

CHARTERED SECRETARY

THE JOURNAL FOR CORPORATE PROFESSIONALS



▶▶ **695**

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(Depositories
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Regulations, 2013**



**THE INSTITUTE OF
Company Secretaries of India**

IN PURSUIT OF PROFESSIONAL EXCELLENCE

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National Seminar on Indian Financial Code



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02



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04



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01 >> National Seminar on Indian Financial Code Recommended by The Financial Sector Legislative Reforms Commission – Inaugural Session – P. Chidambaram (Hon'ble Union Minister of Finance, Govt. of India) addressing. Others sitting on the dais from Left : M. S. Sahoo (secretary, The ICSI), Dr. K. P. Krishnan (Principal Secretary, Govt. of Karnataka), S. N. Ananthasubramanian (President, The ICSI), Chitra Ramakrishna (MD & CEO, National Stock Exchange of India Ltd.) & Harish K. Vaid (Vice President, The ICSI).

02 >> First Technical Session on Markets: Market Regulation, Market Development and Public Debt Management – Sitting on the dais from Left: Sanjay Grover (Council Member, The ICSI), Ravi Narain (Vice Chairman, National Stock Exchange of India Ltd.), Dr. K. P. Krishnan (Principal Secretary, Govt. of Karnataka) and Dr. Ajay Shah (Professor, NIPFP).

03 >> Second Technical Session on Macro Finance: International Markets, Monetary Policy and Systemic Risk – Sitting on the dais from Left: Nesar Ahmad (Council Member, The ICSI), Dr. C. S. Mohapatra (Adviser, Ministry of Finance), Dr. Shekhar Shah (DG, NCAER) and Dr. Ila Patnaik (Professor, NIPFP).

04 >> Third Technical Session on Financial firms: Micro-prudential Regulations Consumer Protection and Resolution – Sitting on the dais from Left: Atul Mittal (Council Member, The ICSI), Dr. C. K. G. Nair (Economic Adviser, Ministry of Finance, formerly Secretary, FSLRC), P. K. Malhotra (Secretary, Legislative Department) and Dr. Renuka Sane (Finance Research Group, IGIDR, Mumbai).

05 >> Fourth Technical Session on Regulatory Regime: Architecture, Governance and Approaches – Sitting on the dais from Left: Atul H. Mehta (Council Member, The ICSI), M. S. Sahoo (Secretary, The ICSI) Ashok Chawla (Chairman, CCI), Dr. Ajay Shah (Professor, NIPFP), Pradeep Pandya (Sr. Editor, CNBC Awaaz) and M.G. Jindal (Chairman, NIRC of the ICSI).

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» Articles (A 188 - 221)

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Many Facets of Contract of Guarantee & Surety's Liability

» P-646

Dr. K. R. Chandratre

Sections 295 and 37A of the Companies Act require compliance regarding guarantees in connection with loans provided by public companies. There are many occasions in practically every company to provide different types of guarantee. Directors of private and closely-held companies are often called upon to provide guarantees in connection with the company's borrowings. The Indian Contract Act gives a definition of contract of guarantee and conditions governing such contracts. A transaction in which there are not three parties and in which there is no promise made by a third party (guarantor), who is not a party to a contract between two others, that the guarantor will be liable if one of the parties fails to fulfil the contractual obligations, does not constitute a contract of guarantee. This article deals with various aspects of guarantees, including a letter of comfort or such similar document vis-a-vis guarantee, the effect of the provision of section 128 of the Contract Act stating that the liability of the guarantor/surety is co-extensive with that of the debtor and director's personal guarantee for the company's debt.

Overview of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012

» P-651

G. M. Ramamurthy

The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 amends The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) and the Recovery of Debts due to Banks and Financial Institutions Act, 1993. The amendments are aimed at enhancing the effectiveness of the measures contained in the aforesaid enactments and facilitate restructuring of the borrower companies. Clause (g) inserted in section 9 of SARFAESI permits conversion of a portion of debt into shares of a borrower company. This will enable SC/ARC to do a deep restructuring and reduce the quantum of the loan to be serviced. There can be innovative methods for conversion of a portion of loan into shares involving expertise and opportunities for Company Secretaries. Purchase of property brought for in any subsequent sale by the secured creditor and adjustment of the dues, filing caveat and procedure for seeking the assistance of Chief Metropolitan Magistrate or District Magistrate to assist in taking possession of secured asset etc., will expedite the recovery for banks and FIs. Requirement for filing returns with Central Registry in respect of the past cases, condonation of delay will open additional avenues to the professionals.

Impact of Shares Buyback on Equity Shareholder's Value

» P-655

Sandeep Sherawat

Buyback of shares has become a common practice in the financial market. It is often resorted to manipulate the share prices, increase the promoters' shareholding, invest the company's excess cash and to restrict dividend to the equity shareholders. This article seeks to examine the turbulence that arises from the

change in earning per share (EPS) as a result of the buyback of shares. The relevant variables and their impact on the buyback of shares are also examined. It has been noted that the buyback of shares can be used to increase the shareholding of promoters which will result in short-term gains to equity shareholders and the government should not support the buyback of shares which is not investor-friendly.

One Person Company – A Dynamic Form of Business

» P-660

Dr V.R. Narasimhan

The Companies Bill 2012 has introduced "One Person Company" (OPC), a dynamic form of business. OPC is a useful legal innovation. OPC structure can be used for a simple single person enterprise to a gigantic enterprise depending on how promoters visualize its utilization. The legal structure around the OPC is very interesting. One Person Company means a company which has only one person as a member. Other than the number of members, OPC is like any other company under the Companies Act. It can be a company limited by shares, guarantee or even unlimited. OPC can enjoy all privileges and possibilities under the law. An OPC can float or be floated by another company. Even if it is a one person company, its perpetuation under law is not under any doubt. It will be interesting to note how the market will use this form.

The Copyright [Amendment] Act, 2012

» P-664

T. Ramappa

The major amendments relate to bringing about conformity to the two international treaties, the WIPO Copyright Treaty (WCT), 1996 and the WIPO Performances and Phonograms Treaty (WPPT), 1996, which aim at meeting the challenges posed to the protection of copyrights and related rights by digital technology. The WCT deals with the protection for the authors of literary and artistic works, whereas the WPPT protects certain "related rights" which are the rights of the performers and producers of phonograms. Two new sections have been introduced to achieve this purpose. One is section 65A intended towards prohibition of acts of circumvention of technological measures intended to protect copyright. The other is section 65B towards protection of 'Rights Management Information'. Two new sections, 38A declaring the exclusive rights of performers and 38B stating the moral rights of performers have also been introduced. Some of the other amendments relate to the independent rights of authors of literary and musical works in cinematograph films, declaration of certain additional acts that would be treated as infringements of the broadcast reproduction right, addition of further acts that would not be infringements of copyright under the Act.

Reforms in the issue process- A step towards inclusive markets

» P-672

V. Parimala

An important segment in the Financial system is the Primary market which is seen an excellent avenues for companies to raise huge amounts of money as the investment is directly made to the issuer by tapping a cross section of investors unlike the secondary market where the flow of the money is between the investors buying and selling. However the performance of the primary market in recent times



has been characterized with low participation from the retail investors, aggressive pricing, and irregularities in the allotment process and the destruction of wealth of the investors. SEBI has introduced reforms in the primary market to streamline the issue process and make the market a safer place for retail investors. This article attempts to study the implications of the reforms introduced by SEBI in so far as they redress the existing irregularities in the IPO framework.

The act of transforming 'Corporate Compliance' into a Valuable Business Asset

» P-676

Dr. Joffy George

Emerson once said, "To be great is to be misunderstood." These words certainly could be applied to the history of compliance in many organizations. Misunderstood and, in the view of some compliance officers, the compliance function is often too long ignored as a key function and a significant area of risk for many companies. While most organizations accept that compliance must play an important role, the "misunderstood" part comes in when leaders and staff view compliance as an outside imposition, a risk with no reward or a necessary evil. Unfortunately, a compliance officer devotes more time being a policeman than a strategic business planner. Hopefully, as more resources are devoted to compliance functions, compliance officers can assume a larger role in the strategic business planning process.

» Legal World (LW 60 - 72)

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- ▶ **LW.50.6.2013** Delhi High Court sanctions the demerger scheme of Vodafone.
- ▶ **LW.51.6.2013** The assets are no moresafe in the hands of the erstwhile management. It is fit and proper, Official Liquidator must take immediate step for possessing the assets and proceed with the winding up.[Cal]
- ▶ **LW.52.6.2013** SAT upholds the penalty imposed by the Board.
- ▶ **LW.53.6.2013** We are therefore of the opinion that the non-compliance even if any with Section 2(19AA), would not render the Scheme unworkable.[Del]
- ▶ **LW.54.6.2013** Tribunal refuses to revoke the patent granted to Bajaj Auto. Principles of revocation of patent explained.
- ▶ **LW.55.6.2013** Calcutta High Court modifies the injunction order.
- ▶ **LW.56.6.2013** In view of the settled law, it is clear that the respondent had forfeited its right to appoint the arbitrator after the expiry of statutory period.[Del]
- ▶ **LW.57.6.2013** If services are rendered by the Customs Officer at a place which is not his normal place of work or a place beyond the Customs area, overtime is levied even during the normal working hours.[Del]
- ▶ **LW.58.6.2013** The procedure cannot be raised to the level of a mandatory requirement, for rejecting a rebate claim. [Bom]

» From the Government (GN 119 - 128)

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- ▶ Applicability of Regulation 17(6) in processing the work items.
- ▶ Relaxation of additional fees and extension of last date in filing of various forms with the Ministry of Corporate Affairs - reg.
- ▶ Declaration by Central Government of Nidhi Companies
- ▶ Broad guidelines on Algorithmic Trading
- ▶ Scheme of Arrangement under the Companies Act, 1956 – Revised requirements for the Stock Exchanges and Listed Companies -Clarification
- ▶ Securities and Exchange Board of India (Depositories and Participants) (Amendment) Regulations, 2013.
- ▶ SEBI Circular No. CIR/CFD/DIL/3/2013 dated January 17, 2013 - Amendments to SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999 and Equity Listing Agreement-Clarification
- ▶ Notification regarding establishment of Local Office of the Board at Kochi
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- ▶ Liberalised Remittance Scheme for Resident Individuals – Reporting
- ▶ Export of Goods and Software – Realisation and Repatriation of export proceeds – Liberalisation
- ▶ Foreign Direct Investment (FDI) in India - Issue of equity shares under the FDI scheme allowed under the Government route against pre-operative/pre-incorporation expenses
- ▶ Overseas Direct Investments – Clarification

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- ▶ Speech of Finance Minister
- ▶ Proceedings of the National Seminar on "Indian Financial Code"



From the President



"What we know is a drop, what we don't know is an ocean"



- Sir Isaac Newton

Dear Professional Colleagues,

The month which rolled by was as much unique as it was variegated; in addition to umpteen events all over the country organised by Chapter and Regional offices, there were three Convocation addresses by three eminent persons from three different specialities, a Foundation Day Lecture by one of our own flock and, to top it all, a much awaited inaugural address by the Hon'ble Finance Minister on our platform; all these combined together to hold a mirror image on us by persons who matter most in guiding our destinies.

The Second Annual Convocation inducting bright young minds into our fold was held in Eastern, Western and Northern regions of the country. It afforded an opportunity to interact with three eminent persons from industry, academia and judiciary from three different specialities held similar views towards our profession. Mr. Siddhant Kaul, Managing Director, NICCO Engineering Services Limited addressed those who were conferred membership in Kolkata: "As you enter into this chosen profession, you will likely realise that the difference between success and failure at a particular task is your personal patience and perseverance." He further stated: "As part of the senior and trusted management, very often the Company Secretary is called upon to help management in areas not traditionally part of his/her role. However, the skills the CS training and curriculum give an individual is a

versatile toolbox that can help the Board in myriad ways. In our company any document full of arcane legalese is now sent to the Company Secretary as a matter of good practice and routine."

Dr. N. Ravichandran, Director, IIM-Indore, the Chief Guest for the Convocation in Mumbai exhorted that governance at macro level can be attained only when governance at micro and individual levels are attained. He explained the Jaya Vijaya concept by which each individual should strive to obtain both internal as well as external satisfaction. Mr. S. Ramesh, Director, Investment Banking, Kotak, the Guest of Honour stressed on strict adherence to values as the hallmark of a professional.

Justice Dilip Raosaheb Deshmukh, Chairman of the Company Law Board, in his eloquent address in New Delhi, advocated: "In order to attain success, all of you must possess three essential qualities, integrity, intelligence and persuasive energy. But if you do not have the first, i.e. integrity, the other two would become meaningless." He added, "Company Secretaries as governance professionals can play an important role by developing an understanding of the needs and expectations of various stakeholders who provide the resources, tangible and intangible, for corporate to work and succeed. They can strike a balance among conflicting demands and expectations. They need to own responsibility to ensure that the corporate sector creates governance that



is sustainable, ethical and socially beneficial and fulfils its obligations to all the stakeholders."

Amidst all these were delivered my own thoughts accumulated from reading Thomas Friedman, the author of The World is Flat, who paints a brave new hyper-connected world of Facebook, Twitter, 4G, iPhones, iPads, high-speed broadband, ubiquitous wireless and web-enabled cell phones, the cloud, Big Data, cell phone apps and Skype which empower individuals to access learning, retrain, engage in commerce, seek or advertise a job, invent, invest and crowd source all online. This huge expansion in an individual's ability to do all these things comes with one big difference: More now rests on you. If you are self-motivated, this world is tailored for you, the boundaries are all gone. There will be fewer limits but fewer guarantees. Your specific contribution will define your specific benefits much more. Just showing up will not cut it. We are entering a world that increasingly rewards individual aspiration and persistence and can measure precisely who is contributing and who is not.

ICSI-CCGRT has over the past few years been striving to provide a platform for continuing education not only for members but also for aspiring students. To celebrate its Foundation Day on 16th May, Annual Lecture was instituted in 2011 and this year's Lecture was delivered by CS Arun Nanda, Director, Mahindra & Mahindra Limited and one of our esteemed members. CS Nanda's talk on the theme 'From Company Secretary to Corporate Governance Professional' predicated a progressive scenario when our members would be most sought after to occupy the highest office in a corporation, in view of our closeness to compliance and our natural affinity towards good governance practices. Laced with personal anecdotal evidence, CS Nanda's Lecture was inspirational besides being instructive and invigorating. I compliment the ICSI-CCGRT Management Committee for this annual feature which, I am sure, would travel a fair distance in the coming years.

ICSI-CCGRT has also announced a two-day workshop on "Achieving Excellence in Practice" on 15th and 16th June, 2013 to commemorate the journey of twenty-five years from the commencement of the first official recognition, namely, Signing of Annual Return of Listed Companies. I am sure, the workshop would provide an effective platform for debate on expansion of our services to new areas, enlargement of our scope in existing recognitions, and equitable assessment of our strengths and weaknesses to help overcome obstacles and achieve excellence. I invite you to be present in large numbers and benefit from the deliberations at the workshop.

The icing on the cake was, however, left to the Hon'ble Finance Minister Mr. P. Chidambaram, the Chief Guest at the third ICSI National Seminar on Indian Financial Code in New Delhi who delivered the inaugural address. The address contained all which one could have wished for - appreciation of FSLRC for its seminal work, validation of the presence of regulatory gaps and overlaps, articulation of the difficulties in enacting legislation, advocacy to authorities to implement recommendations not requiring legislative processes and guidance in laying down the roadmap for scope of work on hand to the powers that be. The keynote address delivered with aplomb and authority by Dr. K. P. Krishnan, Principal Secretary, Government of Karnataka and a veteran in financial market governance was very well received as was the Special Address by Ms. Chitra Ramakrishna, Managing Director & CEO, NSEIL. The galaxy of speakers at the full-day Seminar included Mr. P. K. Malhotra, Secretary, Legislative Department, Mr. Ashok Chawla, Chairman, Competition Commission of India, Dr. Shekhar Shah, Director General, NCAER, Dr. Ajay Shah, eminent economist from NIPFP, Mr. Ravi Narain, Vice-Chairman, NSE, and Dr. C.K.G. Nair, Advisor, Department of Economic Affairs, Ministry of Finance.

I am pleased to inform you that the 14th National Conference of Practising Company Secretaries will be held on July 19-20, 2013 in Kolkata on the theme "Integrating Growth, Governance and Challenges Beyond". I invite all our practising members to block their dates, inform friends and participate in large numbers so as to make the Conference a memorable one. I am sure, the Conference will break new grounds in delineating our role in latent as also emerging areas with content and clarity.

To end on a cheerful note – Nothing in this world can take the place of persistence. Talent will not; nothing is more common than unsuccessful people with talent. - Calvin Coolidge

With kind regards,

Yours sincerely,

Thane

May 30, 2013.

S. S. N. Ananthasubramanian
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Many Facets of Contract of Guarantee & Surety's Liability

➤ For providing loans and financial assistance to business entities banks insist on adequate guarantee from persons of means. If the borrower fails to repay the loan or interest, the surety who provided guarantee will be proceeded against for recovery. The law relating to guarantee and the extent of the liability of the surety have been explained in the light of a number of decided cases.

PREFACE

Financial and performance guarantees are inevitable part of commercial world. Company Secretaries are often called upon to have deeds of guarantee executed on behalf of the company and while doing it they have to ensure compliance with the provisions of the Companies Act, 1956 such as sections 295 and 372A. They are also occasionally required to have guarantee deeds executed by the company's directors in favour of banks and other lenders in respect of company borrowings. Therefore Company Secretaries ought to know the law relating to contracts of guarantee and also relevant provisions of the Companies Act to be complied with in providing guarantees by companies and their directors.

MEANING OF 'GUARANTEE'

In the ordinary parlance, guarantee means a promise or assurance. In the context of financial transactions, guarantee means a legal promise to repay a loan if the original borrower defaults (fails to repay it or make interest payments on it). The Oxford Dictionary of Accounting defines it as "a promise made by a third party (guarantor), who is not a party to a contract

between two others, that the guarantor will be liable if one of the parties fails to fulfil the contractual obligations." According to the Oxford Dictionary of Law, guarantee means "a secondary agreement in which a person (the guarantor) is liable for the debt or default of another (the principal debtor), who is the party primarily liable for the debt.

Thus, a contract of guarantee is a contract under which a person called 'surety' (or guarantor) gives a promise to discharge the liability of a third person called 'principal debtor'. The person to whom the guarantee is given is called 'creditor'. Guarantee is a collateral security. It is generally in addition to the security of mortgage or hypothecation of some property.

Section 126 of the Indian Contract Act defines the expression "contract of guarantee" as a contract to perform the promise, or discharge the liability, of a third person in case of his default. The person who gives the guarantee is called the 'surety'; the person in respect of whose default the guarantee is given is called the 'principal debtor'; and the person to whom the guarantee is given is called the 'creditor'. A guarantee may be either oral or written.

Section 128 of the Indian Contract Act, 1872, provides that the liability of the surety (guarantor), is co-extensive with that of the principal debtor, unless it is otherwise provided in the contract.

* Past President, the Institute of Company Secretaries of India.



Section 137 states that mere forbearance on the part of the creditor to sue the principal debtor or to enforce any other remedy against him does not, in the absence of any provision in the guarantee to the contrary, discharge the surety. A combined reading of these two sections reveals that in a contract of guarantee, the surety's liability in respect of the loan guaranteed by him is co-extensive with that of the principal debtor, and, secondly, even if the creditor chooses to proceed against the surety without first proceeding against the principal debtor, for recovery of the money due, the surety cannot avoid the liability. A surety's liability to pay the debt is not removed by reason of the creditor's omission to sue the principal debtor. The creditor is not bound to exhaust his remedy against the principal debtor before suing the surety. The liability of the principal debtor and the surety is joint and several.

WHETHER PROMISSORY NOTE IS GUARANTEE

In *State of Madhya Bharat v Hiralalji and Another* [1953] 23 Comp Cas 201 (MB), the question was whether a joint promissory note executed by a company and its managing agent was a guarantee given by the company within the purview of section 87D of the Indian Companies Act, 1913 which prohibited the guaranteeing of a loan given to the managing agent of a company. The court held in the negative and refused to construe liberally the word 'guarantee' in section 87D. It was observed:

"The essence of a guarantee is that a guarantor agrees to discharge his liability only in one event, i.e., when the principal debtor fails in his duty. "Let him have the loan, I will see you paid" or "... if he does not pay I will" are the phrases ordinarily used when a guarantee is given. In other words, a guarantee presupposes the existence of a principal debtor, and if in any contract there never was at any time another person who can properly be described as a "principal debtor" in respect of whose default a guarantee can be given, there cannot be said to have been any "guarantee" either in its technical meaning or in its ordinary meaning. A promissory note executed jointly by a company and its managing agent does not come."

DOES GUARANTEE STAND POSTPONED TILL CREDITOR EXHAUSTS OTHER REMEDY?

The above provisions of the Contract Act have undergone judicial debate several times, and one of the questions involved in the controversy is whether the creditor can proceed against the surety for recovery of the debt before exhausting his remedies against the mortgaged/ hypothecated property and the principal debtor.

In *Bank of Bihar v. Dr. Damodar Prasad* [1969] 39 Comp Cas 133 (SC):AIR 1969 SC 297, Damodar Prasad, defendant No.1,

» where directors of a company personally guarantee a debt or loan obtained by the company, they render themselves liable for the debt due from the company, in their personal capacity as sureties. Here the liability is as personal guarantors. The director's liability in such a case is joint and several.

in that case was found to owe the plaintiff-bank a sum of Rs.11,723.56 on account of principal and Rs.2,769.37 on account of interest. The surety, defendant No.2, had agreed to pay and satisfy the liabilities of the principal debtor upto the extent of the amount found due. The trial court, while decreeing the suit against both the defendants, directed that the "plaintiff-bank shall be at liberty to enforce its dues in question against defendant No.2 only after having exhausted its remedies against defendant No.1". The legality and propriety of this direction was unsuccessfully challenged before the High Court. The Supreme Court however, allowed the appeal and the aforesaid direction was set aside. The Supreme Court pointed out that surety's liability to pay is not deferred until the creditor has exhausted his remedies against the principal debtor. In the absence of special equity the surety has no right to restrain an action against him by the creditor on the ground that the principal debtor is solvent or that the creditor may have relief against the principal debtor in some other proceedings. Likewise, where the creditor has obtained a decree against the surety and against the principal debtor the surety has no right to restrain execution against him until the creditor has exhausted his remedies against the principal debtor. Thus, the surety's liability is not deferred until remedies against principal debtor are exhausted.

The above decision was followed in a few subsequent decisions as also by some High Courts. In *State Bank of India v. Saksaria Sugar Mills Ltd.* AIR 1986 SC 86, the Supreme Court, while considering the provisions of section 128 of the Contract Act held that liability of a surety is immediate and is not deferred until the creditor exhausts his remedies against the principal debtor.¹

In *State Bank of India v. Balak Raj Abrol* [1989] 66 Comp Cas 526 (HP), the High Court held that the liability of the surety being co-extensive with that of the principal debtor, unless it is otherwise provided by the contract, the decree-holder can proceed against either of them. The cause of action against the principal debtor and surety are independent and separate. The

¹ See also: *Industrial Investment Bank of India Ltd. v. Biswanath Jhunjhunwala* [2009] 9 SCC 478 and *United Bank of India v. Satyawati Tondon* AIR 2010 SC 3413.



Article

Many Facets of Contract of Guarantee & Surety's Liability



Legislature has specifically provided in section 137 of the Indian Contract Act, 1872, that the creditor's forbearance to sue the principal debtor or to enforce any other remedy against him would not, in the absence of any provision in the guarantee to the contrary, discharge the surety, meaning thereby that he could press his claim against the surety alone, and the decree-holder cannot be expected to exhaust his remedies against the principal debtor in the first instance and then only proceed against the surety.

The matter, however, had become controversial because of the decision of the Supreme Court in *Union Bank of India v. Manku Narayana* [1987] 62 Comp Cas 1: AIR 1987 SC 1078. In this case a loan was granted by the Bank (creditor) on the security of mortgage of certain property and of a guarantee. The Bank filed a suit for recovery of the unpaid amount of the loan and a composite decree was passed against the principal debtor and the surety making them personally liable for the decreed amount and also declaring that a portion of the amount due to the bank was covered by the mortgage. The bank sought the execution of the decree against the surety. Execution was however, resisted by the surety with the plea that the bank should proceed first against the mortgaged property and the principal debtor and that it could proceed against the guarantor (surety) only after those steps were exhausted. The Supreme Court held that the decree in execution was a composite decree, personally against the principal debtor and the surety and also against the mortgaged property and since a portion of the decreed amount was covered by the mortgage, the decree-holder bank had to proceed against the mortgaged first and then proceed against the guarantor. The decision of the Court in *Bank of Bihar v. Damodar Prasad* was brought to the notice of the Supreme Court but the Court appears to have distinguished that case, and perhaps in view of the slightly different facts, inasmuch as in the Bank of Bihar's case there was no mortgage security involved and the decree was only against the principal debtor and the surety, whereas in the *Union Bank's* case the decree was a composite decree against the principal debtor, the surety and

the mortgaged property.

In *Ram Kishun v. State of U. P.* [2012] 173 Comp Cas 105:2012 AIR SCW 3491, the Supreme Court has held that in view of the provisions of section 128 of the Contract Act, the liability of the guarantor/surety is co-extensive with that of the debtor. Therefore, the creditor has a right to obtain a decree against the surety and the principal debtor. The surety has no right to restrain execution of the decree against him until the creditor has exhausted his remedy against the principal debtor for the reason that it is the business of the surety/guarantor to see whether the principal debtor has paid or not. The surety does not have a right to dictate terms to the creditor as how he should make the recovery and pursue his remedies against the principal debtor at his instance.

In *Industrial Investment Bank of India Ltd. v. Bishwanath Jhunjunwala* 2009 AIR SCW 5359 the Supreme Court extracted the meaning of the expression 'co-extensive' from the Pollock and Mulla on Indian Contract and Specific Relief Act, Tenth Edition, at page 728 as under: "Co-extensive- Surety's liability is co-extensive with that of the principal debtor. A surety's liability to pay the debt is not removed by reason of the creditor's omission to sue the principal debtor. The creditor is not bound to exhaust his remedy against the principal debtor before suing the surety, and a suit may be maintained against the surety though the principal debtor has not been sued."

EFFECT OF SECTION 139 OF THE CONTRACT ACT

Section 139 of the Indian Contract Act titled "Discharge of surety by creditor's act or omission impairing surety's eventual remedy" provides that "If the creditor does any act which is inconsistent with the rights of the surety, or omits to do any act which his duty to the surety requires him to do, and the eventual remedy of the surety himself against the principal debtor is thereby impaired, the surety is discharged."

The section has three Illustrations which read as follows:

- (a) B contracts to build a ship for C for a given sum, to be paid by instalments as the work reaches certain stages. A becomes surety to C for B's due performance of the contract. C, without the knowledge of A, prepays to B the last two instalments. A is discharged by this prepayment.
- (b) C lends money to B on the security of a joint and several promissory note made in C's favour by B, and by A as surety for B, together with a bill of sale of B's furniture, which gives power to C to sell the furniture, and apply the proceeds in discharge of the note. Subsequently, C sells the furniture, but, owing to his misconduct and wilful negligence, only a small price is realized. A is discharged from liability on the note.
- (c) A puts M as apprentice to B, and gives a guarantee to B for



M's fidelity. B promises on his part that he will, at least once a month, see M make up the cash. B omits to see this done as promised, and M embezzles. A is not liable to B on his guarantee.

In *HDFC v. Gautam Kumar Nag* 2012 AIR SCW 993, the deed of guarantee provided as follows:

"(2) I hereby accord my consent to the terms of the said Loan Agreement and/or any instrument or instruments that may hereafter be executed by the Borrower/s in your favour as aforesaid, being by mutual consent between you and him/ them in any respect varied or modified without requiring my consent or approval thereto and I agree that my liability under this Guarantee shall in no manner be affected by such variations and modifications and I expressly give up all my rights as surety under the provisions of the Indian Contract Act, 1872 in that behalf.

(3) You shall have the fullest liberty without in any way affecting this Guarantee and discharging me from my liability thereunder to postpone for any time or from time to time the exercise of any power or powers reserved or conferred on you by the said Loan Agreement or any instrument or instruments that may hereafter be executed by the Borrower/s in your favour and to exercise the same at any time and in any manner and either to enforce or forbear to enforce payment of principal or interest or other monies due to you by the Borrower/s or any of the remedies or securities available to you or to grant any indulgence or facility to the Borrower/s AND I SHALL not be released by any exercise by you of your liberty with reference to the matters aforesaid or any of them or by reason of time being given to the Borrower/s or of any other forbearance, act or omission on your part or any other indulgence by you to the Borrower/s or by any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of so releasing me AND I hereby waive all suretyship and other rights which I might otherwise be entitled to enforce or which but for this provision have the effect of releasing me."

The High Court, relying upon section 139, held that for the recovery of the loan the lender (HDFC) should have taken recourse to first by either seeking to give effect to the promissory note or by enforcing the mortgage. Disagreeing with the High Court, the Supreme Court held that It is well established that the liability of the guarantor is equal to and co-extensive with the borrower and it is highly doubtful that the guarantor can avoid his liability simply on the basis of the promissory note made out or an equitable mortgage created by the borrower in favour of the lender. However, in the facts of this case, this question does not even arise. A reference to the deed of guarantee executed by the two respondents would have made the position completely clear but unfortunately the attention of the High Court was not drawn to the relevant clauses in the deed of guarantee.

WHETHER A COMFORT LETTER IS GUARANTEE

A letter of comfort (or comfort letter), which is an informal statement assuring the financial soundness or backing of a company, is not a guarantee. Accordingly neither the provider of a letter of comfort is liable nor would section 295 or 372A be attracted.

In one case² the plaintiff bank agreed with the defendants to make a loan facility of up to £10m available to the defendants' wholly-owned subsidiary, M, which traded in tin on the London Metal Exchange. As part of the facility arrangement the defendants furnished to the plaintiffs two 'letters of comfort', each of which stated in para 3 that 'It is our policy to ensure that the business of [M] is at all times in a position to meet its liabilities to you under the [loan facility] arrangements'. In 1985 the tin market collapsed at a time when M owed the plaintiffs the whole amount of the facility. M went into liquidation and the plaintiffs sought payment of the amount owing from the defendants. When the defendants refused to pay the plaintiffs brought an action against them to recover the amount owing. The judge held that the plaintiffs were entitled to recover. On the defendants' appeal, the Court of Appeal held that a letter of comfort from a parent company to a lender stating that it was the policy of the parent company to ensure that its subsidiary was 'at all times in a position to meet its liabilities' in respect of a loan made by the lender to the subsidiary did not have contractual effect if it was merely a statement of present fact regarding the parent company's intentions and was not a contractual promise as to the parent company's future conduct. On the facts, para 3 of the letters of comfort was in terms a statement of present fact and not a promise as to future conduct and in the context in which the letters were written was not intended to be anything other than a representation of fact giving rise to no more than a moral responsibility on the part of the defendants to meet M's debt. Ralph Gibson LJ said: "If they are treated as no more than a representation of fact, they are in that meaning consistent with the comfort letter containing no more than the assumption of moral responsibility ... in respect of the debts.... There is nothing in the evidence to show that, as a matter of commercial probability or common sense, the parties must have intended para 3 to be a contractual promise, which is not expressly stated, rather than a mere representation of fact which is so stated."

The Karnataka High Court had occasion to deal with this subject.³ The letter of comfort given by a company on behalf of another company stated that "we will undertake all reasonable steps to ensure that ... conducts its operation efficiently to meet

² *Kleinwort Benson Ltd. v. Malaysia Mining Corp Bhd* [1989] 1 All ER 785; [1989] 5 BCC 337 (CA).

³ *United Breweries (Holdings) Ltd v. Karnataka State Industrial Investment and Development Corporation Ltd* AIR 2012 Kar 65; [2013] 176 Comp Cas 292



its obligations in the usual course of business. We are convinced that the company concerned has the capabilities to fully cater to its financial commitments." The court held that this was not a deed a guarantee and it was more in the nature of recommendatory letter. If a person has not stood as a guarantor or surety, he cannot be treated as a guarantor or surety without there being a specific undertaking by him that he would discharge the liability of the third person in case of his default.

DIRECTOR'S LIABILITY FOR COMPANY'S LOAN UNDER A DEED OF GUARANTEE

As a general rule, for a company's debts or liabilities its director cannot be held liable nor can a director be penalised for a company's default in discharging its own liabilities. For instance, where an erstwhile director of a company was asked to pay off a telephone bill of the company's telephone, the court held that he could not be saddled with the company's telephone bill. This is the result of the independent entity of the company that is acquired by the company on incorporation.⁴

However, where directors of a company personally guarantee a debt or loan obtained by the company, they render themselves liable for the debt due from the company, in their personal capacity as sureties. Here the liability is as personal guarantors. The director's liability in such a case is joint and several. If, however, a loan or debt is not guaranteed by directors, no personal liability attaches to the directors for the company's loan/debt and the creditor cannot proceed against the directors personally for recovery of the loan/debt.⁵

Where there was a decree for recovery of sums due to a bank from a company, in a suit against the company and its managing director, the liability to discharge the decretal amount was held to be that of the company and not of its managing director. The executing court could proceed against the managing director of the judgment debtor company only if it came to the conclusion that the managing director was personally liable to discharge the decretal amount.⁶

Where directors had not given a personal guarantee for a loan, it was held that they cannot be fastened with the liability for the loan because a company is a separate entity.⁷ Where the chief managing director of the company executed some documents with the bank for obtaining cash credit facility on behalf of company, it was held that he was neither liable for true amount of loan nor would be a party to suit by the bank against the

company.⁸ But where a director guarantees a loan taken by the company, the guarantee does not cease to be operative after the director has resigned, unless the guarantee is cancelled with the consent of the creditor.⁹

Where a director who had guaranteed the company's loan, retired and new director appointed in place of him signed a guarantee bond once again and there has nothing to show that the guarantee earlier given had ceased to have operation, it was held that in case of default committed by the company all the directors whether retired or new director, who had signed once to the guarantee bond will be held liable jointly and severally.¹⁰

A director who has given his guarantee for the company's overdraft will be liable and the guarantee given by him does not come to an end after cessation of his directorship.¹¹ Directors can be held personally liable, even where he has given merely an informal undertaking for the company's debts. Where a director who has made a written statement to the creditors of the company that he would have debts paid in full if they gave the company some relaxations, he was held to be personally liable towards the creditors.¹²

CONCLUSION

Three broad principles that can be deduced from the decided cases are:

- (a) A transaction in which there are not three parties and in which there is no promise made by a third party (guarantor), who is not a party to a contract between two others, that the guarantor will be liable if one of the parties fails to fulfil the contractual obligations, does not constitute a contract of guarantee. A letter of comfort or such similar document does not contemplate a contract to perform the promise, or discharge the liability, of a third person in case of his default and hence is not a guarantee.
- (b) In view of section 128 of the Contract Act, the liability of the guarantor/surety is co-extensive with that of the debtor and, therefore, the creditor has a right to obtain a decree against the surety and the principal debtor.
- (c) A director of a company providing a guarantee to a creditor of the company does so in his personal capacity and binds himself personally to discharge the company's debt or other liability and continues to be liable to the creditor even after he resigns his directorship, but a director who has not given a personal guarantee to the company's creditor is not personally liable for the discharge of the debt.

⁴ *Kailash Prasad Modi v. Chief General Manager, Orissa Telecommunication* [1994] 3 Comp LJ 131 (Ori).

⁵ *Hrushikesh Pande v. Indramani Swain* (1988) 63 Comp Cas 368 (Ori).

⁶ *H. S. Sidana v. Rajesh Enterprises* [1993] 77 Comp Cas 251; [1993] 11 CLA 248 (P & H); see also *Maruti Ltd. v. Pan India Plastic Pvt. Ltd.* [1995] 18 CLA 291 (P&H).

⁷ *Indian Overseas Bank v. R M Marketing & Services Pvt. Ltd.* [2002] 46 CLA (Snr.) 1 (Del).

⁸ *Bank of Maharashtra v. Racmann Auto Pvt. Ltd.* (1992) 74 Comp Cas 752, 755 (Del).

⁹ *Grindlays Bank Ltd. v. M. Joy Mathew and Another* [1993] 78 Comp Cas 33 (Ker).

¹⁰ *Bank of Baroda v. Official Liquidator* (1992) 73 Comp Cas 688 (MP).

¹¹ *Finance National Corporation v. Goodman* (1983) BCLL 203.

¹² *Paulger v. Butland* (1989), 3 NZLR 549.



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Overview of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012

➤ The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 had brought about certain important changes in SARFAESI Act and the Debt Recovery Act. The notable one relates to conversion of a portion of debt into shares of a borrower company. This amendment has thrown open additional areas for company secretaries and they should do well to rise to the occasion and utilize the opportunity.

The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 (1 of 2013) (Amendment Act) seeks to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (Recovery Act). The amendments are aimed at enhancing the effectiveness of the measures contained in the above two enactments and facilitate restructuring of the borrower companies.

PROVISIONS RELATING TO MULTI-STATE CO-OPERATIVE BANKS

The Multi-State Co-operative Banks are formed under the Multi-State Co-operative Societies Act, 2002 (2002 Act). They also come under the regulatory purview of the Reserve Bank of India in view of the provisions contained in the Banking Regulation Act, 1949. At present Multi-State Co-operative Banks are not included either in the definition of 'bank' under clause (c) of section 2 of SARFAESI or under clause (d) of

section 2 of the Recovery Act. Consequently, a multi-State Co-operative Bank has to resort to recovery action pursuant to the provisions contained in Chapter IX of the 2002 Act i.e. by referring the dispute to arbitration in terms of section 84 of the 2002 Act.

Amendment Act has included the multi-State Co-operative Banks in the definition of 'bank' in both SARFAESI and Recovery Act. Hence, after coming into force of this amendment, a multi-State Co-operative Bank can have recourse to SARFAESI and Recovery Act in addition to section 84 of the 2002 Act.

The Amendment Act has inserted similarly worded proviso in section 18 and section 31 of the Recovery Act providing for continuance of the proceedings already initiated by a multi-State Co-operative Bank before the commencement of the Amendment Act and laying down that the bank cannot resort to the Recovery Act in respect of the pending proceedings.

By amending section 19 of the Recovery Act, an option is afforded to a multi-State Co-operative Bank either to initiate proceedings to recover debts under the 2002 Act or under the Recovery Act. A multi-State Co-operative Bank, which has filed recovery proceedings under the Recovery Act, has the option

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to withdraw the application and resort to the provisions of section 84 of 2002 Act with the permission of Debts Recovery Tribunal (DRT). For obtaining the permission, a multi-State Co-operative Bank has to make an application to the DRT. DRT has been mandated to dispose of the application within thirty days from the date of the application. DRT has also the power to refuse the permission after recording the reasons for such refusal. An appeal will lie to the Debts Recovery Appellate Tribunal against the order of refusal by DRT under section 20 of the Recovery Act. This withdrawal option is in addition to the option available under the provisos contained in section 19 (1) of the Recovery Act dealing with the withdrawal of application filed by a bank to initiate action under SARFAESI.

By virtue of new sub-section (20A) of section 19 of the Recovery Act, DRT can record any agreement, compromise or satisfaction of the claim after satisfying itself about the genuineness of the agreement, compromise or the fact of repayment of the claim. DRT need not have concern about the adequacy of settlement amount or reasonableness of the terms of the compromise.

CONVERSION OF DEBT INTO SHARES

Clause (g) of section 9 of SARFAESI, permits conversion of a portion of debt into shares of a borrower company. The Amendment Act confers retrospective effect to the conversion option by the insertion of the proviso to clause (g) explicitly stating that the measure shall be deemed always to have been valid as if the provisions of this clause were in force at all material times.

Section 81(3)(b) of the Companies Act, 1956 has provisions relating to conversion of debentures or loans raised by a company in to shares in the company. Public Companies (Terms of Issue of Debentures and Raising of Loans with option to convert such Debentures or Loans into Shares) Rules, 1977 were also framed to operationalise conversion of debenture or loan into shares. In order to enable the banks and financial institutions to convert a portion of the loan or debentures into equity, it was required that a stipulation as to this right should have been incorporated in the loan agreement or subscription agreement. The amendment aims to permit conversion of debt into shares as a measure for asset reconstruction by a securitisation company (SC) or asset reconstruction company (ARC) under SARFAESI. If a stipulation was available for conversion in the debenture subscription agreement or loan agreement, the SC/ARC acquiring the financial assets from the banks or financial institutions could have derived such right in terms of section 5(2) of SARFAESI. In view of the specific provision now included in SARFAESI, whether or not such right was available to a bank or financial institution transferring financial asset to SC/ARC, the latter can resort to conversion of any portion of debt into shares of a borrower company.

The word “share” has not been defined in SARFAESI. As stated in section 2(2) of SARFAESI, it shall have the same meaning

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assigned to it under the Companies Act, 1956. Section 2 (26) of the Companies Act, 1956 defines share thus: “share” means ‘share in the share capital of a company, and includes stock except where a distinction between stock and share is expressed or implied’. As per section 86 of the Companies Act, “The share capital of a company limited by shares shall be of two kinds only, namely: -

- (a) equity share capital-
 - (i) with voting rights; or
 - (ii) with differential rights as to dividend, voting or otherwise in accordance with such rules and subject to such conditions as may be prescribed;
- (b) preference share capital. “

Hence within these broad kinds of share capital, an SC/ARC can attempt conversion of a part of the debt into shares like equity shares, equity shares with differential rights, cumulative preference shares, non-cumulative preference shares, Optionally convertible cumulative preference shares etc.

The rights contained in the loan agreement or debenture subscription agreement regarding the conversion option was contractual and backed by statutory provisions. There were instances when the borrower companies exhibited reluctance to give effect to the notice of conversion for the fear of loss of control. The time limit stipulated for exercising the option also impeded the conversion, as the loans provided by the bank or financial institutions were for implementation of projects and the conversion right were to be exercised after commercial operation date or in respect of rehabilitation loans when the companies became profitable. On the other hand, the right contemplated in SARFAESI is statutory and based on consent. Being a prerequisite for restructuring package, the chances of borrowers resisting the conversion may not arise. This conversion option is available only in respect of borrower being a company. In the case of borrower being an entity other than a company (e.g., Societies) such conversion option is not available. Due to availability of this option, SC/ARC can henceforth attempt a deep restructuring. By converting a part of the loan into shares, the quantum of serviceable loan obligation diminishes. This allows the borrower



company to augment cash for working capital and capital investment enabling it to remain a financially viable concern. The conversion option helps the SC/ARC to structure the asset reconstruction within the time limit stipulated by the Reserve Bank of India due to reduction of the amount required for servicing the acquired debt. SC/ARC can recoup whole or part of the loss of interest on conversion of debt into shares, by an upside in the market value of shares or under a suitable buy-back agreement with the promoters.

The co-operation of borrower for stipulating conversion of debt into shares will be readily forthcoming, lest it will lose the assets through measures for enforcement of security interest provided in SARFAESI. The price of shares, at par or at a premium, may be negotiated between the lender and the borrower. However, if the market price of the share is below par (which will be true in majority of cases), SC/ARC may find it difficult to agree to include conversion option, unless reduction of share capital is carried out before conversion of debt into shares. Otherwise SC/ARC may have to make provision for the diminution in the value of shares, which may not serve its commercial interest. Exercise of conversion right in the case of borrower, being a private limited company, will necessitate the company to be converted into a public company. Otherwise the disposability of the shares and ascertainment of the right price for the shares could pose problems for SC/ARC. To ensure tradability of the shares, SC/ARC may stipulate listing of shares in recognised stock exchanges, if the borrower company is not a listed company.

In order to enable SC/ARC to exercise the conversion option, the borrower company shall have sufficient unissued share capital. Otherwise, the borrower company will have to increase its share capital by following the procedure contained in the Companies Act, 1956. Regulation 10 (1) (e) of the Securities and Exchange Board of India (Substantial Acquisitions and Takeovers) Regulations, 2011 (Takeover Regulations) contains provisions exempting from the purview of the Takeover Regulations the acquisition of shares by SC/ARC pursuant to SARFAESI. However, the SC/ARC may have to comply with the provisions of sub-regulations (5) and (6) of Regulation 10 of the Takeover Regulations.

ENABLING THE SECURED CREDITOR TO ACQUIRE THE PROPERTY BROUGHT FOR SALE

Sub-sections (5A), (5B) and (5C) of section 13 of SARFAESI permits the secured creditor to bid for the property brought for sale through its authorised officer in any subsequent sale, if the previous sale has been postponed for want of bid for an amount not less than the reserve price. Bidding for the property by the secured creditor at the reserve price in the first attempt to sell the property is not permitted; but the secured creditor can bid in the second or subsequent sale of the property. In terms of Sub-section (5B), the secured creditor, being the declared purchaser of the property, has been permitted to adjust the amount of purchase price towards the amount of claim of the secured creditor. Sub-section (5C) limits the time up to which such property can be held



by the secured creditor, being the declared purchaser of the property.

Clarity is lacking in the provisions contained in sub-section (5B) regarding payment to other secured creditors having security interest in the property. This may arise in situations where the same secured asset is charged to consortium of lenders and they had given their consent for taking enforcement action. As per the provisos to sub-section (9) of section 13, in the case of a company in liquidation, the amount realised from the sale of secured assets shall be distributed in accordance with the provisions of section 529A of the Companies Act; or deposited with the liquidator. Priority of certain statutory dues contained in other enactments e.g. State Sales Tax Act, also needs to be provided for in view of their overriding nature with regard to their payment. Probably what was implied by this provision is that no earnest money or final payment would be required to be made by the secured creditor purchasing the property in the auction. Distribution of the sale proceeds will have to be compliant with other provisions of the SARFAESI. In view of sub-section (5C), banks (including multi-State Co-operative Banks) may have to dispose off the property within the time limit specified in section 9 of the Banking Regulation Act, 1949.

APPLICATION TO CHIEF METROPOLITAN MAGISTRATE OR DISTRICT MAGISTRATE TO ASSIST IN TAKING POSSESSION OF SECURED ASSET

Elaborate provisions have been made in the new proviso under sub-section (1) of section 14 dealing with the contents of the



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application to be made to the CMM or DM. CMM or DM may authorise any officer to take possession of the assets and documents and forward them to the secured creditor. Normally the contents of the application would be specified in rules framed under the Act, as making changes in the rules are comparatively easier than amending the Act. By way of departure from the normal procedure, the section itself in this case specifies the details to be included in the application/affidavit.

Sub-section (3) of section 14 provides that the act of CMM or DM or any officer authorised by CMM or DM shall not be called in question in any court or before any authority. This section does not contemplate issue of any notice to the borrower or the occupant of the property by the CMM, DM or any officer authorised by CMM or DM, thus defeating the right to property. Further, *mala fide* exercise of the powers by CMM, DM or any official authorised by CMM or DM results in negation of constitutional rights including the right to be heard. Additionally, the act of CMM, DM or any official authorised by CMM or DM cannot be called in question in any court or before any authority. The affected party may have to resort to constitutional provisions to challenge the order. In case the secured creditor has misrepresented the facts in his application under section 14(1) of SARFAESI or acted with *mala fide* intention, the borrower may have to invoke the provisions of section 19 seeking compensation from the secured creditor. It is expected that CMM, DM or any official authorised by CMM or DM would afford an opportunity to the borrower or any person in possession of the property to be heard before passing suitable orders, though the same is not expressly mandated by SARFAESI.

RIGHT TO LODGE A CAVEAT

Right to lodge a caveat is made possible through section 18C. This section gives a right to both the creditor as well as the borrower to file a caveat where an application or an appeal is expected to be made under section 17(1) or section 17A or section 18(1) or section 18B of SARFAESI. This is a well intended measure that will serve the interests of both the secured creditor and the borrower, preventing the other party from obtaining *ex-parte* orders. Disposal of the applications/appeal will also get expedited by eliminating the time for service of the notice of the application/appeal on the respondent. The validity of the caveat is ninety days.

REGISTRATION OF SUBSISTING TRANSACTION WITH THE CENTRAL REGISTRY

Section 23 of SARFAESI empowers the Central Government to

extend the registration of all transactions of securitisation, or asset reconstruction or creation of security interest which are subsisting on or before the date of establishment of the Central Registry to register such transactions after coming into force of the Amendment Act and upon issue of another notification by the Central Government in this regard.

Section 26A permits extension of time for filing the particulars of any transaction of securitisation, asset reconstruction, or (creation of) security interest or modification or satisfaction of such transaction upon the party being able to satisfy the Central Government that the omission to file the return was accidental or due to inadvertence or some other sufficient cause or it is not of a nature to prejudice the position of creditors or it is just and equitable to grant the relief. Violation of the provisions of section 23 or section 24 or section 25 or section 28 or section 29 can be taken cognisance only upon the complaint filed by an officer of the Central Registry or an officer of the Reserve Bank of India. These offences can be tried by the Metropolitan Magistrate or Judicial Magistrate of the first class.

POWER TO EXEMPT

The Central Government has power, in public interest, to exempt the application of the provisions of SARFAESI to class or classes of banks or financial institutions or apply the provisions of SARFAESI with such exceptions, modifications and adaptations as specified in the notification to a class or classes of banks or financial institutions.

CONCLUSION

The measures contained in the Amendment Act are beneficial to the secured creditors and the borrowers. The measures are likely to enhance the recovery of amount due from the borrowers through acceptable restructuring or enforcement provisions. Pursuant to the amendments, there will be additional opportunities for the company secretaries in areas like issue of shares on conversion, changes in the capital structure, reduction of capital before conversion of loan into shares, conversion of private company into a public company, listing of shares, dematerialisation of shares, filing forms with Central Registry in respect of transactions of securitisation, asset reconstruction, creation of security interest or modification or satisfaction of the security interest filing application with the Central Government for extension of time under section 26A of SARFAESI etc. It is expected that company secretaries will rise to the occasion and utilise the opportunities.

CS



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Impact of Shares Buyback on Equity Shareholder's Value

- Shares buy back results in the reduction of liquid funds of a company and does not create value for long term. Despite such drawbacks many companies resort to the practice of buy back of securities. The impact of buy back has been examined on the basis of data relating to share buy back.



INTRODUCTION

The promoters of companies often seek to increase their shareholding through buyback of shares and thereby affect the share prices and capital structure. In some cases, the company wants to use the profit and / or excess reserves in the buyback of shares rather than providing dividend to its equity shareholders. The buyback of shares, through open-market share repurchases, restricts take-over attempts by other entities for the firm. Excess cash is also used for the buyback purposes rather than investing in a new project. Even the government policy and certain decisions of

regulatory authorities provide an incentive to companies for the buyback of shares.

Earlier, section 77 of the Companies Act, 1956 prohibited companies from buying their own shares unless it was for the purpose of reduction of share capital provided under section 100. The debate for allowing the companies to buy back their shares started in India during the 1990s. The company legislation in India owes its origin to the English company law. After seeing the change in the company law in Western countries, the provisions of the buyback of shares were inserted through the Companies (Amendment) Act, 1999 [Sections 77A, 77AA and 77B].

REASONS FOR BUYBACK OF SHARES

The major reasons to go for the buyback of shares are briefly described below:

Capital Structure: A buyback has a purpose to create a more desirable capital structure and the shares buyback influence the financial leverage; firms with high debt capacity may repurchase their shares in order to create a desirable capital structure.

Anti-takeover Mechanism: Managers are often afraid that the firm is becoming a take-over candidate. To defend the company against the threat of a hostile take-over, the managers can decide to use a buyback.

Increased EPS: Management can have the goal of increasing the earnings per share because the number of shares gets reduced, the result can be divided over fewer shares.



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Substitute for Dividend: One of the reasons for companies to use a share repurchase is to avoid the dividend tax. The capital gain tax is lower than the dividend tax and if shares are selling, less capital tax is required to be paid.

Excess Cash Flow: If the company has excess cash available and there is no immediate opportunity to invest, it can use that cash for buying its own shares so as to increase the underlying value of the shares.

Increase in Promoters' holding: When a company goes for buyback, it reduces the number of shares. After buyback, the number of his shares increases without incurring any expenditure.

Saving of Stamp duty: The buyback of shares does not result in any transfer of shares and does not attract any stamp duty.

STATUTORY PROVISIONS RELATING TO SHARES BUYBACK

Section 77 of the Companies Act, 1956, restricted companies on purchasing its own shares or its holding company's shares. The buyback of shares was allowed by inserting sections 77A, 77AA and 77B by the Companies (Amendment) Act, 1999. Now, section 77A empowers a company to purchase its own shares or other specified securities in certain cases from specified sources. While section 77AA is about transfer of certain sums to capital redemption reserve account, section 77B provides prohibition for buyback in certain circumstances.

As per the existing provisions, the buyback of shares and securities can be made out of free reserves or the securities premium account or the proceeds of any shares or other specified securities. However, no buyback of any kind of shares or other specified securities can be made out of the proceeds of an earlier issue of the same kind of shares or other specified securities.

DECIDED CASES ON SHARES BUYBACK

In the case of *Raghu Hari Dalmia & others*, decided on November 21, 2011 by the Company Law Board (CLB), the company resorted to the buyback of shares and the promoters did not participate in the buyback scheme. However, the promoters' shareholding increased from 63 per cent to 75 per cent after the buyback. It was decided that the buyback of shares did not constitute acquisition of shares by the promoter group within the meaning of take-over regulations.

In the case of *C. Vasudeva Murthy*, decided on March 2, 2009 by the CLB, the petitioner and the second respondent were two shareholders of the company. Due to the difference between them, a deadlock situation arose and the petitioner moved the CLB seeking the removal of the second respondent. It was decided that buy-out option should be given to both the petitioner and second respondent and the highest bidder would acquire shares of other. Based on the above decisions, it can be concluded that companies should resort to buyback only if it is absolutely necessary while maintaining its spirit and objective.

