

CHARTERED SECRETARY

THE JOURNAL FOR CORPORATE PROFESSIONALS

Focus on
Fault Lines



**THE INSTITUTE OF
Company Secretaries of India**
IN PURSUIT OF PROFESSIONAL EXCELLENCE

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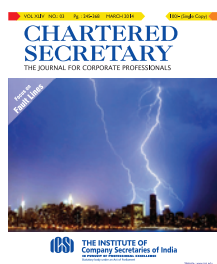


ISSN 0972-1983

CHARTERED SECRETARY®

[Registered under Trade Marks Act, 1999]

Vol. : XLIV • No. 03 • Pg 245-376 • March - 2014

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Annual Subscription

Inland : Rs. 1000 (Rs. 500 for Students of the ICSI)
 Foreign : \$100; £60 (surface mail) Single Copy : Rs. 100

'Chartered Secretary' is normally published in the first week of every month. ■ Non-receipt of any issue should be notified within that month. ■ Articles on subjects of interest to company secretaries are welcome. ■ Views expressed by contributors are their own and the Institute does not accept any responsibility. ■ The Institute is not in any way responsible for the result of any action taken on The Institute is not in any way responsible for the result of any action taken on the basis of the advertisement published in the journal. ■ All rights reserved. ■ No part of the journal may be reproduced or copied in any form by any means without the written permission of the Institute. ■ The write ups of this issue are also available on the website of the Institute.

Edited, Printed & Published by

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 Phones : 41504444, 45341000, Grams : 'COMPSEC'
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Designed & Printed by



International Print-o-Pac Limited

C-4 to C-11, Hosiery Complex, Phase-II Extension, NOIDA - 201 305 (U.P.) INDIA
 Tel.: +91 (0) 120 - 4192100, 4192101 (D), Fax: +91 (0) 120 - 4192199
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07

- 01 >> Meeting of ICSI delegation with Secretary, MCA – Group photo – Standing from Left: Sanjay Grover, R. Sridharan, Naved Masood (Secretary, MCA), Vikas Y. Khare, Sudhir Babu C. and M. S. Sahoo.
- 03 >> SIRC - Meeting with HoDs of Colleges – R. Sridharan addressing at the meeting. Others sitting from Left: Dr. Baiju Ramachandran, Vikas Y Khare and M S Sahoo.
- 05 >> ICSI – Lucknow Chapter –First Youth Festival –Sitting from Left: Subhash Tiwari, Anuj Tiwari, Vivek Varshney and Rajeev Kumar. Standing from Left: Meenakshi Srivastava, Akanksha Srivastava, Geetika Keswani, Alok Kumar, Dilip Dixit, Kamran Khan and Nikita Agarwal (all Members of the ICSI.)

- 02 >> SIRC - Seminar on Practical Aspects of the Companies Act, 2013 – R. Sridharan addressing at the inaugural session of the Seminar. Others sitting from Left: Ramasubramaniam C, Dr. Baiju Ramachandran and M S Sahoo.
- 04 >> SIRC - Interaction with Members of the ICSI - R. Sridharan being presented with a bouquet by R Ravi, Past President, The ICSI. Others standing from Left: Atul Mehta, Vikas Y Khare, M S Sahoo and Sutanu Sinha.
- 06-07 >> Felicitation Function of Newly Elected President and the Vice President at the ICSI House, New Delhi –R. Sridharan addressing [Right]: A glimpse of Team ICSI.



Articles [A 93-148]

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Empowerment of Securities Market Regulator: Major Roadblock For Healthy Business Development

P-252

R.S. Loona

Ordinance dated 18th July, 2013 has vested in SEBI certain additional powers of enforcement and also amended the definition of collective investment scheme as given in Section 11AA of the SEBI Act. The ordinance contains certain grey areas for e.g., the expression "corpus amount" has been left undefined. Further, new provisions do not give clear picture as to whether SEBI has been empowered to regulate a CIS operating outside the securities market.

Report of the Expert Committee on revamping of insider trading regulations falls short of expectations. Its recommendations to specifically include 'public servants' within the ambit of definition of "connected persons" as also to substitute the expression "dealing" with the expression "trading" seem to be unnecessary.

Implementation of proposed legal framework for REITs may not take off until the definition of "securities" in SCRA is amended to include the units issued by a REIT.

Insider Trading Bane of Securities Market

P-257

Dr. S.D. Israni

One of the major problems faced by the regulators of capital markets world over is that of insider trading. Maintaining integrity of the stock markets is the corner stone on which the investors depend as it is a question of trust in the systems and procedures followed by the stock exchanges. It is extremely difficult for a regulator to bring to book persons indulging in insider trading.

In 1991, SEBI admitted that insider trading was one of the ills afflicting our system and there was no legal provision to curb it. Since then SEBI has been making concerted efforts to fight the menace of Insider trading.

Law on the subject of insider trading is still evolving and a long distance has to be covered by the Regulators before they can afford to relax. The report by the Committee headed by Justice Sodhi is the latest effort by SEBI to tighten the loose ends in the existing regulations governing prohibition of insider trading.

Financial frauds in India An enquiry into their causes and cures

P-263

Vinod Kothari

Financial regulations in India are often a reaction to financial frauds; however, the law-making occurs usually too late. Among the several factors responsible for recurring financial frauds, the article focuses on the split regulation on the financial sector with no clear powers over money-pooling schemes. If the scheme is essentially a money-for-money device, it is a financial transaction akin to a deposit. The laws could define a "deposit" to include a loan-in-substance as was done by Money-lending laws even before Independence. Further, a power to determine the true character of a scheme may be vested with a tribunal, which may then refer the matter to the appropriate regulator.

The article makes a case that no scheme of financial fraud can move without active involvement of professionals – whether as advisors, auditors or otherwise. While need to be aware of the severe penal consequences of the Companies Act 2013, it should primarily be a call on our conscience to refrain from advising on schemes where money is pooled from gullible savers.

White Collar Crimes and Legal Remedies

P-269

Savithri Parekh

The traditional 3 Gs (guns, gates and guards) can no longer protect businesses from the complex risks of white collar crimes. White-collar crime is a dreaded word. This term was first coined in 1939 by sociologist Edwin Sutherland as "a crime committed by a person of respectability and high social status in the course of his occupation". While white-collar crimes include fraud, bribery, Ponzi schemes, insider trading, embezzlement, cybercrime, copyright infringement, money laundering, identity theft, forgery etc., this article confines itself to the recourse available to a Company if it is a victim of fraud. It briefly analyses the provisions of the Indian Penal Code and other related laws which are used as legal tools to enforce legal discipline in India and is aimed at helping the reader understand the options available while invoking the legal provisions.

Government's Apathy to Check Benami Transactions: Major Roadblock For Healthy Business Development

P-274

T.N. Pandey

The absence of a strong law to deal with the deep-rooted malady of benami transactions continues to be an obstacle



At a Glance

in the process of healthy business development in India. The recommendations of the 57th Report of the Law Commission on Benami Transactions calling for strong measures has fallen in the deaf ears. How insipid laws have been enacted to indicate adherence to the Commission's recommendations without meaning these, is what has been discussed in this article.

Companies Act, 2013 – A big leap to prevent and punish fraud >> P-279

Lalit Kumar

The financial and corporate frauds and scams in the recent years in India Inc. have prompted our lawmakers to statutorily provide to tackle the problem of corporate frauds by introducing stringent provisions in the new Companies Act, 2013. The concept of fraud is not a new one and is also covered under the Companies Act, 1956 but many important and stringent provisions have been provided in the new Companies Act including the meaning and punishment for fraud, statutory powers are vested with Serious Fraud Investigation Office which will give it more teeth. Punishment for fraud is in addition to any other liability provided and also covers cases of making false statement or omitting materials facts. These stringent provisions show the seriousness in the new legislation to address the growing problem of corporate fraud and scams in India and is an indication of the trend in the right direction.

Demystifying Corporate Fraud >> P-283

R Sriranjani

To think, we know and understand all risks around us is misleading, to think we can manage all of them, if they hit us, is an illusion, and to turn a blind eye to them is sheer foolishness. Very often assessments of risks are rough and ready and the consequences of making a wrong decision based on such assessments can be serious, including lost opportunities, loss of business, loss of reputation and even life. Fraud and fear of fraud are perhaps the most important factors influencing our choice for workplace, living place and behaviour. Preventing Fraud before it occurs is the most effective fighting tool of all. Fraud prevention is to be treated like a journey and not a destination.

Dimensions to Corporate Violations >> P-288

Kiran M. Chitale

A company is governed by numerous laws, and rules. A company needs to meticulously identify list of laws applicable to its very

existence and to run its operations. The legal web get further interlaced with numerous regulations, guidelines, directions and orders issued by legislative authorities from time to time. Further, a lot of amendments take place to keep pace with business, economical, legal and demands from stakeholders within governance ecosystem. The article attempts to bring out various dimensions to violations of laws along with suggested approach to compliance.

Money Laundering >> P-293

Chanchal Sharma

Money Laundering is said to have originated at the time of the famous American Gangsterism that arose out of prohibition of the banning of alcoholic drinks. Gangsters were facing difficulty in storing money that was in cash, often in small denomination in coins. So they created business, one of which was laundries, for hiding ill-gotten money. Thus Money laundering is the process by which money is derived from criminal activities, viz., drug trafficking, illegal arms, smuggling, extortion, gambling, bootlegging etc. Money Laundering is a crime that does not have any apparent direct victim, but causes havoc globally. Therefore World Governments, sensitised to the serious and complex problem and have taken strenuous efforts, individually and collectively, to combat money laundering and terrorism. Money Laundering also have a range of severe macroeconomic consequences on countries. This Article provides an introduction to money laundering, its origin, dimensions, and various definitions. It also highlights the various steps, methods and sources of money laundering and how the banking system is used to launder money. It also provides the global perspective to the problem and enumerates various legislations enacted worldwide to curb the menace of Money laundering.

Corporate Fraud >> P-300

Krish Narayanan

Several instances of major fraudulent acts by corporates have surfaced in recent years, not only in India but elsewhere in the World causing mighty companies to disappear in no time. Investors have suffered heavily and the confidence of substantial number of investors in the corporates had been significantly eroded. The different manifestations of corporate frauds, the legal framework for dealing with frauds and the impact of some of the major corporate scams of recent times have been dealt with in this article.



Legal World [LW 24-33]

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► **LW: 21:03:2014** Delhi High Court upholds the conviction of directors for violating the provisions of SEBI CIS Regulations.

► **LW: 22:03:2014** The two principles stipulated in the judgment for commutation of death sentence into life imprisonment on the ground of delay as the supervening circumstance are firstly, that the delay occurred must be inordinate and secondly, that the delay must not be caused at the instance of the accused. [SC] ► **LW: 23:03:2014** Having regard to all these circumstances, the court is of opinion that the award of Rs.5 lakhs as exemplary damages in the facts of this case was justified and not disproportionate; it is accordingly upheld. [Del-DB] ► **LW: 24:03:2014** The upshot of the above discussion, therefore, is that the process by which the bids were evaluated and eventually accepted was transparent, fair and reasonable and does not, therefore, call for any interference from this Court. [SC] ► **LW: 25:03:2014** If an assurance was given to the appellants and similarly situated persons that they would be given 100% electricity supply for five years, the respondents cannot wriggle out of their liability by making a policy to the effect that the benefit by way of incentive would be extended only if the electricity supply was reduced to less than 50% on a particular day. [SC] ► **LW: 26:03:2014** The Tribunal was required to go into the aspect as to the effect of establishment being in BIFR on one hand and the factory being closed on the basis of the documents filed by the petitioner before it, and come to a definite finding keeping in view the position of law including the judgments as relied upon the counsel for the parties. [Del] ► **LW: 27:03:2014** Based on the background in which the termination has been effected and the litigation between the parties, it would not be appropriate for this Court to give reinstatement in service of the petitioner with the respondent. [Del] ► **LW: 28:03:2014** The construction of provisions must not be divorced from the object of introduction of subject specific provision while retaining other generalized provision that now specifically exclude the new cement industries, which could otherwise fall into its ambit. [SC]

From the Government [GN 33-52]

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► Clarification with regard to Section 185 of the Companies Act, 2013 ► Use of word 'National' in the names of Companies or Limited Liability Partnerships (LLPs). ► FII/QFI investments in Commercial Papers ► Establishment of Connectivity with both depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement ► Safeguards to avoid trading disruption in case of failure of software vendor ► Testing of software used in or related to Trading and Risk Management ► Guidelines for inspection of Depository Participants (DPs) by Depositories ► Individual scrip wise price bands on non-F&O eligible scrip's in Index Derivatives ► Securities and Exchange Board Of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2014 ► Securities and Exchange Board of India (Issue and Listing of Debt Securities) (Amendment) Regulations, 2014 ► Change in Government Debt Investment Limits ► Securities and Exchange Board of India (Collective Investment Schemes) (Amendment) Regulations, 2014 ► Securities and Exchange Board of India (Investor Protection and Education Fund) (Amendment) Regulations, 2014 ► Company Law Board Regulations 1991 - Insertion of New Regulation 51 ► Amendments to Schedule VII of the Companies Act, 2013 ► Companies (Corporate Social Responsibility Policy) Rules, 2014 ► Date of coming into force the provisions of section 135 and Schedule VII of the Companies Act, 2013 ► Policy on foreign investment in the Insurance Sector- amendment of paragraph 6.2.17.7 of Circular 1 of 2013-Consolidated FDI Policy' ► Review of the existing policy on Foreign Direct Investment in the Pharmaceuticals Sector

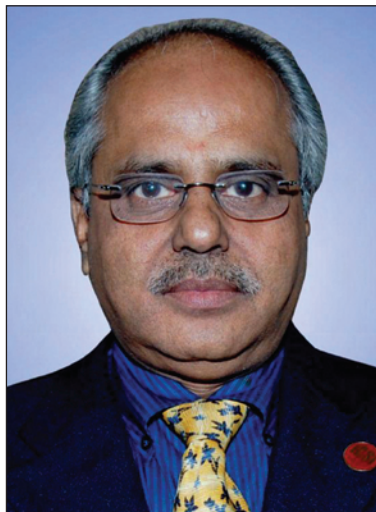
Other Highlights

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► Members Admitted / Restored
 ► Certificate of Practice Issued / Cancelled
 ► Licentiate ICSI Admitted
 ► News From the Regions
 ► Company Secretaries Benevolent Fund
 ► Our Members
 ► Guidelines for Authors
 ► Prize Query



From the President



"It is not often that a man can make opportunities for himself. But he can put himself in such shape that when or if the opportunities come he is ready."

Theodore Roosevelt



Dear Professional Colleagues,

Current environment defy rational choices due to non-linear models of growth in almost every sphere, be it economy, trade and business or profession. It is tumultuous with continuous discontinuity. It is full of paradox, as beautifully portrayed by Charles Dickens in "A Tale of Two Cities": *"It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us,"*. Conventional wisdom suggests incremental improvements to maximize development based on certain accepted foreseeable growth parameters and patterns. It, however, fails to recognize the possibility of a Black Swan, as an event of low probability, extreme impact and only retrospective predictability, according to Nassim Taleb. Against this scenario, we are required to re-evaluate learning strategies, re-look systems and processes, re-think possibilities and in the process, re-invent ourselves. We must have "insight" and not lose the sight of "hindsight" to understand fairly the current scenario.

The Companies Act, 2013, which is a paradigm shift in the governance framework of the country, has accorded exalted position to the Company Secretary and opened up many pathways for us in the form of Secretarial Audit, Registered Valuers, Key Managerial Personnel, Interim/Company Administrator in the process of corporate restructuring/insolvency etc. We are required to consolidate and strengthen in diversified areas, such as business valuation, cross border insolvency, etc. The inclusive section with reference to the role of company secretary provides an opportunity to be a governance professional having overall perspective towards an organisation, beyond compliance and regulatory aspects. As

we evolve ourselves to become governance professionals, choice based conventional wisdom will wither away and as already stated, the capacity building of the members will have unique connotations and meanings, quite different from those in yester years.

Once the National Company Law Tribunal and National Company Law Appellate Tribunal are constituted and the relevant sections are notified, the gateway of opportunities is going to widen further. To widen spectrum of our services, we must reinvent by harnessing and motivating our members with a whole new set of future assumptions, asking *"What could possibly be?"* rather than *"what it is?"*. We need to create a dynamic environment of creative contention and collective brilliance that will yield innovative ideas across the disciplines of corporate legislative framework to allow the innovation to triumph. We have to set our own benchmark of matrices to value our services, which should also be scalable in some form or the other and thus lead us, so to say, in economic parlance, with *multiplier effect*.

Peer Review programme of the Institute is an element of capacity building. The target for the current year is to get atleast 500 practice units peer reviewed. The Institute is taking steps to create more awareness about the Peer Review Mechanism amongst the members and the advantages emanating from Peer Review. Likewise, Practising Company Secretary Induction Programme is a unique initiative for the members intending to take up practice. These programmes are being conducted in a number of locations and in the next quarter, we have planned these programmes at Ahmedabad, Bhopal, Indore, Pune, Vadodara, Navi Mumbai, Thane, Mumbai, Nagpur, Bhubaneswar, Kolkata, Patna, Ranchi, Gurgaon, Noida, Jaipur, Bangalore, Coimbatore, Cochin and Mangalore. I urge upon all members in practice and those intending to enter into practice to take benefit of these programmes.



The Institute is a learning organization. Not only we impart learning; we learn as well in the process. Success, even survival, depends on the extent we *learn, unlearn, relearn* as well as our level of adaptation. Many factors - internal and external, influence our lives. The internal factors are our endeavours to upgrade ourselves by such measures as skills orientation and value addition to the working knowledge, whereas the external factors are changes in economic, regulatory or technological environment. The success depends on the appropriate convergence of internal and external factors. In the process, a professional acquires competitive advantage over others, which is evidenced by the qualities of leading professionals. To disseminate the provisions of Companies Act, 2013, the Institute has conducted more than 300 seminars across the nation last year and brought out the ICSI primer in the form of 16 videos by eminent practising professionals in various areas, which are available on the *YouTube*.

On 16th-17th February 2014, I along with CS Vikas Khare, Vice President and my colleagues on the Council, CS Sanjay Grover and CS C Sudhir Babu met Shri Naved Masood, Secretary; Shri M. J. Joseph, Additional Secretary; Shri Manoj Kumar, Joint Secretary; Shri A.S. Bhatia, Joint Secretary; and Ms. Renuka Kumar, Joint Secretary of the Ministry of Corporate Affairs and apprised them about various initiatives of the Institute. They also shared with us their perception and expectations as regulators in the changed legislative framework. They emphasised that once the rules are notified, systematic dissemination of the same need to be carried out across the members of the Institute. I thanked and assured them that the members of the Institute would certainly rise to the occasion and match up with their expectations. I also briefly shared with them continuous knowledge creation exercises undertaken by the Institute.

I am happy to note that the roll out of the new company law began today when Government notified the Companies (Corporate Social Responsibility Policy) Rules, 2014 under section 135 of the Companies Act, 2013. Along with this, Government has amended today schedule VII of the Act in exercise of its powers under section 467. These enable a company to undertake a larger variety of activities and various options to do so. The provisions relating to corporate social responsibility comes into force from 1st April 2014. These amendments and notifications are published elsewhere in this journal.

My self and CS Vikas Khare, Vice President participated in the programmes organised by SIRC on 20th February 2014 and shared our views. The series of programmes started with a seminar on Practical Aspects of Companies Act, 2013 and ended with an interactive session with the members, in between there was a Press Meet, a Meeting with the members of academic fraternity of Chennai and a meeting with the students.

Some of the critical issues put forward before the members at the interactive session were Code of Conduct, Compliances, need for capacity building and expectations and concern of the stakeholders, in particular MCA. Since we live in technology driven environment and most of the routine functions and process were already under its fold, and remaining may soon be within its ambit, may throw up formidable challenges as well as plethora of opportunities albeit, differently and members need to ponder over as to how to meet the challenges. The Institute has great responsibility not only for the development of the profession, but also regulating it, so that our members carry brand of *crème de la crème professionals*.

Meeting with the Press on the noon of that day was quite interesting. Some of the issues shared with them are: the need and necessity for a Company Secretary as a governance professional to strike right balance among conflicting demands and rising expectations of stakeholders; exalted position for the CS under the Companies Act, 2013; professional services rendered by the members of the Institute in the areas of corporate governance, Legal and Secretarial Services, Corporate Laws Advisory and Representation Services, Financial Market Services, Banking Services, Finance and Accounting Services, Taxation Services, International Trade & WTO, Management Services etc. Reorienting the students in line with the market demands and challenges, Research activities at CCGRT, publications of the Institute, interaction with the regulators were also discussed at the Press Meet.

Interactive Session with academic fraternity in the afternoon was quite useful. I detailed about the Institute's role, functions and responsibilities; CS course and its examination pattern, the role of Company Secretary in employment and in practice as well as highlights of the Companies Act, 2013. Overall, it was felt that strong interface between the Institute and academia is required.

Meeting with the students in the evening was refreshing. As a matter of fact, I was awaiting for such an opportunity. Revision of syllabus, open book examination, e-library, need for developing cognitive skills alongwith soft skills and professional etiquette are some of the issues shared with them. Queries raised from the students were also addressed during the meeting.

I attended inaugural session of the 16th Residential Programme on "Companies Act, 2013 – A new Avathar", on 21st February 2014 at Ooty, organised by Coimbatore Chapter. I appreciated the efforts put in by the Chapter for conducting residential programme without any break all these years. The sessions were thematic and I interacted with the members and shared their views.

It is also the Institute's responsibility to safeguard its intellectual property against infringement and I am happy to inform you that the ICSI Logo has been registered under the Trade Marks Act, 1999 in three classes for advertising and sponsorships in relation to the CS Course, publication of books, journals, reports and other literary works in print or electronic media and providing education and professional qualification and certification services in relation to CS Course or any other degree, diploma or certificate course including training and content based services.

Let me end, where I began, there is compelling urgency for capacity building. We need to organize and prepare ourselves adequately and systematically. To put it still more emphatically, I quote famous words of Benjamin Franklin, **"by failing to prepare, you are preparing to fail"**.

With best wishes,

Chennai

27th February, 2014

Yours sincerely,

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Empowerment of Securities Market Regulator: Major Roadblock For Healthy Business Development

- Over the years the Securities and Exchange Board of India has been vested with more powers to effectively regulate market practices and protect the interests of the investors. SEBI's power in the matter of Regulation of collective investment schemes, insider trading and real estate investment are under focus here.

Regulatory oversight on Collective Investment Schemes

The Securities and Exchange Board of India (SEBI), which substituted the Office of Controller of Capital Issues, has come a long way since its inception in 1988 pursuant to a Government resolution. In the initial years of its formation, it took certain baby steps to regulate and develop the then securities market which lacked transparency, depth and robustness. SEBI really got biting teeth after it was clothed with statutory powers under the Securities and Exchange Board of India Act, 1992 (SEBI Act). Since then SEBI has taken several measures to develop and regulate the Indian securities market and protect the interests of investors



* Former ED of SEBI.



in the securities. It has framed a fairly large number of Regulations to regulate the registration of intermediaries, unfair trade practices relating to securities market, insider trading, substantial acquisition of shares and takeovers, issue, listing and de-listing of securities, mutual funds, collective investment schemes, etc. The list is long and impressive. Today, SEBI is certainly reckoned as a powerful and effective Regulator in the emerging securities markets of the world.

Market manipulators have been always finding lacunas in the regulatory regime to take undue advantage at the cost of other investors. To plug loopholes in the system and to empower SEBI to meet effectively with the new challenges, the Parliament has been conferring more and more powers on SEBI by amending the SEBI Act. The latest amongst the said amendments is an ordinance dated 18th July, 2013 which was promulgated to vest SEBI with the power of disgorgement, power of search and seizure, power to recover penalty amounts, etc. by attachment and sale of a person's movable/immoveable property, attachment of bank accounts and arrest of a person and his detention in prison. By the said ordinance, the definition of collective investment scheme as given in Section 11AA of the SEBI Act has been expanded to cover any scheme involving a corpus amount of Rs.100 Crore or more. Further, the expression "company" as used in sub-section (2) has been substituted by the expression "person" so as to proceed against anyone who is running a collective investment scheme (CIS). Before this amendment only a company incorporated and registered under the Companies Act, 1956 could be proceeded against for violating Section 11AA. Amendments to the SEBI Act through the said Ordinance (which is yet to be replaced by a Bill) were made with the object of enabling SEBI to deal more effectively with the ponzi schemes. The Ordinance however contains certain grey areas which are likely to be exploited by the connen or which may lead to avoidable litigation on account of ambiguities. For example, new proviso to Section 11AA(1) providing for a deemed CIS has such a potential. As per the said proviso any pooling of funds under any scheme or arrangement involving a corpus amount of Rs.100 Crore or more shall be deemed to be a CIS. The expression "corpus amount" which is very vital for implementation of the said provision has been left undefined. Hence, it is not clear whether corpus amount shall be an aggregate amount collected by way of pooling from the investors or the same will also include the capital infused by the sponsor of the scheme and/or will further include any money raised by way of loan from any bank or financial institution. Pursuant to the said amendments, SEBI has also framed amendment regulations to the existing CIS regulations which were notified on 9th January, 2014 but the said regulations also have left the "corpus amount" undefined. The expression "corpus" has been used by SEBI in SEBI (Alternative Investment Funds) Regulations, 2012 in terms whereof "corpus" means total amount of fund committed by the

investors to the Alternative Investment Fund by way of a written contract or any such document as on a particular date. Going by this definition, corpus amount should mean only the amount raised by a sponsor from the investors to the CIS.

The aforementioned amendments to Section 11AA also do not give clear picture about the legislative intent to empower SEBI to regulate all those CISs having corpus of Rs.100 Crore or more, whether in the securities market or not. As per new proviso to Section 11AA(2), any CIS which is not registered with SEBI or is not covered under sub-section (3) of Section 11AA, involving a corpus amount Rs.100 Crore or more, shall be deemed to be a CIS. In other words, for a CIS to be construed as a deemed CIS it must be a scheme which is not registered with SEBI or is not covered under sub-section (3) of Section 11AA and which has a corpus of at least Rs.100 Crore. The first requirement that "it must not be a CIS registered with SEBI" can be satisfied only by such a CIS which, on commencement of the ordinance, was operating in the securities market. This intention is obvious from the proviso to Section 12(1B) of the SEBI Act in terms of which a CIS operating in the securities market is required to procure certificate of registration from SEBI. Further, the preamble as well as Section 11 of the SEBI Act mandate SEBI to be a regulator for the securities market and empowers it, *inter alia*, to frame regulations for registering and regulating the working of intermediaries in the securities market including collective investment schemes. Further, for the purpose of bringing CISs within the regulatory fold of SEBI, Section 2(h) of the Securities Contracts (Regulation) Act, 1956 (SCRA) was amended to provide that 'securities' shall include units or any other instrument issued by any CIS to the investors. The legislative history behind the insertion of Section 11AA in SEBI Act and simultaneous amendment of Section 2(h) of SCRA in February, 2000 demonstrate that the intention of law makers was to confer jurisdiction on SEBI to regulate the activities of those CISs which were/will be operating in the securities market. The second requirement is that the deemed CIS should





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➤ With vast powers vested in SEBI, there is a need to evolve new procedures and practices to facilitate the effective enforcement of such powers. Further, there is an urgent need for evolving effective justice delivery system. For the past few years, SEBI has tried to concentrate on the enquiry and adjudication matters by creating a separate department whose officers exclusively act as specified officer/ adjudicating officer for the purpose of disposing of enquiries/adjudication proceedings.

not be a scheme or arrangement which is being regulated under other laws or by other regulators. For instance, a CIS should not be a scheme or arrangement which is made or offered by a co-operative society, by NBFC while taking public deposits, any scheme under the Insurance Act, 1938, any pension or insurance scheme under the Employees Provident Fund and Miscellaneous Provisions Act, 1952, any deposits accepted under Section 58A of the Companies Act, 1956, any deposits accepted by a Nidhi or a Mutual Benefit Society, any contributions received by mutual funds, any Chit business under Chit Fund Act, 1982 or such other schemes or arrangements which the Central Government may, in consultation with SEBI, notify. This provision makes it clear that a scheme or arrangement which is being regulated under other statutes need not be brought within the regulatory ambit of SEBI. The confusion however remains with regard to a scheme which is neither a scheme in securities market nor any scheme regulated by any other law. In other words, whether a scheme with a corpus of at least Rs.100 Crore can be construed as a deemed CIS even if it is not operating in the securities market and not liable to be registered with SEBI. The answer to this will remain a subject matter of litigation before Courts unless proviso to Section 12(1B) is amended to provide for registration of CIS operating outside the securities market. As of now, only schemes operating in the securities market are required to be registered with SEBI as a CIS under Section 12(1B), which has not been amended by the said ordinance.

The aforesaid Ordinance has also amended sub-section (8) of Section 11C so as to empower SEBI to conduct search and seizure operation during investigation with the permission of SEBI Chairman. Hitherto, this power could be exercised by SEBI with

permission of the judicial magistrate of the first class. The object of seeking permission from the judicial magistrate was to subject such action to the scrutiny of an independent third party to ensure that the power is being used in a fair manner. SEBI however has been pleading that scrutiny by a third party of their action during investigation can be counter productive as the parties concerned may come to know in advance about SEBI's proposed action for search and seizure and they may destroy or tinker with the evidence. Since such power is available with the Income Tax authorities, the ordinance has conferred the said power on SEBI also. These new provisions cast stringent obligations on SEBI to ensure that the said powers are used in a fair and appropriate manner so that the same do not result in undue hardship to the persons under investigation.

With vast powers vested in SEBI, there is a need to evolve new procedures and practices to facilitate the effective enforcement of such powers. Further, there is an urgent need for evolving effective justice delivery system. For the past few years, SEBI has tried to concentrate on the enquiry and adjudication matters by creating a separate department whose officers exclusively act as specified officer/adjudicating officer for the purpose of disposing of enquiries/adjudication proceedings. There are still some cases where officers posted in operational departments are also acting as specified officer/adjudicating officer. At the level of Whole-Time Member there is no such demarcation and all the Whole-Time Members are performing quasi judicial functions in addition to their usual responsibilities to oversee the operational departments. As a result, there is no focused attention to the quasi judicial proceedings which remain lingering for unduly long periods even where interim directions have been passed against certain persons/entities. This delay in turn has been causing undue hardship to the persons particularly those persons who are debarred from dealing in securities when their main business is in the securities market either as an intermediary or as an investor. In





➤ The framework for REITs, as proposed by SEBI in its consultation paper, is likely to prove a good avenue for investment in completed commercial properties. To protect the interest of investors as also to provide transparency, liquidity and exit route, the draft regulations contain provisions with regard to related party transactions, borrowings beyond a specified limit, valuation of commercial properties proposed to be acquired or sold by REITs, listing and delisting of units, etc.

order to provide focused attention to the quasi judicial proceedings and to mitigate the miscarriage of justice, it may be worthwhile for the Central Government to appoint a Whole-Time Member with requisite knowledge of law and judicial background to exclusively deal with enforcement actions through section 11B proceedings and other quasi judicial proceedings under the SEBI Act. This will not only help in expediting the disposal of quasi judicial proceedings but will also help in improving the quality of the SEBI orders.

Revamping of Insider Trading Regulations

The Report of the Expert Committee under the chairmanship of Justice N.K. Sodhi, former Presiding Officer of the Securities Appellate Tribunal has come out with recommendations for certain changes in the SEBI (Prohibition of Insider Trading) Regulations, 1992, which do not seem to enhance the scope and effectiveness of the regulations. First and the foremost recommendation emphasized in the report is with regard to including the 'public servants' such as Judges, bureaucrats, regulators and parliamentarians within the ambit of the definition of "Connected Persons". It is not clear as to what made the committee members feel that 'public servants' are not covered by the existing regulations. The definition of "Insider" as given in the existing regulations leaves no scope for doubt. It clearly says that "Insider" means any person who has received or has had access to the unpublished price sensitive information (UPSI). Impliedly, if a public servant is in possession of UPSI and he deals in securities based on that information he shall be liable for violating the regulations. The law doesn't have to specifically name 'public servant' when it covers every person. Further, the existing regulations do not carve out any exemption in favour of public servant or for that matter in favour of any other category of persons.

Another important change recommended by the Expert Committee is to dispense with the expression "dealing" as the said expression (according to the Committee) is vague and open ended and can result in outlawing *bona fide* transactions such as that of providing security in the form of pledge or encumbrance of listed securities. The Committee has preferred to substitute the expression "dealing" with the expression "trading". This change may not gel with Section 12A of the SEBI Act in terms of which insider trading occurs when a person deals in securities while in possession of material or non public information. In other words, the Parliament has intended to treat dealing in securities as insider trading and not merely trading in securities. Hence, the proposed deviation is likely to dilute the effect of regulatory mandate in Section 12A of SEBI Act, which is not called for.

The Expert Committee has also recommended that the notes on clauses be made an integral part of the regulations instead of treating them merely as guiding principles. It is a well established legislative practice that the notes on clauses are not made an integral part of the legislation. Every legislation is supposed to grow and develop with judge made law over a period of time and any constraint put on the process of development of law cannot be viewed as a step in the right direction. There also seems to be no need for replacing the existing regulations in entirety with the proposed new regulations. If there is any worthwhile suggestion made by the Committee the same may be incorporated in the existing regulation by way of amendments instead of rewriting the whole law. Market has not benefited from the earlier replacement of Takeover Regulations, 1997 by the new Takeover Regulations of 2011. In fact the new Takeover Regulations have created new set of complications.





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It is rather perplexing that the Expert Committee has ventured into certain new areas which are hardly of any significance, for example, the Committee has recommended that due diligence of the target company in case of acquisition attracting open offer under Takeover Regulations be specifically made permissible. In other cases, according to the Committee, the Board of a company be required to decide as to whether there is any need for due diligence. During any acquisition process or otherwise, conducting due diligence exercise by the concerned party is a usual practice prevalent in business world and misuse of any UPSI is taken care of by the confidentiality agreement entered into between the parties. If somebody violates the confidentiality agreement and trades in the securities of such company based on UPSI in his possession he would be liable for violating the Insider Trading Regulations besides being contractually liable to the other party for breach of confidentiality agreement. The recommendation of the Committee with regard to due diligence does not seem to be of much relevance to the insider trading. Other recommendations of the Expert Committee also need to be carefully examined by SEBI before giving effect to them. In any case, as stated above, SEBI should avoid replacing the old regulations with the new regulations in *toto*.

Bringing Real Estate Investment Trusts (REITs) within the regulatory fold of SEBI

The framework for REITs, as proposed by SEBI in its consultation paper, is likely to prove a good avenue for investment in completed commercial properties. To protect the interest of investors as also to provide transparency, liquidity and exit route, the draft regulations contain provisions with regard to related party transactions, borrowings beyond a specified limit, valuation of commercial properties proposed to be acquired or sold by REITs, listing and delisting of units, etc.

While the concept of REITs is undoubtedly a step in the right direction, certain features thereof however need to be reviewed to make the concept more meaningful and workable. REITs have been treated more or less like a mutual fund or a collective investment scheme (CIS) for whom it is mandatory to list the units issued by them on stock exchange. Like a mutual fund, it is necessary for a REIT to have at least 20 investors. But the important difference between a mutual fund and CIS on the one hand and REIT on the other hand is that whereas units issued by a mutual fund or CIS have been given the legal status of "securities" by necessary amendments to the SCRA, the units to be issued by a REIT have yet to be given that legal status. It is necessary to do so to attract the regulatory oversight of SEBI on REITs as SEBI's jurisdiction is restricted to the regulation of securities market and protection of investors in the securities. Since the process of amendment to SCRA for treating the units of REITs as 'securities' may take some time, the launching of REITs accordingly may be delayed.



In fact, it would have been a better proposition to equate REITs with Alternative Investment Funds who are entitled to raise funds through private placement by issue of information memorandum to investors not exceeding 1000 in a scheme and for whom it is not mandatory to have their units listed on a stock exchange. They have been given an option for listing units of their close ended schemes only. Concept paper of SEBI envisages that till the market develops, units of REIT may be offered only to HNIs/ Institutions and hence the minimum subscription size has been restricted to Rs.2 Lakhs and unit size to Rs.1 Lakh. Further, the number of subscribers to the initial offer shall not be less than 20. With these features in mind, there seems to be no need for compulsory listing of units of REITs. At the most, if required, such listing requirement can be made optional.

Another feature of the draft regulations providing for investment upto 100% of the corpus of a REIT in one project deserves to be re-examined. Such a provision *prima facie* appears to be a bit risky. Diversified portfolios for investment can mitigate the risk. Such an investment strategy is also not in sync with international practice. In Singapore a REIT cannot invest more than 5% of corpus in one project and in UK it cannot invest beyond 40% of the corpus.

As per the draft Regulations, the investors of REIT can opt for delisting of units by making necessary application to SEBI. It is not clear as to why delisting application should be made to SEBI instead of the concerned stock exchange, who is primarily responsible for according permission for listing or delisting of securities. The draft regulations further envisage cancellation of certificate of registration of a REIT whose units are delisted. Such an eventuality can be avoided if listing of units is made optional instead of mandatory. Further, the proposed regulations do not provide for any pricing formula to be followed for the purpose of making delisting offer. There is also no provision to protect the interest of such investors who omit or fail to tender their units in the successful delisting offer. Regulations need to incorporate suitable provisions for the aforesaid purposes.

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Insider Trading

Bane of Securities Market

- Insider trading denotes dealing in a company's securities on the basis of confidential information relating to the company, which is unpublished and not available to the public. From the modest requirement of disclosures stipulated by sections 307 and 308 of the Companies Act, 1956, to the SEBI's amended Insider Trading Regulations, the law dealing with insider trading had undergone sea change and is still evolving. This article presents a clear picture of this position.

Background

One of the major problems faced by the regulators of capital markets world over is that of insider trading. Maintaining integrity of the stock markets is the corner stone on which the investors depend as it is a question of trust in the systems and procedures followed by the stock exchanges. Any shortcoming or weakness in the system or management of a stock exchange could bring huge losses to the unsuspecting investors who deal in securities on the stock exchange.

It is extremely difficult for a regulator to bring to book persons indulging in insider trading. Still in the US and some other developed economies there have been cases where unscrupulous persons have landed up with huge penalties as well as jail sentences. The most recent US cases being those of the high profile Indian origin Rajat Gupta, having impeccable pedigree and his friend Mr. Raj Rajaratnam of Sri Lanka.

