existing restriction which prohibits a company to make investment through more than two layers of investment companies.

In order to address the criminality angle, the Director, Additional Director or Assistant Director of SFIO have been recently authorized to arrest any person believed to be guilty of any fraud punishable under the Act. Under Section 447 of the Act, which defines fraud, stringent punishment including imprisonment up to 10 years is stipulated. Further, reference has been made to the Ministry of Finance to include it as a Scheduled Offence under the Prevention of Money Laundering Act.

Action is also being initiated against Professionals guilty of fraud and all complaints against them are being reviewed. A High Level Committee (HLC) has been constituted for suggesting revamp of the disciplinary systems of Chartered Accountants, Company Secretaries and Cost Accountants. Further, steps are underway for setting-up National Financial Reporting Authority (NFRA), an independent body, to test check Financial Statements, prescribe Accounting Standards and take disciplinary action against errant professionals.

With a view to checking the problem of Dummy Directors, action is underway to seed DIN with PAN and Aadhaar at the stage of DIN application through biometric matching for new applications. The same may be extended to legacy data in due course.

Finally, a separate initiative is underway to develop a State-of-the-Art software application to put in place an 'Early Warning System' (EWS), which will be housed in SFIO. The objective is to strengthen the Regulatory Mechanism.

DEPARTMENT OF CONSUMER AFFAIRS WORKING ON BRINGING HALLMARKING REGULATIONS UNDER THE NEW BIS ACT 2016: SHRI RAM VILAS PASWAN²

Shri Ram Vilas Paswan inaugurates the seminar on “Standards Make Cities Smarter” organized by BIS. Bureau of Indian Standard celebrates 48th World Standards Day

Shri Ram Vilas Paswan, Union Minister for Consumer Affairs, Food & Public Distribution, said that Department of Consumer Affairs is working on bringing Hallmarking regulations under the new BIS Act 2016. Shri Paswan commended the revision of the standards on gold jewellery with only three categories i.e., 14, 18 and 22 Karats/Carats under Hallmarking. Shri Ram Vilas Paswan stated it while inaugurating the seminar on “Standards Make Cities Smarter” organized by Bureau of Indian Standard on the occasion of 48th World Standards Day in New Delhi. Shri Paswan laid special emphasis on the consumer protection that would get enhanced through new Consumer Protection and the BIS Act.

Shri Ram Vilas Paswan released a pre standardization report regarding Unified, Secure & Resilient ICT Backbone for Smart Cities. Shri Paswan stated that building a smart city is a highly complex task having its own challenges and standards are the only common denominator that can simplify this task. National Standards make the smart cities work safely and smoothly. Besides, it provides important guidance for all aspects of city life, including energy-efficient

² Available at: <http://pib.gov.in/newsite/erelease.aspx>

buildings, intelligent transportation, and improved waste management, thereby builds sustainable communities.

Shri C.R. Chaudhary, Minister of State for Consumer Affairs, Food & Public Distribution emphasised on the importance of standards for international cooperation. He stated, that standards provide practical tools for tackling many of today's global challenges, ranging from managing resources to improving the safety and quality of the life. Shri Chaudhary appreciated the active involvement of BIS in regional standardization work for developing common standards to facilitate trade.

Earlier, Shri Avinash K Shrivastava, Secretary, Department of Consumer Affairs, in his keynote address stressed on the changing scenario and the role Bureau of Indian Standards is playing in the national and international arena.

The theme for this year's World Standards Day "Standards Make Cities Smarter" was chosen collectively by International Organization for Standardization (ISO), International Electrotechnical Commission (IEC) and International Telecommunication Union (ITU).

ONLINE REGISTRATION MECHANISM AND FILING SYSTEM FOR CLEARING CORPORATIONS³

1. In order to ease the process of application for recognition / renewal, reporting and other filings in terms Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 and other circulars issued from time to time, SEBI has introduced a digital platform for online filings related to Clearing Corporations.

2. All applicants desirous of seeking registration / renewal as a Clearing Corporation in terms of Regulation 4 and 12 of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, shall now submit their applications online only, through SEBI Intermediary Portal at <https://siportal.sebi.gov.in>.

3. Further, all other filings including Annual Financial Statements and Returns, Monthly Development Report, Rules, Bye-laws, etc., shall also be submitted online.

4. The aforesaid online registration and filing system for Clearing Corporations is operational. Recognised Clearing Corporations are advised to note the same for immediate compliance.

5. Link for SEBI Intermediary Portal is also available on SEBI website – www.sebi.gov.in.

In case of any queries and clarifications, users may refer to the manual provided in the portal or contact the SEBI Portal helpline on 022-26449364 or may write at portalhelp@sebi.gov.in.

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

Team ICSI

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³ Available at: http://www.sebi.gov.in/legal/circulars/nov-2017/online-registration-mechanism-and-filing-system-for-clearing-corporations_36456.html