REVIEW OF LITERATURE

The literature is rich with studies on why the companies might choose to engage in the buyback of shares. Some of the recent studies on the subject are briefly reviewed here. Fama and French (2001) argued that the companies realised the tax disadvantages of dividends and they sought to substitute repurchases for dividends in order to generate lower taxed capital gains. Buyback of shares can also be used as an alternative for dividends and low pay-out dividend ratios are considered good for the growth of the firm. The firm can make investment to grow and thereby created value for the shareholder. Arnott and Asness (2003) investigated the dividend pay-out ratio as a predictor for future growth. The study revealed that low dividend pay-out ratios indicated strong positive signal for future earnings and growth, but low dividend pay-out ratios were inconsistent with the historical evidence. In fact, higher pay-out ratios create higher future earnings, growth and profits.

Brav et al (2005) examined American companies' view on both the general payout policy and the composition of the payout. As with most of the research studies conduct on the buyback of shares this was based on data of American companies, although it was found that those dividends were still sticky as first introduced by Lintner in 1956. Sticky dividends mean that companies are reluctant to make changes in the dividend payout ratio, which cannot be supported in the future. Companies, therefore, see share repurchases as a more flexible way to payout excess cash as share repurchases are not as sticky as dividends.

Mishra (2005) investigated the buyback of shares in India, which took place between 1999 and 2001. The announcement of a buyback from the management resulted in an increase in the share price. This was a short-term phenomenon. The prices of shares had no sustainable basis to stay higher than those before the announcement. After the buyback, the price of shares decreased below the earlier price. Based on the quantitative and qualitative research, the author concluded that the buyback of shares was not successful in India and it could not ensure a sustained increase in the share prices.

Dixon, Palmer, Stradling and Woodhead (2008) examined the motives for the buy-back of shares in selected companies of England. This study involved a survey of top 200 firms in England where the buyback of shares took place from 1981 onwards. The study revealed that the main reason of buy-back was to create the optimal capital structure.

In the article of Johnson (2011) in Financial Times, the author referred to a study of Morgan Stanley, which investigated the cases of the buy-back of shares from 1997 to 2006. The share prices rose on an average by 8.2 per cent, while the market average in that period was 10.3 per cent. However, the share price of firms which paid dividend increased by as much as 12.7 per cent.

Thus, firms use the buy-back of shares as a substitute for dividends in order to lower the taxes. Moreover, share repurchases may



result in less free cash and increased insider ownership and this will diminish the potential gains to the potential acquirer. The underlying theme of a buy-back programme represents a zero-sum game, a game in which one group (the non-selling group, i.e., promoters) benefits at the expense of another group (the selling group, i.e., shareholder).

OBJECTIVES

This study had the following two objectives:

1. To ascertain whether the buy-back of shares is investor-friendly ; and
2. To ascertain whether there is any long-term benefits from the buy-back of shares.

Offers of Shares Buy-back

Table 1 shows that in 2011-12, a total of 29 buy-back offers were received by the SEBI, indicating an increase of 52.6 per cent over the previous financial year 2010-11. Out of these, 28 buy-back offers were made through the open-market repurchase method and one offer was made through tender method. A total of 12 buy-back offers opened and closed during 2011-12 as compared to 13 offers during 2010-11. The total buy-back offer size during 2011-12 was Rs.13, 057.92 crore as compared to total buy-back offer size of Rs. 5315.8 crore in 2010-11 reflecting an increase of 145.6 per cent in the offer size. It is also observed from the buy-back offers which are opened and closed during 2011-12 that there was an average utilization of 41.12 per cent of offer size in terms of amount. During 2011-12, the buy-back under the tender offer method was fully subscribed and funds were totally utilised.

Table 1
Cases of Buyback in 2011-12

Buyback cases	No. of cases	Buyback size	Actual amount utilised for buyback of securities
		Rs. crore	Rs. crore
1	2	3	4
Buyback through open market			
Cases received, opened and closed	11	1140.20	463.20
Cases received, opened but not closed	16	11458.1	Not applicable
Cases received but not opened	1	450	Not applicable
Buyback through tender offer			
Cases received, opened and closed	1	9.62	9.62

Source: SEBI Annual Report 2011-12

Recent Trends in Shares Buy-back in India

The buy-back of shares in Indian companies seems to be picking up pace with 22 Indian firms that began their share repurchase programmes since the beginning of 2012 and out of which IT firm Kale Consultants has managed to complete its share repurchase

» Buyback of shares is a quick way to make a share more attractive. It improves a closely watched methodology known as earnings per share, which divides a company's profit by the total number of shares outstanding. Such a move can produce a sudden burst of interest in a share and improve its price.

scheme. In May 2012, after a slow start, Reliance industries' shares buy-back programme seemed to be in pace as the company acquired shares worth Rs.1481 crore since the launch of the offer in February. Mukesh Ambani's RIL, which had announced a Rs. 10,440 crore buy-back programme, had so far spent about 14 per cent of the amount earmarked for the programme. Between February and May, the company purchased 1.92 crore shares at an average price of Rs.771 although the buy-back price is fixed to be Rs.870 which is higher than the price of January 2012 i.e. 815.45 and October 2012 i.e. 805.25 and it seems that the oil and gas giant buy-back is aimed at shoring up the stock price. Kirloskar oil engines, which began Rs. 73.625 crore share repurchase programme in March, has bought only seven shares and Tips industries, which began its Rs.800 lakh share repurchase programme in August, has not purchased a single share so far. Some of the companies which have launched buy-back programme in this year are Valiant communications, Ansal Housing & Construction, Monnet Ispat, Ece Industries, GeeCee Ventures Ltd., Sasken Communication and Gemini Communication.

Dual Side Movement of Share Price

The buy-back of shares usually improves the confidence of investors in the company. However, it showed that the share prices can move in either direction after the buy-back announcement. Out of 500 companies in BSE 500 index, 14 bought back shares in 2011. The movement of share price, in both the directions, is shown in table 2. One of the reasons for the fall in the price of stock, after the buy-back, could be the mismatch between the buy-back price announced by the company and investor expectations.

Table 2
Movements in Shares due to the Buy-back of Shares

Name of the company	Announcement date of buy-back	Price on announcement date [in Rs.]	Commencement date of buy-back	Price on commencement date [in Rs.]	Per cent change
HEG Ltd	March 14, 2011	204.09	April 11, 2011	245.75	19.9
FDC Ltd	January 27, 2011	107.35	February 18, 2011	101.75	-5.2
SRF Ltd	February 26, 2011	306.55	April 6, 2011	344.05	12.2



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Balrampur Chini	February 22, 2011	74.00	March 10, 2011	69.45	-6.1
Reliance Infrastructure	February 14, 2011	627.10	April 5, 2011	685.40	9.3
Praj Industries	December 3, 2011	78.05	December 15, 2011	72.15	-7.6
ZEEL	July 15, 2011	127.65	July 27, 2011	135.25	6.0
Amtek Auto	August 25, 2011	138.50	December 8, 2011	115.50	-16.6
CRISIL	October 18, 2011	839.25	December 26, 2011	855.00	1.9
Jindal Polyester	August 9, 2011	235.60	November 25, 2011	178.20	-24.4
OnMobile	March 9, 2011	62.45	September 22, 2011	62.95	0.8
Deccan Chronicle Holdings	January 4, 2011	112.35	May 16, 2011	76.20	-32.2

Source: ACE Equity

Effect on EPS

Buy-back of shares is a quick way to make a share more attractive. It improves a closely watched methodology known as earnings per share, which divides a company's profit by the total number of shares outstanding. Such a move can produce a sudden burst of interest in a share and improve its price. Most of the recent buy-back of shares have not fulfilled their stated purpose of rewarding investors, as reflected in the declining EPS, because of the fresh issue of shares soon after the buy-back or fall in the profit of companies. Table 3 stated that EPS, a key return ratio, has declined for 14 out of 20 companies that have bought back shares since January 2011 and share prices of 13 out of 20 companies have fallen during the buy-back period. When a company buys back its own shares, it lowers the number of shares held by the public which means that even if profits remain the same, EPS increases.

Table 3
Completion of Buy-back in Companies
(From January 2011 to October 2012)

Company's Name	Per cent change in share price between first and last date of buy-back	EPS in first quarter of 2012	EPS a year ago	Buy-back in per cent
Allied Digital Services	-69.18	4.88	24.39	11.60
Infinite Computer	-60.64	30.59	22.51	100.00
Deccan Chronicle	-30.31	0.39	8.85	84.32
Manaksia	-29.42	15.78	19.19	80.28
Sasken Communication	-20.33	25.06	28.48	99.68
Eon Electric	-18.48	-4.92	165.61	49.81
HEG	-18.19	22.95	31.23	100.00
India Infoline	-17.54	4.57	7.56	100.00

Source: ETIG database

Replacement of Dividend

When companies distribute cash through dividends, they leave the

decision on the shareholders to invest the cash whereas the buy-back of shares deprives the shareholders from this option. The shareholders, who do not sell shares during the buy-back of shares, increase their relative ownership as they hold the same number of shares out of smaller total. Hence, the increased EPS and share price is not a sign of improved earnings, but, it is a sign of fewer people eating the same cake and getting larger slices. Share repurchases are not substitute for dividend and the company needs to take an active stand on its current share price, otherwise, it will end up the buy-back process by rewarding the shareholder who sold their shares. Dividend treats all shareholders equal and does not create any wealth transfers. When companies choose the buy-back of shares over dividend in their payout policy, they expose the shareholders towards financial risk because companies do not want to take any risk and they want to pass it on to the shareholders. If companies are not better than their investors in predicting the future share prices then they should not conduct the buy-back of shares. So, the shareholders can take a view on the future development of the share prices.

Use of Excess Cash

In 2010, the US companies were sitting with record piles of cash, too nervous to spend it. Now, they are starting to deploy some of that money, not to hire workers or build factories, but, to prop up their share prices.

The Case of Microsoft

Microsoft borrowed \$4.75 billion by issuing new bonds at rock-bottom interest rates and announced it would use some of that money to buy-back shares. The company has nearly \$37 billion in cash, but the large share of that cash is being held by its operations in overseas. The company is reluctant to invest the money because it would get hit with a huge corporate tax bill.

The Case of ING

ING announced the buy-back of shares programme with a value of €5 billion in May 2007 and completed this in May 2008. A few months later ING was in trouble because of the financial crisis. On October 2008, ING received state aid of €10 billion. This is a huge contrast because ING decided that they did not need €5 billion and used it for the buy-back programme. Five months after the completion of the share buy-back programme, ING was in enough trouble to need state aid. Consequently, it would have been more beneficial for the ING to hold the cash and increased the resistance. But, the idea was to increase the EPS and optimise the capital structure.

POLICIES SUPPORTING UNFRIENDLY BUYBACK

Excess Cash with Public Sector Undertakings

The government is battling crisis on several fronts like low Gross Domestic Product (GDP), high crude oil prices, inflation and fiscal deficit which is a gap between the government's income and



expenditure. Hence, the government is trying out new options that could help to speed up the divestment process. Table 4 depicts that some of the Public Sector Undertakings (PSUs) have lots of excess cash but they are also under a heavy debt burden. In such a situation, it would not make any sense for debt laden PSUs to involve in the buyback of shares, but, companies like NMDC, Bharat Electronics, National Aluminium Company, Container Corporation of India, MOIL, which have no debt, can involve in the buyback of shares.

Table 4
Excess Cash with PSUs

Company	Cash and Bank Balance (Rs. crore)	Borrowings (Rs. crore)	Government Stake (per cent)
Oil and Natural Gas Corporation	27442	685	74
National Mineral Development Corporation	20725	---	90
National Thermal Power Corporation	17914	47467	85
Coal India	15982	1227	90
Steel Authority of India	15685	10063	86
Oil India	13590	321	78
Minerals & Metals Trading Corporation of India	8973	4793	99
Bharat Heavy Electricals	7949	1480	68
Power Grid Corporation of India	6998	46808	69
Bharat Electronics	5875	---	76
National Aluminium Co	4407	---	87
National Hydroelectric Power Corporation	4392	15240	86
Neyveli Lignite Corporation	3683	4046	94
Container Corporation of India	2747	---	63
Manganese Ore India	2069	---	80

Source: CMIE Prowess

In January 2012, a decision about the Cabinet's approval in the buy-back of shares in PSUs was pending and likelihood was that the Cabinet's nod may not be required in the buy-back of shares. Although, government could get a good price for its shares from the buy-back arrangements, but, it would not increase the share prices of PSUs for long-term. It would improve the company's return on equity by removing unused cash, but, it could signal that the company does not expect much growth. It would be better for the minority shareholders, if the company uses excess cash for expansion rather than the buy-back of shares. At last, the investors will have to take the decision whether they should involve in the buy-back of shares or hold the shares or sell the shares in the secondary market.

Front Running

In an open market share repurchases, the company repurchases shares through the broker or trader or dealer under the preview of Companies Act, 1956. When the broker purchases shares before his company does so for the purpose of the buy-back of shares. Then the process of front running is created and it is also referred as forward trading. In this malpractice, a hidden pact, between the

company and the broking house, says that the broker or someone else on his behalf buys the shares of the company before the company starts the procedure of buy-back in the secondary market. Mid-cap and small-cap stocks are more vulnerable to front running due to their lower float and liquidity. Moreover, if there is a large order of the buy-back of shares, the mid-cap and small-cap shares can change far more than the large-cap shares.

CONCLUSION

Buy-back of shares does not create value for the long-term. However, many companies spend lots of funds on the buy-back of shares. This study has revealed that the buy-back of shares is a destruction of value because the firms repurchase shares at a high price and the companies have more information about themselves as compared to their shareholders, as a result, they decide to repurchase shares as a signal of confidence but they put unnecessary risk on themselves and their long-term strategy because of the reduction in liquid funds. After all this, a question "Why do firms still launch share repurchase programmes?" still stands. The investors should be cautious of promoters' traps. Buy-back of shares is common in case of turbulent times because shares are repurchased at below their book value or at low price to earnings ratio. The investors should look at the promoters' stake pre buy-back, cash with company, proposed buy-back in terms of shares and the stake of promoter post buy-back. The policies of government are not good enough and more needs to be done, in the Indian context, to bring the market at par with the developed economies. For this, the regulating authorities, especially, SEBI has to play a crucial role in regulating and guiding the buy-back of shares in India.

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REFERENCES

- Arnott, R.D., and C.S. Asness (2003), "Surprise! Higher Dividends= Higher Earnings Growth", *Financial Analysts Journal*, Vol. 59, No. 1, pp. 70-87
- Brav, Alan, John R. Graham, Campbell R. Harvey, and Roni Michaely (2005), "Payout Policy in the 21st Century", *Journal of Financial Economics*, Vol. 77, No. 3, pp. 483-527
- Chartered Secretary, Vol. 42, No. 1, pp. 70-72
- Chartered Secretary, Vol. 39, No. 6, pp. 767
- Dixon, R., G. Palmer, B. Stradling, and A. Woodhead (2008), "An Empirical Survey of the Motivation for Share Repurchases in the UK", *Managerial Finance*, Vol. 34, No. 12, pp. 886-906
- Fama, Eugene, and Kenneth French (2001), "Disappearing Dividends: Changing Firm Characteristics or Lower Propensity to Pay", *Journal of Financial Economics*, Vol. 60, No. 1, pp. 3-43
- Johnson, S. (2011), "Few Reasons to Cheer Share Buy-backs", *Financial Times*, May 15
- Lintner, John (1956), "Distribution of Incomes of Corporations among Dividends, Retained Earnings and Taxes", *American Economic Review*, Vol. 46, No. 3, pp. 97-113
- Mishra, Asim (2005), "An Empirical Analysis of Share Buybacks in India", *ICFAI Journal of Applied Finance*, Vol. 11, No. 5, pp. 5-24
- SEBI, Annual Report (2011-12), pp. 102
- The Economic Times (2012), "India Inc Purchases Shares worth over 30 percent of Buyback Targets", *New Delhi*, August 26
- Yang, J.L. (2010), "U.S. Companies Buy Back Stock in Droves as They Hold Record Levels of Cash", *Washington Post*, October 7



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One Person Company – A Dynamic Form of Business

➤ The concept of one person company is new so far India is concerned though such a form of business exists elsewhere. The Companies Bill, 2012 contains a proposal for recognizing one person companies. This article briefly examines the proposals and brings out the advantages offered by one person companies.

The Companies Bill 2012, which is likely to become law very soon, has introduced “One Person Company” (OPC), a dynamic form of business. It will be interesting to note how the market will use this form. On an immediate note, one can see that OPC form will be used by ‘employees turning into entrepreneurs’, practicing professionals, if their professional bodies permit such form, sole entrepreneurs, etc. Value of IPR or business viability exploration work which consumes time, effort and money of a prospective entrepreneur/promoter (pre launch pioneering work) can be stored in a OPC and such OPC can be a stake holder in a larger company along with entrepreneur/promoter. Solo entrepreneurs can present OPC as a legal entity to foreign customers who take comfort in dealing with legal forms rather than dealing with individuals. Even government can use this form for strategic purposes which require both 100% control of the government from a strategic perspective and flexibility of a private enterprise. OPC is not a “Small Company” and therefore can be big both in terms of capital, business scale and managerial capabilities. OPC cannot raise equity capital from any other person other than the One Person who is a member of the company and cannot issue debentures to “public”; debentures may be issued on

“private placement” basis. There is no bar on raising funds through loan or instruments other than securities. The legal structure around the OPC is very interesting.

OPC – ANOTHER CLASS OF COMPANIES

“One Person Company means a company which has only one person as a member”. Other than the number of members, OPC is like any other company under the Companies Act. As the number of members is restricted to one, OPC will naturally be a Private Limited Company. This position is strengthened by the provision of clause 3(1)(C) which states “one person, where the company to be formed is to be One Person Company **that is to say, a private company**, by subscribing their names or his name to a memorandum and complying with the requirements of this Act in respect of registration” (emphasis supplied).

OPC is like any other class of companies under the Companies Act with its charter (memorandum and articles of association) registered with ROC. It can be a company limited by shares, guarantee or even unlimited.

The one member of OPC can be either a natural person or a juridical person. Neither the Companies Bill 2012 nor The Companies Act, 1956 defines the term ‘person’. The General Clauses Act defines a ‘person’ as including a company or other

* Views expressed in this article are the personal views of the author.



association or body of individuals. Under Income Tax Act, 'Person' includes a company. Department Circular No. 128/HCC/64 dated 27-7-1964 enables 'an agent to sign the memorandum on behalf of subscriber if such agent is authorised by power of attorney to do so. Thus, a company can be subscriber/member of OPC and authorise an agent to sign on its behalf. Being one among different classes of companies under the legislation, OPC can enjoy all privileges and possibilities under the law. An OPC can float or be floated by another company. As at present, when a company wants to float a subsidiary, perforce, it has to name another person along with the promoting company only to fulfill the requirement of law; once this law is passed, OPC can replace such 'artificially' two member private limited company. OPC can retain its Private Limited Character even if it is a subsidiary of a public limited company [See definition of public limited company under clause 2(71)]. OPC is a private limited company and has to state clearly that it is a One Person Company along with its name for the public to know its character.

PERPETUAL SUCCESSION

OPC format raises a question on its longevity as a legal person i.e., what if the one member of the company expires? Perpetual succession, an essential feature of Company form of business, is assured by the requirement given as Proviso to Clause 3(1)(C) which is reproduced here:

"Provided that the memorandum of One Person Company shall indicate the name of the other person, with his prior written consent in the prescribed form, who shall, in the event of the subscriber's death or his incapacity to contract become the member of the company and the written consent of such person shall also be filed with the Registrar at the time of incorporation of the One Person Company along with its memorandum and articles:

Provided further that such other person may withdraw his consent in such manner as may be prescribed:

Provided also that the member of One Person Company may at any time change the name of such other person by giving notice in such manner as may be prescribed:

Provided also that it shall be the duty of the member of One Person Company to intimate the company the change, if any, in the name of the other person nominated by him by indicating in the memorandum or otherwise within such time and in such manner as may be prescribed, and the company shall intimate the Registrar any such change within such time and in such manner as may be prescribed".

Shares held by the one person member of OPC can be transferred to another one person member. Therefore value built in an OPC can be encashed. An OPC can be converted into any other class of company (Clause 18). As per clause 18(3), such conversion will

» The rigours of the legislation whether it is Corporate Social Responsibility (CSR) requirements or contracts with related parties are not spared for OPC. Clause 135 which deals with CSR is applicable to all companies that meet the net worth/turnover/profits criteria. If the OPC has that level of net worth/turnover/profit, it will be covered – there is no exception.

not affect any debts, liabilities, obligations or contracts incurred or entered into, by or on behalf of the company before conversion. Thus, even if it is a one person company, its perpetuation under law is not under any doubt.

GENERAL BODY MEETINGS

Since there is only one person who is a member of the company, questions like whether Annual General Meeting is to be held, what should be the size and composition of Board, etc arise. It is interesting to note that the law is framed to uphold the spirit and purpose of holding Annual General Meetings but has done away with the procedures around it. As per Clause 122, the provisions of Clauses 100 to 111 are not applicable to OPC. These twelve provisions deal with matters like calling of extraordinary general meeting, notice of general meetings, quorum for general meetings, chairman of such meetings, proxy, voting, postal ballot, etc. The spirit of meetings is well protected under section 122(3) which reads "(3) For the purposes of section 114, any business which is required to be transacted at an annual general meeting or other general meeting of a company by means of an ordinary or special resolution, it shall be sufficient if, in case of One Person Company, the resolution is communicated by the member to the company and entered in the minutes-book required to be maintained under section 118 and signed and dated by the member and such date shall be deemed to be the date of the meeting for all the purposes under this Act." Further, annual accounts have to be adapted by the single member as mentioned at proviso to clause 137 (1) "Provided also that a One Person Company shall file a copy of the financial statements duly adopted by its member, along with all the documents which are required to be attached to such financial statements, within one hundred eighty days from the closure of the financial year". As per Article 48 of Table F (model Articles), in case of OPC, the resolution required to be passed at the general meetings of the company shall be deemed to have been passed if the resolution is agreed upon by the sole member and communicated to the company and entered in the minutes book maintained under clause 118.



MANAGEMENT AND CONDUCT OF BUSINESS

OPC can be set up for a simple business like trading or complicated knowledge based businesses which may require association of experts with the business. Whether OPC legal structure allows such flexibility? Thankfully, there is no restriction or bar on the size of the Board and whether OPC can appoint key managerial personnel. Clause 149 only defines the minimum number of directors for OPC as one but does not stipulate that OPC should have only one member Board. On the other hand, clause 122 (4) provides that “notwithstanding anything in this Act, where there is only one director on the Board of Director of a One Person Company, any business which is required to be transacted at the meeting of the Board of Directors of a company, it shall be sufficient if, in case of such One Person Company, the resolution by such director is entered in the minutes-book required to be maintained under section 118 and signed and dated by such director and such date shall be deemed to be the date of the meeting of the Board of Directors for all the purposes under this Act.” Clause 173 (5) states that a One Person Company, small company and dormant company shall be deemed to have complied with the provisions of this section if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap between the two meetings is not less than ninety days:

Provided that nothing contained in this sub-section and in section 174 shall apply to One Person Company in which there is only one director on its Board of Directors.” A similar concession can be seen at clause 152(1) It states that “Where no provision is made in the articles of a company for the appointment of the first director, the subscribers to the memorandum who are individuals shall be deemed to be the first directors of the company until the directors are duly appointed and in case of a One Person Company an individual being member shall be deemed to be its first director until the director or directors are duly appointed by the member in accordance with the provisions of this section.” Law therefore envisages that OPC can have a single member Board or multiple member board. If it is a multiple member board, it attracts all the provisions relating to board meetings like any other class of meetings under the Act; if it is a single person board, necessary concessions are provided.

OPC may appoint managerial personnel as per its business needs. Whether such managerial personnel will be called as Key Managerial Personnel under the Act depends on rules/circular/regulation to be framed under clause 203. Whether or not they are statutorily called Key managerial personnel, there is no bar on their being appointed. It throws up an interesting situation – the one member may be a part of day to day management or he may not be OR that member may or may not be a member of the Board. If he is not a part of the day to day management, OPC will have to devise some formal mechanism of conducting board meetings and conveying the Board decisions to managerial personnel. If that single member is not a member of the Board, a formal mechanism of seeking approval from the member has to be set up for dealing

with matters that can be dealt with only at the general meetings of the company.

Applicability of CSR

The rigours of the legislation whether it is Corporate Social Responsibility (CSR) requirements or contracts with related parties are not spared for OPC. Clause 135 which deals with CSR is applicable to all companies that meet the net worth/turnover/profits criteria. If the OPC has that level of net worth/turnover/profit, it will be covered – there is no exception.

Clause 193 (which deals with related party transactions) states that “(1) Where One Person Company limited by shares or by guarantee enters into a contract with the sole member of the company who is also the director of the company, the company shall, unless the contract is in writing, ensure that the terms of the contract or offer are contained in a memorandum or are recorded in the minutes of the first meeting of the Board of Directors of the company held next after entering into contract:

Provided that nothing in this sub-section shall apply to contracts entered into by the company in the ordinary course of its business. (2) The company shall inform the Registrar about every contract entered into by the company and recorded in the minutes of the meeting of its Board of Directors under sub-section (1) within a period of fifteen days of the date of approval by the Board of Directors.” OPCs attract the same rigour like other class of companies with respect to related party transactions.

OVER VIEW OF APPLICABILITY OF OTHER PROVISIONS

Applicability of other provisions topic wise are briefly examined and given here under:

Chapter heading and provision numbers	Provision numbers (clauses)	Applicability to OPC – remarks
Incorporation and matters incidental there to	3 to 22	All these provisions are applicable. However, general body meeting requirements stand altered as given in clause 122.
Prospectus and allotment of securities	23 to 42	These provisions are applicable to ‘securities’ – not just shares. If OPC issues securities other than equity or preference shares, all the provisions as may be applicable to private limited companies will be applicable to OPC also.
Share Capital and Debentures	43 to 72	By language of the legislation, all these provisions are applicable to OPC also. However, several of these provisions may not be operational in the context of single member in the company viz., voting rights, variation of voting rights, etc. OPC can issue debentures. There is no bar. If such debentures are listed on any exchange, OPC will become ‘listed company’ and all obligations of listed companies will have to be complied with.



Acceptance of deposits by companies	73 to 76	Any company can accept deposits but only with the prior approval of RBI. OPC is a new concept and unless RBI examines and issues a rule on the subject, it may be difficult to comment whether OPC can accept deposits.
Registration of charges	77 to 87	These provisions are to protect lenders to the company. OPC is like any other class of companies and therefore attracts these provisions.
Management and administration	88 to 122	OPC has one member due to which provisions relating to meetings operate in a different way which has been adequately provided for. Subject to such variation, all other provisions relating to management and administration are applicable.
Declaration of dividend	123 to 127	All these provisions are applicable.
Accounts of companies	128 to 138	These are generic provisions and all applicable to OPC as well. Signing requirements, board reports etc are modified to accommodate one person boards. CSR provisions as given under clause 135 is applicable to OPC if it meets the criteria laid down in that section.
Audit and Auditors	139 to 148	These provisions deal with qualifications, rights, duties, and appointment etc of auditors. All these are applicable to OPC also.
Appointment and qualification of directors	149 to 172	Except that OPC may have one director on board, rest all provisions as applicable to private limited companies are applicable to OPC also.
Meetings of Board and its powers	173 to 195	OPC may have a board which is constituted of only one person i.e., the member himself. Or OPC may have larger board. If the board is larger, all provisions as may be applicable to Board processes of a private limited company are applicable to OPC also. If the one person member is also the sole director on the board, the provisions relating to board meetings, etc are altered. See clause 173 (5)
Appointment and remuneration of managerial persons	196 to 205	All these provisions are applicable. Government will prescribe rules relating to Appointment of Key Managerial Personnel under clause 203. Provisions relating to Secretarial Standard is applicable only to Listed companies. If OPC issues debentures and lists them on any stock exchange, OPC will get covered under secretarial audit requirements.
Inspection, inquiry and investigation	206 to 229	These provisions empower the Registrar to direct inspection, inquiry and investigation. Applicable to OPC also.



Compromise, arrangement and amalgamation	230 to 240	These provisions deal with procedures involved in compromise, etc. They are applicable to OPC as well.
Prevention of oppression and mismanagement	241 to 246	As OPC will have only one member, member cannot complain against himself/herself. Therefore, these provisions do not operate on OPC.
Registered valuers	247	Provisions dealing with registered valuers.
Removal of names of companies from the register of companies	248 to 252	These provisions empower Registrar to remove names, etc. Provisions that require 75% consent from members, etc do not operate the way the provisions envisage. The member himself can resolve to dissolve the company.
Revival and rehabilitation of sick companies	253 to 269	These provisions deal with sickness of the company and creditors right to move the tribunal, etc. generic provisions relating to protection of interest of creditors, etc are applicable to OPC.
Winding up	270 to 365	Provisions relating to voluntary or winding up by Tribunal are applicable to OPC.
Other chapters	366 onwards	Procedural.

CONCLUSION

OPC is a useful legal innovation. OPC structure can be used for a simple single person enterprise to a gigantic enterprise depending on how promoters visualize its utilization. It will be interesting to watch how markets will use this opportunity.

CS



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The Copyright [Amendment] Act, 2012¹

➤ After 1999 the Copyright Act has been subjected to major amendments by the Amendment Act of 2012 to align the copyright law with WIPO and WPPT treaties. An over view of the significant amendments is presented in this article.

INTRODUCTION – THE COPYRIGHT ACT, 1957

The Copyright Act, 1957 repealed, through section 79, the previous law on copyright in force in India, which was the Indian Copyright Act, 1914, and the Copyright Act of 1911 passed by the Parliament of the United Kingdom as modified in its application to India by the Indian Copyright Act, 1914. Changes were made to the 1957 Act by amendment Acts of 1983, 1984, 1992, 1994 and 1999. Of these the amendments made in 1994 were comprehensive. The 1999 amendments were provisions made for the purpose of meeting the obligations under TRIPS and relating to certain other matters.

Some more amendments were proposed to the 1957 Act. They were pending for a long time and were not introduced in Parliament. Two of them related to protection of technological measures, and protection of rights management information, which would have given effect to The WIPO Copyright Treaty (WCT) (1996) and The WIPO Performances and Phonograms Treaty (WPPT) (1996), called the Internet Treaties, providing for the protection i.e. legal

remedies against circumvention of technological measures that authors and performers or producers of phonograms may take to protect their works from piracy.

Articles 11 and 12 of the WCT are important advances made towards more effective copyright protection. They impose the obligation on the contracting parties to provide legal remedies against the circumvention of technological measures (e.g., encryption) used by authors in connection with the exercise of their rights and against the removal or altering of information, such as certain data that identify the work or their authors, necessary for the management (e.g., licensing, collecting and distribution of royalties) of their rights ("rights management information"). Articles 18 and 19 of WPPT deal with obligations concerning technological measures and rights management information in relation to the rights of performers and producers of phonograms. India has not signed the Internet Treaties so far. But the Copyright Amendment Act, 2012 provides, among other matters, for meeting the substance of the requirements of the Internet Treaties.

THE COPYRIGHT [AMENDMENT] ACT, 2012

The Statement of Objects and Reasons attached to the 2010 Copyright Bill, which was later withdrawn, stated that the Act was proposed to be amended with the object of making certain changes for clarity, to remove operational difficulties and also to

¹ Received the assent of the President on June 7, 2012 and through Notification dated June 20, 2012, June 21, 2012 was notified as the date on which all the provisions of this Act shall come into force.



address certain newer issues that have emerged in the context of digital technologies and the Internet and that the two World Intellectual Property Organisation (WIPO) Internet Treaties, namely, WIPO Copyright Treaty (WCT), 1996 and WIPO Performances and Phonograms Treaty (WPPT), 1996 had set the international standards in these spheres. It added that the WCT and the WPPT were negotiated in 1996 to address the challenges posed to the protection of copyrights and related rights by digital technology, particularly with regard to the dissemination of protected material over digital networks such as the Internet and that the member countries of the WIPO agreed on the utility of having the Internet treaties in the changed global technical scenario and adopted them by consensus.

The Statement added further that in order to extend protection of copyright material in India over digital networks such as internet and other computer networks in respect of literary, dramatic, musical and artistic works, cinematograph films and sound recordings works of performers, the Act was being amended so as to harmonise with the provisions of the two WIPO Internet Treaties, to the extent considered necessary and desirable. The WCT deals with the protection for the authors of literary and artistic works such as writings, computer programmes, original databases, musical works, audiovisual works, works of fine art and photographs. The WPPT protects certain “related rights” which are the rights of the performers and producers of phonograms. However, India has not yet signed the abovementioned two treaties.

MAJOR AMENDMENTS MADE BY THE 2012 ACT

Following paragraphs explain some of the major amendments made by the Copyright [Amendment] Act, 2012. The objective of the Amendment Bill was for Securing conformity of the amended Act with World Intellectual Property Organisation’s [WIPO] Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) and ensuring protection to the

➤ Knowingly removing or altering any rights management information without authority, distributing, importing for distribution, broadcasting or communicating to the public, without authority, copies of any work, or performance knowing that electronic rights management information has been removed or altered without authority are punishable as offences.

copyright holders against circumvention of effective technological measures applied for purpose of protection of their rights and circumvention of rights management information and to provide for punishment for two years and fine for violation of such rights.²

CONFORMITY TO THE WIPO TREATIES[INTERNET TREATIES]

The substance of Articles 11 and 12 of the WIPO Copyright Treaty and Articles 18 and 19 of the WIPO Performances and Phonograms Treaty have been stated earlier.

These two treaties strengthen the basis towards [i] the prohibition of infringements and attempts at infringement by circumventing technological measures controlling access to a copyrighted work and [ii] the preservation of the integrity of copyright management information. Copyright management information covers the title of the work, the name of the author, the name and identifying information about the copyright owner, information set out in the notice of copyright, terms and conditions for use of the work etc.

Though India is till now not a signatory to these two Treaties it has amended the Copyright Act, 1957 through introduction of two sections viz. sections 65A and 65B by the 2012 Amendment Act. The following is the substance of the two sections.

Section 65A - Prohibition of circumvention of technological measures intended to protect copyright

Protection of one’s copyright against infringement may be done in a number of ways and encryption is one mode. Infringers who resort to piracy employ decryption and where scrambling is employed, the infringers would attempt descrambling. These are made offences under section 65A as circumventing a technological measure intended to protect a copyright from being infringed. The essential ingredient of the section is that the circumvention is one

² Through introduction of sections 65A and 65B.



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that is done with the intention of infringing such rights.

But the section allows certain exceptions from the Act being treated as an offence. These are: an act for a purpose not expressly prohibited by the Act; conducting encryption research, using a lawfully obtained encrypted copy; conducting any lawful investigation; doing anything for the purpose of testing the security of a computer system or a computer network with the authorisation of its owner or operator; doing anything necessary to circumvent technological measures intended for identification or surveillance of a user; taking measures necessary in the interest of national security.

Section 65B - Protection of Rights Management Information

Section 2[xa] introduced by the 2012 amendment Act defines rights management information as follows:

“Rights Management Information” means,— (a) the title or other information identifying the work or performance; (b) the name of the author or performer; (c) the name and address of the owner of rights; (d) terms and conditions regarding the use of the rights; and (e) any number or code that represents the information referred to in sub-clauses (a) to (d), but does not include any device or procedure intended to identify the user.

Rights management information contains certain data that identify the work or their authors, necessary for the management (e.g., licensing, collecting and distribution of royalties) of their rights (“rights management information”).

Knowingly removing or altering any rights management information without authority, distributing, importing for distribution, broadcasting or communicating to the public, without authority, copies of any work, or performance knowing that electronic rights management information has been removed or altered without authority are punishable as offences. Where rights management information has been tampered with in any work, the owner of copyright in such work may also avail of civil remedies provided under Chapter XII for infringement of copyright against the persons indulging in such acts.

Providing exclusive rights and moral rights to performers in conformity with the WIPO Performances and Phonograms Treaty (WPPT)³

Performer's rights

The definition of a performer under section 2[qq] of the 1957 Act was as follows: ‘performer’ includes an actor, singer, musician, dancer, acrobat, juggler, conjurer, snake charmer, a person delivering a lecture or any other person who makes a performance.



The 2012 [Amendment] Act added a proviso to this definition declaring that a casual or incidental performance in a cinematograph film and whose name is not acknowledged, according to industry practices, shall not be treated as a performer except for the purpose of clause (b) of section 38B, which protects the performer's right to restrain or claim damages in respect of any distortion, mutilation or other modification of his performance that would be prejudicial to his reputation. Section 38 deals with a performer's right. The 2012 amendment deleted sub-sections [3] which stated what were infringements of the performer's right and also deleted sub-section [4] which stated the effect of performer's consenting to his performance being included in a cinematograph film.

The 2012 amendments introduced two sections, section 38A declaring the exclusive rights of performers and section 38B stating the moral rights of performers.

Additional rights of performers

The following are the additional rights conferred by section 38A on performers in respect of the performance or any substantial part thereof: to do or authorize doing any of the following acts in respect of the performance or any substantial part thereof: (a) to make a sound recording or a visual recording of the performance, including (i) reproduction of it in any material form including the storing of it in any medium by electronic or any other means; (ii) issuance of copies of it to the public not being copies already in circulation; (iii) communication of it to the public; (iv) selling or giving it on commercial rental or offer for sale or for commercial rental any copy of the recording; [b] to broadcast or communicate the performance to the public except where the performance is already broadcast. Where a performer has consented in writing for the incorporation of his performance in a cinematograph film he shall not, in the absence of any contract to the contrary, object to the enjoyment by the producer of the film of the performer's right in the same film. However, where the producer makes

³ Through insertion of sections 38A and 38B



commercial use of the performance, the performer shall be entitled to royalties.

Moral rights of performers

Even after assignment of his right, either wholly or in part, a performer may claim to be identified as the performer of his performance except where omission is dictated by the manner of the use of the performance and also to restrain or claim damages in respect of any distortion, mutilation or other modification of his performance that would be prejudicial to his reputation. The Explanation to section 38B clarifies that mere removal of any portion of a performance for the purpose of editing, or to fit the recording within a limited duration, or any other modification required for purely technical reasons shall not be deemed to be prejudicial to the performer's reputation.

The Department-Related Parliamentary Standing Committee On Human Resource Development ["the Standing Committee"] considering the 2010 Bill did not agree with the views of those in film production, broadcasting and music companies objecting to the further rights given to performers through section 38A, contending that a performer receiving lump sum payment cannot also claim royalty and that it would undermine and disregard the rights and efforts of producers by vesting undue rights in favour of a performer.⁴

Independent rights of authors of literary and musical works in cinematograph films⁵

Three provisos were introduced, by the 2012 amendments, to section 18[1] of the 1957 Act. The pre-amendment proviso to section 18[1] provides that in the case of an assignment of copyright in a future work, the assignment shall take effect only when the work comes into existence. Whereas this provision laid emphasis on the vesting of the copyright only on the coming into existence of the work, the first proviso introduced by the 2012 amendment section 18[1] emphasizes the medium or the mode of exploitation of the work. This proviso requires that an assignment to be valid should relate to a mode or medium of exploitation of the work either in existence or be in commercial use at the time of the assignment of the copyright in such works which are part of a cinematograph film. The assignee would not get any right to use it in a new medium or mode of use of the work, not so in existence or commercial use, unless the assignment specifically referred to such medium or mode of exploitation of the work. The intention is that the first proviso introduced by the amendment ensured that the authors of such works, which are components of a cinematograph film obtained the benefit of the use of their works in new media, such as videos, sound recordings etc.

The Second Proviso, introduced by the 2012 amendment, has restricted the right of author of the literary or musical work

included in a cinematograph film, to assign the right to receive royalties in respect of his work included in a cinematograph film. In such a case, the author may assign the copyright for the utilisation of such work only for the communication to the public of the work along with the cinematograph film in a cinema hall. The prohibition is against a bare assignment or waiver of the right to receive royalties to be shared on an equal basis with the assignee. If the assignment were to be of the work independently of the film, as a component of a cinematograph film, such assignment was permissible only to the legal heirs of the author or to a copyright society for collection and distribution.

On similar lines, the Third Proviso introduced by the 2012 amendment has excluded the right of assignment or waiver of the right to receive royalties of an author of the literary or musical work included in the sound recording but not forming part of any cinematograph film, except to the legal heirs of the authors or to a collecting society for collection and distribution.

The amendments state that in both cases, any agreement contrary to these provisions shall be void.

Very serious objections were raised before the Standing Committee considering the 2010 Bill by those in the various segments of the film industry to the introduction of the provisos which were then part of that Bill. The proviso relating to the medium in existence at the time of the assignment was opposed on the ground that in the age of fast evolving technology, a particular medium of use/mode of exploitation may last only for a period of six months at the most or one year and after the expiry of such period, some new technology could come. It would, therefore, be extremely unfair to confine the assignment of rights in a work to only the medium/mode in existence or commercial use.

The other proviso relating to assignment of right of an author of literary or musical work included in a cinematograph film or sound recording was represented as unacceptable as it would affect the right of the producer/sound recording label to enter into private agreements with the music composer/lyricist/script writer for the purpose of collecting royalties on their behalf. It was urged this would render the licensing of a film/music extremely unworkable since the licensee would have to make separate payments to different entities, to producer, music composer, lyricist, script writer etc. and that it would be practicable to permit the producer to enter into agreements with each of these stakeholders where the producer could collect the royalties on their behalf as well. It was urged that these restrictions on assignment should be deleted from the Bill. The Committee did not agree with these arguments and held that the amendments to section 18 permitting the assignment of rights to the legal heirs of the authors or to a copyright society would protect the interests of authors in the event of exploitation of their work by restricting assignments in unforeseen new mediums.

⁴ Paragraph 18.6 of the Report.

⁵ Section 18.



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Every compulsory licence issued under section 31B shall specify the means and format of publication, the period during which the compulsory licence may be exercised and, in the case of issue of copies, the number of copies that may be issued including the rate or royalty. On further application, the Copyright Board may extend the period of such compulsory licence and allow the issue of more copies as it may deem fit.

Can a right to assignment of copyright be restricted by law ?

The intention behind the insertion of new Provisos to section 18 seems to be to protect authors of literary or musical work included in a cinematograph film or in a sound recording from being purchased on unfavorable terms by large music companies. For one thing, the Copyright Act is not a piece of welfare legislation and copyright is not the subject of a statutory grant. Such provisions restricting the right of an author, of whatever work, to deal with his right do not appear to be legally valid. If the intended protection is against unfair contractual terms that may be imposed by music companies on authors, it could have been specifically laid down that where the contract of assignment appears to have been concluded under undue influence, it was likely to be rescinded on that ground and it could also have been added that where the contract of assignment is between such authors and a music company or the producer of that film, a rebuttable presumption of undue influence exerted by the music company or the producer could be drawn.

Then, it need not necessarily be the case that the remuneration would always be in the form of royalty. It could also, depending on the circumstances, be a lump sum payment. And, section 20 of the 1957 Act provides for transmission of copyright in manuscript by testamentary disposition and in this case, no assignment would arise.

More than all these, the justification for interposing a legal heir of the author as a beneficiary and the legal basis for the provision are not clear. It is possible that an author may not like to leave the remuneration for his work to go to any heir and there may be more than one heir.

Finally, section 13[4] states clearly the position of those holding copyrights in components of a cinematograph film, which is as follows: 'The copyright in a cinematograph film or a [sound recording] shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or as the case may be, the [sound recording] is made.'

It would be advantageous to review the amendments to section 18 in the light of this position.

ENSURING THAT THE AUTHORS OF THE WORKS, IN PARTICULAR, AUTHOR OF THE SONGS INCLUDED IN THE CINEMATOGRAPH FILMS OR SOUND RECORDINGS, RECEIVE ROYALTY FOR THE COMMERCIAL EXPLOITATION OF SUCH WORKS⁶

Section 17 of the 1957 Act declares who the first owners of a copyright are. It deals with cases where the work is done by one under a contract of service or apprenticeship, where one initiates the creation of a work by others etc. The introduction of clause [e] to section 17 by the 2012 amendment reiterates that that in case of any work incorporated in a cinematograph work, sub-sections [b], which refers to work done at the instance of one person [which includes a cinematograph film] and [c] which deals with work done by one under a contract of service or employment, not with a newspaper or magazine, section 17 will not affect the right of the author in the work referred to in section 13[1][a], which are: original, literary, dramatic, musical and artistic works. The main intention is to protect the rights of authors of musical works incorporated in a cinematograph work. "Musical work" means a work consisting of music and includes any graphical notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music.⁷ A song or a lyric would be a literary work within the meaning of the 1957 Act.⁸ The amendment by the introduction of section 17[e] is a reiteration of principle of section 13[4] of the 1957 Act which is as follows: 'The copyright in a cinematograph film or a [sound recording] shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or as the case may be, the [sound recording] is made.'

Broadcast reproduction rights⁹

Section 37 deals with the broadcast reproduction rights of a broadcasting organization. It sets out the rights and what acts are infringements of those rights. Under section 37[3][c] and [d] of the 1957 Act the following are deemed to be infringements of the broadcast reproduction rights: making any sound recording or visual recording of the broadcast without the licence of the owner of the right, making any reproduction of such sound recording or visual recording where such initial recording was done without

⁶ Proviso to Section 17[e].

⁷ Section 2[p].

⁸ Section 2[o].

⁹ Section 37.



licence or, where it was licensed, for any purpose not envisaged by such licence. The 2012 amendment introduced a new clause [e] in the place of the existing clause [e] by which selling or giving on commercial rental or offer for sale or for such rental, any such sound recording or visual recording referred to in clause [c] or [d], are also deemed to be infringements of the broadcasting reproduction rights of the broadcasting organization.

Further amendments regarding broadcast reproduction rights and performers' rights¹⁰

Section 39A[1] declares that the provisions relating to assignment of copyright, copyright societies, circumvention of technology etc.¹¹ will apply, with necessary adaptations and modifications, in relation to the broadcast reproduction right in any broadcast and the performers' right in any performance as they apply in relation to copyright in a work. Where copyright or performer's right subsists in respect of any work or performance that has been broadcast, no licence to reproduce such broadcast, shall be given without the consent of the owner of right or performer, as the case may be, or both of them. The broadcast reproduction right or performer's right shall not subsist in any broadcast or performance if that broadcast or performance is an infringement of the copyright in any work.

Section 39A(2) states that the broadcast reproduction right or the performer's right shall not affect the separate copyright in any work in respect of which, the broadcast or the performance, as the case may be, is made.

Compulsory licensing for the benefit of the disabled¹²

Section 31B provides for the grant of a compulsory licence to publish any work in which copyright subsists for the benefit of persons with disability, in a case to which section 52[1][zb] does not apply. The application for the grant of a compulsory licence may be made to the Copyright Board by any person working for the benefit of persons with disability, on a profit basis or for business, seeking a compulsory licence to publish any work in which copyright subsists for the benefit of such persons. If the Copyright Board is satisfied, after giving to the owners of rights in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, that a compulsory licence needs to be issued to make the work available to the disabled, it may direct the Registrar of Copyrights to grant to the applicant such a licence to publish the work.

Every compulsory licence issued under section 31B shall specify the means and format of publication, the period during which the

compulsory licence may be exercised and, in the case of issue of copies, the number of copies that may be issued including the rate or royalty. On further application, the Copyright Board may extend the period of such compulsory licence and allow the issue of more copies as it may deem fit.

While section 31B deals with a compulsory licence for the benefit of persons with a disability, section 52[1][zb], which is part of the section declaring what are not infringements of copyright, states that the adaptation, reproduction, issue of copies or communication to the public of any work in any accessible format, by any person to facilitate persons with disability to access to works including sharing with any person with disability of such accessible format for private or personal use, educational purpose or research would not be an infringement. Similarly, issue of copies or communication to the public of any work in any accessible format, by any organisation working for the benefit of the persons with disabilities in case the normal format prevents the enjoyment of such works by such persons would not be an infringement. Section 52[1][zb] deals with inability to use work in a particular format and the work is to be transformed into a special format for such persons when it would not be an infringement of copyright. Obviously, when an act is not an infringement of copyright, the need for a compulsory licence will not arise.

Compulsory licence in the case of unpublished works or works withheld from the public in India¹³

This amendment provides that in the case of any unpublished work or any work published or communicated to the public and the work is withheld from the public in India, the author is dead or unknown or cannot be traced, or the owner of the copyright in such work cannot be found, any person may apply to the Copyright Board and a licence may be granted to him to publish or communicate to the public such work or a translation thereof in any language. The unamended sub-sections [2] to [7] state the procedure for the issue of a licence under this section.

Statutory licence for cover versions¹⁴

A cover version is a sound recording in respect of any literary, dramatic or musical work, where sound recordings of that work have been already made by or with the licence or consent of the owner of the right in the work. It should be noted that this new substituting section is a replacement of section 52[1][j], introduced for better clarity. Disagreeing with the representations of the music companies, the Standing Committee considering the clause relating to cover versions in the 2010 Bill stated that the proposed provision would lead to protection of interest of music industry engaged in the creation of original music and that the additional safeguards through a statutory licencing provision were

¹⁰ Section 39A.

¹¹ Sections 18, 19, 30, 30A, 33, 33A, 53, 55, 58, 63, 64, 65 65A, 65B and 66 of the Act.

¹² Section 31B.

¹³ Substitution of Section 31A[1].

¹⁴ Section 31C.



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provided to suit the needs of the music industry in the digital environment and to ensure that while making sound recording of any literary, dramatic or musical work, the interest of the copyright holder was duly protected.¹⁵

Section 31C provides the procedure for the issue of a statutory licence for making a cover version. The Explanation to this section states that for the purposes of this section “cover version” means a sound recording made in accordance with this section.

Introducing a system of statutory licensing to broadcasting organizations for broadcasting of literary and musical works and sound recording¹⁶

Section 31D provides for a broadcasting organisation desirous of communicating to the public by way of a broadcast or by way of performance of a literary or musical work and sound recording which has already been published and it sets out the procedure for issue of the statutory licences to broadcasting organizations for this purpose.

Exhaustion of intellectual property rights - Importation of infringing copies

Infringement of copyright

Section 51 of the 1957 Act lists the acts which would constitute an infringement of a copyright. The substance is that when any person, without a licence granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act does any of those acts mentioned in that section, and import into India of any infringing copy of the work would be an infringement under the section. But the proviso to sub-clause [iv] exempted, from being an infringement, import of one copy of any work for the private and domestic use of the importer.

‘Infringing copy’ was defined under section 2[m] of the 1957 Act as follows: “infringing copy” means,- (i) in relation to a literary, dramatic, musical or artistic work, a reproduction thereof otherwise than in the form of a cinematographic film; (ii) in relation to a cinematographic film, a copy of the film made on any medium by any means; (iii) in relation to a sound recording, any other recording embodying the same sound recording, made by any means; (iv) in relation to a programme or performance in which such a broadcast reproduction right or a performer’s right subsists under the provisions of this Act, the sound recording or a cinematographic film of such programme or performance, if such reproduction, copy or sound recording is made or imported in contravention of the provisions of this Act.

The 2010 Bill sought to introduce the following proviso to this definition of an infringing copy, under s 2[m]: “Provided that a copy of a work published in any country outside India with the permission of the author of the work and imported from that country into India shall not be deemed to be an infringing copy;” Very strong objections to this amendment were raised before the Standing Committee. Some of them were: [i] the author was given the right to allow parallel imports regardless of whether or not he was the current owner of copyright, that the amendment would benefit authors to the disadvantage of publishers and it would also give rise to litigation between authors and publishers; [ii] the provision was likely to upset the whole pattern of commercial exploitation of most kinds of copyright works, by legitimizing the circumvention of territorial rights acquired by assignees at some cost [iii] it would cause serious imbalance of trade, counterfeiting activities across borders and total disruption of authorized distribution channels. The substance of the objections was that the amendment would set at nought the territorial allocation for distribution of copyrighted material.

Article 6 TRIPS

It was represented on behalf of the Government that the main purpose of this amendment was to allow for imports of copyright materials (e.g. books) from other countries. It was in accordance with Article 6 of the TRIPS Agreement relating to exhaustion of rights whereunder developing countries could facilitate access to copyright works at affordable cost. Exhaustion of rights (popularly called as parallel import) was a legal mechanism used to regulate prices of IPR protected materials.

The object of Article 6 is to ensure that, in the purported exercise of intellectual property rights, parties do not interfere with the free flow of goods into a territory which is part of a larger area covered by a multi-lateral trade agreement. Put simply, the principle of exhaustion of an intellectual property right means that in lawfully putting into any part of the whole market, a product in which the supplier holds some intellectual property right, may be a patent, trade mark or other right, he is deemed to have exhausted his right, the intellectual property right, by that act, and he cannot seek to prevent by any means the importation of that product, into another territory of the same area, for example, by invoking a term in a trade mark licensing agreement between him and another restraining that licensee from exporting to that other country that product bearing the same trade mark as the one used by him in his sale.

The position would be the same, even if he were to be a patentee or the proprietor of the trade mark in the importing country (the second country). He would not be permitted to oppose his licensee from making an import into that country. The point is that intellectual property rights ought not to be used in a way that they constitute barriers to the free movement of goods into a territory, dividing markets. The objective is to preserve competition and ensure free movement of goods anywhere into

¹⁵ Paragraph 14.4 of the Report.

¹⁶ Section 31D.



the territory and that intellectual property rights do not stand in their way.

Challenges to the proprietor's attempts to restrain parallel imports on the ground of exhaustion of the right may be made only by those licensed by the proprietors and not by outsiders. Those who, for example, use illegally another's trade mark cannot use this argument.