What is the scene in India? Is the law strict enough to deter the potential offenders? In India the general belief is that the stock



markets are promoter driven and there is a huge amount of insider trading taking place. This has been the historical perspective; so the moot question is, 'has anything changed during the recent times?'

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➤ insider trading involves misuse of confidential information and as such, is unethical and immoral, tantamounting to breach of the fiduciary position of trust and confidence. Therefore, it is very important for the regulator to check the practice of insider trading so as to maintain investor confidence in the integrity of the market system.

In India, the first legislative attempt to curb insider trading was in the shape of a disclosure requirement regarding company directors' shareholdings. Sections 307 and 308 were incorporated in the Companies Act, 1956, and were specifically applicable to directors only. Later on, in 1960, the scope of these sections was widened by making them applicable to managing agents, secretaries and treasurers and managers in the same way as they applied to the directors.

In May 1984, the Government of India constituted a High Powered Committee (Patel Committee) to make a comprehensive review of the functioning of the stock exchanges and to make recommendations to the Government. The Committee, *inter-alia*, recommended measures to prohibit the practice of insider trading and also suggested a draft legislation. However, it was in 1988 that SEBI came out with an approach paper on a comprehensive legislation for the securities markets that would also seek to curb fraudulent and unfair trade practices in the securities market.

In 1991, SEBI admitted that insider trading was one of the ills afflicting our system and there was no legal provision to curb it. By the end of that year, in December 1991, SEBI issued a Consultative Paper containing Insider Trading Regulations in which it suggested stringent measures to curb the practice of insider trading and deterrent punishment to those who would indulge in it.

SEBI attempted to give concrete shape to its intent to curb insider trading by promulgating a special law in the nature of the Insider Trading Regulations, 1992. The object of the said regulations was to curb the menace of insider trading. To remedy the malady of insider trading, the Regulations provided for various measures. In particular, the Regulations rendered insider trading a criminal offence in certain circumstances, punishable under the SEBI Act.

However, the insider trading regulations underwent a comprehensive change in 2002 in terms of the SEBI (Insider Trading) (Amendment) Regulations, 2002, which became effective from 20th February 2002. Subsequently, further changes were effected in the Insider Trading Regulations during the years 2003, 2008 and 2011.

What is Insider Trading

What exactly is insider trading? Broadly speaking, "insider trading" denotes dealing in a company's securities on the basis of confidential information relating to the company, which is unpublished and not available to the public. In other words, there is breach of trust and mis-use of confidential information by persons who have access to and are in possession of such information. The word "insider" has wide connotations and these include directors, officers and employees of a company and related companies. The term "insider" would also include persons with professional or business relationships with a company, (e.g. auditors, solicitors, bankers and brokers). In other words, any person who is in such a position that he has access to unpublished price sensitive information could be deemed to be an insider.

In the case of *Securities and Exchange Commission v. Texas Gulf Sulphur Co.*, in the United States, a test hole drilled by the company indicated a high copper and zinc concentration. Several of the company's officials and employees who knew of this discovery and their friends began to buy large quantities of the company's stock. Thereafter, the company's management issued a press note stating that the rumours of the discovery were exaggerated and stated that they were possibly misleading. Subsequently, the news about the success of the hole drilling became widespread and the price of the stock soared to more than double the price which prevailed before the success came to the knowledge of the general body of shareholders and the investing public. The court of appeal held that the directors and insiders were liable to refund to the company the profits made by them and they were also liable in damages to the parties who had suffered loss. The court also held that the press note issued by the management was misleading and false as proved by the facts before the court.

In fact, insider trading involves misuse of confidential information and as such, is unethical and immoral, tantamounting to breach of the fiduciary position of trust and confidence. Therefore, it is





very important for the regulator to check the practice of insider trading so as to maintain investor confidence in the integrity of the market system.

Disclosures

With a view to make the regulations more effective and to provide a strong deterrent, SEBI has provided for a detailed code of conduct that has to be adhered to by all the companies and the persons who are classified as insiders. The Regulations also provide for several disclosures to be made by the concerned persons from time to time. Regulation 13 provides for initial disclosures as well as continual disclosures by certain persons as specified in the said regulation. They have to make the requisite disclosures to the company, which in turn has to make the necessary disclosures to the concerned stock exchanges.

It is the duty of the compliance officer to ensure due compliance with the regulations by all the persons falling within the ambit of 'insider'. SEBI had drastically amended the penal provisions so far as they relate to violations of insider trading regulations. The maximum penalty that could be levied before the amendment in 2002 was restricted to rupees five lakhs. Now the maximum penalty that can be levied on an insider can go up to rupees twenty-five crores or three times the amount of profit made by the person out of insider trading, whichever is higher. In other words, there is no comparison between the scale of penalties prior to 2002 and those currently prevailing.

On paper, the penalties appear to be extremely severe and should act as a deterrent to potential defaulters. Unfortunately, any penalty levied by SEBI has to stand the test in a court of law and in that regard SEBI does not have an enviable record. As it is, proving insider trading is a Himalayan task and then to make the penalty stick, doubly so.

The Regulations

Every listed company has to comply with the following requirements under the SEBI (Prohibition of Insider Trading) Regulations, 1992:-

- 1) Initial and Continual disclosure of Interest or holding by Directors, Officers and Substantial Shareholders within the prescribed time.
- 2) Model Code of Conduct for prevention of Insider Trading [Schedule-I Reg. 12(1) Part-A]
- 3) Code of Corporate Disclosures for prevention of Insider Trading [Schedule-II Regulation 12(2)]

The company has to seek the Board's approval for the following matters:-

- a) Approval for complying with the above referred Codes and the Disclosure requirements.
- b) Adoption of suitable mechanisms and procedures for the



- c) compliance with the said Codes and Disclosure requirements.
- d) Authorisation of the Company Secretary and/or other Senior Officers, preferably having experience in matters of securities laws to discharge the role of a Compliance Officer.
- e) Identification of the Designated Employees for the purposes of the Codes.
- f) Authorisation for fixation of the Trading Window. The Managing Director and the Financial Controller to fix the Trading Window and the date from which the same shall be closed and opened.
- g) Authorising the Compliance Officer to maintain the following statutory records :-
 - i) Register of Initial and Continual Disclosures – [disclosures by persons holding more than 5% shares or voting rights and disclosures of shareholdings or voting rights of Directors and Officers of the company are entered].
 - ii) Register of Designated Employees containing details of all employees designated for the purposes of the Code.
 - iii) Register containing a record of the dates of closure and opening of the Trading Window.
 - iv) Record of applications made by directors/employees seeking pre-clearance for dealing in securities.
 - v) Record of all undertakings furnished by the employees/directors.
 - vi) Register recording instances where the requirement of holding the securities during the holding period is waived for emergency reasons.
 - vii) Record of holdings in securities declared by the employees/directors at the time of their joining the company.
 - viii) Record of periodic statement of transactions in securities by the employees/directors.
 - ix) Record of annual statement of holdings in securities furnished by the employees/directors.
- g) Fixation of the threshold limit for dealings in securities.



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- h) Approval of the formats of the application forms vide which the employees will seek pre-clearance from the Compliance Officer for dealings in securities and the format of undertakings to be submitted by the employees under the Codes.
- i) Laying down the procedure for disciplinary action against employees who violate the Codes and fixing the punishment to be awarded.
- j) The Compliance Officer/Compliance Team shall also be authorised to ensure timely disclosure of information to the Stock Exchanges and simultaneously putting up the same on the company's website for the information of the investors.
- k) Monitoring of the dealings of such Compliance Officer/pre-clearance may be authorised to be done by a Committee of senior officials of the company also consisting of the MD/CEO.
- l) The Board shall also specify the special emergency conditions under which an employee may be permitted to sell notwithstanding the holding period.
- m) At every meeting of the Board, the Compliance Officer/Compliance Team should submit a compliance certificate certifying compliance with the Codes under the Insider Trading Regulations.

- (vi) disposal of the whole or substantial part of the undertaking;
- (vii) and significant changes in policies, plans or operations of the company.

As is evident from Regulation 2(ha), for any information to be considered as price sensitive, it must consist of the following three elements:

- a) firstly, the information must be relating either directly or indirectly to the company;
- b) secondly, the information must be such that is likely to materially affect the price of the securities of that company; and
- c) thirdly, such information must be unpublished i.e. should not have yet become public knowledge.

Therefore, merely possessing any information relating to a company by itself does not constitute price sensitive information unless the nature of information is such that it can materially affect the price of the securities traded on the stock exchange once such information becomes public knowledge.

The Explanation given to the definition provides illustrations to explain what sort of information would constitute price sensitive information. In other words, any information that falls within the purview of any of the seven items mentioned in the said explanation to the regulation would, *ipso-facto*, be deemed to be price sensitive information.

At the same time it needs to be noted that the examples given in the said explanation are just indicative and not exhaustive. The law makers have deliberately given an inclusive definition as it is impossible to conjure up all the scenarios. Consequently, there could be information beyond the seven illustrations that could be considered as price sensitive information and this will depend upon the facts and circumstances of each case.

At the same time, while discussing the term "price sensitive information", it is necessary to have a look at the definitions of the words "insider" and "unpublished" which are given in clauses (e) and (k) of regulation 2 of the said SEBI Regulations.

2(e) "insider" means any person who,

(i) is or was connected with the company or is deemed to have been connected with the company and who is reasonably expected to have access to unpublished price sensitive information in respect of securities of a company, or

(ii) has received or has had access to such unpublished price sensitive information;

2 (k) "unpublished" means information which is not published by the company or its agents and is not specific in nature.

Explanation.- Speculative reports in print or electronic media shall not be considered as published information;

Price Sensitive Information

In the context of insider trading, one of the main sources of confusion/problems for company managements has been the issues relating to unpublished price sensitive information. A question that worries many a management of a listed company is, 'what exactly is price sensitive information'?

After all any information that could be price sensitive in one company may not be so in another company; so it will be a question of fact and law in each case. Over the years there have been some cases wherein the issue of "price sensitive information" has been discussed by the judicial authorities while deciding whether breach of insider trading has been committed. In this regard reference may be made to the concerned regulation.

According to Regulation 2(ha) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as the 'SEBI Regulations'), the term has been defined as follows:

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

Explanation.—The following shall be deemed to be price sensitive information:—

- (i) periodical financial results of the company;
- (ii) intended declaration of dividends (both interim and final);
- (iii) issue of securities or buy-back of securities;
- (iv) any major expansion plans or execution of new projects.
- (v) amalgamation, mergers or takeovers;



Regulation 3 prohibits an insider who is in possession of any unpublished price sensitive information to deal with the securities of a listed company either on his own behalf or on behalf of any other person. A similar embargo is placed on the company also under Regulation 3A.

However, as has been stated earlier, what is unpublished price sensitive information in one case need not be considered to be unpublished price sensitive information in another case.

Leading Cases

One of the earliest cases on the subject that caught the attention of the market regulator was that of *Hindustan Lever Ltd(HLL) [Hindustan Lever Ltd.v. SEBI (1998 SCL 311)]* wherein SEBI took action against HLL on the ground that it had violated the SEBI Regulations and had indulged in insider trading.

The facts of the case are that HLL and Brooke Bond were both under the same management of Unilever UK. HLL purchased 0.8 million shares of Brooke Bond from UTI in March 1996 two weeks prior to the public announcement of the HLL and Brooke Bond merger. Post announcement, the price of Brooke Bond's shares shot up thereby causing losses to UTI. HLL was held liable by SEBI for insider trading as it was deemed to have full knowledge of the impending merger and SEBI decided that HLL had misused the unpublished price sensitive information to its advantage.

After elaborate arguments on both the sides, SAT held that the particular transaction did not amount to an insider trade as the information in question was not price sensitive information since reports of the impending merger were already being projected in the media and as such was already in the public domain.

In fact, it was after this decision by SAT that SEBI amended its regulations and provided specifically that speculative and media reports would not be considered as published information.

In the more recent case of *Gujarat NRE Mineral Resources Ltd v. SEBI* (Appeal No. 207 of 2010 decided on 18.11.2011), SAT had the opportunity of examining the question of whether the decision taken by a listed investment company to dispose of a part of its investment in another company was "price sensitive information" thereby requiring mandatory disclosure to the stock exchange(s).

The SAT held: "A reading of the definition of "price sensitive information" as reproduced above would make it clear that the information which relates to a company and which when published is likely to materially affect the price of its securities would be price sensitive. Appellant is an investment company whose business is only to make investments in the securities of other companies. It earns income by buying and selling securities held by it as investments. This being the normal activity of an investment company, every decision by it to buy or sell its investments would have no effect, much less material, on the price of its own securities".

Thus, SAT held that if an activity is done in the normal course of business of the company then conducting such an activity cannot constitute price sensitive information.

In another case *[Hindustan Dorr Oliver Limited v. SEBI (Appeal No. 107 of 2011 decided on 19.10.2011)]*, the short question before the SAT was, "whether the appellants had violated the Model Code of Conduct for prevention of insider trading?"

In that case the appellant was in the business of contracting and executing engineering contracts. It bagged two orders, one worth Rs. 441 crores and another order worth Rs. 24 crores. The appellant informed the stock exchanges of both the orders but on both the occasions did not close the trading window as required by the Model Code of Conduct. SEBI argued that the trading window was required to be closed during the time when the price sensitive information falling under regulation 2(ha) of the Regulations was in possession of the company and it remained unpublished.

SAT held: "When a construction company is awarded a contract by a third party for expansion plan or execution of new projects, such expansion or execution of project is in the normal course of its business activity and it cannot be brought within the purview of sub-clause (d) of clause 3.2.3 of the model code of conduct. The definition of 'price sensitive information' as given in regulation 2(ha) of the Regulations is much wider. Therefore, we are of the considered view that the company has not violated the model code of conduct when it did not close the trading window on bagging two contracts in question and till the information with regard to the award of these contracts was made public".

Hence, SAT held that though the information that the company had bagged two contracts was price sensitive information, but the orders having been acquired in the normal course of business, trading window was not required to be closed by the company.





Article

Insider Trading Bane of Securities Market

➤ Case law on insider trading is limited in India and there is no settled position with respect to the term “price sensitive information”. Consequently, what may be considered to be price sensitive information in respect of one company may not be considered to be price sensitive for another company. However, it is to be remembered that price sensitive information has to be disclosed to the stock exchange at the earliest.

From the foregoing it is clear that there is no hard and fast rule whilst ascertaining whether certain information is price sensitive or not. It is for the company management to take a call as to whether a particular information is price sensitive or not. The courts will invariably look at each case separately depending on the facts and circumstances of that case and decide accordingly.

As of now, case law on insider trading is limited in India and there is no settled position with respect to the term “price sensitive information”. Consequently, what may be considered to be price sensitive information in respect of one company may not be considered to be price sensitive for another company. However, it is to be remembered that price sensitive information has to be disclosed to the stock exchange at the earliest. In this context it would be useful to follow the dictum of Mr. N.R. Narayana Murthy, “when in doubt, disclose”. It is always better to be safe rather than sorry.

The Road Ahead

Though SEBI has become strict while dealing with cases involving trading by insiders; at the same time, SEBI is not resting on its laurels but is busy trying to further tighten the regulations. With that in view, SEBI appointed a High Level Committee under the chairmanship of Justice Sodhi, former Presiding Officer of SAT, to Review the SEBI (Prohibition of Insider Trading) Regulations, 1992.

The Committee has come out with its Report in December, 2013 and has made a range of recommendations regarding the legal framework for prohibition of insider trading in India and has focused on making this area of regulation more predictable, precise and clear by suggesting a combination of principles-based regulations and rules that are backed by principles. The Committee has also

suggested that each regulatory provision may be backed by a note on legislative intent. Some specific suggestions have been made in respect of dealing with price sensitive information.

Soon we can expect SEBI to come out with a set of amendments that would result in overhauling the present regulations applicable to Insider Trading.

Taking a cue from SEBI, even the Ministry of Corporate Affairs (MCA) while creating the new company law, has incorporated a specific provision in the Companies Act, 2013 in the form of section 195, which has already been notified. The section provides that no director or Key Managerial Personnel (KMP) shall communicate directly or indirectly any non-public price-sensitive information to any person. Any contravention of section 195 can result in a minimum fine of Rs. 5 lakhs, which can extend to 25 crore rupees or three times the profit made, whichever is higher. Besides, in certain cases, along with fine such a violation could also result in imprisonment for a period extending upto five years.

Role of a Company Secretary

In almost every listed company the company secretary is also the compliance officer and it is his duty to ensure due compliance with all the regulations. The compliance officer should initiate pre-emptive steps and create awareness amongst all the concerned persons in his company about their obligation under the Regulations and also enlighten them of the implications of any failure on their part to comply with the regulations.

Every Compliance Officer should note that he can also be charged by SEBI for failing to discharge his duties if it is found that he was negligent in discharging his duties or that he had connived with the insider who had violated the regulations. Any such action by SEBI could result in penalty and would be a serious blot on the career of a professional. Hence, Company Secretaries who are holding the charge as a compliance officer have to be extra careful and ensure timely and proper compliance with the Regulations.

Conclusion

While the intentions of SEBI are noble and the penalties that can be levied for insider trading are huge, due to various factors the real chance of catching and punishing culprits appears to be remote. At the same time, the sanctity of the market has to be protected and wrongdoers have to be brought to book at the earliest; to achieve this goal SEBI has to ensure proper and speedy investigations so that the offenders are nailed for their misdeeds and made to suffer the consequences. Lastly, it is incumbent on company managements including professionals associated with companies to create awareness amongst insiders to ensure due compliance with the regulations.

CS



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Financial frauds in India

An enquiry into their causes and cures

- Besides making a quick review of major financial frauds over the last few decades, and whether such aberrations happened due to lack of law, or lack of implementation, this article examines whether split regulation of the financial system creates a scenario of regulatory uncertainty, resulting in delays in timely detection and injunctive action and also deals with the significant question of professionals' responsibility with respect to frauds.

Financial sector regulatory laws in India are an edifice built on a landscape of frauds – every major fraud would lead to a new law. In all cases of financial frauds, fraudsters have taken advantage of human fallibilities and lack of awareness and cheated hapless depositors into putting their money into get-rich-easy schemes. All this would have actually been carried in broad daylight, while regulators either pretended to be unaware, or were just caught in jurisdictional squabbles. Mostly the fraud machine would have collapsed under its own weight – which is quite natural for such schemes. And then, regulators would have jumped into action and passed a new law, quite often curbing enterprise itself merely because of an aberration¹ in their suddenly discovered over-enthusiasm.

India is not an exception in reactive law-making. The mammoth

* The author wishes to note the contribution of Shambo Dey, Research Officer at Vinod Kothari & Company.

1 One of the best examples of such over-enthusiastic law-making killing an instrument because of an accident, is optionally convertible debentures (OCDs). The draft rules of the Ministry of Corporate Affairs on public deposits seem to be taking away the exemption available to OCDs from the definition of "deposit", the only ostensible reason for which can be the misuse of the instrument as noted in Supreme Court ruling in Sahara Financial. The Supreme Court directed SEBI to provide inputs on what OCDs are: "In this matter the questions as to what is OFCD and the manner in which investments are called for are very important questions." Order dated May 12, 2011 in Petition for Special Leave to Appeal (Civil) No.11023/2011



US law, Frank Dodd Act, was admittedly enacted following the Sub-prime crisis of 2007-8. However, the Damodaran Committee² specifically and significantly has made recommendations that laws should be based on policy and principles rather than as a reaction

2 See Report of the Committee for Reforming the Regulatory Environment for Doing Business in India: "It has been noticed that very often regulations are brought into effect in order to address a single instance of transgression or misdemeanour, or even non-compliance, intentionally or otherwise, with the content or form of existing regulations. (http://indiainbusiness.nic.in/newdesign/upload/Damodaran_Committee_Report.pdf)



Article

Financial frauds in India : An enquiry into their causes and cures

to isolated happenings.

Brief history of financial frauds

The common feature in financial frauds is fund-raising by a sponsor, under promises of quick or easy money, while the sponsor clearly knows that the promise is unlikely to be met by gainful investment of the funds so-raised. Most such fund raising is *via* Ponzi schemes. The whole enterprise lacks economic sustainability; fund-raising is done by mobilising extensive highly-rewarded network of agents. The targets may either be hapless rural population who have low access to regulated banking system for channelizing their savings, or are simply lured with high returns or by a herd mentality, or urban population by exaggerated performance track record offering alluring rates of return.

Since most financial frauds raise money from public, it is necessary to understand the deposit regulation in India. India is one of the few countries in the world which allows non-banking non-financial companies to raise deposits from the public. Cotton mills in Maharashtra and Gujarat relied on deposits to quite an extent in the 1960s, and burnt lot of investors' money, thus ushering the restrictions on deposit-taking in Companies (Acceptance of Deposits) Rules, 1975. Soon thereafter, the Reserve Bank of India decided to proceed against Peerless General Finance and Investment Company running a savings certificate scheme and a set of rules called the Miscellaneous Non-Banking Companies (Reserve Bank) Directions 1977 and the Non-Banking Financial Companies (Reserve Bank) Directions came into force in 1977 on recommendations of the James Raj Committee. Also, the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 was enacted to ban pyramid schemes which thrived on circulation of depositors' money.

Sanchayita scam

While the RBI and corporate regulators were still vigorously implementing deposit restrictions, Sanchayita Investments was collecting money. In 1980, the scam got exposed but by then more than 1,31,000 investors had placed money into the company. The FIR stated that the firm had been offering fabulous interest at 48% per annum to its members, later reduced to 36% though the loan certificate receipts showed the rate of interest to be 11% only.³ Sanchayita had raised more than Rs 1.2 billion⁴ before it imploded. Soon after, chit funds became a hot political issue, leading to the enactment of the Chit Funds Act, 1982⁵.

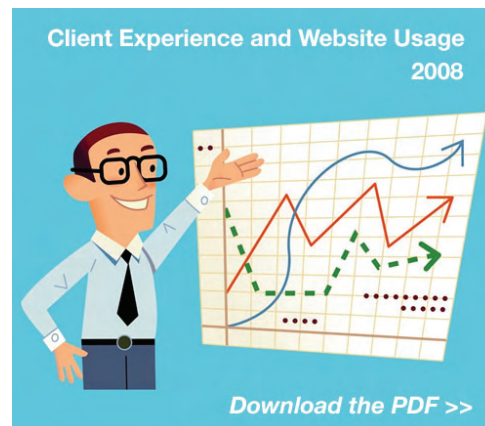
Equity Boom of the 1980s

Indian stock market saw an equity boom in the mid-1980s, best reflected by the Sensex which went from 200 in April 1983 to 600

3 *State of West Bengal & Ors v. Swapn Kumar Guha & Ors*, 1982 AIR 949.

4 Bengal in damage control, chit fund scam brings memories of '80s, Indian Express, P Tapadar, April 23, 2013.

5 Interestingly, the Chit Funds Act was never implemented in West Bengal.



in August 1986, implying annualised returns close to 100%. This was the time when there was no Securities Exchange Board of India (SEBI) and capital issues by companies were regulated by Controller of Capital Issues. However, to ride the wave of public interest in capital issues, companies made good use of the so-called "private placement", which, in essence, was nothing but a public offer. The frenzy of public offers, or privately placed "bought out deals" continued for quite some time, and often, investors discovered, to their painful surprise, that several of the companies that raised public money ostensibly for projects were just not to be seen at all. Thus came the infamous word "vanishing companies". As per the MCA site, there still are 121 vanishing companies. The Joint Parliamentary Committee Report on Investor Protection cited one of the representations before it thus: "In the years immediately after liberalization, 1.5 crore new investors, small investors as we call them, came into the market between 1992 and 1996 through IPOs. They were duped. At that time Rs. 86,000 crore were raised in four years through public issues and right issues by four thousand odd companies. Most of these 1.5 crore investors who came in for the first time in the stock market were duped....Till date, 229 companies (only) have been identified by the Government appointed monitoring committee, as having made public issues and disappeared. No one has been arrested and no money has been recovered. There has not been even an action plan as to how to recover that money."⁶

The private placement syndrome was curbed only in 2000 when proviso to Section 67 (3) of the Companies Act 1956 was inserted.

Plantation companies

During late 1980s and early 1990s, thousands of investors across the country were lured to invest in plantation schemes which sold trees along with proportional interest in land to investors. Argument was simple – the tree or land unit was not a "security" – hence SEBI will not have a jurisdiction, and deposit rules will not apply as the transaction was not a "deposit" either. Some people even went to

6 Text of the report is on http://www.watchoutinvestors.co.in/JPC_REPORT.PDF



the extent of promising income tax exemption to investors, as the income will qualify as agricultural income. One of these schemes was run by Chennai-based Anubhav Group which offered 77 times return on a deposit of only Rs 6000 to mop up Rs 4 billion worth of investors' wealth.⁷ Another company, GFIL had floated 9 lump sum and recurring investment schemes, issuing post-dated maturity cheques. By December 31, 1997, the company had mobilised Rs 1,037 crore.⁸ According to the Punjab Vigilance Department, the total collections from investors had reached Rs 3,000 crore.⁹ They paid only Rs. 450 crore to their investors. Plantations was only one possible label – investors could be buying cattle, or ostriches, or just about anything. The interesting part is that none of these schemes were raising money surreptitiously since fund-raising of this magnitude could not have taken place without resorting to media, agencies and collection networks. However, it was years after these schemes started collecting money that action was taken. In 1998, the market regulator SEBI issued caution notices against several hundred companies involved in plantation schemes, when these scams had already eloped with public wealth.¹⁰ Many of the fraudsters are still at large and as many as 41 of these cases were dismissed.¹¹ In November 1997, the government woke up to realize the need to regulate these entities and asked SEBI to draft its Collective Investment Scheme regulations, which were finalised and adopted in 1999.

NBFC public deposits

While these scams were taking place on one end, many over-zealous non-banking financial companies had been raising public deposits at the other end. Strangely enough, the deposit rules allowed NBFCs to raise deposits of upto 1000% of their net worth; something that even strongest of the banks in the world would not achieve. Clearly enough, there were serious asset

liability mismatches in case of NBFCs, as most of them would lend for tenures far longer than the deposits, which were mostly for 3 years. As one of them, CRB Capital Markets, went bust in 1997¹², depositors made a run on NBFCs and most of them collapsed thereafter. As a result, the RBI framed new Directions in 1998 and made it mandatory for NBFCs to register with the RBI. Once again, the massive growth in the number and size of NBFCs was happening right under the sight of the RBI – however, the action followed only after the damage.

Saradha and other "chit funds" in West Bengal

Even as regulations had emerged with history of financial scams over a few decades, gullible depositors were lured with promise of attractive rates of return by several companies in West Bengal. To wriggle out of deposit regulations, these companies used schemes like booking of flats, booking of tours, etc., while in essence, the transactions were blatantly money-for-money transactions. Once again, most of this fund-raising was happening in full glare, while regulators were looking at one another as to who will actually bell the cat. For several years, until the Saradha Group imploded, so-called "chit funds"¹³ were among the only business doing well in West Bengal. As the menace is still unfolding, it appears that most of the Eastern and North-East states have a massive proliferation of such companies, and painfully, one senior government officer says that companies are still being registered in Jharkhand as "potential Nidhi companies".

Sahara Group's OFCDs

Sahara India Real Estate Corporation and Sahara Housing Investment Corporation issued optionally fully convertible debentures (OFCDs) and started collecting subscriptions from April 2008 up to April 2011. During this period, the company had a total collection of over Rs 176.56 billion from about 30 million investors in the guise of a "private placement". SEBI passed an order only in June, 2011 when it directed the two companies to refund the money so collected to the investors and also restrained the promoters of the two companies from accessing the securities market. The matter went right upto the Supreme Court¹⁴.

Other cases

While the headlines have been dominated by these major deposit raising frauds, there have been many other frauds of a smaller scale elsewhere in the country. Promoters of a little-known company in Jaipur in Rajasthan named Gold Sukh promised 27 times return to investors in 18 months and managed to mop up over

7 ICMR India, Anubhav Plantation Scam, <http://www.icmrindia.org/free%20resources/casestudies/Finance%20freecasesstudyp2.htm>

8 Id.

9 Id.

10 <http://www.sebi.gov.in/cis/pubnote.html>

11 <http://www.sebi.gov.in/cis/ProsecutionDismissed.pdf>

12 See discussion in *CRB Capital Markets Limited v. Reserve Bank of India*, 2007 135 Comp. Cas 86 (Del).

13 The expressly widely used in the press for these schemes is actually a misnomer, as none of these companies were chit funds actually.

14 http://www.sebi.gov.in/cms/sebi_data/attachdocs/1351500106870.pdf



Article

Financial frauds in India : An enquiry into their causes and cures

➤ There is a multiplicity of financial regulators in the country, which has given rise to gaps in the legislation and uncertainty about the roles of the regulators. This fragmented approach had not paid off but only enabled more frauds to happen. While the crux of all fund-raising from the public is a money-for-money transaction, regulators go by the form of the transaction rather than by substance.

Rs 2 billion, leaving 200,000 investors in the hook.¹⁵ Another such company was Abhinav Gold, which promised to pay investors Rs 1,72,000 after two years on an investment of Rs 6,000, defrauding 20,000 investors in Gujarat.¹⁶ Another such scheme was floated by Mumbai-based City Limousine. The company promised investors Rs 4,000 every month for five years if they made an initial investment of Rs 97,000.¹⁷ The scheme, launched in 2002, was supposed to invest the money collected to buy cars that were to be run as taxis. Another multi-level marketing scheme was launched by Speak Asia, a Singapore-based company which promised Rs 4,000 monthly payout on an investment of Rs 11,000.¹⁸

How do financial frauds flourish?

It will be futile to get into why fraudsters do frauds? It might have to do with the sheer sense of self gratification, or the sense of pride in having beaten the system, or simply the urge to get rich soon. However, all that is a part of the fraudster-psychology which is not the subject matter of this article. This article is certainly concerned about how is it that frauds continue unchecked for quite a while, and it is only after a considerable irreparable damage is done that the regulators step into action.

We may now go into an investigation of some of the reasons below.

15 <http://businesstoday.intoday.in/story/accounting-fraud-investment-schemes-ponzi-scheme-high-returns/1/22665.html>; <http://www.moneylife.in/article/another-mlm-company-gold-sukh-dupes-investors-for-rs200-crore/21722.html>

16 http://articles.economictimes.indiatimes.com/2011-11-07/news/30369458_1_ponzi-schemes-duping-investors-small-investors; <http://businesstoday.intoday.in/story/accounting-fraud-investment-schemes-ponzi-scheme-high-returns/1/22665.html>

17 <http://businesstoday.intoday.in/story/accounting-fraud-investment-schemes-ponzi-scheme-high-returns/1/22665.html>

18 Crime Branch, Delhi Police, <http://delhipolice.nic.in/home/backup/26-11-2013.doc>



Multiplicity of Regulators and Regulatory Framework

From all these scams, a few things are clear. Firstly, there is a multiplicity of financial regulators in the country, which has given rise to gaps in the legislation and uncertainty about the roles of the regulators. This fragmented approach had not paid off but only enabled more frauds to happen. While the crux of all fund-raising from the public is a money-for-money transaction, regulators go by the form of the transaction rather than by substance. Therefore, if the scheme is purporting to be an ownership of asset or assets, it is a collective investment scheme, coming under SEBI's purview. If it is a receipt of money structured as a deposit or borrowing, it is a "deposit", which comes under the MCA if it is a non-banking non-financial company and under the RBI if it is non-banking financial company. Even if it is a financial company, if it is a "nidhi" company, it goes again under the MCA. If it is structured as a purchase of goods or advance for purchase of goods, it comes under neither, which is a strange view taken by the regulators and even the judiciary in case of the so-called jewellery purchase schemes.¹⁹

Also, if the scheme is structured as a "multi level marketing scheme", there are conflicting court rulings on whether the scheme is at all a financial scheme²⁰.

The issue is simple – a purported plantation scheme, for instance, is not, in substance, a sale of plantations. The backbone of the scheme is not that the sponsor really wants to sell teak trees. Most of these schemes have buy-back provisions with a guaranteed

19 S B Agarwal v. SEBI, PIL No. 43/2013, Bombay HC (Nagpur Bench) (http://www.sebi.gov.in/cms/sebi_data/attachdocs/1385611633700.pdf)

20 See, *Amway India Enterprises v. Union of India*, 2007 (4) ALT 808, Chandrachud, CJ held that two conditions must be satisfied for application of Prize Chits and Money Circulation Schemes Banning Act: (1) it must be proved that he is promoting or conducting a scheme for the making of quick or easy money; and (2) the chance or opportunity of making quick or easy money must be shown to depend upon an event or contingency relative or applicable to the enrolment of members into that scheme. Notably, US regulators have framed elaborate guidelines that distinguish genuine direct marketing schemes from those that are illegal. However, India has so far done nothing in this regard, though there are several MLM schemes floating which would be illegal under the US law.



rate of return. Even if paperwork does not show a guaranteed rate of return, the real conduct of the scheme will surely demonstrate money being returned within a short time. We need to understand that every sponsor of such scheme has to create a bunch of “satisfied customers” because that is how they popularise the schemes. If the “satisfied customer” comes only at the end of the 10-year scheme, there is no way these schemes will be able to sell the alluring benefits of the scheme to others. Hence, the customers who bite the bait will start getting fanciful returns in just a few months’ time, thereby creating a compulsive temptation for lots of others in the community to plunge their savings into the scheme as well.

If these schemes are money-for-money schemes, how is it that the schemes do not come under RBI purview? Or, for that matter, if the RBI comes to detect that a particular scheme is actually a CIS, it may refer the same to the SEBI, or MCA in case of non-banking-non-financial companies. Reportedly, such inter-agency coordination committees are already at work, but their effectiveness is in doubt.

In the long-run, all schemes of raising money from the public in money-for-money transactions have to be under a single regulator. Currently, blame-shifting is the biggest escape of regulatory authorities, such that by the time real action is taken, it is too late.

Political Nexus

There seems to be a vicious political nexus between the perpetrators and the political honchos of the centre and states. For a scheme to raise a billion units of money from over a million investors is not an overnight job. It requires building a coordinated structure thriving on the back of political immunity. Even in a country like United States, some of the roots of major financial crises have been traced to perverse forms of patronage and

lobbying leading to political unwillingness to regulate banking entities. The savings and loans crisis of the 1980s and 1990s and the recent financial crisis of 2008 have amply exhibited the callous role that regulators and politicians played in return for campaign contributions and high offices. It is unlikely that the authorities in India are any more honest.

The abuse of power may not be limited to the higher echelons of the Executive branch because Ponzi schemes would typically employ local authorities and political outfits within each of its areas of operations.²¹ Sometimes, the local politicians decide who the agents of the company will be for that area and also induce targeted members of the public to participate in the scheme. They may themselves administer the process of fund collection and disbursement. They may also be in a position to exercise undue influence over local police departments and investigating officers. Using this model, disputes of individual consumers can be settled quietly without exposing the fraudulent nature of the entire scheme to public scrutiny. For example, under Section 45T of RBI Act, both the RBI and State Governments have been given concurrent powers to action against unincorporated bodies. Nonetheless, in order to take immediate action against the offender, the information should immediately be passed on to the State Police, which may be constrained by political patronage. In the case of Overland Investments, the Calcutta High Court had observed that “the State knew the affairs of these companies but we do not find any reason why the State waited for a long time in the matter of bringing to the notice of the Court inasmuch as long delay might have caused serious prejudice and loss to the depositors. The State should have come to this Court long back when the State had come to know all the affairs of the company which according to the State was highly prejudicial in public interest.”²² But nothing much has changed since then.

It is surprising to see that there are scary anti-fraud provisions against corporate executives and professionals, for floating or colluding in fraud schemes, but there are none in case of politicians, bureaucrats and public officers. If the law-makers thought it fit to provide for a minimum sentence of 6 months going up to 10 years in the case of corporate executives²³, it is painful to see there is no equivalent in case of public officers.

Regulators Going For the Form and Not Substance

The financial jurisprudence in the country follows the letter of law and not the spirit. It was interesting to see the best legal brains of the country using literal sophistry as to why the OFCDs in case of Sahara were not covered by SEBI’s jurisdiction. The deposit regulations are still based on whether there was a deposit of money, which is commonly interpreted literally, providing an escape route

21 See, *Once again a Ponzi lays waste*, Economic and Political Weekly, XLVIII (19), 2013

22 See, *Overland Investment Company v State of West Bengal*, AIR 1997 Cal 18

23 Sec 447 of the Companies Act, 2013. The section is already effective from 12th Sept 2013.



Article

Financial frauds in India : An enquiry into their causes and cures

➤ It goes without saying that the role of professionals, whether in employment or serving audit roles, is supreme in putting checks and balances in the system. Professionals are the extended arms of the regulators – regulators never get the inside story; professionals do. It is, therefore, in right spirit that the Companies Act, 2013 casts a duty upon any auditor (and the term includes a secretarial auditor as well) to report frauds to the Central Government.

by structuring the *de-facto* deposit transaction as a purchase of goods, purchase of jewellery, advance for services, or a simple ownership of an asset. Compare this with the Moneylenders Acts of the pre-independence era, where loans were identified on the basis of substance and not form²⁴. Consequently, every now and then there are schemes which are raising public deposits in disguise of a literal facade. It would not take much to put in the RBI Act a definition of a deposit similar to the Bengal Moneylenders Act, 1940 which captures a “deposit in substance”, and leaves a power of determination to a certain quasi judicial body. This would ensure quick remedial action.

Financial inclusion and the outreach of regulated institutions

India has a large low-income rural population with limited access to formal banking services and the large vacuum that regulated institutions leave is opportunistically filled by unregulated financial operators. While no regulated institution can offer as luring interest rates as fraudsters can, but at least, the wiser of the rural folk have to have an alternative mode of putting in their savings. The idea of financial inclusion has to be seriously carried forth – quite often, development itself is an effective remedy to oppression.

Role of professionals

It goes without saying that the role of professionals, whether in

employment or serving audit roles, is supreme in putting checks and balances in the system. Professionals are the extended arms of the regulators – regulators never get the inside story; professionals do. It is, therefore, in right spirit that the Companies Act, 2013 casts a duty upon any auditor (and the term includes a secretarial auditor as well) to report frauds to the Central Government. There will surely be attempts at carving out literal gateways of escape to this section – it may be argued that the section applies only to frauds against companies. However, it must be noted that “fraud in relation to” as defined in section 447 covers frauds where the company has been used as an instrumentality. The company does not have a brain of its own – so those running company are responsible for any of the company’s fraudulent acts. If the company has been used for any financial fraud, it is surely something that works against corporate interests, and therefore needs reporting.