On a consideration of the principles involved, the Standing Committee recorded that the amendment was a step in the right direction. But the 2012 [Amendment] has not included this proviso to section 2[m] and the position regarding import an infringing copy is the same. This would not be compliance with Article 6 of TRIPS. Section 53 of the 2012 Act which has substituted the earlier section 53 has provided the procedure for dealing with the importation of an infringing copy.

Prohibition of importation of infringing copies¹⁷

New section 53 introduced by the 2012 amendments provides for the owner of a right in a work or performance to initiate steps by giving a notice to the Commissioner of Customs where infringing copies are expected to be imported and requesting him to treat them as prohibited goods. It sets out the procedure for dealing with such a notice and final action by the Commission of Customs.

What are not infringements of copyright¹⁸

Section 52 of the 1957 Act has been extensively amended but the material changes relate to the use of copyrighted material in electronic media. Some of these are:

(a) a fair dealing with any work, not being a computer programme, for the purposes of - (i) private or personal use, including research; (ii) criticism or review, whether of that work or of any other work; (iii) the reporting of current events, including the reporting of a lecture delivered in public. Explanation.—The storing of any work in any electronic medium for the purposes mentioned in this clause, including the incidental storage of any computer programme which is not itself an infringing copy for the said purposes, shall not constitute infringement of copyright.¹⁹ (b) the transient and incidental storage of a work or performance purely in the technical process of electronic transmission or communication to the public;²⁰ (c) transient and incidental storage of a work or performance for the purpose of providing electronic links, access or integration, where such links, access or integration has not been expressly prohibited by the right holder, unless the person responsible is aware or has reasonable grounds for believing that such storage is of an infringing copy: Provided that if the person responsible for the storage of the copy has received a written complaint from the owner of copyright in the work, complaining that such transient or incidental storage is an



infringement, such person responsible for the storage shall refrain from facilitating such access for a period of twenty-one days or till he receives an order from the competent court refraining from facilitating access and in case no such order is received before the expiry of such period of twenty-one days, he may continue to provide the facility of such access;²¹ the storing of a work in any medium by electronic means by a noncommercial public library, for preservation if the library already possesses a non-digital copy of the work.²²

Copyright Societies

Section 33 of the 1957 Act has been amended to the effect that the business of issuing or granting license in respect of literary, dramatic, musical and artistic works incorporated in cinematograph films or sound recordings shall be carried out only through a copyright society duly registered under this Act. Renewal of the registration of a copyright society shall be subject to the continued collective control of the copyright society being shared with the authors of works in their capacity as owners of copyright or of the right to receive royalty. Section 33A is a new section which provides that every copyright society shall publish its tariff scheme in such manner as may be laid down by rules. A copyright society may accept from the author and other owner of rights exclusive authorisation to administer any right in any work by issue of licences or collection of licence fees or both.²³ Under section 35 as amended, the collective control of the copyright societies would be with the authors and other owners of rights. Pre-amendment, it was only with the owners of copyright, who could be those that have obtained rights under an assignment and authors were left out. The amendments require that every copyright society shall have a governing body for the administration of the society with equal number of authors and owners of work, with equal rights.

THE FUTURE

The working of the new provisions may have to be evaluated after some time and necessary adjustments will have to be considered in the light of experience of the working of the Act. CS

¹⁷ Section 53.

¹⁸ Section 52.

¹⁹ Section 52[1][a].

²⁰ Section 52[1][b].

²¹ Section 52[1][c].

²² New Section 52[1][n] substituting the original clause.

²³ Section 34.



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Reforms in the issue process- A step towards inclusive markets

➤ In recent times the performance of the primary market has been characterized by low participation by the retail investors, aggressive pricing, irregularities in the allotment process and concentration of participation in few cities. What reforms are required to get over these problems has been briefly outlined in this discussion.

INTRODUCTION

Recent reforms in the issue process announced by the market regulator SEBI and the existing research in the field of financial markets confirm the urgent need for financial inclusion through streamlining the issue procedures and enhancing safety mechanisms. When it comes to financial inclusion, the sector that tops the list is the banking sector followed by Insurance. The capital market comes last with less retail participation despite resurgent Sensex. Studies in behavioural finance have proved that the investing behaviour to a large extent is influenced by risk perception by investors and that explains why the savings in our country get channelized to real estate and gold (perceived as hedgers of inflation). This has led to the Indian corporate sector banking heavily on Foreign Institutional Investors for funding resulting in the lack of wealth creation at the bottom of the socio-economic pyramid.

An important segment in the financial system is the primary market which is seen as an excellent avenue for companies to raise huge amounts of money as the investment is directly made to the issuer by tapping a cross section of investors unlike the secondary market where the flow of the money is

between the investors buying and selling. However the performance of the primary market in recent times has been





characterised with low participation from the retail investors, aggressive pricing, irregularities in the allotment process and destruction of wealth of the investors.

Another striking feature of the capital markets in India is the concentration of participation in few cities. The reasons for the same can be attributed to factors like the presence of an active distribution channel involving brokers, merchant bankers and institutional investors and investing population having equity cult concentrated only in few cities.

With this backdrop, this article attempts to capture the recent measures introduced by SEBI streamlining the issue process and spreading the market reach by adopting investor friendly policies.

PRICING OF THE ISSUE

Traditionally, Indian investors have always entered the capital market through IPOs/FPOs, because they were reasonably assured of an attractive price and returns in the form of listing gains. The pricing of the issue is a critical factor in the issue selection as the returns are often compared to the price performance on listing. The primary market has come a long way from the days of the price control. Issuers now allow the price to be discovered by the market guided by a price band.

However an analysis of the performance of IPO's post listing in the last three years¹ shows that two thirds of the public issue were trading below their listing price even after adjusting for the general decline in the market. This has resulted in investors losing money on their IPO investments.

Merchant Bankers play a vital role in every stage of the IPO process right from undertaking the due diligence till the successful listing of the shares. They also advise the company on its valuation of the public issue. In a move to discipline the companies' pricing methodology, SEBI amended the ICDR REGULATION 2009² mandating Merchant Bankers to disclose a three year track record of the prices of the issues managed by them including the issue price, the percentage change in price as of the listing date, and the change in price of the shares 10, 20 and 30 days after the listing date. This information will be put up on the websites of the Merchant Bankers and will serve as an additional tool to the investors to assess the issue. With this directive, the onus of ensuring realistic prices is now with the merchant bankers. The SEBI (Merchant Bankers) Regulations, 1992, have also been amended now requiring the merchant bankers to maintain records and documents pertaining to due diligence exercised in pre-issue and post-issue activities of issue management, takeover, buy-back and delisting of securities.

» an analysis of the performance of IPO's post listing in the last three years shows that two thirds of the public issue were trading below their listing price even after adjusting for the general decline in the market.

MANDATORY SAFETY NET FOR RETAIL INVESTORS

Capital protection is uppermost on the minds of retail investors. Although it is universally accepted that stock market instruments are subject to market risks and there is no guarantee of returns yet heavy losses on investment are bound to drive away investors from the market. Understanding this, SEBI has recently proposed a safety net mechanism for public issue. A provision for voluntary safety net already exists in existing regulations. Regulation 44 of SEBI (ICDR) Regulations, 2009 states that "An issuer may provide for a safety-net arrangement for the specified securities offered in any public issue in consultation with the BRLM after ascertaining the financial capacity of the person offering the safety-net arrangement, subject to disclosures specified in this regard in Part A of Schedule VIII of SEBI (ICDR) Regulations, 2009". The safety net arrangement introduced by SEBI has the following features:

- The Eligibility is restricted to original Retail individual investors who have bought the shares directly from the issue.
- The period of safety net is available for six months from the date of credit of shares in the demat account. A maximum of 1000 shares will be bought by the promoters. However the total value of shares per investor offered in the safety net cannot exceed the limit of retail investors of Rs 2 lacs.
- On buy back of the shares, the transfer of shares will be made directly into the designated demat account of the promoters and the payment to the shareholder's bank account.

The safety net thus gives an option to the retail investor either to sell the shares back to the promoters within a period of 6 months from the date of allotment or sell them in the open market whichever is lucrative. This will also curtail the short term holding attitude of the investor to a certain extent. Secondly this also provides protection for investment.

¹ Excerpts of the speech by SEBI Chairman U K Sinha at a National Conference on Capital Markets in Mumbai on January 9, 2012.

² SEBI Circular dated September 27, 2011.



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Companies will hence forth exercise caution in pricing of the securities to avoid the possibility of buy back.

E-IPO

There is a distribution channel in the marketing of any IPO almost on the same lines as any consumable product. The wider the reach of this distribution channel the more is the market spread. Presently all IPO's are marketed through a distribution channel involving merchant bankers, broking houses and retail brokers who are in direct touch with the investor. While registered brokers are used for the book-building process, unregistered and unregulated intermediaries are used for collection of IPO forms, directly by the issuer or issuer's underwriter.

The Finance Minister while presenting Union Budget 2012-13, proposed to make it mandatory for companies to issue IPOs of Rs.10 crore and above in electronic form through nationwide broker network of stock exchanges with the objective of Simplifying the process of issuing IPOs, lowering their costs and increase retail participation.

To serve this end SEBI introduced an electronic IPO system with the help of broker terminal networks. The electronic IPO works in the following manner:

As the issue opens the bid cum application forms will be available on the website of the stock exchanges and the broking terminals with the sub brokers which can be downloaded by the investors. Information relating to the price band is prefilled on the form. The IPO applicants have to approach a broker who will punch their application on the system after stamping the applications as received. In this way every single terminal of every registered broker will become an avenue to apply for an IPO. As is the case in secondary market transactions, in which an investor can check the status of trade on the stock exchange website, investors will be provided the facility of viewing the status of their issue

applications on their websites. This mechanism can be used to submit applications supported by blocked amounts (ASBA), as well as non-ASBA applications by investors.³ This facility was to be implemented in a phased manner, initially covering 4000 locations by January, 2013 and by March extending to 1000 locations.

Basic Services/No Frills Demat Account

The number of demat holders is strikingly low when compared to the holders of a savings account or a mobile phone. The current problems of retail investors with respect to Demat accounts has been with respect to the Annual Maintenance Charges charged by the banks/brokers irrespective of the volumes of trading done. To weed out this problem SEBI decided⁴ that all depository participants shall offer a "Basic Services Demat Account" (BSDA) with limited services and low costs to suit the requirements of small investors who may like to buy and hold shares with a long term objective. All the individuals who have or propose to have only one demat account where they are the sole or first holder shall be eligible to have a BSDA provided that the value of securities held in the demat account does not exceed Rupees Two Lakhs at any point of time. This fits into the definition of a retail individual investor as per SEBI (ICDR) Regulations, 2009 who is individual investors who is bidding for shares upto 2 lacs in any issue. An individual can have only one BSDA in his/her name across all depositories.

The Structure of the charges under BSDA is as under:

<i>Value of holding</i>	<i>Annual Maintenance charges</i>
Upto 50,000	Nil
50,001-200,000	100
Value goes more than 2 lacs*	Normal charges apply

Rajiv Gandhi Equity Savings Scheme

The Government introduced the Rajiv Gandhi Equity Savings Scheme (RGESS), 2012, to encourage retail participation in the capital market. Under this scheme, new investors who have neither traded nor invested in the equities whose annual income up to Rs.12 lakhs (Increased from 10 lakhs) can invest up to Rs. 50,000 to be eligible for 50% deduction for the financial year 2012-13. Investments in eligible companies could be in the form of equity falling in the list of equity declared as "BSE-100" or "CNX-100" by the Bombay Stock Exchange and the National Stock Exchange, as the case may be, ETF and mutual funds. The first time investors can also apply in IPOs, FPOs of PSU Companies going public and

³ SEBI Board meeting on 16th August, 2012.

⁴ SEBI circular dated August 27, 2012.

* The value of holding shall be determined by the DPs on the basis of the daily closing price or NAV of the securities or units of mutual funds. The beneficial owner will receive statement only for the quarter where transactions have happened and in case of no transaction an annual statement will be provided.



Regulation 44 of SEBI (ICDR) Regulations, 2009 states that “An issuer may provide for a safety-net arrangement for the specified securities offered in any public issue in consultation with the BRLM after ascertaining the financial capacity of the person offering the safety-net arrangement, subject to disclosures specified in this regard in Part A of Schedule VIII of SEBI (ICDR) Regulations, 2009”.

having a turnover greater than Rs 4,000 Crores for the last three years. SEBI has asked the stock exchanges and assets management companies to list the eligible stocks, exchange-traded funds and schemes on their website.

Controlling listing day volatility

IPOs, normally exhibit listing volatility which often results in fluctuations in the price of the issue leading to investors losing money. People, mostly big investors get the benefit of such price movement and retail investors burn their fingers.

SEBI has introduced a series of measures to curb listing day volatility. These measures include; Introduction of concept of Anchor Investor, who are a class of investors with a long term perspective to help the price discovery process and control listing day volatility. The Green Shoe Option, a post listing price stabilization tool which provided a great opportunity to the Investor to protect their investment having guarantee from the issuer, that the price will not be going below issue price during the initial days of trading. Lately a circuit filter was put in place to keep a tab on the fluctuations on the listing day largely eliminating the first day exit that manipulators used to pump and dump the shares.

SEBI Complaints Redress System (SCORES)

SEBI introduced a web-based, centralized grievance redressal system called SCORES. Under this system all grievances of investors with respect to any market intermediaries can be lodged in electronic mode. This enables the market intermediaries and listed companies to receive the complaints online from investors, redress such complaints and report redressal online. All the activities starting from lodging of a complaint till its closure by SEBI would be online in an automated environment and the complainant can view the status of his complaint online. The entity against whom a complaint is registered will have to upload an Action Taken Report on the complaint. As physical movement of documents relating to grievances is not required, it will reduce grievance process time at SEBI.

Minimum allotment

Adding to the euphoria that is associated with the announcement of a public issue is the element of uncertainty regarding allotment. This uncertainty makes the retail households to apply in the names of their family members to increase their chances of allotment. A dispersed ownership of a company will be possible if every retail applicant gets allotment. With this end SEBI introduced reform in allotment process ensuring that

every retail participant gets a minimum application lot irrespective of his application size subject to the availability of shares. This will also check the HNI category encroaching on the retail category for better chance of allotment.

Education and awareness campaign

As goes the proverb “Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime, educating investors about the nuances of investing is the best protection any one can provide an investor. SEBI has embarked on financial literacy programme designed differently to suit the demographic profiles of potential investors and making use of the audio/visual and print media to spread it.

Other measures

Retail investors usually bank on the subscription from QIBs to gauge the quality of the issue. SEBI has tried to create a level playing field between the retail and other categories in terms of disclosures, payment of margin money, etc. As an additional measure to avoid any misleading signals to retail investors about the extent of subscription in the issue, SEBI has disallowed withdrawal or lowering the size of bids for non-retail investors at any stage. The timeline for publishing the price band, alongwith relevant financial information, for IPOs has been revised from two working days currently to five days, so that investors get more time to analyse the issue.

CONCLUSION

Hence the stage is ripe for more participation from the retail investors with a hassle free issue processes but this itself will not guarantee more participation. The caretakers of the investor's money are the investors themselves. While the processes are streamlined, disclosures are in place, the only tool to aid the retail investors to beat the market is their attitude toward investments and the level of financial literacy. CS

References

1. www.sebi.gov.in
2. SEBI Investor awareness website
3. www.scores.gov.in
4. www.watchoutinvestors.in
5. www.moneylife.in
6. www.mca.gov.in
7. *SEBI cracks down on IPO irregularities - Indian Express*
8. *How companies divert funds raised through IPOs - Business Today - Business News*
9. *Revival of IPO market still some time away: Experts - Business Line*
10. *SEBI flays merchant bankers for poor IPO due diligence - Business Line*



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The act of transforming 'Corporate Compliance' into a Valuable Business Asset

➤ Corporates are required to comply with numerous requirements under a host of Acts, rules and regulations and hence compliance management has emerged as a very important function. This article discusses some key aspects relating to compliances.

INTRODUCTION

Compliance officers are a confident bunch. Yes, they can worry like all the rest of us, but in the end, they have the faith that they can accomplish their mission. Forward thinking companies are recognizing the importance of empowering compliance officers and relying on their skills to build proactive compliance tools. Companies are increasingly relying on compliance officers to “fix” the company’s problems – sometimes this mission can be broadly defined and unfairly placed on the compliance officer’s list of responsibilities.

Sometimes problems can be far broader than “just compliance.” In trying to define the mission and establishing realistic expectations, a compliance officer should always look to the company’s governance structure and operations. Good corporate governance practices usually will lead to proper compliance boundaries and responsibilities.

In many industry sectors, compliance officers are now expected

to carry out multiple responsibilities, including operational, legal, investigative, economic and financial. Compliance officers have to be careful to avoid being charged with more than they can handle, and they have to preserve a realistic role and set of expectations for themselves in the company. A compliance officer can take his or her cues from the Board of directors. If the Board is forward thinking and has a Compliance Committee, the compliance officer will have support for a clear definition of functions; if the compliance program is mired in the workings of an overwhelmed audit committee which is focused on financial issues, the compliance officer is unlikely to get much help from the audit committee. A direct reporting line between the compliance officer and the board has to be included in this mix.

The compliance officer should conduct a continuous self-assessment: will he or she have independence, adequate resources and authority? If the compliance officer has doubts in any of these areas, he or she needs to speak up and remedy the situation as quickly as possible. To the extent needed, compliance officers must ensure they have access to adequate outside counsel and professionals, if appropriate.



KEY FUNCTIONS

Two key functions have to be in place: the compliance officer has to have

- (1) Access to, and an understanding of, the company's workings and strategy; and
- (2) A significant role in the review and development of business strategy (including the requirement that the compliance officer attend senior management and board meetings, hopefully as a co-equal senior manager).

The role and responsibilities of a compliance officer have to be carefully explained in advance to the company management. It is important to know what the compliance officer should be doing and what he or she should not be doing. One critical responsibility which needs to be made clear is that the compliance officer has to establish programs to monitor all relevant corporate activities so that potential violations are identified as early as possible. Stress tests, or transaction testing, should be an important piece of this function. Auditing of departments that certify to compliance should be a regular part of such monitoring operations.

Unfortunately, a compliance officer devotes more time to being a policeman than a strategic business planner. Hopefully, as more resources are devoted to compliance functions, compliance officers can assume a larger role in the strategic business planning process. Lawyers will continue to play a significant role in the life of the company. Compliance officers have to work hand-in-hand with lawyers. Compliance officers should not hand out legal advice but should implement or obtain legal advice to ensure business operations comply with the law.

CEO SAYING "NO" TO COMPLIANCE

When saying "no" to compliance, the compliance officer should advise the CEO that he is risking his company, his career, and his compliance officer. Compliance officers who are aware of wrongdoing have a legal and ethical obligation to take steps to stop those activities. They must explain to senior officials who are involved in wrongdoing the nature of the offences and offer avenues for correction. If there is no receptivity from these senior officials, the compliance officer should be willing to step aside and be prepared to report the wrongdoing to appropriate authorities.

CORPORATE COMPLIANCE FROM A SHAREHOLDER'S PERSPECTIVE

Shareholders obviously have a financial interest in making sure that the company in which they invest is run profitably. From an ethical perspective, shareholders should also have an interest in making sure that their company is conducting business in a moral and ethical manner. While there may sometimes be a short-term tension between profits and ethics, ethical behavior should be viewed as being consistent with a desire to maintain long-term profitability and financial soundness. Shareholders should realize

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that they play a critical role in ensuring that the corporations they own comply with minimum standards of oversight and ethics.

There are various examples of corporate frauds in which investors have suffered due to the unethical behavior of the leadership. While shareholders need to be vigilant in making sure that top management and the board are being held accountable for their actions, they should not simply assume that the board has failed in its duty of oversight just because the enterprise has encountered some serious problems. Indeed, rushing to court to complain about compliance failures at the board level may result in nothing more than wasted litigation costs. It is clear that shareholders need to make sure that their company has a compliance system in place that will prevent the type of common frauds due to inherent risks. Shareholders should not simply assume an absence of oversight just because serious problems arise. Shareholder vigilance should be reflected in sober and responsible action - not as a race to the courthouse.

MOVING BEYOND POLICIES AND PROCEDURES FOR ADDING VALUE WITH COMPLIANCE

Compliance officers have been appointed for listed/large companies; it is very much the trend that the typical compliance officer is financial focused. In many cases, these financially focused compliance officers have concentrated on building policies and procedures that address changes to the local regulatory rules. They then build controls around this to ensure compliance.

In response to the question "do what we need to do under the law," many companies struggle with what exactly to do. At this point, there is often the realization that the solution is going to be a mixture of best practices, being in line with other industry peers and also creating a program that is within your company's risk profile.

In addition to the challenge of working in unregulated industries,



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compliance as a profession has now developed to extend significantly beyond simply building policies and procedures and doing audit checks on the internal controls. Companies need to embrace this and give their compliance officers the skills to implement the compliances effectively.

Simply having in place policies and procedures and a set of internal controls is not compliance. Compliance is a far more significant operation that involves developing a program that manages risk - the risk being a failure to meet a compliance obligation. Those obligations come both from internal policies, industry codes, industry standards, and the company's value system not just strict rules and regulations. Almost every day there is failure of a bank or financial institution when it comes to insider trading, or conflict of interest, disclosures, or simply organizations paying themselves significant amounts of money in salaries and bonuses without respecting the basic principles of corporate governance and shareholder values. Every single one of these companies has a compliance department, has a set of policies and procedures, and, no doubt, an audit department. Compliance, when run correctly, can add significant value to an organization. It is more than policies and procedures, and the sooner people realize this, the better.

COMPLIANCE AND CORPORATE CULTURE

Corporate cultures need to progress from motivation by individual self - interest to inspiration for the greater good, from checks and balances to trust, and from rules-based behaviour to being guided by what is right. A healthy corporate culture should be self-governing, transparent, and trusting.

Compliance Officers can have a significant impact on corporate compliance and can be used as a mechanism for change within an organization. If companies can learn to function under the constant watch of a compliance officer and at the same time take advantage of the opportunity to implement significant change, organizations can take major steps forward in creating and sustaining a culture of compliance.

HOW DO YOU CHANGE AN UNHEALTHY COMPLIANCE CULTURE?

Many CEOs want to create the type of company at which they wish to work. However, if they desire to make such changes, they must communicate "from the start the values staff were expected to follow." Nevertheless, the message needs to be constantly reiterated, in person. A strong corporate culture will not on its own protect a company that has a bad strategy, poor governance or a weak business idea, let alone one that takes the wrong operational decisions. Poorer - performing companies often have strong cultures, too, but dysfunctional ones. They are usually focused on internal politics rather than on the customer, or they focus on 'the numbers' rather than on the product and the people who make and sell it. All of this would seem to point, again and again, that a company's value not only starts with tone at the top, but those values must be communicated again and again.

LIFE UNDER THE COMPLIANCE OFFICER'S MICROSCOPE

The primary responsibility of a Compliance Officer is to assess and monitor a company's compliance with the terms of the agreement specifically designed to address and reduce the risk of recurrence of the corporation's misconduct, and not to further punitive goals. Organizations under a corporate compliance system essentially function in a compliance fishbowl. Compliance officers are given fairly broad access to day-to-day operations and are often granted substantial power in overseeing business operations. Not only is corporate compliance expensive and costly to the organization, but they can also make day-to-day operations more challenging, given that there is an individual scrutinizing virtually every aspect of the business.

However, while a company's obligations under a corporate compliance may be onerous, it presents a unique opportunity for the compliance department and the organization generally to make real and tangible process improvements. For the compliance professional, there can be certain practical advantages to living under such an arrangement.

Compliance officers also provide a chance to involve upper level management and executives in compliance initiatives. Enlisting management involvement and demonstrating the importance of compliance from a top-down perspective will help to motivate and encourage other employees to actively engage in the compliance program. While some executives may not have realized the importance of such activities or initiatives in the past, the presence of a compliance officer is sure to change that.

COMPLIANCE OFFICER CAN BE A CHAMPION OF OPPORTUNITY AND GROWTH

Emerson once said, "To be great is to be misunderstood." These



words certainly could be applied to the history of compliance in many organizations. Misunderstood and, in the view of some compliance officers, the compliance function is often too long ignored as a key function and a significant area of risk for many companies. While most organizations accept that compliance must play an important role, the "misunderstood" part comes in when leaders and staff view compliance as an outside imposition, a risk with no reward or a necessary evil.

Companies may be able to correct these misperceptions by helping to align compliance risk alongside strategic, operational, and financial risks - as both a fixture of modern business activity and, importantly, as an area where a company may need to take reasoned risk in order to advance its strategic plan. In short, it is time to harness compliance as an engine for business value, and, along with that, transform compliance into a valued and valuable business asset.

For some compliance officers, heightened regulatory demands have been a double-edged sword. On the one hand, new regulations, stricter enforcement of existing rules, and the growing demand for greater organizational transparency have played right into the hands of conventional views. It's true that compliance failures may be viewed as unacceptable and can be costly - to the bottom line and reputation - but failing to address a negative impression of compliance can be a disincentive to elevate its importance.

In short, compliance officers have an important opportunity to make compliance an engine for building value as they also elevate their own roles as stewards of both asset protection and successful business performance. This may mean spending less time saying "no" and more time helping management of the organization understand how to make its own compliance decisions including when to say yes or no, as appropriate, in order to keep the business out of trouble and to help it grow and thrive.

BIGGER CHALLENGES - HIGHER STATUS

The rise in corporate status for compliance officers is matched only by the growth in their challenges. Today's compliance officers face many new or stepped-up compliance factors in the current environment; here are few:

- ⇒ Businesses are subject to more laws and regulations, addressing a wider variety of issues;
- ⇒ Companies are being held to higher standards of compliance;
- ⇒ Whistleblower regulations may increase the chances of compliance failures being "caught";
- ⇒ Penalties for compliance failures have become more severe, putting executives and boards at greater potential risk.

As such, highly effective compliance officers may leverage these new requirements and pressures - the higher stakes - to help establish a contemporary culture of compliance by engaging key enterprise stakeholders in the pursuit of enhanced compliance

efficiency and effectiveness.

As stated earlier, compliance failures are widely viewed as unacceptable. Compliance risks can be broken down into two forms: "inherent risk" - what would be the risk associated with a compliance incident if the organization were doing nothing to address it? and "residual risk" - what, given the controls and procedures we currently have, is the risk we actually face? Savvy leaders may accept inherent compliance risk as a fact of doing business and assume compliance obligations with an understanding of risk-reward tradeoffs. This understanding facilitates investment in processes and controls designed to help keep residual risk within acceptable tolerances.

Protecting the enterprise and "keeping it out of trouble" is only half of the compliance risk story. The other half is the potential for a company's compliance risk management program to actually create new value by opening doors to opportunities that companies with weaker compliance capabilities might consider too risky to pursue.

In the end, compliance officers should not be the only corporate actors dedicated to ensuring compliance. In fact, each corporate function plays an indispensable role in the compliance function. The challenge is for the compliance officer to recognize his or her responsibilities and boundaries and feed into the compliance functions of other senior management functions such as human resources, operations, legal and financial. CS

References

- When the CEO Says No to Compliance: FCPA Insights from Watergate's Bud Krogh*, 2012, Matteson Ellis
- Building Bridges: Leveraging a Strong Safety Culture to Improve Your Corporate Culture*, 2012, Michael Bramnick
- Corporate Compliance from a Shareholder's Perspective*, 2012, Thomas G. Rohback
- Adding Value With Compliance: Moving Beyond Policies And Procedures*, 2012, Scott Lane
- How Do You Change An Unhealthy Compliance Culture?*, 2012, Thomas Fox
- Life Under the Monitor's Microscope: A Renewed Focus on Corporate Compliance*, 2012, G and Deepa B. Selvam
- CCO Can Be A Champion Of Opportunity And Growth*, 2012, Donna Epps
- The Chartered Institute of Public Finance and Accountancy (UK), Managing the Risk of Fraud – Actions to Counter Fraud and Corruption (updated 2008)*.
- Joseph T. Wells, *Corporate Fraud Handbook*, 2007.
- KPMG LLP, *Fraud Risk Management: Developing a Strategy for Prevention, Detection, and Response*, 2006.
- Transparency International, "TI Corruption Perceptions Index," 2007.
- Ten Things About Fraud Control: How Executives View the "Fraud Control Gap,"* 2007.
- I.J. Alexander Dyck, Adair Morse, and Luigi Zingales, "Who Blows the Whistle on Corporate Fraud?", 2007.
- Robert Tillman and Michael Inderguard, *Control Overrides in Financial Statement Fraud, A Report to the Institute for Fraud Prevention*, 2007.



Corporate Laws

LW.50.06.2013

IN RE: VODAFONE INFRASTRUCTURE LTD & ORS [DEL]

Co. Pet. No. 14 of 2012

S. Muralidhar, J.
[Decided on 18/04/2013]

Companies Act, 1956 - Sections 391 to 394 - Delhi HC sanctions the scheme of demerger & merger of tower companies to facilitate effective telecommunications infrastructure.

Brief facts

Vodafone Infrastructure Limited ('VIL'), Bharti Infratel Ventures Limited ('BIVL'), Idea Cellular Towers Infrastructure Limited ('ICTIL'), Petitioner Nos. 1, 2 and 3 ('Transferor companies') respectively along with Indus Towers Limited ('Indus'), Petitioner No. 4 ('Transferee company') have jointly filed this petition under Sections 391 to 394 of the Companies Act, 1956 ('Act') seeking sanction of the Scheme of Arrangement ('Scheme') among them and their respective shareholders and creditors.

The Scheme was entered into by VIL, BIVL, ICTIL with Indus in terms of which the effective date of the Scheme was 1st April 2009. The Scheme was to promote infrastructure sharing among telecommunications service providers as envisaged in the report of the Working Group on the Telecom Sector. The Scheme noted that the transfer and vesting of the undertakings of the Transferor companies to the Transferee company "reflects the global trend of segregating telecommunications services and the telecommunications infrastructure business, with a view to adopt good management practices, establish high operational standards, provide a good value proposition to other wireless service providers and enable stakeholders to differentiate between the passive infrastructure assets business and the telecommunications services business." As a result it was proposed in Clause 1.5.4 of the Scheme that "the undertakings of the Transferor companies will be vested and consolidated in

the Transferee company, the main objects of which are to provide telecommunications network infrastructure support services on a non-discriminatory basis to all telecommunications operators in India." It was stated that the Scheme would benefit the companies, their respective stakeholders as well as the telecommunications industry since it would lower the cost of operations for telecommunications service providers; improved quality of services being rendered, increase in the speed of roll-out, efficiency and "administrative convenience through the centralization of infrastructure sharing and planning." It was further expected to improve the network quality and greater coverage, especially in rural areas and contributing to the economic development of India. It was stated that the Scheme was in the interests of the parties as well as their respective shareholders and creditors.

Decision: Scheme sanctioned.

Reason

In the first instance, the objections raised by the RD are dealt with. As regards AS-14, the Petitioner companies have undertaken that to the extent that the Scheme deviates from AS-14, the Transferee company will make proper disclosures of such deviation in its profit and loss account and balance sheet in terms of Section 211 (3B) of the Act read with AS-14. Further it would be placed before the shareholders of Indus for adoption. In *Hindalco Industries Limited* (2009) 151 Comp Cas 446 (Bom), the Bombay High Court has, while approving a scheme, *inter alia* held that deviation from the AS *per se* could not be a ground to reject the scheme. This Court is satisfied with the undertaking given by the Petitioners to the above extent. Consequently, this objection of the RD does not survive.

The second objection concerns the shareholding of the Transferor companies in Indus. Indus has, by its letter dated 12th March 2012, stated that it was a closely held public limited company and that shares were held in it by the three Transferor companies. The aggregate number of equity shares held by them were to be issued in the same proportion as contribution of PIA by a ratio of 42:42:16 and therefore, in terms of Clauses 2.2.2 and 2.2.3 of the Scheme there was no requirement for the submission of a valuation report. A perusal of the said clauses substantiates the contentions of the Petitioners that there is no requirement of a valuation report.

It seems that there is no change in the overall position of the assets in any of the shares in the Transferee company being issued to the Transferor companies in the same ratio as their contribution of the PIA. Further the PIA proposed to be contributed has been verified by an independent technical agency appointed by it. The explanation offered by the Petitioner companies that no valuation report is required is accepted and this objection of the RD is negated.

As regards the third objection concerning the transfer of licences



from the Transferor companies to the Transferee company, i.e., Indus, it is already noted that each of the three Transferor companies as well as Indus are separately registered with the DoT as IP-I. In fact, none of the Petitioner companies holds any telecom licence issued by the DoT. The question of, therefore, any of the Petitioner companies transferring any telecom licences to Indus pursuant to the Scheme does not arise.

As regards the last objection of the RD concerning the stand of PS IPL, it requires to be noted that majority of the unsecured creditors approved the Scheme at a meeting convened for that purpose on 24th December 2011. The report of the Chairperson of the said meeting was perused by this Court and has been enclosed with the affidavit filed by the Petitioners. Indeed, when the requisite majority had approved the Scheme, the fact that one unsecured creditor had objected to it will not make a difference. It is further submitted that Indus has a sound financial position and the Scheme has been approved by 99.892% in value of the unsecured creditors. In the circumstances, the above objection of the RD is negated.

The objections of the ITD are considered next.

The first contention of the ITD is that the Court should not proceed with the present matter unless it comes to a determination that the present petition and the appeal pending before the DB against the decision dated 29th March 2011 of the Company Court in Co. Petition No. 334 of 2009 pertain to independent issues. The attention in this regard is drawn to the order passed by the DB of this Court on 11th September 2012 in Company Appeal No. 63 of 2012.

The arguments concerning the issue whether both the matters are independent have necessitated the Court having to hear extensive arguments on the merits of the present petition itself. As a result, the Court proposes to deal with the said issue as part of the present judgment, which, it is clarified, is subject to the decision in the appeal pending before the DB.

The first substantive objection of the ITD is that no separate notice was issued in the petition to the Central Government as contemplated under Section 394A of the Act.

At the first hearing of the present petition, notice was directed to issue to the RD, Northern Region, Ministry of Corporate Affairs ('MCA') as well as the OL. The authority of the RD, Northern Region having his office in Noida in Uttar Pradesh, to accept notice not just on behalf of the MCA but also on behalf of the Central Government is traceable to a notification dated 17th March 2011 issued by the MCA under Section 637 (1) of the Act delegating to the RDs at Mumbai, Kolkata, Chennai, Noida and Ahmedabad the powers and functions of the Central Government under several provisions of the Act including Section 394A. Therefore, for many years now the practice of the RD accepting

notices in petitions under Sections 394A of the Act on behalf of both the MCA and the Central Government has had the statutory backing by way of the notifications issued under the Act. The very purport of the notification under Section 637 (1) of the Act is to obviate multiple notices having to be issued to different departments and Ministries of the Central Government. It is expected that the RD would seek instructions from the concerned departments and Ministries as regards the Scheme submitted for approval. Consequently, this Court rejects the contention of the ITD that the present petition cannot proceed for want of separate notice to the Central Government.

The first substantive objection to the Scheme on merits is that the Petitioner companies have suppressed the fact that the Petitioners 1 to 3 had entered into an 'Indefeasible Right to Use Agreement' ('IRU Agreement') with Indus in 2008 with an effective date of 1st January 2009. Under the said IRU Agreement, Indus acquired an exclusive, unrestricted and indefeasible right to use the passive infrastructure until such time it was transferred to Indus by way of one or more Schemes of Arrangement under Sections 391 to 394 of the Act. The ITD accordingly points out that in terms of the IRU Agreement, Indus not only had the operational and physical control but had absolute, complete, unfettered and irrevocable right over the PIA and for all practical purposes the PIA vested in Indus with effect from 1st January 2009. The stand of the ITD is that the Demerger Schemes involving VIL, BIVL and ICTIL and the present Scheme are inter-connected and inter-dependent. It is pointed out that in 2008 itself it had been contemplated that the PIA should be ultimately transferred to Indus by way of Demerger Schemes under Sections 391 to 394 of the Act as the Demerger Schemes were devised as a first step to transfer the PIA to intermediate companies for its ultimate transfer. It is accordingly, submitted that the Demerger Schemes and the present Scheme are part of a 'single transaction'.

The above submissions have been considered. As already noted hereinabove, even if it were to be assumed that the Schemes are inter-connected and inter-dependent, if for some reason any part of the Demerger Schemes do not go through then such eventuality has been accounted for under Clause 2.2.5 of the Scheme. To the extent that some parts of the Demerger Schemes are not ultimately approved the present Scheme would correspondingly stand modified. Depending on the ultimate orders that may be passed concerning any part of the Demerger Schemes, applications can be filed in this Court for modification in terms of Section 392(1)(b) or Section 392(2) of the Act.

It is then submitted that the ITD should be permitted to proceed with recovery in respect of any existing or future tax liability of the Transferor companies or the Transferee company in respect of the assets sought to be transferred under the Scheme. It is submitted that there should be no limitation on the powers of the ITD to effect recovery of tax and penalties etc. In the operative portion of the judgment dated 29th March 2011,



sanction was granted to the Scheme of Arrangement “reserving the right of the income tax authorities to the extent stated above.” Therefore, throughout it has been made clear that the right, if any, that the income tax authorities may have under the Income Tax Act, 1961 (‘ITA’) to proceed against the Petitioner companies was not in any manner curtailed.

In view of the above conclusions, this Court does not consider it necessary to deal with the objection of the Petitioner companies regarding the *locus standi* of the ITD to oppose the Scheme.

With no other objections remaining to be dealt with, there appears to be no impediment to the grant of sanction to the Scheme. Accordingly, this Court grants sanction to the Scheme under Sections 391 to 394 of the Act. It is made clear that the grant of sanction to the Scheme is subject to the final order in Company Appeal No. 63 of 2012 pending before the DB of this Court and any other orders in any further proceedings thereafter.

CS

LW.51.06.2013

ICICI BANK LTD v. DUNLOP INDIA LTD. & ORS; KANTI COMMERCIALS (P) LTD v. DUNLOP INDIA LTD. & ORS; DUNLOP INDIA LTD. v. M/S. E.V. MATHAI & SONS [CAL]

A.P.O. No. 50 of 2013, C.P. No. 233 of 2008, C.P. No. 513 of 2011 - AND - A.P.O. No. 65 of 2013, C.P. No. 233 of 2008 - AND - A.P.O. No. 105 of 2013, C.P. No. 233 of 2008

Ashim Kumar Banerjee & Dr. Mrinal Kanti Chaudhuri, JJ.
[Decided on 02/05/2013]

Sick Industrial Companies Act, 1985 - Sections 22 - fraudulent transfer of properties - no possibility of revival - winding up ordered by the HC - HC directs the OL to take possession of the transferred properties - appeal against - whether tenable - Held, No.

Brief facts

Dunlop India Ltd. was a Tyre manufacturing Company. It changed hands from time to time. Ultimately, the company came within the fold of Chabarias, the liquor baron. The company became sick and was referred to the Board for Industrial and Financial Reconstruction (hereinafter referred to as ‘BIFR’). While the proceeding was pending before the BIFR, Ruias came in control of the company. Ruias claimed, they got control through purchase of controlling block of shares. Be that as it may, Ruias came in control of both the factories at Sahaganj in the State of West Bengal and Ambattur in the State of Tamil Nadu. Initially Ruias opened the Sahaganj factory and started

manufacturing process at least, it was claimed so. Ambattur unit was however functioning. It now appears, during the period when matter was pending before the BIFR or so soon thereafter four valuable properties having an estimated value of Rs.2300 crores were surreptitiously transferred. The management wanted to avoid the restrictions of Section 22 of the Sick Industrial Companies Act, 1985, window dressed the accounts showing the net worth of the company positive and thus came out of the fold of BIFR. The management neither paid the creditors nor the workers. Both the units were shut down in course of time. The creditors started making application for winding up since 2008. There had been earlier winding up petitions that were kept in abeyance in view of pendency of the proceeding before the BIFR. For some time the company also enjoyed the benefit of relief undertaking under the State law. On a sum total of the situation, the company left no stone unturned keeping the creditors at bay. The workers were given false promises. In the hope that the factory would be reopened, the workers did not raise any serious issue pressing their long-standing dues. One of the creditors, Madura Coats Ltd. filed application for appointment of provisional Arbitrator. By a judgment and order dated March 26, 2012 the learned Judge appointed Official Liquidator as the provisional liquidator and asked the provisional liquidator to take steps as against the fraudulent transfer of the immovable properties referred to above. The Division Bench termed it as Special Officer, however, did not disturb the process of inventory. The company ultimately faced the final hearing of the winding up proceeding. By judgment and order dated January 31, 2013 the learned Judge passed an order of winding up that became the subject matter of three appeals that we heard on the above mentioned dates.

Decision: Appeals dismissed.

Reason

The well-reasoned decision of the learned Single Judge would clearly show, the Court tried its best to find out a solution for revival of the company. The management was however, not serious. For 14 months, the matter was kept pending. The company came with a scheme for compromise, immediately withdrew the same. The facts would depict, properties were transferred in a clandestine manner. The creditors would say, reversal of one property would make the situation completely stable and congenial for revival. Yet, the management was not prepared. Section 531 would deal with fraudulent preference. Any transfer of immovable property within six months before commencement of winding up of the company would be deemed to be a fraudulent preference and in terms of Section 536(2), in case of winding up any disposition of property made after the commencement of winding up would be void unless otherwise ordered by Court. On a combined reading of the aforesaid two provisions any transfer prior to date of the commencement of winding up proceeding or during the pendency would be void. Similarly, under the Sick Industrial Companies Act 1987 any



transfer of immovable assets during pendency of the reference before the BIFR is prohibited. Transfer of four properties referred to above, were either made during the pendency of the reference or immediately before or during pendency of the winding up proceeding. In such event, the learned Judge was justified in directing Official Liquidator to take steps in this regard.

Mr.Sengupta argued on behalf of the company. He would try to raise dispute with regard to the creditor's claim. His contradiction would at best hint towards quantum however, liability was not in dispute. When a company was not in a position to dispute the liability towards its creditors for revival they must suggest as to how they would propose to discharge such liability, at least to the extent, they would admit. Mr.Sengupta would contend, the liability would at best be the sum of Rs. 23 crores and he would clear it off within four months' time. While making such statement neither he took the workers in confidence nor the secured creditors. The letter relied on by and on behalf of the company certifying, the workers' dues were being paid, was from one union. Mr. Chowdhury representing the workers at the request of the Court would, however, depict a complete different picture. The unsecured creditors were able to establish their claims to a substantial extent that could not be successfully confronted either by the company or by its associates. No concrete proposal was before the Court for revival.

Kanti Commercial one of the appellants, tried to maintain an independent character although it was an associate company. Kanti claimed, they had a claim of Rs.129 crores. Such claim featured for the first time in the Balance Sheet of 2011-2012 being the period when winding up proceeding was in vogue. Under what circumstance such liability was created, is not clear to us. Another creditor, M/s. India Tyres Limited was also a group company as would be apparent from their letter head. Hence, we do not find a single creditor having entity independent of the company, to come forward and support the prayer for revival made by the company and/or its associates. We fail to appreciate, what the creditors would decide, even if we call a meeting for the said purpose, in case we are not able to give them food for thought being a scheme of compromise for consideration.

When the Court would ask someone to ascertain the wishes of the creditors such direction must be based on a definite proposal for revival coupled with repayment schedule. We do not have any such proposal either from the company or from its associates save and except a bold statement from the bar expressing intention to deposit Rs.13 crores in four months, that too, after running the units. We are constrained to hold, the management was not at all serious for revival. The assets are no more safe in the hands of the erstwhile management. It is fit and proper, Official Liquidator must take immediate step for possessing the assets and proceed with the winding up.

With regard to the appeal of ICICI bank, we are of the view, the

direction of His Lordship for restoration of the assets was nothing but a direction upon the Official Liquidator to take lawful steps against the wrong. Such step would obviously deserve a regular proceeding upon notice to the transferee and/or the persons claiming title under them. ICICI bank claiming to be the mortgagee, would be at liberty to contest such proceeding. Their apprehension is premature. If the mortgage was lawful, they would be at liberty to say so in the proceeding, if any, brought for the purpose. The order of the learned Company Judge could not be construed to mean a forcible attempt by the Official Liquidator repossessing the assets that was not contemplated by His Lordship. In this regard, we may refer to the appropriate direction as contained in the order dated March 26, 2012. The learned Judge observed, "The provisional liquidator will take every step that is permissible to not only protect the assets and interest of the company and its creditors, employees and workmen but will also take all steps in accordance with law to forthwith recover and arrest the further alienation of the four immovable properties that were fraudulently transferred by the company in the year 2006-2007 or their abuts as referred to above". In the judgment and order dated January 31, 2013, the learned Judge passed the order of winding up. While doing so, His Lordship observed, "The official liquidator will immediately take the steps to ensure that the assets transferred by the company in derogation of the prohibitory orders of the BIFR are brought that to the company's fold and made available for realization of the creditor's dues". Neither of the observations quoted above, would suggest forcible repossession of the properties, it would require a lawful proceeding to be brought for the purpose. In case such proceeding is brought ICICI bank would be free to contest. Our intervention at this stage is not warranted.

CS

LW.52.06.2013

KANEL INDUSTRIES LTD v. SEBI [SAT]

Appeal No.54 of 2013

Jog Singh & A. S. Lamba, MM
[Decided on 10/05/2013]

Sections 11, 15C, 15A(a) and 15I of the Securities and Exchange Board of India Act, 1992 read with Rule 5 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 - Listed Sick Company - indifferent attitude and delay shown by the company in redressing the grievances of about 64 investors - penalty imposed - whether correct - Held, Yes.

Brief facts

The appellant is a public limited company incorporated under the



Companies Act, 1956. From 1992 onwards it was carrying on the business of commercial trading and distribution mainly in castor oil. Somehow, it became a sick industrial unit in 2003. The trading of shares were listed on various exchanges like Bombay Stock Exchange, Ahmedabad Stock Exchange, Calcutta Stock Exchange and Jaipur Stock Exchange. Trading in the shares remained suspended from January 2003 onwards. Somehow, the said trading in shares has resumed from October, 2011 at BSE. The appellant also approached BIFR for its revival and rehabilitation but its application was rejected. The High Court, however, on appeal remanded the matter to BIFR. It is noted from the record that on January 19, 2010, on remand by the Hon'ble High Court of Delhi, BIFR has appointed IDBI as Official Assignee to inspect the unit and submit the report. Further records in this case are not available. The issue in the present case pertains to indifferent attitude and delay shown by the appellant in redressing the grievances of about 64 investors. On noticing this aspect, respondent SEBI issued notice to the appellant on 16th February, 2010 under Rule 4(1) of the Adjudication Rules as to why an enquiry should not be conducted against the company and penalty should not be imposed under sections 15C and 15A(a) of the Securities and Exchange Board of India Act, 1992 (SEBI Act). The reply was, however, filed by the appellant on 9th June, 2011. Personal hearing was also afforded to the appellant. After affording reasonable opportunity of hearing to the appellant, SEBI came to the conclusion that the appellant was liable to pay a monetary penalty of Rs. 5,00,000/- of violation of Sections 15C and 15A(a) of the SEBI Act. This was done by the Adjudicating Officer under section 15 I of the SEBI Act read with Rule 5 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995.

Decision: Appeal dismissed.

Reason

After hearing both the learned counsel for the parties we are of the considered opinion that the redressal grievance mechanism envisaged under SEBI Act is an important tool in the hands of SEBI to discharge its duties and obligations imposed on it by the Parliament in the SEBI Act, 1992. Section 11 of the SEBI Act categorically says that one of the most important objects of SEBI is to protect the interest of investors and would, undoubtedly include timely redressal of grievances of investors. There can be no dispute with this proposition of law. However, in the present case we note that the company was admittedly been a sick industrial company. It had financial constraints. Its inability to appoint a full time company secretary is also evident from the record even fees to the share transfer agent, NSDL and CDSL could not be arranged. According, to our considered view these are important factors which should have motivated the Adjudicating Officer to impose a lesser penalty in the matter. Therefore, in the peculiarity of the facts and circumstances of the case, we uphold the order dated December 6, 2012 in principle

but reduce the said penalty to Rs. 2,00,000/- i.e. Rs. 1,00,000/- in respect of violation of section 15C and Rs. 1,00,000/- in respect of Section 15A(a) of the SEBI Act. With this modification of penalty, the impugned order is upheld and the appeal is dismissed. However, the appellant shall pay the said amount of Rs. 2,00,000/- within two months from the date of receipt of the copy of this order.

CS

LW.53.06.2013

SPENTEX INDUSTRIES LTD v. INDO RAMA SYNTHETICS (INDIA) LTD. [DEL]

C.A. No. 85/2012

Rajiv Sahai Endlaw, J.
[Decided on 21/05/2013]

Sections 392, 392(1)(b), 393 and 394 of the Companies Act, 1956 read with Section 2(19AA) of the Income Tax Act, 1961 - demerger of companies - whether such demerger should be absolutely compliant with section 2(19AA) - Held, No.

Brief facts

This appeal impugns the judgment dated 23rd July, 2012 of the Company Judge of this Court dismissing Company Application No.762/2009 preferred by the appellant in Company Petition No.4/2003.

Company Petition No.4/2003 was preferred by Indo Rama Textiles Limited (IRTL) for sanctioning of a Scheme and which was sanctioned on 27th February, 2003. Simultaneously, the respondent had also approached the Madhya Pradesh High Court and which also vide order dated 24th March, 2003 sanctioned the Scheme *qua* the respondent. Under the said Schemes sanctioned by this Court and by the Madhya Pradesh High Court, the spinning business of the respondent was demerged as a going concern and transferred to IRTL, with the respondent retaining the polymer business. IRTL subsequently in or about December, 2006 was amalgamated with the appellant.

Company Application No.762/2009 (*supra*) was filed by the appellant under Section 392(1)(b) for modification of the Scheme *qua* IRTL sanctioned by this Court on 27th February, 2003 and for a direction to the respondent to transfer certain assets including a part of the housing colony occupied for use by the workers/employees of the erstwhile IRTL to the appellant or in the alternative to pay to the appellant the value of the said assets.

It was the contention of the appellant before the learned Company Judge that under the Scheme sanctioned by this Court the Undertaking of the spinning business, as a going concern



within the meaning of Section 2(19AA) of the Income Tax Act, 1961, was to be transferred to IRTL and for this reason only the respondent had not paid any capital gains tax on the said transfer; that under the said transfer, the properties of the Undertaking being transferred as a going concern, would also stand transferred; that the assets including the housing colony occupied by the workers of IRTL, *qua* which the application was filed were the assets of the Undertaking of the spinning business; however the Scheme did not mention or refer to the said assets and thus the Scheme was liable to be modified to make it Section 2(19AA) compliant.

The learned Company Judge held, (i) that a reading of the Scheme of Arrangement sanctioned on 27th February, 2003 as a whole showed that the housing colony as well as the common utilities were specifically agreed to be retained and owned by the respondent; (ii) that the properties, buildings and assets that were transferred to IRTL were specifically mentioned; (iii) that the shareholders and creditors of respondent and IRTL had given their consent to the Scheme of Arrangement knowing fully well that the common utilities and housing colony would continue to be retained and owned by the respondent; (iv) that the appellant also at the time of purchasing the shares of IRTL was aware of the Memorandum of Understanding (MoU) signed between the respondent and IRTL subsequent to the sanction of the Schemes and which also specifically stated that the respondent was offering the housing colony to IRTL as a resource for five years upon payment of actual costs; if the respondent was not the owner of the said housing colony and common utilities, there was no question of it offering the same for use to IRTL on payment of costs; (v) that the requirement of Section 2(19AA) would be satisfied if an Undertaking that is being demerged / hived off is a going concern i.e. it constitutes a business activity capable of being run independently in a foreseeable future and for which purpose the Court can examine whether essential and integral assets like plant, machinery and manpower without which it would not be able to run as an independent unit have been transferred to the demerged company or not and Section 2(19AA) does not require all the properties of the Undertaking being transferred to become the property of the transferee company and non-transfer of some of the previous common assets will not affect the status of IRTL as a going concern; (vi) that before the demerger aforesaid, the respondent company was carrying on both polymer and spinning business and the housing colony and utilities were being used in common for both businesses; that for the Scheme to be Section 2(19AA) compliant did not require transfer of the said common assets also or a share therein; (vii) that it was on the basis of assets/liability transfer that the share swap ratio was assessed, determined and allotted and if the housing and common utilities also to be transferred, the share swap ratio may have been different; (viii) that moreover whether or not Section 2(19AA) has been complied with was for the Tax Authorities to determine and if the transfer was not in accordance therewith, it was for the Tax

Authorities to levy capital gains if any on the respondent; (ix) that Section 2(19AA) is relevant only for the purpose of determining whether the Scheme is tax neutral and has the consequences for the respondent only; (x) that compliance with Section 2(19AA) cannot be read as a mandatory requirement for all Schemes of amalgamation/arrangement/demerger under Sections 392, 393 and 394 of the Companies Act; (xi) that what the appellant is wanting is re-writing of the Scheme of arrangement which is impermissible under Section 392(1)(b) of the Companies Act; (xii) that when the Scheme was sanctioned in the year 2003, the respondent as well as IRTL were both managed by the same group but the position had since changed; accordingly, Clause 36 of the Scheme providing for arbitration of disputes by the named Arbitrator was modified to provide for arbitration of the disputes by Arbitrator appointed with the consent of the parties.

Decision: Appeal dismissed.

Reason

We have bestowed our thoughtful consideration to the rival contentions aforesaid. We agree with the reasoning given by the learned Company Judge in the detailed judgment and do not feel the need to reiterate the same and proceed to give only our further analysis of the controversy.

However the fact remains that at the contemporaneous time the shareholders of both, respondent and IRTL, did not deem the aforesaid assets as essential to the running of the spinning business/undertaking which was transferred by the respondent to IRTL and felt that the said business could be continued to run by entering into an arrangement for use of the aforesaid assets by IRTL under the MOU aforesaid with the respondent. It is also true that the spinning business, in the last ten years has not stopped to run for the reason of the aforesaid assets having not been transferred by the respondent to the IRTL. From the factum of the appellant itself having agreed to purchase the entire shareholding of IRTL, and which it can safely be presumed must have been after due diligence which would have disclosed that the spinning business being run by IRTL did not have the aforesaid assets of its own but merely had a right to use the same and which right could be taken away at any time, it can safely be presumed that the appellant also did not consider ownership of the aforesaid assets essential to the continued running of the spinning business by IRTL.

We are here exercising company jurisdiction dealing with corporate / commercial affairs. Our reasoning/logic cannot be far removed from that of commercial men. When commercial men behind the veil of the appellant felt that the spinning business of IRTL could continue to run even without ownership of aforesaid assets and paid for acquiring the same, we have wondered, whether they can now be heard to urge that the aforesaid assets are so essential to the running of the spinning business so as to make the absence of the same fatal to the running of the said



business. Our opinion is clearly no.

The filing of the application under Section 392(1)(b) by the appellant after nearly three years of acquiring the said spinning business by purchase of shareholding of IRTL is found by us to be nothing but an act of greed and arm twisting the respondent to continue allowing the appellant to use the said assets. We fail to see, as to how the appellant who had earlier represented to this Court that the assets aforesaid were not essential to the running/operation of the spinning business, can now be heard to the contrary. A change of shareholding of a Company which has in law been conferred the status of a juristic person, does not entitle the company to wriggle out of past commitments/representations. Merely because over the years, the shareholders of the predecessor of the appellant have changed and the predecessor has been amalgamated with the appellant and control and management of the appellant is now with different persons does not entitle the appellant to take a different stand from that taken before this Court earlier.

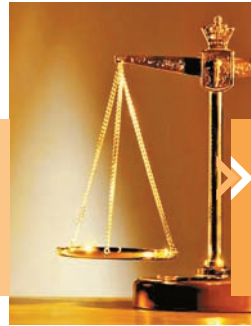
We are thus of the view that the housing and plant and equipment listed out hereinabove *qua* which the grievance is made cannot be said to be so essential for the spinning business so as to make the non availability of the same fatal to the running of the spinning business. Such assets, even if needed can also be procured from diverse sources.

We are of the view that the modification sought by the appellant is against the fabric of the Scheme and in the domain of modifications of the Scheme and not of modification for working of the Scheme.

As far as Section 2(19AA) of the Income Tax Act, on which the entire argument of the appellant hinges, is concerned, we agree with the respondent that for the Court to sanction a Scheme of demerger, compliance of Section 2(19AA) is not essential. The reference to Section 2(19AA) in the Scheme is only for the purpose of making the transaction tax neutral. The same cannot be said to be a pivot around which the Scheme revolved or essential to its workability. We are therefore of the opinion that the non-compliance even if any with Section 2(19AA), would not render the Scheme unworkable.

We also find that there is no ambiguity in the Scheme and it was not the case of the appellant that the assets aforesaid, under the Scheme stood transferred to the predecessor in interest of appellant and the argument in this regard before us is an afterthought.

We in the circumstances aforesaid find the application filed by the appellant before the Company Judge as well as this appeal to be also lacking in *bona fides* and which in our view can be a factor while considering not only the scheme but also at the stage under Section 392(1)(b) of the Act. CS



Patent Law

LW.54.06.2013

LML LTD v. BAJAJ AUTO LTD. [IPAB]

TRA/3/2007/PT/DEL

PrabhaSridevan, Chairman & D P S Parmar,
Technical Member
[Decided on 02/05/2013]

Patents Act, 1970 - Sections 3(f) and 10 - revocation of patent - on what grounds - explained by the Tribunal.

Brief facts

This is a transfer application for revocation of Patent No.189097 granted to Bajaj Auto Limited. This application has been transferred to Intellectual Property Appellate Board (IPAB) by Hon'ble High Court of Delhi vide order No. C.O.No.3 of 2004 dated 25th May, 2007.

The applicant in this case, LML Limited is an Indian company incorporated under the Companies Act, 1956 carrying out their business for several years, *inter alia*, in the field of motor vehicles including two - wheeled motor vehicles such as motorcycles, motorscooters, mopeds and the like. They received a cease and desist notice from respondent on 12th April 2004. The applicant filled a petition for revocation of patent no 189097 at Hon'ble High Court Delhi (CO.NO.3 of 2004) on 27.04.2004. They are therefore 'person interested' to file this revocation application.

Decision: Application dismissed.

Reason

We have considered the submissions of the learned counsel for appellant.

In the facts of the instant case, it is not disputed that split type shackles have been in use since long prior to the application for the impugned patent. The claimed 'Patent' also used a similar type of mechanism both at the lower end of the rod by which the



ceiling fan is hanged and also at the top of the shaft of the fan. The mechanisms have been put in a single piece on both the ends being the lower end of the rod and the upper end of the shaft of the fan.

In order to be patentable an improvement on something known before or combination of different matters already known, should be more than mere workshop improvement. In any opinion, it cannot be said in the instant case, that the patent registered is an inventive step, or that the same is more than a workshop improvement. Furthermore, it is a mere collection of more than one integers or things, not involving the exercise of any inventive faculty as such, the same does not qualify for the grant of patent. It is a device and/or mechanism which had already been in use at the top end of the rod. Merely because the same device and/or mechanism has been made use of the lower end of the rod to couple it with the upper end of the shaft of the fan by using the same mechanism and or device and merely because the two devices have been joined into a single piece on both sides, it cannot be said that it amounts to a new invention. In my opinion, it is an application of a known mechanism which had already been used for all practical purposes. It was obvious to a skilled worker in the field concerned, in the state of knowledge existing at and prior to the date of the patent and was to be found in the literature and/or knowledge then available to him.

The object of Patent Law is to encourage scientific research, new technology and industrial progress. Grant of exclusive privilege to own, use or sell the method or the product patented for a limited period, stimulates new inventions of commercial utility. The price of the grant of the monopoly is the disclosure of the invention at the Patent Office, which after the expiry of the fixed period of the monopoly, passes into the public domain.

The fundamental principle of Patent Law is that a patent is granted only for an invention which must be new and useful. That is to say, it must have novelty and utility. It is essential for the validity of a patent that it must be the inventor's own discovery as opposed to mere verification of what was, already known before the date of the patent.

It is important to bear in mind that in order to be patentable an improvement on something known before or a combination of different matters already known, should be something more than a mere workshop improvement; and must independently satisfy the test of invention or an 'inventive step'. To be patentable the improvement or the combination must produce a new result, or a new article or a better or cheaper article than before.

We do not find the claimed invention is anticipated by the above referred citations as no clear case is made out by the applicant. This ground therefore fails.

OBVIOUSNESS

The counsel for applicant submitted that the impugned patent is nothing but a workshop improvement and minor rearrangement of technology that is in the public domain.

The Counsel for the applicant submitted that use of reed valve in the conventional two stroke engine is admitted by the respondent as known (Page 4 para 3 of specification) where carburetor is not directly fixed to the crankcase but it is positioned between crankcase and inlet manifold. Therefore what emerges from this is that claimed invention is only for an arrangement. According to the counsel claimed invention constitutes nothing more than workshop modification and minor tinkering with wellknown technology.

The learned counsel submitted that to meet the original challenge of maintaining the monocoque chassis of the scooter and retaining the intake system, chassis shape and engine transmission positioning as it is, patentee decided to place reed valve in a minimum space between the crank case and carburetor housing in the intake system.

In order to ascertain obviousness we will now examine the documents relied on by the applicant.

We find that UK patent 857575 of Piaggio (1960) which is cited as the closest prior art where carburetor system is directly mounted on the engine intake port 7 engine crank case. This patent does not teach the use of valve between the carburetor conduit 11 and engine intake port 7.

Another US Patent 4475487 cited by applicant is related to 'Joint pipe for the carburetor' for a chain saw or portable machine. Here it shows use of two cylinders (1, 3) with a common crank case 3. The carburetor 4 is placed offset to the intake port 8. The carburetor is connected to reed valve through joint pipe 5. This inventive carburetor joint pipe ensures improved mixing of air fuel mixture. This patent does not teach use of any carburetor housing accommodating carburetor, air filter etc. In this case the carburetor is not directly mounted on crank case but is offset rearwardly from intake port 8. It does not disclose that reed valve is adopted to be positioned between crank case and carburetor housing. In fact the reed valve in this patent is placed between crankcase and joint pipe.

US patent 4964381 is for fuel injection features of a two cycle engine for motorcycles. This intake system is different from impugned patent as it does not disclose that reed valve is positioned between crankcase and carburetor housing. The monocoque chassis and engine & transmission located at one side is also not disclosed.

We do not agree with the applicant that the claimed invention is mere workshop modification and arrangement. We agree with



the respondent that one cannot adopt known (or off the shelf) design/shape of reed valve and its mounting arrangement to any or all types of intake system.

Thus we find that impugned patent is an inventive improvement over UK 857575 which made the invention in question more useful and efficient. The above analysis of all the documents relied on by the applicant clearly demonstrates that claimed invention is not obvious. This ground therefore also fails.

INSUFFICIENCY

The counsel for the respondent submitted that no evidence has been adduced by the applicant to prove that the complete specification does not sufficiently and fairly describe the invention and the method by which it is performed. According to the counsel the test results given at page 6 of the specification compared vehicle fitted with the intake system of prior art with the intake system of invention is extra information which is not essential to design and manufacture the claimed invention. The counsel submitted that respondent and disclosed the invention in compliance with section 10.

We also find the specification has disclosed the invention sufficiently and fairly. In absence of any evidence of the applicant to the contrary we are inclined to disagree with the argument of the applicant in respect of insufficiency. This ground therefore also fails.

MERE ARRANGEMENT AND REARRANGEMENT

The learned counsel for the applicant submitted that the alleged invention comprises merely in providing a reed valve between the carburetor housing and the crankcase in two stroke internal combustion engine. The reed valve functions in a conventional as a one way valve as admitted by the respondents. The carburetor and the crankcase carry out their respective well known and conventional functions. According to the learned counsel for the respondent, they have done in connecting the well known and conventional carburetor directly to the well known and conventional reed valve. These three components continue to carry out their respective functions. Therefore, this constitute a mere arrangement or rearrangement or duplication of known devices each of which carry on their own functions in an independent manner, which according to the learned counsel is not patentable under section 3(f) of the Patents Act, 1970.

The counsel for the respondent admitted that all the parts *per se* are known but the combination function is different. According to the counsel this novel combination of components parts of improved intake system for two stroke engine used particularly in two wheelers having monocoque chassis and where engine and transmission are disposed substantially to one side of the vehicle cannot be termed as mere arrangement or combination.

We find the argument of the respondent convincing as the conventional functions of the individual parts would not suggest the increase in the efficiency and reduction of emission. The impugned claim relates to combination of several parts and not any individual part to part. The positive limitation in the claims makes the invention specifically applicable to the type of two wheelers having monocoque chassis and where engine and transmission are disposed substantially to one side of the vehicle. Accordingly this cannot be described as mere arrangement and rearrangement. Therefore this ground also fails.

In view of above analysis and findings we are convinced that applicant has not made out a case for revocation of this patent. CS



General Laws

LW.55.06.2013

[BOARD OF TRUSTEES FOR THE PORT OF KOLKATA v. HALDIA BULK TERMINALS PVT LTD. \[CALJ\]](#)

A.P.O. No. 121 of 2013, A.P. No. 972 of 2012 and A.P.O. No. 122 of 2013, A.P. No. 984 of 2012

Ashim Kumar Banerjee & Dr. Mrinal Kanti Chaudhuri, JJ.
[Decided on 14/05/2013]

Section 9 of the Arbitration and Conciliation Act,1996 read with Order XXXVIII Rule 5 of the Civil Procedure Code – Restraint on removing the equipment from the port against the contractor – on facts restraint set aside.

Brief facts

Haldia Dock Complex entrusted ABG Haldia Bulk Terminals Pvt. Ltd. (hereinafter referred to as 'HBTPL') to install, maintain and operate loading-unloading system at berth Nos. 2 and 8. Disputes and differences arose as to the quantum of work that HBTPL was assured, but not given. HBTPL complained, they were assured a minimum amount of work that they were not getting. When Haldia Dock Complex run by Board of Trustees



for the Port of Kolkata (hereinafter referred to as 'KOPT') assured co-operation after a joint meeting, other operators created problem for them by instigating the workers making a situation totally unmanageable for HBTPL. They were compelled to terminate the contract more particularly complaining of the law and order problem. KOPT disputed such contention. According to them, they extended all co-operation to make the situation congenial for HBTPL to perform their job. They also assured to allot more work to berth Nos. 2 and 8. The law and order problem that would arise outside the Dock complex, was not within their control that HBTPL should have taken up with the local administration. They blamed HBTPL for wrongfully terminating the contract. We do not wish to deliberate any further on the issue as the dispute was already referred to Arbitral Tribunal. The present controversy would arise on the post termination situation. As per the contract HBTPL was supposed to remove all the equipment and/or materials whatever belonging to them so that KOPT could make alternative arrangement for running of the said two berths. HBTPL also wanted to remove their equipment however KOPT was claiming 'lien' over the equipment in view of damage being suffered for such wrongful termination.

Decision: Appeal partly allowed.

Reason

The relevant clauses discussed above, in our view, would suggest, there would be no 'lien' over the equipment. The "equipment" could not come within the scope of "temporary work" or "materials", at least dictionary meaning would not suggest so. The "construction plant" would mean a plant required for construction. The equipment would admittedly belong to the contractor. The 'lien' claimed by KOPT would be for collateral security. The clauses mentioned by Mr. Mitra, even if given full credence, would not relate to the security for any unforeseen damage. Such retention was, even if interpretation of Mr. Mitra is correct, would relate to operation of the loading-unloading job. The contractor was entrusted to install, maintain and operate. Such installation would relate to the loading-unloading mechanism. So long the contract would remain alive the contractor would not be permitted to remove the equipment and/or any part of it that would be required for the loading-unloading operation. Admittedly, contract stood terminated hence, question of discharge of further duty would not arise. One party terminated the contract, the other party accepted termination, however termed it as wrongful claiming damage for such premature termination. The clauses referred to by Mr. Mitra, would be relevant during subsistence of the contract. The security for performance was guaranteed by Bank Guarantee that stood encashed. Despite our best efforts we could not find any additional protection KOPT had under the contract to secure the claim for damages. The learned Judge also held as such. His Lordship was little bit harsh while awarding cost. Everyone has his own perception, however the ultimate finding on the issue was accurate that would need no interference.

We could have stopped here, however for ends of justice, we do not wish to. The contractor was prevented untimely, it must have embarrassed KOPT as they were not prepared for this untimed termination. There was certainly a loss of revenue, fixing of responsibility as well as the quantum would be entrusted to the Arbitral Tribunal. It would be too early to say, KOPT did not and could have any claim for damage or that the responsibility would certainly lie on KOPT foreclosing their right to claim damage from HBTPL. Hence, we feel, interest of justice would subserve if we retain the fetter that we imposed by our judgment and order dated December 19, 2012. The learned Judge permitted HBTPL to dispose of the equipment as well that would definitely foreclose the chance of KOPT to realize dues from HBTPL, if any, awarded in their favour ultimately by the Tribunal. At the same time HBTPL should not be deprived of commercial exploitation of the equipment. HBTPL was a company incorporated principally for the purpose of conducting the loading-unloading operation at berth Nos. 2 and 8. They do not have any other tangible asset. Considering the entire situation, and the advantages and disadvantages the parties might face, we strike the balance by affirming the judgment and order of His Lordship with a small rider imposing fetter on HBTPL from disposing of the assets or taking it out of the country.

We feel, however for abundant caution, we make it clear, our order must not prejudice the rights and privileges of the Axis Bank under the Deed of Hypothecation and/or mortgage that they entered into with HBTL. CS

LW.56.06.2013

HCL INFOSYSTEMS LTD v. GOVERNMENT OF NCT
DELHI [DEL]

Arb.P.No.100/2013

Manmohan Singh, J.
[Decided on 14/05/2013]

Section 11(6) of the Arbitration and Conciliation Act, 1996 – when court can appoint arbitrator - explained by the HC.

Brief facts

The respondent issued Request for Proposal (in short, called the "RFP") dated 2nd April, 2009 inviting bids for "Secured Communication Network (TETRA) for Commonwealth Games (CWG) 2010". By the said RFP, the respondent invited bids for the design, manufacture, supply, installation, testing and commissioning of the above said Network and the operation of the TETRA Network on Wet Lease for the period of 87 months after the formal acceptance of the said Network ("the Legacy Period").



Pursuant to the bid by the petitioner, the respondent awarded the contract for the aforesaid work to the petitioner, leading to the execution of the Master Service Agreement dated 29th December, 2009 (hereinafter referred to as the "MSA") for "Establishment of Secured Communication Network (TETRA) for Commonwealth Games (CWG) 2010 and Legacy Period thereafter on Wet Lease Basis" between the President of India through the Secretary, Department of Information Technology (IT) of the respondent and the petitioner.

Disputes arose between the parties and the Petitioner approached the High court for the appointment of an arbitrator. Respondent contested the petition.

Decision: Petition allowed.

Reason

In nut-shell, the case of the petitioner is that the respondent has recommended to the user departments a deduction of 6% from the bills payable for the period, without indicating the basis on which the penalty of 6% has been levied. It is stated by the petitioner that the petitioner has complied with all the terms and conditions of MSA, therefore, the question of any contractual penalty does not arise, and any penalty levied is arbitrary and unsustainable. The respondent has, without any justification, authorized the user departments to deduct certain percentage from the bills for the games period. Therefore, the balance amount in this respect is also payable for the Commonwealth Games period even after the expiry of more than two years. It is stated that the petitioner has incurred tremendous costs to set up, operate and maintain the system. The usage charges alone for the period from 1st September, 2010 up to 29th February, 2012 work out to Rs. 20,65,00,908/- as per the details of statement annexed to the notice dated 21st December, 2012.

After having considered the material placed, I find no concrete *prima-facie* evidence to show that after the receipt of notice from the petitioner in order to invoke the arbitration, there were any serious discussions and suggestions made by the respondent with regard to balance payment claimed by the petitioner. No doubt, there are some documents which would suggest that the meetings were attended by the representatives of the petitioner but there is no direct material which may establish about the discussion of balance amount claimed by the petitioner, though prior to issuance of notice minutes of the meeting held on 19th November, 2012 have been produced where decision on payment to the implementing Agency was taken. However, the petitioner's counsel has informed that no positive steps were taken by the respondent to make the payment, rather the respondent issued a letter dated 17th December, 2012 indicating the petitioner to levy penalty of 6%. Despite that, entire payment was made by the respondent leaving a balance. Therefore, the petitioner has no alternative but to press the relief claimed in the petition. It is also pertinent to mention that the respondent itself

has appointed the sole Arbitrator to adjudicate the disputes between the parties. The said action of the respondent defeats its own argument.

In view of the settled law, it is clear that the respondent had forfeited its right to appoint the arbitrator after the expiry of statutory period. The discretion of appointment of sole arbitrator is now left with the Court. Thus, the appointment of Sh.J.K.Roy, Member(Technology)-Retd., Department of Telecommunications is not a valid appointment in accordance with law. Thus, the prayer made in the petition is allowed. CS



LW.57.06.2013

CCE v. SIGMA CORPORATION INDIA PVT LTD [DEL]

CEAC 11/2004

Badar Durrez Ahmed & Veena Birbal, JJ.
[Decided on 22/04/2013]

Central Excise Act, 1944 read with Customs Act – Levy of Merchant overtime fees - customs officer discharging duties at the place of assessee – place of assessee falls under the jurisdiction of the officer - whether levy of MOT tenable - Held, No.

Brief facts

Respondent is manufacturer and exporter of auto parts under DEPB Scheme. The respondent had exported certain consignments of auto parts during September, 1997 to September, 2002. It is admitted that stuffing of goods in containers for the export was done in the factory of respondent under the supervision of Central Excise Officer having jurisdiction over the factory under section 36 of the Customs Act read with Customs (Fees for Rendering Services by Customs Officers) Regulations, 1998. Regarding the stuffing work done by the Customs Officer in the factory of respondent under the supervision of the jurisdictional Central Excise



Range Officer, the Deputy Commissioner of Central Excise issued a letter directing the respondent to pay MOT charges of over Rs.7 lakhs covering the aforesaid period. The said demand was challenged by the respondent before the Commissioner (Appeals) by contending that for services rendered by Customs Officer, no MOT charges were payable. It was contended that under section 36 of the Customs Act, fee, if any, is payable only when the services for supervision are availed after working hours. It was contended that same was not the position in the present case, as such, no fee in the present case was payable. However, the Commissioner (Appeal) reduced the charges to Rs. 3,37,900/- by observing that calculation of the MOT fee had been made on the basis of AR4/ARE1 register maintained in the Range Office which was irregular and same had to be worked out on the basis of visits and number of hours of services rendered by the Central Excise Officers in terms of relevant regulations. The said order was challenged by the respondent by filing an appeal before the Tribunal wherein it was held that services of supervision of stuffing of goods in containers was rendered by the concerned Officer within his range only i.e., within his normal place of work, as such, condition for levy of MOT charges was not satisfied and accordingly dismissed the appeal. Aggrieved with the same, present appeal is filed.

Decision: Appeal dismissed.

Reason

The overtime fee is collected under Section 36 of the Customs Act read with Customs (Fees for Rendering Services by Customs Officers) Regulations, 1998 made thereunder. Section 36 of the Customs Act allows loading/unloading of imported/export cargo from any vessel beyond working hours on any working day or on holiday only on payment of prescribed fees. The rate and the manner of collection of such fee is given in the aforesaid Regulations of 1998.

In the present case, it is an admitted position that stuffing work was done in the factory of respondent under the supervision of jurisdictional Central Range Officer during working hours only. The place of working/supervision was at the factory of the respondent which is at Mayapuri. Learned counsel for the respondent has pointed out that as per Notification No.14/2002-CE(NT) dated 08.03.2002 as amended by Notification No.22/2002-CE(NT) dated 04.06.2002, the jurisdiction of Delhi II, Range 26 of Central Excise division-V includes Mayapuri Indl. Area Ph.-II where the factory of respondent is located, the services were rendered by the officer within his range only. The same fell within the jurisdiction of the Central Excise Range Officer who supervised the work. Chapter 13 of the CBEC's Customs Manual deals with "Merchant Overtime Fee" wherein it is provided that if services are rendered by the Customs Officer at a place which is not his normal place of work or a place beyond the Customs area, overtime is levied even during

the normal working hours.

In the present case, none of the conditions for levy of MOT is satisfied. The appeal is accordingly dismissed with no order as to costs.

CS

LW.58.06.2013

UM CABLES LIMITED v. UNION OF INDIA & ORS [BOM]

Writ Petition No.3102 of 2013 & Writ Petition No.3103 of 2013

Dr.D.Y.Chandrachud, & A.A. Sayed, JJ.
[Decided on 24/04/2013]

Section 35 EE of the Central Excise Act 1944 read with Rule 18 of the Central Excise Rules 2002 –Rebate on exports-exporter failed to submit certain documents- whether rebate can be refused on this ground alone- Held, No.

Brief facts

In both the Petitions which form the subject matter of the proceedings, the Petitioner has questioned the legality and validity of an order passed by the Joint Secretary to the Government of India on 24 May 2012 dismissing the revision applications filed by the Petitioner from orders of the appellate authority confirming the rejection of rebate claims.

The first petition before the Court arises from an order of adjudication of the Assistant Commissioner dated 29 January 2010 rejecting two claims for rebate dated 20 March 2009 and 8 April 2009 in the amount or a total value of Rs.12,54,214/-. The second petition before the Court relates to the rejection of three claims for rebate dated 20 March 2009 in the amount of Rs.42,97,781/- in respect of which an order of adjudication was passed on 13 November 2009. Both the orders of adjudication were confirmed in appeal by the Commissioner (Appeals) and in revision by the revisional authority.

The common ground on the basis of which the rebate claims have been rejected is that the Petitioner had failed to submit the original and duplicate copies of the ARE-1 forms.

Decision: Partly allowed.

Reason

Rule 18 of the Central Excise Rules 2002 empowers the Central Government by a notification to grant a rebate of duty paid on excisable goods or on materials used in the manufacture or processing of such goods, where the goods are exported. The rebate under Rule 18 shall be subject to such conditions or limitations, if any, and the fulfillment of such procedure as may be specified in the notification. Rule 18, it must be noted



at the outset, makes a clear distinction between matters which govern the conditions or limitations subject to which a rebate can be granted on the one hand and the fulfillment of such procedure as may be prescribed on the other hand. The notification dated 6 September 2004 that has been issued by the Central Government under Rule 18 prescribes the conditions and limitations for the grant of a rebate and matters of procedure separately. Some of the conditions and limitations are that the excisable goods shall be exported after the payment of duty directly from a factory or warehouse, except as otherwise permitted by the CBEC; that the excisable goods shall be exported within six months from the date on which they were cleared for export from the factory of manufacture or warehouse or within such extended period as may be allowed by the Commissioner; that the market price of the excisable goods at the time of export is not less than the amount of rebate of duty claimed and that no rebate on duty paid on excisable goods shall be granted where the export of the goods is prohibited under any law for the time being in force.

The procedure governing the grant of rebate of central excise duty is specified in the same notification dated 6 September 2004 separately. Broadly speaking the procedure envisages that the exporter has to present four copies of an application in form ARE-1 to the Superintendent of Central Excise. The Superintendent has to verify the identity of the goods and the particulars of the duty paid and after sealing the packet or container, he is required to return the original and duplicate copies of the application to the exporter. The triplicate copy is to be sent to the officer with whom a rebate claim is to be filed either by post or by handing it over to the exporter in a tamper proof sealed cover. After the goods arrive at the place of export, they are presented together with the original and duplicate copies of the application to the Commissioner of Customs. The Commissioner of Customs after examining the consignment with the particulars cited in the application is to allow the export if he finds that the particulars are correct and to certify on the copies of the application that the goods have been duly exported. The claim for rebate of duty is presented to the Assistant or Deputy Commissioner of Central Excise who has to compare the duplicate copy of the application received from the officer of customs with the original copy received from the exporter and the triplicate received from the central excise officer.

The procedure which has been laid down in the notification dated 6 September 2004 and in CBEC's Manual of Supplementary Instructions of 2005 is to facilitate the processing of an application for rebate and to enable the authority to be duly satisfied that the two fold requirement of the goods having been exported and of the goods bearing a duty paid character is fulfilled. The procedure cannot be raised to the level of a mandatory requirement. Rule 18 itself makes a distinction

between conditions and limitations on the one hand subject to which a rebate can be granted and the procedure governing the grant of a rebate on the other hand. While the conditions and limitations for the grant of rebate are mandatory, matters of procedure are directory.

In the situation in the two writ petitions, the rebate claims that were filed by the Petitioner would have to be duly bifurcated. As noted earlier the first writ petition, Writ Petition 3102 of 2013 relates to two claims dated 20 March 2009 and 8 April 2009 in the total value of Rs.12.54 lacs. In respect of the second of those claims dated 8 April 2009, of a value of Rs.10.08 lacs, the Petitioner has averred that the goods were loaded by the Shipping Line on the vessel and the vessel sailed on 18 April 2008 whereas the Let Export Order was passed by the customs authorities on 19 April 2008. The Petitioner has stated that in view of this position the customs authorities withheld the endorsement of the ARE-1 forms and the issuance of the export promotion copy of the shipping bill, paragraphs 8(g) and 8(h) of the petition. We find merit in the contention of counsel appearing on behalf of the Revenue that in these circumstances, the rejection of the rebate claim dated 8 April 2009 by the adjudicating authority and which was confirmed in appeal and in revision cannot be faulted. Admittedly even accordingly to the Petitioner the goods came to be exported and the vessel had sailed on 18 April 2008 even before a Let Export Order was passed by the customs authorities. The primary requirement of the identity of the goods exported was therefore, in our view, not fulfilled. In such a case, it cannot be said that a fundamental requirement regarding the export of the goods and of the duty paid character of the goods was satisfied.

However, it is evident from the record that the second claim dated 20 March 2009 in the amount of Rs.2.45 lacs which forms the subject matter of the first writ petition and the three claims dated 20 March 2009 in the total amount of Rs.42.97 lacs which form the subject matter of the second writ petition were rejected only on the ground that the Petitioner had not produced the original and the duplicate copy of the ARE-1 form. For the reasons that we have indicated earlier, we hold that the mere non-production of the ARE-1 form would not *ipso facto* result in the invalidation of the rebate claim. In such a case, it is open to the exporter to demonstrate by the production of cogent evidence to the satisfaction rebate sanctioning authority that the requirements of Rule 18 read with notification dated 6 September 2004 have been fulfilled.

We may only note that in the present case the Petitioner has *inter alia* relied upon the bills of lading, banker's certificate in regard to the inward remittance of export proceeds and the certification by the customs authorities on the triplicate copy of the ARE-1 form. We direct that the rebate sanctioning authority shall reconsider the claim for rebate on the basis of the documents which have been submitted by the Petitioner. CS



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OBJECTIVE: Exposure to insights and practical issues relating to new Clause 55 in the listing agreement which mandates inclusion of Business Responsibility Reports as part of the Annual Reports for listed entities.

The two-day workshop shall cover the following topics giving a practical overview of the same:

- Concept of Sustainability
- Relevance and trends
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- Business Responsibility Reporting as per SEBI Circular including preparation of Reports

Day & Date	Tuesday & Wednesday : 02.07.2013 & 03.07.2013
Venue	ICSI-CCGRT , Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614
Fees	Rs.11236/- per delegate (Rs. 10000 plus service tax @ 12.36%) The fee shall be payable through at par Cheque/ DD drawn in favour of “The Institute of Company Secretaries of India” payable at New Delhi. Availability of seats “First-cum first serve basis”
Beneficial for	Company Secretaries whether in employment or practice and professionals involved in preparation of Business Responsibility Reporting (BRR) and Sustainability Reporting

For enrollment, please drop in your confirmations at alka.kapoor@icsi.edu
Mrs. Alka Kapoor, Joint Director, Professional Development, ICSI
'ICSI House', 22 Institutional Area, Lodi Road, New Delhi- 110003
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From the Government



Corporate Laws

01 Applicability of Regulation 17(6) in processing the work items.

[Issued by the Ministry of Corporate Affairs vide Circular No. 10/2013, No. MCA21/37/2013 dated 08.05.2013]

I am directed to convey, with the approval of the Competent Authority that, henceforth, under the provisions of Regulation 17(6) of the Company Regulation, 1956, ad-hoc work items may be created to extend the validity of the work item beyond the time limits prescribed under the Regulation by the ROC concerned.

The ROC concerned shall record the specific reasons for creating the ad-hoc item. The details of ad-hoc work items created along with the reasons for such creation shall be intimated to the Regional Director every fortnight in the format prescribed. The Regional Director shall send a consolidated report by e-mail to the E-Gov Division of the Ministry within a week thereafter along with his observations. The format below may be used for reporting by ROC / RD.

S. No.	SRN No.	Form	Extended up to	Reasons for extension	Observations of RD.

The said change shall come into effect from the date of this circular.

Sanjay kumar Gupta
Deputy Director

02 Relaxation of additional fees and extension of last date in filing of various forms with the Ministry of Corporate Affairs - reg.

[Issued by the Ministry of Corporate Affairs vide Circular No. 08/2013, No. MCA 17/187/2011-CL-V dated 10.04.2013]

In continuation of the Ministry's. General Circular No: 03/2013 dated 08-02-2013 and 07/2013 dated 20-03-2013

on the subject cited, I am directed to inform you that with the approval of competent authority the time limit for filing and relaxation of additional fee on forms has been extended till 15-04-2013.

Further it is clarified that fee payable for forms on/till 16-01-2013 will remain payable along with additional fee and relaxation of any additional fee will be considered for forms on or after 17-01-2013.

All other terms and conditions of the General Circular No. 03/2013 dated 08.02.2013 will remain the same.

Sanjay kumar Gupta
Deputy Director

03 Declaration by Central Government of Nidhi Companies

[Issued by the Ministry of Corporate Affairs vide Notification No. G.S.R. 87(E.) dated 15.02.2013 Published in the Gazette of India (Extraordinary) Part II- Section 3- Sub Section (i) dated 15.02.2013]

In exercise of the powers conferred by sub-sections (1) and (2) of Section 620A of the Companies Act, 1956(I of 1956), the Central Government hereby, –

(i) declares the following companies to be Nidhis :

Sl No.	Name of the Company and address of its registered office.
1.	M/s. Sayar Devi Dhanmull Sowcar Benefit Fund Limited, Anaikatti Street, Tiruvannamalai-606 60I (TamilNadu)
2.	M/s. Chrome People Benefit Fund Limited, Shop No.9, Block A-I, Mahalakshmi Apartments, Secretariat Colony, Adambakkam, Chennai-600 088 (Tamil Nadu)
3.	M/s. Popular Benefit Fund(MADRAS) Limited, 43, Ayyavoo Street, Shenoy Nagar, Chennai-600 030 (Tamil Nadu)

(ii) further directs that in Schedule-I annexed to the notification of the Government of India, in the erstwhile Department of Company Law Administrations vide number GS.R.978, dated the 28th May, 1963, published in the Gazette of India Part II, Section 3, Sub-section (i) dated the 8th June, 1963 after serial number 382 and the entries relating thereto, the following serial numbers and entries thereto shall be inserted, namely :-

Sl No.	Nidhis
"383.	M/s. Sayar Devi Dhanmull Sowcar Benefit Fund Limited, Anaikatti Street, Tiruvannamalai-60660I (TamilNadu)
384	M/s. Chrome People Benefit Fund Limited, Shop No.9, Block A-I, Mahalakshmi Apartments, Secretariat Colony, Adambakkam, Chennai-600 088 (Tamil Nadu)



385.	M/s. Popular Benefit Fund(MADRAS) Limited, 43, Ayyavoo Street, Shenoy Nagar, Chennai-600 030 (Tamil Nadu)"
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Renuka Kumar
Joint Secretary

04 Broad guidelines on Algorithmic Trading

[Issued by the Securities and Exchange Board of India vide CIR/MRD/DP/16 /2013 dated 21.05.2013]

Please refer to SEBI Circular No.CIR/MRD/DP/09/2012 dated March 30, 2012 on 'Broad guidelines on Algorithmic Trading'.

2. SEBI has received various suggestions with regard to the requirement of system audit of trading algorithm / software used by stock brokers / trading members. After due examination of the suggestions in consultation with the Technical Advisory Committee, it has been decided to revise the requirement as follows:

2.1. The stock brokers / trading members that provide the facility of algorithmic trading shall subject their algorithmic trading system to a system audit every six months in order to ensure that the requirements prescribed by SEBI / stock exchanges with regard to algorithmic trading are effectively implemented.

2.2. Such system audit of algorithmic trading system shall be undertaken by a system auditor who possess any of the following certifications:

- CISA (Certified Information System Auditors) from ISACA;
- DISA (Post Qualification Certification in Information Systems Audit) from Institute of Chartered Accountants of India (ICAI);
- CISM (Certified Information Securities Manager) from ISACA;
- CISSP (Certified Information Systems Security Professional) from International Information Systems Security Certification Consortium, commonly known as (ISC)2.

2.3. Deficiencies or issues identified during the process of system audit of trading algorithm / software shall be reported by the stock broker / trading member to the stock exchange immediately on completion of the system audit. Further, the stock broker / trading member shall take immediate corrective actions to rectify such deficiencies / issues.

2.4. In case of serious deficiencies / issues or failure of the stock broker / trading member to take satisfactory

corrective action, the stock exchange shall not allow the stock broker / trading member to use the trading software till deficiencies / issues with the trading software are rectified and a satisfactory system audit report is submitted to the stock exchange. Stock exchanges may also consider imposing suitable penalties in case of failure of the stock broker / trading member to take satisfactory corrective action to its system within the time-period specified by the stock exchanges.

3. In order to further strengthen the surveillance mechanism related to algorithmic trading and prevent market manipulation, stock exchanges are directed to take necessary steps to ensure effective monitoring and surveillance of orders and trades resulting from trading algorithms. Stock exchanges shall periodically review their surveillance arrangements in order to better detect and investigate market manipulation and market disruptions.

4. As directed vide circular dated March 30, 2012 stock exchanges have implemented a framework of economic disincentives for high daily order-to-trade ratio of orders placed from trading algorithms by prescribing penalties in form of 'charges to be levied per algo orders' at various levels of daily order-to-trade ratio. The penalty rates specified by the stock exchanges have been reviewed and in order to provide sufficient deterrence, stock exchanges are directed to double the existing rates of 'charges to be levied per algo orders' specified in their circulars / notices.

5. In order to discourage repetitive instances of high daily order-to-trade ratio, stock exchanges shall impose an additional penalty in form of suspension of proprietary trading right of the stock broker / trading member for the first trading hour on the next trading day in case a stock broker / trading member is penalized for maintaining high daily order-to-trade ratio, provided penalty was imposed on the stock broker / trading member on more than ten occasions in the previous thirty trading days.

6. The circular shall be applicable with effect from May 27, 2013.

7. Stock Exchanges are directed to:

- take necessary steps and put in place necessary systems for implementation of the above.
- make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision.

7.3. bring the provisions of this circular to the notice of



From the Government

the stock brokers / trading members of the stock exchange and also disseminate the same on their website.

8. 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.

Maninder Cheema
Deputy General Manager

05 Scheme of Arrangement under the Companies Act, 1956 – Revised requirements for the Stock Exchanges and Listed Companies -Clarification

[Issued by the Securities and Exchange Board of India vide CIR/CFD/DIL/8/2013 dated 21.05.2013]

1. This is with reference to SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013 on the captioned subject.
2. Subsequent to the issuance of the aforesaid Circular, SEBI has received queries/representations from market participants expressing operational difficulties in implementing certain provisions of the said Circular. Accordingly, upon examination of the representations and concerns raised therein, it has been decided to provide clarifications and modify certain provisions of the said Circular as detailed below:
3. **Applicability:**
 - 3.1. SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013 is applicable to all listed companies undertaking a Scheme of Arrangement under Part IV and Chapter V of Part VI of the Companies Act, 1956, (Amalgamation/ Merger/ Reconstruction/ Reduction of Capital, etc.)
 - 3.2. Thus, it is hereby clarified that the Circular referred to in paragraph 3.1 above and this Circular are applicable even to cases where no exemption from Rule 19(2)(b) of Securities Contracts (Regulation) Rules, 1957 is sought from SEBI.
4. **Requirement of submission of Valuation Report from Independent Chartered Accountant:**
 - 4.1. All listed companies undertaking a Scheme of Arrangement under Part IV and Chapter V of Part VI

of the Companies Act, 1956, (Amalgamation/ Merger/ Reconstruction/ Reduction of Capital, etc.) are required to submit a valuation report in terms of Para (I) (A) read with Part A, Annexure I of the SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013.

- 4.2. However, 'Valuation Report from an Independent Chartered Accountant' need not be required in cases where there is no change in the shareholding pattern of the listed company / resultant company.
- 4.3. For the limited purpose of this Circular, 'change in the shareholding pattern' shall mean;
 - (a) change in the proportion of shareholding of any of the existing shareholders of the listed company in the resultant company; or
 - (b) new shareholder being allotted equity shares of the resultant company; or
 - (c) existing shareholder exiting the company pursuant to the Scheme of Arrangement
- 4.4. Further, a few examples meaning 'no change in shareholding pattern' are illustrated below:
 - i. In case a listed entity (say, "entity A") demerges a unit and makes it a separate company (say, "entity B");
 - a. if the shareholding of entity B is comprised only of the shareholders of entity A; and
 - b. if the shareholding pattern of entity B is the same as in entity A; and
 - c. every shareholder in entity B holds equity shares in the same proportion as held in entity A before the demerger.
 it will be treated as 'no change in shareholding pattern'.
 - ii. In case a wholly-owned-subsidary (say, "entity X") of a listed entity is merged with the parent listed company (say, "entity Y"), where the shareholders and the shareholding pattern of entity Y remains the same, it will be treated as 'no change in shareholding pattern'.
- 4.5. In all other cases, 'Valuation Report from an Independent Chartered Accountant' shall be required.
- 4.6. For the limited purpose of this Circular, 'resultant company' shall mean a company arising / remaining after the listed company undertakes a Scheme of Arrangement.
5. **Para 5.3 of Circular dated February 4, 2013 is modified as follows:**
 - 5.3 If a company is listed on any stock exchange having



nationwide terminals and/or regional stock exchange, it shall choose the stock exchange having nation-wide trading terminals as the designated stock exchange for the purpose of coordinating with SEBI.

5.3.(a) For companies listed solely on regional stock exchange, wherein exemption from Rule 19(2)(b) of Securities Contracts (Regulation) Rules, 1957 is sought, the company shall obtain in-principle approval for listing of equity shares on any stock exchange having nationwide trading terminals.

5.3.(b) For companies listed solely on regional stock exchange, wherein exemption from Rule 19(2)(b) of Securities Contracts (Regulation) Rules, 1957 is not sought by the company, the following shall apply:

One of the stock exchanges having nationwide trading terminals shall provide a platform for dissemination of information of such Schemes and other documents required under the SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013. For such purpose, stock exchanges having nationwide trading terminals may charge reasonable fees from such companies.

6. Following clause shall be inserted in Para 5.10 of the Circular dated February 4, 2013 in view of 5.3 (a) above:

5.10 (d) Date of receipt of copy of in-principle approval for listing of equity shares of the company seeking exemption from Rule 19(2)(b) of Securities Contracts (Regulation) Rules, 1957 on designated stock exchange, in case the company is listed solely on regional stock exchange.

7. Para 5.16 of the Circular dated February 4, 2013 shall stand replaced as under:

5.16 (a) Listed companies shall ensure that the Scheme submitted with the Hon'ble High Court for sanction, provides for voting by public shareholders through postal ballot and e-voting, after disclosure of all material facts in the explanatory statement sent to the shareholders in relation to such resolution, in the following cases:

i. Where additional shares have been allotted to Promoter / Promoter Group, Related Parties of Promoter / Promoter Group, Associates of Promoter / Promoter Group, Subsidiary/(s) of Promoter / Promoter Group of the listed company, or

ii. Where the Scheme of Arrangement involves

the listed company and any other entity involving Promoter / Promoter Group, Related Parties of Promoter / Promoter Group, Associates of Promoter / Promoter Group, Subsidiary/(s) of Promoter / Promoter Group.

iii. Where the parent listed company, has acquired the equity shares of the subsidiary, by paying consideration in cash or in kind in the past to any of the shareholders of the subsidiary who may be Promoter / Promoter Group, Related Parties of Promoter / Promoter Group, Associates of Promoter / Promoter Group, Subsidiary/(s) of Promoter / Promoter Group of the parent listed company, and if that subsidiary is being merged with the parent listed company under the Scheme.

Such Schemes shall also provide that the Scheme shall be acted upon only if the votes cast by the public shareholders in favor of the proposal are more than the number of votes cast by the public shareholders against it. The term 'public' shall carry the same meaning as defined under Rule 2 of Securities Contracts (Regulation) Rules, 1957.

5.16 (b) For all other cases, the requirements stated at 5.16 (a) shall not be applicable. In such cases, the listed entities shall furnish an undertaking certified by the auditor and duly approved by the Board of the company, clearly stating the reasons for non-applicability of Para 5.16 (a).

5.16 (c) The undertaking as referred to in Para 5.16 (b) above shall be displayed on the websites of stock exchanges and the listed company along with other documents submitted, as stipulated under Para 2, Part A, Annexure I, of the SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013.

5.16 (d) Any mis-statement or furnishing of false information with regard to the said undertaking would be viewed seriously and liable for punitive action as per the provisions of applicable laws and regulations.

5.16 (e) For the purpose of this Circular, 'Related Party' shall carry the same meaning as defined under AS 18 or IND AS 24.

8. Applicability of this Circular: The Circular is applicable to listed companies undertaking Scheme of Arrangement which are governed by the SEBI Circular No. CIR/CFD/



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DIL/5/2013 dated February 4, 2013.

9. Stock exchanges are advised to take into account the requirements of this Circular and to bring the requirements of this Circular to the notice of the companies listed therein.
10. This Circular is issued in exercise of the powers conferred under section 11 and section 11A of the Securities and Exchange Board of India Act, 1992 read with Rule 19(7) of the Securities Contracts (Regulation) Rules, 1957 and is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and "Issues and Listing".

Sunil Kadam
General Manager

06 Securities and Exchange Board of India (Depositories and Participants) (Amendment) Regulations, 2013.

[Issued by the Securities and Exchange Board of India vide Notification No. LAD-NRO/GN/2013-14/09/5738 dated 17.05.2013. Published in the Gazette of India (Extraordinary) Part III- Section 4 dated 17.05.2013]

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) read with section 25 of the Depositories Act, 1996 (22 of 1996), the Board hereby makes the following Regulations to amend the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996, namely:-

1. These Regulations may be called the Securities and Exchange Board of India (Depositories and Participants) (Amendment) Regulations, 2013.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996,-
 - (i) in regulation 20A, after sub-regulation (8), the following sub-regulations shall be inserted, namely:-

“(9) The participant, to keep the registration in force, shall pay registration fee as specified in Part A of the Second Schedule for every five years from the sixth year of the date of grant of certificate of permanent registration.

“(10) The fee specified in sub-regulation (9) shall be paid three months prior to the expiry of the block for which the fee has been paid.”

- (ii) after regulation 39, the following regulation shall be inserted, namely:-

“Consolidated account statement.

39A. In order to enable generation of a consolidated account statement for the use of a beneficial owner in respect of all demat assets held by him, the depository shall enter into necessary agreements for sharing of such information.”

- (iii) after regulation 64, the following regulation shall be inserted, namely:-

“Liability for action in case of default by issuer or its agent.

64A. (1) If an issuer or its agent -

- (a) contravenes any of the provisions of the Depositories Act, the byelaws, agreements, these regulations and directions issued thereunder;
- (b) fails to furnish any information relating to its activity as an issuer as required under these regulations;
- (c) does not furnish the information called for by the Board under clause (a) of sub-section (1) of section 18 of the Depositories Act or furnishes information which is false or misleading in any material particular;
- (d) does not co-operate in any inspection or investigation or enquiry conducted by the Board;
- (e) fails to comply with any direction of the Board issued under section 18 of the Depositories Act, the Board may, without prejudice to any other action which it may take under the Act, take any action against such issuer or its agent under the Depositories Act.

- (2) The depository shall conduct inspection of the records of the issuers or agents, as the case may be to ensure that the records of dematerialised securities are reconciled with all the securities issued by the issuer and submit its report to the Board if there is failure by the issuers or agents in such reconciliation of records.”

U. K. Sinha
Chairman

07 SEBI Circular No. CIR/CFD/DIL/3/2013 dated January 17, 2013 - Amendments to SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999 and Equity Listing Agreement- Clarification

[Issued by the Securities and Exchange Board of India vide CIR/CFD/DIL/7/2013 dated 13.05.2013]



1. SEBI vide Circular No. CIR/CFD/DIL/3/2013 dated January 17, 2013 made amendments to Equity Listing Agreement and SEBI (Employee Stock Option Schemes and Employee Stock Purchase Schemes) Guidelines, 1999 ("SEBI (ESOS and ESPS) Guidelines, 1999"). The amendment to Equity Listing Agreement through insertion of Clause 35 C mandated that all the employee benefit schemes involving the securities of the company shall be in compliance with SEBI (ESOS and ESPS) Guidelines, 1999 and any other guidelines, regulations etc. framed by SEBI in this regard. The said clause also required that all the employee benefit schemes already framed and implemented by the company involving dealing in the securities of the company, before the insertion of this clause shall be aligned with and made to conform to SEBI (ESOS and ESPS) Guidelines, 1999 by June 30, 2013.

2. The amendment to SEBI (ESOS and ESPS) Guidelines 1999 also provided that no ESOS/ESPS schemes shall involve acquisition of securities of the company from the secondary market.

3. SEBI is in receipt of various representations seeking clarification on the applicability of the circular as well as on the continued holding of securities already acquired by employee benefit trusts before the date of the circular, beyond June 30, 2013, i.e. the last date by which listed companies are required to align their employee benefit schemes involving securities of the company with SEBI (ESOS and ESPS) Guidelines 1999.

4. It has been decided to issue following clarifications on the said topics:

5. Applicability of the circular

The circular No. CIR/CFD/DIL/3/2013 dated January 17, 2013 is applicable to all employee benefit schemes involving the securities of the company provided that the schemes are set up, managed or financed by the company directly or indirectly. Thus, the circular shall be applicable if any of the following conditions are satisfied:

- a) if the company has set up the scheme or the trust/agency managing the scheme; or
- b) if the company has direct or indirect control over the affairs of the scheme or the trust/agency managing the scheme; or
- c) if the company has extended any direct or indirect financial assistance to the employee benefit schemes or the trust/agency managing such schemes.

6. Extension of time for aligning the employee benefit

schemes with SEBI Guidelines

The circular dated January 17, 2013 required that all employee benefit schemes involving securities of the company shall be aligned with and made to conform to SEBI (ESOS and ESPS) Guidelines by June 30, 2013. It has been decided to extend the time limit for such alignment to December 31, 2013. Accordingly, in Clause 35C (ii) of the Equity Listing Agreement, the words "June 30, 2013" shall be replaced with "December 31, 2013".

However, further grant of options from the date of the circular i.e. January 17, 2013, shall be strictly in accordance with SEBI (ESOS and ESPS) Guidelines 1999. Accordingly, there shall not be any grant of options to employees ineligible under Clause 4.2 and 4.3 of the SEBI (ESOS and ESPS) Guidelines 1999 from January 17, 2013.

7. Holding of securities by Trusts beyond December 31, 2013

Employee benefits trusts which have already acquired securities of the company from secondary market before the date of the circular No. CIR/CFD/DIL/3/2013 i.e. January 17, 2013, may continue to hold such securities beyond the date specified for alignment of the schemes with SEBI (ESOS and ESPS) Guidelines 1999 i.e. December 31, 2013, provided that the schemes have been aligned with SEBI (ESOS and ESPS) Guidelines 1999 and such securities are used only in accordance with such aligned schemes.

8. Continued holding of securities by non-ESOP employee benefit schemes

Existing employee benefit schemes involving securities of the company which does not involve granting of options to/ purchase of securities by employees shall be permitted to either:

- a) hold the securities of the company already acquired by them beyond December 31, 2013 provided the schemes have been aligned with SEBI (ESOS and ESPS) Guidelines 1999; or
- b) dispose-off the securities of the company held by them by December 31, 2013.

9. Additional disclosures

Listed companies shall disclose the following information to the stock exchanges in the prescribed format:

- a) the details of benefits granted/shares allotted in the past upto January 17, 2013 in pursuance of employee benefit schemes involving securities of the company which are not in alignment with SEBI (ESOS and ESPS) Guidelines 1999, to the stock exchanges in



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the format prescribed at Annexure I, by June 30, 2013.

Annexure II

b) the details of benefits due/options granted and pending exercise as on January 17, 2013 in pursuance of employee benefit schemes involving securities of the company which are not in alignment with SEBI (ESOS and ESPS) Guidelines 1999, to the stock exchanges in the format prescribed at Annexure II, by June 30, 2013.

c) the details of allotments made/benefits granted post January 17, 2013 up to December 31, 2013 pursuant to employee benefit schemes involving securities of the company which are not in alignment with SEBI (ESOS and ESPS) Guidelines 1999 in the format prescribed at Annexure III within 7 days from the end of each quarter. The details pertaining to the quarter ended March 31, 2013 shall also be disclosed along with the quarter ending June 30, 2013.

10. This circular is being issued in exercise of the powers under Section 11 read with Section 11A of the Securities and Exchange Board of India Act, 1992.

11. This circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and "Issues and Listing".

Sunil Kadam
General Manager

Format for disclosure of details of benefits granted/shares allotted in pursuance of employee benefit schemes which are not in alignment with SEBI (ESOS and ESPS) Guidelines 1999

Annexure I

Details of allotment of shares/grant of benefit made till January 17, 2013 pursuant to non-aligned schemes by(Name of the Company)

Financial year	Type of scheme (ESOP/ Non-ESOP)	Brief particulars of the benefits under the scheme	Type of beneficiaries	Value of the benefit/ allotment	Percentage of shares used for grating benefits/ allotting shares to the total paid up share capital
			Promoter/ Promoter group/ Directors holding >10%		
			Others		

Details of outstanding options/allotments/benefits as on January 17, 2013 pursuant to non-aligned schemes by(Name of the Company)

Type of scheme (ESOP/ Non-ESOP)	Brief particulars of the benefits under the scheme	Type of beneficiaries	Value of the benefit/ allotment	Percentage of shares to be used for grating benefits/ allotting shares to the total paid up share capital
		Promoter/ Promoter group/ Directors holding >10%		
		Others		

Annexure III

Format for quarterly disclosure of details of benefits granted/shares allotted in pursuance of employee benefit schemes which are not in alignment with SEBI (ESOS and ESPS) Guidelines 1999

Details of allotment of shares/grant of benefit made during the quarter ended..... pursuant to non-aligned schemes by (Name of the Company)

Type of scheme (ESOP/ Non-ESOP)	Brief particulars of the benefits under the scheme	Type of beneficiaries	Value of the benefit/ allotment	Percentage of shares used for grating benefits/ allotting shares to the total paid up share capital
		Promoter/ Promoter group/ Directors holding >10%		
		Others		

08 Notification regarding establishment of Local Office of the Board at Kochi

[Issued by the Securities and Exchange Board of India vide Notification No. LAD-NRO/GN/2013-14/07/1005 dated 10.05.2013 Published in the Gazette of India (Extraordinary) Part III- Section 4 dated 10.05.2013]

In exercise of the powers conferred by sub-section (4) of section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board has established its Local Office at Kochi under the administrative control of its Southern Regional Office at Chennai. The Local Office so established shall look after the regulatory aspects of investor protection,



facilitating redressal of investor grievances, financial and investor education and such other functions as may be assigned from time to time, and its role and responsibility shall extend to the areas falling under the territorial jurisdiction of the State of Kerala and Union Territory of Lakshadweep.