No perpetrator of fraud can ever do much without the active assistance of professionals. Quite often, we use sophistry of argument to create structures which provide such fraudsters the shelter in which they operate. Every financial fraud business is full of violations – in letter and spirit. These become evident at the first glance at their business operations. Whether one is the secretarial auditor, or statutory auditor, or internal auditor, or a bond trustee, or rating agency, or just legal adviser – one can easily smell what is the real intent behind the complicated web being woven by the sponsor of the scheme. There, one may put short-term personal avarice in the background and take a larger view of public interest involved. It is true that as professionals, we do not have to take a larger role upon ourselves than what is conferred upon us. For example, if a client has done what seems like a wrong of the law and approaches us for defending, we cannot sit in the position of a public prosecutor. But where a client approaches us for advising whether to do what he is proposing, we should advise client against it, cautioning of the long-term implications of the scheme he is devising.

The new regime has extremely harsh penal consequences with mandatory imprisonment in case of frauds. If indeed this was needed to make professionals aware of what otherwise should have been self-realisation, than the law now provides it. However, law-making breeds knit-picking, of holes to find a way out of the law – it is indeed more of a conscience that professionals need to invoke. Long term interest, whether in business or in profession, is always better served by scrupulous practices. It may be tempting to see the exponential rise of a short-term operator, but the fall is often far more painful than the rise. It takes years before an ex-fraudster regains social acceptability. On the contrary, one may choose to live a bit less lavishly, but with head high. CS

²⁴ Bengal Moneylenders Act, 1940 Section 2(12) defines a loan to mean an advance either of money or in kind made on condition of repayment with interest and to include any transaction which in substance is a loan.



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White Collar Crimes and Legal Remedies

- Asset misappropriation accounts for a high percentage of frauds in organizations. Inventory write offs, obsolescence, etc. also need close monitoring. Fraud is a serious and rampant problem in today's supply chains and it has increased manifold in last few years. How the Indian Penal Code and related laws seek to prevent business frauds is described here.

Protection of property in the past was ensured through 3Gs- guns, guards and gates. The situation is very different today and calls for appreciation of the complex business needs. While counterfeiting, protection of business secrets engage the attention of the businesses, integrity of processes and people is also vital to business. Companies may be victims of fraud or in certain cases the persons holding important positions may have played a fraud on other stakeholders. Asset misappropriation accounts for a high percentage of frauds in organizations. Inventory write offs, obsolescence, etc. also need close monitoring. Fraud is a serious and rampant problem in today's supply chains and it has increased manifold in last few years. Supply chain related frauds may take various forms like bills raised which remain unpaid for a long time. Such goods may never have been ordered by the party nor received by the party. Investigations may reveal that goods were intercepted whilst in transit and disposed off by a group of individuals. What is the recourse available to the company and how effective are such actions. Is a criminal action maintainable ?. These are some of the pertinent questions that require examination.

White-collar crime is a dreaded word. This term was first coined in 1939 by sociologist Edwin Sutherland as "a crime committed by a



person of respectability and high social status in the course of his occupation." While white-collar crimes include fraud, bribery, Ponzi schemes, insider trading, embezzlement, cybercrime, copyright infringement, money laundering, identity theft, forgery etc. This article examines the provisions of the Indian Penal Code, and other related laws which are used as legal tools to enforce legal discipline in India.



Embezzlement is the most common mode that one resorts to in such cases. Embezzlement is attracted when a person who has been entrusted with money or property appropriates it for his or her own use and benefit. Can the goods in the godown from where the billing was done be said to be under the care and custody of the person who raised the invoices? Were the invoices physically signed? Was such entrustment of goods apparent in the job description form signed by the employee in question? Was the employee who signed the invoice remiss in his duties in effecting despatch of goods? Was the despatch irregular or against the standard operating practices? Is the SOP documented? These are few of the questions that will need to be considered before initiating legal action.

In the case of fraud, the provisions of the Indian Penal Code (IPC) that are generally invoked are those dealing with criminal breach of trust, dishonest misappropriation of property, forgery, etc.

Section 403 of the IPC which refers to "dishonest misappropriation of property" states that "Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

It has been held that 'dishonesty' and 'misappropriation' are the necessary ingredients of an offence under section 403. Any dispute being about recovery of money is purely of civil nature.

Section 405 of IPC dealing with Criminal Breach of Trust reads as under- "Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or willfully suffers any other person so to do, commits criminal breach of trust".

The difference between the criminal breach of trust and criminal misappropriation is that in respect of criminal breach of trust, the accused is entrusted with property or with dominion or control over the property. This is an essential fact which needs to be established for a complaint to succeed.

The essential ingredients of an offence of criminal breach of trust are;

- (1) the accused must be entrusted with the property or with dominion over it,
- (2) the person so entrusted must use that property, or;
- (3) the accused must dishonestly use or dispose of that property or willfully suffer any other person to do so in violation, (a) of any direction of law prescribing the mode in which such trust is to be discharged, or;(b) of any legal contract made dealing with the manner in which such functions relating to the discharge of such trust is required to be effected.

According to Section 406 of the IPC, "Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years or with fine or both".

According to Section 407 of the IPC, those who commit breach of duty in respect of property entrusted to them under a contract express or implied, for safe custody or carrying from one place to another e.g, a carrier, wharfinger or a warehouse-keeper, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Section 408 of the IPC, makes a clerk or a servant punishable, if he commits a criminal breach of trust with respect to the property entrusted to him in the capacity of a clerk or a servant. Such person shall be punished with imprisonment of either description for a term, which may extend to seven years, and shall also be liable to fine.

Additionally, section 468 of IPC relating to "Forgery for purpose of cheating" and section 471 of IPC dealing with "Using as genuine a forged document" may also be invoked if the accused commits forgery in perpetrating a fraud.

Cognizable and non-cognizable / Bailable and non-bailable offences

If an offence is cognizable (Sections 406, 408, 468, etc of IPC) then any officer in charge of a police station may investigate the matter/ complaint. An order of a Magistrate is not necessary for conduct of such investigation. However, if the offence complained of is non-cognizable (Section 403 of IPC) then investigation can be conducted by a police officer only after it is so ordered by a Magistrate having power to try the case or commit the case for trial.

All cases other than those covered by section 403 referred above are non-bailable i.e. only a court can grant bail in these cases.

Tools to aid investigation

It is common practice to conduct internal investigation once a company becomes aware of a fraud. Forensic investigation may be used as an effective tool to augment investigation into frauds. It may help the company obtain further material which may be used as evidence in the criminal proceedings. The term forensic investigation refers to the use of science or technology in the investigation and establishment of facts or evidence to be used in criminal justice or other proceedings.

Forensic investigation typically involves imaging of an electronic device - a laptop, mobile phone, etc and analyze the data stored in it. Even deleted files can be retrieved by use of appropriate applications.

In order to conduct a forensic investigation of the laptop which was used by the suspect employee, it is necessary that there is proper



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and sufficient documentation to show ownership of the laptop by the company concerned. It is essential to also have documents showing use of the laptop by the employee, i.e. an asset handover form duly signed by the employee acknowledging entrustment of the asset to him/ her will be necessary.

Domestic investigation may unearth the *modus operandi* of an offence and the accused persons may furnish confessional statements. Evidentiary value of such confessional statements often poses a challenge.

Legal validity of confessional statements

The term confession is nowhere defined in the Indian Evidence Act, 1872 (Evidence Act). All the provisions relating to confessions occur under the heading of 'admission'.

The definition of admission as given in Section 17 of the Evidence Act is applicable to confession also. Section 17 defines admission as "a statement oral or documentary which suggests any inference to any fact in issue or relevant fact."

1. Confession is the admission of guilt or its inferences. There are two types of confessions viz. judicial and extra-judicial. Some provisions relating to confessions are contained in Sections 24 to 29 of the Indian Evidence Act.
2. Confession is generally made by the accused person. Admission is made by other persons.
3. Confession statement is culpatory while admission is exculpatory; a confession made before a magistrate under section 164 of the Code of Criminal Procedure, 1973 is admissible as evidence.

As per Section 24 of the Evidence Act a confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of temporal nature in reference to proceeding against him.

To attract the provisions of Section 24, the following facts must be established:-

- (a) The confession must have been made by an accused to a person in authority.
- (b) It must appear to the court that the confession has been caused by any reason of inducement, threat or promise proceeding from a person in authority.
- (c) The inducement, threat or promise must have reference to the charge against the accused person.
- (d) The inducement, etc. must be such that it would appear to the Court that the accused, in making the confession, believed that he would by making it, gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

Legal recourse available to a company which is a victim of fraud

After conducting an internal investigation, a company may choose any of the following three options :-

- (a) to file a complaint with the police authorities.
- (b) to file an application under section 156 (3) of the Code of Criminal Procedure, 1973 with a magistrate for a direction to the police to conduct an investigation.
- (c) to file a private complaint before a Magistrate.

It is advisable to file a complaint with the Magistrate, if facts duly supported by documents, establishing an offence under IPC are





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White Collar Crimes and Legal Remedies

- Banks are required to report frauds by way of a letter giving the details such as amount involved, nature of fraud, modus operandi in brief, name of the branch/ office, parties involved, etc. within a week of notice of the fraud to RBI under whose jurisdiction the bank's branch, where the fraud has been perpetrated, is functioning.

readily available for a Magistrate to take cognizance.

Procedure from Complaint to Conviction

The process of criminal action starts with a complaint and ends with conviction or acquittal. The procedure is lengthy and time consuming. The different steps are :-

- 1) Complaint by a company (This complaint may be to the police or before a magistrate).
- 2) Investigation by police.
- 3) Filing of charge sheet.
- 4) Trial before a Magistrate.
- 5) Conviction/ acquittal order as the case may be.

Reporting by Banks

Banks are required to report frauds by way of a letter giving the details such as amount involved, nature of fraud, modus operandi in brief, name of the branch/office, parties involved, etc. within a week of notice of the fraud to RBI under whose jurisdiction the bank's branch, where the fraud has been perpetrated, is functioning.

Banks need to ensure that all frauds of Rs. 1.00 Lakh and above are reported to their Boards promptly on their detection. Such reports should, among others, contain the failure on the part of the concerned branch officials and controlling authorities and consider initiation of appropriate action against the officials responsible for the fraud.

Banks are required to place individual cases of attempted frauds involving likely loss of Rs 1 Crore or more before Audit Committee of respective boards with full details such as *modus operandi* of the attempted fraud, measures taken by the bank, etc. for information/ review.

Further, banks are required to conduct an annual review of the frauds and place a note before the Board of Directors/Local Advisory Board for information. The review would take into account, among others, whether the systems in the bank are adequate to detect frauds once they have taken place within the shortest possible time.

Guidelines for Reporting Fraud to Police/ CBI Private Sector Banks/Foreign banks (operating in India)

While reporting the frauds, banks are required to ensure that, besides the necessity of recovering the amount expeditiously, the guilty persons do not get unpunished.

Fraud involving	Compliant to be filed with
Fraud involving Rs. 1.00 Lakh and above involving outsiders (Private parties and bank staff)	Regional Head of the bank to State CID/Economic Offences Wing of State concerned
Below Rs. 1.00 Lakh but above Rs. 10,000/-	Local Police Station by the branch
Below Rs. 10,000/- involving bank officials	Reported to Regional Head of the bank to decide on further course of action.
Fraudulent encashment of DD/TTs/ Pay orders/ Cheques/ DWs, etc.	Local Police concerned
Frauds involving forged instruments	Paying banker to Local Police
Collection of genuine instrument, but collected frequently by a person who is not the owner	Collecting bank to Local Police concerned
Payment of uncleared instrument which found to be fake/forged and returned by the paying bank	Collecting Bank to Local Police
Collection/payment of altered/ fake cheque involving 2 or more branches of the same bank.	Branch where the cheque was encashed to the Local Police

Reference to other laws

The provisions of Prevention of Money laundering Act, 2002 (PMLA 2002) get invoked only after the special court comes to the conclusion of commission of offence (It is only when an order of conviction is passed that the said Act comes into play). Under the





provisions of this Act, there is no right of seizure of the asset prior to conviction. PMLA 2002 forms the core of the legal framework put in place by India to combat money laundering. PMLA 2002 and the Rules notified thereunder came into force with effect from July 1, 2005. Director, Financial Intelligence Unit - India (FIU-IND) and Director (Enforcement) have been conferred with exclusive and concurrent powers under relevant Sections of the Act to implement the provisions of the Act. The PMLA 2002 and Rules notified thereunder impose an obligation on banking companies, financial institutions and intermediaries of the securities market to verify identity of clients, maintain records and furnish information to FIU-IND.

Financial Intelligence Unit - India (FIU-IND): The Government of India set up Financial Intelligence Unit - India (FIU-IND) as an independent body to report directly to the Economic Intelligence Council (EIC) headed by the Finance Minister. FIU-IND has been established as the central national agency responsible for receiving, processing, analyzing and disseminating information relating to suspect financial transactions. FIU-IND is also responsible for coordinating and strengthening efforts of national and international intelligence and enforcement agencies in pursuing the global efforts against money laundering and related crimes.

Section 12 of the PMLA, 2002 lays down following obligations on banking companies.

“(1) Every banking company, financial institution and intermediary shall-

- (a) maintain a record of all transactions, the nature and value of which may be prescribed, whether such transactions comprise of a single transaction or a series of transactions integrally connected to each other, and where such series of transactions take place within a month;
- (b) furnish information of transactions referred to in clause (a) to the Director within such time as may be prescribed;
- (c) verify and maintain the records of the identity of all its clients, in such a manner as may be prescribed.

Provided that where the principal officer of a banking company or financial institution or intermediary, as the case may be has reason to believe that a single transaction or series of transactions integrally connected to each other have been valued below the prescribed limit so as to defeat the provisions of this section, such officer shall furnish information in respect of such transactions to the Director within the prescribed time.

(2) The records referred to in sub-section (1) shall be maintained for a period of ten years from the date of cessation of the transactions between the clients and the banking company or financial institution or intermediary, as the case may be.”

Cash Transaction Report

PMLA, 2002 and the Rules thereunder require every banking company to furnish details of the following cash transactions by the 15th of the succeeding month.

- (i) All cash transactions of the value of more than rupees ten lakhs or its equivalent in foreign currency.
- (ii) All series of cash transactions integrally connected to each other which have been valued below rupees ten lakhs or its equivalent in foreign currency where such series of transactions have taken place within a month.

Cash transaction reports may also assist in tracking white collar crimes if the banking channels are used to deposit such funds.

The Companies Act, 2013 also provides for establishment of special courts for speedy trials. Special Courts as defined in Companies Act, 2013 will try offences under the said Act, if committed by Key Management Persons. Investigation by Serious Frauds Investigation Office (SFIO), a specialized agency has also been provided under the Companies Act, 2013.

As per Section 43 of Information Technology Act, 2000, if any person who, without permission of the owner or any other person who is in-charge of a computer, computer system or computer network, accesses or secures access to such computer, computer system or computer network will be liable to pay damages by way of compensation not exceeding one crore rupees to the person so affected. This provision will be attracted to cases of misuse of passwords to gain access to computer systems.

Steps to mitigate White Collar Crime

1. *Prevention* - Strong internal controls which are regularly reviewed by competent and independent external auditors. Strong internal controls are barriers to breaches. Internal controls help businesses operate more efficiently and effectively too.
2. *Prosecution* - Aggressive prosecution of white collar offenders. A strong communication that severe action will be taken against such offenders also acts as a deterrent.

Unethical conduct cannot be completely ruled out but if the processes are robust, possibility of such risks being escalated early is high. Vigil mechanism as provided under the Companies Act, 2013 may also help companies address issues of process weaknesses. However, some measures may be followed by organizations to minimize such incidents like self assurance systems, review of processes at regular intervals, and audits by external parties. These steps will help address a large number of risks. Another important step would be building integrity and team working in organizations.

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Government's Apathy to Check Benami Transactions: Major Roadblock For Healthy Business Development

- The absence of a strong law to deal with the deep rooted malady of benami transactions continues to be an obstacle in the process of healthy business development in India. The recommendations of the 57th Report of the Law Commission on Benami Transactions calling for strong measures has fallen in the deaf ears. How insipid laws have been enacted to indicate adherence to the Commission's recommendations without meaning these, is discussed here.

A major obstruction to healthy business development in India is Government's apathy or its tacit support to benami transactions in the country despite the fact that there are umpteen instances in court decisions, which indicate misuse of benami transactions showing fraudulent deals, income-tax evasion/avoidance, generation of black money, making individual property/income as that belonging to Hindu Undivided Family (HUF), diverting income so as to indicate that these belong to others (benamidars), avoidance of correct incidence of wealth tax by holding assets in the name of others, using family member's identities, inter-alia, for conducting business or holding assets in the names of the minors and similar other ways.



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Obviously, free flow of internal and external business is impacted through such devices - Government, being the loser. In spite of such pernicious effects, the Indian Government's apathy in enacting law dealing effectively with such malpractices is surprising even when a recommendation for strong measures was made in the 57th Report of the Law Commission on Benami Transactions. How insipid laws have been enacted to indicate adherence to the Commission's recommendations without meaning these, is discussed in later paragraphs.

Meaning of 'Benami'

Its equivalent in vernacular is 'farzi'. This word is used to denote two classes of transactions, which differ from each other in their legal character and incidents. In one sense, it signifies a transaction, which is real. It also refers to a sham transaction when a person purports to sell his property to another without intending that his title should cease or pass to the other.

The distinction between a sham transaction and a benami transaction was very cogently drawn in the celebrated decision of the Supreme Court in the case of *Sree Meenakshi Mills Ltd. v. CIT, Madras* (AIR 1957 SC 49 at page 66), Venkatarama Ayyar, J., speaking for the court stated:-

"...In this connection, it is necessary to note that the word benami is used to denote two classes of transactions, which differ from each other in their legal character and incidents. In one sense, it signifies a transaction, which is real, as for example, when A sells properties to B but the sale-deed mentions X as the purchaser. Here the sale itself is genuine, but the real purchaser is B, X being his benamidar. This is the class of transactions, which is usually termed as benami. But the word benami is also occasionally used, perhaps not quite accurately, to refer to a sham transaction as for example, when A purports to sell his property to B without intending that his title should cease or pass to B. The fundamental difference between these two classes of transactions is that whereas in the former there is an operative transfer resulting in the vesting of title in the transferee, in the latter, there is none such, the transferor continues to retain the title notwithstanding the execution of the transfer deed. It is only in the former class of cases that it would be necessary, when a dispute arises as to whether the person named in the deed is the real transferee or B, to enquire into the question as to who paid the consideration for the transfer, X or B. But in the latter class of cases, when the question is whether the transfer is genuine or sham, the point for decision would be, not who paid the consideration but whether any consideration was paid....."

Why benami deals?

Some important reasons, which explain resort to benami transactions, could be summarized thus:-

- [i] to indulge in fraud for easy monetary gains such as by defrauding creditors.
- [ii] to by-pass social and economic legislations such as those preventing monopolies, land acquisitions, confiscations, inheritance tax, etc.
- [iii] to avoid situations, which may appear to be oppressive, unfair and unjust by holding large chunk of property in single names.
- [iv] to avoid forfeiture of property in situations of expected conviction.
- [v] to ensure secrecy
- [vi] to have divisions, where laws of perpetuity under the personal laws provide that property will pass between one's descendants only.
- [vii] In the present regime of limited scrutiny of tax cases, it is beneficial to save tax to have multiple tax heads, which generally get passed without checking because of heavy workload.

Areas, where most benami transactions are resorted to

Some of the areas, where most benami transactions are resorted to are (i) real estate and (ii) shareholdings. Most benamidars are relations generally husband, wife and children. The objective is to have the benefits of bifurcation of income and wealth without properties going away from the control or area of close relations. There is no presumption that the properties held in such names are benami properties. It is for the person, who alleges benami, to prove it. The presumption of ownership is in favour of ostensible owner. Considerable litigation ensues in direct taxes cases concerning benami deals.

Laws relating to benami transactions

Earlier law – Section 66(1) of the Code of Civil Procedure

The language of sub-section (1) of section 66 of the Code of Civil Procedure is explicit and unambiguous. It completely bars the maintainability of a suit against a person claiming title under a court purchase on the ground that the purchase was made on behalf of some other person. It makes no distinction between a purchase made by a decree-holder on the one hand and a purchase made by a third party auction purchaser on the other.

Later laws

1st Benami Transactions Prohibition Act, 1988

The one law, with which the Government is playing truant, is the law relating to Prohibition of Benami Transactions. In the year 1988, suddenly the need for checking benami deals dawned on the Government and an Ordinance was issued, Parliament being not in session, to check such transactions. It was later passed as an Act and was a small piece of legislation, hurriedly enacted, of



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➤ One handicap in administering the existing Act related to burden of proof. It was to be discharged by the person, who alleged benami and this needed a well-organized machinery to do proper investigation and initiate action for acquisition. Half-hearted attempts could not succeed. Rather, these created contempt for the law on the part of those, who indulged in benami deals. Though there was provision in the Act to prosecute persons indulging in benami deals, no one had ever been prosecuted under this Act, though such deals were being entered into daily in large numbers.

9 sections, where only 3 substantive sections – sections 3, 4 and 5 - were important. Section 2 was the definition section, where a 'benami transaction' was defined to mean "any transaction in which property is transferred to one person for a consideration paid or provided by another person". This definition was defective in the sense that it did not consider the situation, where a property may not be transferred but acquired initially in benami name. Section 3 prohibited benami transactions by enacting that no person shall enter into any benami transaction. This did not prohibit purchase of properties in the names of wives or unmarried daughters. Benami nature of such acquisitions was to be presumed. Sub-section (3) of this section provided that whoever entered into any benami transaction shall be punishable with imprisonment upto 3 years or with fine or with both. Section 4 barred right of recovery of property held benami from the side of the real owner. However, exceptions were provided in the cases of HUF properties. Section 5 stipulated that properties held benami shall be liable to acquisition by such authority after following the prescribed procedure without payment of any amount for acquisition. This provision was never used as the Authority, who may acquire the property, was never appointed and the procedure for acquisition never prescribed by way of Rules.

No impact of the legislation

Since nearly 24 years have passed since the Act was made, it had absolutely no impact. The benami deals were in galore and were one of the main reasons for proliferation of black money in big way. Though the Act provided that there would be no benami deals, no visible action was taken against persons resorting to such deals freely. This was because of lack of proper machinery



to implement the Act. There had been no instances to show that in exercise of power conferred under section 5, properties held benami were acquired by the Government and confiscated to indicate the deterrence of the legislation. The Act did not inculcate fear of any kind for those, who were dealing in benami names.

One handicap in administering the existing Act is related to burden of proof. It was to be discharged by the person, who alleged benami and this needed a well-organized machinery to do proper investigation and initiate action for acquisition. Half-hearted attempts could not succeed. Rather, these created contempt for the law on the part of those, who indulged in benami deals. Though there was provision in the Act to prosecute persons indulging in benami deals, no one had ever been prosecuted under this Act, though such deals were being entered into daily in large numbers. No wide publicity was given from the side of the Government to such law to deter persons from entering into such transactions. Thus, benami deals were freely indulged into. The adverse impact of benami transactions on the country's economy is large. It bifurcates income earning activities into fragments leading to loss of tax revenue. These have been resorted to commit frauds and cheating. These lead to substantial litigation, where the burden of proving benami was on the Government, which could not be discharged substantially because the facts are in the knowledge of respective parties. The substantive provisions of the Benami Act could be invoked only when benami nature of deal got established, which was not possible because of faulty nature of legislation. Because of this, the impact of the legislation got diluted. There had been no reports that any one was punished for violation of section 3 of the Act (*supra*).

Till today, it is a mystery as to what was the urgency that forced the Government to enact such a law by an Ordinance and then forget about it.

New law relating to Benami Transactions (proposed) – Benami Transactions (Prohibition) Bill, 2011



To ward of the criticism that the Government is soft in tackling black money in the country, the Finance Minister introduced a new Bill in 2011 to check and prohibit benami transactions in the country, because, *prima-facie*, the earlier law was insipid and weak and had been a disaster because firstly, it was an incomplete and lackluster legislation and secondly, the Government itself made it non-functional by not even making Rules for its implementation though the legislation was considered so essential that it was promulgated by an Ordinance.

To establish credibility that the Government of India (GOI) is greatly concerned in checking generation, proliferation and circulation of black money in the country, the Government hurriedly again came up with the proposal to enact a new law concerning "benami" deals after sleeping over a legislation on this subject, which was enacted by an Ordinance (which indicates the urgency for such a measure) in the year 1988. As stated earlier, nothing was done after the Ordinance was made a law – not even rules were framed for implementation of the legislation in nearly 24 years time. Finding no explanation for inaction and apathy against such an important legislation, the then FM, even offered an apology for the indifferent attitude towards this statute meant to catch black/unaccounted money held in benami deals.

Appraisal of 2nd law relating to Benami Transactions

Benami transactions are being indulged in millions in the country. The latest instances of these could be seen in the case of *Adarsha Society, Mumbai*, where nearly 23 flats are reported to be owned in benami names. One person, a driver by profession, media reports showed, owns a flat of Rs.60 lakhs value with a monthly salary of Rs.8,000 p.m. In other areas too, benami holdings are rampant. These increased year-after-year despite the fact that the country had a Benami Transactions (Prohibition) Act since the year 1988. However, as stated earlier, such law, since its enactment, had been almost like a paper tiger, which did not made any impact on benami transactions, whose volume is fast increasing with Government looking like a helpless spectator.

The first issue, that arises in the context of the new (proposed) legislation, is as to why a new Act is needed when there was already an Act? The Preamble to the Bill shows that it is intended to "consolidate and amend the law relating to benami transactions, prohibit holding property in benami and restrict right to recover or transfer property held benami, and provide mechanism and procedure for confiscation of property held benami....."

Objects of the Bill

The objects and reasons, *inter-alia*, of the Bill show that the new law is proposed to replace the existing Act because it suffered from the following deficiencies:-

- [i] It does not contain specific vesting of confiscated property with the Central Government;
- [ii] It does not have any provision for an appellate mechanism; and
- [iii] Does not confer the powers of the civil court upon the authorities for its implementation.

Analysis of the provisions of the Bill

The Bill contains 47 clauses (as against 9 sections in the existing Act). The important provisions in the new Bill are clauses 2 to 6. The other sections are procedural/machinery, like those that are there in other laws. Clause 2 is a definition section having definitions. Clause 2(g) defines the term 'benami transaction', as a transaction or arrangement (a) where property is transferred to or is held by a person for a consideration provided or paid by another person; (b) the property is held for the immediate or future benefit of the person, providing the consideration; (c) property is held in fictitious names & (d) where the owner is not aware of his holding the property.

Exceptions

- [i] property held in the names of Karta or members of HUF for their benefit; and
- [ii] holders of property in fiduciary capacities are not covered by this law.

Important clauses

Clause 3 prohibits holding of properties in benami names except where these are held in names of (a) spouses; (b) brothers and sisters; and (c) lineal ascendants or descendants.

Clause 4 provides that benami property can be confiscated by the Government without any compensation.

Clause 5 prohibits right to recover benami property and clause 6 puts restriction on the right of benamidar to transfer benami property.

- [d] Clause 6 prohibits retransfer of property held benami.

Other Chapters and clauses

Other chapters and clauses in the Bill are of usual nature that are found in all enactments. Their contents are:-

- [i] Chapter-III – Clauses 7 to 12 relate to Authorities.
- [ii] Chapter-IV – Clauses 13 to 18 deal with the subjects relating to attachment, adjudication and confiscation.
- [iii] Chapter-V – Clauses 19 to 24 pertains to Appellate Tribunal and appeal to High Court.
- [iv] Chapter-VI – Clauses 25 & 36 concerns special courts.



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Government's Apathy to Check Benami Transactions : Major Roadblock For Healthy Business Development

➤ Laws should not be enacted as subterfuges for being showpieces or as being tools for political expediency. Unfortunately, the 1988 law was passed without any proper homework, *prima-facie*, as a measure to settle some political vendetta, which remains shrouded in mystery even till today. The urgency shown by its enactment by an Ordinance still remains a mystery. Even the new legislation, contemplated by the Bill, is imperfect in many respects as revealed in the examination of Standing Committee on Finance.

- [v] Chapter-VII – Clauses 27 to 29 deal with issues concerning offences and prosecution; and lastly
- [vi] Chapter-VIII – Clauses 30 to 47 deal with miscellaneous aspects such as power to make rules, remove difficulties, amendments, repeals and savings, etc.
- [f] There is a Schedule made in terms of clause 47 of the Bill and relates to amendments to the Prevention of Money Laundering Act, 2005 in so far as its application to the Benami Transactions (Prohibition) Act is concerned.

The Bill was referred to the Standing Committee on Finance of the Parliament, which gave its report (Fifty-eighth Report) in June, 2012. Since then, the matter is pending with the Government and it is not clear why the Government is not proceeding fast in such an urgent matter. This indicates that the Government is not serious in the matter of checking of benami transactions again.

Concluding comments

Laws should not be enacted as subterfuges for being showpieces or as being tools for political expediency. Unfortunately, the 1988 law was passed without any proper homework, *prima-facie*, as a measure to settle some political vendetta, which remains shrouded in mystery even till today. The urgency shown by its enactment by an Ordinance still remains a mystery. Even the new legislation, contemplated by the Bill, is imperfect in many respects as revealed in the examination of Standing Committee on Finance. More public discussion, fine-tuning and enhancements for effective (not routine) implementation are needed as new Bill too suffers from handicaps and lacunae, like old law.

Prima-facie, the proposed law is an improvement over the existing law, which was a bare skeleton and incomplete in many aspects as has been admitted by the Government now, but it cannot be said to be complete Code for achieving the objectives, for which it is intended. Some aspects that need attention are:-

- [i] For discharging the burden of proof, can certain presumptions be incorporated in the Act on the lines provided by the Direct Taxes Code Bill in presuming tax avoidance (see clause 123 of the Bill concerning General Anti-Avoidance Rules).
- [ii] To provide for confiscation of properties within the framework of Constitution. Confiscation of benami properties need to be done only where benami nature of the holdings gets established.
- [iii] More stringent punishments should be provided for indulging in benami deals.
- [iv] A machinery at the Centre, with bodies in the States, need to be established to monitor implementation of benami law effectively and take punitive action against delinquents.
- [v] A difficult problem in situations, where the Government provides for taking over of properties (confiscation as per clause 4 in the Bill under consideration) relates to use or disposal of properties taken over by the Government. This problem was felt acutely when properties were acquired or purchased under Chapters XXA & XXC of the I.T. Act, 1961 by the I.T. Department. Their disposal or use posed tremendous issues for the Government. One way to deal with these can be to use the same for public purposes as the Bihar Government is doing in regard to properties of the corrupt officers, confiscated by it. But, this may be problematic in cases, where the properties are already occupied – tenanted – and getting the same vacated may be difficult and time-consuming matter. A well-thought out plan in this regard is necessary and should form a part of the Rules, to be framed, so that there may be no time loss, incurring of expenditure and unnecessary litigation in this regard and properties confiscated could be taken over and well used.

There is no sense in having a law on the statute books, if it cannot be implemented effectively. Such situation erodes confidence in the Government and leads to loss of credibility. This should not be allowed to continue. Hence, the Benami Prohibition Law needs to be revamped and implemented with all its rigour, taking into account the suggestions of the Standing Committee on Finance and others mentioned in this write-up. Apathy from the Government's side, *prima-facie*, unexplainable, unfavourable to business and economic development of the country, depicts gloomier side of the Government's functioning. CS



March 2014



Article

Companies Act, 2013 – A big leap to prevent and punish fraud

➤ The definition of the term fraud uses the term 'person' which gives it a very wide coverage. Thus, it just doesn't only mean and cover certain officers, directors or employees of the company, instead it covers any person in relation to the affairs of the company. So irrespective who that person is, as long as that person in the context of the affairs of the company falls within the ambit of the definition of fraud, he will be guilty of committing fraud.

punishments for fraud in various sections. Take for instance, the Act of 1956 provides for an imprisonment of 5 years or fine or both when a person fraudulently induces persons to invest money in a company. It also provides that no compensation to managing/whole time director will be provided if he loses his office because of being guilty of fraud or breach of trust. Then, there is an imprisonment of 7 years if a person is found falsifying books during the course of winding up. Further, penalty for frauds by officers attracts 2 years of imprisonment and fine. Fraudulent conduct of business in the course of winding up attracts an imprisonment of 2 years or with fine or both. The Act also provides that when the Central Government is of the opinion that any person connected to conduct and manage the company is guilty of fraud, it can file reference with the court to seek directions against such person(s). There are many more instances under the Companies Act, 1956 where provisions regarding "fraud" are provided. So the question is then why is there so much discussion regarding "fraud" under the Companies Act, 2013. Is there anything different in the new law as compared to what is provided in the Companies Act, 1956? What really is the change now? Surely, there is a lot more in the New Act with respect to tackling the problem of fraud as compared to the Companies Act, 1956. The new Act provides for a couple of important changes regarding fraud as compared to the Companies Act, 1956. First and foremost is the definition of "fraud". It is noteworthy that although the Companies Act, 1956 dealt with fraud it did not have a meaning and definition given to it. Now under the new Act, there is a very clear definition of the term fraud.

Meaning of fraud

Section 447 of the new Act provides for the definition of fraud and also the punishment for committing fraud. Fraud is defined inclusively as under:

"Fraud in relation to affairs of a company or any body corporate

includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss."

It is clear from the definition that not all acts, omissions, concealment of fact or abuse of position will lead to fraud. In order to fall within the meaning of 'fraud' these actions, omissions, concealment of fact or abuse should be done with an intent to deceive or to gain undue advantage or to injure the interest of the company or its shareholders or creditors or any other person. Therefore, this brings in the concept of *mensrea*. Further, it would still constitute fraud whether or not such acts, omissions, concealment of fact or abuse of position results in 'wrongful gain' or 'wrongful loss' i.e. commission of crime with that intent is important not the results thereof.

'Wrongful gain' has been defined to mean gain by unlawful means of property to which the person gaining is not legally entitled. Similarly, "wrongful loss" has been defined to mean loss by unlawful means of property to which the person losing is legally entitled. Therefore, to fall within the meaning of fraud, the following should have happened:

- (a) acts, omissions, concealment of fact or abuse of position should have taken place;
- (b) such acts, omissions, concealment of fact or abuse of position should have essence of *mensrea* in them; and
- (c) irrespective of the fact whether or not they resulted in 'wrongful gain' or 'wrongful loss'.

The definition of the term fraud uses the term 'person' which gives it a very wide coverage. Thus, it just doesn't only mean and cover certain officers, directors or employees of the company, instead it covers any person in relation to the affairs of the company. So irrespective who that person is, as long as that person in the context of the affairs of the company falls within the ambit of the definition of fraud, he will be guilty of committing fraud.

Punishment for fraud

Another major difference between the new Act and the Companies Act, 1956 is that the punishment prescribed for fraud under the new Act is similar for all the cases of 'fraud' unlike in the Companies Act, 1956 where different punishments are provided for different actions leading to fraud. For example, as described above, an imprisonment of 5 years or fine or both is provided when a person fraudulently induced persons to invest money in a company, whereas an imprisonment of 7 years is provided if a person is found falsifying books during the course of winding up or an imprisonment of 2 years and fine is provided when fraud by an officer commits fraud. However, under the new Act, for all cases of fraud, the punishment provided is the same which is an imprisonment from 6



months to 10 years. However, there is more stringent punishment provided when the fraud committed involves public interest. In that case, the minimum punishment prescribed is 3 years, (and not 6 months), the maximum being the same for 10 years.

Take for instance, if fraud is committed by way of concealment of fact in the prospectus in an initial public offer with an intent to deceive the public shareholders, the minimum punishment will be 3 years as this is a case where public interest is involved. Similarly, take a case where a private limited company raises bank financing on the basis of falsified financial statements, it can be argued that public interest is involved since the lending bank had taken public deposit. Therefore, in this case also the private limited company and the persons responsible would be guilty of fraud attracting minimum punishment of 3 years.

In addition to imprisonment, there is also a fine equivalent to the amount involved in fraud and which can extend upto 3 times of the amount involved in fraud.

Punishment to be in addition to any other liability provided

It is noteworthy that the punishment of fraud is in addition to any other liability provided under the new Act including the repayment of debt wherever the new Act requires repayment of debt. This means that the person guilty of fraud has to suffer that other liability in addition to the punishment provided for fraud under Section 447. For example, Section 75 which provides for the repayment of deposits to the public, also provides that if the company fails to repay the deposit or any part thereof within the time provided and that such deposits were accepted with an intent to defraud the depositors or for any fraudulent purpose, then every officer of the company who was responsible for the acceptance of such deposit shall in addition to the liability under Section 447 will be personally liable, without any limitation of liability, for all or any of the losses or damages that may have been incurred by the depositors. Therefore, such officers will be liable for both the personal liability and the liability under Section 447. This is what Section 447 provides that the punishment of fraud provided under Section 447 is in addition to any other liability provided under the new Act.

Punishment for false statement or omission of material facts

Section 448 deals with the cases of making false statement (knowing it be false) or omission of materials facts (knowing it to be material) in –

- (i) Return
- (ii) Report
- (iii) Certificate

➤ There are around seventeen provisions scattered all over the new Act wherein the punishment provided is as in Section 447. But that doesn't mean that only those cases would be considered as "fraud" and punished as fraud. Undoubtedly those would be punished as fraud but other cases which fall within the meaning of the definition of fraud under Section 447 will also attract the punishment as provided in Section 447.

- (iv) Financial statement
- (v) Prospectus
- (vi) Statement
- (vii) Other document required for any provision of the new Act.

and provides for the same punishment as provided in Section 447.

Sections 447 and 448 have already been notified effective September 12, 2013 and are in force and therefore, it is very important that the provisions of these sections are well understood. Owing to the very stringent punishment, these will go a long way to prevent frauds in the company.

Offence of fraud - non-compoundable

As the punishment for fraud is both imprisonment *and* fine, it will be a non-compoundable offence, which makes the commission of fraud a more serious affair.

Whether cases of fraud only restricted to provisions as mentioned in the new Act?

One interesting question that arises is whether the provisions of punishment only apply to those cases of fraud which are specifically covered under various provisions of the new Act i.e. the punishment for fraud as provided in Section 447 is only applicable to cases of fraud as mentioned in other provisions of the new Act or to any other case of fraud. There are around seventeen provisions scattered all over the new Act wherein the punishment provided is as in Section 447. But that doesn't mean that only those cases would be considered as "fraud" and punished as fraud. Undoubtedly those would be punished as fraud but other cases which fall within the meaning of the definition of fraud under Section



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447 will also attract the punishment as provided in Section 447.

Some instances as provided in the new Act which will attract punishment as provided in Section 447.

- (a) incorporation of a company based on false or incorrect information, the first directors, first subscriber and the professional who made declaration will be liable
- (b) for untrue, misleading statement in prospectus or inclusion or omission of any matter
- (c) for fraudulently inducing persons to invest money
- (d) for personation for acquisition of securities, etc.
- (e) acceptance of deposits with intent to defraud depositors or for any fraudulent purpose
- (f) cases where auditor acts in a fraudulent manner or abets or colludes in any fraud
- (g) when business of a company is carried on for a fraudulent or unlawful purposes or with intent to defraud creditors, members or any other persons
- (h) for making fraudulent application for removal of name
- (i) for furnishing of false statement, mutilation, destruction of documents during inspection, inquiry or investigation.

Serious Fraud Investigation Office

In order to investigate frauds in companies, it is proposed to set up Serious Fraud Investigation Office (“SFIO”). This office already exists but there are no detailed provisions that exist in respect of SFIO, and now SFIO will have more teeth as compared to the existing powers that it has. This body will consist of experts from banking, corporate affairs, taxation, forensic audit, capital market, information technology, law. The powers given to SFIO can be examined from the fact that when SFIO investigates, then no other investigating agency will proceed with the investigation and concerned agency is already investigating the matter it will have to transfer all the relevant documents and records to SFIO. In cases SFIO investigates, then all other investigating agencies, state Government, police authority, income tax authorities having any information or documents in respect of such offence shall provide all such information or documents available with it to the SFIO. Similarly, SFIO will share any information or documents available with it, with any investigating agency, State government, police authority or income tax authorities which may be relevant or useful for such investigating agency, state government, police authority or income tax authorities in respect of any offence or matter being investigated or examined by it under any other law. The SFIO will submit its report to the Central Government.

Other aspects of fraud under the New Act

There are some other aspects that are provided in the new Act in order to unearth fraud and stringent punishment, such aspects include:




- (a) The auditor has to report offence involving fraud to the Central Government;
- (b) The auditor guilty of fraud or abets or colludes in any fraud, then both the partner and firm shall be jointly and severally liable;
- (c) Recovery back from MD/WTD/Manager/CEO excess remuneration, if any, which is revealed upon the re-statement of financial statements which is required to be done on account of fraud in the company;
- (d) Disgorgement of asset, property or cash if any Director, KMP or other officer has derived any undue advantage or benefit when fraud takes place in a company.

Are government companies exempted from the provisions of fraud?

Although government companies enjoy a lot of exemptions under the Companies Act, 1956, they are not eligible for exemption with respect to any provision applicable to fraud under the Companies Act, 1956. Similarly, going by the same logic it does not appear that these companies will be eligible for exemption with respect to the provisions and punishment of fraud as provided under the new Act.

Conclusion

The introduction of very stringent provisions regarding fraud shows the seriousness to tackle this problem and these provisions of the new Act will be tested if any corporate fraud and scams are unearth now in India Inc., although one wishes none happens but if it does, there are enough legal weapons to deal and counter them. 



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Demystifying Corporate Fraud

➤ Fraud is the biggest challenge before the national and global economy. Concerted efforts are required on the part of corporates and Regulators to tackle this menace.

"Corporate India Largely Sees Fraud as an Inevitable Cost of Doing Business, and not as a Strategic Risk."

Preface

Companies worldwide are battling to survive and grow in what have continued to be highly adverse economic conditions. In this environment, growth and ethical business conduct can sometimes appear to be competing priorities. India is an emerging country with a plethora of opportunities. As a potential market, it is in the blueprint of many global giants who are planning to expand business. But these opportunities are fraught with numerous risks and challenges like fraud, bribery and corruption. These risks are growing concerns for Indian companies. A major challenge faced by the senior management of a company in addressing these risks is the lack of awareness.

India has evolved into an attractive investment destination as both foreign and domestic companies are increasingly making their presence felt in one of the largest markets in the world. Traditionally, important parameters that attract investment into a country have been profitability, cost, infrastructure, etc. The factor of risk has evolved as one of the parameters impacting investment and decision making in business. These risks always have a latent bearing on investment and operations. The possible consequences can be in the form of loss of time, infrastructure, inventory, manpower and also opportunity to invest in some other



economies that are more rewarding. These risks sometimes not only affect an organization in the form of loss of infrastructure, manpower etc. but also adversely affects the economy at large.

Organisations Overwhelmed Tackling Fraud

The acuity of corruption in India – as measured by Transparency International ('TI') (global civil society organisation leading the fight



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against corruption) – has worsened. According to TI's 2012 study, India was ranked 94th (out of 176 countries) with a score of 36 on an overall score of 100. This is a low score indicating, high perception of public sector corruption in India. This suggests that the cases of corruption and fraud in the country i.e. the Commonwealth Games, Adarsh Housing Society case, the August a Westland helicopter deal etc., amongst others, have had a severe impact on how the world perceives India.

However, despite several emerging issues, India, has responded back by enacting several pieces of Legislations. One piece of Legislation that stood out recently is the Companies Act, 2013 (the 'Act'). The Act has raised the bar of how Indian companies need to evaluate themselves and aims to increase corporate transparency. The other anti-fraud Legislations, Regulations, Guidance, include the following:

- (a) Prevention of Corruption Act (1988)
- (b) Whistle Blowers Protection Act
- (c) Prevention of Money Laundering Act, 2012
- (d) Central Vigilance Commission Act, 2003
- (e) Indian Contract Act, 1872
- (f) Indian Penal Code, 1860
- (g) Listing Agreements
- (h) CARO 2003
- (i) Income Tax Act, 1961
- (j) Right to Information Act, 2005

"Fraus Omnia Vitiare" - Fraud Vitiates Everything

All these legislations, force corporates to re-evaluate their controls and to implement fraud prevention, detection and response mechanisms accordingly.

Fraud is generally described as an intentional or deliberate act to deprive another of property or money by deception or other unfair means. It is further defined, with respect to financial reporting, as an intentional act that results in a material misstatement in the financial statements.

Fraud essentially involves using deception to make a personal gain for oneself dishonestly and/or create a loss for another. Although definitions vary, most are based around these general themes. The term 'fraud' commonly includes activities such as theft, corruption, conspiracy, embezzlement, money laundering, bribery and extortion.

The Law as it Stands - Regulatory Scenario

The recent scams in India have resulted in increased regulatory activism. Existing acts have been amended and updated to address

the new and complex threats. Regulators are proposing more stringent standards for *Fraud Prevention, Detection and Reporting*.

For instance, the Companies Act, 2013 which replaced the Companies Act 1956 has several measures to deal with corporate frauds. One of such measure is the formation of a financial reporting body called the "National Financial Reporting Authority (NFRA)" for better monitoring of Corporate Financial Management. This body will have quasi judicial powers to order investigation, levy penalty and bar professionals from practice in case of their indulgence in professional or other misconduct. Such authority has the mandate to ensure scrutiny and compliance of Accounting and Auditing Standards. It will also ascertain the quality of service of professionals associated with compliance.

The new Act provides more fangs to Serious Frauds Investigation office (SFIO). The SFIO is a multi-disciplinary organization under the Ministry of Corporate Affairs, consisting of experts in the field of accountancy, forensic auditing, law, information technology, investigation, company law, capital market and taxation for detecting and prosecuting or recommending for prosecution of frauds, and has enforcement powers, including arrests; focus on protection of investors with recognition of class action suits and provision for nomination of Directors by small shareholders and stricter role for auditors including rotation. The major gridlock of occurrence of regulatory overlap with more than one agency entitled to investigate an event of corporate crime has been overcome with the Companies Act, 2013 and designating SFIO as the agency to investigate corporate fraud.

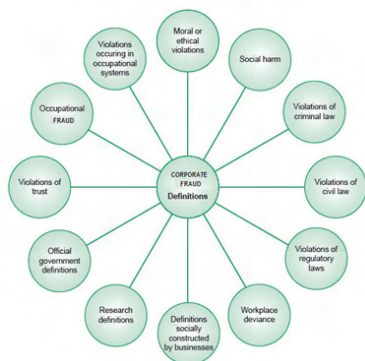
Currently under various regulations like Clause 49 of the Listing Agreement, the CEO and CFO of a company, in their certification have to confirm that there are, to the best of their knowledge and belief, no fraudulent /illegal transactions entered into by the company during the year. Also, as per Companies (Auditor's Report) Order (CARO) 2003, the auditor has to report whether any fraud by or on the company was noticed or reported along with its nature and amount.

Modern Conceptualization of Corporate





Fraud



Types of Fraud Heard / Read / Experienced

There are many types of corporate frauds, including the following common frauds:

- Bribery and corruption including kickbacks
- e-Commerce, internet and Cyber related fraud
- Diversion/theft of funds or goods through false invoicing, fake claims, pilferage etc.
- Financial Statements Fraud
- Regulatory non-compliances
- Money Laundering
- Internal Reporting (e.g.: MIS reports related fraud)

Businesses are also susceptible to fraud committed by outsiders, such as

- Intellectual Property Fraud (counterfeiting, piracy)
- Corporate Identity Thefts
- Cyber Crimes

Why Fraud is committed

One of the basic concepts in the field of fraud examination originated from the famous criminologist, Donald R. Cressey. The hypothesis is referred to as "The Fraud Triangle" which relates to three key elements that are present in every fraud viz., Pressure, Opportunity and Rationalisation. The occurrence of fraud, therefore, is typically a result of these three factors:

Pressure / Motivation / Incentive [Need or Perceived Need]

Pressure to commit fraud can be attributed to factors like, sustaining growth or profitability in a volatile economic environment, increasing competition, financial need, job performance, etc.

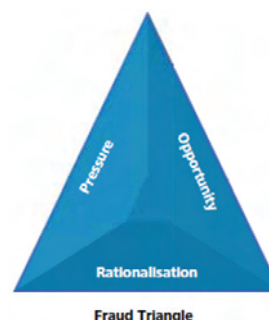
Opportunity [access to assets, information, people]

Circumstances exist – for instance, the absence of controls,

ineffective controls, or the ability of management to override controls – that provide an opportunity for fraud to be perpetrated.

Rationalisation / Justification / Attitude [justification for action]

Those involved in a fraud are able to rationalize a fraudulent act as being consistent with their personal code of ethics. Some individuals possess an attitude, character or set of ethical values that allows them to knowingly and intentionally commit a dishonest act.



A Strategic Move: Proactive Fraud Risk Management

The first step a company should take in its quest to address fraud risk is to do a Fraud Risk Assessment. This helps in identifying the vulnerable areas and indicates the key red flags. There is considerable increase in the number of companies opting to undertake proactive fraud risk management in recent years. This is an encouraging sign which indicates a better future for Corporate Governance in India. A fraud risk assessment generally includes 3 key elements:



- Identify fraud risks
- Assess likelihood and significance of fraud risks
- Respond to significant and those frauds likely to occur

A fraud risk assessment should be performed periodically to identify potential schemes and events that need to be mitigated. An effective fraud risk assessment should identify where fraud may occur and



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who the perpetrators might be. The fraud risk assessment should also anticipate the behaviour of a potential fraud perpetrator. It is important to design fraud detection procedures that a perpetrator may not expect. The challenge for companies is to develop a comprehensive effort to prevent fraud by-

- (1) Understanding all of the various control frameworks and criteria that apply to them.
- (2) Categorizing risk assessments, codes of conduct, and whistleblower mechanisms into corporate objectives.
- (3) Creating a broad ranging program that manages and integrates fraud prevention, detection, and response efforts.

An effective Fraud Risk Management approach or Anti-Fraud Strategy has four main components:

- Prevention
- Detection
- Deterrence
- Response

Fraud Prevention

There are two main elements to fraud prevention-

- (a) sound ethical culture
- (b) sound internal control systems.

There are a number of preventive strategies, ranging from enterprise wide, non-fraud-specific strategies, such as starting with corporate ethics policies, to highly targeted controls designed to prevent specific fraud schemes. Organisations should have their own code of business conduct and ethics policy. This should be further supported with a detailed guidance to employees, through the Fraud control policy and Anti-bribery and corruption policy, in order to prevent fraud, bribery and corruption. These policies should be approved by the Board of Directors and the Audit Committee, which should be implemented by the management, along with its compliance status being monitored regularly.

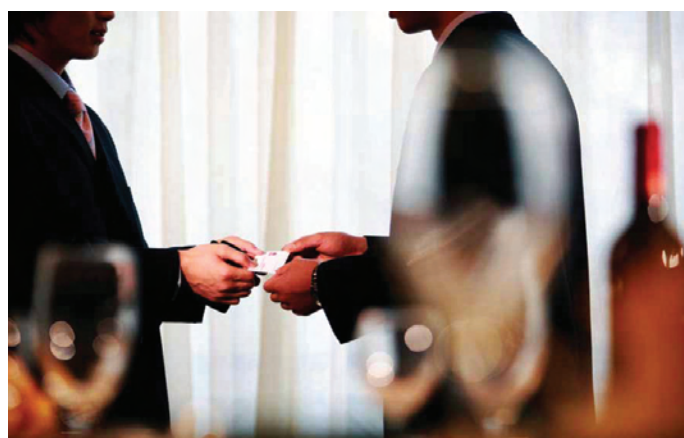


A sample list of steps for fraud prevention by applying Fraud Triangle concept is listed below:

Reduce Pressures	Reduce Opportunities	Reduce Rationalisation
<ul style="list-style-type: none"> - Set realistic strategies - Set Fair pay systems - Set Performance systems 	<ul style="list-style-type: none"> - Background checks for prospective employees - Proper System Internal Controls / monitoring controls - Protect whistleblowers 	<ul style="list-style-type: none"> - Clear communication of Code of conduct - Promotion of integrity throughout the organisation - Proper & effective Trainings

Fraud Detection

Detection strategies are meant both to deter frauds, due to employees knowing they are in place, and to uncover those that occur. It will never be possible to eliminate all frauds. No system is completely 'fraud proof'. However, if an organisation pays greater attention to the most common indicators, this can provide early warning that something is wrong and increase the probability of discovering the fraudster.



One of the effective ways for detecting fraud and corruption can be implementing a robust *Whistle blowing mechanism* within the organisation. A whistle blowing system is also recommended under Clause 49 of the Listing Agreement. A vigil mechanism (Whistleblowing mechanism) has been made mandatory in the Companies Act, 2013 for listed companies and such class or classes of companies, as would be prescribed in the rules.

Fraud Response

An organisation's approach to dealing with fraud should be clearly described in its fraud policy and fraud response plan. The fraud response plan should reiterate the organisation's commitment to high legal, ethical and moral standards in all its activities, and its approach to dealing with those who fail to meet those standards. A fraud response management programme, when effectively



designed and implemented, can become one of the most critical elements of an organisation's anti-fraud program.

Fraud Deterrence

Fraud detection acts as a deterrent by sending a message to likely fraudsters that the organisation is actively fighting fraud and that procedures are in place to identify any illegal activity. The possibility of being caught will often persuade a potential perpetrator not to commit a fraud.

Deploying all the four elements of fraud and corruption risk management collectively, that is, **Assessment, Prevention, Detection, and Response** can put companies on the path of being resilient to the threat of fraud and corruption.

Emerging Fraud Risks

Even though there has been sufficient increase in awareness about fraud after the recent scandals, corporate India is still hesitant to accept it as a strategic risk. It is still viewed as an operational or occupational risk and hence the mitigation strategies inclined to be more generic rather specialist. In today's world organisations are faced not only with the risk of traditional frauds but also substantial risks from emerging frauds viz.,

- * Cyber Crime
- * IP Counterfeiting and Piracy
- * Identity Theft and more

Thus, organisations are necessitated to adopt and implement more robust fraud risk management measures in order to mitigate the rising risk of emerging frauds. Some of the ways in which organisations can mitigate such emerging risk are.

- Strong and up to date technology enabled platform to provide early warning signs
- Adoption of ethical code of conduct amongst employees and stakeholders
- Latest technology driven controls
- Effective risk assessment strategies
- Endeavor to carry out proactive rather than reactive checks; and
- Robust whistleblower mechanisms.

Concluding Thoughts

Policy makers have taken their first step to increase corporate transparency by writing several pieces of legislations, including the Companies Act, 2013 and many other proposed revision(s), amongst others, which has brought about more stringent measures to fight corporate frauds, with greater accountability being placed on Independent Directors and Auditors. However, regulators may still need to act as a tipping point and compel laggards to create at transparent and proactive corporate culture.

The need of the hour for corporate organisations is thus to invest in right anti-fraud measures, such as, employee background screening, business partner or third party due diligence, effective and well-understood whistleblowing systems and well-tested fraud risk management systems, which would help reduce losses on account of fraud and corruption. The combination of effective fraud risk governance, a thorough fraud risk assessment, strong fraud prevention and detection (including specific anti-fraud control processes), as well as co-ordinated and timely investigations and corrective actions, can significantly mitigate fraud risks.

Better technology and methods are similarly available to counter fraud, provided the first step of seeing fraud as *strategic risk* is taken, so that internal control measures can be built. People will volunteer information only when there is adequate protection to the whistle-blower. Companies can have codes of conduct and ethics policies, but more important is the need to create a culture of prompt compliance.

"To Think, We Know And Understand All Risks Around Us Is Misleading, To Think We Can Manage All Of Them, If They Hit Us, Is An Illusion, And To Turn A Blind Eye To Them Is Sheer Foolishness." Fraud Prevention Is To Be Treated Like A Journey And Not A Destination.

Disclaimer

The information shared in this article is provided in good faith by the author with the view to enhancing member's knowledge and understanding of the subject matter, with references stated therein.

Inputs/References:

- (a) www.wikipedia.com
- (b) www.the.hindu.com
- (c) The Economic times
- (d) The Times of India
- (e) Backgrounder on fraud risk management by Adam Bates
- (f) Coenen, T. (2008). Essentials of corporate fraud. Hoboken, NJ: Wiley; Chichester: John Wiley [distributor]. (Essentials Series)
- (g) Magazine article from Business Credit, Vol.98, No.7 by Rock, Robert J, Serverson, Julie V
- (h) www.cimaglobal.com
- (i) Institute of Internal Auditors, Association of Certified Public Accountants, Association of Certified Fraud Examiners. (2008). Managing the Business Risk of Fraud: A Practical Guide
- (j) Research paper authored by Arpinder Singh, Partner National Director – Fraud investigation & Dispute Services, E&Y India
- (k) India Risk Survey Report of Federation of Indian Chambers of Commerce and Industry (FICCI) 2013
- (l) Understanding Corporate Fraud and Espionage By Daniel J. Benny, M.A., CPP, PCI, CFE, CCO Private Investigator & Security Consultant
- (m) www.legalera.in (September 2012 edition)
- (n) www.ficci.com
- (o) Dreibeblis, D (2006) Dynamics of Fraud Ethical and Legal Issues, Clifton Gunderson
- (p) Quiffa, H.C. (2007) Fraud Prevention
- (q) Fraud Risk Management – A guide to good practice, CIMA Technical Guide

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Dimensions to Corporate Violations

- A key to good governance is the existence of a proper and efficacious compliance programme in every corporate. Ignorance of law is no excuse within the legal domain and hence each entity is bound to be well aware of the laws impacting its business operations and related matters. Company Secretary being a specialist can play vital role in this space and make use of his knowledge of corporate laws and ability to deal with real life situation through application of statutory provisions.

Context

In today's corporate world where "corporate governance" is the key mantra, each corporate entity ought to understand its responsibilities attached to its corporate personality. It is similar to a human being living in a society, where he or she is supposed to follow certain system acceptable to the society. The whole discussion deals with dos and don'ts acceptable within corporate legal framework where laws, rules, regulations etc. are the legal means to achieve desired legal configuration. While this article attempts to delve into various aspects of violation of corporate laws, it is vital to understand these violations in the context of corporate governance and corporate compliance within governance framework.

In India, a company is governed by numerous laws, and rules. A company needs to meticulously identify list of laws applicable to its very existence and to run its operations. The legal web get further interlaced with numerous regulations, guidelines,



directions and orders issued by legislative authorities from time to time. Further, a lot of amendments take place to keep pace with business, economical, legal and demands from stakeholders within governance ecosystem.

* Views expressed in this article are personal views of the author and have no connection with employer organization of the author.



Ignorance of law is not acceptable excuse within legal domain. Each corporate is bound to be aware of laws impacting its business operations and related matters. Company Secretary being a specialist can play vital role in this space and make use of his knowledge of corporate laws and ability to deal with real life situation through application of statutory provisions. A Company Secretary is not only a Compliance Officer under Listing Agreement, but also a Key Managerial Personnel defined under the Companies Act, 2013. The profession of Company Secretaries can significantly contribute to bring healthy governance for client/ employer organizations.

Understanding violation

Strictly speaking violation of laws would include even slightest of inability/ deficiency/ lack in any manner/ extent in relation to a compliance resulting in non-fulfilment of the requirements stipulated by a particular law (this brings debate around compliance with letters versus spirit of law!!). Violation can take diverse shapes and forms of infringement, breach, contravention of or disrespecting the requirements under applicable laws. The term "law" needs to be applied to cover rules, regulations and mandatory guidelines/ directions/ orders, etc). Examples of violation of a statutory provision could include:

- a) Failure to submit required information.
- b) Submission of information in the format/ manner other than specified under relevant law.
- c) Arithmetical mistakes leading to computation of incorrect tax/ duties etc.
- d) Failure to attach relevant documents leading to non-submission of a return/form.
- e) Failure relating to authentication/certification/execution by individuals outside the scope of mandatory provisions.
- f) Submission of information/form/return etc. beyond specified date and the like.

Intentional v. Unintentional

A particular instance of violation could be intentional or unintentional. If the management of a company or the relevant person in-charge decides not to comply with the requirements e.g. for want of commercial benefits or so, the same would invite penal provisions under relevant law. Intentional non-compliance is different from genuine ignorance of law, none of which is acceptable though, the former has wider ramifications and criminal elements under the legal system. While it is difficult to establish the intention behind violating instance, it is not impossible based on actions/ inactions by the management and proper evidences. Negligence to compliance would not put one in the unintentional

basket as the person responsible to make decisions or manage the affairs of the company is supposed to be aware of applicable requirements and take necessary steps in advance to ensure compliance within stipulated time. Unintentional violation typically takes place in situations where for instance a company's representative was travelling in person to submit a particular Return/ application on the last date and he meets with an accident or so, effectively being unable to submit the same within timeline. Even such instances would lead to aftermaths of breach of law. Having stated that intentional violation exhibits guilty mind, which the other does not e.g. after passing the Companies Act, 2013 and making a block of 98 sections effective, many companies would struggle to understand the implications of these 98 sections replacing corresponding provisions under the Companies Act, 1956, leading to non-compliance in some cases.

Leaving aside the instances of intentional non-compliances where the utter motive is not to comply with the law (neither in letters nor in spirit), usually for business/ commercial/ personal gains, following are some of the reasons observed to be contributing to non-compliance:

- a) Ignorance of law (not aware of new legislation or the rules issued or changes in pecuniary limits, etc.).
- b) Past experience states that no significant penal action was taken for a non-compliance e.g. requirements relating to publication of advertisements in a newspaper circulated in the locality where registered office of a company is situated.... such statutory advertisements may get published in a newspaper which is probably having lower circulation and therefore, costs much less....and hence, the real purpose of making relevant population may not be achieved).
- c) Nature of non-compliance is considered within limits acceptable to the relevant company or within norms followed in the industry e.g. payment (rather non-payment) of stamp duty for certain documents.
- d) Many times non-compliances of civil nature are not considered seriously as the impact could be limited to lower amount of penalty.
- e) Certain non-compliances are not considered significant e.g. cognizance may not be taken for use of incorrect wording in a proxy form (for a meeting of shareholders).
- f) The dividing line between compliance v non-compliance is very thin leaving much scope for corporates to follow suitable practices or makes it difficult to establish non-compliance (e.g. extract of a legislation to be put up at a conspicuous place in the office....where the same could be placed right at the entrance, but may not catch attention due to the lay out of the room or where the financial results need to be published within 15 minutes of completion of the board meeting; it is difficult to track the compliance of such requirement, while the



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➤ It is imperative to have positive thought process to derive corrective actions as soon as possible. This may require involvement from the top management, depending on the nature of non-compliance and its impact for the organization. In some cases, professionals working within the organization are authorized to take appropriate actions to rectify the non-compliance and report the same to the Board or a Committee of the Board dealing with such issues.

purpose may be to communicate the outcome at the earliest, practices may prevail).

- g) Volume of transactions is so huge that it leaves some room for non-compliance e.g. declarations submitted by employees relevant for deduction of income tax, personal data shared to other parties, execution of contract prior to purchase of stamp paper, etc.
- h) Too much technicalities involved in the transaction leave room for interpretation by technicians/ software engineers, where law enforcement authorities may not have abilities to track any non-compliance e.g. information technology touching the subject of sales tax, VAT etc....applicability or chargeability of tax could be subject to interpretation by technical persons.
- i) Complexities created by the very existence of laws, rules, regulations, guidelines, circulars, clarifications, notifications etc. issued from time to time, may lead to frustration as a business man may start getting a feeling that all these complex laws are restricting his abilities to earn profits or controlling his flexibility to run business and a lot of approvals are delaying project deliverables.

Gray areas

Many times violations take place as a result of misinterpretations of statutory provisions or varied industry practices resulting in deviation to the expected course of action. In some cases, government authorities would issue a clarification at a much later stage or the law is drafted in a manner that leaves a lot of ambiguity in drafting etc. Law makers attempt to plug the gaps through amendments or so. In the interim, industry would implement the

law in its way. There have been varied practices in place like filing of Form 32 w.r.t. additional directors or matters related to alternate directors, etc. Labour laws is another area where the law was passed way back to protect mining and hard core manufacturing units, not keeping pace with international ways of transacting business through electronic medium. While corporates would place reliance on professional guidance, it is our moral duty to advise the best course of action and highlight risks involved in other choices. There have been instances where government had not taken strict action against those interpreting the law in a different way rather government would come out with a clarification or an amendment to curb wrong interpretation of the law. This would probably benefit such corporates with interpretation that suited their commercial/ business interests. Perhaps this factor discourages some corporates from taking idealistic view; albeit it is the decision of the management to comply in true spirit of the legislation.

Further, controversial views expressed by various judicial/ quasi-judicial bodies could create multiple ways of dealing with the same situation/ statutory requirement. In some cases, there is no codified law (even in the forms of circulars, clarifications etc.) and government authority concerned would accept information/ document only in a particular format/ manner e.g. applications made for obtaining importer-exporter code number, where experience states that multiple documents/ formats were insisted for every new application, without any standard guidance. At times, the rules/ notifications/ letters issued by the government departments are outside the scope of particular section or their ambit of authority, in which case corporates either follow those requirements as letters of law and a few decide to fight against those, keeping in mind heavy stakes killing their business instinct.

Can we take corrective actions?

It is imperative to have positive thought process to derive corrective actions as soon as possible. This may require involvement from the top management, depending on the nature of non-compliance and its impact for the organization. In some cases, professionals working within the organization are authorized to take appropriate actions to rectify the non-compliance and report the same to the Board or a Committee of the Board dealing with such issues. Desirable it would be to chalk out alternative courses of actions to resolve the breach and select the best option that best protects the organization and brings it back soonest to the compliance zone. In some cases, it may be legally feasible to file revised document with government authorities, while the same may not be easy in odd ones. In case of the later, where the damage (in terms of non-compliance/ penalty/ reputation etc.) is irreversible, the best option to install necessary controls to avoid recurrence and raise the non-compliance to Management with utmost transparency and straight forward approach. The same would help in the long run for the organization as well as related individuals to gain lost reputation/ courage and bring the organization's compliance health back on track. It is for the management to decide the best course of



➤ If an organization desires to strengthen governance framework and wants to achieve better compliance, the same would require proper planning, allocation of responsibilities, identifying list of compliances applicable to an entity, setting up a mechanism to update the list of compliances etc. A few compliance tools are available in the market to help automate compliance list in electronic form. Good governance stems from desire to be good to the organization/ community at large.

action keeping in mind nature and likely impact of non-compliance (monetary as well as non-monetary).

Rules of the game

It is essential to understand the purpose and the context in which legislation was introduced or modified. It would help interpreting the law in an appropriate way. Corporates that believe in strict compliance should interpret the law to further the objects of the legislation. Such corporates should seek clarification from government authorities, if in doubt or obtain independent professional opinion on a matter. It would be desirable to put up all facts on the table while seeking such clarification/ opinion. Corporate governance rests on the key words namely transparency, disclosure, good faith, independence, morals etc. It is for corporates to choose the degree, manner and extent to which it is able to stretch acceptable boundaries of compliance (leaving behind the requirements of the letters of the law)...!!

Approach to compliance : Minimum v. Best practice

Every company may decide if it would like to ensure compliance of relevant provisions to the bare minimum expectations of the statute or to strive beyond the letter of law. Extra step towards best practices would certainly require ethical mindset, team of motivated individuals who are willing to work hard to run beyond compliance baseline and in some cases, ability to spend more. Some people believe in minimum compliance, as they desire to focus more on business and other priorities while they like to tick in the compliance box to ensure their businesses run smoothly.

Few others would allot extra weightage to best practices and set benchmark for themselves and the industry. No doubt it is difficult to maintain best practice once adopted, the same would take the company to greater heights in the minds of its stakeholders and bring lot of reputational and other benefits e.g. a bank may consider granting loan in excess of specified limits, considering the pro-compliance culture and historical ethical battles won by the organization; a supplier may support such organization in rough weather, when he may offer higher credit period and the likes.

From professional's perspective, he/she should identify current level of compliance and depending on the management mindset and feasibility of launching best practices (keeping in mind manpower, systems, money etc. required for such best practices), start implementing such best practices step-by-step to set next best target e.g. sending notice of Board meeting:

Stage 1: Sending notice 7 days before the meeting.

Stage 2: Sending notice 15 days before the meeting.

Stage 3: Setting calendar of meetings for the quarter/year in advance.

Stage 4: Setting up invites e.g. Microsoft Outlook provides for sending meeting invites along with recurrence and advance reminders to invitees....(where invitees can accept/reject the invite). This will help blocking calendar of events... and so on. Secretarial Standards issued by the ICSI do include various practices beyond the requirements under the Company law. Many times, commercial reasons would prevail over idealism towards compliance, apart from the risk appetite for corporate, while deciding on the approach to compliance (minimum v. best practice).

If an organization desires to strengthen governance framework and wants to achieve better compliance, the same would require proper planning, allocation of responsibilities, identifying list of compliances applicable to an entity, setting up a mechanism to update the list of compliances etc. A few compliance tools are available in the market to help automate compliance list in electronic form. Good governance stems from desire to be good to the organization/ community at large. Good character/ culture bring good governance. If an organization nurtures Compliance Culture and encourages employees to bring ideas to build better governance, the same would spread right signals.

Impact of violations and Legal risk management

It is essential to understand the impact of any non-compliance. The impact would differ depending on the nature, gravity and scope of non-compliance e.g. was the non-compliance about failure in filing a form within time or was it in terms of deliberate suppression of facts to authority appointed under a particular legislation and the like. Impact assessment would typically be driven by the penalty provisions specified, if any, under relevant law. It is also appropriate



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to gauge impact to reputation, share price, stakeholder confidence, rating by credit rating agencies and not the least....the perception in the minds of stakeholders including government authorities e.g. Tata group took ages to build a reputation of being a group adhering to ethical standards, Infosys created its own mark when it crossed boundaries of disclosure in annual reports and set the benchmark for many IT companies....etc.

While the impact would help management measure the gravity/seriousness of the violation, it is no doubt essential to put remedial action plan in place as quickly as possible and build mechanism for future damage control.

Legal risk is one of the key organizational risks and every organization must be aware of the Legal risks applicable to its business. One of the key roles that an in-house professional plays is to assess risks related to a violation incidence and advise management of its materiality followed by the impact. Casual approach towards violation may turn out to be cost saving/profitable in one off instances it is certainly not advisable to ignore any violation. A professional should recommend internal controls and processes to prohibit violations and avoid risks of non-compliance with applicable laws.

Many a times, a company (particularly, supplier side) ends up accepting various requirements under foreign laws having extra territorial operations without realizing the consequences. It may not comply with those requirements and may suffer heavy penalties or restrictions from foreign authorities e.g. visa, working abroad, import-export laws, data protection laws, anti-trust laws etc. It is therefore, essential to conduct proper due diligence in such transactions touching foreign affairs.

Practical suggestions and Conclusion

It is necessary that a company decides its approach to compliance and accordingly, sets out a plan of action to be able to drive its compliance agenda and minimize violations. It would be useful to deploy a team of professionals who can guide the organization as to applicable laws and various compliances thereunder. If a company chalks out its own compliance plan, which gets reviewed at regular intervals (to fit business requirements and changes in laws) and then circulates the same to internal functions for compliance, the same would certainly mitigate instances of violations.

In case, there are grey areas or varied industry practices used, a company should first put all facts right and seek an opinion from expert in the matter. This would mitigate legal risks involved.

The management should use a standard format for reporting of compliances at regular intervals. One may choose to follow reporting by exceptions whereby the instances of non-compliances are brought to the attention of the management along with possible impact and options to remediate the situation. A company may choose to pick up automated compliance tool to track compliance in

a sophisticated way. It is desirable to identify person/ function within organization that is responsible for non-compliance. For situations beyond control where a company was not in a position to comply with the legal requirements (e.g. floods/ cyclone makes it impossible to file a return within due date), company should take prompt actions to remediate the situation once situations are back to normal.

It would be useful to seek clarification from government authorities in writing and put up your case for consideration/exemption or so instead of leaving the matter lingering with the legal risk hovering over all the times. Typically for employment laws companies offer various benefits beyond the olden requirements of the law, which builds ability to stand strong in case of a litigation/ allegation against the company. Maintenance of proper records for specified period would certainly contribute to building strong evidence, if necessary.

In case of a new law or changes to law, company should have tie up with a law firm/ professional consultant to seek relevant updates along with the impacts for the corporate, to keep itself up to date to compliance requirements. Good governance would build strong compliance and healthy compliance culture in the organization.

Conducting trainings for teams managing compliances would build awareness and iron out misconceptions regarding compliance requirements. It may be worth conducting guest lectures or group meetings for teams with decent size.

To expect 100% compliance may sound far from reality, however, if an organization follows methodical approach and has strong willingness to improve level of compliance there are ways to move up the chain. While government does need to work on many areas to build better corporate governance, in my view, company should proactively keep the positive momentum for compliance and bring out practical challenges/anomalies/inconsistencies through appropriate channels and industry representative bodies. Many companies are quite concerned about minute non-compliance and they take prompt steps to rectify the breach and set up controls to avoid recurrence. While it is herculean task for the government to align various compliances and avoid duplication/ multiple channels to file returns/forms/documents, etc., government must use expertise of professionals and build automated systems to track compliances, standardize data with a view to reduce requirements to submit details on-line, to the extent feasible. There is a substantial need to modify applicability of labour laws to companies which have been providing various benefits/ facilities to its employees, beyond requirements of the law. Law makers should convert their good intent/ policy statements in law to bring more foreign investment and motivate industry to improve its attitude to compliance. If you need healthy body, you need to have good habits, reasonable exercise, appropriate diet, peace of mind etc.....similarly healthy compliance needs right attitude, proper governance mechanism, knowledgeable team, proper policies, processes and systems to support compliance requirements and ability to absorb legal risks.

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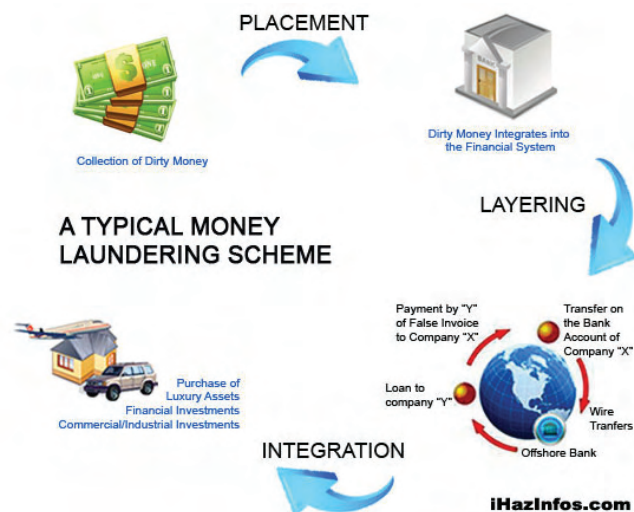
Money Laundering

- World wide stringent measures have been taken by countries to deal with money laundering activities and these have further been stepped up in recent years to prevent terror financing activities. In early 2000 India too enacted its first statute to counter money laundering and since then the Act has been amended to make it more effective. Besides explaining the history of money laundering this essay portrays the anti money laundering measures taken by different countries.

Context

Money laundering' is the process by which money derived from criminal activities, viz., drug trafficking, illegal arm sales, smuggling, extortion, gambling, bootlegging etc., are used to conceal their illicit origin. Money laundering is said to have originated at the time of the famous American gangsterisms that arose from the banning of alcoholic drinks. Gangsters were facing difficulty in storing money that was in cash, often in small denomination coins. So, they created businesses, one of which was laundries, for hiding ill-gotten money.

The phrase 'money laundering' was first coined by the British newspaper 'The Guardian' in 1972 in connection with Water gate Scandal, which led to the exit of Richard Nixon, the then President of the US of the second term, from his post. The expression next appeared in a legal context in 1982 in the case US\$ 4,255,625.39 (1982) 551 F.Supp. 314 (1982) United States of America v. Four Million Two Hundred and Fifty-Five thousand, Six hundred and Twenty Five Dollars and Thirty-Nine cents, etc. United States of America v. Three Million Six hundred Eighty Six thousand, Six



hundred Thirty –nine Dollars, etc United States District Court, S.D, Florida. Since then the term has been widely accepted and is in popular usage throughout the world.