U. K. Sinha
Chairman

09 Notification regarding establishment of Local Office of the Board at Patna

[Issued by the Securities and Exchange Board of India vide Notification No. LAD-NRO/GN/2013-14/06/8513 dated 10.05.2013 Published in the Gazette of India (Extraordinary) Part III- Section 4 dated 10.05.2013]

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

U. K. Sinha
Chairman

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

[Issued by the Securities and Exchange Board of India vide CIR/MRD/DP/15 /2013 dated 29.04.2013]

1. It is observed from the information provided by the depositories that the companies listed in Annexure 'A' have established connectivity with both the depositories.
2. The stock exchanges may consider shifting the trading in these securities to normal Rolling Settlement subject to the following:
 - a) At least 50% of other than promoter holdings as per clause 35 of Listing Agreement are in dematerialized mode before shifting the trading in the securities of

the company from TFTS to normal Rolling Settlement. For this purpose, the listed companies shall obtain a certificate from its Registrar and Transfer Agent (RTA) and submit the same to the stock exchange/s. However, if an issuer-company does not have a separate RTA, it may obtain a certificate in this regard from a practicing company Secretary/Chartered Accountant and submit the same to the stock exchange/s.

- b) There are no other grounds/reasons for continuation of the trading in TFTS.

3. The Stock Exchanges are advised to report to SEBI, the action taken in this regard in the Monthly/Quarterly Development Report.

Maninder Cheema
Deputy General Manager

Annexure A

Sr. No.	Name of the Company	ISIN
1.	Kailash Auto Finance Limited	INE410O01014
2.	Apte Amalgamations Limited	INE044N01013
3.	The Hindustan Housing Company Limited	INE083O01019
4.	Redex Protech Limited	INE823D01011
5.	High Street Filatex Limited	INE319M01011
6.	Rekvina Laboratories Limited	INE092O01010
7.	Matru-Smriti Traders Limited	INE365O01010



11 Liberalised Remittance Scheme for Resident Individuals – Reporting

[Issued by the Reserve Bank of India vide RBI/2012-13/504 A. P. (DIR Series) Circular No. 106 dated 23.05.2013.]

Attention of all Authorised Dealer Category - I (AD Category - I) banks is invited to A. P. (DIR Series)



From the Government

Circular No.36 dated April 04, 2008, in terms of which, AD Category -I banks were required to furnish information on the number of applications received and the total amount remitted under the Liberalised Remittance Scheme (the Scheme), on a monthly basis, in the prescribed format in both hard copy as well as soft copy in Excel format. All AD banks were also advised to submit the monthly statement before 5th of the succeeding month to the Reserve Bank of India.

2. Since October 2008, AD Banks were required to submit the LRS data through the Online Returns Filing System (ORFS) of Reserve Bank, in addition to submitting the same in hard copy.
3. It has now been decided, to collect the data in soft form only and to dispense with the submission of hard copies of the monthly statements by the AD banks. Accordingly, with effect from July 01, 2013, AD Category – I banks are required to upload the data (LRS data of June 2013) in ORFS on or before fifth of the following month. Where there is no data to furnish, AD banks are advised to upload 'nil' figures in the ORFS system.
4. AD banks can upload the LRS data by accessing ORFS through the URL <https://secweb.rbi.org.in/ORFSMainWeb> as hitherto.
5. In case any clarifications are required, AD banks may send their queries through e-mail or contact by phone at 22601000 extn:2676 or 22701232 (direct).
6. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Rudra Narayan Kar

Chief General Manager-in-Charge

12 Export of Goods and Software – Realisation and Repatriation of export proceeds – Liberalisation

[Issued by the Reserve Bank of India vide RBI/2012-13/503 A.P. (DIR Series) Circular No. 105 dated 20.05.2013.]

Attention of Authorised Dealer Category-I (AD Category-I) banks is invited to A.P. (DIR Series) Circular No. 52 dated November 20, 2012 extending the enhanced period for realization and repatriation to India, of the amount representing the full value of goods or software exported, from six months to twelve months from the date of export.

This relaxation was available up to March 31, 2013.

2. The issue has since been reviewed and it has been decided, in consultation with the Government of India, to bring down the above stated realization period from twelve months to nine months from the date of export, with immediate effect, valid till September 30, 2013.
3. The provisions in regard to period of realization and repatriation to India of the full export value of goods or software exported by a unit situated in a Special Economic Zone (SEZ) as well as exports made to warehouses established outside India remain unchanged.
4. AD Category-I banks may bring the contents of this circular to the notice of their constituents and customers concerned.
5. The directions contained in this circular have been issued under sections 10 (4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Rashmi Fauzdar

Chief General Manager

13 Foreign Direct Investment (FDI) in India - Issue of equity shares under the FDI scheme allowed under the Government route against pre-operative/pre-incorporation expenses

[Issued by the Reserve Bank of India vide RBI/2012-13/502 A.P. (DIR Series) Circular No. 104 dated 17.05.2013.]

Attention of Authorised Dealers Category – I banks is invited to Para 3 (II) of A.P. (DIR Series) Circular No. 74 dated June 30, 2011 read with A.P. (DIR Series) Circular No. 55 dated December 9, 2011, allowing thereby issue of equity shares/ preference shares under the Government route by conversion of import of capital goods, etc., subject to terms and conditions stated therein.

2. On review of the policy, it has now been decided to amend condition at (c) in the aforesaid para. The amended condition is given in the Annex.
3. All the other conditions contained in the A.P. (DIR Series) Circulars No. 74 dated June 20, 2011 and No. 55 dated December 9, 2011, shall remain unchanged.



4. AD Category - I banks may bring the contents of the circular to the notice of their customers/constituents concerned.
5. Necessary amendments to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 (Notification No. FEMA 20/2000-RB dated May 3, 2000) have been notified vide Notification No. FEMA.229/2012-RB dated April 23, 2012.
6. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Rudra Narayan Kar
Chief General Manager-in-Charge
Annex

c.f. A.P.(DIR Series) Circular No. 74 dated June 30, 2011	Earlier Condition	Revised condition
Para 3(II)(c)	Payments should be made directly by the foreign investor to the company. Payments made through third parties citing the absence of a bank account or similar such reasons will not be eligible for issuance of shares towards FDI; and	Payments should be made by the foreign investor to the company directly or through the bank account opened by the foreign investor as provided under FEMA Regulations; and

14 Overseas Direct Investments – Clarification

[Issued by the Reserve Bank of India vide RBI/2012-13/481 A.P. (DIR Series) Circular No. 100 dated 25.04.2013.]

Attention of the Authorised Dealers (AD) is invited to Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004 notified by the Reserve Bank vide Notification No. FEMA 120/RB-2004 dated July 07, 2004 and as amended from time to time.

2. It has been observed that eligible Indian parties are using overseas direct investments (ODI) automatic route to set up certain structures facilitating trading in currencies, securities and commodities. It has come to the notice of

the Reserve Bank that such structures having equity participation of Indian parties have also started offering financial products linked to Indian Rupee (e.g. non-deliverable trades involving foreign currency, rupee exchange rates, stock indices linked to Indian market, etc.). It is clarified that any overseas entity having equity participation directly / indirectly shall not offer such products without the specific approval of the Reserve Bank of India given that currently Indian Rupee is not fully convertible and such products could have implications for the exchange rate management of the country. Any incidence of such product facilitation would be treated as a contravention of the extant FEMA regulations and would consequently attract action under the relevant provisions of FEMA, 1999.

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

Rashmi Fauzdar
Chief General Manager

Announcement

Revised guideline for availing 45 days leave during 15 months training

The Council of the Institute has revised the guideline for grant of leave during the 15 months training to the students of Company Secretaryship Course by withdrawing 45 days or balance leave to trainees who have passed Final/Professional Programme examination and allowed only 15 casual leaves to the candidates undergoing training who have passed Final/Professional Programme examination.

The leave of 45 days during the training will be applicable only for Intermediate/Executive Programme passed students for preparation of Professional Programme examination.

The decision will be effective on the students commencing training on or after 1st March 2013



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3	Sh Ajay Kumar Mohanty	FCS - 7133	NIRC
4	Sh. Manoj Kumar	FCS - 7134	NIRC
5	Sh. Abdul Sami	FCS - 7135	NIRC
6	Sh. Bishwanath Choudhary	FCS - 7136	EIRC
7	Mr. Saumen Majumder	FCS - 7137	EIRC
8	Ms. Geetu Sachdeva	FCS - 7138	NIRC
9	Sh. Gautam Dugar	FCS - 7139	EIRC
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13	Sh. Mahesh Pancholi	FCS - 7143	WIRC
14	Sh. Mohit Chande	FCS - 7144	WIRC
15	Sh. Kapoor Chand Garg	FCS - 7145	NIRC
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22	Ms. Shweta Jain	FCS - 7152	NIRC
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28	Dr. Puneet Jain	FCS - 7158	NIRC
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30	Sh. Amitjivan Narendra Joshi	FCS - 7160	WIRC
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32	Mr. Abbavaram Kumar Reddy	FCS - 7162	SIRC
33	Sh. Parag Ramesh Bhide	FCS - 7163	WIRC
34	Sh. Tejasvi Dixit	FCS - 7164	NIRC
35	Sh. C N Vijayendrakumar	FCS - 7165	SIRC
36	Sh. Rao P Venkateswara	FCS - 7166	SIRC
37	Ms. Tejashree Pradeep Gupte	FCS - 7167	WIRC
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3	Ms. Aayushi Gupta	ACS - 32346	NIRC
4	Mr. Abhishek Kumar	ACS - 32347	EIRC

5	Ms. Asha Mittal	ACS - 32348	NIRC
6	Ms. Sapna	ACS - 32349	NIRC
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9	Ms. Alka	ACS - 32352	NIRC
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36	Mr. Anand M S	ACS - 32379	SIRC
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70	Ms. Urvi Kanti Shah	ACS - 32413	WIRC
71	Ms. Sarika Ravindra Sutar	ACS - 32414	WIRC
72	Mr. Trivedi Tejas Chandravadan	ACS - 32415	WIRC

* Admitted on 22nd April, 30th April and 10th May, 2013



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244	Mr. Bhanu Pratap Shah	ACS - 32587	NIRC	312	Mr. Mohit Kumar Goyal	ACS - 32655	SIRC
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247	Ms. Madhavi Bhikesh Rajyagor	ACS - 32590	WIRC	315	Ms. Seema Omprakash Kothari	ACS - 32658	WIRC
248	Mr. Keshav Kailashchandra Gupta	ACS - 32591	WIRC	316	Ms. Usha Punamchand Asawa	ACS - 32659	WIRC
249	Mr. Abhijit Vishwanath Ginimav	ACS - 32592	NIRC	317	Ms. Jagjeet Kaur	ACS - 32660	WIRC
250	Mr. Preyansh Bharatkumar Shah	ACS - 32593	WIRC	318	Mr. Vishal Sushil Poddar	ACS - 32661	WIRC
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255	Mr. Lav Ghanshyam Mehata	ACS - 32598	WIRC	323	Mr. S Raja	ACS - 32666	SIRC
256	Ms. Aditi Varun Kelkar	ACS - 32599	WIRC	324	Mr. Anil Agarwal	ACS - 32667	WIRC
257	Ms. Kanti P	ACS - 32600	SIRC	325	Mr. Paresch Sunil Vaste	ACS - 32668	WIRC
258	Ms. Greta Govindbhai Rupapara	ACS - 32601	WIRC	326	Ms. Rupali Shrinivas Jakhotia	ACS - 32669	WIRC
259	Mr. Alok Dixit	ACS - 32602	NIRC	327	Mr. Abhijeet Krishna Yerukar	ACS - 32670	WIRC
260	Mr. Umesh Kumar Arvind Bhai Vyas	ACS - 32603	WIRC	328	Mr. Abraham Joseph Pingle	ACS - 32671	WIRC
261	Ms. Rasal Priyamvada Sanjay	ACS - 32604	WIRC	329	Ms. Kinjal Dharmesh Dhakan	ACS - 32672	WIRC
262	Ms. Chanchal Vijay Loya	ACS - 32605	WIRC	330	Mr. Amit Maruti Phatak	ACS - 32673	WIRC
263	Mr. Mohit Jain	ACS - 32606	NIRC	331	Ms. Kinjal Bharat Shah	ACS - 32674	WIRC
264	Mr. Giridhar Dhelia	ACS - 32607	EIRC	332	Ms. Anupam Sharma	ACS - 32675	NIRC
265	Mr. Manoj Kumar Tripathi	ACS - 32608	EIRC	333	Mr. Chandan Arora	ACS - 32676	NIRC
266	Ms. Anita Kumari	ACS - 32609	NIRC	334	Ms. Prakriti Sethi	ACS - 32677	NIRC
267	Ms. Shreelaxmi Bhat	ACS - 32610	SIRC	335	Ms. Swati Goel	ACS - 32678	NIRC
268	Mr. Sunny Dilip Parekh	ACS - 32611	WIRC	336	Ms. Nitika Bhojwani	ACS - 32679	NIRC
269	Ms. Shruti Kapoor	ACS - 32612	NIRC	337	Mr. Harshit Gunani	ACS - 32680	NIRC
270	Mr. Ashish Singhal	ACS - 32613	NIRC	338	Mr. Ravi Shankar Kumar	ACS - 32681	NIRC
271	Ms. Supriya Ichharam Wagh	ACS - 32614	WIRC	339	Ms. Shalu Singhal	ACS - 32682	NIRC
272	Mr. Mahaveer Prasad Sarswat	ACS - 32615	NIRC	340	Ms. Apoorva G	ACS - 32683	SIRC
273	Mr. Yuvaraj G	ACS - 32616	SIRC	341	Ms. Boddu Naga Suvarchala	ACS - 32684	SIRC
274	Ms. Lakshmi Sharma	ACS - 32617	EIRC	342	Ms. Iffath Afroze	ACS - 32685	SIRC
275	Ms. Pallavi Poddar	ACS - 32618	EIRC	343	Mr. Bhushan Sohanlal Kotecha	ACS - 32686	WIRC
276	Ms. Moonmoon Chakraborty	ACS - 32619	EIRC	344	Mr. Gopal Rukiya Kadawat	ACS - 32687	WIRC



345	Mr. Mukesh Kumar Soni	ACS - 32688	EIRC
346	Mr. Pawan Kumar Lalpuria	ACS - 32689	NIRC
347	Mr. Pavan Nandkishor Zavar	ACS - 32690	WIRC
348	Mr. Sachin Sadashiv Kulkarni	ACS - 32691	WIRC
349	Ms. Meera Jayantilal Chandaria	ACS - 32692	SIRC
350	Mr. Prashant Kumar Kulshrestha	ACS - 32693	WIRC
351	Mr. Vivekkumar Sushilkumar Barlotia	ACS - 32694	WIRC
352	Ms. Amruta Sanjay Gogate	ACS - 32695	WIRC
353	Mr. Ajitkumar Jagdishprasad Sharma	ACS - 32696	WIRC
354	Mr. Ujwal Rameshchandra Nikam	ACS - 32697	WIRC
355	Ms. Geeta Gunjan Trivedi	ACS - 32698	WIRC
356	Mr. Santosh Janardhan Shinde	ACS - 32699	WIRC
357	Mr. Biswaranjan Jena	ACS - 32700	EIRC

Restored*

1.	Sh. Kamal Sachdeva	ACS - 13049	NIRC
2.	Sh. Amit Anand	ACS - 13409	NIRC
3.	Sh. Bijay Kumar Dhimaan	ACS - 20981	NIRC
4.	Ms. Archana Aggarwal	ACS - 20475	NIRC
5.	Mrs. Rashmi Gupta	ACS - 21622	SIRC
6.	Sh. B V Raju	ACS - 4140	SIRC
7.	Sh. K Satyanarayana	ACS - 2860	SIRC
8.	Sh. P R Kandaswamy	ACS - 7790	SIRC
9.	Sh. A P Jain	FCS - 1253	NIRC
10.	Sh. P K Balaji	ACS - 8164	SIRC
11.	Mr. Prasad Gajanan Todankar	ACS - 27441	WIRC
12.	Ms. Bharati N Shah	ACS - 29828	WIRC
13.	Ms. Rakhi Kapoor	ACS - 14382	NIRC
14.	Sh. Soumith Kumar Sikinderpurkar	ACS - 23007	SIRC
15.	Ms. Kanta Binwal	ACS - 29754	NIRC
16.	Sh. Munish Mehta	ACS - 14776	NIRC
17.	Ms. Sanyukta Kumari Naik	ACS - 18474	SIRC
18.	Ms. Charu Bhandari	ACS - 27278	SIRC
19.	Ms. Shally Bhuddi	ACS - 27631	NIRC
20.	Sh. Sanjay Kumar Johri	ACS - 17838	NIRC
21.	Sh. J Anantharaman	ACS - 11974	SIRC

17	Mr. Joseph P G	ACS - 31929	11828	SIRC
18	Ms. N Lalitha	FCS - 7149	11829	SIRC
19	Sh. Sheo Kishore Tripathi	FCS - 5154	11830	WIRC
20	Ms. Padma Danturthi	ACS - 27090	11831	SIRC
21	Ms. Divya V Ravichandran Iyer	ACS - 32173	11832	WIRC
22	Mrs. Archana Hrishikesh Apte	ACS - 28072	11833	WIRC
23	Mr. Ankit Singh Kushawah	ACS - 31342	11834	NIRC
24	Sh. K Thyagarajan	FCS - 1581	11835	SIRC
25	Ms. Harsha Bukalsaria	ACS - 31544	11836	EIRC
26	Sh. Sunil Purushottam Zore	ACS - 22144	11837	WIRC
27	Sh. Satya Narayan Mahawar	FCS - 3666	11838	NIRC
28	Ms. Puja Agrawal	ACS - 22625	11839	WIRC
29	Sh. Venkateswaran Sambamurthy	FCS - 3335	11840	SIRC
30	Ms. Ritasha	ACS - 29895	11841	NIRC
31	Mr. Vishal Khera	ACS - 32272	11842	NIRC
32	Ms. Sarabjeet Kaur Kocher	FCS - 6138	11843	NIRC
33	Ms. Ranjana Singh	ACS - 28067	11844	WIRC
34	Sh. Akhlaque Ahmad	ACS - 25001	11845	EIRC
35	Mr. Ishan Prasad Kulkarni	ACS - 31932	11846	WIRC
36	Sh. Ishwar Datt Kalra	FCS - 4286	11847	NIRC
37	Ms. Supriya Garg	ACS - 32138	11848	NIRC
38	Ms. Avaniben Vishnubhai Patel	ACS - 31508	11849	WIRC

39	Mr. Jiteshkumar Ramchandra Varkal	ACS - 31727	11850	WIRC
40	Mr. Shobhit Rastogi	ACS - 31784	11851	NIRC
41	Mr. Manish Chetani	ACS - 29459	11852	EIRC
42	Ms. Sakshi Soti	ACS - 31319	11853	NIRC
43	Sh. Bharat Bhushan Sharma	FCS - 2809	11854	NIRC
44	Sh. Amitav Ganguly	ACS - 4153	11855	NIRC
45	Ms. Kriti Jain	ACS - 31979	11856	NIRC
46	Ms. Remya R S	ACS - 27514	11857	SIRC
47	Sh. Naveen Wishwabandhu	FCS - 7034	11858	NIRC
48	Mr. Swarup Sarkar	ACS - 30070	11859	EIRC
49	Ms. Nisha Gattani	ACS - 32019	11860	EIRC
50	Mr. Sandeep Singh Chouhan	ACS - 31523	11861	NIRC
51	Ms. Neha Gupta	ACS - 31358	11862	NIRC
52	Mr. Jatinder Kumar Kataria	ACS - 28523	11863	NIRC
53	Sh. Amol Arvind Patwardhan	ACS - 23521	11864	WIRC
54	Mr. Sonesh Jain	ACS - 32046	11865	EIRC
55	Ms. Asawari Ratnakar Takalkar	ACS - 31790	11866	WIRC
56	Mr. Tushar Santosh Tendulkar	ACS - 32246	11867	WIRC
57	Ms. Shuchi Sharma	ACS - 18712	11868	SIRC
58	Ms. Nirupama Varadarajan	ACS - 24628	11869	WIRC
59	Mrs. Anju Biyani	ACS - 20012	11870	NIRC
60	Ms. Falahtaj Tanzeem	ACS - 25219	11871	EIRC
61	Ms. Shreya Barjatia	ACS - 23640	11872	WIRC
62	Sh. Vilas Anil Wadekar	ACS - 25641	11873	WIRC
63	Sh. Jyoti Bhushan Das	ACS - 5767	11874	EIRC
64	Mr. Mehulsinh Digrajsinh Jadeja	ACS - 32283	11875	WIRC
65	Mr. Naresh Kumar Sharma	ACS - 32312	11876	NIRC
66	Sh. R P Sharma	ACS - 187	11877	NIRC
67	Sh. J L Golgota	ACS - 2346	11878	WIRC
68	Mr. Prathap Satla	ACS - 25595	11879	SIRC
69	Mr. Vinayak Nagesh Hegde	ACS - 28093	11880	SIRC
70	Ms. Bindhia K	ACS - 30916	11881	NIRC
71	Ms. Aarti Goswami	ACS - 32207	11882	NIRC
72	Mr. Govind Kumar Mishra	ACS - 29663	11883	NIRC
73	Mr. Kovid Mukherjee	ACS - 29569	11884	EIRC
74	Ms. Sweety Murarka	ACS - 32070	11886	EIRC
75	Ms. Ashi Jain	ACS - 32265	11887	NIRC
76	Mr. Prashant Kumar	ACS - 32345	11888	NIRC
77	Ms. Timsy Aggarwal	ACS - 31716	11889	NIRC
78	Sh. Bipin Bihari Sah	ACS - 27354	11890	EIRC
79	Mr. Hansraj Bohara	ACS - 30591	11891	NIRC
80	Sh. Sita Ram P R	ACS - 24933	11892	SIRC
81	Ms. Radhika Rathi	ACS - 28835	11893	NIRC
82	Ms. Shruti Shrenikbhai Parikh	ACS - 31233	11894	WIRC

Certificate of Practice

Sl. No.	Name	ACS/FCS No.	C P No.	Region
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ISSUED**

1	Mr. Arun Kumar	ACS - 32226	11812	NIRC
2	Mrs. Pooja Agrawal	ACS - 25184	11813	SIRC
3	Ms. Ujala Rani Bhandary	ACS - 31360	11814	SIRC
4	Mr. Naveen Garg	ACS - 32159	11815	NIRC
5	Ms. Gayatri Satish Bhide	ACS - 31886	11816	WIRC
6	Mr. Atul Kumar	ACS - 30426	11817	NIRC
7	Ms. Shruti Shirish Battiwal	ACS - 29010	11818	WIRC
8	Ms. Baljeet Kaur	FCS - 6128	11819	SIRC
9	Mr. Alok Nath Singh	ACS - 31643	11820	NIRC
10	Ms. Rashmi Gupta	ACS - 32085	11821	NIRC
11	Sh. Vinay Agarwal	ACS - 24259	11822	EIRC
12	Ms. Smita Aggarwal	ACS - 26742	11823	NIRC
13	Sh. Pankaj Agarwala	ACS - 16667	11824	SIRC
14	Mr. Satish Joshi	ACS - 30167	11825	NIRC
15	Mr. T Janarthanan	ACS - 21635	11826	SIRC
16	Sh. Chirag Girishbhai Shah	FCS - 6572	11827	WIRC

* Restored from 22nd April 2013 to 20th May 2013

** Issued During the Month of April, 2013





News From the Institute

83	Ms. Shweta Jain	FCS - 7152	11895	NIRC
84	Ms. Kamal Preet Kaur	ACS - 20781	11896	NIRC
85	Ms. Meenu Bhatia	ACS - 32191	11897	NIRC
86	Ms. Reema Jain	ACS - 32353	11898	NIRC
87	Mr. Devendra Kumar Jain	ACS - 31994	11899	WIRC
88	Ms. Dhanashree Chandrakant Hadawale	ACS - 27505	11900	WIRC
89	Ms. Prajakta Thite	ACS - 30252	11901	WIRC
90	Ms. Vinita Venugopal Nair	ACS - 31669	11902	WIRC
91	Ms. S C Sharada	ACS - 7783	11903	SIRC
92	Ms. Akriti Agarwal	ACS - 25737	11904	NIRC
93	Mr. Ashwani Kumar	ACS - 30681	11905	NIRC
94	Sh. B K Prasad	FCS - 2163	11906	SIRC

CANCELLED*

1	Mrs. Bhawana Satender Kashyap	ACS - 22896	11652	NIRC
2	Mr. Jayesh Ratan Ahire	ACS - 29775	10838	WIRC
3	Sh. Sanjay Kumar Sah	ACS - 15092	6103	NIRC
4	Ms. Manisha Jain	ACS - 20344	10055	NIRC
5	Sh. Vineet Chopra	FCS - 5259	10764	WIRC
6	Sh. Bajantri Madappa	FCS - 4957	9883	SIRC
7	Mr. Prateek Mehta	ACS - 27995	10136	NIRC
8	Mr. Narendra Kumar	ACS - 28017	11251	NIRC
9	Mr. Rahul Gupta	ACS - 30597	11153	NIRC
10	Mr. Anand Prakash Soni	ACS - 30940	11405	NIRC
11	Ms. Shilpa Veeresh H M	ACS - 30641	11183	WIRC
12	Mr. Rajesh Choudhary	ACS - 28595	10471	NIRC
13	Ms. Shrutika Malhotra	ACS - 31229	11698	NIRC
14	Mr. Anurag Nagar	ACS - 28916	10414	NIRC
15	Mr. Aslam Ahmad	ACS - 29060	10658	NIRC
16	Ms. Gayathri R	ACS - 27901	10025	WIRC
17	Mr. Jay Prakash	ACS - 31696	11669	NIRC
18	Ms. Aditi Pankaj Thakker	ACS - 25931	9561	WIRC
19	Sh. Vinod Kumar	FCS - 1590	9961	NIRC
20	Sh. Anil Kumar	ACS - 22900	11425	NIRC
21	Ms. Pooja Chaubey	ACS - 25566	9588	NIRC
22	Ms. Sangita Agarwal	ACS - 29467	11320	EIRC
23	Ms. Anshi Srivastava	ACS - 26699	9873	NIRC
24	Sh. B A Kalyanam	ACS - 5139	7780	SIRC
25	Mr. Nikhil Kalra	ACS - 30289	10941	NIRC
26	Ms. Vinaya Abhijit Joshi	ACS - 25096	11587	WIRC
27	Sh. Vikash Mittal	ACS - 25853	9244	NIRC

Licentiate ICSI

Sl. No.	Name	Licentiate No.	Region
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ADMITTED**

1	Mr. Ashish Babulal Jain	6524	WEST
2	Mr. Vipin Tyagi	6525	NORTH
3	Ms. Esha Agarwal	6526	NORTH
4	Ms. Mayukha Deepak	6527	SOUTH
5	Mr. Tribhuvan Aggarwal	6528	NORTH
6	Ms. R Bhavana	6529	SOUTH
7	Mr. Himanshu Rajesh Kalkar	6530	WEST
8	Ankit Jain	6531	NORTH
9	Vipul Jain A	6532	SOUTH
10	T C Vivek	6533	SOUTH
11	Aman Maheshwari	6534	NORTH

* Admitted During the Month of April, 2013

Payment of Annual Membership and Certificate of Practice Fee for the Year 2013-14

The annual membership fee and certificate of practice fee for the year 2013-14 **became due for payment w.e.f. 1st April, 2013. The last date for payment of fee is 30th June 2013.**

The membership and Certificate of Practice fee is as follows:-

- 1] Annual Associate Membership fee **Rs. 1125/-**
- 2] Annual Fellow Membership fee **Rs. 1500/-**
- 3] Annual Certificate of Practice fee **Rs. 1000/-(*)**

* ***The certificate of practice fee must be accompanied by a declaration in form D duly completed in all respects and signed. The requisite form 'D' is available on the website of Institute www.icsi.edu and also published elsewhere in this issue.***

MODE OF REMITTANCE OF FEE

The fee can be remitted by way of :

- (i) Online (through payment Gateway of the Institute's web-site (www.icsi.in)) by following the steps given below:-
 - a) Go to the portal <http://www.icsi.in>
 - b) Login on to your profile by selecting the option Membership -- > Associate/Fellow
 - c) Enter your Membership number in the box provided.
 - d) Enter your password in the box provided (Click on Reset if creating for the first time)
 - e) After Logging in click on the link 'Annual membership Fee'
 - f) Click on Proceed for Payment button for payment through online payment gateway.
 - g) Keep the generated acknowledgement for future reference and record.
- (ii) Credit card at the Institute's Headquarter at Lodi Road, New Delhi or Regional Offices located at Kolkata, New Delhi, Chennai and Mumbai.
- (iii) Cash/ local cheque drawn in favour of 'The Institute of Company Secretaries of India', payable at New Delhi at the Institute's Headquarter or Regional/ Chapter Offices located at Kolkata, New Delhi, Chennai, Mumbai and Chandigarh, Jaipur, Bangalore, Hyderabad, Ahmedabad, Pune respectively. Out Station cheques will not be accepted. However, at par cheques will be accepted.
- (iv) Demand draft / Pay order drawn in favour of 'The Institute of Company Secretaries of India', payable at New Delhi (indicating on the reverse name and membership number).

For queries, if any,

the members may please contact Mr. D.D. Garg, Admn. Officer or Mrs. Vanitha Dhanesh on telephone Nos.011-45341062/64 or Mobile No.9868128682 / through e-mail ids: annualfee@icsi.edu, cp@icsi.edu

APPLICATION FOR THE ISSUE/RENEWAL/RESTORATION* OF CERTIFICATE OF PRACTICE

See Reg. 10, 13 & 14

To
The Secretary to the Council of
The Institute of Company Secretaries of India
'ICSI HOUSE', 22, Institutional Area,
Lodi Road, New Delhi - 110 003

Sir,

I furnish below my particulars

- (i) Membership Number FCS/ACS:
- (ii) Name in full:
(in block letters) Surname Name
- (iii) Date of Birth:
- (iv) Professional Address:
- (v) Phone Nos. (Resi.) (Off.)
- (vi) Mobile No Email id
- (vii) Additions to or change in qualifications, if any:

1. Submitted for (tick whichever is applicable):

(a) Issue (b) Renewal (c) Restoration

2. (a) Particulars of Certificate of Practice issued / surrendered/Cancelled earlier

Sl. No	Certificate of Practice No.	Date of issue of CP	Date of surrender / Cancellation of CP

3. i. I state that I am/shall be engaged in the profession of Company Secretary only on whole-time basis and not in any other profession, business, occupation or employment. I am not enrolled as an Advocate on the rolls of any Bar Council and do not hold certificate of practice from any professional body including ICAI and the ICWAI.
- ii. I state that as and when I cease to be in practice, I shall duly inform the Council and shall surrender forthwith the certificate of practice as required by the Company Secretaries Act, 1980, and the regulations made thereunder, as amended from time to time.
- iii. I hereby undertake that, I shall adhere to the mandatory ceiling of not more than eighty companies in aggregate in a calendar year in terms of the **Guidelines for Issuing Compliance Certificate and Signing of Annual Return** issued by the Institute on 27th November, 2007.
- iv. I state that I have issued / did not issue advertisements during the year 20 -..... in accordance with the **Guidelines for Advertisement by Company Secretary in Practice** issued by the Institute*.
- v. I state that I issued Corporate Governance compliance certificates under Clause 49 of the listing agreement during the year 20 -.....*
- vi. I state that I have / have not undertaken Audits under Section 55A of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 during the year 20 -
- vii. I state that I have / have not maintained a register of attestation/certification services rendered by me/my firm in accordance with the **Guidelines for Requirement of Maintenance of a Register of Attestation/Certification Services Rendered by Practising Company Secretary/Firm of Practising Company Secretaries** issued by the Institute. *
4. I send herewith Bank draft drawn on Bank Branch bearing No for Rs towards annual certificate of practice fee for the year ending 31st March
5. I further declare that the particulars furnished above are true and correct.

Yours faithfully,

(Signature)

Encl.

Place:

Date:

* Applicable in case of renewal or restoration of Certificate of Practice





News From the Institute

Company Secretaries Benevolent Fund

MEMBERS ENROLLED REGIONWISE AS LIFE MEMBERS OF THE
COMPANY SECRETARIES BENEVOLENT FUND*



Sl. No.	LM No.	Name	Mem No.	City
EIRC				
1	10023	MR. CHANDRA KUMAR JAIN	ACS - 32452	HOWRAH
NIRC				
2	10021	MR. HITESH SONI	ACS - 32401	CHITTORGARH
3	10024	MS. PARUL MEHTA	ACS - 32434	CHITTORGARH
4	10027	MR. AMIT VASISTHA	ACS - 24633	GURGAON
5	10028	MR. SANJAY GUPTA	ACS - 18435	DELHI

SIRC

6	10019	MS. SRIEE ANEETHA M	ACS - 32388	BANGALORE
7	10020	MR. VENKATA RAMAN GANTEDI	ACS - 32384	HYDERABAD
8	10026	MR. KRANTHI KIRAN GUGGILLA	ACS - 32417	HYDERABAD
9	10029	MR. RAO P VENKATESWARA	FCS - 7166	BANGALORE
10	10031	MS. ANANDHAM M	ACS - 29148	CHENNAI
11	10032	MR. BADARISH H CHIMALGI	ACS - 32651	HYDERABAD
12	10033	MR. S RAJA	ACS - 32666	MADURAI

WIRC

13	10022	MS. VARSHA OJHA	ACS - 32381	MANDSAUR
14	10025	MS. TEJASHREE PRADEEP GUPTA	FCS - 7167	THANE (W)
15	10030	MR. HITESH KOTHARI	FCS - 6038	MUMBAI
16	10034	MR. NIRAJ BAID	ACS - 27927	AHMEDABAD

* Enrolled from 24th April 2013 to 20th May, 2013



List of Companies Registered for Imparting Training During the Month of April 2013

Region	Training Period	Stipend (Rs.)		
Eastern				
Diana Tea Company Ltd. Sir RNM House (4th Floor), 3/B, Lal Bazar Street Kolkata-700001	15 Months & 3 Months Practical Training	Suitable		
Citizen Umbrella Manufactures Ltd. 147, M.G. Road Kolkata-700007	15 Months Training	Suitable		
Macmet India Ltd. 10 B, O.C. Ganguly Sarani Kolkata-700020, West Bengal	15 Months Training	Suitable		
Mascon Fin. Pvt. Ltd. 85/1, Ballygunj Place Mezzanine Floor Calcutta-700019	15 Months & 3 Months Practical Training	3500/-		
Northern				
Sahara India Financial Corporation Ltd. Sahara India Bhawan 1, Kapoorthala Complex Lucknow-226024 Uttar Pradesh	15 Months Training	Suitable		
Fabindia Overseas Pvt. Ltd. B-53, Okhla Industrial Area Phase 1 New Delhi-110020	15 Months Training	Suitable		
Jajoo Rashmi Refractories Pvt. Ltd. 28, Shopping Centre Near Allahabad Bank Ambabari, Jaipur-302039 Rajasthan	15 Months & 3 Months Practical Training	Suitable		
Agribiotech Industries Ltd. SP-825, Road No.14 Vishwakarma Industrial Area Jaipur-302013 Rajasthan	15 Months & 3 Months Practical Training	Suitable		
U-Tech Developers Ltd. 305, Third Floor, Bhanot Corner, Pamposh Enclave Greater Kailash-I New Delhi-110048	15 Months & 3 Months Practical Training	Suitable		
Fenewal India Pvt. Ltd. Upper Ground Floor Tower B, DLF Building No. 10, DLF Cyber City, DLF Phase-11 Gurgaon-122002 Haryana	15 Months Training	Suitable		
Meerut Automobiles Pvt. Ltd. A-109, Patel Nagar II, Meerut Road Ghaziabad-201001 Uttar Pradesh	15 Months & 3 Months Practical Training	Suitable		
Supreme Tex Mart Ltd. 424, Indl. Area 'A' Cheema Chowk Ludhiana-141003 Punjab	15 Months & 3 Months Practical Training	Suitable		
Manesar Steel Processing (India) Pvt. Ltd. Plot No.1,(Sub Plot No. 27-30) Phase-3A, IMT Manesar Gurgaon-122051 Haryana	15 Months & 3 Months Practical Training	Suitable		
Jones Lang La Salle Property Consultant (India) Pvt. Ltd. Level 9 Tower A Global Business Park Mehrauli Gurgaon Road, Sector 26, Gurgaon-122002 Haryana	15 Months Training	Suitable		
Himachal Pradesh Tourism Development Corporation Ltd. Ritz Annexe Shimla-171001 Himachal Pradesh	15 Months Training	Suitable		
Talwandi Sabo Power Ltd. Mansa-Talwandi Sabo Road Distt. Mansa, Punjab - 151302	15 Months & 3 Months Practical Training	10000/-		
Best Foods Ltd. Indri (Karnal) Karnal-132041, Haryana	15 Months & 3 Months Practical Training	Suitable		
Geodis Overseas Pvt. Ltd. 10th Floor, Tower B, Cyber Terraces, Building No.5 DLF Cyber City, Phase III Gurgaon-122002 Haryana	3 Months Practical Training	7500/-		
Fortis Health Management Ltd. 4th Floor, B Wing, D3, P3b, District Centre Saket, New Delhi-110017	15 Months Training	8000/-		



News From the Institute

Vinod Shares Ltd. 106-110, "Adeshwar Tower" 3rd Chopasni Road Jodhpur-342003 Rajasthan	15 Months & 3 Months Practical Training	Suitable	Shilpi Cable Technologies Ltd. A-19/B-1 Extn., Moham Co-operative Industrial Estate Mathura Road P.O. Badarpur New Delhi-110044	15 Months Training	Suitable
Flex Foods Ltd. 305, Third Floor, Bhanot Corner, Pamposh Enclave Greater Kailash-1 New Delhi-110048	15 Months & 3 Months Practical Training	Suitable	Fortune Metaliks Ltd. Ferozpur Road Opp. Circuit House Ludhiana-141001 Punjab	15 Months Training	Suitable
Rajasthan State Beverages Corporation Ltd. Vitta Bhawan, D-Block, 1st Floor, Janpath Jaipur, Rajasthan	15 Months Training	Suitable	Seasons Furnishings Ltd. B-18, Sector-5 Noida-201301 Uttar Pradesh	15 Months Training	5000/-
Kelly Services India Pvt. Ltd. Unitech Cyber Park 10th Floor, Tower C, Unit No. 1002 Sector-39, Gurgaon-122002 Haryana	15 Months Training	5000/-	Alchemist Township India Ltd. SCO 232-233-234, 3rd Floor, Sector-34 A, Chandigarh-160035 Punjab	15 Months Training	Suitable
UEM India Pvt. Ltd. 2nd & 3rd Floor, Tower-B A-1, Windsor IT Park, Sector-125, Noida-201301 Uttar Pradesh	15 Months Training	Suitable	Southern Tatia Global Vennture Ltd. 3rd Floor, Aroshree Towers No.19 Rutland Gate Chennai-600006	15 Months & 3 Months Practical Training	Suitable
Advantium Infrastructure Pvt. Ltd. 223, Jaswant Nagar, Khatipura Jaipur-302006 Rajasthan	15 Months Training	Suitable	Kreon Finnacle Services Ltd. No. 81B, Main Road Ambattur Industrial Estate Chennai-600058	15 Months & 3 Months Practical Training	Suitable
Mayur Leather Products Ltd. G-60-62 & 67-69, Jaipur Industrial Estate Jaipur-302019 Rajasthan	15 Months Training	Suitable	Teledata Technology Solutions Ltd. Teledata Tower, 1st Floor, 37/1, Velachery Tambaram Main Road Velachery, Chennai-600042	15 Months Training	6000/-
Sidhgiri Holdings Pvt. Ltd. BP-271 Ravi Nagar Mughalsarai Chandauli, Uttar Pradesh	15 Months Training	Suitable	India Cements Capital Ltd. Dhun Building, 827, Anna Salai Chennai-600002	3 Months Practical Training	Suitable
Technip KT India Ltd. Technip Power, A-4, Sector-1, Noida-201301 Uttar Pradesh	15 Months Training	Suitable	KOSTAL NTTF Automotive India Pvt. Ltd. Shed No. T12/T13, First East Cross Road, Gandhinagar, Vellore-632006	15 Months Training	3500/-
Horseshoe Entertainment and Hospitality Pvt. Ltd. J-2/14, Central Arcade Market, DLF Phase-II Gurgaon-122002, Haryana	15 Months Training	Suitable	KTM Jewellery Limited 166, Praga Compound Avinashi Road, Nava India Peelamedu Coimbatore-641004	15 Months Training	6000/-
Unitech Holding Ltd. Unitech House, South City-1 Gurgaon-122001, Haryana	15 Days Training	Suitable	Nabard Financial Services Ltd. 190, Rashtriya Vidyalaya Road, (Near Vijaya College) Bangalore-560004, Karnataka	6 Months Training	Suitable



Western

Sahara One Media And Entertainment Limited

Sahara India Point,
CTS-40 & 44, S.V. Road
Goregaon (West)
Mumbai-400104

15 Months
Training

Suitable

Sterling Addlife India Ltd.

"Sterling Hospital"
Sterling Hospital Road,
Memnagar
Ahemdabad-380052
Gujarat

15 Months
Training

4000/-

Landmark Tiles Pvt. Ltd.

8 A, National Highway
Old Ghuntu Road
Morbi -363641
Gujarat

15 Months
Training

Suitable

Janata Sahakari Bank Ltd.

1444 Shukrawar Peth
Thorale Bajirao Road
Pune-411002
Maharashtra

15 Months
Training

5000/-

Couple Finvest Pvt. Ltd.

624, Corporate Centre,
Nirmal Lifestyle
Behind Shoppers Stop
L.B.S. Marg, Mulund-West
Mumbai-400080
Maharashtra

15 Months &
3 Months
Practical Training

Suitable

Chartered Logistics Ltd.

C-1, Jay Tower, 4th Floor
Ankur Road
Naranpura
Ahemdabad-380013
Gujarat

15 Months
Training

3000/-

Tata Motors Finance Ltd.

I-Think Techno Campus
Building A, 2nd Floor
Off Pokhran Road 2
Thane West-400601
Mumbai

15 Months
Training

Suitable

Surya Exim Ltd.

3040, Jash Textiles &
Yarn Market
Ring Road
Surat-395002
Gujarat

15 Months &
3 Months
Practical Training

3500/-

Credit Suisse AG

10th Floor, Ceejay House,
Plot F, Shivsagar Estate
Dr. Annie Besant Road, Worli
Mumbai-400018
Maharashtra

15 Months &
3 Months
Practical Training

25000/-

Eimco Elecon India Ltd.

Anand Sojitra Road,
Vallabh Vidyanagar
Gujarat-388120

15 Months
3 Months
Practical Training

Suitable

Meghalaya Bitchem Pvt. Ltd.

Anil Plaza, 3rd Floor
G.S. Road, Guwahati-781005
Assam

15 Months
Training

6000/-

India Factoring And Finance Solutions Pvt. Ltd.

6th Floor
Vaibhav Chambers,
Opp. Income Tax Office,
Bandra-Kurla Complex
Bandra (E) Mumbai-400051
Maharashtra

3 Months
Training

10000/-

Supreme Gold Irrigations Ltd.

Gut No. 51, Osmanagar Road
Gundegaon
TQ & Dist. Nanded-431603
Maharashtra

15 Months
Training

Suitable

Adani Properties Pvt. Ltd.

Shikhar, Near Adani House
Mithakhali Six Roads
Navrangpura
Ahemdabad-380009
Gujarat

15 Months
Training

3500/-

ISS Integrated Facility Service Pvt. Ltd.

Godrej Ind. Ltd. Complex,
Gate No-4, Pirojshanagar,
Eastern Express Highway, Vikhroli (East)
Mumbai-400079, Maharashtra

3 Months
Practical Training

4000/-

List of Practising Members
Registered for the
Purpose of
Imparting Training
During the Month of
April, 2013



CS DEEPAK KUMAR PATEL

Company Secretary in Practice
169, Bajrang Nagar
Indore – 452 001

PCSA – 3389





News From the Institute

CS PANKAJ KHANDELWAL
Company Secretary in Practice
B/12, 8th Floor
Trade World Building
Kamla Mill Compound, Lower Parel(W)
Mumbai -400 013

PCSA – 3390

CS SANJAY KUMAR MISHRA
Company Secretary in Practice
AE -16, Sector – 1
Salt Lake City
Kolkata – 700 064

PCSA – 3391

CS DWARKPRASAD M. NIMBALKAR
Company Secretary in Practice
Flat No 15, 4th Floor, D. M. Plaza,
Near Bhandari Holiday Resorts,
Sinhagad Road
Pune -411 030

PCSA – 3392

CS RAJENDRA PRASAD SARAF
Company Secretary in Practice
A-404, Sunrise Apartment
Near Highway, Chharwada Road
Vapi – 396 191

PCSA – 3393

CS SWATI KHANDELWAL
Company Secretary in Practice
53/9/2 Bone Behari Bose Road
Sandhya Bazar
Seal Colony, 1st Floor
Howrah -711 101

PCSA – 3394

CS PRAMOD PRASAD KOTHARI
Company Secretary in Practice
Flat No. 28c Block-G
Kanchanjunga Apartments
Sector – 53, Noida – 201 301

PCSA – 3395

CS JAGDISH KUMAR
Company Secretary in Practice
36 City Plaza
Hanuman Chowk
Bathinda – 151 001

PCSA – 3396

CS VARSHA DANGAYACH
Company Secretary in Practice
R-8/A-S-3 (II Floor)
Yudhisthir Marg
C Scheme
Jaipur – 302 005

PCSA – 3397

CS SANJAY KUMAR
Company Secretary In Practice
ED-53B, Madhuban Chowk
Pitampura
Delhi 110 088

PCSA – 3398

CS PRIYA VYAS
Company Secretary in Practice
CD-73, Ground Floor
Sector-1 , Salt Lake City
Kolkata – 700 064

PCSA – 3399

CS R VENKATA NAGA PADMAJA
Company Secretary in Practice
H.No. 6-3-609/134, Flat No. 102
Srinivasam Apartments
Opp; ICSI Chapter
Anand Nagar Colony
Khairtabad, Hyderabad -500 004

PCSA – 3400

CS ANIRUDDHA ASHOK DEKHANE
Company Secretary in Practice
Flat No:4, Type III, Ice House Colony
Opp Ruby Hall, Sasoon Road
Pune – 411 001

PCSA – 3401

CS SHASHANK AGARWAL
Company Secretary in Practice
E-98, 3rd Floor, Lajpat Nagar –II
New Delhi – 110 024

PCSA – 3402

CS AKASH GUPTA
Company Secretary in Practice
A-18, Gali No. 2, Shyam Nagar
New Gobind Pura
Chander Nagar Ext.
Delhi – 110 051

PCSA – 3403

CS MAYUR SANGHI
Company Secretary in Practice
S-3, R-8-A, Yudhisthir Marg
C-Scheme
Jaipur -302 005

PCSA – 3404

CS ANANDTEERTH HIPPARAGI
Company Secretary in Practice
No:17/43, 1st Floor
Dr. Rajkumar Road
Rajaji Nagar, Bangalore -560 010

PCSA – 3405

CS NISHA PATWARI
Company Secretary In Practice
BE-249, Salt lake City
Near tank No.- 4
Sector-1
Kolkata

PCSA – 3406

CS GEORGE MATHEW
Company Secretary in Practice
Payekkal CH, Pullurampara P.O.
Thiruvambady Via Calicut
Kerala - 673603

PCSA – 3407

CS SWATI BHARAT DONGARE
Company Secretary in Practice
J-2, Aishwarya Sankul,
GA Kulkarni Path
Opp. Joshi Railway Museum,
Kothrud, Pune -411 038

PCSA – 3408

CS SANTANU MITRA
Company Secretary in Practice
3/C, Nandy Street
Kolkata -700 029

PCSA – 3409



CS SANJAY KUMAR GUPTA Company Secretary in Practice C-58-C, Ashok Vihar -3 New Delhi- 110 052	PCSA – 3410	CS SHAILVI AGARWAL Company Secretary in Practice 1/25, Third Floor Lalita Park, Near Gurudwara Laxmi Nagar Delhi – 110 092	PCSA – 3421
CS BIBHABASU CHAKRABORTY Company Secretary in Practice F-1210, LGF, Chittaranjan Park New Delhi – 110 019	PCSA – 3411	CS SUSHIL PRAMOD TALATHI Company Secretary in Practice B/502, Shreenath Complex Near Manjunatha College New Kalyan Road Dombivli (East) – 421 201	PCSA – 3422
CS LAXMI MANDAL Company Secretary in Practice House No. 21k, 2nd Floor, Diz Area, Sector 4 Raja Bazar, New Delhi – 110 001	PCSA – 3412	CS MADHURI HIMABINDU Company Secretary in Practice The Cottage, H.No- 18-30 Sri Ram Nagar Colony Trimulgherry Post, Alwal Secunderabad - 500015	PCSA – 3423
CS RAJEEV RANJAN CHAUDHARY Company Secretary in Practice E-7/12, Dayalpur New Delhi – 110 094	PCSA – 3413	CS JOSE GEORGE Company Secretary in Practice Artis House, Krishnavilas Tc 24/1068 & 1069, Near Women And Children Hospital Thycaud P O, Thampanoor Thiruvananthapuram – 695 014	PCSA – 3424
CS SHILPI JAIN Company Secretary in Practice L-31A, Vijay Chowk Laxmi Nagar, Delhi – 110 092	PCSA – 3414	CS MAHESH GRANDHI Company Secretary in Practice Flat No: 507 Bhadra Residency, 7-2-1735, Street No:1, Czech Colony Sanath Nagar Hyderabad – 500 018	PCSA – 3425
CS CHANCHAL JINDAL Company Secretary in Practice G-3/110 Sector-11 Rohini, Delhi – 110 085	PCSA – 3415	CS CHANDANI MOHTA Company Secretary in Practice 90, Golaghata Road Mahavir Apartment Kolkata -700 048	PCSA – 3426
CS NITIN G HOTCHANDANI Company Secretary in Practice A-538, Malviya Nagar Jaipur - 302 017	PCSA – 3416	CS RAMESH BABU KURALLA Company Secretary in Practice 4-3-22, 2nd Line Ramannapet, Koretipadu, Guntur – 522 007	PCSA – 3427
CS ARUN KUMAR Company Secretary in Practice F-34, Street No. 10 Brahampuri Delhi – 110 053	PCSA – 3417	CS RAJESH KUMAR SRIVASTAVA Company Secretary in Practice S-610, Tyagi Provisional Store School Block Sakarpur, Delhi – 110 092	PCSA – 3428
CS ASHWINI AMEY VAZE Company Secretary in Practice 503, Bldg. No. 22, Satnam Paradise Near Tatwagn Vidyapeeth Opp. Tulsidham Complex Thane (W) – 400 610	PCSA – 3418	CS SHRINIVAS M DEVADIGA Company Secretary in Practice 121, Esha Nilaya Gear School Road, Doddakannelli, Karmelaram Post, Nr Sarjapur Road, Wipro Bangalore - 560 035	PCSA – 3429
CS RAVENDRA PRATAP SINGH Company Secretary in Practice 2324/B, 2nd Floor Shadi Khampur New Delhi – 110 008	PCSA – 3419		
CS DEVAJIT Company Secretary in Practice 1/25, 3rd Floor Near Gurudwara, Lalita Park Laxmi Nagar Delhi –110 092	PCSA – 3420		



News From the Institute

CS TAHER NOOR SAYED
Company Secretary in Practice
AT-Kesharpur
P O Buxibazar
Cuttack Distt – 753 001

PCSA – 3430

CS MAHENDER MANDALA
Company Secretary in Practice
H.No: 1-1-16/12/C&D, Street No:7
Sahara Bakers, Opp Lane,
Jawahar Nagar, Rtc X Road
Hyderabad – 500 020

PCSA – 3431

CS VISHNU DUTT SHARMA
Company Secretary in Practice
‘Satya Kripa’
LG-3 Bansi Trade Center
581/5, M.G. Road
Indore – 452 003

PCSA – 3432

CS RITU JAYPRAKASH RATHI
Company Secretary in Practice
1203, Emerald Regency Towers
Behind Muchala College
Kavesar of GB Road, Mumbai

PCSA – 3433

CS GIRISH PRAKASH BHANDARE
Company Secretary in Practice
Plot No. 1, Yogayog
Dashmeshnagar, New Osmanpura
Aurangabad – 431 005

PCSA – 3434

CS MANOJ SHARMA
Company Secretary in Practice
268, Anarkalai Complex
Jhandewalan Extn
Near Videocon Tower
New Delhi – 110 055

PCSA – 3435

CS AALHAD ANIL MAHABAL
Company Secretary in Practice
10, Basement
Shri Vighnaham Appts.
Opp. Doming Mate Square
Nagpur – 10

PCSA – 3436

CS PRASHANT KUMAR
Company Secretary in Practice
G-50, 1st Floor, Office No. 103
Laxmi Nagar
New Delhi – 110092

PCSA – 3437

CS HARVINDER KAUR
Company Secretary in Practice
1277/1, Sector 1
Huda II, Shabad Markanda
Distt Kurukshetra – 136 135

PCSA – 3438

CS NITIKA
Company Secretary in Practice
152, Kiriti Nagar,
Sector 15, Part 1
Gurgaon – 122 001

PCSA – 3439

CS VINAY OMPRAKASH CHANDAK
Company Secretary in Practice
B-9, 2nd Floor, Meghdoot Shopping Centre
Opp District Court, CBS
Nashik – 422 001

PCSA – 3440

CS PARIMALA NATARAJAN
Company Secretary in Practice
AG-81, First Floor
Shanthi Colony
Anna Nagar
Chennai – 600 040

PCSA – 3441

CS JOSE THOMAS
Company Secretary in Practice
3/6, 3rd Flr, Sheikhali Complex
Opp Kaverinursing Home
Koramangala, 2nd Block
Bangalore – 560 068

PCSA – 3442

CS SHASWATI VAISHNAV
Company Secretary in Practice
D 6 Kumar Classics
Near Mc Donald
Aundh, Pune – 411 007

PCSA – 3443

Special Issues of Chartered Secretary

It is proposed to bring out special issues of Chartered Secretary among others on the following topics during the remaining period of the year 2013.