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➤ The amount involved in money laundering is truly mind-boggling. It is estimated, at the global level, to be around US \$ 500-600 billion per annum. It has the awesome power to dismantle an organised society. Unfortunately, it has been experienced all over the world, at different sites, in various dimensions and in multitude of forms and uses.

Banks and other financial institutions are caught unwittingly as intermediaries in the menace of holding and transferring money derived from criminal activities, from one account to another. Criminal money moves to institutions located in areas with less control for its tracking. While dealing with financial transactions, the institutions find it hard to know whether the transactions form part of any criminal activity. Such inadvertent association of the institutions with criminals and criminal money, would push themselves into adverse publicity leading to the loss of public confidence and regulatory indictment. The use of the institutions by criminals is causing a great concern world wide to the management of the institutions, legislative authorities, Law enforcement agencies, and banking supervisors.

Definition

The Prevention of Money Laundering Act (PMLA) 2002 defines the offence of money laundering thus: 'Engaging directly or indirectly in a transaction that involves property, that is proceeds of crime (or) derived from proceeds of crime (or) knowingly receiving, possessing, concealing, disguising, transpiring, converting, disposing off within the territories of India, removing from or bringing into the territory of India the property that is proceeds of crime.'

The word 'money laundering' is, however, apt since it describes perfectly, what happens. Illegal or 'dirty' money is put through a cycle of transactions so that it comes out 'washed' at the other end, as 'legal' or 'clean' money. The source gets obscured, externally, through a succession of transfer of deals.

The amount involved in money laundering is truly mind-boggling. It is estimated, at the global level, to be around US \$ 500-600 billion per annum. It has the awesome power to dismantle an organised society. Unfortunately, it has been experienced all over the world, at different sites, in various dimensions and in multitude of forms and uses. The Financial Action Task Force (FATF) has indicated that the aggregate size of money laundering in the world could be somewhere between two to five percent of World's Gross Domestic Product.

Further definitions: As emerging from International Agencies

The definition noticed earlier serves to explain the term adequately. However, there are quite a few definitions mentioned by international organisations. Some of them have been listed hereunder to help broaden the understanding.

1. 'Money is laundered to conceal criminal activity associated with it, including the crime it generates, such as drug trafficking, or illegal tax avoidance. Money laundering is driven by criminal activities. It conceals the true source of funds, so that they can be used freely.' [The Office of the Comptroller of Currency (OCC), Washington DC, USA].
2. 'The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from serious crime.' [The Legislative Definition of Article 1 of the EC Directives of March 1992].
3. 'Money laundering is the conversion of profits of illegal activities into financial assets which appear to have legitimate origins.' [The US Senate Sub-committee of Narcotics and Terrorism].

Steps In Money Laundering

Money laundering basically involves three independent steps that often occur simultaneously. These are:

- *Placement* - Physically placing bulk cash proceeds into legitimate financial institutions.
- *Layering* - Separating the proceeds of criminal activity from their origins, through layers of complex financial transactions.
- *Integration* - Providing an apparently legitimate explanations for the illicit proceeds.

Methods of Money Laundering

Some of the methods used for money laundering are as follows:

- a) *Shell Companies*: These are fake companies that appear on paper, but may not physically exist. If at all these exist physically, they may not be engaged in manufacturing or trading operations. They are used to simply create the appearance of legitimate transactions through false invoices and financial statements.
- b) *Front Companies*: These companies are engaged in selling goods and providing services. These are basically Companies with large volume of business often engaged in cash dealings such as banks, casinos, brokerage firms etc. The dirty money is put into these companies blending with normal business operations.



- c) *Offshore Banking*: There are centres where regulatory controls are few with tax benefits and secrecy protection. Many banks flourished in these centres accepting money liberally, which provide for money laundering. The major centres includes Singapore, HongKong, Bahamas, Bahrain, Cayman Islands, Switzerland, etc.
- d) *Structuring*: Structuring means keeping the amount lower than that fixed for reporting(threshold amount) and building up similar transactions till the amount planned to be laundered is reached fully. This is also known as 'smurfing', means to escape the reporting of transactions above the cut-off limits, i.e. cash transactions above Rs 10 lakh and reporting of suspicious transactions, for which banks and financial institutions are under obligation to statutory authorities.
- e) *Hawala System*: It is an alternative banking system that operates outside the control of the government allowing for undocumented deposits, withdrawals, and transfers. These are trust based systems that leave no paper trail. Money is transferred via a network of hawala brokers. A customer approaches a hawala broker in one city, and gives a sum of money to be transferred to a recipient in another, usually foreign city. The hawala broker calls another hawala broker in the recipient's city, gives disposition instructions of the funds. This is prevalent in certain countries of South Asia.

Common Sources of Money Laundering

- Drug trafficking
- Tax evasion
- Organised crime, e.g. extortion, prostitution, loan sharking, kidnapping, contract killing, gambling, protection money, adulteration, bank frauds, corruption, etc.
- Slush funds maintained by big corporations, e.g. bribery, payment to political parties, politicians, etc.
- Terrorism
- International trafficking in arms
- International trafficking in human beings
- Smuggling

The Joint Money laundering Steering Group, London has listed a few techniques commonly used by money launderers all over the world which are as follows:

- Deposit Structuring/ Smurfing
- Cash deposited followed by Telegraphic transfers
- Connected Accounts
- Collection Accounts
- Payable-through Accounts
- Bank Drafts and Similar Instruments
- Back-to-Back loans
- Bureaux De Change
- Remittance services
- Credit and Debit Cards

➤ United States handled money laundering with Bank Secrecy Act of 1970 (BSA) that requires banks to report cash transactions above \$10,000. Further, to intensify controlling money laundering, the Money Laundering Control Act of 1986 (MCLA) was brought out, which defined money laundering as a federal crime. MCLA is the first money laundering Act in the world.

In the last decade or so, several legislations have been passed around the world to curb the menace of money laundering. Let us have a look at some of the laws prevalent the world over with respect to prevention of money laundering:

Legislations In The United Kingdom

The United Kingdom passed the following legislations:

- Drug Trafficking Offences (1988)
- Criminal Justice Act (1988)
- Criminal Justice(Consolidation) (Scotland) Act (1995)
- Proceeds of Crime (Scotland) Act (1995)
- Criminal Justice (International Cooperation) Act (1990)

These legislations focus on illegal activities like drug trafficking, and stipulate that laundering of the proceeds of illegal activities is an offence.

Legislations In The United States

United States handled money laundering with Bank Secrecy Act of 1970 (BSA) that requires banks to report cash transactions above \$10,000. Further, to intensify controlling money laundering, the Money Laundering Control Act of 1986 (MCLA) was brought out, which defined money laundering as a federal crime. MCLA is the first money laundering Act in the world. The 9/11 incident drastically changed the scenario. More significant steps were taken, involving strong international cooperation, serious alertness in existing agencies, and the association of intelligence agencies.

(a) USA Patriot Act 2001

By amending BSA and MCLA Acts, USA passed the USA Patriot Act 2001 ('Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act') which, *inter alia*, gives substantial powers to law enforcing agencies and put in place preventive measures in operations of banks to prevent cross-border



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➤ One of the most important events to influence international money laundering prevention efforts was establishment of FATF by the G-7 Summit in 1989 consisting of the G-7 member states, the European Union and 8 other countries. In April 1990, they came out with the 40 recommendations that provided a comprehensive plan of action to fight against money laundering.

flow of funds among barred nationals/nations and those which look suspicious. The US also persuaded all nations to pass equivalent Acts, and put in place strong preventive mechanism agencies and banks.

(b) Central Bank Governors Set Principles

The Committee on Banking Regulations and Supervisory Practices of the G-10 countries (Belgium, Canada, France, Germany, Italy, Japan, Netherlands, Sweden, Switzerland and United States) - the Basel Committee - met at Basel in December 1988. The Central Bank Governors of these countries evolved a set of principles to meet the menace of money laundering.

Basel Principles - The Basel principles address the following four areas:

- Customer identification
- Compliance with Laws
- Cooperation with Law - enforcing agencies
- Adherence to the Statement (i.e. the declaration made on Anti-money laundering)

The Financial Action Task Force (FATF) On Anti - Money Laundering And Anti - Terrorist Financing (AML and ATF)

One of the most important events to influence international money laundering prevention efforts was establishment of FATF by the G-7 Summit in 1989 consisting of the G-7 member states, the European Union and 8 other countries. In April 1990, they came out with the 40 recommendations that provided a comprehensive plan of action to fight against money laundering. In 2001, the development of standards in the fight against terrorist financing was added to the mission of FATF and it came out with the 9 special recommendations for combating terrorist financing. These

49 recommendations form the backbone for all the international AML/CFT policies, procedures and processes.

Over the years more members were admitted to the FATF and the current membership is 34, including 32 member states and 2 regional organisations, European Union and Gulf Development Council. India and Republic of Korea are currently countries with observer status aspiring to be full members.

While most of the recommendations are meant for the countries to establish AML infrastructure by criminalising money laundering, making provisions for confiscating assets of the money launders, establishing Financial Intelligence Unit, transparency of legal persons and arrangements, international cooperation, mutual legal assistance and extradition, etc. Some recommendations are special measures to combat terrorist financing, and include measures to be taken by countries to criminalise terrorist financing, ratification and implementation of UN resolutions on terrorism, freezing and confiscation of terrorist assets etc. One of the important recommendations deals with wire transfers.

Un Security Council Resolutions 1267(1999), 1373(2001) and 1390(2002)

These UN Security Council Resolutions require members to take steps in preventing terrorism and UN issues lists of names of persons and organisations concerned with terrorism and the member countries are required to freeze their assets.

Wolfs Berg Principles : Private Banking And Correspondent Banking

The Wolfs Berg Group consisting of 12 leading international financial institutions formulated AML Principles, specially intended for combating increased money laundering risk in case of private banking and correspondent banking. These principles are considered as the most acceptable standards in these areas by most of the major international regulators and institutions.

Asia Pacific Group on Money Laundering (APG)

Asia Pacific Group on money laundering (APG) has been constituted to facilitate the adoption, implementation and enforcement of internationally accepted standards (such as those issued by FATF) against money laundering and the financing of terrorism. APG also assists its member jurisdiction to enact laws criminalising the laundering of the proceeds of crime and deals with mutual legal assistance, confiscation, forfeiture and extradition. It guides the member jurisdictions in setting up systems for reporting and investigating suspicious transactions and helps them in the establishment of Financial Intelligence Unit (FIU).

Legislation and Regulation in India

The Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI), Insurance Regulatory and Development Authority



(IRDA) and FIU-IND are the bodies mainly responsible for the anti money laundering efforts for Financial Institutions in India. UN General Assembly, in its special session in 1998, came up with a political declaration that required member states to adopt national money laundering legislation and programme. Motivated by the UN resolution, Prevention of Money Laundering (PML) Bill was introduced by the Government in the Lok Sabha. This bill was passed by the Parliament in 2002 and received President's assent in January 2003 and PMLA, 2002 was enacted. This Law came to effect on 01 July, 2005 after an amendment. The enactment came through in 2003 with the President signing Bill on 17.01.2003.

The PML Act has provisions, *inter-alia*, for the following:

- Attachment of 'illegally' acquired property
 - Acquisition of tainted money kept outside the country
 - Extradition of the accused
 - Mandating banks to assist tax enforcement authorities
- The PML Act was further amended in 2005 and 2009.

Prevention of Money Laundering Act (PMLA) 2002

The Prevention of Money Laundering Act (PMLA), 2002, which came into existence from 1.07.2005 by Gazette notification, addresses the problem in conjunction with various statutes outlined as follows:

- The Income Tax Act (1961)
- The Indian Penal Code and Code of Criminal Procedure (1973)
- The Conservation of Foreign Exchange and Prevention of Smuggling Act (1974)
- The Narcotics Drugs and Psychotropic Substances Act (1985)
- The Prevention of Illicit Traffic in Narcotics Drugs and Psychotropic's Substances Act (1988)
- The Benami Transactions (Prohibition) Act (1988)
- The Foreign Exchange Management Act (1999) FEMA

The Following were the PMLA objectives:

- Prevention, control, and combating activities concerning money laundering
- Confiscation of Property involved in Money Laundering; and
- Dealing with matters connected with or incidental to money laundering

The Act also lays down obligations for banks in maintaining records of certain prescribed transactions to FIU-IND.

Prevention of Money Laundering (Amendment) Act, (PMLA) 2009

Prevention of Money Laundering (Amendment) Act 2009 was duly notified in March 2009. The key amendments were:

- Incorporation of additional categories of offences punishable under PMLA.
- Extension of the coverage to additional categories of reporting entities such as money remittance businesses/intermediaries, casinos and dealers in foreign currency.
- Separate categories of offences with cross border implications have been defined.

Know Your Customer Guidelines- Anti Money Laundering Standards-[RBI Circular dated November 29, 2004]

This was the major step in the banking industry in India towards prevention of money laundering. Though RBI had issued guidelines to banks for conducting due diligence of customers including taking photographs, this was the first comprehensive anti-money laundering initiative by RBI. The Guidelines required the banks in India to follow the following steps towards preventing money laundering:

- Customer acceptance Policy
- Customer identification Procedures
- Monitoring of Transactions, and
- Risk Management

Know Your Customer Guidelines - Anti Money Laundering Standards[RBI Circular dated August 23, 2005]

By this circular RBI has instructed the Banks to apply limited due diligence to people belonging to low income group who are unable to produce CDD documents as prescribed in RBI's KYC Guidelines for opening the accounts. Limits are prescribed for aggregate credits and balance in these accounts.

Anti Money Laundering Guidelines for Authorised Money Changers[RBI Circular dated December 2, 2005]

These are specific guidelines issued by RBI for authorised money changers for complying with the requirements of PMLA. They are required to do due diligence on their customers, depending on the value of the transactions. They are also required to maintain



Article

Money Laundering

records of certain prescriptive transactions and report suspicious activities to FIU-IND. This circular also puts restrictions on cash transactions for both purchase and sale of foreign currency.

Guidelines for Anti- Money Laundering measures issued by SEBI on January, 2006

SEBI issued these guidelines to all the SEBI regulated entities for complying with the requirements of PMLA, like CDD on customers, maintaining records of prescriptive transactions, reporting of suspicious activities, etc.

Prevention of Money Laundering Act, 2002- Obligation of Banks in Terms of Rules Notified there under [RBI Circular dated February 15, 2006]

Consequent to the PMLA 2002 coming into effect and notification of the rules framed there under, RBI issued this circular giving detailed instructions regarding the responsibilities of the regulated entities under the Act, especially on the following points:

- Appointment of Principal Officers
- Reporting of cash transactions above INR 1 million
- Reporting of integrally connected cash transactions below INR 1 million but the aggregate amount exceeded INR 1 million with a period of one month.
- Reporting of counterfeit currency notes and forged valuable securities detected, and
- Reporting of all suspicious transactions

Know Your Customer Norms/ Anti- Money Laundering Standards/ Combating of Financing Terrorism - Wire Transfers[RBI Circular dated April 13, 2007]

RBI vide this circular has given specific instructions regarding furnishing of originators name and address/ account details in the cross border and domestic wire transfers.

Know Your Customer Norms/ Anti- Money Laundering Standards/ Combating of Financing Terrorism [RBI Circular dated February 18, 2008]

This circular clarifies certain points regarding CDD documentation as required in the KYC Guidelines and AML Standards and also on risk categorization review of accounts, periodic KYC updation and screening of names against lists of entities contained in the UN Security Council resolutions in their anti- money laundering and terrorist financing measures.

Prevention of Money Laundering Act, 2002- Obligation of banks in terms of Rules notified there under[RBI Circular dated May 22, 2008]

This circular clarifies the reporting obligations under the PMLA, especially on what constitute integrally connected cash transactions and also on reporting requirements irrespective of the

threshold applicable for certain prescriptive offenses in the PMLA.

Know Your Customer Norms/ Anti- Money Laundering (Standards/ Combating of Financing of Terrorism / Obligation of Banks under Prevention of Money Laundering Act, 2002[RBI Master Circular dated July 1, 2009]

This latest master circular issued by RBI consolidates all the instructions issued in the earlier circulars on KYC norms, AML standards, CFT and obligations of banks on PMLA. RBI started issuing master circulars on KYC/AML/CFT on annual basis from July 2008.

UN Security Council Resolutions 1267(1999) : RBI Circulars

RBI periodically issues circulars following UN Security Council resolutions on measures taken by the UN for money laundering prevention and combating terrorist financing. The names of the persons/ entities contained in these circulars are required to be maintained as a watch list to prevent accounts being opened in these names or transactions being done with them as counter parties. The updated list of such persons and entities can be accessed at the UN site <http://www.un.org/sc/committees/1267/consolist.shtml>.

UN Security Council Resolutions on Iran [RBI Circulars dated September 10, 2007 and September 19, 2008]

These circulars were issued in pursuance of UN Security Council Resolutions 1737/2000 and 1803/2008 on Iran. Banks have been advised to check for accounts and transactions involving the listed entities and persons and to report to RBI and FIU-IND any accounts held in these names. Banks were also advised to exercise vigilance over the activities of financial institutions and banks domiciled in Iran, in particular, bank Meli and Bank Saderat and their branches and subsidiaries abroad, in order to avoid such activities contributing to the proliferation sensitive nuclear activities or to the developments of nuclear weapon delivery systems as referred to in UNSCR 1737/2006.

FATF's statement highlighting deficiencies in the AML/CFT systems in certain jurisdictions - RBI Circular dated February 2, 2009. [This has been reiterated by the RBI in its Master Circular dated July 1,2009]

The RBI circular, quoting the statements issued at the Plenary of the FATF held on 28 February, 2008 and 16 October 2008, advises banks and financial institutions to take into account risks arising from the deficiencies in the AML/CFT regime of six countries namely Sao Tome and Principe, Turkmenistan, Iran, Northern Part of Uzbekistan and Pakistan.

Accordingly, banks and financial institutions may place these countries in a higher risk category, and put in place a framework to monitor the cross border transactions involving these countries.



Extra-Territorial Applicability of the Indian Anti-Money Laundering Laws and Regulations

In terms of the provisions of PMLA, the central Government of India may enter into reciprocator agreement with other countries for implementation of all or some of the provisions of the Act in that country.

The RBI Regulations are applicable to all the branches of subsidiaries of Indian Banks functioning in other countries and all these institutions where the host country regulations are more onerous; the host country regulation will prevail.

Global Attention

The issue of money laundering is gaining global attention due to following reasons:

- a) Spurt and spread of crimes across borders with enormous amounts involved, disrupting the fabric of social order;
- b) Eruption of terrorist activities in many pockets, all around the world, backed by sharp planning, substantial logistics and money, and making the planet insecure for human life.
- c) The 9/11 plane crash that brought down the World Trade Centre, New York to rubbles killing 2993 people, including all passengers and hijackers, which the world watched helplessly.
- d) The unabated terrorist activities in Jammu and Kashmir and the 26/11 Mumbai carnage created by foreign terrorists that infiltrated into the country with the support of international terrorist groups.

Conclusion

Money Laundering is a crime that does not have any apparent direct victim, but causes havoc globally. Money laundering can have a range of severe microeconomic consequences on countries. Some of these consequences are as follows:

- It can cause unpredictable changes in money demand.
- It can pose risks to the soundness of financial institutions and financial systems.
- It contaminates legal financial transactions.
- It increases the volatility of international capital flows and exchange rates due to unanticipated cross-border transfers.[CS](#)

The Registration of News Papers (Central) Rules, 1956 (Form IV : Rule 8) Statement about ownership and other particulars of Chartered Secretary

1. Place of Publication : New Delhi
2. Periodicity of Publication : Monthly
3. Printer's Name : M. S. Sahoo
Whether Citizen of India : Yes
If foreigner, state : Not applicable
the country of origin
Address : Secretary, The Institute of Company Secretaries of India, 'ICSI House', 22, Institutional Area, Lodi Road, New Delhi-110003
4. Publisher's Name : M. S. Sahoo
Whether Citizen of India : Yes
If foreigner, state : Not applicable
the country of origin
Address : Secretary, The Institute of Company Secretaries of India, 'ICSI House', 22, Institutional Area, Lodi Road, New Delhi-110003.
5. Editor's Name : M. S. Sahoo
Whether Citizen of India : Yes
If foreigner, state : Not applicable
the country of origin
Address : Secretary, The Institute of Company Secretaries of India, 'ICSI House', 22, Institutional Area, Lodi Road, New Delhi-110003
6. Name and Address : Not applicable
of individual who : Official journal of the
own the newspaper : Institute of Company
and partners or : Secretaries of India
shareholders holding
more than one per cent
of the total capital.

I, M. S. Sahoo hereby declare that the particulars given above are true to the best of my knowledge and belief.

Sd/-

M. S. Sahoo

Signature of the
Publisher

Date : 1st March, 2014



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Corporate Fraud

- Several instances of major fraudulent acts by corporates have surfaced in recent years, not only in India but elsewhere in the World causing mighty companies to disappear in no time. Investors have suffered heavily and the confidence of substantial number of investors in the corporates had been significantly eroded. Read on to know the different manifestations of corporate frauds, the legal framework for dealing with frauds and the impact of some of the major corporate scams of recent times.

Introduction

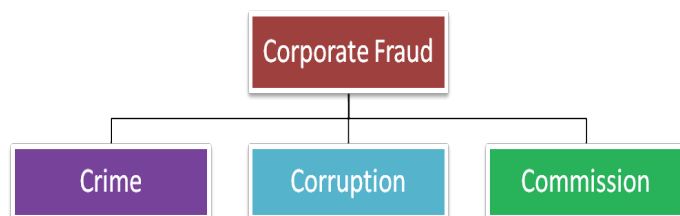
The growth and development of financial markets with the emergence of new industries shows the economic advancement across the globe. The Government's initiative to bring a new version on the decades old Companies Act, 1956, with new energy of Corporate governance and CSR activities of the Corporates. Simultaneously, there have been serious irregularities and violation of law were on the increase and detrimental to such growth and development. Many countries suffered losses heavily and unable to bear the cost of technological innovation. Particularly the developing and under-developed countries in combating the threats of 'frauds' committed by the administrators and rulers of the country and or industry. The World has been witnessing the beauracrats, political heads and industry captains get involved in frauds and punished by the competent courts and parliamentary systems. It is a welcome effect that people are very well aware of corporate frauds committed and supported the decisions of the judiciary and legislature. Even though there are no clear-cut definitions on corporate frauds, it is evident



from the facts available that these frauds are committed deliberately and voluntarily by persons occupying such higher positions. Many crores or billions of rupees have been manipulated, mis-appropriated and mishandled by



these persons resulting in the drain of national wealth and goes into the account of individuals.



Although corporate fraud involves mismanagement and illegal ways of utilization of public funds (money), the recent literate fraudsters resort to criminal activity, corrupt practices and commission pay-outs/ received on such activities or as the combination of them. This will amount to misrepresentation, falsification, embezzlement and concealment of facts, tax evasion, parking of illegal money into legitimate activities. Political interventions lead to mass scale corruption and Commission pay-outs in which many scams are unearthed. This includes misappropriation of public money and activities which are against public interest and law.

Fraud defined under Companies Act, 2013

The Companies Act defines fraud and its implications and consequences. Under Section 447 on Punishment of Fraud, it has been stated as follows:

“Without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force, any person who is found to be guilty of fraud, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud.

Provided where the fraud in question involves public interest, the term of imprisonment shall not be less than three years –

Explanation: -- For the purpose of this section –

- (i) “Fraud” in relation to affairs of the company or anybody corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with their connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;
- (ii) “Wrongful gain” means the gain by unlawful means of property to which the person gaining is not legally entitled.
- (iii) “Wrongful loss” means the loss by unlawful means of property to which the person losing is legally entitled.

Fraud under section 420 of the Indian Penal Code, 1860

Fraud has two elements in nature deceive and injury to person deceived. Since there is no clear cut definition on fraud, it has been dealt under different sections as a combination of fraudulent activities in nature. Section 420 of the IPC reads:

“*Cheating and dishonestly inducing delivery of property.*—‘Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Of fraudulent deeds and dispositions of property’.

Fraud under Section 17 of the Indian Contract Act.

Section 17 of the Contract Act defines fraud to mean and include any of the following acts committed by a party- to a contract, or with his connivance or by his agents with intent to deceive another party thereto his agent or to include him to enter into a contract.

Aesthetic Dimensions of Corporate Fraud

In India, corporate fraud takes different dimensions in nature and it is not defined aptly by any law. But the provisions under CPC deal with fraud under various sections. ‘Fraud’ or ‘intent to defraud’ or ‘fraudulently’ occur in the definition of crime under IPC, two elements are considered as crime, viz, fraud committed with the intent of wrongful gain/loss and for amazing wealth create disproportionate to the legitimate income at all layers of management.

- Deceit or an intention to deceive money, disproportionate wealth creation
- Misappropriation, misrepresentation, misstatement
- Indulge in crimes, anti-people activities like terrorism, cross border crimes
- Either actual injury or possible injury or an intent to expose some person for actual or possible injury
- Fraud is defined under sections 420,421 of CPC and section 17 of Contract Act.

The act of an individual or a group of individuals or by the company construed to be a fraud arising out of dishonest, illegal activities in the guise of giving an advantage to the perpetrating individual or group or company. Corporate fraud goes beyond the scope of an established rules, regulations, guidelines of the company or infringement of the provisions of any Act, law and or statutes of a country which are marked by their complexity and economic



Article

Corporate Fraud

➤ Insider trading is an act of buying and selling of securities by a person having unpublished price sensitive information (which is not available in the market) with the intention of making abnormal profits and avoiding losses. This price sensitive information include dividend declaration, issue or buy back of securities, amalgamation, mergers or takeovers, major expansion plans, change of policies, etc..

impact on the business, which drains the economic wealth and stakeholders interest.

Insurance Fraud

Insurance Fraud is an act of exploitation of Insurance contract by submitting falsified information, concealing material fact for insurance. Insurance fraud selling of policies from non-existent companies by churning and mis-representation and on the other hand exaggerated claims, fake and or falsified records to support it will otherwise drain the national wealth which is illegal and against the public interest. In many countries, Insurance fraud lead to drain on their economic and public interests by “fly by night operator” companies which has been regulated in their country of origin.

Mortgage Fraud

Mortgage fraud is an act of receiving larger loan amount by giving falsified information and corroborating documents than permissible one if the application had been made honestly and diligently. These documents are purportedly created to deceive the public money from Banks and other financial institutions with the deliberate intention of committing fraud.

Securities Fraud

Securities fraud is a white-collar crime in which a person or group of persons or a company, such as a stockbroker, brokerage firm, corporation or investment bank, misrepresents information that investors use to make decisions. Securities fraud committed by independent individuals as an act of insider trading, mis-leading information to the Investors, Administrators, controllers and or exchanges. Securities fraud is a crime of public interest due to misrepresentation, false information, withholding key information, offering bad advice and or acting on inside information.

In India, irregularities in securities market identified Harsh Mehta in 1992 and Ketan Parekh in 2001 as accused of having committed financial crime of huge magnitude. The allegations of securities fraud were investigated under the guidance of SEBI. It was found out that they had manipulated stock prices, provided wrongful information and misstatements to derive the benefits illegally. Both were found to have committed crime which carried both civil and criminal penalties.

BSE's Insider Trading

Insider is any person who accesses the unpublished price sensitive information of the company before it is available to the general public. Insiders may include corporate officers, directors, and owners of the firm, who may be having substantial interest in the equity of the company. They could also be neither corporate officers nor large shareholders; however, they may have access to non-public information due to their relationship with the entity.

Insider trading is an act of buying and selling of securities by a person having unpublished price sensitive information (which is not available in the market) with the intention of making abnormal profits and avoiding losses. This price sensitive information include dividend declaration, issue or buy back of securities, amalgamation, mergers or takeovers, major expansion plans, change of policies etc..

SEBI is making all efforts to prevent insider trading and to build up investor confidence. It had set various committees in this regard and on their recommendations various regulations have been implemented to curb the insider trading.

Fraud by Churning and Misstatement

In the financial services industry, consumers pay a fee for a service and expect a certain level of security in return. When an investor pays a broker to handle his or her accounts, the broker is obligated to act in that investor's best interests. Their obligation is not only moral, but also arises from the rules set forth by the regulatory mechanism of the country. The problem is that if an account is mishandled, most consumers have no idea where to turn until it's too-late. Examples of mishandling range from churning to suitability to fraud. Churning is an unethical practice employed by some brokers to increase their commissions by excessively trading in a client's account. Suitability relates to the types of investments chosen for the account and whether they are appropriate for a particular investor, while fraud can encompass a wide range of behaviours with varying levels of severity.

Scuttling Frauds

These type of frauds originated from Marine Hull claims. The *modus-operandi* of this fraud is similar to deliberate and voluntary actions by corporates in major scams. As per marine transit,



Scuttling frauds are known as “rust bucket” fraud which is an act of sinking vessels in pursuance of fraud against both Cargo and Hull interests. These crimes are committed by ship-owners deliberately by removing the evidence to deceit the financial institution and free from their financial commitments. The crime can be aimed at getting both the Hull and Cargo claims are paid.

Major Corporate Frauds in the World

Organizations are products of man's desire to accumulate wealth using it as a machinery for his convenience. The world has witnessed the grandeur and failure of these big corporations and plunge into operations to save the investors as a whole. On the other hand individual scams, scandals, misuse of power and authority, dare the corporate world with worst debacles in nature. The derived power or authority reflect on activities wherein a corporation can get involved with allegations of unethical behaviour by the people acting within or on behalf of the business entity. In recent times, a corporate scandal is the outcome of a accounting fraud or any other corporate fraud or a combination of these irregularities purportedly or deliberately done by the persons who have vested interest in such activities. Within a short span of time, these leaders or the organizations climbed to greater heights which caused suspicions in the world. These well-regarded companies have fallen further into the ravine even when all the astute people tried to find loopholes and make use of unconventional sources in order to resuscitate the nearly-dying corporations.

Here is a list of those ten notable corporate scandals that rocked the world.

1. Union Carbide

Union Carbide is a chemical manufacturing company founded in 1917 and was known as a pioneer in petrochemical industries. It once owned big brands including Energizer before shifting to the production of chemical products as raw materials for various industries. Union Carbide hit the news when an **industrial disaster** exposed more than 5 million people in Bhopal, India to methyl isocyanate gas after a leak from the pesticide plant. The terrible gas-leak incident in Bhopal is considered one of the worst industrial disasters of all time. The Indian Government sued the company and Union Carbide was charged with a fine of \$480 million.

2. Compass Group

Compass Group was founded in 1941, started activities as a small canteen to support British war support staff. From then on, the company has grown to become an authority in the contract catering industry. The scandal surfaced in 2005 when UN procurement officers together with its head were arrested for corruption. The group later admitted to receiving \$1 million as bribe from the Compass Group. The company stated that only a few of its officials were involved in the matter

devoid of the management's knowledge. In the end, all those who were involved were removed from service.

3. ImClone Systems Inc.

ImClone Systems Inc. is an American pharmaceutical company founded in 1984, which was engaged in the production of cancer medicines. In the later part of 2001, the corporate world was shocked when the Food and Drug Administration of America rejected one of the most anticipated medicines that were developed by the company. Founder and CEO, sold his shares and influenced his family, relatives and close associates to follow suit before he even released the news of FDA's rejection of the medicine, for fear that the share price of ImClone Systems Inc. would plummet. He was sentenced to seven years of imprisonment for **insider trading and fraud**.

4. British Petroleum Oil

BP Oil or British Petroleum Oil is the 3rd largest energy company in the world operating in more than 75 countries and was founded in 1906. The largest marine oil spill in history happened in 2010 when a massive amount of oil leaked from one of the wells into the Gulf of Mexico near the Mississippi River Delta. It was caused by a wellhead blowout during the digging process, which killed 11 people and eventually caused great harm to marine life and affecting about 800 km of American coastline. (**Environmental disaster, Fraud**). The company was plagued by many serious setbacks because of the spill. BP processed almost \$1 million in damage claims and so far has paid the claimants close to \$5 million.

5. Xerox

America-based company, Xerox is known for its document management solutions founded in 1906. It was discovered in 2002 that there were incorrect entries in the balance sheets





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of the company from 1997 to 2000. The U.S. Security and Exchange Commission brought Xerox's **malpractice** into the limelight. The corporation rectified its accounts and was forced to pay \$10 million as penalty for Securities fraud(Accounting).

6. Tyco International

Tyco International was founded in 1960 by Arthur Gandua. The company is involved in fire safety systems, security equipments, and pipeline construction. In 2002 the company got involved in a scandal when its CEO was accused for **theft, embezzlement** for more than \$120 million worth of company funds. He received millions of dollars that were never authorized by the company's directors and was sentenced 8-25 years of imprisonment in 2005.

7. Health South Corporation

Health South Corporation was founded in 1984 to provide health care for patients who are recovering from cardiac or neurological disorders. The company's CEO got into a scandal in 2002 when he sold \$75 million of his company stocks before the company reported huge losses. When the scandal was investigated, it was found that the CEO got into a **fraudulent deal** (securities) which amounted to \$10 billion.

8. World Com.

WorldCom. was founded in 1983 and at that time, it was named as Long Distance Discount Services. The company's CEO aggressively acquired new companies as a way to build the company. For this reason, the company incurred more than \$40 billion worth of debt. Other officials of the company decided to use **illegal methods** to conceal the real financial condition of the business. Upon, proving that CEO got involved in the fraud, he was sentenced to 25 years of imprisonment.

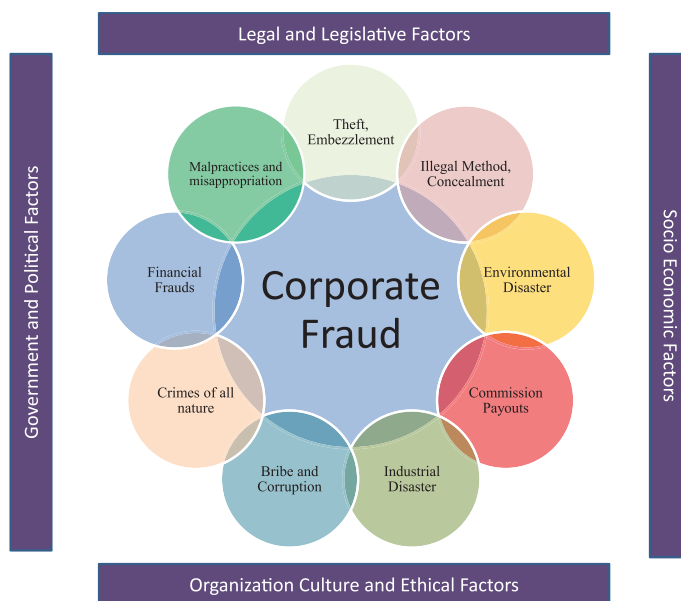
9. Parmalat

Parmalat is an Italian company founded in 1961 and the rich company collapsed in 2003 when its CEO **embezzled** eight hundred million Euros from his own company and left a hole in its accounts equivalent to the amount of \$20 billion, making the Parmalat affair the biggest bankruptcy ever to happen in Europe.

10. Enron

Enron is an American company doing business in the energy industry which was founded in 1985. It was conferred as "America's Most Innovative Company" for six consecutive years by the Fortune magazine because of its significant growth in the market. That fame, however, changed when

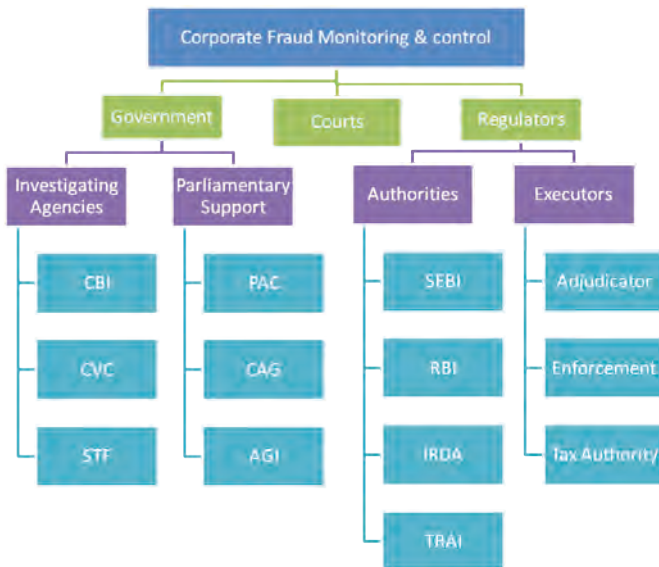
the Enron Scandal was brought into the limelight in 2001, making it the largest **bankruptcy** of all time, amounting to a whopping \$63.4 billion. It led to a massive job loss in 2002. More importantly, it pioneered several policy changes to ensure that every American corporation's books are properly audited.



Impact on Corporate Fraud Monitoring and Control

The Stakeholder requirement is protected against corporate frauds by gearing up Government machinery to meet challenges of frauds or illegal activities of corporates. The new facet of stakeholder requirement is enshrined under various sections of the new Act as part of Government initiatives. Following are the important areas in which the corporate world is obliged to render their services to the people and to the country as a whole:

- Maintain transparency, record keeping and maintenance
- Provide value added services with organizational values
- Establish Communication Channels – phone, e-mail, internet
- Ensure flexibility and accessibility to Data/information
- Protect Liquidity and ROI potential of the organisation
- Universal acceptance practices
- Investor Protection measures and redressal of grievance
- Regulated professional management and control
- Good Corporate Governance and compliance management
- Follow the Rules and regulations and governing Acts/Laws in force



The above flow-chart shows the composition of team of officials and enforcement function in the areas of detecting corporate frauds and monitoring and controlling them legally. The active role played by law enforcement authorities and land mark judgements, observations and decisions of Competent Courts against corporate frauds are exemplary.

- Government – Appropriate Government, Central or State or Both
- Courts – Any Competent Court, HC, SC
- Investigating Agencies – Central Bureau of Investigation, Research and Analysis Wing, Intelligence Bureau, Directorate of Revenue Intelligence, Central Vigilance Commission, Special Task Force - National Investigating Agency under Min. of Home, Groups of Ministers, Parliamentary Committees
- Parliamentary Support -- Public Accounts Committee, Comptroller and Auditor General of India, Attorney General of India
- Authorities established under Securities and Exchange Board of India, Reserve Bank of India, Insurance Regulatory and Development Authority, Telecom Authority of India, Anti-money laundering, prevention of cross border crimes, etc.
- Executors - who has the powers of quasi judicial authorities like Adjudicators, Enforcement directorates of the ministries concerned, Directorate General of Income Tax and Investigation etc.
- In addition to this the Central Government is empowered to enact any law and to take action on the cognizance of offence by any organisation in public interest.