1. Risk Management (August 2013)
2. FEMA (October 2013)

Articles on the aforesaid subjects are welcome for consideration by the Editorial Advisory Board for publication in the said special issues. Contributors may also refer to the general guidelines for authors published elsewhere in this issue.

The articles may kindly be forwarded to:
The Deputy Director (Publications)
The Institute of Company Secretaries of India 22,
Institutional Area, Lodi Road, New Delhi – 110003.

e-mail: ak.sil@icsi.edu
copy to: ks.gopalakrishnan@icsi.edu



News From the Regions

➤ Eastern India Regional Council

Full Day Workshop on Soul Power Leadership

On 14.4.2013 the ICSI – EIRC organised a Full Day Workshop on Soul Power Leadership at its premises. The guest speaker was Vishal Avatar, New Age Life Coach. CS Deepak Kr Khaitan, Chairman, ICSI-EIRC in his inaugural address spoke on the benefits of meditation and said that the participants will definitely be enriched by the meditation techniques to be shown by Vishal Avatar.

Vishal said that by practicing various meditation techniques we can find many answers related to our lives. He said that we need to meditate and in the course of time we can feel the benefits as well as outcomes of meditation in one's life and soul. He said that we can overcome difficulties in both our personal and professional lives by way of meditation. He then demonstrated various techniques of meditation and showed how to bring down stress by way of meditation and spiritual learning. He threw light on spiritual learning, and explained its effects in the fast changing lives of people. He elaborated on the psychological process of gaining spiritual quotient, so that one can have a better understanding of self and of the universe. He also talked about the concept of inspiration, how it can affect and improve the spirit of life, about leadership qualities and dos and don'ts for leader and what does it take to make a healthy relationship.

Twenty-second AFAIRS Career Fair and Times Education Boutique

The ICSI-EIRC participated in the 22nd AFAIRS Career fair held at Ice Skating Rink, Kolkata from 13 to 15.4.2013. Again on 11 and 12.5.2013 the ICSI-EIRC participated in the Times Education Boutique held at Hotel Park, Kolkata. Both the events turned up to be successful one in terms of foot falls. The visitors came to the ICSI stall and sought information about the CS course and the profession. The ICSI stall attracted students, parents, student counselors, teachers, members of professional bodies, press etc. The ICSI stall was decorated with ICSI wall posters and banners of ICSI. Books, prospectus of CS Foundation and Executive stages, Chartered Secretary and Student Company Secretary Bulletin etc. were displayed at the stall. The visitors were inquisitive about the CS course like the time period of the course, the fee structure, the

contents, the opportunities available to the profession, etc. Among others present in the fairs were Amity University, British Council, United States India Education Fund, Acharya Group of Institutions, Bengaluru, Indian Air Force, Indian Army, Indian Navy, Indian Coast Guard, United World School of Business, British Council, Edwise Overseas Education Consultants and other leading Colleges/Educational Institutions. The ICSI was represented by ICSI officials and member volunteers who handled the queries well and informed about the ICSI Students Education Fund, the subjects of the course, the new syllabus of Foundation programme, ICSI E-learning initiatives and the flexibility of the course to study wherever a student wants to in India. The fairs proved to be an eye opener of the various opportunities that students can avail, once they clear their senior secondary examinations in India and they were also very happy to learn about the economical fees charged by the Institute for the course.

BHUBANESWAR CHAPTER

Investor Awareness Programmes

On 16.3.2013 the Bhubaneswar Chapter conducted Investor Awareness Programme at MICM, Bhubaneswar. Dr. S. Ghosh, Director, MICM, Bhubaneswar was the Chief Guest at the programme. On 19.3.2013 the programme was held at Srusti Academy of Management, Bhubaneswar. Principal of Srusti Academy of Management, Bhubaneswar was the Chief Guest at the programme. Dr. (Mrs.) C. Vijaya, Dy. Director, Dr. S.K. Hota, Faculty, Dr. D. Dash, Faculty, MICM, Bhubaneswar and Dr. Sarita Mishra, Co-ordinator, Srusti Academy of Management contributed a lot for the success of the above programmes. CS A. Acharya, Chairman, CS J.B. Das, Secretary, the OMC Ltd, and CS D. Mohapatra, Secretary, Bhubaneswar Chapter addressed at the above places. This programme was conducted under the aegis of IEPF, MCA, Govt. of India. The Registrar of Companies, MCA, Odisha and the Regional Director (E), MCA coordinated the above programmes. Investors/general public, school/college teachers, housewives, advocates, members of the Institute and students, small traders and businessmen attended these programmes. The programmes were well attended by more than 100 investors in each programme.

Management Skills Orientation Programmes

From 20.3.2013 to 7.4.2013 the 3rd MSOP of Bhubaneswar Chapter (76th MSOP of EIRC) was held at the Chapter premises. The MSOP was inaugurated by Ramesh Chandra Mohapatra, President, Utkal Chamber of Commerce and Industries Ltd, Bhubaneswar and Chairman of Magnum Group of Companies. Among others, CS A. Acharya, Chairman, CS Sunita Mohanty, Secretary & Treasurer, EIRC, CS Deba Mohapatra, Secretary and CS P.Nayak, Treasurer of the Chapter and programme co-coordinator were present.

Ramesh Chandra Mohapatra, President of UCCI Ltd. hinted at the compliance requirements of companies in the present circumstances and desired that company secretaries are the right professionals to



News From the Institute & Regions

ensure the same in the interest of the company and the public at large. He stressed upon the need for companies to be Corporate Governance Compliant where Company Secretaries play a significant role. While formally inaugurating the programme, Mohapatra wished the budding company secretaries all success in their life and also invited the participants to visit his group office.

The students were given practical exposure during the 15 days training programme. They visited the Navratna Central PSU, NALCO, in Bhubaneswar and interacted with the Company Secretary. CS K.N. Ravindra and Deputy Company Secretary, CS N.K. Mohanty. They spent about 2 hours with practical exposure of the work in their share department and gained live experience. The students also visited the Bhubaneswar Stock Exchange and the SEBI, Local office, Bhubaneswar and met the officials and understood the nitty-gritty's of the operations.

Classes were taken by experienced Company Secretaries, Chartered Accountants, Cost Accountants and Advocates giving the students a Practical approach to corporate functions. On the last day, CS Deepak Kumar Khaitan, Chairman, EIRC took a session on business case explaining the students how companies have succeeded in their respective field of business and how the same principle can be applied to the students for furthering their career. A moot court on a company law problem was arranged which was performed by four students of the Chapter who were also National Moot Court Champions held at Bangalore. This was a very lively programme enjoyed both by the students and members of the profession as well. The students went on a picnic to Puri during the programme.

The Valedictory Session was graced by CS Deepak Khaitan, Chairman, EIRC and D.K.Samantaray, M.D. Angul, Sukinda Railway Ltd. The Valedictory session was attended by the members of the Managing Committee of the Chapter flanked by CS Sunita Mohanty, Secretary, EIRC and Tapas Kumar Roy, Asst. Education Officer. Interaction and feedback session was held with the students. Students expressed their greatest satisfaction on the programme held by the Bhubaneswar Chapter so nicely under the banner of EIRC. CS Deepak Kumar Khaitan, Chairman, EIRC in his address to the participants urged them to take advantage of the profession and aspire to become a successful corporate professional in contributing to the long term success of their organization through their skill and ingenuity. He further shared the views that Bhubaneswar Chapter is the most active Chapter in the Eastern Region and has the best infrastructural facilities to provide the best service to the students and members. Samantray expressed that Bhubaneswar is going to be the most advanced state in the country by 2020 and company secretaries would get enough scope in the state in their career.

Tapas Kumar Roy advised the students to be sincere and hard working which is necessary for the success of the students. CS Sunita Mohanty wished all success to the students and that the EIRC will provide all support to the Chapter. CS Debadutta Mohapatra, Secretary and CS Priyadarshi Nayak, Treasurer and Programme Coordinator of

the MSOP encouraged the students to excel in their career.

CS Arabinda Acharya, Chapter Chairman explained the activities during the 15 days period and thanked the EIRC to make it happen in Bhubaneswar Chapter. The session concluded with the distribution of Certificates by EIRC and best participant award to Basuli Dasgupta. Satya Pradeep Roy, Manas Ranjan Sahoo and Chandan Kumar Maharana also awarded certificates of merit for best paper presenter on Project.

Yoga for Health and Happiness

On 17, 24, 31.3.13, 7, 14 and 21.4.2013 the Chapter organized series of Yoga sessions for its members at the office premises. The sessions were conducted by M/s. Vivekananda Yoga Therapy Research Institute, Bhubaneswar. The sessions were conducted during morning hours. Practical session on yoga and other tips for better life were apprised during the session.

HOOGHLY CHAPTER

Half Day Workshop

On 19.5.2013 the Hooghly Chapter of EIRC of the ICSI organized a half day workshop on Ponzi Scheme – The Legal Aspect and Role of Company Secretary at South Howrah Sree Jain Shwetambar Terepanthi Sabha, Howrah. CS Gautam Dugar, Chapter Chairman in his welcome address said that such workshop are the need of the hour and an eye-opener when some companies siphon off the hard earned money of people through some fraudulent schemes.

CS Manoj Banthia, Past Chairman, ICSI-EIRC, was the guest speaker who in his address said that the Ponzi scheme usually entice new investors by offering higher returns than other investments, in the form of short-term returns that are either abnormally high or unusually consistent. An ever increasing flow of money from new investors is required to keep the scheme going. Once the investment slows down, the scheme collapses as the promoter starts having problem paying the promised returns.

He further said that the role of Company Secretary is very important in such cases as s/he will have to check that whether the different schemes of a company complies with the provisions of the Companies Act and following the guidelines of SEBI and RBI.

JAMSHEDPUR CHAPTER

Seminar on Companies Bill, 2012

On 16.3.2013, Jamshedpur Chapter of EIRC of the ICSI organized a Seminar on Companies Bill 2012 at Hotel Alcor. The Seminar was inaugurated by Bikash Mukherjee, MD Auto Profiles Ltd. and Adarsh Agarwal, MD Jamipol Ltd. The Seminar was divided into two technical sessions. Sanjay Gupta, Company Secretary from Kolkata shared his views in the first technical session. Deepak Khaitan, Company Secretary and Chairman Eastern India Regional Council of the ICSI from Kolkata addressed the second session. Over 150



persons attended the seminar. The speakers explained various aspects of the new Bill. It was informed that the process of drafting new Companies Bill started in the year 2008 by formation of Drafting Committee under the Chairmanship of Dr. J. J. Irani. Companies Bill, 2012 is meant to replace the existing Companies Act of 1956. The Companies Act, 1956, one of the most important legislations governing all companies in India is already 56 years old and deserves the retirement that the Bill proposes to give it. Companies Bill, 2012 is a vibrant initiative, a Bill which promises a better tomorrow in the form of increased investor participation and protection, tighter disclosure and fraud containment measures and a greener environment. The Government at one hand insisted on Corporate Social Responsibility by making 2% of average profit to be spent on CSR activity and on the other hand given more powers to SFIO (Serious Fraud Investigation Office). The Seminar was successfully organized by the Chapter and Rajesh Mittal, Pramod Singh, Sital Swain, Mona, Natarajan and others contributed a lot to make the seminar a grand success.

CS

» Northern India Regional Council

Study Circle Meeting on Companies Bill 2012

On 6.4.2013 at the Study Circle Meeting on Companies Bill 2012 (4th week) CS Vishal Lochan Aggarwal was the speaker. The 5th week was held on 12.4.2013 wherein CS Nesar Ahmad and CS H.S. Grover were the speakers. Again on 22.4.2013 at the Study Circle Meeting on Companies Bill, 2012 (6th Week), CS H.S. Grover was the speaker.

Vaishali Study Group Meeting on CENVAT Credit

On 13.4.2013 at the Vaishali Study Group Meeting on CENVAT Credit, Puneet Agrawal, Partner, Athena Law Associates was the speaker.

West Zone Study Group Meeting on Amendments in Service Tax (Finance Bill, 2013) & Opportunities of CS

On 20.4.2013 at the West Zone Study Group Meeting on Amendments in Service Tax (Finance Bill, 2013) & Opportunities of CS, CS Bimal Jain was the speaker.

East Zone Study Group Meeting on Section 138 of Negotiable Instruments Act

On 20.4.2013 at the East Zone Study Group Meeting on Section

138 of Negotiable Instruments Act, Parveen Jain, Advocate was the speaker.

North Zone Study Group Meeting on Employees' Retention Scheme – ESOP etc.

On 28.4.2013 at the North Zone Study Group Meeting on Employees' Retention Scheme – ESOP, etc. CS Uma Shanker Acharya was the speaker.

Meeting of Company Secretaries in Practice on Sustainability Reporting

On 29.4.2013 at the Meeting of Company Secretaries in Practice on Sustainability Reporting CS Nesar Ahmad was the speaker.

One Hundred and Seventy- fourth MSOP

On 2.4.2013 at the Inauguration of 174th MSOP, CS Lalit Jain was the Chief Guest. CS Vivek Agarwal was the Guest of Honour. On 19.4.2013 at the Valedictory session CS Dinesh K. Mittal was the Chief Guest and CS S. Prabhakar was the speaker.

Career Awareness Programmes

The Regional Council organised 26 Career Awareness Programmes during the month of April 2013 in various schools & colleges located in Delhi and surrounding areas. CS J K. Bareja, CS Manoj Sharma, CS Shiv Tyagi and Himanshu Sharma addressed in these Career Awareness Programmes. The students were apprised about the mode of registration in the course, syllabus, structure of the course and also the avenues available after completion of the Company Secretary ship Course both in employment and in practice.

One Hundred and Seventy-fifth MSOP

On 6.5.2013 NIRC-ICSI inaugurated its 175th MSOP at ICSI-NIRC Building, New Delhi. CS Subhash Setia, Company Secretary, DLF Ltd. was the Chief Guest on the occasion. The programme was inaugurated by the Chief Guest & Regional Council Members.

CS Avtaar Singh initiated the proceedings of the programme.

CS Vineet Chaudhary while addressing the participants said that approach of the participants is the key for making MSOP batch a success. He also emphasized on knowing ones strength and working on it. He said that participants should take full advantage of these 15 days.

CS Deepak Kukreja while delivering his address said that for next 15 days all the participants will be students but after the completion they will be treated as Members of ICSI. He said that Company Secretaries should not limit themselves to company law only and suggested them to diversify their area. He also suggested them to be updated.



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CS Subhash Setia while addressing the participants said that Knowledge is an asset of a Company Secretary. He congratulated the participants for completing the final examinations of the ICSI and joining Management Skills Orientation Programme. He said that CS plays a vital role in corporate world. He emphasized on maintaining cordial relations with Government authorities and other stakeholders. He motivated the participants by throwing light on new Companies Bill which will put Company Secretaries in the bracket of KMP i.e. Key Managerial Personnel of the company. He mentioned that one should leave the unnecessary things and should know what one exactly wanted to be. He also emphasized on the Role of Company Secretary in Good Governance. He said that everyone should do SWOT Analysis. He explained that Strengths & Weaknesses are internal whereas Opportunities & Threats are external. He mentioned that everyone should discover the Power within.

One day Seminar on Insurance Law - An Unexplored Saga

On 27.4.2013, NIRC-ICSI organized a one day seminar on Insurance Law - An Unexplored Saga at Gurgaon. S B Mathur, Former Chairman LIC was the Chief Guest and Rajesh Kandwal, Zonal Training Head, LIC was the Guest of Honour on the occasion. CS MG Jindal, Chairman NIRC-ICSI, CS Vineet Chaudhary, CS Dhananjay Shukla, CS Atul Mittal, CS Manish Gupta, CS Shyam Agarwal, other Regional Council Members and approximately 200 members were present at the inaugural function of the seminar.

Inaugural Session: CS Vineet Chaudhary anchored the inaugural session of the seminar. He said that the topic of the seminar is very apt and new. He informed that the focus of the seminar is on how Company Secretaries can be the part of the Insurance Sector.

CS MG Jindal in his address said that, IRDA has recently issued several notices to insurance companies for non-compliance, as a result of which heavy penalties have been levied. As, Company Secretaries are considered Compliance Officers of the company, they can play a vital role in the insurance companies for ensuring the various regulatory compliances and can also explore this new avenue as a great opportunity. At the end he expressed his concern that with the advent of new opportunities, there will be several challenges as well and Company Secretaries have to gear up to face these challenges.

CS Dhananjay Shukla introduced the theme of the seminar. He explained the importance of insurance sector in an economy and gave brief history of how insurance sector evolved in our country over decades. He then briefly informed about the coverage of the seminar.

CS Atul Mittal while addressing the gathering began by defining 'insurance' in layman's language. Later he explained the evolution of insurance sector in our country. He shared a brief history

starting from LIC monopoly, to the entrance of private players and the progress of regulatory reforms with the dawn of this sector.

Rajesh Kandwal made a very interesting and informative presentation and began by stating, "Insurance sector is a promising sector." He said that the insurance sector has the capability of reaching great heights and help social and economic growth. The insurance sector will become market worth of about rupees 17 Lakh crores by the year 2020. Therefore, with such a potential and promising market, for sure there will be a win-win situation for everyone in the professional world. He talked about the legal history of the insurance sector and also stated the latest improvements. He flaunted the accomplishments, and warned about the potential challenges in this dynamic sector.

S B Mathur, former Chairman, LIC shared his valuable experience and knowledge with the gathering. He, while sharing his experience said that Insurance is becoming an integral part of the modern way of life therefore the insurance sector is a flourishing sector. This sector is purely based on mutual relation. He further gave an introduction about the New Insurance Bill that has been amended to effectively respond to the dynamic environment. He mentioned that there is lot of synergy between the Profession of Company Secretaries and Insurance Sector. It needs their support in Compliance Management. He expressed hope that together Compliance structure can be improved by professionals.

CS Manish Gupta arranged the presentation of mementoes to the Best participants and Best Presenters of the 173rd & 174th Management Skills Orientation Programme.

First Technical Session: CS Rajiv Bajaj anchored the first technical session of the seminar.

CS Rajiv Mathur, Director Legal & Compliance and Company Secretary, Max Life Insurance, spoke on the topic "Evolution of Insurance and its impact on changing lifestyles: Regulations & Regulatory framework of Insurance in India" and gave a very effective presentation. He discussed the development and growth of Insurance Industry in India. He talked about the parallel changes in external environment, consumer preference and products offered, during the period of transition from government monopoly to privatization of this sector. He discussed the different phases of Insurance Industry in India. He further talked about the nature of insurance business in our country and compared it with the rest of the world. At the end, he informed about the regulatory framework governing life insurance in India.

Rajeev Nair, Director, Country Counsel - India, Hewlett-Packard, spoke on the topic "Life Insurance-Issues & Prospects". In his address he analyzed the responsibility of legal professionals to strike a balance between the business norms, law and the regulatory authorities. He emphasized that, organizations should be more principle based than rule based.



Puneet Gupta, Regional Head Royal Sundaram Alliance Insurance Co. Ltd., spoke on the topic "General Insurance - Issues & Prospects". He covered the General Insurance Sector and discussed about the various types General Insurance, Nature of General Insurance and the various laws applicable to it. He discussed in detail motor insurance.

Second Technical Session: CS Ranjeet Pandey anchored the second technical session of the seminar.

CS Ravi Bhadani, Director Legal & Compliance & Company Secretary, Aviva Life Insurance Company India Ltd., spoke on the topic "Professional Opportunities for Company Secretaries under Insurance Laws". While addressing the gathering he first discussed the various regulations which an insurance company has to comply with. He then discussed the professional opportunities for Company Secretaries in this sector. He mentioned that a Company Secretary can play an important role in Corporate Governance, Managing Regulatory Risk and provide support to the Business. He also mentioned that maintenance of the regulatory relationship and managing Regulatory changes is must in insurance sector and in which Company Secretaries are considered to be experts.

CS Anuj Mathur, CFO & Company Secretary, Canara HSBC OBC Life Insurance Company Ltd., spoke on the topic "Governance Framework, reporting & risk management under Insurance Law-system & procedures". He said that good governance is a key for success. He discussed about corporate governance and its importance in insurance industry. He also discussed IRDA Corporate Governance Guidelines. He said that insurance is all about risk management and discussed risk management framework and key risks for insurance companies.

CHANDIGARH CHAPTER Times Education Boutique 2013

On 11 and 12.5.2013 the Chapter participated in Times Education Boutique 2013, the Career Fair organised by Education Times (Times of India) at Chandigarh. A good number of students and parents visited the ICSI stall arranged by the Chapter. Chapter Chairman CS Mukesh Sharma, Secretary Vishawjeet Gupta and CS K.V. Singhal, Member of the Chapter along with Chapter staff interacted with the students and parents and informed them about the admission procedure in CS Course, syllabus/structure of the course, detailed procedure of registration, cut off dates for admission, fee structure, the procedure for appearing in examinations and also the avenues available after completion of the CS course both in employment as well as in practice. Pamphlets explaining career in company secretary ship were also distributed to the students. They also highlighted the career prospects of a company secretary. The queries of the students/parents were also replied by them. They were also informed to contact the Chapter Office/Website of the ICSI for more information

about the CS course. CDs explaining Career as a Company Secretary were also screened/displayed at the ICSI stall.

Investor Awareness Programme on Fundamentals of Investment Management

On 26.3.2013 the Chapter organised an Investor Awareness Programme on Fundamentals of Investment Management. V.S. Karthikeyan, DGM, Corporation Bank and Dr. A.K. Vashist, Chairman, University Business School, Panjab University, Chandigarh and Rinkoo Vashist, Sr. Manager, Master Trusts Ltd., Chandigarh were the key speakers.

Dr.A.K. Vashist explained various intricacies regarding the safe investment in today's financial and business scenario. Rinkoo Vashist explained the things to be kept in mind while making investments in securities, gold etc. The session was very interactive and educative. Both the speakers then replied the queries raised by the participants.

V.S. Karthikeyan, Chief Guest of the seminar explained the investment opportunities in banks and also guided the participants in a cogent manner.

Vishawjeet Gupta, Chapter Secretary coordinated the programme.

Study Circle Meeting on Excelling in 21st Century

On 27.4.2013 the Chapter organised a Study Circle Meeting on Excelling in 21st Century at GGDS College, Chandigarh. Key speaker Gursharan Singh, Director of True Success Management Consultants Pvt. Ltd. and a great motivator explained the ways to get success in 21st century in professional as well as personal life. He motivated the members and students with various techniques and made them aware about the various techniques of getting success. He then replied the queries raised by the participants.

CS Vishwjeet Gupta, Chapter Secretary coordinated the meeting. A Good Number of members and students attended the meeting.

Career Awareness Programme

On 2.4.2013, the Chapter organised a Career Awareness Programme at Law College, Swami Devi Dayal Group of Professional Institutions, Golpura Village, Panchkula Dist. for the students of Law stream. CS Vishwajeet Gupta and Nishi Gupta along with Chapter staff highlighted the future prospects of the CS profession. The students were also informed about the mode of registration in the course, fee structure, eligibility criteria for admission and the avenues available to the profession both in employment and in practice. The brochure, pamphlets explaining company secretary course were also distributed to the students. More than 100 students along with the staff of the college participated in the programme. The queries raised by the students



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were replied by CS Vishawjeet Gupta and Chapter staff.

JAIPUR CHAPTER

Inauguration of Mini Conference Hall

On 18.03.2013 Rajiv Arora, Minister of State, Govt. of Rajasthan, Shyam Agrawal, Vice Chairman – NIRC, Anshul Jain, Chairman, Jaipur Chapter, Vimal Gupta, Vice Chairman and Girish Goyal, Secretary inaugurated the renovated newly built Mini Conference Room situated at the Chapter premises. Rajiv Arora emphasized on the increasing importance and responsibility of professional of nation and society. Shyam Agrawal put on record the appreciation of Jaipur Chapter for construction of Managing Committee cum Conference Room at the era of corporate culture and congratulated Anshul Jain and his team for such remarkable work.

Anshul Jain, Chapter Chairman, informed that looking to the new face lift being given to the Chapter building the new Managing Committee cum Conference Room would prove a milestone to the growth story of Jaipur Chapter and expectations of members, staff and students would be fulfilled after completion of all the phases of the building of the Jaipur Chapter.

Investor Awareness Programmes

On 17, 23 and 29.3.2013 the Chapter organized 3 Investor Awareness Programmes at Chaksu, Bikaner & Sikar respectively. In these programmes the Investors were informed about latest scenario in Securities Market and also apprised about the step taken by various government bodies to protect the interest of the Investor. The speakers from Industry gave details on various avenues available for making secured Investment of money and reap the best returns from market. Investor Education Booklet and other study material were also distributed among those present free of cost.

CSBF - Holi Splash

On 30.03.2013 the Chapter organized a CSBF Holi Splash at Chapter Premises to promote the membership of CSBF. The Programme began with Tilak Holi. In the programme Managing Committee of Jaipur Chapter, MSOP Participants and other professional members participated. During the Programme a request was made to non-members of CSBF to become members of the benevolent fund and donate generously for the noble cause.

Career Fair

On 2.4.2013 the ICSI Jaipur Chapter participated in the Career Fair at Mahaveer College of Commerce Jaipur. The Fair attracted a good number of students and visitors. A good majority of visitors visited the ICSI stall and sought information about the CS course and prospects of the profession. The participants of the fair were apprised about the profession, time period of the Course, role of a CS, fee structure, syllabus, Cut off dates, and opportunities available to the profession. The details of various schemes and fee

concession for economically backward students, viz. 'Education Student Fund Trust' and fee concession for SC/ST/Physically challenged students were also explained. The academic facility available to the students in the form of Oral Coaching Classes in Chapter was also informed.

Study Circle Meeting

On 17.4.2013 a Study Circle Meeting was organized on MCA Portal Working. Members present discussed the current scenario of MCA portal and the difficulties being faced by them.

LUCKNOW CHAPTER

On 25.5.2013 The Chapter conducted a Seminar on Patentability of Scientific Inventions at Lucknow. Chief Guest Hon'ble Justice Vishnu Sahai inaugurated the seminar. The programme was also presided over by eminent guests Prof P.K.Seth, CEO, Biotechnology Park, Lucknow, S.P.Singh, Principal, National PG College and Chief Speaker CS R.K.Porwal, Past Chairman, Lucknow Chapter of NIRC of the ICSI. Justice Vishnu Sahai, speaking on the occasion said that the topic chosen for the day is the topic of cognition. Any invention invented for the usefulness of society needs to be patented, so that the inventor gets the absolute right to exclude others from profiting from his invention for a limited period of time, once the patent is granted then it becomes the personal property of the inventor. Public has the right to use/sell the invention only after it gets expired. He further said that deliberations on this topic can go on for hours; and said that the chief speaker will throw more light on the topic. He added that he has been thoroughly following the profession of Company Secretaries and said that in future this is the only profession which will continue to light the lamp of prospects in the corporate world. He was further elated to see so many students keen to know about the subjects.

Dr. P.K.Seth, said that the topic Patentability of Scientific Inventions is an important topic in today's world. He said that Patents are of 3 types 1) Design Patents 2) Plant Patents 3) Utility Patents. Design patents are granted to protect a unique appearance or design of an article of manufacture, whether it is surface ornamentation or the overall configuration of an object. Plant patents are granted for the invention and asexual reproduction of a new and distinct variety of plant, including mutants and hybrids. Utility patents are perhaps the most familiar, applying to machines, chemicals, and processes. India is a part of the global community that seeks to establish an equitable and extensive framework of intellectual property rights protection. Intellectual property right protection applies to those properties which are intangible in nature and this protection is applicable in the form of patents, trademarks, copyrights and trade secrets etc. This intellectual property right protection granted to a biotechnological invention, being the subject matter of the intellectual property may be in the form of patent protection having great importance and value commercially. He further deliberated on patents of Novartis, Turmeric and Neem. He congratulated Management of Lucknow



Chapter for conducting the seminar on such a relevant topic.

S.P.Singh, Principal, National PG College, Lucknow while dealing with the topic of the day, said that the word Company Secretary itself is an invention and should be patented with unlimited period, as this is one profession where growth cannot be constrained with parameter called recession. Technical Session on Patentability of Scientific Inventions was taken by CS R.K.Porwal. The session was very interactive and the participants were very much enlightened by the way the topic was deliberated.

Times Education Boutique 2013

On 27 and 28.4.2013 Lucknow Chapter of NIRC of the ICSI participated in Times Education Boutique 2013 at Hotel Taj Residency. There were around 39 participants from various places who had put up their stalls in the career fair. The Chapter decorated the stall with Banners of ICSI, posters, pamphlets, standee and a visitor book. The stall was managed by Maitreya, SM Tiwari and Sushil Bhasin. On the first day apart from the normal visitors, students from Delhi Public School, Kanpur visited the career fair, who were informed about the prospects of the CS profession. Those present were given pamphlet of CS, along with information about the admission procedure and course fees. The teachers of the Delhi Public School were also informed about the CS Course with a request to convey about it to those students who were unable to participate in the fair.

On the second day there were students from Udaya School, faizabad apart from other visitors, all the visitors who visited the fair were given the pamphlets of CS Course. CS Anuj Tiwari, Chapter Secretary, visited the stall and interacted with students and parents present and told them about the prospects of the profession, admission procedure of Company Secretary Course, etc. There were around 160 visitors who visited the ICSI stall during the career fair.

CS

» Southern India Regional Council

Participation in the Dinakaran Magazine's Education Expo 2013

From 12 to 14.4.2013 the ICSI – SIRC participated in the 'Education Expo – 2013', an education fair organized by the 'Dinakaran' magazine at Chennai Trade Centre, Chennai. Around 750 people visited the ICSI stall and around 100 students registered for getting more information about the CS course. Pamphlets explaining the CS course were distributed to the visitors of the stall. Dr.V.Balaji, AEO and C Murugan, Assistant were at the stall during the fair and disseminated information about the CS course to the students.

Valedictory Session of 15th Management Skills Orientation Programme (MSOP)

On 5.4.2013 V Raghu, Executive Director, Repco Home Finance Limited, Chennai was the Chief Guest for the valedictory session of the 15th batch of MSOP of ICSI – SIRC. In his special address, CS Dwarakanath C, Chairman, ICSI – SIRC congratulated the participants and highlighted the enhanced scope for the company secretaries in the Companies Bill 2012. He opined that company secretary is no longer only the compliance officer of the company, but will also be a key managerial personnel, in the new Companies Bill. He advised the participants that getting membership is not an end, but a beginning in itself to be updated with various laws. He invited the participants to participate in the professional development programmes and also enroll as question paper setter and evaluator for the CS examinations. While concluding, the Chairman requested the participants to conduct career awareness programmes in the schools and colleges where they had studied.

In his address, V Raghu advised the participants to show the same determination made during studying in executing the professional work also. Raghu affirmed that Company Secretary is the backbone of an organization and the guardian of good governance practice. He opined that organizations have to comply with various compliances and regulations and Company Secretaries are best suited for the role. Raghu, while speaking on the ethics on discharging the duties, advised the participants to be honest and responsible. He also advised the participants to improve their communication skills and be positive. He concluded by saying that the CS should be truthful to themselves, employers and stakeholders. The participation certificates were distributed by the dignitaries and feedback about the MSOP was also received from them.

CS Ramasubramaniam C, Treasurer, ICSI-SIRC in his address, congratulated the participants and invited them to attend the professional development programmes of the institute and stressed on the need to be the members of CSBF.

Investor Awareness Programmes

The ICSI – SIRC organized Investor Awareness Programmes at the following educational institutes. These Investor Awareness Programmes were sponsored by the Ministry of Corporate Affairs, Government of India.

On 10.4.2013 the Regional Council organised the Investor Awareness Programmes at the following educational institutes: Department of Business Administration, SRM University, Kaatankulathur, Kanchipuram District. The speaker was A R Vasudevan, Regional Manager, Central Depository Services India Limited, Chennai. Dr. V. Balaji, AEO, was the Institute representative.



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Study Circle Meeting on An Analysis of Minority Rights under Section 397 and 398 of the Companies Act

On 5.4.2013 at the Study Circle Meeting on the above topic CS R Rajesh, Advocate addressed the members on the minority rights under sections 397 and 398 of the Companies Act. In his address, Rajesh explained as to how the share qualification was relevant only at the time of institution of the proceedings and the fact that the petitioners ceased to be shareholders did not affect the maintainability of the petition. He also explained the members that in one case, the Supreme Court held that it would be wrong to insist that the names of the legal representatives or heirs of the deceased be first put on the register before they can move an application under sections 397 and 398. He opined that this would defeat the very purpose or the necessity of the action. He said that the legal representatives of a deceased member whose name is still on the register of members are entitled to file a petition under sections 397 and 398.

The speaker also explained the provisions of Article 137 of the Limitation Act 1963 which will apply to make a petition under section 397/398 and reference to events of mismanagement or oppression that happened three years or more before the date of the filing of the petition will be barred. Rajesh quoted several cases and examples to narrate sections 397 and 398. The members actively interacted with the speaker.

Study Circle Meeting on Overview and Compliance Management on Labour Laws

On 19.4.2013 R Jayaprakash, Advocate presented the members an Overview and Compliance Management on Labour Laws. The speaker focused on the various laws pertaining to the labours. While focusing on The Trade Unions Act of 1926, he said that it is an Act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions. He also narrated about the advantages and disadvantages of registering and not registering the trade unions. Jayaprakash also spoke elaborately on Industrial Employment (Standing Orders) Act, 1946, Industrial Disputes Act, 1947, Factories Act, 1948, The Mines Act, 1952, The Plantation Act, 1951, The Motor Transport Workers Act, 1961 and Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981.

One Day Seminar on Corporate Laws

On 27.4.2013 the ICSI-SIRC organized a one day seminar on Corporate Laws at ICSI- SIRC House, Chennai. The speaker of the first session, CS Srinivasan S, Company Secretary in Practice spoke on Corporate Insolvency Laws. He explained the

term insolvency as a state of financial distress and a financial condition when an individual or corporation or other organization cannot meet the liabilities as and when they are due. The speaker opined that the main reasons for the insolvency are incorrect strategy and investment decisions, high fixed cost, insufficient liquidity, management conflicts and general economic crisis. He briefed the delegates with the history of insolvency laws in India and the various committees formulated by the Government to look into the insolvency laws. CS Srinivasan also elaborated the members on the CDR mechanism.

The speaker of the second session was K Neethiragavan, General Manager, Foreign Exchange Department, Reserve Bank of India, Chennai speaking on Foreign Direct Investments – Compounding under FEMA, explained that contravention is the breach of the provisions of the FEMA and compounding is the process of voluntarily admitting the contravention, pleading guilty and seeking redressal. The speaker also explained the procedure for applying of compounding and explained the various contraventions, viz. technical, material and sensitive contraventions.

The speaker of the third session, CS Dhanapal S, PCS, Chennai spoke on Enforcement mechanism and Amalgamations & Demergers under the Companies Bill 2012. He, at the outset, informed that the Companies Bill, 2012 brings out the real essence of enforcement by giving statutory recognition to the Serious Fraud Investigation Office and giving them power to arrest under the Companies Bill itself without having to invoke the provisions of other legislations. He further narrated that Clause 447 is a new provision introduced in the Companies Bill 2012 which for the first time defines the term “Fraud” and provides for stringent penalty if fraud is proved. He also narrated the effect of the above clause. CS Dhanapal also focused elaborately on the steps involved in effecting a scheme of merger and demerger. He made an extensive comparison between the provisions relating to amalgamations and demergers under the Companies Act 1956 and Companies Bill 2012.

To highlight the members about the impact of stress on health and to overcome stress, the last session was addressed by Dr. BR Desikachari, an eminent consultant in age management and stress relief along with his associate Dr. Manu Pradeesh. Dr. Desikachari highlighted the reasons and various types of stress. He also voiced his concern that more youth are approaching the medicos to get relief under stress. Dr. Manu Pradeesh narrated some simple exercises to overcome stress. In all the sessions, the members actively interacted with the speakers. The seminar concluded with the summing up of the whole day proceedings.

BANGALORE CHAPTER

Participation of the Chapter in Times Education Boutique-2013

On 11 and 12.5.2013 the Chapter participated in Times Education



Boutique-2013 held at Hotel Lalit Ashok, Bangalore. It was an immense opportunity to disseminate the information about the profession of company secretary. The event was professionally well organized by the Times of India. The Chapter set up the ICSI stall on both days of the fair and ICSI Banner, Mounted Posters, Brochures & Pamphlets about the course, prospectus of CS Foundation and Executive Programmes, Chartered Secretary and Student Company Secretary Bulletin etc. were displayed at the stall. Sreejith.P, Desk Officer, Bangalore Chapter of SIRC of ICSI along with other staff represented and managed the stall on both the days.

CS M Manjunatha Reddy, Chairman, CS S C Sharada, Vice-Chairperson and CS Hari Babu Thota, Treasurer, of the Chapter also visited the stall and contributed their time by interacting with the visitors to the stall and guided them about the potential and tremendous opportunities of the CS profession present and also shared their corporate experience motivating them to join the CS course. Around 1500 students visited the said Education Fair on both the days. There was a good turn out to the stall of ICSI. The Times Fair was widely promoted through advertisements in most of the leading newspapers at Bangalore. There was a good response due to the result announcement of 10+2 examinations of CBSE, ICSE and state syllabus students. Students who visited the fair expressed high curiosity to choose their best career which gave us an opportunity to create awareness about the potential of CS course with very lesser fee as compared to other courses. The ICSI stall was decorated professionally and the pamphlets of the CS course were distributed to the students. About CS course, admission procedures, cut-off dates, important role of Company Secretary in the changing economic scenario, exposure in the CS career, attractive salary packages in the industry and opportunities in employment and in practice were explained to the students and also stressed that the company secretaries course is one of the most economical and job oriented course. The new syllabus and new examination pattern for CS Foundation Programme were highlighted during the programme.

The details of availabilities of various schemes and fee concession for economically backward students and academically bright students, viz. Education Student Fund Trust Scheme and fee concession for SC/ST and physically handicapped students were informed during the programme. The academic facility available to the students in the form of Oral Coaching Classes at Chapter and ICSI-e-learning facilities were also informed. The CDs on "Career as a Company Secretary" were also screened/displayed at the stall.

Students participated to the programme showed keen interest and inclination towards CS course. A large number of students, parents and youth have benefited from this programme. The visitors at the ICSI stall were convinced about the course, making them fully contented, for the two whole days.

COIMBATORE CHAPTER

Get together at Kovai Kondattam

The Strength of the profession lies in joint efforts and togetherness. Members are one of the strongest forces for development of the profession and the Chapter. Coimbatore Chapter of SIRC of the ICSI has always facilitated members in best possible ways and has ensured to create togetherness among members. With the development of the profession and existing corporate dynamism it has become imperative for members to relax to grow in the profession. As the quote states "Your Mind will answer most questions if you learn to relax and wait for the answer". With the same intention the Chapter organized a get together at Kovai Kondattam a theme park in Coimbatore on 21.4.2013. More than 56 Members including their spouse and Children enjoyed the day at the theme Park.

Joint Programme on Companies Bill 2012 and Corporate Governance

On 21.4.2013 the Chapter along with the Chapter of the Institute of Cost Accountants of India organized a seminar on Companies Bill and Corporate Governance. More than 19 members attended the expert session on topic deliberated by Dr. P.V.S. Jagan Mohan Rao, past President the ICSI.

HYDERABAD CHAPTER

Talk on New Avenues for Professionals – Competition Law

On 6.4.2013 the Chapter in association with Hyderabad Chapter of Cost Accountants organized an evening talk on New Avenues for Professionals – Competition Law at Vasavi Auditorium. Sundari Pasupati, Corporate Advocate, Tempus Law Associates, Yogender Chaudhary, Advisor Law from Competition Commission of India, New Delhi were the speakers who briefed the gathering about the new regime brought forth by the Competition Act, 2002 with highlights on Merger control, Abuse of Dominant Position, Anti – Competitive Agreements, drafting of various long term contracts from competitive Law perspective followed by an interactive and lively discussion on new avenues for professionals under the competition law between the speakers and members present.

Talk on Companies Bill 2012 - Corporate Governance - Management and Bhagavad Gita

On 10.4.2013 the Chapter organised a Talk on Companies Bill 2012 - Corporate Governance - Management and Bhagavad Gita, jointly with The Federation of Andhra Pradesh Chambers of Commerce & Industry (FAPCCI), Hyderabad Chapter of Cost Accountants, Hyderabad Chapter of Chartered Accountants and Hyderabad Management Association at KLN Prasad Auditorium, FAPCCI, Hyderabad.



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CS R. Ramakrishna Gupta, Chairman of The ICSI-Hyderabad Chapter in his address dealt with the highlights of the Companies Bill, 2012 and the advantages. Devendra Surana, President, FAPCCI stated that Corporate Governance is a new word which is nothing but transparency, how the company is working, the decision making, equitable treatment of shareholders and the disclosures. Dr. P.V.S. Jagan Mohan Rao, Past President, The ICSI and Central Council Member of the Institute of Cost Accountants of India, detailed the Companies Bill, 2012 and Bhagavad Gita's relevance to the Corporate Governance while linking to various portions of Bhagavad Gita to the Corporate Affairs as under: The management is a process of aligning people and getting them committed to work for a common goal to the maximum social benefit - in search of excellence. The critical question in all managers' minds is how to be effective in their job. The answer to this fundamental question is found in the Bhagavad Gita, which repeatedly proclaims that "you must try to manage yourself". The Bhagavad Gita, written thousands of years ago, enlightens us on all managerial techniques leading us towards a harmonious and blissful state of affairs in place of the conflict, tensions, poor productivity and absence of motivation and so on, common in most of Indian enterprises today – and probably in enterprises in many other countries. CA Laxmi Nivas Sharma, Past President, FAPCCI and CCM-ICAI shared his experience that the proposals in Budget for simplification of tax laws, always leads to complexities. V.S. Raju, Advocate & Past President - FAPCCI gave a detailed power point presentation comparing Companies Act, 1956 and Companies Bill, 2012 on Mergers, Amalgamations, Takeovers and Valuations.

Chief Guest, Narendra Kumar Bhola, Regional Director, South East Region, Ministry of Corporate Affairs, Government of India said the new Bill will reduce the complexities in the current Companies Act, 1956.

MANGALORE CHAPTER

Full Day Programme on Companies Bill, 2012 vis a vis Companies Act, 1956 and Analysis on New Schedules of Companies Bill, 2012

On 6.4.2013 the Chapter conducted the above programme at Kodialbail, Mangalore. A total of 27 delegates registered for the programme. There were four technical sessions. The topics on Companies Bill 2012 vis a vis Companies Act, 1956 and Analysis on New Schedules of Companies Bill 2012 presented by CS Ahalada Rao, V, Practising Company Secretary, Hyderabad & Director – B 5 Consulting Pvt. Ltd., Hyderabad was appreciated by the delegates present at the seminar. The other topics covered were Review of Recent Changes in Service Tax by CS Chethan Nayak K, Company Secretary, Mangalore and spiritual talk on the topic Art of Stress Management by Karunya Sagar Dasa, President, ISKCON.

THRISSUR CHAPTER

Career Awareness Programme

The Chapter in association with NSS Karayogam, Kanimangalam, Thrissur organized a career awareness programme for students in and around Kanimangalam, Thrissur. CS Jacson David, Managing Committee Member was the pilot faculty. Krishnakumar Menon, Chapter Executive coordinated the function.

Investor Awareness Programme

On 28.4.2013 the Chapter in association with NSS Karayogam, Kanimangalam, Thrissur, under the auspices of Investor Education and Protection Fund (IEPF) of the Ministry of Corporate Affairs organized an Investor Awareness Programme at Kanimangalam, Thrissur. CS Vasudevan M inaugurated the programme and CS Jacson David, Practising Company Secretary was the faculty for the programme. Krishnakumar Menon, Chapter Executive coordinated the function.

Western India Regional Council

Welcome to new RD(MCA), Western Region

On 28.4.2013 Company Secretaries young and old, renowned and budding members had flocked the Andheri Study circle meeting to welcome Mahesh Kuvadia who has taken over from Millath who left on superannuation. "Mahesh Kuvadia is no stranger to the Western Region. He has served in various capacities at Ahmedabad, Nagpur and Mumbai and has endeared the members of the profession by his forthright approach and helpful attitude. He has actively participated by delivering lectures to students at MSOP, and at various other programmes of the Institute of Company Secretaries of India in the Western Region including the investor awareness programmes" said Suresh Thakur Desai Past Chairman of the WIRC of the ICSI. Earlier, Kaushik Jhaveri, Convenor welcomed and described various achievements and career growth of Mahesh Kuvadia.

Atul Mehta, Chairman, Capital Markets Committee of the Central Council of the ICSI honoured Mahesh Kuvadia on his taking over as the Regional Director, MCA of Western Region. He appreciated the initiative taken by Kaushik Jhaveri not only in making the Andheri Study Circle vibrant and active but also by organizing cricket matches with MCA officials for 4 years. This highly popular sports activity was initiated with the help of Mahesh Kuvadia he added.

Mahesh Kuvadia, Regional Director discussed with the members the care that should be taken while making a petition for the



compounding of various offences. Members appreciated his way of ensuring floor participation and inviting the views of professional on intriguing matters. He also dealt with the approach taken by his office in regard to the petitions made for shifting of registered office outside the state or within the state but falling in the jurisdiction of different ROC within the same state. He explained the role of MCA in petitions filed for merger and amalgamation and while granting prior approval for contracts of sales of goods and services under Section 297 of the Act.

AHMEDABAD CHAPTER

Workshop on Case Studies on FEMA

On 11.5.2013 the Ahmedabad Chapter of WIRC of the ICSI organized a Workshop on Case Studies on FEMA at ATMA Hall, Ahmedabad. The workshop got overwhelming response by active participation of 120 CS members. CA Hiren D. Shah was the faculty for the workshop. The opening session of the Seminar was addressed by CS Rutul J. Shukla, Chairman - PDC Committee, Ahmedabad Chapter highlighting the importance of the Subject for CS Members in practice as well as in employment. CS Chetan Patel, Chairman – Ahmedabad Chapter briefed the members about various initiatives of Ahmedabad Chapter in terms of number and quality of programs, study circles, career awareness, investors education programme, students training, placement conducted or to be conducted by the Chapter, etc. The entire Workshop was based on the practical Case Studies only which were circulated to all the members well in advance. The Case Studies contained various important procedural, practical and structuring aspects pertaining to FEMA which were of immense benefit to the participants. The faculty made an in-depth discussion and analysis on the fundamentals of the FEMA along with the Case Studies. The session became interesting with the active participation of the members. The Workshop was a great success.

8th Management Skills Orientation Programme

From 8.3.2013 to 22.3.2013 the Chapter organized its 8th Management Skills Orientation Programme at its premises. Justice Ravi Tripathi, Chairman, inaugurated the seminar. Annal Satyawadi, Member, The ICSI and Shruti Parikh were appointed as Co-coordinators for the 8th MSOP Batch. 49 participants who came from the state of Gujarat, Ahmedabad and other parts of India were present at the MSOP.

During the MSOP, a galaxy of faculties including senior Company Secretaries delivered lecture on various topics as per training guidelines of the ICSI. The participants cherished and benefited from the knowledge of practical experiences of the seniors.

On 12.3.2013 a visit to High Court, Ahmedabad, was arranged for all the participants and on 16.3.2013 the mock Board Meetings were held in the Board Room of the Companies like Dishman

Pharmaceuticals Ltd, and Gujarat Ambuja Exports Ltd. Adani Group of Companies Ahmedabad. The participants also gave Project Presentation on various topics which enabled them to come out with their own ideas, views, presentation skills and knowledge.

The Valedictory Session was held in presence of Chief Guest CS Prakash Nayak, Vice President, Kotak Mahendra Bank. Best Participant award went to Monika Jindal and “Best Project Presentation” went to the Group comprising Devika Chauhan, Brajesh Gupta, Monali Patel, Sneha Shah, Himanshu Parmar, Greta Rupapara, Tapas Ruparelia for project presentation on “Merger and Amalgamation”.

Times Boutique 2013 Education Fair

On 6 and 7.4.2013 the Times Boutique Education Fair – ASIA's Largest Education and Career Fair was organized at Rajpath Club, Ahmedabad. The office staff. Navin Dongre and Rohit Khunt were present to guide and to manage the crowd. They put their efforts to make the event a grand success and prospective. The Chairman Ahmedabad Chapter of WIRC of the ICSI, CS Chetan Patel also visited the stall and briefed the visitors about Company Secretary Course. More than 250 students and parents visited the ICSI Stall for enquiry about CS Course and its utility. The queries about the CS course were replied satisfactorily. The Company Secretary ship course was presented as one of the best career options. They were briefed about the benefits of CS course being a distance learning programme. The Brochures were circulated to the visitors of the fair. The fair was fruitful in building the brand image and propagating the importance and awareness of CS Programmes to all.

Study Circle Meeting on Various Aspects and Prospects of SME Listing with BSE

On 6.4.2013 the Chapter organized a Study Circle Meeting which was inaugurated by CS Rohit Dudhela, Chairman, PCS Committee in presence of CS Chetan Patel, Chairman, Ahmedabad Chapter of WIRC of the ICSI. CS Arvind Gaudana addressed on “Various Aspects and Prospects of SME Listing with BSE”. He viewed that with BSE extending listing facilities on its platform to SME Units, there is tremendous scope for financially strong SME Units to make entry on to the Stock Exchange Platform which is less time consuming and inexpensive. Even Government of India has framed a special policy to encourage SME Units to cater to their needs of additional finance through this platform. Dealing with work related to SME Listing and thereafter has opened up additional avenues of professional work for Company Secretaries. To understand and discuss in detail the integrity of SME Listing with BSE, the study circle meeting was arranged on the aforesaid topic. The study circle session was attended by 103 Company Secretary Members who were allotted 01 PCH.



News From the Institute & Regions

Study Circle Meeting on Provisions related to Cost Audit and Cost Compliance Report under the Companies Act, 1956

On 13.4.2013 the Chapter organized a Study Circle Meeting on the above topic. CS Rohit Dudhela, Chairman PCS Committee inaugurated the seminar in presence of CS Chetan Patel – Chairman, Ahmedabad Chapter of WIRC of the ICSI. The session in Study Circle Meeting was taken by CS and CMA Rajendra Patel, a practicing Cost Accountant who addressed on Provisions related to Cost Audit and Cost Compliance Report under the Companies Act, 1956. With growth in manufacturing sector and maintenance of cost records and the audit has become a necessity in the current industrial scenario for corporate world. The topic was deliberated to understand and discuss in detail the integrity of maintenance of cost records, its audit and filing of cost compliance report under the relevant provisions of the Companies Act, 1956. The study circle session was attended by 72 Company Secretaries who were allotted 01 PCH.

Study Circle Meeting on Provisions related to Winding up under the Companies Act, 1956

On 20.4.2013 the Chapter organized a Study Circle Meeting on the above topic which was inaugurated by CS Rohit Dudhela, Chairman, PCS Committee, Ahmedabad Chapter of WIRC of ICSI. The session was taken by CS Dilip N Motwani, a Practising Company Secretary, on Provisions related to Winding Up under the Companies Act, 1956. The session was deliberated to understand and discuss in detail the integrity of the relevant provisions with regard to winding up of a Company under the Companies Act, 1956. The study circle session was attended by 68 Company Secretaries who were allotted 01 PCH.

Investor Awareness Programmes

On 26.1.2013 an Investor Awareness Programme was held at Shyamal Cross Road, Satellite, Ahmedabad. CS Yamal Vyas, CS Naveen Mandovara were the speakers. On 14.3.2013 the programme was held at Vatava. CS Naveen Mandovara, CS Manohar Maheshwar were the speakers and at Tarapur, Anand, Ahmedabad CS Naveen Mandovara was the speaker. On 16.3.2013 the Investor Awareness Programmes were held at Bhiloda and Himatnagar, Ahmedabad. CS Yamal Vyas, CS Naveen Mandovara were the speakers. On 17.3.2013 an Investor Awareness Programme was held at Club 7 Leisure Pvt. Ltd. CS Yamal Vyas and CS Chetan Patel were the speakers. On the same day one more Investor Awareness Programme by CS Rajesh Tarpara, Chapter Secretary was held at Junnagarh. Ex Sarpanch Mohanbhai Undhad, Teacher High School, Govindbhai Usdhad, Retired Teacher High School, Rambhai Sardana, Principal Ranpur High School KV Satani were the speakers. On

23.3.2013 an Investor Awareness Programme held at Seva Samiti, Ahmedabad CS Yamal Vyas, CS Naveen Mandovara, Deputy ROC MK Sahu were the speakers. On 24.3.2013 the Investor Awareness Programme by CS Rajesh Tarpara was held at Junagarh, Ahmedabad. PV Davriya, Advocate, SF Ramani, Advocate, PJ Dobariya, Doctor BHMS, Vipull Gajera and Investors were the speakers. On 30.3.2013 at the Investor Awareness Programme CS Yamal Vyas, CS Rakesh Ghuwale Wala were the speakers. Around 1000 participants taken together attended the above programmes.

PUNE CHAPTER

Study Circle Meeting on Latest Amendments in SEBI & Securities Regulations

On 6.4.2013 the Chapter organized a study Circle Meeting on Latest Amendments in SEBI and Securities Regulations at MMCC Auditorium, Pune. CS Sarang Deshpande was the faculty for the seminar. Ninety-three members attended the programme. The technical session was very informative & appreciated by the gathering at large. One (1) PCH was allotted to members who attended the programme.


Study Circle Meeting on Taxation Aspects of Issue, Transfer, Buy Back of Securities & Related Party Transactions

On 13.4.2013 the Chapter organized a Study Circle Meeting on Taxation Aspects of Issue, Transfer, Buy Back of Securities & Related Party Transactions at Dnyanganga College of Education, Pune. CA Chintamani Deshpande was the faculty of the seminar. In total 83 members attended the programme. The technical session was very informative and appreciated by the gathering at large. One (1) PCH was allotted to members who attended this programme.

Study Circle Meeting on Local Body Tax

On 20.4.2013 the Chapter organized a Study Circle Meeting on Local Body Tax at Akurdi, Pune. Adv Govind Patwardhan was the eminent faculty for the seminar. In total 28 members attended the programme. The technical session was very informative & appreciated by the gathering at large. One (1) PCH was allotted to members who attended the programme.

Study Circle Meeting on Contract Labour Act – Practical Aspects

On 27.4.2013 the Chapter organized a Study Circle Meeting on Contract Labour Act - Practical Aspects at Pune. CS Amit Kulkarni was the eminent faculty for the seminar. In total 33 members attended the programme. The technical session was very informative and appreciated by the gathering at large. One (1) PCH was allotted to members who attended the programme. 



ICSI - CCGRT

Release of ICSI-CCGRT's Corporate Governance Newsletter

On 26.4.2013 ICSI-CCGRT released its maiden Corporate Governance Newsletter by Ashish Chauhan, MD & CEO, BSE in the presence of Consul General and Trade Commissioner, Gavin Young from New Zealand, President-ICSI, S N Ananthasubramanian, Chairman - CCGRT Management Committee, Umesh Ved, Council Member & Chairman, Capital Markets Committee - ICSI, Atul Mehta, CFO - ANZ Bank, Tushar Patankar and other dignitaries at its auditorium in CBD Belapur, Navi Mumbai.

This initiative of CCGRT is an attempt towards creating awareness about Regulatory Aspects of Corporate Governance, report latest updates and news in this area, publishing reports and researches on Corporate Governance, giving messages and enlightening about initiatives from corporates on Corporate Social Responsibility and Corporate Governance and bringing out worldwide perspective on Corporate Governance.

Ashish Chauhan complimented ICSI-CCGRT in this initiative. While articulating his perception about corporate governance, he said that corporate governance is a concept of dharma, which is very subtle and most important for corporates. He said that with a parent like ICSI-CCGRT, the expectations from the Newsletter are very high and hoped and wished that these expectations are met.

Gavin Young appreciated the initiative of ICSI-CCGRT in bringing out a Newsletter on Corporate Governance, which is the buzzword today and wished all success for the same. S N Ananthasubramanian, while reiterating the importance of corporate governance, quoted that "What is written is compliance, what is not written is governance". He informed the initiatives of ICSI in the area of corporate governance and said that Corporate Governance being in the DNA of ICSI, such endeavours would help in the enhancement of our members to become Corporate Governance Professionals on an exclusive basis, as the chosen few. Umesh Ved expressed his pleasure in coming out with the Newsletter and thanked the professionals, corporates and Academia for their contribution in the form of articles. He opined that this Newsletter would help company secretaries and other corporate chiefs to update themselves on Corporate Governance Practices.

The Newsletter, which would be initially brought out quarterly, would be put up on the website and circulated through e-mail besides distribution of hard copies.

International Trade Development and Investor Awareness - Series 3: Doing Business with New Zealand

On 26.4.2013 ICSI-CCGRT conducted third in its series of International Trade Development and Investor Awareness Programmes on Doing business with New Zealand. Gavin Young

Consul General and Trade Commissioner New Zealand in Mumbai, Sreedhar V Senior Business Development Manager New Zealand in Mumbai, Darshana Tripathi, Manager Development Tourism New Zealand in Mumbai, Jugnu Roy, Education Marketing Manager with Education New Zealand, Tushar Patankar, Chartered Accountant ANZ Bank, Ravi Mehta, Director, PWC, New Zealand and Kevin Best Partner PWC, New Zealand were the speakers for the programme who covered economic prospects for Trade and Investment in New Zealand, Education and employment opportunities abroad and also Travel and Tourism.

International Trade Development and Investor Awareness - Series 4: Doing Business with Canada

On 27.4.2013 ICSI-CCGRT conducted fourth in its series of International Trade Development and Investor Awareness Programmes on Doing business with Canada. Nicolas Lepage, Consul and Senior Trade Commissioner at Consulate General of Canada in Mumbai, Preeti Prabhu, Trade Commissioner (Education) & Public Affairs Officer of Canada in Mumbai, Ruden Dias, Sr. Manager, Canadian Tourism Commission, Ajay Ramasubramaniam, Trade Advisor – Ontario, Madhur Aggarwal, Head Investment, British Columbia were the speakers for the programme who covered economic prospects for Trade and Investment in Canada, Education and employment opportunities abroad and also Travel and Tourism.

Three-day Workshop on Appearing before NCLT and other Quasi-judicial Bodies

One of the important provisions proposed in the Companies Bill, 2012 passed by the Lok Sabha on 18.12.2012 is the constitution of National Company Law Tribunal (NCLT), an independent tribunal and National Company Law Appellate Tribunal (NCLAT), its appellate tribunal to whom several judiciary and quasi-judiciary powers under the Companies Act would be transferred. In order to equip the young company secretaries with the requisite skills enabling them to appear before NCLT & other quasi judicial bodies, ICSI-CCGRT conducted second of its series of Workshops on 'Appearing before NCLT and other Quasi- Judicial Bodies' from 3 to 5.5.2013, at its premises in CBD Belapur, Navi Mumbai. The workshop was attended by participants from across the country including Bangalore, Sambalpur (Odissa), Gandhinagar, Pune, Ahmedabad, Udaipur, Kochi, Nashik and Mumbai. During the 3 days workshop, participants had the rare opportunity to visit Company Law Board, interact with and get practical tips from experts on the subject, including R Balakrishnan, Company Secretary from Pune, Dr. K S Ravichandran, PCS, Coimbatore; J J Bhatt, Advocate practicing in capital market related matters before Mumbai High Court, Securities Appellate Tribunal (SAT), Competition Commission of India (CCI) etc. and Dr. S K Jain, PCS, Mumbai. Vimla Yadav, Bench Member, CLB, Western Region,



News From the Institute & Regions ICSI - CCGRT

Mumbai, gave the concluding remarks and distributed Participation Certificates.

On the 1st day, R Balakrishnan initiated the discussion by explaining the theme of the workshop. The thorough knowledge & specialization in corporate related subjects gives the unique opportunity to corporate professionals like company secretaries to better advocate a company dispute or matter before CLB/(proposed) NCLT. Through some of his practical experiences on the subject which he shared with the participants, he pointed out that to grab this opportunity, company secretaries need to be vigilant and sharpen their skills of appearing before judicial and quasi-judicial bodies. They need to be very careful in legal drafting, presenting, putting forward the views to focus and brief to the point. More importantly, they need to know interpretation of statutes and understand the system and process to get things done. It is rightly said that "A discriminating mind is the greatest of all human assets; without it, all other possession will come to nothing." He further stated that presenting a case before the Court or a Forum is an art and one needs to master it by practice. He then discussed the Provisions of the Companies Act, 1956 and Companies Bill, 2012 w.r.t. NCLT. NCLT would be one single judicial body for all company related matters and will take care of all matters which are dealt today by CLB and Board of Industrial and Financial Reconstruction (BIFR) and also cover Merger, Amalgamation & Acquisitions, compromise and arrangement, corporate restructuring and winding up cases which are currently dealt with by the High Courts. NCLAT will hear the appeals against the order of NCLT. There is also a time frame fixed for disposing of the cases by NCLAT i.e. within 3 months from presentation/appeal. Appeals against the order of NCLAT lie with the Supreme Court. NCLT and NCLAT both are given powers to award punishment for contempt of court which now is only with the courts. Talking about CLB, he said that CLB was constituted by the Central Government as an independent quasi-judicial body w.e.f. May 31, 1991 under section 10E of the Companies Act, 1956 replacing the erstwhile CLB which was primarily as a delegatee of the Central Government since February 01, 1964. The Company Law Board Regulations 1991 spells out the required procedure for filing the applications/petitions before the CLB and The Company Law Board (Fees on applications and Petitions) Rules 1991 specifies the fee structure for making applications/petitions before CLB. He then threw light on the constitution and administrative provisions of CLB, its benches, provisions of the Companies Act wherein CLB can be approached and some of the illustrative matters requiring orders of CLB and NCLT. In conclusion, he discussed the dress code for appearing before CLB/NCLT which is as follows: An authorised representative who is a professional, shall appear before the Bench in his/her professional dress, if any, and if there is no such dress then, For Male -- a suit with a tie or buttoned-up coat over a pant, For Female -- A saree or any other dress of a sober colour.

To enable the participants to understand how hearings are conducted and to learn how a case is argued before the CLB, participants were taken for a visit to the CLB, Mumbai, during the second half of the 1st day. Here the participants got an opportunity

to watch the proceedings before Vimala Yadav's Bench in a unique case pertaining to Section 397-398 where the majority shareholder who was the petitioner was alleging oppression and mismanagement by the minority shareholder who was the respondent in the case. On the request of Hon'ble Bench Member, the brief facts of the case and the reliefs sought respectively were explained to the participants by the practising company secretaries representing each side before they continued to argue on the maintainability of the case. After hearing both the parties and seeking preliminary clarifications from them, the Hon'ble Bench Member gave the next hearing date and asked them to come prepared for arguing on the issues.

On the 2nd day, Dr. K S Ravichandran, PCS, made an elaborate presentation on the Principles, Procedural & Practical Aspects of appearing before CLB/NCLT & other Quasi-Judicial Bodies with the help of case laws which dealt with rights of shareholders, powers of CLB/NCLT, principles of drafting and necessary approach that a professional should have towards any matter/case. He also distributed to the participants a booklet on specimen of CLB/High Court Orders and discussed the same in brief to enable them to understand how the petitions, applications, rejoinders etc. are drafted and presented before the CLB and other judicial and quasi-judicial bodies.

He commenced his session with some basic briefing related to important provisions of the Companies Act, 1956 relevant to the subject viz. Section 9 which clearly speaks about the overriding effect that the Act provides over other clauses and Section 81 which talks about 'Further issue of shares'. Here, he pointed out that rights issue is one of the important options given to the shareholders and before company allots further shares, ensuring that the shareholders exercise this option which is very essential. There have been various cases wherein the shareholders agreement included some clauses which were void and thus the shareholders had to suffer. In this context, he discussed several case laws related to these for e.g.: ABC Laminad Case and V.B.Rangraj v. V.B. Gopalkrishnan Case. Then he dealt with Section 297 which requires Board's sanction for certain contracts in which particular directors are interested. He said that here it is important to understand which all contracts are affected by this section and pointed out that no contract under section 297 can have retrospective effect. Thus, if no approval is taken when required under law, then such contract becomes void. He also clarified various doubts related to compounding of offences under this section. Regarding transfer of shares and related instruments, he explained the reason for insertion of section 111A which talks about rectification of register of transfer and highlighted various case laws in this connection like Pushpa Katoch v. Manu Maharani Hotel Ltd., M/S Holding Limited v. Shyam Ruia by putting them in plain words. He then informed the participants about various tribunals in India viz. CLB, Trademark Tribunal, National Company Law Tribunal, Debt Recovery Tribunal, Competitive Appellate Tribunal etc. and discussed about trademark and related acts to enable the participants to appear before Trademarks Tribunal. He explained the rights and liabilities of the registered proprietor and



provisions relating to trademark infringement. He then had a light conversation with the participants about Arbitration & Conciliation Act and related aspects especially with respect to shareholders' agreement. In conclusion, Dr. Ravichandran highlighted four basic requirements that one should consider before appearing before NCLT viz. Relevant Rules, Particulars of petition, Jurisdiction & Maintainability and explained the same.

The first session of the 3rd day was conducted by Advocate J J Bhatt who gave practical tips to the participants on appearing before quasi-judicial bodies especially SAT. He began by giving an overview of capital markets at present and the way investors are or likely to be exploited. He stated that stock market is the biggest puzzle ever invented in the world and therefore due diligence is required to be done before investing. While sharing his vast practical experience in this area, he pointed out that while representing on behalf of the investors before judicial and quasi judicial bodies, there is a need to frame a strategy to defend investors. He then gave the flavour of the regulatory framework of capital markets and the practice and procedure before SAT. SAT's daily Board of Hearing of Cases/Orders is displayed on SEBI's website www.sebi.gov.in. SAT is a Tribunal of 3 Members comprising of Presiding Officer, who is a Retired Chief Justice of High Court; or Retired Judge/Sitting Judge of Supreme Court and 2 Other Members. Appeal to SAT lies by any person aggrieved against an order of SEBI [12(3), 11(4), 11B, 11D & 23AD of SEBI Act], an order of Adjudicating Officer [15I & 23AD of SEBI Act], an order or decision of RSE [Section 23L of Securities Contracts (Regulation) Act] and refusal of listing [Section 22A Securities Contracts (Regulation) Act]. He then explained the concept of order, person aggrieved and discussed whether appeals lie against any other orders, complaints, show cause notice etc. He also discussed the procedure for appearing before SAT, the powers of SAT including discretionary ones and appeals against the orders of SAT in Supreme Court. Towards the end, he gave some practical tips for appearing before SAT viz. prepare well, never start with weak points, if you are weak on law, argue on facts and vice-versa, properly co-relate everything etc. He concluded with a cautionary note that "Do not use theory, unless you understand the principles." During the second session of the 3rd day, Dr. S K Jain along with two practising company secretaries Rita Malgaonkar and Sonal Kothari gave a demonstration of hearing before SAT through 4 different case studies to enable the participants to understand how hearings are conducted before SAT. Before commencing the mock hearing, Dr. Jain addressed the participants and gave them basic details about SEBI as a regulatory body. He then discussed the functions and powers of SEBI in detail under section 11 of the Act citing various case laws and decisions taken thereunder. He also threw light on the penalties leviable by SEBI/AO and factors to be taken into account while adjudging quantum of penalty. Moving on to the Mock Hearing session, Dr. Jain enacted the role of Presiding Officer of SAT and other two PCS represented before him as the appellant and respondent side in rotation for 4 case studies. The case studies pertained to SEBI (Prohibition of Insider Trading) Regulations 1992, SEBI (Prohibition of Fraudulent & Unfair Trade

Practices relating to Securities Market) Regulations 2003, SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 and violation of summons issued by the investigating authority, SEBI, requiring a person to appear before him. Each case was heard by Dr. Jain who then framed and explained the issues to the participants and finally decided the same citing case laws. This exercise gave the participants a deep insight on practical aspects of the proceedings. Through these mock hearings, Dr. Jain made it clear that merely aggressive behavior before the tribunal would not meet the object of convincing the presiding officer. One needs to have strong and true facts at his or her disposal.

During the last session, the much-awaited Mock Appearance before CLB was organised. Vimala Yadav, Member, CLB herself was the judge for the Mock Appearance. Selected participants were divided into 2 groups to represent petitioner and respondent side each and also to carry out research on case law. They were given case papers of an actual case pertaining to Section 397-398 to present. Suitable Instructions were given to the participants in advance and sufficient time was given to them to prepare, present and reply. The participants had to put forward their views/opinions, objections, arguments, if any, so as to convince and prove the point of the party they were representing before the Bench Member. While hearing them, the Bench Member asked queries and sought clarifications from them after which she pronounced the judgement on the issue. While doing so, she also explained the propositions and principles relating to 397 and 398 decisions and powers under Section 402 of the Act. She emphasized on the fact that CLB always takes a decision keeping in mind the interest of the company as a whole and not individual parties.

In conclusion, Vimla Yadav delivered the valedictory address. She expressed her pleasure in knowing that ICSI is growing leaps and bounds. She reiterated the fact that all company secretaries should be proud and confident about appearing before NCLT and opined that they must prepare strategically and have a law background. Therefore, she advised the participants to choose their area of interest now itself based on their aptitude and go for law, if seriously pursuing a career in this area. Apart from this, little bit of experience in appearing before CLB is also required, which would come by practice. As a company secretary, one also needs to know what kind of defaults may happen where a need to approach CLB may arise.

Talking about drafting, she said that half the battle is won if drafting of petitions, applications, rejoinders, reply, affidavits etc. are done properly. Rest is taken care of if facts are presented logically in one go. Proceedings before CLB are of summary nature and hence it relies on affidavits. Due importance is given to plea in hands of both parties. CLB, being a court of equity different from High Court and Supreme Court, it can give orders in the interest of the company even if it is not prayed or law does not provide for the same. Finally, she distributed participation certificates.

The workshop was very interactive and each and every session was well appreciated by the participants. It left the participants wanting for more and recharged with thoughts and skills that could take them to higher levels of professionalism.

CS





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CENTRE FOR
CORPORATE
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RESEARCH &
TRAINING (CCGRT)

PCH - 16

Announces

Two Day Workshop on

Securities law documentation

In collaboration with

NISM NATIONAL INSTITUTE OF
SECURITIES MARKETS
An Educational Initiative by SEBI

PDP - 8

Background	ICSI-CCGRT is pleased to announce Two Day Workshop on 'Securities Law Documentation'. It is an intensive participation oriented two day workshop and a certificate will be awarded by NISM on successful completion and evaluation at the end of the workshop. The workshop would be for 5 sessions of 2 hrs each spread over 2 days followed by the participants making a presentation.	
Day, Date & Timings	Saturday, June 8, 2013 & Sunday, June 09, 2013	09.30 a.m.-05.30 p.m. (with lunch and course material)
Venue	ICSI-CCGRT, Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614	
Proposed Coverage	<ul style="list-style-type: none"> ◆ Reviewing the prospectus of IPO/FPO/Rights Issue ◆ Reviewing specimens of Buy-back offer documents ◆ Reviewing documents of other forms of Corporate Restructuring and Schemes of Arrangement contemplated under sections 391-394 of the Companies Act ◆ Drafting Trust deed and objects clause of a Mutual Fund ◆ Drafting specific clauses of the Memorandum for a company being listed 	
Speakers	The faculty will be drawn in association with NISM from a pool of experienced practitioners and academicians.	
Participant Mix	The program is primarily aimed at Company Secretaries and Final passed students of ICSI but Other Professionals are also welcome to attend.	
Fees (inclusive of Service Tax@12.36%)	Members of ICSI ₹ 4000/- per participant Students ₹ 3000/- per participant Others ₹ 5000/- per participant to cover the cost of program kit, background material, lunch and other organizational expenses	

Limited Residential accommodation would be available on additional payment subject to availability and on first-come-first-serve basis

* Note: Members attending the program on both the days are entitled to 8 PCH
Students attending the program on both the days are entitled to 16 PDP

Registration : The Fees maybe drawn by way of D.D / local cheque payable at Mumbai in favour of "ICSI-CCGRT A/c" and sent to Shri Gopal Chalam, Dean, ICSI-CCGRT, Plot No. 101, Sector -15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614
Phone : 022-27577814, 4102 1515, email: ccgrt@icsi.edu

* Limited seats and hence prior registration is desirable



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Statutory body under an Act of Parliament

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CORPORATE
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TRAINING (CCGRT)

PDP - 16

Announces

PCH - 8

Two days Workshop

on

Achieving Excellence in Practice

Background	To mark completion of Silver Jubilee recognition for Practising Company Secretaries – First Statutory Recognition- Certification of Annual Returns of the Listed Company under the Companies Act, 1956, w.e.f. June 15, 1988. ICSI-CCGRT is organising this two full days workshop on 'Achieving Excellence in Practice'
Days & Dates	Saturday, June 15 & Sunday, June 16, 2013 09.30 a.m. to 05.30 p.m. followed by lunch
Venue	ICSI-CCGRT, Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614
Proposed Coverage	<ul style="list-style-type: none"> ◆ Infrastructure requirements for setting up practice ◆ Traditional Areas of Practice ◆ Non-Traditional Areas of Practice ◆ Provisions under the Companies Bill, 2012 relating to Valuation ◆ Interaction between speakers and participants ◆ Client Management and Relationship Building
Speakers	Eminent speakers with practical exposure to the subject will address the participants
Participant Mix	Primarily meant for young members of the Institute and students interested in a career in this area.
Fees (Non-Residential) (inclusive of Service Tax@ 12.36%)	₹ 3,200/- per participant to cover the cost of program kit, background material, lunch and other organizational expenses

* Note: Members attending the program on all days are entitled to 8 PCH
Students attending the program on all days are entitled to 16 PDP

Registration : The Fees may be drawn by way of D.D / local cheque payable at Mumbai in favour of "ICSI - CCGRT A/c" and sent to Shri Gopal Chalam, Dean, ICSI-CCGRT, Plot No. 101, Sector -15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614

Contact Shri Ketan K Bhargamiya at 022-41021533, 022-7577814 or
email:ccgrt@icsi.edu

* Limited seats and hence prior registration is desirable





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TRAINING (CCGRT)**

In the age of dynamic changes, everything is changing very rapidly. The technology of today is getting obsolete tomorrow. Most of the countries have adopted or going to adopt IFRS which prescribe that Books of Accounts should be stated at fair valuation. It necessitates that as the organizations adjust their financial statements accordingly, the Company Secretaries also equip themselves with the intricacies & techniques of Valuation. Recognizing this, ICSI-CCGRT is launching this Certificate Course on Valuation, which has been modeled in self study, class room training, case study & presentation.

This Certificate Course would:

- Give an insight into various conceptual, technical & procedural aspects of valuation
- Provide a framework for business valuation & give practical exposure on applying the valuation principles in different situations.
- Enable to carry out the valuation assignments with confidence & commendable skills.

CERTIFICATE COURSE ON VALUATION



Registration open till 20th June, 2013

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ELIGIBILITY

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- Final / Professional passed Students of CS course

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Please send in the duly filled in Registration form (available at www.icsi.edu/ccgrrt) alongwith supporting documents and Fees to The Dean, ICSI-CCGRT, at the below mentioned address. Fees may be drawn up by way of D.D / local cheque payable at Mumbai in favour of "ICSI-CCGRT A/c". Fees may also be deposited in the CCGRT A/c with Vijaya Bank/ICICI Bank.

For clarifications please contact us at: ☎ 022-27577814, 4102 1515 / 10/ 32 📧: ccgrrt@icsi.edu

Participation restricted to ensure effectiveness

Accommodation on twin sharing basis available on first-come-first-serve basis on payment of additional charges



**THE INSTITUTE OF
Company Secretaries of India**
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

CENTRE FOR
CORPORATE
GOVERNANCE,
RESEARCH &
TRAINING (CCGRT)

PDP - 16

Announces
Two days Workshop

PCH - 8

on Critical issues in Corporate Laws

Background	<p>In order to give an in-depth understanding to the company secretaries and other corporate professionals of the real life critical issues which they may face during their day-to-day working and to help them understand better how to resolve the same, ICSI-CCGRT is organising this two days Workshop on Critical issues in Corporate Laws.</p> <p>The issues would be based on the experiential learning of senior members. Real life situations would be converted into case studies and participants are expected to come out with solutions of their own, under the guidance of the seniors present.</p>
Days & Dates	Saturday, June 22, & Sunday, June 23, 2013
Venue	ICSI-CCGRT, Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614
Proposed Coverage	<ul style="list-style-type: none"> ◆ Issues in name availability ◆ Transfer and transmission of shares ◆ Appointment of Directors and Company Secretary ◆ Holding of statutory meetings ◆ Auditor-Company Relationship ◆ Inter-corporate loans and investments (Section 372A) ◆ Stamp duty implications ◆ Managerial Remuneration ◆ Provision of depreciation ◆ Declaration of dividend ◆ Related Party Transactions
Speakers	Eminent speakers with practical exposure to the subject will interact with the participants
Participant Mix	Young company secretaries & other professionals will particularly benefit though it should be equally beneficial for others
Fees (inclusive of Service Tax @12.36%)	<p>Members of ICSI ₹ 3,200/- per participant</p> <p>Students ₹ 2,400/- per participant</p> <p>Others ₹ 4,200/- per participant</p> <p>to cover the cost of program kit, background material, lunch and other organizational expenses</p> <p>Early bird discount of ₹ 500/- for registration with payment at ICSI-CCGRT on or before Friday, 31st May, 2013 and ₹ 200/- for registration with payment at ICSI-CCGRT on or before Friday, 14th June, 2013.</p>

* Note: Members attending the program on both days are entitled to 8 PCH

Students attending the program on both days are entitled to 16 PDP

Registration : The Fees may be drawn by way of D.D / local cheque payable at Mumbai in favour of "ICSI -CCGRT A/c" and sent to Dean, ICSI-CCGRT, Plot No. 101, Sector -15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614
Phone : 022-7577814, 41021515/04, email:ccgrt@icsi.edu, website: www.icsi.edu/ccgrt

Residential facility available on payment of extra charges

* Limited seats and hence prior registration is desirable





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CENTRE FOR
CORPORATE
GOVERNANCE,
RESEARCH &
TRAINING (CCGRT)

PCH - 8

Announces

Two Day Workshop on

Compliance of Listing Agreement

In collaboration with

NISM NATIONAL INSTITUTE OF
SECURITIES MARKETS
An Educational Initiative by SEBI

PDP - 16

Day, Date & Timing	Saturday, June 29 & Sunday June 30, 2013 09.30a.m. – 05.30 p.m. with lunch and reading material
Venue	ICSI-CCGRT, Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614
Focus of Coverage	Compliance of Listing Agreement 1. Regulatory Overview 2. Industry Perspective 3. Practitioners' Role
Speakers include	The faculty will be drawn in association with NISM from a pool of experienced practitioners and academicians.
Participant Mix	Company Secretaries, Chartered Accountants, Cost Accountants, other professionals dealing with the subject and students of various professional courses.
Fees	Members ₹ 4,000/- per Member Students ₹ 3,000/- per Student Others ₹ 5,000/- per participant to cover the cost of program kit, lunch and other organizational expenses.

* Note: Members attending the program on both the days are entitled to 8 PCH
Students attending the program on both the days are entitled to 16 PDP

Limited seats and hence prior registration is desirable.

Registration : The Fees may be drawn by way of D.D / local cheque payable at Mumbai in favour of "ICSI-CCGRT A/c" and sent to Shri Gopal Chalam, Dean, ICSI-CCGRT, Plot No. 101, Sector -15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614.

Phone : 022-27577814, 4102 1510 e-mail : ccgrrt@icsi.edu

***Prior registration desirable**

Forthcoming Program (Training Program)

21st R-MSOP (Residential Management Skills Orientation Program) from Monday, September 16, 2013 to Tuesday, October 01, 2013.



Speech of Shri P. Chidambaram, Hon'ble Union Finance Minister at ICSI National Seminar on "Indian Financial Code" recommended by Financial Sector Legislative Reforms Commission on May 22, 2013 at The Ashok, New Delhi.



Shri S. N. Ananthasubramanian, President, ICSI, Ms. Chitra Ramakrishna, MD & CEO, NSEIL, Mr. Harish Vaid, Vice-President, ICSI, Mr. M. S. Sahoo, Secretary, ICSI, Shri K. P. Krishnan, Principal Secretary, Government of Karnataka, distinguished ladies and gentlemen.

I am happy to be at this national seminar, the first of its kind in Delhi organised by the Institute of Company Secretaries of India, and speak in public for the first time on the report of the Financial Sector Legislative Reforms Commission. As you are aware, the report was submitted to the Government by Mr. Justice Srikrishna and his committee on the 22nd of March, 2013. I am deeply grateful to the Chairman and the members of the committee and I take this opportunity to offer them my sincere thanks for the remarkable work they have done in completing this demanding task in a competent, expeditious and time bound manner.

The Indian financial sector is governed by around sixty Acts and related rules and regulations. Many

of these date back to about 80 years, long before anybody in this room was born. For example, the RBI Act goes back to 1934. The Insurance Act is of 1938 vintage. The Securities Contracts (Regulation) Act was enacted in 1956. Even though a large number of amendments have been made to these acts and regulations at different points of time to address emerging needs emanating from a fast changing environment, necessarily, these changes have been piecemeal changes; consequently the financial sector statutory framework is fragmented and disparate and does not comprise a streamlined and precise framework adhering to a unified overarching objective or philosophy.

There is also a multiplicity of Institutions and multiplicity of Regulators which have come up from time to time to meet newly perceived requirements. This multiplicity of laws and institutions potentially creates regulatory overlaps, gaps and ambiguity on account of lack of role clarity. This creates inefficiencies in addressing critical emerging issues in an increasingly dynamic, complex and interconnected financial world.

When we constituted this Commission, the philosophy was, the Commission should be vested with a task of enquiring into the suitability and adequacy of the existing systems and structures rather than to pass judgement. There is a realization that the statutory and institutional foundation of the financial sector in India needs to be looked at afresh to assess its soundness in addressing the emerging requirements in the rapidly changing world. The endeavour is to envisage a sound strategy and institutional structure for the Indian financial system, while identifying and addressing the complexities, ambiguities, overlaps and gaps arising from the current regulatory framework.

I am glad that the Commission adhered to this philosophy, and rather than passed judgment, it has presented the report which provides the basis to build a set of laws and institutions for the future. Mr. Krishnan has shared with you the key recommendations of the Commission. The Commission has recognized that the present financial architecture of India has evolved over the years, with the sequence of piecemeal



Speech of Finance Minister

decisions and peace meal legislations responding to immediate pressures from time to time. It was not specifically or comprehensively designed to meet some key objectives.

The present arrangement has a number of gap areas where no regulator is unambiguously in charge; such as issue of regulatory oversight over diverse ponzi schemes that we have discovered recently. These are cleverly designed to be out of the purview of the existing agencies. The existing framework also contains overlaps between laws and agencies leading to incidences in which conflicts have consumed the energy of the policy makers. In recent times, we have had turf battles between regulators. The Commission is, therefore, of the view that with the overlaps, the financial firms would undertake forum surfing with the most lenient regulator is chosen and portray that activity as belonging to that favoured jurisdiction.

And that an approach of multiple sector regulators that construct silos induces economic inefficiencies. The commission has, therefore, given wide ranging recommendations to restructure the financial laws governing the financial sector and the related regulatory system. As all of you are aware by now that there are nine key components of the legal framework recommended by the Commission. These are: 1) Consumer protection and competition, 2) Micro Prudential Regulation, 3) Resolution, 4) Systemic Risk, 5) Capital Controls, 6) Development, 7) Monetary Policy, 8) Public Debt Management, and 9) Foundations of Contracts and Property.

What struck me when I read the summary carefully and then when my officers read the report more carefully are the following:

Firstly, the Commission has advocated a non-sectoral approach. Current Indian Laws are based on a sectoral approach; the laws have been organised around sub sectors of the finance, such as banking, securities, insurance or payments. The Commission has recommended shifting to a non-sectoral approach.

Secondly, the Commission has advocated a principles based approach. According to the principles based approach, laws will articulate broad principles that generally do not vary with financial and technological innovation, and will leave it to the regulators to write subordinate regulations by way of rules and regulations. These regulations will cover

the operational aspects and procedure, while the principles will remain the same. There is of course a very powerful dissent to this view.

Thirdly, the Commission has recommended the establishment of independent regulators.

Fourthly, the Commission has favoured a strategy of ownership neutrality. At present, the laws and regulations in India often differentiate between different owners, different ownership structures and different corporate structures of financial firms. In order to provide a level playing field, the Commission favours a strategy of ownership neutrality in the regulatory and supervisory treatment of a financial firm which would be the same regardless of whether it is a private Indian, private foreign, co-operative or public sector. This in view of the commission would lead to a level playing field.

The Commission has also taken trouble of drafting a law. I am not sure how much of this law will go through in the same fashion when it finally emerges from the Parliament. But it is a commendable effort - the Commission has given us a 450 section draft of the Indian Financial Code. This will make the task of writing a law much easier because very eminent lawyers were associated with drafting the law.

I must also mention the powerful dissenting notes have been appended to the Commission's report. Professor Jayant Verma has expressed concerns about the authorization requirements for financial service providers. He believes that potentially this will become all encompassing and bring even innocuous activities like a classroom lecture under its ambit.

Three members, Mrs. Udeshi, Dr. P. J. Nayak, and Mr. Malegam disagree with the allocation of responsibilities on capital controls between the Ministry of Finance and the RBI. While the responsibility for regulating inward capital flows of capital has been assigned to the Ministry of Finance and outward capital flows to the RBI, these three members want the current primacy of the RBI over the external sector to be retained. Dr. P. J. Nayak also disagrees with the role of the Ministry of Finance which he once served with great distinction. He disagrees with the role envisaged for MOF in the draft code, especially the role of FSDC, in particular. His concern relates to FSDC having excessive powers and responsibilities that can potentially curtail autonomy of regulators. I suppose, his fear arises from the fact that the FSDC will be chaired by the Finance Minister. Dr. Nayak also disagrees with the

Speech of Finance Minister



recommendation on the principles based law and he favours a common law approach. Shri Malegam disagrees with the regulation of non-banking financial companies. In particular, he is opposed to the recommendation that only deposit taking NBFC's should be regulated by the RBI.

I have given you a flavour of the report, the recommendations, and the dissent. What do we do now? Admittedly, drafting an Indian Financial Code will be a major milestone in Indian financial sector reforms, in contrast with previous attempts at decontrol and deregulation. FSLRC requires positive inputs for enacting legislation and constructing a particular structure of Government agencies. This is much harder than economic liberalization that really means decontrol. The essence of FSLRC implementation lies in the creation of state capacity commensurate with the sophisticated financial system for a multi trillion dollar economy. In fact, the number of financial sector professionals in India is woefully inadequate even for the size of the economy that we have today, not to speak of the multitrillion economy that we aspire to become in the next couple of decades. We need to handle this challenge of drafting a financial code at three levels. Firstly, a legislative challenge of all steps from now to enactment of agreed legislation; two, a massive capacity building challenge on numerous fronts particularly in the number of financial sector professionals that we train and employ; three, handling the complex problems of transition, shifting from the present framework to the new framework. The Ministry of Finance will have to embark on concerted efforts to reach the report and the draft code to the public at large and obtain comments and feedback on the report and educate financial sector professionals on the way forward.

This would involve holding seminars and conferences across the country and I would encourage ICSI and other institutions to organize more of these. I will encourage officers of the Ministry of Finance to participate in these seminars and conferences. In addition, we need to focus on experts and practitioners including financial professionals, lawyers, regulatory staff, and perhaps judges. We will need to set up a formal mechanism through which feedback and comments are submitted and consolidated.

Various units of the Ministry of Finance would need to carry out the required inter-departmental and inter-agency consultations on the proposed challenges. Alongside, very careful analysis of every sentence of

the existing laws, and every section of the proposed code will need to be taken up before we agree upon large scale repeals of such legislations. I am conscious that the draft IFC has implications not only for the financial regulatory architecture, but also for the work of the Ministry of Finance. The requirements of the new arrangement will be understood and attempts made to draft necessary changes.

Making legislations in India is not an easy task. Take the example of the law of which you are intimately connected, the Companies Bill. It has passed the Lok Sabha; it still awaits the passage in the Rajya Sabha and Mr. Ananthasubramanian told me in a very pithy statement: it is like a company whose shares are listed but not traded.

Passing legislations in India is not easy. It has been even more complex with coalitions and the legitimization of obstruction as a parliamentary tactic. Nevertheless, we cannot give up. We are duty bound to the people of this country to put in place a financial regulatory system that will serve us well for the next 50 or more years. While we embark on these tasks, there is something that we can do in the interim. Many of the elements of the FSLRC recommended legal processes are not repugnant to the present laws. Therefore, I suggest that the Ministry of Finance and the regulatory agencies may look seriously at operationalising some of these elements at the earliest even within the scope of the present laws. For example, detailed and structural stakeholders consultations before issue of new regulations that can be done under the present laws. A basic cost benefit analysis of regulation that can be done under present laws. However, these would require considerable internal organizational strengthening, capacity building and workflow modification. I hope that in the Ministry of Finance, we can start pursuing these goals forthwith.

Ladies and gentlemen, I see a very rich and detailed programme for the rest of the day. I am sure there will be a lively discussion on the pros and cons of the recommendation in the deliberations in the schedule. I wish the deliberation success and once again would like to compliment Shri Ananthasubramanian, Shri Vaid, and Shri Sahoo of the ICSI and all others of the ICSI for taking the initiative in organising the national seminar. I thank both Shri K. P. Krishnan and Ms. Chitra Ramakrishna for their valuable inputs.

Thank you.



GIST OF THE PROCEEDINGS OF THE NATIONAL SEMINAR ON “INDIAN FINANCIAL CODE” RECOMMENDED BY THE FINANCIAL SECTOR LEGISLATIVE REFORMS COMMISSION HELD ON MAY 22, 2013 AT THE ASHOK, NEW DELHI

INAUGURAL SESSION

The National Seminar on “Indian Financial Code” recommended by the Financial Sector Legislative Reforms Commission, the third in the series organised by the ICSI was held on May 22, 2013 at The Ashok, New Delhi. Shri P Chidambaram, Hon'ble Union Finance Minister was the Chief Guest. Dr K. P. Krishnan, Principal Secretary, Government of Karnataka gave an overview of the Indian Financial Code and Ms. Chitra Ramakrishna, Managing Director and CEO, National Stock Exchange Limited delivered the Special address. Shri S N Ananthasubramanian, President, the ICSI delivered the welcome address and Shri Harish K. Vaid, Vice President, the ICSI proposed a vote of thanks.

Shri P. Chidambaram in his first public address on Financial Sector Legislative Reforms Commission at the ICSI National Seminar spoke briefly about the set of Rules, Regulations and Acts that have been passed in the last 80 years. He said that these legislations having been enacted in a piecemeal manner resulted in lapses and gaps between regulators, legal systems and conflict in policies. Further the current legislative framework addresses only temporary pressure and does not address critical key issues. There is multiplicity of laws, institutions and regulators that create ambiguity. He then highlighted the challenges in terms of legislative change, capacity building, dealing with complexity of transition from present to the proposed Code etc. Emphasising on the need for careful analysis of existing legislations in bringing legislative reforms for the financial sector, he said that the Financial Code advocates a non-sectoral and principle based approach. He referred to the nine basic components for financial sector reforms identified by the Commission viz. Consumer Protection, Micro-prudential Regulation, Resolution, Capital Controls, Systemic Risk, Development and Re-distribution, Monetary Policy, Public Debt Management and Foundations of Contracts and Property.

Dr. K. P. Krishnan, speaking on the ‘Overview of

Indian Financial Code’ briefed about the series of financial sector reforms since 1992 and said that there is an internally consistent and complete approach to financial sector legislative reforms since mid 2000 and laws needed to be changed contemporaneously and as a whole. While emphasising that FSLRC will meet the financial sector requirements of 2050, he outlined briefly the components of the Code and said this Code would remove the vague objectives and powers and establish accountability mechanism.

Ms. Chitra Ramakrishna in her address complimented the FSLRC for the clear, concise and comprehensive set of recommendations. She said that the first steps in financial sector legislative reforms were enabled with the SEBI Act and in the last two decades, markets have progressed to global standards. Explaining the relevance of FSLRC, she said that whenever big changes were required it was inevitable to change laws and many new areas of global relevance which have emerged in the last two decades needed to be reflected in the legal framework. She identified some of the issues which needed to be focussed for implementing the Report; for institutional transformation, technology needed to be leveraged which can avoid duplication of cost and efforts, she observed and explained that the spirit of what is stated in the Code can be achieved only if subordinate and sectoral regulations stay in course with the Code. She also emphasized on the need for training and capacity building, to create a cadre to deal with the new paradigm.

Shri S N Ananthasubramanian, President, ICSI in his welcome address said that market governance fosters corporate governance in even manner and provides building blocks to facilitate dialogue and new ideas to emerge.

Shri Harish Vaid, Vice President, the ICSI proposed a vote of thanks to the distinguished speakers of the inaugural session.

TECHNICAL SESSIONS

First Technical Session

The First Technical Session on Markets: Market



Regulation, Market Development and Public Debt Management was chaired by Dr K P Krishnan, Principal Secretary, Government of Karnataka. Shri Ravi Narain, Vice Chairman, National Stock Exchange of India Limited and Dr Ajay Shah, Professor, National Institute of Public Finance and Policy were the panellists. Shri Sanjay Grover, Council Member, ICSI and Programme Director introduced the distinguished speakers and proposed a vote of thanks.

This session addressed the conflicts and linkages between market regulation and market development and between the fiscal policy and monetary policy. This session also dealt with the various aspects relating to foundation of contracts and property, regulatory issues of infrastructure institutions, public issues and trading of securities, market abuse, interaction of financial and other laws and proposals relating to an independent public debt management agency.

Dr K P Krishnan deliberated on Regulatory Architecture and Governance covering aspects such as regulatory principles in the draft IFC, organisation/ functions of proposed regulators. Speaking on the issues identified by FSLRC including gaps in regulation for financial instruments, overlaps in the regulation, piecemeal decisions regarding regulators and their work allocation, Dr. Krishnan elaborated the principle of separation of powers, especially for adjudicative functions.

Shri Ravi Narain while appreciating the clear drafting of the Code in his opening remarks, briefly explained as to how the financial sector has undergone changes in the changing global environment. He summarized the key principles like legal uncertainty, transparency of legal process, financial innovation and policy formulation. He stated that failures are part of experiments and suggested that the need of the time is to have a consensus on key principles enshrined in the Code, and to maintain a balance between regulatory and market development.

Dr. Ajay Shah deliberated on the extensive plan to draft the Indian Financial Code on a systematic structure which would meet the contemporary and future requirements of the financial sector. He urged the participants to judiciously identify the areas and loopholes in the Code. He supported the observations of Hon'ble Union Finance Minister and stated that it should be seen as project plan, and then the short term actions leading to stage by stage progress. He

made differentiation between the political functions and regulatory functions and dwelt on the issues pertaining to infrastructure institutions.

Second Technical Session

The Second Technical Session on "Macro Finance: International Markets, Monetary Policy and Systemic Risk" was chaired by Dr. Shekhar Shah, Director General, The National Council of Applied Economic Research. Dr. (Ms) Ila Patnaik, Professor, National Institute of Public Finance and Policy, and Dr. C.S. Mohapatra, Advisor, Financial Stability Development Council, Department of Economic Affairs, Ministry of Finance were the panellists. Shri Nesar Ahmad, Immediate Past President and the Council Member, the ICSI introduced the distinguished speakers and proposed a vote of thanks.

This session focussed on the objectives, powers and accountability mechanism to be set up for monetary policy as well as the associated institutional structure such as board of the Central Bank, monetary policy committee and advisory council for banking and payments, the objectives of systemic risk oversight and the principles that should guide functioning of the agency designated to monitor and address systemic risk concerns including crisis management and systemically important firms, the issues of multiple laws, multiple regulators and multiple investment vehicles in respect of capital controls etc.

Dr. Shekhar Shah in his opening observations said that IFC would create right environment in the financial market, as it focuses on principles of public administration that has to prevail throughout the government. He referred to Labour Sector legislative reforms while speaking about IFC and complimented FSLRC for their remarkable job.

Dr. (Ms) Ila Patnaik in her presentation deliberated on 'Capital Control, Systemic Risk & Monetary Policy' and covered aspects such as principles of delegation, objectives of capital controls, capital controls in IFC, examples of systemic risk, systemic risk oversight, IFC and monetary policy etc.

Dr. C.S Mohapatra in his address deliberated on Managing Systemic Risk and the Financial Stability Mechanism, and explained in detail the systemic risk regulation, Micro prudential, Consumer Protection Resolution, elements of systemic risk, resolution tools, financial stability/systemic risk oversight arrangements in a few jurisdictions.



Third Technical Session

The Third Technical Session on "Financial Firms: Micro-Prudential Regulations, Consumer Protection and Resolution" was chaired by Shri P K Malhotra, Secretary, Legislative Department. Dr. C K G Nair, Economic Advisor in the Ministry of Finance who was also the Secretary to the FSLRC and Ms Renuka Sane, Research Economist IGIDR were the panellists. Shri Atul Mittal, Council Member, the ICSI introduced the distinguished speakers and proposed a vote of thanks.

This session addressed the recommendations of the FSLRC in respect of scope and powers of micro-prudential regulations and the principles to guide the use of such powers, the resolution framework including objectives and powers of resolution corporation, resolution tools and consequences of resolution, objectives and principles relating to protection of consumers in general and additional protection for retail consumers in particular, as well as the working of the financial redress agency.

Shri P K Malhotra in his opening remarks spoke about the financial, capital market and insurance sector in the context of consumer and referred to the instances that have harmed the consumers because of ambiguity in the interpretation of law. He said that laws should be interpreted without damaging the spirit of the law and IFC would help in achieving the same, he added.

Ms Renuka Sane in her address said that core market failure in finance is the problem of hapless consumers and to address this issue, there is need for Consumer protection, prudential regulation and Resolution. She spoke at length about prudential regulation, consumer rights, Financial Regulatory architecture etc. and referred the IFC as first step in getting financial regulation right.

Dr. C.K.G. Nair in his opening observations said that the objective of the regulation was setting standards and behaviour modification of the market participants, and explained that the Code will help in setting and adhering to standards for interface between financial service provider and stakeholders. He emphasized that the IFC seeks to plug the gaps such that no entity which provides financial services would be outside the radar of a regulatory agency, although the degree of regulation for various service providers may vary. He said that the seven financial agencies defined in the IFC would capture the full gamut of financial services provider, and that the Code provides for a

financial architecture that would be non-sectoral and propounds a principle based approach to regulation.

Fourth Technical Session

The Fourth Technical Session on "Regulatory Regime: Architecture, Governance and Approaches" was chaired by Shri Ashok Chawla, Chairman, Competition Commission of India. Dr. Ajay Shah, Professor, NIPFP, Shri Pradeep Pandya, Senior Editor of CNBC Awaaz and Shri M S Sahoo, Secretary, ICSI were the panellists. Shri Atul Mehta, Council Member, ICSI introduced the distinguished speakers and Shri M G Jindal, Chairman, NIRC of the ICSI proposed a vote of thanks.

This session focussed on the structure of a regulator including its composition, resources and performance assessment, processes to be followed in discharge of quasi-legislative, executive and quasi-judicial functions by a regulator, the proposed regulatory architecture featuring seven agencies and the considerations that has guided this architecture.

Shri Ashok Chawla in his opening remarks said that the economy is growing at a fast pace and the regulatory architecture should keep pace with the growth. He further said that the ownership neutrality is very important when it comes to financial instruments and financial architecture. While emphasising on the aspects of accountability, he opined that the regulatory architecture suggested by commission, subsumes a number of regulators into one, and the FSLRC has taken into consideration of several international models of single regulator, twin peaks etc., he added. While dealing with Unified Financial Authority under which several sectoral regulators would be combined into one single regulator and other Regulatory Agencies suggested by the Commission, he deliberated on IFC from governance perspective.

Shri M S Sahoo in his opening remarks observed that the financial sector is very important and that it has tremendous power to promote development, and even destroy development and therefore the governance structure is very important. He also emphasised, the changes that used to take centuries earlier, are happening in days. Realization that the statecraft has limitations to handle this type of dynamic situations in the market and to handle issues of dynamic nature, the government has created regulators like SEBI, IRDA and equipped them with powers, processes, expertise and resources commensurate with the requirements of the tasks and these regulators have



similar powers like the Government for protection of consumers, development and regulation of markets. They have executive, judicial and legislative power like the government and they carry out governance on behalf of the Government on a pre-defined framework. There is a misconception that Unified Financial Regulatory Agency was a super-regulator, opined Shri Sahoo and explained that what FSLRC has suggested is that similar activities between the regulators be combined.

Shri Pradeep Pandya spoke about uniform

assessment of risk, overlapping of regulations, and ambiguities in the existing regulatory framework. While giving practical examples on the hindrances in the existing financial regulatory system, he said the Code will rectify the inconveniences in the existing system.

Dr Ajay Shah spoke about seven agencies architecture, the importance of co-ordination in the financial system and the role of regulators and regulations in this regard.

GIST OF THE PROCEEDINGS OF THE NATIONAL SEMINAR ON "INDIAN FINANCIAL CODE" RECOMMENDED BY THE FINANCIAL SECTOR LEGISLATIVE REFORMS COMMISSION HELD AT BSE INTERNATIONAL CONVENTION HALL, MUMBAI ON APRIL 27, 2013

INAUGURAL SESSION

The second National Seminar on 'Indian Financial Code' recommended by the Financial Sector Legislative Reforms Commission (FSLRC) was held at BSE International Convention Hall, Mumbai on Saturday, April 27, 2013. Shri Justice B N Srikrishna, Eminent Jurist, Former Judge, Supreme Court of India and Chairman of FSLRC was the Chief Guest. Dr. Ajay Shah, Professor, National Institute of Public Finance and Policy (NIPFP) was the key note speaker and Shri Ashish Chauhan, MD & CEO, Bombay Stock Exchange Limited, delivered the special address. Shri S N Ananthasubramanian, President, ICSI delivered the Presidential Address. Shri Atul Mehta, Council Member and Chairman, Capital Markets Committee delivered the Welcome Address and Shri Sudhir Babu C, Council Member, ICSI proposed a vote of thanks.

Justice B N Srikrishna in his address, while referring to the famous words of great poet Kalidasa in Sanskrit meaning "A wise man selects what is good or bad by critical evaluation and a fool goes by the words of others", emphasised on the importance of reading the FSLRC report and interacting about it. While addressing the major concerns in the minds of various stakeholders and grey areas of the recommendations of FSLRC, he emphasized that change in the mindset is necessary to accept the reforms envisaged, which

would enable the country to attune itself, while paving the way to compete with the world leaders. However, he opined that all these reforms should be carried out not during the times of crisis but in times of 'peace'.

Dr. Ajay Shah, the key note speaker on the occasion highlighted that India has never done, not even in British times, a project of this kind wherein an entire gamut of law in a particular sector is taken up for organised re-visit in a focussed manner within a limited time-frame. He explained the reason of setting up Financial Sector Legislative Reforms Commission (FSLRC) and said it is necessary to replace existing laws as many of the laws had been introduced so long back e.g. RBI Act, 1934. He said that this Code would provide broad principles based on which regulators can frame laws and that FSLRC has focused on the task of establishing a sound regulatory process, with clarity in objectives, powers and accountability mechanisms, by envisioning nine components of Regulations viz. Consumer Protection, Micro-Prudential Regulations, Resolution, Capital Controls, Systemic Risk, Development, Monetary Policy, Public Debt Management, Contracts, and Proposing Financial Regulatory Architecture featuring 7 agencies viz. Reserve Bank of India, Unified Financial Agency, Financial Sector Appellate Tribunal, Resolution Corporation, Financial Redressal Agency, Public Debt Management Agency and Financial Stability and Development Council.

Shri Ashish Chauhan in his special address expressed his appreciation for the FSLRC for completing a difficult task and bringing out such a comprehensive



yet lucid Code.

Shri S N Ananthasubramanian, President, ICSI in his address, while quoting the famous words of Victor Hugo - "All the forces in the world are not so powerful as an idea whose time has come," stated that ICSI's endeavour is not only to promote good corporate governance but also promote market governance, so as to ensure seamless relationship between the two. It is in this context that the mandate of the FSLRC has to be understood, he added and pointed out that the FSLRC Report was timely, as there was a felt need that the institutional structure of the financial sector in India needed a review and to recast in tune with the contemporary requirements of the sector.

TECHNICAL SESSIONS

First Technical Session

The First Technical Session on Regulatory Regime: Architecture, Governance Approaches was chaired by Dr. Anup Wadhawan, IAS, Joint Secretary, Capital Markets Division, Department of Economic Affairs, Ministry of Finance. Dr. K P Krishnan, IAS, Principal Secretary, Government of Karnataka was the panellist. Shri Umesh Ved, Council Member, ICSI and Programme Director introduced the distinguished speakers.

Dr Anup Wadhawan said that FSLRC had done admirable job for road map of Indian Financial Code which will lead to integration of financial sector laws. He said that Financial sector developed over the past hundred years resulting in huge overburden of statutes. He spoke about the loopholes of statutes and emphasised that exercise should be taken to integrate such loopholes. He said that the Report envisages participative approach to arrive at various regulations, which is principle based rather than prescribing processes, procedure, structure of things. He said that no statute can envisage all circumstances which may arise in future course of action.

Dr. K P Krishnan stated that the Report has to be seen comprehensively to understand the spirit of it. It makes the meaning of regulations simpler which requires no intervention of State. He said that FSLRC is focusing on evaluating current regulatory architecture overlap in statutes which lead to arbitrage and emphasised on principle based regulation rather than sectoral regulation. He further said that the fundamental principle of the draft Code is to make an agency powerful, independent as well accountable and such accountability flows from clear statement of objectives. Further he emphasised that Parliamentary

laws need to be principle based because law can not envisage several developments that would come about in future and that individual regulator who has been conferred power to regulate the laws should have the ability to move as quickly to modify the regulations.

Second Technical Session

The Second Technical Session on Financial Firms: Micro-prudential regulations, Consumer Protection and Resolution was chaired by Shri R.K. Nair, Member, IRDA with Dr. V R Narasimhan, CEO, Kotak Mahindra Pension Fund and Dr. (Ms.) Susan Thomas, Professor, Indira Gandhi Institute of Development Research (IGIDR) as the panellists. Shri Makarand Lele, Regional Council Member, WIRC introduced the theme of the session and distinguished speakers.