Because of the growing demand for prevention of fraud and severe penalties imposed by the laws in force, corporates have come forward to adopt self-controlled measures which include –

- Exception Management
- Audit and Inspection
- Internal Control Measures and Investigation
- System driven Policies and activities
- Surveillance System
- Risk based Assessment - Industry risk, Country Risk, Operational Risk, Credit Risk, Legal Risk, Financial Risk, Reputation and Sovereign Risks.

Corporate Frauds - Indian Scenario

Corporate India largely sees fraud as an inevitable cost of doing business, and not as a strategic risk — as observed by KPMG, which surveys corporate fraud, among other things. Regulators, on their part, feel that enforcement agencies are getting better at detecting fraud and that the noose is tightening around errant companies, that our laws are adequate, if only we could summon the will to enforce them, and fast.

Rising instances of corporate fraud have set the alarm bells ringing within India Inc. As high as 75% of the top corporate executives consider fraud as their highest concern, followed by inadequacy of measures to curb them. The impact of two concerns rated high by them leads to an environment where both inclination and opportunity co-exist. This could mean that organizations in India that remain passive in their approach to deal with fraud may be perfect.

Some companies resorted to "creative accounting" which can amount to fraud, and investigations would reveal that these organizations involved in the Purchase/Sale scams by inflating, decrease or increase the prices to take financial advantage, detrimental to general laws in force. Suppression and concealment of material information, duplication and manipulated or fabricated records to this effect with the object of tax evasion, amazing wealth (disproportionate wealth), business advantage and exploitation of local laws in force. The following are the leading corporate frauds that took place in the recent times,

Satyam Computers Scam

The Satyam Computers scandal was unearthed in 2009, when its Chairman said that he concocted key financial results including a fictitious Cash balance of more than \$1 Billion. It was a corporate scandal wherein its Chairman Ramalinga Raju confessed that the company's accounts had been falsified. The entire global business and industry community was shocked and scandalised when Mr. Raju resigned and confessed of having manipulated the accounts by \$1.47 Billion. Though it is construed as an accounting fraud, lots of inferences have been drawn and alerted the authorities. The scam appeared to be of a "horrifying magnitude" even according to the Chairman of the SEBI.



Article

Corporate Fraud

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Reebok India : Major Scam

This is probably the biggest corporate scam after Satyam, at least of whatever has come to light. Reebok India, owned by Adidas AG, alleged a Rs.870 crore fraud committed by its managing director (MD) Chief Operating Officer (COO) In March 2013, Adidas, the parent company, announced a 153 million Euros loss on account of the Reebok India episode.

The two were accused of criminal conspiracy and fraudulent practices including stealing products by setting up “secret warehouses”. There has been a grave failure of corporate governance as well since the company has also alleged that the former officials fudged accounts and indulged in fictitious sales causing a multi-crore dent to the company. In its FIR, Reebok has said that it carried out an internal investigation after certain fraudulent activities were noticed which again points to the importance of internal checks for malpractices and corruption. Allegedly, these individuals have been siphoning off funds by creating ghost distributors across the country and generating forged bills over the last five years.

The Income Tax department has alleged tax evasion of Rs 140 crore in the case. The IT department’s first goal is to ensure that the company later does not claim any “bad debt”. As soon as the scam came to light, affairs of the company came under close government scrutiny by ordering a Forensic Audit. While the IT department documents investigated the accounts and imports of the firm, the Serious Fraud Investigation Office is probing the entire governance affairs of the company under Section 235 of the Companies Act. It is interesting to note that accounting officials of the firm and the auditors were not held liable for their “deliberate” or “mistaken oversight” in identifying the irregularities in the account books which led to the alleged financial irregularities. The Adidas

scandal involved secret warehouses, stolen goods, rigged records and conniving men in power which proved to be a corporate fraud blockbuster.

Vodafone Wins \$2.2-Billion Tax Bill Battle

Vodafone Group PLC won a \$2.2 billion legal battle against the tax department vide the Supreme Court ruling that analysts say would encourage foreign investment and clear the way for the company’s planned initial public offering (IPO) in India. Capitalists and Laissez Faire enthusiasts applauded the judgment as a significant progressive judicial step.

The tax demand was over Vodafone’s \$11 billion deal to buy Hutchison’s Indian mobile business in 2007. The UK-based company had appealed to the Supreme Court after losing the case in the Bombay High Court in 2010. The verdict sent Vodafone shares up as much as 2.5 percent in London.

Even if tax was due, the company had argued, it should be paid by the seller not the buyer. Vodafone finally managed to avoid the capital gains tax slapped by the IT department.

The court ordered the tax office to refund to Vodafone with 4 percent interest the 25 billion rupees it had been asked to deposit pending a ruling.

Diageo And United Spirits: Massive \$2.1 Billion M&A Deal

Diageo PLC, the flagship of the world’s largest spirits group, bought a majority stake in United Spirits Ltd, controlled by Vijay Mallya, for \$2.1 billion.

Diageo, which first tried to buy United Spirits in 2008, will buy 53.4 percent of India’s largest spirits company in a two-part deal. This was the biggest inbound Indian M&A deal since British oil firm Cairn Energy PLC sold a majority stake in its Indian business to Vedanta Resources PLC.

Diageo said that India would be their second big market after USA and may become the biggest in the future.

Emkay Global’s Bad Orders Trigger Brief Halt on Nse

A series of technically erroneous orders placed by Emkay Global Financial Services sent the NSE’s index Nifty tumbling, raising serious concerns about the stability of trading systems after a series of global market glitches.

Trading on the National Stock Exchange (NSE) was briefly halted



after the 59 trades worth more than \$125 million were placed, triggering a sudden drop of more than 900 points on the Nifty index. The orders, for an institutional client, were sent from a single dealer terminal at Emkay Global.

Emkay's actions marked another incident in a glitch-filled year for India's share markets, and raised the ghost of a sudden collapse like the Wall Street flash-crash of May 2010.

Kingfisher Airlines Loses License to Fly

The financially troubled Kingfisher Airlines lost its flying permit after a deadline to renew its suspended license expired. The Directorate General of Civil Aviation (DGCA) has suspended Kingfisher Airlines license to fly till further orders pursuant to Clause 15 (2) of Schedule XI of the Aircraft Rules, 1937, after the airline failed to deliver a viable financial and organizational revival plan. The debt-ridden carrier was grounded since October 2012 after repeated strikes by workers over unpaid wages.

Kingfisher owes various public sector banks \$1.4bn (£870m) in debts and has been frantically trying to raise funds after lenders refused to give fresh loans. The airline now owes money to staff, airports, tax authorities and its lenders and may have to be liquidated.

Adani Enterprise Scam

An amount of Rs.1,800 Crore was wiped off Adani Enterprise Ltd stocks after online rumour. This shocking event goes on to show the strength of online media such as blogs and its real life impact. Stock prices of many companies under the Adani Group took a tumble after a blogger posted incorrect rumours about Gautam Adani's arrest in connection with an arrest of a political leader.

Sahara Scam

Unlisted conglomerate Sahara, one of India's biggest business groups was ordered by the Supreme Court of India after a prolonged legal battle with capital markets regulator SEBI to refund 174 billion rupees raised by "dubious" means from 22 million small investors. From 2008-11, they received 174 billion rupees through what is known as an optionally fully convertible debentures. The Sahara was also asked to pay 15 percent interest to the investors of the fund which has been illegally raised from the public without resorting to proper legal procedure.

The Supreme Court, whose order reaffirmed an earlier ruling that the fund raising did not meet the rules, ordered two unlisted Sahara group firms to refund money they had raised with the interest within three months.

The judgment closed a much exploited loophole of the corporate fund raising laws in India and underscored an increasing assertiveness by India's judiciary and regulators as businesses and financial markets expand at a fast pace in Asia's third-largest economy.

Conclusion

A report reveals that Indians with illicit cash tend to stash it abroad and the underground economy amounts to half of good ones. Investors worry that the political risk in India is greater than they thought, and that corruption is worsening. The banking scandal and the biggest ever Telecom scam has given Indians an insight into the role that unaccountable intermediaries play between business and government. Accounting and/or business scandals arise with the disclosure of financial misdeeds by trust ed executives of companies. Such misdeeds typically involve complex methods for misusing or misdirecting funds, overstating revenues, understating expenses, overstating the value of corporate assets or underreporting the existence of liabilities, sometimes with the cooperation of officials in other companies and or affiliates.

General Motors committed technical default and its incumbent CEO unearthed the fraud that has since led to the recall of 1.14 lakhs units of popular utility vehicle Tavera, and sparked a government investigation that found General Motors India guilty of 'corporate fraud'. In India, General Motors (GM), has admitted to fudging data on its vehicles manufactured and faces an estimated penalty of at least Rs.11 crores after a government probe panel indicted the company on charges of corporate fraud.

Prevention of corporate frauds is indeed difficult and it is also difficult to identify the nature of fraud. To protect the interest of investors the government has ordered probes against a large number of companies. Simultaneously, efforts are being taken to create dynamic policies and put in place a system of checks and balances. Corporate fraud is considered a white collar crime and a company may limit the extent to which fraud can take place. At the same time, the Central Government is working on a comprehensive game plan to check corporate frauds, much before they become a full-blown scam, by pooling together resources and data available with various regulators and agencies.

CS

Note : Information relating to companies mentioned in the above discussion has been taken from "Google" Search.



Corporate Laws

LW: 21:03:2014

SHALENDER KAUSHIK v. SEBI [DEL]

Crl. A. No. 329 of 2010, Crl. A. No. 330 of 2010, Crl. A. No. 331 of 2010, Crl. A. No. 332 of 2010 & Crl. A. No. 334 of 2010 [5 connected matters]

V.K.Jain,J.

[Decided on 22/01/2014]

Regulations 73 & 74 of the SEBI CIS Regulations, 1999 read with section 24 of the SEBI Act - violations in refunding the deposits collected - 5 directors vicariously held liable and sentenced - whether correct - Held, Yes (for 3 directors) and No (for 2 directors).

Brief facts:

The appellants in Crl. A. Nos.330/2010, 331/2010, 332/2010 & 334/2010, namely Mr. Brijinder Makkar, Mr. S.P. Kalia, Mr. Manoj Kapur & Smt. Sudha Mittal respectively, are the Directors of the Company, Asian Plantations Limited, and the appellant in Crl. A. No.329/2010, Mr. Shalender Kaushik, is one of the subscribers to its Memorandum and Articles of Association.

Pursuant to a Government press release dated 18.11.1997, notifying that the schemes issuing instruments such as agro bonds, plantation bonds, etc. shall be treated as CIS coming under the Act, the Company submitted to SEBI certain documents. SEBI, through public advertisement, intimated to all the persons operating CIS of the obligations imposed on them under Regulations 73 & 74 in case they had not applied for registration under the Regulations. Admittedly, the Company did not apply to the SEBI seeking registration under its CIS Regulations. An order dated 7.12.2000 was then passed by the Chairman, SEBI requiring the Company, to pay to its investors, as per the original terms of offer, within one (1) month of the said order.

The Company submitted to SEBI the winding up and repayment report in terms of Regulation 73 of SEBI's CIS Regulations. SEBI

pointed out certain discrepancies in the report submitted by the Company. The Company submitted an explanation to SEBI, wherein it was claimed that the said order could not be complied with since the Company had already repaid the investment till 31.3.2000.

Since the Company came out with its scheme after 25.1.1995 when sub-section (1B) of Section 12 of the Act came into force and also alleging contravention of Regulation 5(1) read with Regulations 68(1), 68(2), 73 & 74 of SEBI CIS Regulations, 1999, a complaint was filed before the ACMM, Delhi. The appellants were convicted under Sections 24 & 27 of the Act and were sentenced to pay fine of Rs.5.00 lakh each. The appellants were also sentenced to undergo RI for six (6) months each. They were also to undergo RI for six (6) months each in default of payment of fine. Being aggrieved the appellants are before this Court by way of these appeals.

Decision: Appeals dismissed.

Reason:

Admittedly, the Company did not comply with the provisions of Regulation 73. This was expressly admitted by the learned counsel for the appellants during the course of arguments. Even otherwise, this is not the case of the appellants that the Company had sent information memorandum to the investors within two (2) months from the date of receipt of intimation from SEBI, and such memorandum detail the state of affairs of the scheme, the amount repayable to each investor and the manner in which such amount was determined. A perusal of the report Ex.CW1/D1 submitted by the appellants to SEBI does not show compliance with the provisions of Regulation 73. In fact, the report does not even indicate that the information memorandum was sent to the investors, nor does it show when the alleged payment was made to them. As noted earlier, the information memorandum was to be sent within two (2) months from the receipt of intimation from SEBI and the payment was to be made within three (3) months from the date of the information memorandum. Clause 3 of Annexure A to the report required the Company to indicate the date of sending the information memorandum. No date, however, is given against the said clause and it is stated that the terms of Regulation 73 was not made as the management itself decided to wind up the Company and start repayment of investors' money. The alleged decision of the management to wind up the Company and start repayment did not relieve the Company of its obligations under the Regulations to send information to the investors within two (2) months from the date of receipt of intimation from SEBI. Therefore, there was a clear contravention of the Regulations by the Company. Moreover, admittedly, interest was not paid by the Company to its investors. The Company, in my opinion, was required to refund not only the principal amount but also interest on that amount in terms of the scheme and, therefore, it contravened the provisions of the Regulation, also by not paying interest to the investors. Since the Company contravened the provisions of Regulations 73 & 74 of SEBI CIS Regulations, it was rightly convicted under Section 24 of the Act for contravention of the said Regulations.



Coming to the vicarious liability of the Directors of the Company, the question which comes up for consideration is as to whether the individual appellants before this Court, at the time the provisions of Section 12(1B) and CIS Regulations were contravened by the Company, were in-charge of and responsible to the Company for conduct of its business or not. Of course, even if they were in-charge of and responsible to the Company for conduct of its business they would not be guilty of commission of offence if they are able to prove that the offence by the Company was committed without their knowledge or that they had exercised all due diligence to prevent the commission of such offence.

As per the bio datas submitted by the Company, the appellant, S.P. Kalia was a Director of the Company looking after Personnel Management Section and day-to-day routine work of the Company; the appellant, Brijinder Makkar, was a Director taking part in policy making in respect of Agriculture Projects of the Company; the appellant, Manoj Kapur, was a Director looking after Administration and policy making; whereas the appellant Sudha Mittal was a housewife. The appellant Shalender Kaushik was one of the subscribers to its Memorandum and Articles of Association. In view of the above-referred bio datas, there can be no dispute that the appellants, S.P. Kalia, Brijinder Makkar & Manoj Kapur were in-charge of and responsible to the Company for conduct of its business. No evidence has been led by them to prove that contravention of sub-section (1B) of Section 12 and CIS Regulations of SEBI was committed without their knowledge or that they had exercised all due diligence to prevent the commission of the said offence by the Company. Therefore, they have rightly been convicted under Section 24 read with Section 27(1) of the Act.

As regards appellant in CrI. A. No.334/2010, Smt. Sudha Mittal, as per the bio data furnished to SEBI she was a housewife. She came in the witness box as DW1 and stated on oath that she knew nothing about the business of the Company and never attended any affairs of the Company at any point of time. In cross-examination she stated that she was not aware whether the Company had mobilized Rs.32, 37,220/- nor was she aware whether the said amount has been refunded or not. According to her she had signed some papers at the behest of Mr. Ashwani Berry, an absconding Director of the Company and she has been falsely implicated in this case. Admittedly, she was not either the Managing Director or the Executive Director of the Company. Considering the bio data provided to SEBI and deposition of Smt. Sudha Mittal on oath which could not be impeached during her cross-examination I see no reason to disbelieve her deposition and, therefore, have no hesitation in holding that SEBI has failed to prove that she was person in-charge of and responsible to the Company for conduct of its business. No evidence has been led by SEBI to prove that offence by the Company was committed with her consent or connivance or was attributable to any neglect on her part. Therefore, sub-section (2) of Section 27 of the Act is not attracted.

As far as appellant, Shalender Kaushik, in CrI. A. No.329/2010

is concerned, admittedly, he has never been a Director of the Company and there is no evidence to show that he was in-charge of and responsible to the Company for conduct of its business. This is not the case of SEBI that the offence by the Company was committed with the consent or connivance of Mr. Shalender Kaushik and is attributable to any neglect on his part. Moreover there is no evidence of his even being a Director, Manager, Secretary or officer of the Company. Therefore, sub-section (2) of Section 27 would not apply to him. He cannot be said to be a person in-charge of and responsible to the Company for conduct of its business only because he had subscribed to its memorandum and articles of association. In fact, the learned counsel for SEBI fairly conceded during the course of arguments that the charge against him could not be established during the course of trial. Mr. Shalender Kaushik is, therefore, liable to be acquitted.

In the facts & circumstances of the case, I find no good ground for reducing either the substantive sentence awarded to the individual appellants, Mr. Brijinder Makkar, Mr. S.P. Kalia, Mr. Manoj Kapur, or to reduce the fine imposed upon the aforesaid three appellants. The appeals filed by the appellants, Mr. Brijinder Makkar, Mr. S.P. Kalia, Mr. Manoj Kapur, being CrI. A. Nos.330/2010, 331/2010 & 332/2010 respectively, are, therefore, dismissed and CrI. A. Nos.329/2010 & 334/2010 are allowed in the aforesaid terms.



General Laws

LW: 22:03:2014

V.SRIHARAN @ MURUGAN & 2 ORS v. UNION OF INDIA & ORS [SC]

Transferred Cases (Criminal) No. 1, 2 & 3 of 2012

P.Sathasivam CJI, Ranjan Gogoi & Shiva Kirti Singh, J.J.

[Decided on 18/02/2014]

Constitution of India - murder convicts- articles 72/161& 139A - Mercy petitions before President/Governor-inordinate delay in disposing of the mercy petitions- whether the convicts are entitled for the commutation of death sentence to life imprisonment-Held, yes.





Brief facts:

The above transferred cases which were borne out of the writ petitions filed by V. Sriharan @ Murugan, T. Suthendraraja @ Santhan and A.G. Perarivalan @ Arivu in the Madras High Court and which got transferred to this Court under Article 139A of the Constitution of India raise vital issues pertaining to violation of fundamental rights of death row convicts ensuing from inordinate delay caused at the hands of executive in deciding the mercy petitions filed under Article 72/161 of the Constitution. In all the writ petitions, the petitioners prayed for a writ of declaration declaring that the execution of the sentence of death, pursuant to the letter No. F.No.14/1/1999-Judicial Cell dated 12.08.2011 issued by the Union of India, is unconstitutional and thus sought for commutation of the sentence of death to imprisonment for life.

In these petitions, the court was concerned only with the rejection of the mercy petitions of the petitioners by the President of India under Article 72 of the Constitution after the confirmation of death sentence by this Court, thus there is no need to traverse the factual details leading up to the imposition of death sentence.

Decision: Petitions allowed.

Reason:

Akin to this issue was decided by us in a recent judgment viz., *Shatrughan Chauhan & Anr v. Union of India & Ors* [Writ Petition (Criminal) No. 55 of 2013 etc.] decided on 21.01.2014 wherein this Court held that execution of sentence of death on the accused notwithstanding the existence of supervening circumstances, is in violation of Article 21 of the Constitution. One of the supervening circumstances sanctioned by this Court for commutation of death sentence into life imprisonment is the undue, inordinate and unreasonable delay in execution of death sentence as it attributes to torture. However, this Court, cogently clarified in its verdict that the nature of delay i.e. whether it is undue or unreasonable must be appreciated based on facts of individual cases and no exhaustive guidelines can be framed in this regard.

Accordingly, the case at hand has to be decided under the guidance of this judgment. The two principles stipulated in the judgment for commutation of death sentence into life imprisonment on the ground of delay as the supervening circumstance are firstly, that the delay occurred must be inordinate and secondly, that the delay must not be caused at the instance of the accused. Let us assess the facts of the given case in the light of established principles in *Shatrughan Chauhan (supra)*.

Firstly, as mentioned earlier, the question whether inordinate delay in disposing of mercy petitions is a supervening circumstance for commutation of sentence of death into life imprisonment is well settled in view of the recent verdict in *Shatrughan Chauhan (supra)*. As a result, the task before this Court is confined only to finding out whether the nature of delay caused is reasonable or inordinate in the light of the circumstances of the given case and

to verify whether the delay was caused at the instance of accused.

The second point for consideration before this Court is whether in *Shatrughan Chauhan (supra)*, this Court, laid down for actually proving the dehumanizing effect on the accused or mere unreasonable and inordinate delay on face of it is sufficient for commutation of death sentence to life.

Across the bar, learned Attorney General, while explaining the delay ensued i.e., 5 years and 1 month submitted that shortly after the receipt of the mercy petitions in 2000, a note was prepared but thereafter the file was lying in the drawer of some officer of the Ministry of Home Affairs, and, hence, could not be processed. As regards delay of 5 years and 8 months, learned Attorney General fairly admitted that this delay couldn't be explained in any way.

It is, therefore, indisputable that the delay ensued in the given petitions is inordinate and unreasonable and the same was not caused at the instance of the petitioners. Accordingly, the unreasonable delay caused qualifies as the supervening circumstance, which warrants for commutation of sentence of death into life imprisonment as stipulated in *Shatrughan Chauhan (supra)*, *inter alia*, the judicial decisions in *Triveniben v. State of Gujarat* (1988) 4 SCC 574, *Sher Singh & Ors v. State of Punjab* (1983) 2 SCC 344 and *T.V. Vatheeswaran v. State of Tamil Nadu* (1983) 2 SCC 68.

As regards the second contention, it was argued by learned Attorney General that the test laid down by this Court in cases involving delayed mercy petitions requires the petitioners to actively demonstrate the sufferings occasioned by the delay, and that in the present case, the petitioners have been having a good time in prison and they have not suffered at all. Hence, it is argued that the petitioners are not entitled to relief.

Before we advert to respond the aforesaid contention, it is relevant to comprehend the primary ground on the basis of which the relief was granted in cases of delayed disposal of the mercy petition and that is, such delay violates the requirement of a fair, just and reasonable procedure. Regardless and independent of the suffering it causes, delay makes the process of execution of death sentence unfair, unreasonable, arbitrary and capricious and thereby, violates procedural due process guaranteed under Article 21 of the Constitution and the dehumanizing effect is presumed in such cases. It is in this context, this Court, in past, has recognized that incarceration, in addition to the reasonable time necessary for adjudication of mercy petitions and preparation for execution, flouts the due process guaranteed to the convict under Article 21 which inheres in every prisoner till his last breath.

Thus, the argument that the petitioners are under a legal obligation to produce evidence of their sufferings and harm caused to them on account of prolonged delay is unknown to law and will be misinterpretation of *Shatrughan Chauhan (supra)*. Such a prerequisite would render the fundamental rights guaranteed under Part III of the Constitution beyond the reach of death-row



convicts and will make them nugatory and inaccessible for all intent and purposes. Besides, there is no requirement in Indian law as well as in international judgments for a death-row convict to prove actual harm occasioned by the delay. There is no obligation on the convict to demonstrate specific ill effects of suffering and agony on his mind and body as a prerequisite for commutation of sentence of death.

Having perused all the averments specifically averred in the writ petitions as well as the copies of the communication addressed to the Ministry of Home Affairs and to the President of India and also in view of other information/materials available in the affidavit filed before the High Court in the year 2011, we are unable to accept the views expressed by learned Attorney General on this point.

The clemency procedure under Article 72/161 provides a ray of hope to the condemned prisoners and his family members for commutation of death sentence into life imprisonment and, therefore, the executive should step up and exercise its time-honoured tradition of clemency power guaranteed in the Constitution one-way or the other within a reasonable time. Profuse deliberation on the nature of power under Article 72/161 has already been said in *Shatrughan Chauhan (supra)* and we embrace the same in the given case as well.

Before we conclude, we would also like to stress on one more aspect. We have learnt that the Union Government, considering the nature of the power under Article 72/161, set out certain criteria in the form of circular for deciding the mercy petitions. We hereby recommend that in view of the recent jurisprudential development with regard to delay in execution, another criteria may be added to the existing yardsticks so as to require consideration of the delay that may have occurred in disposal of a mercy petition.

LW: 23:03:2014

**HINDUSTAN UNILEVER LTD v. RECKITT
BENCKISER INDIA LTD [DEL]**

R.F.A (OS) No. 50/2008 & C.M. APPL.No. 17116/2008

S.Ravindra Bhatt & S.V.Easwar, JJ.

[Decided on 31/01/2014]

Suit for damages - disparagement and slander of goods - disparaging advertisement depicting plaintiff's Dettol soap as inferior and germ breeder by defendant to promote its Lifebuoy soap - Punitive damages granted by the single judge to plaintiff - whether correct - Held, yes.

Brief facts:

Reckitt is the manufacturer of "Dettol" soap while HUL is the manufacturer of "Lifebuoy" soap. HUL came out with an

advertisement in TV wherein the Dettol soap was depicted to be poor quality in killing germs while its lifebuoy soap is better to kill the germs. In the advertisement the protagonist supporting Lifebuoy was shown to be a doctor. Reckitt filed a suit for damages against HUL seeking damages and restrain to air the disparaging advertisement, which was allowed by the Single judge. HUL has challenged the judgement of the single judge before the Division Bench.

This is a defendant's appeal directed against a decree for permanent injunction issued by the learned Single Judge in a claim alleging that the defendant/appellant's advertisement had disparaged the plaintiff's goods. The impugned judgment also directed payment of punitive damages to the extent of Rs. 5 lakhs to the plaintiff. The parties will be referred to by their original description in the suit for the sake of convenience.

Decision: Appeal dismissed.

Reason:

This court has previously observed that the correct test is whether the impugned advertisement, or the publication complained of disparaged the plaintiff's goods in the eyes of the right thinking members of the public or reasonable men and women. The Court had further held that while considering the question of disparagement, the applicable test would not be whether a "target audience" or "target group" i.e. a section of the general public would perceive the advertisement to be disparaging, but if all reasonable men and women would regard it to be so. Now, the all-important question of whether the impugned advertisement in fact disparaged or denigrated the plaintiff's DETTOL Original has to be decided in the light of the evidence.

As observed in an earlier part of this judgment, the advertisement was of a total duration of 30 seconds and was telecast at the relevant time, in a multitude of television channels. This Court had the opportunity of viewing the advertisement, a recording of which was filed as part of the record and was also played at the time of the hearing of the appeal. The court finds that the storyline has been accurately described by the learned Single Judge.

It would be necessary to briefly summarize the whole advertisement. A doctor and his wife return home on a rainy day. The wife plans to bathe and takes out an orange bar of soap from a green wrapper. This part of the film is less than two seconds. The husband, at this stage exclaims that that his wife can only be saved by God; later he and the children sing out that naadan (the ignorant) should be given wisdom and all of them should be saved from naiveté; the wife, surprised at this, questions them. Next, the husband holds up the orange soap (this for about 2 seconds) and says that with such cure, a blessing too would be necessary. In the next scene, a bathing lady is shown raising the said orange bar of soap; it is accompanied by a male voice over which states that ordinary antiseptic soaps dry up the skin; the camera then zooms to the



upper arm, shown under a magnifying glass revealing cracked skin with green germs lodged in them. The male voice then comments that germs get into the cracks (of the skin). As if to emphasize the idea, the term "ordinary antiseptic soap" appears on the screen. Next in a water shot, a bar of red LIFEBOUY soap emerges out of the water. This scene highlights the words "Glycerine" and "Vitamin E" and the male voice-over states this is why, new Lifebuoy Skin Guard). To underline the idea, the arm under the magnifying glass is shown again, this time with a voice overstating that it (LIFEBOUY) attacks germs; the scene then shows glycerine flowing - and the voice over adding that (LIFEBOUY) also builds a protective wall. The next scenes show that the wife allays the fears of her family, and all of them saying that they have no fear (thus suggesting that the wife accepted the suggestion to stop using the antiseptic soap and had started to use LIFEBOUY). The final part of the advertisement shows a LIFEBOUY Skinguard bar of soap and its package with the LIFEBOUY logo zooming onto the package and the male voice-over announcing "Lifebuoy Skin Guard"; the Hindustan Lever Limited logo is then focused and the advertisement ends then.

As this Court understands, the plaintiff's grievance is not that HUL simplistically depicted its DETTOL Original in a bad light or denigrated it. That argument would have been natural if Reckitt alleged that the soap shown in the advertisement alone constituted denigration of its product. However, the overall effect on the viewer - the shape of the soap, the green packaging, the number of times the soap was shown, the suggestion made that antiseptic soaps are bad for the skin, as they allow germ build up - is complained to constitute what is termed as a defamatory innuendo. This court had, earlier in Dabur India, recognized that clever advertising can suggest something which is plainly not said, and create the desired impact in the mind of the viewer. The innuendo, or the suggestion of something more than what is spoken, is one such device.

In the present case, the Court has to be sensitive and alive to the fact that viewership of television channels and electronic media is diverse and widespread. The learned Single Judge found, and we see no infirmity in this regard, that DETTOL's market leadership in the antiseptic liquid market made it particularly vulnerable in the impugned advertisement.

Here, though at a superficial level, HUL targeted antiseptic soaps and elaborated the ill-effects of antiseptics on the skin, the combined effect of this message with the three visuals, two distinctly (though briefly) showing Dettol soap, with its unique colour, curvature and shape suggested powerfully to ordinary and reasonable viewer that the soap being spoken against in the advertisement was none other than a Reckitt product. Though not strictly accurate, the innuendo was in the nature of a commercial double entendre where the hidden meaning was intended to impact the viewer more than the obvious, superficial one. This plainly is disparagement, and a slander of Reckitt's DETTOL Original; the Single Judge arrived at the correct finding in that regard and the Court hereby affirms it.

In view of the evidence presented before this Court (i.e. the number of times the advertisement was telecast, the quantum of advertisement expenses of HUL, the amount spent by Reckitt, to advertise its product, etc.) this Court is of opinion that the plaintiff is entitled to recover general damages to the tune of Rs. 20 lakhs. The impugned judgment and order is modified to that extent, and the cross objection by Reckitt, is consequently allowed in these terms.

Reverting to the facts of this case, the defendant clearly was aware about its wrong doing and the harm which would ensue to HUL because of the published disparagement. Yet it went ahead and aired it in almost all the national and a large number of regional channels with repetitiveness. The deliberation points at an aim to denigrate the plaintiff's product and harm its reputation. At no stage did it - even in these proceedings - offer to make amends. In the circumstances, the award of punitive damages was warranted. The award of general damages through this judgment (although of a figure of Rs. 20 lakhs) is moderate, since the advertisement was aired over 2700 times and seen - and intended to be seen - by millions of viewers.

Having regard to all these circumstances, the court is of opinion that the award of Rs.5 lakhs as exemplary damages in the facts of this case was justified and not disproportionate; it is accordingly upheld.

LW: 24:03:2014

SIEMENS AKTIENGESELLSCHAFT & S Ltd v. DMRC LTD & ORS [SC]

Civil Appeal No. 2068 of 2014

T.S. Thakur, J.
[Decided on 14/02/2014]

Administrative action - judicial scrutiny- DMRC project - awarding of contract after following due process - unsuccessful petitioner questioned the validity of the award of contract - High Court dismissed the writ - whether correct-Held, Yes.

Brief facts:

A Division Bench of the High Court of Delhi has by a common order passed in Writ Petition (C) No.1853 of 2013 filed by the appellant and Writ Petition No.2615 of 2013 filed by Alstom Transport India Ltd. declined to interfere with the award of a contract for the supply of 486 Standard Gauge Cars Electrical Multiple Units meant for use in Phase-III of the Mass Rapid Transit System ('MRTS' for short) for Delhi and its extension corridors. The High Court has taken the view that the process of evaluation of the bids received from eligible bidders culminating in the award of a contract in favour of respondent No.2-Hyundai Rotem Company ('HR' for short) was transparent and did not suffer from any illegality, irregularity or perversity of any kind to warrant interference by it. The High Court held that the bidders were well aware of and had accepted the tender conditions which



were free from any vagueness or uncertainty. The parameters of evaluation conditions were also held to have been applied uniformly to all the bidders under a procedure that was open, transparent and fair as required by law. The present appeal assails the correctness of that judgment and order.

Decision: Appeal dismissed.

Reason:

It is evident from a comparative study of the charts extracted above, that while the appellant was L-1 in the price bid, it went down to L-4 after GEC value was loaded to its price bid. On the contrary respondent No.2-HR who was L-3 in the price bid rose to L-1 position on account of its low GEC value in comparison to a higher GEC value offered by the appellant.

There is no gainsaying that in any challenge to the award of contract before the High Court and so also before this Court what is to be examined is the legality and regularity of the process leading to award of contract. What the Court has to constantly keep in mind is that it does not sit in appeal over the soundness of the decision. The Court can only examine whether the decision making process was fair, reasonable and transparent. In cases involving award of contracts, the Court ought to exercise judicial restraint where the decision is bonafide with no perceptible injury to public interest.

The High Court has, in the case at hand, undertaken that exercise and concluded that there was neither any illegality nor any irregularity in the process of evaluation of the bids or the final allotment of the contract. It is no body's case that the decision-making authority had not understood the law that regulates its decision making power or failed to give effect to it. We have, therefore, no hesitation in holding that the allotment of contract did not suffer from any illegality as it is understood in the matter of judicial review of administrative action. It is also not the case of the petitioner that the decision taken by the DMRC is so outrageous in its defiance of logic or accepted moral standards that no sensible person who had applied his mind could have arrived at the same. Perversity or irrationality in the decision or the decision making process is also not a ground that can be invoked in the case at hand.

The question, however, is whether there was any irregularity in the evaluation of the bids in the present case and if so whether the same was sufficient to invalidate the evaluation process or the ultimate award of the contract. Whether or not there was any irregularity in the process of evaluation of the bids shall in turn have to be examined by a reference to the conditions of the tender notice under which the tenders were invited, received, processed, evaluated and eventually accepted. It is common ground that the price bid offered by the tenderers was not itself determinative. What was equally important was the GEC values comprising X and Y factors which the tenderers had to disclose in their technical bids. That the values offered had to be converted into Indian Rupees and loaded to the price bid of the tenderers is also beyond question.

That each one of the bidders had offered their GEC values comprising X and Y factors separately were also beyond doubt. There is no error even in the conversion of such values in terms of Indian Rupees nor is there any dispute about the effect of such loading of values to the price bid of all the tenderers because of which loading the bid offered by HR eventually emerged as L-1 with appellant-Siemens sliding to L-4 position. That being so, the process of evaluation of bids could not be faulted as the same was strictly in accordance with the norms stipulated for such evaluation.

Secondly, because even assuming that the process of validation of the GEC values and their achievability was an implied condition in the evaluation process, DMRC had on the basis of an internal simulation satisfied itself that the GEC values were not unachievable. The High Court has referred to the simulation results and so has our attention been drawn to the said result from the original record produced by DMRC. We do not see any illegality or irregularity in the process of verification conducted by the DMRC to test the achievability of the GEC values. The upshot of the above discussion, therefore, is that the process by which the bids were evaluated and eventually accepted was transparent, fair and reasonable and does not, therefore, call for any interference from this Court.

In the result this appeal fails and is, hereby, dismissed with costs of Rs.5, 00,000/- to be deposited within six weeks from today with the Supreme Court Advocates-on-Record Welfare Fund.

LW: 25:03:2014

S.V.A.STEEL RE-ROLLING MILLS LTD ETC., v. STATE OF KERALA & ORS [SC]

Civil Appeal No. 10103-10106 of 2010[4 connected appeals]

Anil Dave & A.K. Sikri, JJ.

[Decided on 06/02/2014]

Administrative action- Promise by Government to provide 100% electricity supply to new units- Petitioners set up their units- continuous power supply was not provided- Their challenge before the High Court failed- whether the State is bound to honour its promise-Held, yes.

Brief facts:

The appellants are businessmen having their manufacturing units in the State of Kerala and they are manufacturing different articles with the help of electricity, which is generated/supplied by the Kerala State Electricity Board (hereinafter referred to as 'the Board'). The respondent-Government was desirous of having industrial development in the State of Kerala and therefore, it had framed certain policies so as to encourage and invite businessmen



for setting up their manufacturing units in the State of Kerala. In view of the aforesaid circumstances, the State Government had laid down a policy whereby it declared to give continuous electricity supply at a particular rate to certain new manufacturing units.

In spite of the assurance given by the respondent-State to the new units that they would not suffer any power cut, because of certain difficulties faced by the Board with regard to supply of electricity to new units, there used to be power cuts which adversely affected the new units. Thus, according to the appellants, in fact, they did not get real benefit of the policy because their production was adversely affected whenever there was power cut and the five years' period of exemption from power cut was not extended by the Government which was in violation of the promise given to the appellants and other similarly situated new units.

All these grievances were ventilated before the High Court by filing different petitions which were ultimately rejected by the High Court by virtue of the impugned order. Hence the appeal to the Supreme Court.

Decision: Petition allowed.

Reason:

We had heard the learned counsel at length and perused the impugned judgment and the judgments referred to in the course of hearing and the relevant material placed on record of this Court. It is not in dispute that the appellants had set up their new units in the State of Kerala only upon knowing the policy with regard to uninterrupted power supply and that too at the same tariff for a period of 5 years from the date of commercial production.

In the instant case, no case had been made out by the respondent-State that the appellants had committed any breach or were not entitled to any of the benefits or concessions which had been offered to them by the respondent-State. In the circumstances, the respondent-State was bound to give the benefits which had been assured to the appellants.

Though the respondent-State was bound to supply uninterrupted 100% electricity required by the appellants, one cannot lose sight of the fact that at times there would be circumstances which would put the respondent-State and the Board into such a difficulty that they would not be in a position to fulfill the assurance given to the new units. It is not in dispute that the State of Kerala is not generating enough electricity to cater to the needs of all its consumers in the State of Kerala. The respondent-State is not having a magic wand which would enable the State to generate more electricity. There might be several factors which might be adversely affecting the respondents and as a result thereof, the respondents might not be generating sufficient electricity so as to fulfill the needs of the appellants and other residents of the State.

Before laying down any policy which would give benefits to its subjects, the State must think about pros and cons of the policy

and its capacity to give the benefits. Without proper appreciation of all the relevant factors, the State should not give any assurance, not only because that would be in violation of the principles of promissory estoppel but it would be unfair and immoral on the part of the State not to act as per its promise.

In the instant case, the respondent-State was conscious about the fact that there was a problem with regard to supply of electricity in the State of Kerala and possibly for that reason industries which depended much upon electricity as a source of power were not inclined to establish new industries in the State of Kerala.

In view of the incentives and assurances given to the appellants along with others, who were desirous of setting up new industries, the appellants set up their new units which were much dependant upon continuous supply of electricity. One of the appellants is a Steel Re-rolling Mill. In Steel industry, when the industry is concerned with making of steel or re-rolling of steel, it requires lot of power and energy, and electricity being one of the important sources of power, the appellant was much dependent on continuous supply of electricity, which had been assured to it by the respondent-State.

If an assurance was given to the appellants and similarly situated persons that they would be given 100% electricity supply for five years, the respondents cannot wriggle out of their liability by making a policy to the effect that the benefit by way of incentive would be extended only if the electricity supply was reduced to less than 50% on a particular day. A steel industry, for example, which cannot function without electricity or power in any other form, would be put to enormous inconvenience and loss if the power supply is not continuous. So as to reactivate or to restart the machines or to start the process afresh, the industry has to spend something more than what it would have spent if the supply of power namely, electricity was uninterrupted. Stoppage of manufacturing process would mean losses under several heads. The labour employed has to be paid even when the employer does not get work from the labour force. Very often, so as to bring a required temperature for the purpose of carrying on certain processes, more fuel is to be injected so as to attain the condition which was prevailing prior to electricity supply being disconnected. Moreover, there would be several overhead expenses which one has to incur even if there is no production or stoppage of manufacturing process.

For the aforesaid reasons, in our opinion, the respondent-State was not wholly fair when it extended benefit to the appellants only for the period during which electricity supply was reduced to less than 50% on certain days.

We, therefore, hold that the benefit extended by the respondent State is not sufficient. The respondent-State ought to have extended the period even for the days when supply of electricity was more than 50% but not 100% as assured under G.O. dated 21.5.1990 and 6.2.1992. We, therefore, direct the respondents to give the said benefit by extending the period of incentive.



Industrial & Labour Laws

LW: 26:03:2014

HARYANA PETROCHEMICALS LTD v. CENTRAL PROVIDENT FUND COMMISSIONER [DEL]

W.P(C).No. 4037/2011

V.Kameswar Rao, J.
[Decided on 24/01/2014]

Employees Provident Fund & Miscellaneous Provisions Act, 1952 - Section 7A - determination of contribution of the employer - Closed sick company- contribution determined to be paid - whether correct - Held, No.

Brief facts:

Proceedings under Section 7A of the Act were initiated against the petitioner, which is an establishment covered under the Act for assessment of dues for the period 1998-1999 and 2001-2002, by the Commissioner by issuing a show cause notice to the petitioner. Suffice would it be to say that to enable the petitioner to produce the record, the Commissioner adjourned the hearing for many days. It is noted from the order of Commissioner dated July 01, 2004, none appeared for the petitioner. The Commissioner, on the basis of report submitted by the Enforcement Officer with regard to the dues payable by the petitioner, concluded that the petitioner was liable to remit Rs.3,11,866/-.

The petitioner approached the High Court earlier by way of a Writ Petition (C) No. 14111/2004, whereby the Court directed the appeal to be heard by the Tribunal. In the appeal, the case of the petitioner was that the petitioner has filed an application before BIFR to declare it as a sick company; the production has come to a standstill. In other words, the factory has been closed. The Appellate Tribunal dismissed the appeal.

Decision: Appeal allowed and matter remanded back to Tribunal.

Reason:

The Tribunal was required to go into the aspect as to the effect of

establishment being in BIFR on one hand and the factory being closed on the basis of the documents filed by the petitioner before it, and come to a definite finding keeping in view the position of law including the judgments as relied upon the counsel for the parties. Since, there is no adjudication on these aspects by the Tribunal, I deem it fit to remand the matter back to the Tribunal to take into consideration the documents relied upon by the parties and then, decide the appeal afresh, keeping in view the position of law. The Tribunal would be within its right to give minimum of the time to parties to file additional pleadings, if required. Since it is an appeal of the year 2004, it would be appropriate that the Tribunal disposes of the appeal as expeditiously as possible but not beyond a period of six months. Till such time the appeal is heard and decided by the Tribunal, no coercive steps shall be taken by the respondent against the petitioner to recover the amount in terms of the order dated July 01, 2004 of the Commissioner.

LW: 27:03:2014

PREM CHAND SHARMA v. GANNON DUNKERLEY & CO. LTD [DEL]

W.P(C). No.161/2012

V.Kameswar Rao, J.
[Decided on 24/01/2014]

Industrial Disputes Act, 1947 - dismissal from services on the ground of unauthorised absence - workman absent for 7 days and not 8 days - whether dismissal valid - Held, No. whether reinstatement required - Held, No.

Brief facts:

The petitioner was appointed by the respondent organization as a Junior Store Officer in terms of appointment letter dated June 08, 2006.

It was the case of the petitioner that he was transferred from Noida to Jharsuguda, Orissa on February 13, 2008. According to him, on February 14, 2008 he was given a show cause notice alleging therein that he had remained unauthorizedly absent for certain days in the year 2006 and 2007 as shown in the said show cause notice. He gave a reply to the show cause notice wherein he has justified his absence on certain occasions. According to him, his services were terminated on March 20, 2008 without issuing any charge-sheet.

The respondent contested the claim petition on the ground that the same is not maintainable inasmuch as when the termination was effected, he was employed in Noida, U.P and was transferred to Jharsuguda, Orissa. Since he was not employed in Delhi, the Labour Court had no jurisdiction to entertain and adjudicate the dispute. Insofar as the merit of the case is concerned, respondent's



stand was that the termination was in terms of clause No.14 (a) of the Contract which was accepted and signed by the petitioner. The respondent also justified the charges levelled against the petitioner inasmuch as the petitioner was not punctual and was in the habit to remain absent unauthorizedly without any intimation for which he was issued a number of letters. The respondent also alleged that the petitioner did not report to the duty at Jharsuguda, Orissa in compliance of the transfer order issued to him. The respondent also pleaded that the petitioner has accepted his absence between November 22, 2007 to November 28, 2007 and also the fact that he has pleaded mercy inasmuch as he has stated that he shall be punctual in future. Unfortunately, he did not remain punctual and continued to remain unauthorizedly absent which resulted in the order dated March 20, 2008.

Decision: Petition allowed.

Reason:

Having considered the rival submissions on behalf of the parties, I am of the view that the learned counsel for the petitioner is right in stating that the termination of the petitioner invoking clause 14(a) of the terms of the contract is illegal inasmuch as 14(a) does not stipulate termination on the ground of absence. In fact 14(a) only stipulates that the employment can be determined with 3 months' notice or payment in lieu of such notice equivalent to 3 months' salary by either side. In the case in hand, neither such notice nor such payment was given to the petitioner to justify the termination under such clause.

Even otherwise, I am of the view that the stand which has been taken by the respondent before the Tribunal for justifying the termination and accepted by the Tribunal i.e. absence of the petitioner between the period November 22, 2007 to November 28, 2007 is totally extraneous as the same was not part of show cause notice issued by the respondent on February 14, 2008. In any case, clause 14(c) of the terms of contract stipulates that it is only when an employee remained absent for 8 days or overstay the leave sanctioned, action against an employee would be justified on that ground. In the case in hand, since the respondent remained absent only for 7 days, the termination even on that ground cannot be justified. It is true that the respondent was transferred on February 13, 2008. Unfortunately, without giving him sufficient time to join the place of posting, the respondent had issued a show cause notice dated February 14, 2008. Hence, the contention of learned counsel for the respondent that the petitioner did not join the place of posting is of no consequence as before he could join the place of posting, a show cause notice was issued as to why appropriate disciplinary action be not taken against the petitioner for mis-conduct. I note that the respondent having not conducted a regular inquiry to come to a conclusion, the absence of the petitioner was wilful, which is pre-requisite for taking action under such circumstance, could not have terminated the petitioner. In fact, I may only note here that the issue of absence was only for the period between November 22, 2007 to November 28, 2007 and not from November 15, 2007 to December 01, 2008, as was considered by the Tribunal.

Even if it is true, no explanation was sought, for the said period and serious action i.e. termination of services has been effected on the petitioner, which is totally unjustified. The Award of the Tribunal needs to be set aside and I do so accordingly.

The question now arises is what should be the appropriate relief in the facts of the case. Given the background in which the termination has been effected and the litigation between the parties, it would not be appropriate for this Court to give reinstatement in service of the petitioner with the respondent.

Suffice to say, keeping in view the fact that the petitioner had worked for two years on a regular nature of job and he has been terminated for the reason of unauthorized absence which was not even alleged against him in the show cause notice, I deem it appropriate that an amount of Rs. 2,25,000/- which includes the outstanding dues, as referred above, be paid to the petitioner in lieu of reinstatement with back wages.



Tax Laws

LW: 28:03:2014

COMMERCIAL TAX OFFICER v. BINANI CEMENT LTD. & ANR. [SC]

CIVIL APPEAL NO.336 of 2003

H.L. Dattu & S.A.Bobde, JJ.

[Decided on 19/02/2014]

Rajasthan Sales Tax Act - Tax incentive scheme for new industrial units - cement unit- falling under special category and not entitled for larger incentive - Petitioner claiming to be falling under general category and demanding higher incentive - whether tenable - Held, No.

Brief facts:

The respondent-assessee (hereinafter referred to as 'the Company') established a new cement unit within Panchayat Samiti, Pindwara and commenced commercial production sometime in the year 1997. It engaged itself in the manufacture of cement. The total capital investment – (FCI) in the new industrial unit claimed



by the Company was Rupees 53252.87 Lakhs (Rs.532.52/- crores)

The Company had applied for grant of Eligibility Certificate for exemption from payment of Central Sales Tax and Rajasthan Sales Tax before the State Level Screening Committee, Jaipur, under the Scheme. However, the Screening Committee accepted only Rs.5553.72 Lakhs (Rs.55.32 crores) as FCI eligible for availing the benefits under the Scheme. On the aforesaid basis the State Level Screening Committee certified that the company is entitled to avail exemption of tax to the extent of 25% of the tax liability by treating the same to be a Large Scale Industry. In the appeal, the Board took the view that since the Company had invested more than Rs.25 crores and has employed more than 250 workmen, it has the status of 'New Prestigious Unit' and thus, falls within the definition of a Prestigious Unit and should be governed by Item 4 of Annexure 'C' being entitled to avail 75% of total tax liability. This view was accepted by the High Court, while dismissing the tax revision petition filed by the revenue. Aggrieved by the order so passed by the High Court, the Revenue is before the Supreme Court in this appeal.

Decision: Appeal allowed.

Reason:

At the outset, we would observe that the High Court has erred in reaching its conclusion by holding that (a) the respondent-company would fall into all the three categories of industries referred to in the Scheme, that is to say it is a new unit which is a 'Large Scale Unit', a 'Prestigious New Unit' and also a 'Very Prestigious Unit'; (b) the classification of a new unit, viz. small scale, medium scale and large scale under item 1E on the basis of scale of investment does not denude a new industrial unit of any type of the special status of "Pioneer", "Prestigious" and "Very Prestigious" unit under items 4 and 5 to also exclude operation of General entry; and (c) the special entry would not exclude the applicability of general entry in context of the Scheme so as to exclude the operation of items 4, 6 and 7. Thereby implying that though there is an overlap between the general and special provision, the general provision would also be sustained and the two would co-exist.

Before we deal with the fact situation in the present appeal, we reiterate the settled legal position in law, that is, if in a Statutory Rule or Statutory Notification, there are two expressions used, one in General Terms and the other in special words, under the rules of interpretation, it has to be understood that the special words were not meant to be included in the general expression. Alternatively, it can be said that where a Statute contains both a General Provision as well as specific provision, the later must prevail.

Having noticed the aforesaid, it could be concluded that the rule of statutory construction that the specific governs the general is not an absolute rule but is merely a strong indication of statutory meaning that can be overcome by textual indications that point in the other direction. This rule is particularly applicable where

the legislature has enacted comprehensive scheme and has deliberately targeted specific problems with specific solutions. A subject specific provision relating to a specific, defined and describable subject is regarded as an exception to and would prevail over a general provision relating to a broad subject.

In the instant case, the item 1E is subject specific provision introduced by an amendment in 1996 to the Scheme. The said amendment removed "new cement industries" from the non-eligible Annexure-B and placed it into Annexure-C amongst the eligible industries. It classified the cement units for eligibility of tax exemption into three categories: small, medium and large. The said categories are comprehensive whereby small and medium cement units have been prescribed to have maximum FCIs of Rs.60/- lakhs and Rs.5/- crores, respectively and large to be over the FCI of Rs.5/- crores. The maximum ceiling for large cement units has been purposefully left open and thereby reflects that the intention clearly is to provide for an all-inclusive provision for new cement units so as to avoid any ambiguity in determination of appropriate provision for applicability to new cement units to seek exemption.

It leaves no doubt that what is specific has to be seen in contradistinction with the other items/entries. The provision more specific than the other on the same subject would prevail. Here it is subject specific item and therefore as against items 1, 4, 6 and 7, which deal with units of all industries and not only cement, item 1E restricted to only cement units would be a specific and special entry and thus would override the general provision.

The proposition put forth by the respondent-Company that the construction which is most beneficial to the assessee must be applied and adopted fails to impress upon us its application in this case. Howsoever, it is true that the canons of construction must be applied to extract most beneficial re-conciliation of provisions. In case of fiscal statute dealing with exemption, it would require interpretation benefiting the assessee. But here the introduction of the subject specific entry vide amendment into general scheme of exemption speaks volumes in respect of intention of the legislature to restrict the benefit to cement industries as available only under Item 1E, which categorically classified them into three as per their FCI. The specific entries being mutually exclusive have been placed so systematically arranged and classified in the Scheme. The construction of provisions must not be divorced from the object of introduction of subject specific provision while retaining other generalized provision that now specifically exclude the new cement industries, which could otherwise fall into its ambit, lest such interpretation would be not *ab absurdo* (i.e., interpretation avoiding absurd results).

Therefore, in our considered view the respondent-Company would only be eligible for grant of exemption under Item 1E as a large new cement unit in accordance with its FCI being above Rs.5/- crores. In light of the aforesaid, we are of the considered opinion that the judgment and order passed by the High Court ought to be set aside and the appeals of the Revenue require to be allowed.



Corporate Laws

01 Clarification with regard to Section 185 of the Companies Act, 2013

[Issued by the Ministry of Corporate Affairs vide General Circular No. 03/2014. Dated 14.02.2014.]

This Ministry has received number of representations on the applicability of Section 185 of the Companies Act, 2013 with reference to loans made, guarantee given or security provided under Section 372A of the Companies Act, 1956. The issue has been examined with reference to applicability of Section 372A of the Companies Act, 1956 vis-à-vis Section 185 of the Companies Act, 2013. Section 372A of the Companies Act, 1956, specifically exempts any loans made, any guarantee given or security provided or any investment made by a holding company to its wholly owned subsidiary. Whereas, Section 185 of the Companies Act, 2013 prohibits guarantee given or any security provided by a holding company in respect of any loan taken by its subsidiary company except in the ordinary course of business.

- In order to maintain harmony with regard to applicability of Section 372A of the Companies Act, 1956 till the same is repealed and Section 185 of the Companies Act, 2013 is notified, it is hereby clarified that any guarantee given or security provided by a holding company in respect of loans made by a bank or financial institution to its subsidiary company, exemption as provided in clause (d) of sub-section (B) of Section 372A of the Companies Act, 1956 shall be applicable till Section 186 of the Companies Act, 2013 is notified. This clarification will, however, be applicable to cases where loans so obtained are exclusively utilized by the subsidiary for its principal business activities.

KMS Narayanan
Assistant Director (Policy)

02 Use of word 'National' in the names of Companies or Limited Liability Partnerships (LLPs).

[Issued by the Ministry of Corporate Affairs vide Circular No 2 / 2014. Dated 11.02.2014.]

It has come to the knowledge of this Ministry that Companies/ Limited Liability Partnerships are being registered with the word 'National' in their names. It is being intimated that no company should be allowed to be registered with the word 'National' as part of its title unless it is a government company and the Central/ State government(s) has a stake in it. This should be stringently enforced by all Registrar of Companies (ROCs) while registering companies. Similarly, the word 'Bank' may be allowed in the name of an entity only when such entity produces a 'No Objection Certificate' from the RBI in this regard. By the same analogy the word "Stock Exchange" or "Exchange" should be allowed in name of a company only where 'No Objection Certificate' from SEBI in this regard is produced by the Promoters.

Kamna Sharma
Assistant Director

03 FII/QFI investments in Commercial Papers

[Issued by the Securities and Exchange Board of India vide No. CIR/IMD/FIIC/4/2014 dated 14.02.2014.]

- Vide circular CIR/IMD/FIIC/6/2013 dated April 01, 2013, SEBI had permitted FIIs and QFIs to invest upto US\$ 3.5 billion in Commercial Papers within the Corporate Debt limit of US\$ 51 billion.
- The Reserve Bank of India has reduced the existing sub-limit for FII/QFI investment in Commercial Papers from USD 3.5 billion to USD 2 billion.
- Accordingly, in partial modification of Para 4 of the SEBI circular CIR/IMD/FIIC/6/2013 dated April 01, 2013, eligible investors shall be permitted to invest upto US\$ 2 billion in Commercial Papers within the Corporate Debt limit of US\$ 51 billion. The table summarizing the Corporate debt limit category is as follows:



Type of Instrument	Cap (US\$ bn)	Cap (INR Crore)	Eligible Investors	Remarks
Corporate Debt	51	244,323	FII's and QFI's	Eligible investors may invest in Commercial Papers only upto US\$ 2 billion and upto US\$5 billion in Credit Enhanced Bonds within the limit of US\$ 51 billion

This circular shall come into effect immediately. This circular is issued in exercise of powers conferred under SEBI Section 11 (1) of the Securities and Exchange Board of India Act, 1992.

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

S Madhusudhanan
Deputy General Manager

04 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 No. CIR/MRD/DP/ 08 /2013 dated 11.02.2014.]

- It is observed from the information provided by the depositories that the companies listed in Annexure 'A' have established connectivity with both the depositories.
- The stock exchanges may consider shifting the trading in these securities to normal Rolling Settlement subject to the following:
 - 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.
 - There are no other grounds/reasons for continuation of the trading in TFTS.

- 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.	CPEC Limited	INE029P01019
2.	Suchak Trading Limited	INE035G01015
3.	Chankya Investments Limited	INE825M01017
4.	Jayavant Products Limited	INE364H01017
5.	Filtron Engineers Limited	INE589N01017
6.	Gujarat Petrosynthese Limited	INE636P01011
7.	Mahavir Advanced Remedies Ltd.	INE716N01016
8.	United Drilling Tools Limited	INE961D01019
9.	Pan Electronics (India) Limited	INE648E01010
10.	Vijay Solvex Limited	INE362D01010
11.	Asis Logistics Limited	INE888E01012
12.	Jupiter Enterprises Limited	INE393E01013
13.	Balashri Commercial Limited	INE678E01017
14.	Partani Appliances Limited	INE217P01010
15.	Arman Holdings Limited	INE510P01018
16.	Goldline International Finvest Limited	INE204P01018
17.	Surya Marketing Limited	INE717P01019
18.	Nam Securities Limited	INE792G01011
19.	Mahadushi International Trade Limited	INE339P01012
20.	Divinus Fabrics Limited	INE478P01018
21.	Shri Niwas Leasing And Finance Limited	INE201F01015
22.	Raunaq International Limited	INE523K01012
23.	Omansh Enterprises Limited (formerly Ravi Aircools Ltd, Engineering And Pulp Products Ltd)	INE378P01010
24.	Worth Investments and Trading Company Limited	INE114O01012
25.	Siddarth Businesses Limited (formerly Indo Kush Foods Ltd, Siddarth Businesses Ltd)	INE857P01013
26.	Helpage Finlease Limited (formerly HelpageTrades And Services Ltd)	INE738P01015
27.	Shubhra Leasing Finance and Investment Company Limited	INE878P01019
28.	A. F. Enterprises Limited	INE663P01015
29.	Sai Baba Investment and Commercial Enterprises Limited	INE706P01012
30.	Alps Motor Finance Limited	INE729P01014
31.	Angels Enterprises Limited	INE784P01019
32.	Tarang Projects and Consultants Limited	INE538P01019
33.	Sital Leasing and Finance Limited	INE341O01011
34.	Ramchandra Leasing And Finance Limited	INE516P01015



05 Safeguards to avoid trading disruption in case of failure of software vendor

[Issued by the Securities and Exchange Board of India vide No. CIR/MRD/DP/07/2014 dated 11.02.2014.]

Software vendors who provide software to market participants and market infrastructure institutions for the purpose of trading, risk management, clearing and settlement play a crucial role in the securities market. Any inability on the part of such software vendors to provide software or related services in timely and continuous manner may create a situation of stress in the securities market.

2. This issue was discussed with SEBI's Technical Advisory Committee (TAC) and the committee recommended that adequate mechanism / procedure should be in place to ensure smooth transition by stock broker(s) to another software vendor in case of inability of the existing software vendor to provide software and related services in timely and continuous manner.
3. In view of the above, stock exchanges may advise the stock brokers to take the following measures:
 - 3.1. Explore the possibility of establishing a 'software escrow arrangement' with their existing software vendors.
 - 3.2. In case of large stock brokers, consider reducing dependence on a single software vendor for trading and risk management systems, by engaging more than one software vendor.
 - 3.3. Consider including the following in their contracts with the software vendors:
 - (i) access to documents related to design and development specifications in the event software vendor fails to provide continuous and timely services to the stock broker;
 - (ii) development of expertise at the end of the stock broker through appropriate training with regard to software usage and maintenance;
 - (iii) appropriate penalty clauses for cases of disruptions to the trading system of the stock broker on account of (a) software vendor failing to provide continuous and timely services to the stock broker or (b) glitches to the software provided by the software vendor;
 - (iv) obligation on the part of the software vendor to cooperate in case of audit of software including forensic audit, if required.

4. Stock exchanges are directed to:
 - 4.1. take necessary steps and put in place necessary systems for implementation of the above.
 - 4.2. make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision.
 - 4.3. bring the provisions of this circular to the notice of the stock brokers of the stock exchange and also disseminate the same on their website.
5. 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

06 Testing of software used in or related to Trading and Risk Management

[Issued by the Securities and Exchange Board of India vide No. CIR/MRD/DP/ 06 /2014 dated 07.02.2014.]

SEBI issued circular No. CIR/MRD/DP/24/2013 dated August 19, 2013 on 'Testing of software used in or related to Trading and Risk Management'. Subsequently, SEBI has received various suggestions with regard to the requirement of software testing prescribed through the aforementioned circular.

2. After due examination of the suggestions in consultation with the Technical Advisory Committee, it has been decided to partially revise the requirements as follows:
 - 2.1. With respect to testing of software related to (a) fixes to bugs in the software, (b) changes undertaken to the stock brokers' software / systems pursuant to a change to any stock exchange's trading system, and (c) software purchased from a software vendor that has already been tested in the mock environment by certain number of stock brokers, stock exchanges may prescribe a faster approval process to make the process of approval expeditious.
 - 2.2. Stock exchanges may suitably schedule the requirements of mock testing, certification of test reports by system auditor(s) and the software approval process, so as to facilitate a speedy approval and a smooth transition of the stock brokers to the new / upgraded software.



- 2.3. With regard to changes / updates to stock broker's trading software that intend to modify the 'look and feel' and do not affect the risk management system of the stock broker or the connectivity of the trading software with stock exchange's trading system, it is clarified that mock testing and consequent system audit may not be insisted upon by the stock exchanges.
- 2.4. Stock exchanges shall direct their stock brokers to put in place adequate mechanism to restore their trading systems to 'production state' at the end of testing session so as to ensure integrity of stock brokers' trading system.
- 2.5. In order to ensure that stock brokers are not using software without requisite approval of the stock exchanges, stock exchanges are advised to put in place suitable mechanism to prevent any unauthorized change to the approved software.
3. Stock exchanges are directed to:
 - 3.1. take necessary steps and put in place necessary systems for implementation of the above.
 - 3.2. make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision.
 - 3.3. bring the provisions of this circular to the notice of the stock brokers / trading members of the stock exchange and also disseminate the same on their website.
4. 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

07 Guidelines for inspection of Depository Participants (DPs) by Depositories

[Issued by the Securities and Exchange Board of India vide No. CIR/MRD/DMS / 05 /2014 dated 07.02.2014.]

1. Depository System Review Committee (DSRC) was constituted by SEBI to undertake a comprehensive review of the depository system of Indian Securities market.
2. As a first measure, DSRC has reviewed framework adopted by the depositories with regard to the inspection of depository participants (DPs). Considering the recommendations of the

committee, it has been decided that depositories shall ensure the following while inspecting their DPs.

Inspection Areas and Sample Size

3. For conducting inspection of DPs, depositories shall inspect the areas as mentioned in **Annexure - I**. During inspection, depositories shall cover implementation of circulars / guidelines issued by SEBI and guidelines / operating instructions / directions by depositories in respect of these areas. In addition, Depositories may include such other areas as felt appropriate.
4. For the purpose of determining the size of sample, depositories shall be guided by 'Adaptive Sample Size determination methodology' as mentioned at **Annexure - II**.

Categorization / Risk Rating of DPs

5. For the purpose of computing total risk score of DPs, depositories shall be guided by "DP Rating Model / Categorization" as mentioned at **Annexure - III**.
6. Depositories should periodically undertake risk - impact analysis for each of the inspection areas, assign appropriate risk weightage, calculate risk scores for each DPs in the lines mentioned below.
 - a) **Risk Weightage:** Depositories shall assign risk weights for each of inspection areas after taking into consideration following factors:
 1. Operational risks in each of the inspection areas.
 2. Category of DPs (such as stock broker DPs, bank DP, etc)
 3. Size of Operation
 4. Repetitive violations
 5. IT Security and BCP
 6. Complaints received and redressed
 - b) **Quantitative Score Calculation:** Depositories shall arrive at a Quantitative Risk Score for each inspection area by multiplying percentage of non-compliance to the sample size with the corresponding assigned risk weight.
 - c) **Qualitative Score Calculation:** Depositories shall arrive at a Qualitative Risk Score for each qualitative area by multiplying the score assigned by inspection team to DP with corresponding assigned risk weight.
 - d) **Total DP Risk Score** shall be the summation of quantitative and qualitative scores assigned to the DP.
 - e) Depositories shall suitably normalize the scales of the qualitative and quantitative scores in arriving at the Total DP risk score.



From the Government

7. Depositories shall categorize their DPs as 'High Risk', 'Medium to High Risk', 'Medium Risk', and 'Low Risk' DPs based on the percentile of risk score.

DP Risk Rating / Categorization	Percentile of Risk Score
High	≥ 80
Medium-High	46-79
Medium	21-45
Low	≤ 20

Other requirements

8. After arriving at the risk rating / categorization as mentioned above, for subsequent inspections, depositories shall use the DP risk rating / categorization to decide on the frequency of inspection of DPs.
9. Apart from the above, depositories may undertake specific purpose inspections for DPs which score high in the specific inspection areas as mentioned at Annexure - I.
10. Depositories shall jointly inspect DPs which are registered with both depositories to have better control over DPs, avoid duplicity of manpower, time and cost and also to reduce the possibility of regulatory arbitrage, if any. Depositories shall share the risk rating / categorization of common DPs with each other. For the purpose of determining sample size and frequency of the joint inspection of such common DPs, the higher risk categorization assigned by any of the Depository shall prevail.
11. Depositories shall put in place appropriate technological tools to undertake off-site inspections of DPs in order to reduce time and manpower resources. Depositories 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, wherever applicable.
 - bring the provisions of this circular to the notice of their DPs and also disseminate the same on their website.
12. This circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 read with Section 19 of the Depositories Act, 1996 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Dilip B. J.

Deputy General Manager

Annexure –I

List of Inspection Areas

- Depositories shall inspect the areas mentioned at para 2 below during inspection of DPs with regards to any
 - Circulars / Guidelines issued by SEBI on the areas mentioned below.
 - Guidelines / Operating Instructions / Directions from depositories on the areas mentioned below.
- In case there are built in system checks at the depository that ensure compliance of any of the inspection areas / sub –areas with regard to point 1.1 and 1.2 above, the depository may decide on the including the same during the inspection of DPs.

Inspection Areas

- Account Opening / KYC Documents
 - Account Opening forms
 - KYC Documents
 - PAN Verification
 - In-person verification
 - Forwarding of Documents to KYC Registration Agency (KRA)
 - Proof of Identity (POI)
 - Proof of Address
 - Correspondence Address
 - Authorized Signatories
 - Completeness / Validation of data entered into DPM with data provided in the Account Opening forms
 - Minor BO / Joint / HUF accounts
 - Account Activation
 - PMS Accounts
 - Nomination
 - Any other area as may be specified by the depository
- Basic Service Demat Account (BSDA)
 - Procedures and Checks pertaining to BSDA
 - Any other area as may be specified by the depository
- Client Data Modification (CDM)
 - Procedure for CDM
 - Any other area as may be specified by the depository
- Demat / Remat / Conversion /Reconversion request
 - Procedure for receiving/processing requests pertaining to Demat / Remat / Conversion /Reconversion request
 - Procedure for forwarding requests pertaining to Demat / Remat / Conversion /Reconversion request



- to RTA / issuer
- D.3. Arrangement for Safekeeping of Security / Share Certificates
- D.4. Tracking of demat requests
- D.5. Rejection of above requests attributable to DPs
- D.6. Checks pertaining to processing of Demat / Remat / Conversion / Reconversion request
- D.7. Any other area as may be specified by the depository
- E. Delivery Instruction Slip (DIS)
 - E.1. Issuance of DIS
 - E.2. Inventory Control of DIS
 - E.3. First Instruction Slip Booklet
 - E.4. Requisition Slip
 - E.5. Procedure for Loose DIS
 - E.6. Depository specific areas
 - E.7. Verification of DIS
 - E.8. Procedure for accepting DIS
 - E.9. Time Stamping and related Areas
 - E.10. Accepting DIS by Fax
 - E.11. Accepting DIS in form of Annexure
 - E.12. Completeness of DIS
 - E.13. Accepting DIS in electronic form
 - E.14. Procedure for Verification of DIS
 - E.15. Signature Verification
 - E.16. Corrections / Cancellations to DIS
 - E.17. Blocking of used / executed / lost / misplaced / Stolen DIS
 - E.18. Procedure for processing of DIS
 - E.19. Any other area as may be specified by the depository
- F. Transaction
 - F.1. Checks pertaining to setting up / processing of transactions
 - F.2. Future dated transactions
 - F.3. Transfer of all ISINs of BO account having 5 or more ISINs
 - F.4. Any other area as may be specified by the depository
- G. Transaction Statement (TS)
 - G.1. Validation of TS
 - G.2. Maintenance of records of TS
 - G.3. Issuance of TS to BOs
 - G.4. Any other area as may be specified by the depository
- H. Compliance under Prevention of Money Laundering Act, 2002 (PMLA)
 - H.1. Compliance with PMLA Act, 2002 and SEBI Guidelines on areas such as Customer due diligence, suspicious transaction monitoring, reporting and record keeping
 - H.2. Appointment of Principal officer as required under PMLA Act, 2002
- H.3. Mechanism to deal with alerts provided by Depository
- H.4. Suspicious Transactions reports to FIU
- H.5. Any other area as may be specified by the depository
- I. Maintenance of record and documents
 - I.1. Information regarding place(s) of record keeping
 - I.2. Outsourcing of record keeping activities
 - I.3. Any other area as may be specified by the depository
- J. Service Centre Opening and closing/ modification of service centers
 - J.1. Procedure for Opening /Closure of Service centers
 - J.2. Details of Service centre on Depository website
 - J.3. Qualified persons at service centers
 - J.4. Any other area as may be specified by the depository
- K. Information Technology areas
 - K.1. Hardware, Software and Network requirements / configurations
 - K.2. Logical and Physical restrictions / safeguards
 - K.3. IT Security
 - K.4. Procedure for alteration of parameters / configurations
 - K.5. Redundancy
 - K.6. Any other area as may be specified by the depository
- L. Power of Attorney (POA)
 - L.1. Documents executed
 - L.2. Maintenance of POA Register
 - L.3. Clauses of POA
 - L.4. Registration of BO for SMS Alert facility for POA
 - L.5. Any other area as may be specified by the depository
- M. Inter Depository Transfers (IDT)
 - M.1. Processing of IDT
 - M.2. Checks pertaining to IDT
 - M.3. Any other area as may be specified by the depository
- N. Account Transfer
 - N.1. Procedure followed for account transfer
 - N.2. Checks pertaining to Account transfer
 - N.3. Waiver claimed for inter depository transfer
 - N.4. Any other area as may be specified by the depository
- O. Transmission
 - O.1. Procedure followed for transmission
 - O.2. Checks pertaining to Transmission
 - O.3. Waiver Claimed for inter depository transfer
 - O.4. Any other area as may be specified by the depository



From the Government

P. Pledge / Unpledge

- P.1. Procedure followed for Pledge / Unpledge
- P.2. Checks pertaining to Pledge / Unpledge
- P.3. Any other area as may be specified by the depository

Q. Freeze / Unfreeze

- Q.1. Freeze facility
- Q.2. Procedure followed for Freeze
- Q.3. Checks pertaining to freeze
- Q.4. Any other area as may be specified by the depository

R. Miscellaneous areas

- R.1. Investor Grievance
- R.2. Forms for various activities
- R.3. Execution of any supplementary agreement/ Letter of Confirmation
- R.4. Submission of Internal Audit / Concurrent Audit / Net worth Certificate
- R.5. Submission of Annual Financial Statement
- R.6. Outsourcing of Activities
- R.7. Closure / transfer of Balances
- R.8. Submission of Information sought by Depositories specifically through Circulars / Letters
- R.9. Half Yearly Compliance
- R.10. Any other area as may be specified by the depository

S. Status of compliance for deviations / observations noted in last inspection

T. Complaints

- T.1. Account Opening
- T.2. Demat / Remat
- T.3. Transaction Statement
- T.4. Improper Service
- T.5. Charges
- T.6. Delivery Instruction Related (DIS)
- T.7. Closure
- T.8. Manipulation / Unauthorized Action
- T.9. Monthly report for client complaints
- T.10. Other Complaints

- **Final Sample Size:** The final sample size shall also be dependent on past rating / categorization of DP. The following multipliers shall be used to determine the final sample size for the current inspection. In case the total number of instances / cases is less than the final sample size, then 100% of the samples shall be verified.

DP Rating / Categorization	Multiplier
High risk	3
Medium High risk	2
Medium risk	1.5
Low risk	1

- The selected sample shall maintain the proportion of new accounts opened in each category, except for Account Opening Forms (AOF) relating to FIIs where it shall be checked on a 100% basis.

2. **Sample Size for inspection area relating to DIS**

- **Base sample size:** 10% of total DIS processed or 200 processed DIS whichever is higher, with a maximum cap of 1000 DIS.
- **Final Sample Size:** The sample size shall also be dependent on rating / categorization of DP. The following multipliers shall be used to determine the final sample size for the current inspection. In case the total number of instances / cases is less than the final sample size, then 100% of the samples shall be verified.

DP Rating / Categorization	Multiplier
High risk	3
Medium High risk	2
Medium risk	1.5
Low risk	1

- Out of total intra depository instructions to be verified, the percentage of on and off market instructions would be in the ratio of 1/3 and 2/3.
- DIS issuance sample size shall be 5% of the total samples verified for DIS.

3. **Sample Sizes for inspection areas of 'Demat / Remat request' and 'Pledge / Unpledge'**

- 5% of Demat / Remat request processed or 100 requests whichever is higher with a maximum cap of 500 such requests.
- 5% of Pledge / Unpledge request processed or 100 requests whichever is higher with a maximum cap of 500 such requests.

4. **Sample Size for inspection area of 'Client Data Modification', 'Miscellaneous areas' and 'Other depository specific requirements'**

Annexure –II

Adaptive Sample Size Determination methodology

1. **Sample Size for inspection area of 'Account Opening'**

- The sample selection for account opening shall cover all categories of clients such as individuals, HUF, Corporate, FIIs etc.
- **Base sample size:** 5% of Account Opening Forms (AOFs) or 150 AOFs whichever is higher, with a maximum cap of 1000 accounts.



- Base Sample Size
 - o Address change = 50
 - Samples from Urban, Semi Urban and Rural Areas shall be equally represented if available.
 - o Nomination Change = 25
 - o Signature change = 100
 - o Addition / Deletion / Modification of POA = 100
 - o Freeze / Unfreeze = 50
 - o Bank Details Change = 100
 - o PAN modification = 100
 - o Account closure initiated by clients = 25
 - o Closure initiated by DPs = 25
 - o Demat rejection = 30
 - o Transactions = 25
 - o Change in e-mail Id = 25
 - o Change in mobile number = 25
 - o Change in SMS flag = 50
 - o Change in standing instruction flag = 50
 - o Transmission = 50% of total transmission cases
 - o Previous compliance = 100% of total samples
 - o Final sample size shall be arrived at after multiplying with the respective multiplier corresponding to the DP Risk rating / categorization as given below. In case the total number of instances / cases is less than the final sample size, then 100% of the samples shall be verified.

DP Rating/ Categorisation	Multiplier
High risk	3
Medium High risk	2
Medium risk	1.5
Low risk	1

5. Other Aspects

- A uniform Base sample size of 100 shall be adopted in case of all other activities. In case the total number of samples is less than 100, then 100% of the samples shall be verified.

Annexure-III

DP Rating / Categorization Model

- I. **Quantitative Score Calculation:** Specific weights shall be assigned to each area as decided by each depository. The Total Quantitative Score shall be the summation of all individual inspection scores.

Table: Indicative Table for calculation of Quantitative Score

Sr No	Inspection Areas	Weight (A)	B = No of instances divided by Sample size	Inspection Score IS = A*B
A.	Inspection Area 1			
	A.1. Inspection Sub Area A 1			
	A.2. Inspection Sub Area 2			
Total Score for Inspection Area 1				
B.	Inspection Area 2			
	B.1. Inspection Sub Area B 1			
	B.2. Inspection Sub Area B 2			
	B.3. Inspection Sub Area B 3			
Total Score for Inspection Area 2				

Depositories shall include all inspection areas and sub areas, as per Annexure –I (List of Inspection Areas) of this circular, in the above model to arrive at the Quantitative Score for a DP.