Dr. (Ms.) Susan Thomas said that IFC would create a new law for consumer protection for financial product which nowhere in world so far has been created. She spoke about focus of regulations on the investor protection, micro prudential regulation and systemic risk management. She discussed the problems which are being faced by the consumers of financial products and explained that IFC would create a legislation system where consumer protection would be there, before the product has been sold and financial producer/ provider has to take immense effort to ensure that due diligence has been done before the product sold to consumers.

Dr. V. R. Narasimhan spoke about 'Micro -Prudential Regulations' and discussed the requirements of such regulations, to address market failures. He emphasised 'Caveat Emptor' should not be the principle in case of financial product, as every buyer is not so educated. He stated that Micro Prudential regulations should regulate the Individual firms for governing safety and soundness of financial service provider.

Third Technical Session

The Third Technical Session on Micro-Finance: International Markets, Public Debt Management and Systemic Risk was chaired by Dr. K P Krishnan, Principal Secretary, State of Karnataka. Dr. Kanagasbapathy, Director, EPW Research Foundation and Dr. C S Mohapatra, IES, Advisor (Financial Stability and Development Council), Dept of Economic Affairs were the panellists. Shri Ashish Doshi, Council Member WIRC, introduced the session and distinguished speakers.



Dr. Kanagasabapathy spoke about 'Public Debt Management' and covered the functions, objectives, setting up of public debt management agency, its internal arrangement etc., which is the major recommendations of FSLRC.

Dr C. S. Mohapatra spoke about Managing Systemic Risk and the Financial Stability Mechanism. He dealt with systemic risk regulation, Micro prudential, Consumer Protection Resolution, elements of systemic risk, resolution tools, financial stability/ systemic risk oversight arrangements in a few jurisdictions. He said that if risk is hard to observe, then we should try to track its path in order to manage the same.

Fourth Technical Session

The Fourth Technical Session on Markets: Market Regulation, Market Development Monetary Policy was chaired by Shri S N Ananthasubramanian,

President, ICSI. Shri Ashish Chauhan, MD & CEO, Bombay Stock Exchange Ltd. and Dr. Ajay Shah, Professor, NIPFP were the panellists. Shri Sudhir Babu C, Council Member, ICSI introduced the session and distinguished speakers.

Shri Ashish Chauhan in his address spoke about the 'Market Regulation and Market Development' and covered the aspect of financial architecture in the context of international environment. He emphasised on the standardisation of instruments or commodities.

Dr Ajay Shah described the Indian Financial Code in three areas i.e. (1) development, (2) market, (3) monetary development, and observed that regulators shall be free to pursue initiatives that will strengthen market infrastructure and processes. While speaking about Infrastructure Institution to issue bye laws, Dr. Shah also discussed about the independence which tends to be operational autonomy, and professionalism.

GIST OF THE PROCEEDINGS OF THE NATIONAL SEMINAR ON "INDIAN FINANCIAL CODE" RECOMMENDED BY THE FINANCIAL SECTOR LEGISLATIVE REFORMS COMMISSION HELD ON APRIL 20, 2013 AT TAJ DECCAN, HYDERABAD.

INAUGURAL SESSION

The First National Seminar on 'Indian Financial Code' recommended by the Financial Sector Legislative Reforms Commission (FSLRC) organised by the ICSI was held at "Taj Deccan, Banjara Hills", Hyderabad on April 20, 2013. Shri T.S. Vijayan, Chairman, IRDA was the Chief Guest and Dr. C K G Nair, Secretary, FSLRC and Economic Advisor, Department of Economic affairs was the Key Note speaker. Shri S N Ananthasubramanian, President, ICSI delivered the Presidential Address. Shri Sudhir Babu C, Council Member, ICSI delivered the welcome address and Shri R Ramakrishna Gupta, Chairman, Hyderabad Chapter, proposed a vote of thanks.

Shri T.S. Vijayan in his address explained the use of principle based approach rather than rule based as same is being followed in India and how professionals must derive meaning out of it. Principle based approach will reduce the ambiguity as the thing will be clarified, he observed and explained that

through implementing this Code one can reduce the risk of violations as it will trigger at multiple points of compliance management.

Dr. C K G Nair in his opening observations said that there must be systematic approach and one must build a strong principal – agent relationship to increase investor confidence. He explained that FSLRC's report was not meant for today's India, it was for tomorrow's India. He said that the FSLRC has recommended a non-sectoral and principle based law through the enactment of the Indian Financial Code. This Code would replace a large number of laws enacted in piecemeal in response to specific events in the past and create authorities with commensurate accountability to proactively meet the needs of ever evolving market.

TECHNICAL SESSIONS

First Technical Session

The First Technical Session on the Regulatory regime: Architecture, Governance and Approaches was chaired by Shri B. A. Prabhakar, Chairman and Managing Director, Andhra Bank. Shri Som Sekhar



Sundaresan, Senior Partner, J Sagar Associates and Shri M. S. Sahoo, Secretary, ICSI were the panelists in this session. Shri S. S. Marthi, Immediate past Chairman, SIRC introduced the distinguished speakers.

Shri B. A. Prabhakar in his opening remarks emphasized and discussed in detail on the principle based approach of the law. Shri M. S. Sahoo informed that the draft law is simple and easy to understand and removes uncertainty. He explained that, if the report is implemented it would have effect beyond capital markets. He explained the reasons behind the formation of the FSLRC and said that the Financial Market can lead to catastrophe if not regulated well.

Shri Som Shekhar Sundaresan spoke about five important aspects of the report viz; Regulation making, FSAT, quality of investigations, penalties and inviting public comments while drafting regulations.

Second Technical Session

The Second Technical Session on Financial Firms & Macro Finance: Micro-prudential Regulations, Consumer Protection Resolution, International Markets, Public Debt Management, Systemic Risk was chaired by Shri R. K. Nair, Member, IRDA. Shri Viraj Kulkarni, India Head, BNB Paribas Securities, Dr. (Ms.) Susan Thomas, Professor, Indira Gandhi Institute of Development Research, Dr. Kangasabapathy, Director, EPW Research Foundation and Prof. Krishnamurthy Subramanian, Indian School of Business, Hyderabad were the panellists. Shri CV Rao, Council Member, SIRC, introduced the distinguished speakers.

Shri R.K. Nair in his opening observations emphasized the positives of the report prepared by the FSLRC.

Shri Viraj Kulkarni explained that FSLRC would initiate good practices in the market and said that it is a welcome thought from sectoral approach to non-sectoral approach. He also spoke about systemic risk and explained that multiplicity of laws lead to gaps which is difficult to address.

Dr. (Ms.) Susan Thomas emphasized from the consumer protection point of view of the report and explained in detail the implications of the report on the common man. She also spoke about the gap between the laws which was stated and which is

interpreted. She explained that 'Caveat Emptor' should not be made applicable uniformly for all financial customers.

Shri Kangasabapathy spoke about the Public Debt Management Agency and covered the rationale behind the setting up of such an agency elaborating the recommendation of FSLRC. Explaining the recommendations of the FSLRC in detail, he emphasized on the Principal-Agency relationship, and explained in detail the structure of the Regulatory authority given in the Report.

Prof. Krishnamurthy Subramanian discussed aspects about Inter regulatory coordination, Crisis Management and Network analysis, and emphasized that systemic risks which are not internalized, can significantly impact the financial system.

Third Technical Session

The Third Technical Session on Markets: Market Regulation, Market Development, Monetary Policy was chaired by Shri L V V Iyer, Senior Partner, LVV Iyer & Associates, Corporate Lawyers. Shri J Ravichnadrán, Director (Finance & Legal) and Company Secretary, National Stock Exchange of India Limited and Dr. Gangadhar Dharba, Executive Director & Head, Global Algorithmic Solutions Nomura Securities were the panellists. Shri Isaac Raj P.G. Secretary of the Hyderabad Chapter proposed a vote of thanks.

Shri L V V Iyer explained that law is to be read as it is stated rather than interpreting in a convenient way. He made a healthy criticism on the Monetary Policy Board proposed by the FSLRC and suggested few reforms.

Shri J Ravichnadrán addressed the 'Market Regulation and Market Development' and covered aspects such as need for development of the financial market and emphasised that the post implementation of the measures suggested in the report, would have positive impact. He emphasised that this process should be of high quality and involve the cost benefit analysis that would benefit the market as well the consumers.

Dr. Gangadhar Dharba while speaking on 'Monetary Policy' emphasized on the sync between objectives and instruments of the policy. He explained in detail various aspects of Monetary Policy Board and basic reasons behind that concept.



1. The complaint of professional or other misconduct against Ms. Sakshi Mittal (ACS – 25515) (CP.No.9460).

The Institute had received a complaint of professional or other misconduct against Ms. Sakshi Mittal (ACS – 25515) (CP.No.9460). The Complainant had *inter-alia* alleged that Ms. Sakshi Mittal, the Respondent had certified Form 23 and Form 32 pertaining to his removal as the promoter Director of a company, without exercising due diligence.

Ms. Sakshi Mittal, the Respondent on the other hand had denied the allegations leveled against her.

The Disciplinary Committee after considering the *prima-facie* opinion of the Director (Discipline), the material on record and after providing an opportunity of being heard to Ms. Sakshi Mittal concluded that the Respondent is 'Guilty' of Professional Misconduct under Clause (7) of Part I of the Second Schedule of the Company Secretaries Act, 1980 as the Respondent had certified and filed Form 32 for cessation of directorship of the Complainant from the Board of Directors of the Company and Form 23 for the special Resolution for removal of the Complainant from the Board of Directors of the company without checking the authority of the Director.

The Disciplinary Committee passed the order of 'Reprimand'.

2. The complaint of professional or other misconduct against Shri Arvind Kumar Tiwari, ACS – 22646(CP No. 8121).

The Institute had received a complaint of professional or other misconduct against Shri Arvind Kumar Tiwari, ACS – 22646(CP No. 8121)

The Complainant had *inter-alia* alleged that the Respondent had committed the wrongful and criminal act of forging and fabricating the records of a company, by certifying, signing and filing three e-forms 32 knowing the contents of the same to be false.

The Respondent had denied the allegations made by the Complainant and stated that he had verified three e-Forms 32 on the basis of certified copy of the resolution passed in the Board meeting and the Extraordinary General Meeting of the company.

The Disciplinary Committee after considering the *prima-facie* opinion of the Director (Discipline), the material on record and after providing an opportunity of being heard to Shri Arvind Kumar Tiwari, ACS – 22646 concluded that the Respondent is 'Guilty' of Professional Misconduct under Clause (7) of Part I of the Second Schedule of the Company Secretaries Act, 1980 as the e-form 32 filed for alleged resignation was digitally signed by the Respondent. The Respondent had failed to notice the difference in the date of the resignation letter *vis-a-vis* the date of the Board Meeting. He had also failed to verify and check the difference in timings recorded in the extracts of resolution and the minute book submitted. The resignation letter, the certified copy of the resolution and the minutes are vital documents for verification of Form 32. The other two Forms filed by the Respondent were ostensibly found to be in order.

The Disciplinary Committee passed the order of 'Reprimand'.

3. Information received against Shri Tushar Sharma, ACS-15953.

An Information was received against Shri Tushar Sharma, ACS-15953 alleging that he while holding Certificate of Practice of the Institute was also in employment.

The Director(Discipline) had held Shri Tushar Sharma *prima-facie* 'Guilty' of professional misconduct under clause (1) of Part II of the Second Schedule of the Company Secretaries Act, 1980, as he had violated the resolution dated the 12th May, 1991, passed by the Council prohibiting the members holding Certificate of Practice to accept the employment. Shri Tushar Sharma had admitted his mistake.

The Disciplinary Committee after considering the *prima-facie* opinion of the Director (Discipline), the material on record and after providing the opportunity of being heard to Tushar Sharma, ACS-15953, came to the conclusion that Shri Tushar Sharma, ACS-15953 is 'Guilty' of professional misconduct under clause (1) of Part II of the Second Schedule of the Company Secretaries Act, 1980, as, while holding the Certificate of Practice of the Institute is also in employment.

The Disciplinary Committee passed the order of 'Reprimand' and also imposed a fine of Rs. 5000/- .

4. The complaint of professional or other misconduct against Ms. Hema Vijaykumar, ACS-11483 (CP No.4683).

The Institute had received a complaint of professional or other misconduct against Ms. Hema Vijaykumar, ACS-11483 (CP No. 4683). The Complainant had *inter-alia* alleged that the Respondent had certified/ issued the Compliance Certificates under Section 383A of the Companies Act, 1956 in respect of a company as a Practicing Company Secretary without exercising due diligence.

The Respondent submitted that she had issued the said Compliance Certificates to the company based on the examination of documents and explanations furnished by the company and denied all the allegations leveled against her.

The Disciplinary Committee after considering the *prima-facie* opinion of the Director (Discipline), the material on record and after providing an opportunity of being heard to Ms. Hema Vijaykumar, ACS-11483 (CP No. 4683) concluded that there has been some laxity on the part of the Respondent in verifying the exact amount of authorized capital and the issued, subscribed and paid up capital of the company as there have been contrary figures in the Annual Returns and in the balance sheets for those years and, therefore, the Respondent is 'Guilty' of professional misconduct under Clause (7) of Part I of the Second Schedule of the Company Secretaries Act, 1980 as she did not exercise due diligence. The respondent has admitted her mistake.

The Disciplinary Committee passed the order of 'Reprimand'.



**THE INSTITUTE OF
Company Secretaries of India**
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

Six PCH for
Members of ICSI

14th National Conference of Practising Company Secretaries

July 19-20, 2013 (Friday & Saturday)

Innaugural : 11.00 a.m.

Venue:

The Vedic Village Spa Resort, Shikharpur, P.O – Bagu – Rajarhat – Kolkata - 700135

Theme: Integrating Growth, Governance and Challenges Beyond

Sub-Themes:

- 1) **Emerging Areas of Practice in Governance**
- 2) **Quality of Service**
- 3) **Professionals' Accountability, Responsibility & Regulation**

Key Takeaways:

- Explore new opportunities in the areas of practice.
- Update and sharpen technical and professional skills.
- Share Knowledge among the peer group.
- Build professional networking.
- Interact with experienced and expert faculty.
- Enjoy the scenic beauty of The Vedic Village Spa Resort, Kolkata.
- Rejuvenate in the City of Joy to achieve further heights.

Speakers:

Eminent speakers with comprehensive exposure to the practical aspects of the topics will address and interact with the participants.

Participants:

Company Secretaries and other Professionals in Secretarial, Legal and Management disciplines would be benefited by participating in the Conference.



Delegate Registration Fee

	Delegates Registering on or before 15th June, 2013**		Delegates Registering after 15th June, 2013	
	Non Residential	Residential	Non Residential	Residential
Members	Rs. 2809/-	TS: Rs. 5559/- SO: Rs. 7809/-	Rs. 3371/-	TS: Rs. 6121/- SO: Rs. 8371/-
Non-members	Rs. 3371/-	TS: Rs. 6121/- SO: Rs. 8371/-	Rs. 3933/-	TS: Rs. 6683/- SO: Rs. 8933/-
Students/Licentiates of ICSI	Rs. 2247/-	TS: Rs. 4997/- SO: Rs. 7247/-	Rs. 2809/-	TS: Rs. 5559/- SO: Rs. 7809/-
Accompanying Spouse / Children (above the age of 12 years)	Rs. 2247/-	Rs. 4997/-	Rs. 2809/-	Rs. 5559/-

** Delegates registering by sending in their Delegate Registration Form along with the Delegate Registration Fee upto and including 15th June, 2013 would be entitled to an early bird discount of Rs. 500/- in the Delegate Fee. **TS**-Twin Sharing and **SO**-Single Occupancy.

- Check in – 19th July, 2013 at 1:00 pm
- Check out – 20th July, 2013 at 11:00 am
- Registration fee covers the cost of background material, lunch, tea (both days) and dinner (Friday, 19th July, 2013) and includes service tax.
- As limited number of rooms are available at the Vedic Village Spa Resort on 'First Come First Served' basis, we shall appreciate if a line in confirmation is sent at the email id sudhir.saklani@icsi.edu so that the desired accommodation is blocked at the venue of the Conference.
- Delegates with chauffer driven cars will have to pay

extra charges for food arrangements for Driver during the conference. These charges have to be paid immediately on arrival.

- In case accommodation is not available at Vedic Village Spa Resort, the same may be booked in some other hotel(s) subject to availability as decided by the organizing committee.
- Any extra stay will be charged separately, subject to availability of rooms and receipt of reservation charges in advance.
- Any extra facilities availed by the delegate during the stay have to be paid directly to Vedic Village Spa Resort.

PROGRAMME DIRECTOR	PROGRAMME COORDINATOR	PROGRAMME FACILITATOR
CS Ashok Pareek Council Member, ICSI 033 – 66023845 akpareek2000@yahoo.co.in	CS Deepak Kumar Khaitan Chairman, EIRC 09830306692 / 09007055560 deepak_khaitan@hotmail.com	CS Arun Kumar Khandelia Vice Chairman, EIRC 033-22115350 / 09831014145 khandeliaarun@yahoo.co.in

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3. **Mr. Utpal Mukherjee**, Assistant Director - Ph: 033-22816542; e-mail: utpal.mukherjee@icsi.edu

Registration

The delegate registration fee (Residential/Non Residential) is payable in advance and is not refundable for accepted nominations. The registration form duly completed along with a **crossed Cheque/Demand Draft may be sent in favour of "The Institute of Company Secretaries of India"** payable at New Delhi / Kolkata at the following addresses:

CS Saurabh Jain Assistant Director The Institute of Company Secretaries of India 'ICSI HOUSE' 22, Institutional Area, Lodi Road New Delhi 110 003 Tel: 011-45341035 saurabh.jain@icsi.edu	Mr. Utpal Mukherjee Assistant Director Eastern India Regional Council of ICSI ICSI-EIRC Building 3-A Ahiripukur 1st Lane Kolkata 700 019 Tel: 033-22816542/22816541 utpal.mukherjee@icsi.edu
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Backgrounder

It is proposed to bring out a Backgrounder containing theme articles and other relevant information. Members who wish to contribute papers for publication in the backgrounder or for circulation at the Conference are requested to send the same on or before June 20, 2013 through email to CS Saurabh Jain, Assistant Director, The Institute of Company Secretaries of India, ICSI HOUSE, 22, Institutional Area, Lodi Road, New Delhi – 110 003 at saurabh.jain@icsi.edu with one hard copy or those sending only hard copy may send the same in duplicate. The paper/article should not normally exceed 15 typed pages. Members whose papers/articles are published in the Backgrounder of the Conference would be awarded **FOUR Programme Credit Hours**. The decision of the Institute shall be final in all respects.

The Delegate Registration Form is available on the ICSI website at the link: <http://www.icsi.edu>



Anomalous Definitions of Kinds of Share Capital: An Analysis

(RW : 1.06.2013)

The term 'share capital' denotes the amount of capital raised or to be raised by the issue of shares by a company. The usual different expressions of share capital found in the capital structure of a company are known as "kinds of share capital". Schedule VI to the Companies Act, 1956 gives, *inter-alia*, the format of the Balance Sheet of a company. This schedule prescribes that the share capital of a company should be exhibited in its Balance Sheet under the following heads:

1. Authorised Share Capital
2. Issued Share Capital
3. Subscribed Share Capital

Schedule VI has been amended on February 28, 2011 by the Government which is applicable to all companies for the Financial Statements to be prepared for the financial year commencing on or after April 1, 2011. As per revised Schedule VI subscribed share capital is to be bifurcated into fully paid-up, and not fully paid up. Hence share capital will now be appearing in the balance sheet as follows:

1. Authorised share capital
2. Issued share capital
3. Subscribed and fully paid-up
4. Subscribed and not fully paid-up

The Companies Act, does not define the terms Authorised, Issued and Subscribed share capital. The Companies Bill, 2011 defines these terms as follows:

"Authorised capital" or "nominal capital" means such capital as is authorised by the Memorandum of a company to be the maximum amount of share capital of the company. [Clause 2(8)].

"Issued capital" means such capital as the company issues from time to time for subscription. (The words 'issues' used in the definition impliedly means 'offers'). [Clause 2(50)].

"Subscribed capital" means such part of the capital which is for the time being subscribed by the members of a company. [Clause 2(86)].

The Guidance Note on Terms used in Financial Statements issued by ICAI defines these terms as follows:

"Authorised share capital" means "the number and par value, of each class of shares that an enterprise may issue in accordance with its instrument of incorporation. This is sometimes referred to

as nominal share capital".

"Issued share capital" means "that portion of the authorised share capital which has actually been offered for subscription."

"Subscribed share capital" is "that portion of the issued share capital which has actually been subscribed and allotted. This includes any bonus shares allotted by the corporate enterprise."

An observation of the aforesaid definitions of "issued share capital" reveals that it refers to such capital as the company offers for subscription. The bone of contention is this definition of "issued share capital" which might require a revisit by the ICAI and the Company Law experts because of the following reasons:

1. Balance sheet of a company is an important financial document which contains material information relevant for investors and shareholders for the next financial year regarding company's financial health. But giving the nominal value of shares offered for subscription in the balance sheet does not provide any useful information to an analyst of a company's Balance Sheet. What is important to him is the nominal value of shares actually allotted by the company because it is this amount which can be taken as the ultimate fund out of which the creditors are to be paid, even though the actual paid up capital for the time being may be less than this amount.
2. If a company offers shares for subscription from time to time, say, three times in a year of Rs. 2 crore each time but could not make allotment in the first two attempts (because minimum subscription as required under guidelines issued by SEBI was not received) and shares of Rs. 2 crore only were subscribed and allotted in the third attempt, then should this be shown in the Balance Sheet as follows-
 - (a) Issued Capital- Rs. 6 crore
 - (b) Subscribed Capital- Rs. 2 crore

Again, what if suppose the Authorised Share Capital limit is Rs. 5 crore ?

3. The word "issued" grammatically means an executed act and not an executory act. As such the definition of the term "issued capital", namely 'that capital which is offered for subscription' is not in conformity with grammatical rules.

With a view to removing the afore-mentioned ambiguity or inconsistency in the definition of "Issued Share Capital", the following two alternatives are suggested:



First, the terms authorised, issued and subscribed share capital should be defined as follows:

1. **Authorised Capital.** It is the maximum amount of share capital stated in a company's Memorandum which the company is, for the time being, authorised to raise.
2. **Issued Capital.** It means the nominal value of that part of the authorised capital which is allotted for cash or for consideration other than cash and includes shares subscribed by the signatories to the memorandum.
3. **Subscribed Capital.** It means the paid up value of that part of the authorised capital which is allotted for cash or for consideration other than cash and includes the shares subscribed by the signatories to the memorandum. Thus, in a company where shares are fully paid up, the 'Subscribed Capital' would be equal to the 'Issued Capital'. The 'Subscribed Capital' sub-heading is of significance only if the shares are partly paid-up or certain 'calls' on shares are unpaid or some shares have been forfeited for non-payment of 'call money'. In any of these situations the 'Issued Capital' denotes the nominal value of shares actually allotted and the 'Subscribed Capital' denotes the paid up capital of the company.

Secondly, we may adopt the classification of share capital as provided in Section 148 of the Companies Act, 1956 (corresponding Clause 60 of the Companies Bill, 2011).

Section 148 carries the caption "Publication of Authorised as well as subscribed and paid-up capital". The section provides that where any notice, advertisement or other official publication or any business letter, bill head or letter paper of a company contains a statement of the amount of authorised capital of the company, such document shall also contain a statement of the subscribed and paid up capitals. This statement shall be in an equally prominent position and in equally conspicuous characters.

From the afore-mentioned provisions of section 148, it is clear that expressing share capital under the following three heads looks logical as it removes all ambiguity:

1. Authorised Share Capital. Definition same as given above.
2. Subscribed Share Capital. It means the nominal value of that part of the authorised share capital which is subscribed by the investors and actually allotted by the company for cash or for consideration other than cash and includes shares subscribed by the signatories to the memorandum.
3. Paid Up Share Capital. It is the amount of money that has been paid up or deemed to have been paid on shares actually allotted. In other words, paid-up capital is equal to called up capital minus calls-in-arrears.

Prof. M.C. Kuchhal
(mckuchhal@gmail.com)

Are Preference Shares Really "Share Capital" or Loan (RW : 2.06.2013)

The term "Share" has been defined by section 2(46) of the Companies Act, 1956 to mean share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied;

Section 85 of the Companies Act, 1956 says that the Share Capital are of two kinds namely preference and equity.

Section 80A of the Companies Act states that there should not be any irredeemable preference shares and those shares which were irredeemable before the Commencement of Companies (Amendment), Act, 1988 must be necessarily made redeemable with a period of five years from the commencement of such amended Act.

Section 12 of the Companies Act talks about incorporation of companies.

From a reading of the above sections it is clear that shares includes both preference shares as well as equity shares and

both can form part of the share capital of the Company. A company limited by shares may opt for either of the share capital, i.e. preference shares or equity shares, within the limits of its Authorised Share Capital, as stated in the Memorandum of Association of the Company.

Section 12, nowhere makes any distinction between equity shares or preference shares of the company and under section 12(2)(a) it has been stated that a company may be one having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them. Now, does that mean that promoters of a company can form a company by only having preference share Capital in its Memorandum and completely eliminating the equity share capital for the formation of the company? The situation seems to be quite hilarious in the present context, as preference shares necessarily should be redeemed within a period of five years as per section 80A of the Companies Act, 1956. Before the Companies (Amendment) Act, 1988, it was quite clear that



Readers' Write

although the preference shareholders were not completely the owners of the Company and were entitled to voting rights only when their rights were affected, were entitled to receive the preferential treatment over the equity shares for the payment of dividend and in respect of return of Capital. The condition of irredeemability made it quite clear that the capital would be returnable only in the case company being wound up, unless otherwise has been decided by the company. Section 80, thus made it as part of viable share capital of the company.

But after the commencement of Companies (Amendment) Act, 1988 the situation has been reversed and preference shares have been made necessarily redeemable within a period of five years. But that is not the issue. A question arises as to whether the preference shares should really be regarded as part of the share capital of the company, or it is now merely other form of disguised loan.

Looking at the present nature of preference shares, following are the notable features:-

1. Preference shareholders do not have right to vote unless their rights are effected.
2. Preference shares are redeemable within a fixed period of five years.
3. Preference shares carry a fixed rate of dividend, apart from any special rights to share in extra profits of the Company.

Looking at the above features the question that looms in the mind is that are these features not quite similar to other forms of borrowings, whether in the form of loan or debentures. Whether these should really be features of share capital of the company? Following are some similarities between Preference Share and other borrowings whether in the form of loans or debentures.

1. Both get dividend/Interest at fixed rates.
2. Both are secured form of lending as the amount necessarily have to be returned after a fixed period.
3. Both can have cumulative rights in respect of dividend/interest.
4. Both are low risk instruments
5. Both do not have any direct interference in the business of the company and have the right to vote only when their rights are affected.

The only notable difference between the preference shares and borrowings, from the company's point of view is the tax treatment. Interest paid is allowable deduction whereas on dividend paid on preference shares dividend tax needs to be paid.

Thus, the purpose and nature of preference shares should be carefully scrutinized and the concept of preference shares should be carefully looked upon, especially after the insertion of Section 80A in the Companies Act, 1956. Whether at all preference shares, are required is the crucial question that stares at us.

Ashish K. Bhatt, ACS
(ashishbhatt.cs@gmail.com)

ATTENTION ! PRACTISING COMPANY SECRETARIES

EMPANELMENT AS A "PEER REVIEWER"

(AS PER THE GUIDELINES FOR PEER REVIEW OF
ATTESTATION SERVICES BY PRACTICING
COMPANY SECRETARIES)

The Council of the Institute approved the Guidelines for Peer Review of Attestation Services by Practicing Company Secretaries at its 202nd Meeting held on August 25-26, 2011 at New Delhi.

A copy of the Guidelines is available on the ICSI website (<http://www.icsi.edu/LinkClick.aspx?link=2242&tabid=2220&mid=4498>) and also published in the September, 2011 issue of the Chartered Secretary Journal.

The Guidelines have come into effect from October 1, 2011. The Peer Review exercise has already commenced from January 4, 2012. The Peer Review Board has been organising extensive training programmes for Peer Reviewers at various locations throughout the country and many more programmes have been scheduled in the months of June-July-August, 2013.

The nature and complexity of peer review requires the exercise of professional judgement. Accordingly, an individual serving as a reviewer shall:-

- a) Be a member;
- b) Possess at least ten years experience; and
- c) Be currently in the practice as Company Secretary.

Members in practice are invited to empanel themselves as a Peer Reviewer under the Guidelines for Peer Review of Attestation Services by PCS if they fulfill the aforesaid qualifications for being empanelled as a Peer Reviewer.

The Proforma for Empanelment as a "Reviewer" is available on the webpage of the Peer Review Board on ICSI website (<http://www.icsi.edu/AppointmentReviewer/tabid/2240/Default.aspx>). The duly filled in proforma may be sent to - The Secretary, Peer Review Board, The Institute of Company Secretaries of India, ICSI HOUSE, 22, Institutional Area, Lodi Road, New Delhi 110 003 (email: prb-icsi@icsi.edu).



ATTENTION MEMBERS

CHANGE OF ADDRESS

Member's attention is drawn to Regulation 3 of the Company Secretaries Regulations, 1982 according to which every member of the Institute is required to communicate to the Institute any change of professional address within one month of such change. The contravention of the same amounts to professional misconduct under clause (1) of Part II of the Second Schedule to the Company Secretaries Act, 1980.

Members are, therefore, requested to intimate the change in their professional address within the specified period.

A. The members may change their professional and residential address and other details online through Institute's portal www.icsi.in by following the steps given below:-

- i) Login to portal www.icsi.in
- ii) Login to self profile by entering the membership number and password
- iii) Once logged in, the member has to click on the Link 'Change of Address'
- iv) A window will be displayed with the option 'Professional' or 'Residential'
- v) Click on the relevant option i.e. 'Professional' or 'Residential' and change the details and click on 'go' button
- vi) A screen will be displayed with the options 'Existing details as per records' and 'Enter change details'
- vii) Change the details as required and press on 'submit' button

B. Members may also send their request for change of address to the Institute's email IDs at member@icsi.edu & ashish.tiwari@icsi.edu from their e-mail ID as recorded with the Institute.

C. Members may send the request through electronic mode as described under A, B & C above. Otherwise, members may also send their request through post to the Membership Section of the Institute at ICSI House, 22 Institutional Area, Lodi Road, New Delhi - 110003.

For clarifications if any, members may contact Mr. Ashish Kumar Tiwari, Jr. Assistant at telephone no. 011 45341063 or Mr. D.D. Garg, Administrative Office at Telephone No. 011 45341062 or write at e-mails ashish.tiwari@icsi.edu & dd.garg@icsi.edu.

ATTENTION MEMBERS

UPLOADING OF SCANNED IMAGES OF PHOTOGRAPHS & SIGNATURES ON INSTITUTE'S WEBSITE

The Institute has reoriented its online services to capture the information pertaining to photographs and signatures of members. The members may upload the scanned image of their photograph and signature on the website of the Institute by following the steps given below:

1. Open the Institute's website www.icsi.edu.
2. At Homepage click on login button appearing on top of the website.
3. Click on 'Members' Tab and then click on 'Member Login' button.
4. Use your membership number as Axxxx for ACS and Fxxxx for FCS as your user name. For example, if the Associate Membership number of the member is 2502 then the user name should be written as A2502 and for FCS it should be written as F2502.
5. Your password shall be the same as used by you earlier on our portal www.icsi.in.
6. In case you have not created your password till date you may create your password by using www.icsi.in and then come back to the new portal www.icsi.edu after 48 hours.
7. Once logged in click on 'Members' tab followed by 'My Account' tab.
8. Click on the last tab 'Manage Image'.
9. Click on the browse button to upload your photograph and signature.
(The format of the file containing the photograph and signature should be in .jpeg format and the size of the file containing the photograph and signature should be maximum of 150 kb each).

In case the members are facing any problem in doing the same, the members are requested to send their images of photograph and signature from their email id registered with the Institute to email IDs at ashish.tiwari@icsi.edu For clarifications if any, members may contact Mr. J S N Murthy, Administrative Officer at jsn.murthy@icsi.edu 011 45341049.

A Governance Initiative

Information on Corporate Governance

RECOMMENDATIONS ON CORPORATE GOVERNANCE – Denmark (MAY 2013)

A Committee on Corporate Governance was commissioned in Denmark to monitor corporate governance developments at national and international level, as well as to strive for continuity in corporate governance work in Denmark. The committee's submitted its latest recommendations on 6 May 2013. Recommendations by the Committee are best practice guidelines for the management of companies admitted to trading on a regulated market and it should be viewed together with the other statutory requirements and the OECD Principles of Corporate Governance.

The most important aspect of the recommendations is to ensure that shareholders have an insight into the companies, as well as an understanding of the potential of the companies. The recommendations are particularly on the following aspects of Corporate Governance:

- Communication and interaction by the company with its investors and other stakeholders
- Tasks and responsibilities of the board of directors
- Composition and organisation of the board of directors
- Remuneration of management.
- Financial reporting, risk management and audits

Under the aforesaid broad aspects, Committee has recommended the Publication of Corporate Governance Report on the Company's website; Adoption of policies on the company's relationship with its stakeholders; Adoption of policies on corporate social responsibility; Whistle blower scheme etc.

Details about recommendations are available at:

http://www.ecgi.org/codes/code.php?code_id=389

Green Corner



Reduce, Reuse & Recycle to save the earth

Do your part to reduce waste by choosing reusable products instead of disposables. Buying products with minimal packaging will help to reduce waste. And whenever you can, recycle paper, plastic, newspaper and glass. By recycling half of your household waste, you can save 2,400 pounds of carbon dioxide annually. Share information about recycling with your friends, neighbors and co-workers, and take opportunities to encourage others to contribute to a greener environment and a better future for generations to come

Good Things Around



Mitticool - an eco-friendly refrigerator

Mitticool is a natural refrigerator made entirely from clay to store the vegetables and fruits and also for cooling water.

It provides naturally coolness to the stored material without requiring any electricity or any other artificial form of energy. It is a Very good alternative for the rural people who cannot afford the conventional refrigerator.

Mansukhbhai Prajapati, a traditional clay craftsman, has invented this economical refrigerator which can be afforded by poor people also. Mansukhbhai Prajapati is among Forbes' list of seven most powerful rural Indian entrepreneurs, whose "inventions are changing lives" of the people across the country.

Remember

5 June : World Environment Day
14 June : World Blood Donor Day [WHO]

12 June : World Day Against Child Labour [ILO]
23 June : United Nations Public Service Day

Moments of Thought



"Corporate governance is not something that is put in place and then left. Ensuring its effectiveness depends on regular review, preferably regular independent review. And, in the end that comes down to the shareholders. Outside assessment and self-assessment need to be regular events"



Jim Jones
(Former editor-Business Day)

INVITATION OF APPLICATIONS FOR PANEL OF PAPER SETTERS AND/ EXAMINERS FOR THE COMPANY SECRETARIES EXAMINATIONS

The Institute is inviting applications for preparing a panel of Paper Setters and/Examiners in the following subjects of Company Secretaries examinations. The applicants are requested to give their option of subjects, in order of preference, under any one of the following disciplines:

I	LEGAL DISCIPLINE SUBJECTS:	
	(a) Law:	
	(i) Economic and Commercial Laws	Executive Programme
	(ii) Company Law	Executive Programme
	(iii) Industrial, Labour and General Laws	Executive Programme
	(iv) Capital Markets and Securities Laws	Executive Programme
	(b) Law and Practice:	
	(i) Tax Laws and Practice	Executive Programme
	(ii) Company Secretarial Practice	Professional Programme
	(iii) Drafting Appearances and Pleadings	Professional Programme
	(iv) Corporate Restructuring & Insolvency	Professional Programme
	(v) Advanced Tax Laws and Practice	Professional Programme
	(c) Law and Management:	
	(i) Strategic Management, Alliances and International Trade	Professional Programme
	(ii) Due Diligence and Corporate Compliance Management	Professional Programme
	(iii) Governance, Business Ethics and Sustainability	Professional Programme
II	ACCOUNTING AND FINANCE DISCIPLINE SUBJECTS	
	(i) Company Accounts and Auditing Practices	Executive Programme
	(ii) Cost & Management Accounting	Executive Programme
	(iii) Financial, Treasury and Forex Management	Professional Programme

QUALIFICATIONS:

A person applying for empanelment of his/her name as Paper Setter or Examiner should be holding professional qualification as member of the Institute of Company Secretaries of India/Institute of Cost Accountants of India/Institute of Chartered Accountants of India at least for five years and/or a Doctorate Degree/Postgraduate Qualification with at least second class in the discipline of Law, Management, Finance, Accounting etc. with five years experience either in an academic position or in practice or in employment in the concerned field/discipline having relevance to the subjects of examinations.

DESIRABLE EXPERIENCE:

Persons having adequate experience of teaching and as Head Examiner/Moderator/Paper Setter/Examiner in subjects of Law, Management, Finance, Accounting, etc. at graduate/post-graduate level or professional examinations or in writing book(s) or study material in the relevant subject(s) OR any other specialised graduate/post-graduate level course(s) with relevant work experience having direct relevance to the aforesaid subject(s) of examination(s) will be preferred.

HOW TO APPLY:

Candidates fulfilling the above conditions and **not registered as a student of the Institute** may send their bio-data in the prescribed application form to the Joint Director (Examinations), The Institute of Company Secretaries of India, C-37, Institutional Area, Sector-62, NOIDA – 201309. The prescribed application form can be down loaded from the Institute's [website: www.icsi.edu/webmodules/member/forms/examnew.pdf](http://www.icsi.edu/webmodules/member/forms/examnew.pdf)



COMPANY SECRETARIES BENEVOLENT FUND

HOW TO BECOME THE LIFE MEMBER

Safeguarding and caring for your well being



Saathi Haath Badana
साथी हाथ बढ़ाना

Application for life membership of CSBF has to be submitted in the prescribed Form -A (available on the website of the Institute i.e. www.icsi.edu) and should be accompanied by Demand Draft or Cheque (payable at par) for ₹ 7500/- drawn in favour of “**Company Secretaries Benevolent Fund**” payable at New Delhi and the same can be deposited in the offices of any of the Regional Councils located at Delhi, Kolkata, Chennai and Mumbai. However, for immediate action, the applications should be sent to **The Secretary The Institute of Company Secretaries of India, 22, Institutional Area, Lodi Road, New Delhi -110 003.**

The members can also apply online by following the steps given below:

- The member has to visit the portal www.icsi.in
- The member has to login to self profile by selecting the option Member – Associate / Fellow
- The member has to enter his membership number.
- The member has to enter his password in the box provided (The member has to Click on Reset password if creating for the first time and follow the instructions)
- After Logging in the member has to click on the link 'Request for CSBF Membership'.
- The member has to click on Download link to download the Form 'A' i.e. Form for admission as a Member of CSBF.
- The member has to fill up the form complete in all respects.
- The member has to scan the duly filled in form and upload the same.
- After uploading the scanned form the member has to click on 'Proceed for Payment' button for payment through net banking.
- A copy of the Acknowledgement Number generated may be retained by the member for future reference.

Following benefits are presently provided by the CSBF:-

Financial Assistance in the event of Death of a member of CSBF:-

Upto the age of 60 years

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

Above the age of 60 years

- ◆ Upto ₹ 2,00,000 in deserving cases on receipt of request subject to the Guidelines approved by the Managing Committee from time to time.

Other benefits subject to the Guidelines approved by the Managing Committee from time to time :-

Reimbursement of Medical Expenses

- ◆ Upto ₹ 60,000/-

Financial Assistance for Children's Education (one time)

- ◆ Upto ₹ 20,000 per child (Maximum for two children) in case of the member leaving behind minor children.

For further information/clarification please contact Mrs. Meenakshi Gupta, Joint Director or Mr. J S N Murthy, Administrative Officer on telephone No. 011-45341049, Mobile No. 9868128682 or through e-mail member@icsi.edu or csbf@icsi.edu

FOR FURTHER DETAILS PLEASE VISIT : www.icsi.edu/csbf

KIND ATTENTION ! MEMBERS

Prize Query Scheme

Enhancement of the Prize Amount

MEMBERS will be glad to know that the prize money for replies to prize queries published in Chartered Secretary has now been enhanced to Rs.1000 in cash for each of the two best answers for the prize query published from July 2012 issue and onwards. The names of the winners and their replies will also be published in the journal.

The decision of the Board will be final and binding on the members and no query will be entertained once a decision is finalized about the prize winners. Further the Board has all the inherent powers to cancel any particular month's prize query scheme if sufficient number of responses are not received to make it a healthy competition.

READERS' WRITE

The erstwhile POINTS OF VIEW column of Chartered Secretary has been re-captioned as READERS' WRITE. Members are invited to send in their queries and views for consideration for publication in this column for soliciting views/comments from other members of the Institute.

Appointment

REQUIRED

Company Secretary at Pune

Hansgrohe India Private Limited, having its registered office at Pune require dynamic, diligent & result oriented company secretary.

The candidate should be a qualified Company Secretary with 2 years of experience preferably worked in Company or similar industry.

Candidate should be capable of liaising with various Government authorities.

Should have flair for writing, drafting and vetting of legal documents, agreements, contracts, MOU. Drafting and filling of various return with different Government authorities.

Interested candidates fulfilling the above criteria can email their CVs to cs@skparekh.com.

hansgrohe

Hansgrohe India Private Limited

Office Nos. 601-604, 6th Floor, Limited Sky Station,
Viman Nagar, Pune 411 014

IDENTITY CARDS FOR MEMBERS

Members who are yet to get the Identity Card issued from the Institute are requested to apply for the same along with their latest two coloured passport size photographs in the format given below (indicating on the reverse the Name and Membership Number) to the Membership Section of the Institute at ICSI House, 22, Institutional Area, Lodi Road, New Delhi-110003. For queries, if any, contact on -

Phone No. 011 45341062

Mobile No. + 91 9868128682

Email Ids member@icsi.edu / ashish.tiwari@icsi.edu

Request for issue of Member's Identity Card

Please send latest two coloured passport size photographs mentioning your name & membership no. on the reverse of the photograph along with the following details:

Membership No. ACS/FCS
Name
(in block letters) (First Name) (Middle Name) (Surname)
Date of birth
Phone: Office: Residence:
Mobile No.
E-mail address

Passport
size coloured
photograph

Signature with date



Articles in Chartered Secretary Guidelines for Authors

1. Articles on subjects of interest to the profession of company secretaries are published in the Journal.
2. The article must be original contribution of the author.
3. The article must be an exclusive contribution for the Journal.
4. The article must not have been published elsewhere, and must not have been or must not be sent elsewhere for publication, in the same or substantially the same form.
5. The article should ordinarily have 2500 to 4000 words. A longer article may be considered if the subject so warrants.
6. The article must carry the name(s) of the author(s) on the title page only and nowhere else.
7. The articles go through blind review and are assessed on the parameters such as (a) relevance and usefulness of the article (from the point of view of company secretaries), (b) organization of the article (structuring, sequencing, construction, flow, etc.), (c) depth of the discussion, (d) persuasive strength of the article (idea/argument/articulation), (e) does the article say something new and is it thought provoking, and (f) adequacy of reference, source acknowledgement and bibliography, etc.
8. The copyright of the articles, if published in the Journal, shall vest with the Institute.
9. The Institute/the Editor of the Journal has the sole discretion to accept/reject an article for publication in the Journal or to publish it with modification and editing, as it considers appropriate.
10. The article shall be accompanied by a summary in 150 words and mailed to ak.sil@icsi.edu
11. The article shall be accompanied by a 'Declaration-cum-Undertaking' from the author(s) as under:

Declaration-cum-Undertaking

1. I, Shri/Ms./Dr./Prof, declare that I have read and understood the Guidelines for Authors.
2. I affirm that:
 - a. the article titled "....." is my original contribution and no portion of it has been adopted from any other source;
 - b. this article is an exclusive contribution for Chartered Secretary and has not been / nor would be sent elsewhere for publication; and
 - c. the copyright in respect of this article, if published in Chartered Secretary, shall vest with the Institute.
 - d. the views expressed in this article are not necessarily those of the Institute or the Editor of the Journal.
3. I undertake that I:
 - a. comply with the guidelines for authors,
 - b. shall abide by the decision of the Institute, i.e., whether this article will be published and / or will be published with modification/editing.
 - c. shall be liable for any breach of this 'Declaration-cum-Undertaking'.

(Signature)



CHARTERED SECRETARY Advertisement Tariff

(With Effect from 1st April 2012)

BACK COVER (COLOURED)

Non - Appointment

Per Insertion	₹ 75,000
4 Insertions	₹ 2,70,000
6 Insertions	₹ 3,96,000
12 Insertions	₹ 7,65,000

COVER II/III (COLOURED)

Non - Appointment

Per Insertion	₹ 50,000
4 Insertions	₹ 1,80,000
6 Insertions	₹ 2,64,000
12 Insertions	₹ 5,10,000

FULL PAGE (COLOURED)

Non-Appointment Appointment

Per Insertion	₹ 40,000	₹ 10,000
4 Insertions	₹ 1,44,000	₹ 36,000
6 Insertions	₹ 2,11,200	₹ 52,800
12 Insertions	₹ 4,08,000	₹ 1,02,000

HALF PAGE (COLOURED)

Non-Appointment Appointment

Per Insertion	₹ 20,000	₹ 5,000
4 Insertions	₹ 72,000	₹ 18,000
6 Insertions	₹ 1,05,600	₹ 26,400
12 Insertions	₹ 2,04,000	₹ 51,000

PANEL (QTR PAGE) (COLOURED)

Per Insertion	₹ 10,000	₹ 3,000
(Subject to availability of space)		

EXTRA BOX NO.CHARGES

For 'Situation Wanted' ads.	₹ 50
For Others	₹ 100

MECHANICAL DATA

- Full Page - 18 x 24 cm
- Half Page - 9 x 24 cm or 18 x 12 cm
- Quarter page - 9 x 12 cm

- The Institute reserves the right not to accept order for any particular advertisement.
- The journal is published in the 1st week of every month and the advertisement material should be sent in the form of typed manuscript or art pull or open file CD before 20th of any month for inclusion in the next month's issue.

For further information write to:
The Editor,
"CHARTERED SECRETARY",



**THE INSTITUTE OF
Company Secretaries of Inc**
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

ICSI House, 22, Institutional Area, Lodi Road, New Delhi 110003
Tel: 011-45341024, 41504444. Fax: + 91-11-24626727, 24645045
Email : ak.sil@icsi.edu website : www.icsi.edu



Our Members

SPECIAL ISSUE ON JOURNEY FROM COMPANY SECRETARY TO GOVERNANCE PROFESSIONAL

The November 2013 issue of Chartered Secretary is being planned as a special issue on the above theme. This theme would cover various aspects such as Role of Professions in Economic Development, Role of CS in Governance, Governance in Government, Governance in Companies, Governance in NGOs, Regulation of the Profession of CS, Development of the Profession of CS, CS as Independent Directors, etc.

Articles on the above aspects are welcome for consideration by the Editorial Advisory Board for publication in the said special issue. Contributors may also refer to the general guidelines for authors published elsewhere in this issue.

The articles may kindly be forwarded to:

The Deputy Director (Publications)

The Institute of Company Secretaries of India 22, Institutional Area, Lodi Road, New Delhi – 110003.

e-mail: ak.sil@icsi.edu

copy to: ks.gopalakrishnan@icsi.edu

ATTENTION

PRACTISING COMPANY SECRETARY

The Institute has come out with a CD containing list of Practising Company Secretaries as on 1st April 2013. The CDs are available at the headquarters of the Institute and will be supplied free of cost on receipt of request.

Request may please be sent to the Membership Section at email ids rajeshwar.singh@icsi.edu or member@icsi.edu

For queries if any please contact on

telephone No. 011-45341063/64 or on Mobile No. 919868128682

ICSI GRIEVANCE SOLUTIONS CELL

The Institute in its endeavour to improve the service delivery mechanism to the Members, Students and other stakeholders has established a Grievance Solutions Cell. Please send your grievance, if any, at

grievance.solutions@icsi.edu

CS QUIZ

An employer terminated the services of an employee. The Labour Court declared the termination illegal and ordered the reinstatement of the employee with back wages. The employee did not work for some period. Is the employer under an obligation in terms of the order of the Labour Court to pay wages for this period also?

Conditions

- 1] Answers should not exceed one typed page in double space.
- 2] Last date for receipt of answer is 8th July, 2013.
- 3] Two best answers will be awarded Rs. 1000 each in cash and the names of the contributors and their replies will be published in the journal.
- 4] The envelope should be superscribed '**Prize Query June, 2013 Issue**' and addressed to :

Deputy Director (Publications)

The Institute of Company Secretaries of India, 'ICSI House', 22, Institutional Area, Lodi Road, New Delhi-110003.

OBITUARIES

"Chartered Secretary" deeply regrets to record the sad demise of the following members:

Shri Gopal Trimbak Gokhale, FCS

(10.02.1928 - 03.03.2013), a Fellow Member of the Institute from Mumbai.

Shri T. N. Arvindakshan, ACS

(25.02.1952-02.05.2013), an Associate Member of the Institute from Ghaziabad.

Shri T. R. Srinivasan, ACS

(08.05.1934-14.05.2013), an Associate Member of the Institute from Mumbai.

May the almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the Departed Souls rest in peace.



06 ICSI Convocation 2013 held at New Delhi – Standing on the dais from Left: M.G. Jindal, Sanjay Grover, S.N. Ananthasubramanian, Justice D.R. Deshmukh (Chairman, CLB), Harish K. Vaid and Sutanu Sinha.

07 Inauguration of New Office Building of CLB, Kolkata Bench and dedication of Library to all the Stakeholders- Sitting on the dais from Left: Deepak Kumar Khaitan, Amallesh Bhandopadhyay (Member (Technical) CLB, Kolkata Bench), Hon'ble Jus. D. R. Deshmukh (Chairman, CLB), Harish K. Vaid, Dr. Navrang Saini (RD, (ER), MCA) and Satyabrata Mookherjee (Bar-at-Law).

08 ICSI-CCGRT Foundation Day Lecture on 'From Company Secretary to Corporate Governance Professional: Arun Nanda (Director, Mahendra & Mahendra and Chairman, MHRIL) addressing. Others sitting on the dais from Left: M.S. Sahoo, Umesh Ved, S. N. Ananthasubramanian, Atul Mehta, Vikas Y. Khare and Gopal Chalam.

09 WIRC - Ahmedabad Chapter –Workshop on FEMA – Rutul Shukla addressing. Others sitting on the dais from Left: Hiren D Shah, Hitesh Buch and Chetan Patel.

10 NIRC - Chandigarh Chapter– Investor Awareness Programme on 'Fundamentals of Investment Management' – Sitting on the dais from Left : Vishawjeet Gupta, CS Punit K. Abrol, Dr. A.K. Vashist (Chairman, UBS Punjab University, Chandigarh) V. S. Karthikeyan (DGM, Corporation Bank), Mukesh Sharma and Rinkoo Vashisht (Sr. Manager, Master Trust Ltd. Chandigarh).

11 NIRC - Lucknow Chapter - Seminar on Patentability of Scientific Inventions (Issues and Process) – sitting on the dais from Left: Anuj Kr. Tiwari, Dr. S. P. Singh ((Economist) and Principal, National PG College), Hon'ble Justice Vishnu Sahai, Prof. P. K. Seth (CEO, Biotechnology Park, Lucknow) and Rupendra Porwal.



The most coveted profession available today

CS Course: A course that transforms students into modern corporate professionals

The Company Secretary

- An expert in Corporate Laws, Securities Laws & Capital Market and Corporate Governance
- Chief advisor to the board of directors on best practices in Corporate Governance
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Stages to become
Company Secretary

After qualifying the CS Foundation Programme, Students are required to clear the Executive and Professional Programme and undergo rigorous Management and Executive Development and Training Programme.

Eligibility

Foundation Programme : 10+2 Pass or its equivalent

Executive Programme : Graduation/CS Foundation Pass/Foundation Pass of ICAI-CMA/CPT Pass of ICAI

- Students of any discipline in Arts, Commerce and Science (excluding Fine Arts) can pursue the Company Secretaries Course.
- The CS Course is by Correspondence / Distance Learning with provision for optional oral coaching classes
- 24X7 Study through E-Learning (<http://elearning.icsi.edu>)
- The Online CS Course includes: Web based Training (WBT), Video based Training (VBT), Live Virtual Classroom (LVC)

Admission to CS Course :

- Admission is open throughout the year.
- Examination is held twice a year in June and December

Cut-off dates :

CS Foundation Programme : 31st March, 30th September

CS Executive Programme : 28th February, 31st May,
31st August & 30th November

Prospectus & Application Form:

- Available at Headquarters/Regional Councils/Chapters

Foundation Programme Executive Programme

- Cash payment Rs. 500/-
- By Speed Post Rs. 540/-

(DD/PO drawn in favour of The Institute of
Company Secretaries of India payable at New Delhi)



**THE INSTITUTE OF
Company Secretaries of India**

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

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 tel 011-45341076, 45341077, 4534 1000, 4150 4444 fax 24626727 e-mail info@icsi.edu
 For further details, please contact / write to: Director (Student Services)
 The Institute of Company Secretaries of India (ICSI), C-37, Sector 62, NOIDA 201 301 (U.P.),
 tel: 0120-4522 061 / 071 / 081, e-mail: ss_reg@icsi.edu; ss_enrol@icsi.edu

EASTERN INDIA REGIONAL COUNCIL : ICSI-EIRC Building, 3-A Ahiripukur I Lane, Kolkata 700 019
 Phone: 22832973, 22816541, 22816542, 22901065, 2290 2178-79 Fax: 22816542, E-mail: eirc@icsi.edu

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