Table: Indicative Table for calculation of Quantitative Score for Complaints Received

Sr No	Type and Nature of Complaint	Weight (A)	(Number of Complaints redressed/ Number of Complaints received)	Inspection Score IS = A*B
T	Complaints			
T.1	Complaint Sub Area 1			
T.2	Complaint Sub Area 2			
Total Score for Complaints				

Quantitative Score = Σ (Scores of Inspection Areas including Total score for Complaints)

- II. **Qualitative Score Calculation:** Specific weights shall be assigned to each area as decided by depository. The Total Qualitative Score shall be the summation of all area scores.

Sr. No	Qualitative Factors	Weight (A)	Point on the scale of 1 to 10. [10 being the Worst] (B)	Area score = (A) * (B)
1	Ownership and Governance			
2	IT security and Business Continuity			
3	Regulatory / procedural Compliance			
4	Automation of systems and processes for critical activities			
5	Quality of Management			
6	Financial Status / profitability of DPs			



From the Government

7	Pending enquires / Penalties imposed by SEBI / Depositories on DP operations			
8	Complaints redressal			
9	Adverse findings of other activities (eg. Broking / custodian / banks etc)			
Total Qualitative Score = Σ (Area Scores)				

Following indicative factors shall be taken into account for arriving at above mentioned qualitative score:

(a) Ownership and Governance

1. Constitution of Board of DP – Number of promoter directors, Independent Directors etc.
2. Role of non-executive directors / Independent directors.

(b) Quality of Management

1. Experience, Fit and Proper and Qualification of Key Personnel.
2. Existence of Succession planning for top management especially in control functions.
3. Chinese walls between the activities in terms of manpower, resources etc.
4. Training and development of employees.
5. Adequacy of staff strength.
6. Compliance level of previous inspection observations/ directions of regulatory bodies

(c) IT security and Business Continuity

1. High Availability.
2. Appropriate Interconnected Architecture.
3. Appropriate Recovery Time Objective (RTO) and Recovery Point Objective (RPO) and near "Zero Data Loss".
4. Periodic drills that simulate the real life disaster scenarios on a regular basis.
5. Technological glitches in the past period and remedies taken.
6. Information security.
7. Upgradation of technology

(d) Financial Status / profitability of DPs

1. The net-worth of the DPs (whether reducing or increasing from previous years)
2. Net Profits of DPs operations.

(e) Complaints redressal

1. Complaint redressal system
2. Percentage of complaints pending and resolved.

(f) Other adverse findings

1. Actions taken by Stock exchange and SEBI / RBI with respect to other activities
2. Actions taken by other depository.

III. Total Score = Qualitative Score + Quantitative Score

08 Individual scrip wise price bands on non-F&O eligible scrip's in Index Derivatives

[Issued by the Securities and Exchange Board of India vide No. CIR/MRD/DP/04/2014 dated 06.02.2014.]

1. Vide circular no. SMDRPD/Policy/Cir-37/2001 dated June 28, 2001, stock exchanges had been advised to implement appropriate individual scrip wise price bands in either direction, for all scrips in the compulsory rolling settlement except for the scrips on which derivatives products are available or scrips included in indices on which derivatives products are available.
2. Subsequent to the recommendation of SMAC, as a measure to protect against excessive price movements, with respect to those scrips on which no derivatives products are available but which are part of Index Derivatives, it has been decided to implement appropriate individual scrip wise price bands upto 20% on such scrips.
3. Stock Exchanges are directed to:
 - a) implement provisions of this circular with effect from February 17, 2014.
 - b) take necessary steps to put in place systems for implementation of the circular, including necessary amendments to the relevant byelaws, rules and regulations.
 - c) bring the provisions of this circular to the notice of the trading members/clearing members and also disseminate the same on its website.
4. 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.

Yours faithfully,

Maninder Cheema
Deputy General Manager



09 Securities and Exchange Board Of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2014

[Issued by the Securities and Exchange Board of India vide No. LAD-NRO/GN/2013-14/44/226 and Published in The Gazette of India Extraordinary, Part – III – Section 4, dated 04.02.2014.]

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following Regulations to further amend the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, namely:-

1. These regulations may be called the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2014.
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 (Issue of Capital and Disclosure Requirements) Regulations, 2009, –
 - (i) in regulation 26, sub-regulation (7) shall be substituted with the following, namely-

"(7) An issuer making an initial public offer may obtain grading for such offer from one or more credit rating agencies registered with the Board."
 - (ii) in Schedule VIII,
 - (a) in Part A, in para (2),
 - (i) in sub-para (I), in clause (A), in sub-clause (2), in item (m), after the words "an initial public offer" and before the symbol ":", the words and symbols "(if applicable)" shall be inserted;
 - (ii) in sub-para (VI), in clause (B), in sub-clause (10), after the words "IPO Grading" and before the symbol ":", the words and symbol " , if applicable" shall be inserted;
 - (iii) in sub-para (IX), in clause (B), in sub-clause (9), in item (f), the illustrative format of Statement of Assets and Liabilities shall be substituted with the following, namely, –

As at March 31,...					
	20X1	20X2	20X3	20X4	20X5
(Rupees in lakhs)					
(1) Equity & Liabilities					
Shareholders' Funds					
(a) Share capital					
(b) Reserves & surplus					
(2) Non Current Liabilities					
(a) Long term borrowings					
(b) Deferred tax liabilities (net)					
(c) Long term provisions					
(3) Current Liabilities					
(a) Short term borrowings					
(b) Trade payables					
(c) Other current liabilities					
(d) Short term provisions					
Total					
Assets					
(4) Non Current Assets					
(a) Fixed Assets					
(b) Non current investments					
(c) Long term loans and advances					
(d) Other non current assets					
(5) Current Assets					
(a) Current Investments					
(b) Inventories					
(c) Trade receivables					
(d) Cash and bank balances					
(e) Short term loans and advances					
(f) Other current assets					
Total					

- (iv) in sub-para (XVI), in clause (A), in sub-clause (4), after the words "unlisted issuer", the words and symbol " , if applicable" shall be inserted.
- (b) in Part D, under the heading "Disclosures:" in para (X), in sub-para (A), after the words and symbol "in tabular format.", the words and symbols "(if applicable)" shall be inserted.
- (iii) in Schedule XIII,
 - (a) in Part A, in FORMAT OF PRE-ISSUE ADVERTISEMENT FOR PUBLIC ISSUE (FIXED PRICE/BOOK BUILT), after words "IPO GRADING", the words and symbols "(if applicable)" shall be inserted;



- (b) in Part B, in FORMAT OF ISSUE OPENING ADVERTISEMENT FOR PUBLIC ISSUE (FIXED PRICE/BOOK BUILT), after words "IPO GRADING", the words and symbols "(if applicable)" shall be inserted;
- (c) in Part C, in FORMAT OF ISSUE CLOSING ADVERTISEMENT FOR PUBLIC ISSUE (FIXED PRICE/BOOK BUILT), after words "IPO GRADING", the words and symbols "(if applicable)" shall be inserted.

U.K. Sinha
Chairman

10 Securities and Exchange Board of India (Issue and Listing of Debt Securities) (Amendment) Regulations, 2014

[Issued by the Securities and Exchange Board of India vide No. LAD-NRO/GN/2013-14/43/207 and Published in The Gazette of India Extraordinary, Part – Iii – Section 4, dated 31.01.2014.]

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following Regulations to further amend the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008, namely:

1. These regulations may be called the Securities and Exchange Board of India (Issue and Listing of Debt Securities) (Amendment) Regulations, 2014.
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 (Issue and Listing of Debt Securities) Regulations, 2008 -

(1) in regulation 2, in sub-regulation (1),-

- (i) after clause (g), the following clause shall be inserted, namely,-

"(ga) "net worth" shall have the same meaning as assigned to it in clause (57) of section 2 of the Companies Act, 2013;";

- (ii) in clause (j), the word "prospectus", shall be substituted with the words "a prospectus or a shelf prospectus";

- (iii) after clause (l), the following clause shall be inserted, namely,-

"(la) "shelf prospectus" shall have the same meaning as assigned to it in section 31 of the Companies Act, 2013;".

- (2) after regulation 6, following regulation shall be inserted, namely,-

"Filing of Shelf Prospectus."

6A. (1) Without prejudice to the regulation 6, following companies or entities may file shelf prospectus under section 31 of Companies Act, 2013 for public issuance of their debt securities,-

- a. Public financial institutions as defined under clause (72) of section 2 of the Companies Act, 2013, and scheduled banks as defined under clause (e) of section 2 of the Reserve Bank of India Act, 1934; or
- b. Issuers authorized by the notification of Central Board of Direct Taxes to make public issue of tax free secured bonds, with respect to such tax free bond issuances; or
- c. Infrastructure Debt Funds – Non-Banking Financial Companies regulated by Reserve Bank of India; or
- d. Non-Banking Financial Companies registered with Reserve Bank of India and Housing Finance Companies registered with National Housing Bank complying with the following criteria:
 - i. having a net worth of at-least Rs.500 crore, as per the audited balance sheet of the preceding financial year;
 - ii. having consistent track record of distributable profit for the last three years;
 - iii. securities issued under the shelf prospectus have been assigned a rating of not less than "AA-" category or equivalent by a credit rating agency registered with the Board;
 - iv. no regulatory action is pending against the company or its promoters or directors before the Board, Reserve Bank of India or National Housing Bank;
 - v. the issuer has not defaulted in the repayment of deposits or interest payable thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or repayment of any term loan or interest payable thereon to any public financial institution or banking company, in the last three financial years.



- or
- e. Listed entities complying with the following criteria:
- whose public issued equity shares or debt securities are listed on recognized stock exchange for a period of at least three years immediately preceding the issue and have been complying with the listing agreement entered into between the issuer and the recognized stock exchanges where the said securities of the issuer are listed;
 - having a net worth of at-least Rs.500 crore, as per the audited balance sheet of the preceding financial year;
 - having consistent track record of distributable profit for the last three years;
 - securities issued under the shelf prospectus have been assigned a rating of not less than "AA-" category or equivalent by a credit rating agency registered with the Board;
 - no regulatory action is pending against the company or its promoters or directors before the Board, Reserve Bank of India or National Housing Bank;
 - the issuer has not defaulted in the repayment of deposits or interest payable thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or repayment of any term banking company, in the last three financial years.
- (2) The issuer filing a shelf prospectus shall file a copy of an information memorandum with the recognised stock exchanges and the Board, immediately on filing the same with the Registrar.
- (3) The information memorandum shall contain the disclosures specified in Companies Act, 1956 or Companies Act, 2013, whichever is applicable and rules made thereunder and shall include disclosures regarding summary term sheet, material updations including revision in ratings, if any along with the rating rationale and financial ratios specified in Schedule I, indicating the pre and post issue change.
- (4) Not more than four issuances shall be made through a single shelf prospectus."

U. K. Sinha
Chairman

11

Change in Government Debt Investment Limits

[Issued by the Securities and Exchange Board of India vide No. CIR/IMD/FIIC/3/2014 dated 29.01.2014.]

- Government of India enhanced the Government debt investment limits by USD 5 billion in June 2013. Vide circular CIR/IMD/FIIC/8/2013 dated June 12, 2013, the additional limits of USD 5 billion were made available within the overall Government debt limit of USD 30 billion. This additional limit was made available only to FIIs which are registered with SEBI under the categories of Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks.
- Government of India has now decided to enhance this sub-limit from USD 5 billion to USD 10 billion within the overall Government debt limit of USD 30 billion, for FIIs which are registered with SEBI under the categories of Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks.
- In partial modification of para 2 of the SEBI circular CIR/IMD/FIIC/8/2013 dated June 12, 2013, it has now been decided to revise this limit from USD 5 billion to USD 10 billion within the overall Government debt limit of USD 30 billion.
- The Government debt investment limits shall now be as follows :

S. No.	Type of limit	Cap (US\$ bn)	Cap (INR Crore)	Eligible Investors	Remarks
1	Government Debt	20	99,546	FIIs and QFIs	Eligible investors may invest in Treasury Bills only up to US\$ 5.5 billion (INR 25,416 cr) within the limit of US\$ 20 billion



From the Government

2	Government Debt	10	54,023	Fills which are registered with SEBI under the categories of Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks	
	Total	30	153,569		

This circular shall come into effect immediately. This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992.

A copy of this circular is available at the web page "Circulars" on our website www.sebi.gov.in. Custodians are requested to bring the contents of this circular to the notice of their FII clients.

S Madhusudhanan
Deputy General Manager

12 Securities and Exchange Board of India (Collective Investment Schemes) (Amendment) Regulations, 2014

[Issued by the Securities and Exchange Board of India vide No. LAD-NRO/GN/2013-14/39/51 and Published in The Gazette of India Extraordinary, Part – III – Section 4, dated 09.01.2014.]

In exercise of the powers conferred by section 30 read with section 11 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to amend the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999, namely:-

1. These regulations may be called the Securities and Exchange Board of India (Collective Investment Schemes) (Amendment) Regulations, 2014.

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 (Collective Investment Schemes) Regulations, 1999

- (i) the term 'scheme' wherever occurring shall be substituted by the term 'collective investment scheme'.
- (ii) in sub-regulation (1) of regulation 2, clause (y) shall be omitted.
- (iii) after regulation 4, the following regulation shall be inserted, namely,-

"4A. Application by a scheme or arrangement deemed to be a collective investment scheme

4A. (1) Any person proposing to carry on or sponsor or launch any scheme or arrangement which would be deemed to be a collective investment scheme under the proviso to sub-section (1) of section 11AA of the Act, shall make an application for grant of registration as a Collective Investment Management Company in Form A:

Provided that any scheme or arrangement which is otherwise regulated or prohibited under any other law shall not be deemed to be a collective investment scheme.

(2) All other provisions of these regulations and the guidelines and circulars issued thereunder, shall apply to any scheme or arrangement deemed to be a collective investment scheme under the proviso to sub-section (1) of section 11AA of the Act."

- (iv) in regulation 11, after clause (f) the following shall be inserted, namely,

"(g) the Collective Investment Management Company shall enter into an agreement with a depository for dematerialization of the units of collective investment scheme proposed to be issued;

(h) all monies payable towards subscription of units of collective investment scheme shall be paid through cheque or demand draft or through any other banking channel, but not by cash;

(i) the Collective Investment Management Company shall comply with KYC (know your client) norms as specified by the Board."

- (v) after Chapter IX, the following Chapter shall be inserted, namely:



“Chapter IX A

Existing Schemes or Arrangements Deemed to be a Collective Investment Scheme

Existing schemes or arrangements deemed to be a collective investment scheme to obtain provisional registration

74A. (1) Any person who has been operating a scheme or arrangement deemed to be a collective investment scheme under the proviso to sub-section (1) of section 11AA of the Act at the time of commencement of the Securities and Exchange Board of India (Collective Investment Schemes) (Amendment) Regulations, 2014, shall be deemed to be an existing collective investment scheme and shall also comply with the provisions of Chapter IX:

Provided that any scheme or arrangement which is otherwise regulated or prohibited under any other law shall not be deemed to be a collective investment scheme.

Explanation: The expression ‘operating a scheme or arrangement deemed to be a collective investment scheme’ shall include carrying out the obligations undertaken in the various documents entered into with the investors who have subscribed to the scheme or arrangement.

(2) An existing collective investment scheme shall make an application to the Board in the manner specified in regulation 5.”

U.K. Sinha
Chairman

13

Securities and Exchange Board of India (Investor Protection and Education Fund) (Amendment) Regulations, 2014

[Issued by the Securities and Exchange Board of India vide No. LAD-NRO/GN/2013-14/38/49 and Published in The Gazette of India Extraordinary, Part – III – Section 4, dated 09.01.2014.]

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following Regulations to amend the Securities and Exchange Board of India (Investor Protection and Education Fund) Regulations, 2009, namely:-

1. These regulations may be called the Securities and Exchange Board of India (Investor Protection and Education Fund) (Amendment) Regulations, 2014.
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 (Investor Protection and Education Fund) Regulations, 2009, –

(i) in regulation 4,-

- (a) for clause (c), the following shall be substituted, namely,-

“(c) proceeds in accordance with the sub-clause (ii) of clause(e) of sub - regulation (10) of regulation 17 and sub-regulation (3) of regulation 21 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011”;

- (b) clauses “(f)” and “(g)” shall respectively be renumbered as clauses “(i)” and “(j)”;

- (c) after clause (e), the following clauses shall be inserted, namely,-

“(f) amounts forfeited for non-fulfilment of obligations specified in regulation 15B of the Securities and Exchange Board of India (Buy-back of Securities) Regulations, 1998;

- (g) monies transferred in accordance with sub-regulation (9) of regulation 45 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;

- (h) amounts disgorged under section 11B of the Act or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996. “.

(ii) in regulation 5, after sub-regulation (2), the following sub-regulation shall be inserted, namely,-

“(3) Notwithstanding the provisions of sub-regulations (1) and (2), amounts disgorged and credited to the Fund in accordance with clause (h) of regulation 4 of these regulations and the interest accrued thereon shall, in cases where the Board deems fit to make restitution to eligible and identifiable investors who have suffered losses resulting from violation of securities laws, be utilised only for the purposes of such restitution:

Provided that monies left in the Fund after earmarking the amount for the process of restitution to eligible and identifiable investors may be utilised for the purposes of the Fund specified in sub-regulations (1) and (2):

Provided further that no claim for restitution from the disgorged amounts in a specific case shall be admissible after a period of seven years from the date of invitation of claims for disgorgement in the said case by the Board.”

U.K. Sinha
Chairman





14 Company Law Board Regulations 1991 - Insertion of New Regulation 51

[Issued by Company Law Board vide File No. 10/36/2001-CLB dated 20.2.2014.]

Order

In exercise of the powers conferred by sub-section (4B) and sub-section (6) of Section 10(E) of the Companies Act, 1956 (1 of 1956) the Company Law Board hereby makes the following Regulations further to amend the Company Law Board Regulations, 1991, namely :-

1. In CHAPTER IV of the Company Law Board Regulations, 1991, (Hereinafter referred to as the said regulations) after Regulation 50, the following Regulation shall be inserted namely :-
“51. Restriction on Audio or Video Recording by the parties: - There shall be no audio or video recording of the Benchproceedings by the parties.”
2. This order shall come into force with immediate effect.

By Order of the Company Law Board

P.K. Malhotra
Secretary, Company Law Board

CONGRATULATIONS



D.K. Sarraf

Managing Director, ONGC Videsh Limited

Mr. D.K. Sarraf (56) is the Managing Director and CEO of ONGC Videsh Limited, which position he took over in September, 2011. Prior to this he was ONGC's Director (Finance) from December 2007. He has held the position of Director (Finance) of ONGC Videsh also in the past for about 3 years. He has been elevated to the position of Chairman & Managing Director of Oil and Natural Gas Corporation Ltd., a Maharatna Company. He has experience of three decades in the oil and gas industry, having started his oil and gas career and worked till 1991 in Oil India Limited, where he got the experience in various facets of E&P at oil field level.

He handled a variety of key assignments at corporate offices in ONGC. These included, restructuring ONGC from a statutory commission into a commercial corporation, including its financial restructuring and valuation. Mr. Sarraf played key roles in negotiation and conclusion of acquisition transactions in Syria, Brazil, Colombia, Venezuela, Cuba, Egypt and Myanmar as Director (Finance). In recognition to his achievements, he was given the Best CFO Award in Oil & Gas sector in India by CNBC in 2009 and 2011. Mr. Sarraf has, during last two years, been successful in completing acquisition of a stake in a producing field in Azerbaijan and finalizing major transactions in Mozambique and Brazil. Under his leadership, ONGC Videsh has also been successful in winning two exploration blocks each in Bangladesh, Colombia and Myanmar.



STOP PRESS

15 Amendments to Schedule VII of the Companies Act, 2013

[Issued by Ministry of Corporate Affairs vide File No. 1/15/2013-CL-V dated 27.2.2014.]

In exercise of the powers conferred by sub-section (1) of section 467 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following amendments to Schedule VII of the said Act, namely:-

- (1) In Schedule VII, for items (i) to (x) and the entries relating thereto, the following items and entries shall be substituted, namely:-
 - “(i) eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation and making available safe drinking water;
 - (ii) promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects;
 - (iii) promoting gender equality, empowering women, setting up homes and hostels for women and orphans setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups;
 - (iv) ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water;
 - (v) protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts;
 - (vi) measures for the benefit of armed forces veterans, war widows and their dependents;
 - (vii) training to promote rural sports, nationally recognised sports, paralympic sports and Olympic sports;
 - (viii) contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;
 - (ix) contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government;
 - (x) rural development projects.”
2. This notification shall come into force with effect from 1st April, 2014.

Renuka Kumar

Joint Secretary to the Government of India

16 Companies (Corporate Social Responsibility Policy) Rules, 2014

[Issued by Ministry of Corporate Affairs vide File No. 1/15/2013-CL-V dated 27.2.2014.]

In exercise of the powers conferred under section 135 and sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely: -

1. **Short title and commencement.** – (1) These rules may be called the Companies (Corporate Social Responsibility Policy) Rules, 2014.
(2) They shall come into force on the 1st day of April, 2014.
2. **Definitions.** - (1) In these rules, unless the context otherwise requires, -
 - (a) “Act” means the Companies Act, 2013;
 - (b) “Annexure” means the Annexure appended to these rules;
 - (c) “Corporate Social Responsibility (CSR)” means and includes but is not limited to :-
 - (i) Projects or programs relating to activities specified in Schedule VII to the Act; or
 - (ii) Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the CSR Committee of the Board as per declared CSR Policy of the company subject to the condition that such policy will cover subjects enumerated in Schedule VII of the Act.
 - (d) “CSR Committee” means the Corporate Social Responsibility Committee of the Board referred to in section 135 of the Act.
 - (e) “CSR Policy” relates to the activities to be undertaken by the company as specified in Schedule VII to the Act and the expenditure thereon, excluding activities undertaken in pursuance of normal course of business of a company;
 - (f) “Net profit” means the net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act, but shall not include the following, namely :-
 - (i) any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and
 - (ii) any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act: Provided that net profit in respect of a financial year for which the relevant financial statements were prepared in accordance with the provisions of the Companies Act, 1956, (1 of 1956) shall not be required to be re-calculated in accordance with the provisions of the Act:





From the Government

Provided further that in case of a foreign company covered under these rules, net profit means the net profit of such company as per profit and loss account prepared in terms of clause (a) of sub-section (1) of section 381 read with section 198 of the Act.

- (2) Words and expressions used and not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.

3. Corporate Social Responsibility. -

- (1) Every company including its holding or subsidiary, and a foreign company defined under clause (42) of section 2 of the Act having its branch office or project office in India, which fulfills the criteria specified in sub-section (1) of section 135 of the Act shall comply with the provisions of section 135 of the Act and these rules:

Provided that net worth, turnover or net profit of a foreign company of the Act shall be computed in accordance with balance sheet and profit and loss account of such company prepared in accordance with the provisions of clause (a) of sub-section (1) of section 381 and section 198 of the Act.

- (2) Every company which ceases to be a company covered under sub-section (1) of section 135 of the Act for three consecutive financial years shall not be required to -
- constitute a CSR Committee; and
 - comply with the provisions contained in sub-section (2) to (5) of the said section,

till such time it meets the criteria specified in sub-section (1) of section 135.

4. CSR Activities.-

- The CSR activities shall be undertaken by the company, as per its stated CSR Policy, as projects or programs or activities (either new or ongoing), excluding activities undertaken in pursuance of its normal course of business.
- The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through a registered trust or a registered society or a company established by the company or its holding or subsidiary or associate company under section 8 of the Act or otherwise: Provided that—
 - if such trust, society or company is not established by the company or its holding or subsidiary or associate company, it shall have an established track record of three years in undertaking similar programs or projects;
 - the company has specified the project or programs to be undertaken through these entities, the modalities of utilization of funds on such projects and programs and the monitoring and reporting mechanism.
- A company may also collaborate with other companies for

undertaking projects or programs or CSR activities in such a manner that the CSR Committees of respective companies are in a position to report separately on such projects or programs in accordance with these rules.

- Subject to provisions of sub-section (5) of section 135 of the Act, the CSR projects or programs or activities undertaken in India only shall amount to CSR Expenditure.
- The CSR projects or programs or activities that benefit only the employees of the company and their families shall not be considered as CSR activities in accordance with section 135 of the Act.
- Companies may build CSR capacities of their own personnel as well as those of their Implementing agencies through Institutions with established track records of at least three financial years but such expenditure shall not exceed five percent. of total CSR expenditure of the company in one financial year.
- Contribution of any amount directly or indirectly to any political party under section 182 of the Act, shall not be considered as CSR activity.

5. CSR Committees.-

- The companies mentioned in the rule 3 shall constitute CSR Committee as under.-
 - an unlisted public company or a private company covered under sub-section (1) of section 135 which is not required to appoint an independent director pursuant to sub-section (4) of section 149 of the Act, shall have its CSR Committee without such director ;
 - a private company having only two directors on its Board shall constitute its CSR Committee with two such directors;
 - with respect to a foreign company covered under these rules, the CSR Committee shall comprise of at least two persons of which one person shall be as specified under clause (d) of sub-section (1) of section 380 of the Act and another person shall be nominated by the foreign company.
- The CSR Committee shall institute a transparent monitoring mechanism for implementation of the CSR projects or programs or activities undertaken by the company.

6. CSR Policy.-

- The CSR Policy of the company shall, inter-alia, include the following, namely :-
 - a list of CSR projects or programs which a company plans to undertake falling within the purview of the Schedule VII of the Act, specifying modalities of execution of such project or programs and implementation schedules for the same; and
 - monitoring process of such projects or programs:

Provided that the CSR activities does not include the activities undertaken in pursuance of normal course of business of a company.



Provided further that the Board of Directors shall ensure that activities included by a company in its Corporate Social Responsibility Policy are related to the activities included in Schedule VII of the Act.

- (2) The CSR Policy of the company shall specify that the surplus arising out of the CSR projects or programs or activities shall not form part of the business profit of a company.

7. CSR Expenditure.

CSR expenditure shall include all expenditure including contribution to corpus for projects or programs relating to CSR activities approved by the Board on the recommendation of its CSR Committee, but does not include any expenditure on an item not in conformity or not in line with activities which fall within the purview of Schedule VII of the Act.

8. CSR Reporting.-

- (1) The Board's Report of a company covered under these rules pertaining to a financial year commencing on or after the 1st day of April, 2014 shall include an annual report on CSR containing particulars specified in Annexure.
- (2) In case of a foreign company, the balance sheet filed under sub-clause (b) of sub-section (1) of section 381 shall contain an Annexure regarding report on CSR.

9. Display of CSR activities on its website. -

The Board of Directors of the company shall, after taking into account the recommendations of CSR Committee, approve the CSR Policy for the company and disclose contents of such policy in its report and the same shall be displayed on the company's website, if any, as per the particulars specified in the Annexure.

Renuka Kumar

Joint Secretary to the Government of India

Annexure

Format For The Annual Report On Csr Activities To Be Included In The Board's Report

1. A brief outline of the company's CSR policy, including overview of projects or programs proposed to be undertaken and a reference to the web-link to the CSR policy and projects or programs.
2. The Composition of the CSR Committee.
3. Average net profit of the company for last three financial years
4. Prescribed CSR Expenditure (two per cent. Of the amount as in item 3 above)
5. Details of CSR spent during the financial year.
 - (a) Total amount to be spent for the financial year;
 - (b) Amount unspent, if any;
 - (c) Manner in which the amount spent during the financial year is detailed below.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
S. No	CSR project or activity identified.	Sector in which the Project is covered.	Projects or programs (1) Local area or other (2) Specify the State and district where projects or programs was undertaken.	Amount outlay (budget) project or programs wise	Amount spent on the projects or programs Sub-heads: (1)Direct expenditure on projects or programs. (2)Over-heads:	Cumulative expenditure upto to the reporting period.	Amount spent: Direct or through implementing agency
1							
2							
3							
	TO-TAL						

*Give details of implementing agency:

6. In case the company has failed to spend the two per cent. of the average net profit of the last three financial years or any part thereof, the company shall provide the reasons for not spending the amount in its Board report.

A responsibility statement of the CSR Committee that the implementation and monitoring of CSR Policy, is in compliance with CSR objectives and Policy of the company.

Sd/- (Chief Executive Officer or Managing Director or Director)	Sd/- (Chairman CSR Committee)	Sd/- (Person specified under clause (d) of sub-section (1) of section 380 of the Act) (wherever applicable)
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17 Date of coming into force the provisions of section 135 and Schedule VII of the Companies Act, 2013

[Issued by Ministry of Corporate Affairs vide File No. 1 /15 /2013-CL. V dated 27.2.2014.]

In exercise of the powers conferred by sub-section (3) of section 1 of the Companies Act, 2013 (18 of 2013), the Central Government hereby appoints the 1st day of April, 2014 as the date on which the provisions of section 135 and Schedule VII of the said Act shall come into force.

Renuka Kumar

Joint Secretary to the Government of India





Economic Laws

18 Policy on foreign investment in the Insurance Sector- amendment of paragraph 6.2.17.7 of Circular 1 of 2013-Consolidated FDI Policy'

[Issued by the Ministry of Commerce and Industry (DIPP) vide No. Press Note No. 2 (2014 Series) dated: 04.02.2014.]

01. Present Position:

As per paragraph 6.2.17.7 of the 'Consolidated FDI Policy, effective from 5 April, 2013', FDI, up to 26%, under the automatic route, is permitted in the insurance sector subject to the following conditions:

- (1) FDI in the Insurance sector, as prescribed in the Insurance Act, 1938, is allowed under the automatic route.
- (2) This will be subject to the condition that Companies bringing in FDI shall obtain necessary license from the Insurance Regulatory & Development Authority for undertaking insurance activities.

02. Revised Position:

Paragraph 6.2.17.7 of the 'Consolidated FDI Policy, effective from 5 April, 2013', is replaced by the following:

S.No.	Sector/ Activity	% of FDI Cap/ Equity	Entry route
6.2.17.7	Insurance		
6.2.17.7.1	(i) Insurance Company (ii) Insurance Brokers (iii) Third party Administrators (iv) Surveyors and Loss Assessors	26% (FDI+FII+NRI)	Automatic
6.2.17.7.2	Other conditions		

- (1) FDI in the Insurance sector, as prescribed in the Insurance Act, 1938, is allowed under the automatic route.
- (2) This will be subject to the condition that Companies bringing in FDI shall obtain necessary license from the Insurance Regulatory & Development Authority for undertaking insurance activities.
- (3) The provisions of paragraphs 6.2.17.2.2(4)(i) (c) & (e), relating to 'Banking - Private Sector', shall be applicable in respect of bank promoted insurance companies.
- (4) Indian Insurance Company is defined as a company:
 - (a) which is formed and registered under the Companies Act, 1956;
 - (b) in which the aggregate holdings of equity shares by a foreign company Either by itself or through its subsidiary companies or its nominees, do not exceed 26% paid-up equity capital of such Indian insurance company;
 - (c) whose sole purpose is to carry on life insurance business or re-insurance business.
- (5) As per IRDA (Insurance Brokers) Regulations, 2002, "insurance broker" means a person for the time-being licensed by the Authority under regulation 11, who for remuneration arranges insurance contracts with insurance companies and/or reinsurance companies on behalf of his clients.
- (6) As per IRDA (TPA - Health Services) Regulations, 2001, "TPA" means a Third Party Administrator who, for the time being, is licensed by the Authority, and is engaged, for a fee or remuneration, by whatever name called as may be specified in the agreement with an insurance company, for the provision of health services.
- (7) Surveyors and Loss Assessors will be governed by the IRDA Insurance Surveyors and Loss Assessors (Licencing, Professional Requirements and Code of Conduct) Regulations, 2000.

3.0 The above decision will take immediate effect.

Anjali Prasad

Additional Secretary to the Government of India



19

Review of the existing policy on Foreign Direct Investment in the Pharmaceuticals Sector

[Issued by the Ministry of Commerce and Industry (DIPP) vide No. Press Note No. 1(2014 Series) dated 08.01.2014.]

1.0 Present Position:

- 1.1 Paragraph 6.2.18 of 'Circular 1 of 2013-Consolidated FDI Policy', effective from April 5, 2013, relating to the Foreign Direct Investment policy in the Pharmaceuticals sector is as under:

6.2.18	Pharmaceuticals		
6.2.18.1	Greenfield	100%	Automatic
6.2.18.2	Brown field	100%	Government
	Note: Government may incorporate appropriate conditions for FDI in brown field cases, at the time of granting approval.		

2.0 Reviewed Position:

- 2.1 The Government of India has reviewed the position in this regard and decided that the existing policy would continue with the condition that 'non-compete' clause would not be allowed except in special circumstances with the approval of the Foreign Investment Promotion Board.
- 3.0 The above decision will take immediate effect.

Anjali Prasad

Additional Secretary to the Government of India



News From the Institute



Institute News

Members Admitted

S. No.	Name	Membership No.	Region
Fellows*			
1	Sh. Shubhendu Tewari	FCS - 7457	WIRC
2	Sh. Abhishek Bansal	FCS - 7458	NIRC
3	Ms. Nidhi Mahaveer Mehta	FCS - 7459	WIRC
4	Sh. Manoj Kumar Srivastava	FCS - 7460	WIRC
5	Sh. Lakshmisha Babu S	FCS - 7461	SIRC
6	Sh. Vipul N Bhuta	FCS - 7462	WIRC
7	Sh. Yogesh R Chhabra	FCS - 7463	NIRC
8	Ms. Ritu Garg	FCS - 7464	NIRC
9	Sh. Hareram Hazra	FCS - 7465	EIRC
10	Ms. Puneeta V Arora	FCS - 7466	NIRC
11	Ms. Pooja Babbar	FCS - 7467	NIRC
12	Sh. Sreeraj M	FCS - 7468	SIRC
13	Ms. Priya Kiran Shah	FCS - 7469	WIRC
14	Sh. P R Sriraman	FCS - 7470	SIRC
15	Sh. Hemant Gupta	FCS - 7471	NIRC
16	Sh. Ravi Dabral	FCS - 7472	NIRC
17	Sh. Nalin Kumar Asthana	FCS - 7473	NIRC
18	Mr. C Sridaran	FCS - 7474	SIRC
19	Sh. Bijoy Prabhakaran Pulipra	FCS - 7475	SIRC
20	Sh Aswini Kumar Sahu	FCS - 7476	NIRC
21	Ms. Megha Gupta	FCS - 7477	WIRC
22	Ms Prajakta Vasant Padhye	FCS - 7478	WIRC
23	Sh Bhagwati Charan	FCS - 7479	NIRC
24	Sh Subir Kumar	FCS - 7480	EIRC
25	Ms. Tanu Garg	FCS - 7481	NIRC
26	Sh. Rajendra Sahay Shrivastava	FCS - 7482	WIRC
27	Sh. Aditya Kurundkar	FCS - 7483	WIRC
28	Sh. A Visweswara Rao	FCS - 7484	SIRC
29	Ms. Rammaa Krishna Kumar	FCS - 7485	SIRC
30	Ms. Ritu Goyal	FCS - 7486	NIRC

* Admitted on 20th January 2014, 31st January 2014 and 10th February 2014

Associates*

1	Ms. Dipti Ladia	ACS - 34794	EIRC
2	Ms. Archana Singh	ACS - 34795	EIRC
3	Ms. Shruti Pandey	ACS - 34796	EIRC
4	Ms. Shruti Mehra	ACS - 34797	EIRC
5	Ms. Pragati Bhotika	ACS - 34798	EIRC
6	Ms. Kamini Maher	ACS - 34799	NIRC
7	Mr. Mukesh Suthar	ACS - 34800	NIRC
8	Mr. Udit Verma	ACS - 34801	NIRC
9	Ms. Preeti S Nair	ACS - 34802	NIRC
10	Ms. Anuradha Srivastava	ACS - 34803	NIRC
11	Ms. Parneet Kaur	ACS - 34804	NIRC
12	Mr. Chetan	ACS - 34805	NIRC
13	Mr. Tarun Kumar Garg	ACS - 34806	NIRC
14	Mr. Ashish Aggarwal	ACS - 34807	NIRC
15	Ms. Priya	ACS - 34808	NIRC
16	Mr. Lakshay Khanna	ACS - 34809	NIRC
17	Ms. Leena Chawla	ACS - 34810	NIRC
18	Mr. Pavan Kumar Gupta	ACS - 34811	NIRC
19	Ms. Sugandha Garg	ACS - 34812	NIRC
20	Ms. Shipra Kamra	ACS - 34813	NIRC
21	Mr. Rahul Jain	ACS - 34814	NIRC
22	Mr. Atul Kumar Modi	ACS - 34815	NIRC
23	Mr. Ashish Jain	ACS - 34816	NIRC
24	Ms. Anuja Bansal	ACS - 34817	NIRC
25	Mr. Kamran Khan	ACS - 34818	NIRC
26	Ms. Shakti Chawla	ACS - 34819	NIRC
27	Mr. D K D Prasad	ACS - 34820	SIRC
28	Ms. Iyshwarya R	ACS - 34821	SIRC
29	Ms. Neethu Ajay	ACS - 34822	SIRC
30	Mr. Dhaval Hasmukharay Mirani	ACS - 34823	WIRC
31	Ms. Avani Pravinbhai Maru	ACS - 34824	WIRC
32	Mr. Tejas Deepak Varvadkar	ACS - 34825	WIRC
33	Mr. Ajay Deepak Vadnerkar	ACS - 34826	WIRC
34	Mr. Manoj Kishorlal Vasandani	ACS - 34827	WIRC
35	Mr. Kaustubh Nagesh Marathe	ACS - 34828	WIRC
36	Mr. Tejas Devendra Shah	ACS - 34829	WIRC
37	Mr. Udit Kamalchandra Kothari	ACS - 34830	WIRC
38	Ms. Disha Deepak Shah	ACS - 34831	WIRC
39	Mr. Harshal Samirbhai Agrawal	ACS - 34832	WIRC
40	Ms. Khan Rehana Kamil	ACS - 34833	WIRC
41	Ms. Jagrati Rathi	ACS - 34834	NIRC
42	Ms. Meenal Bhushan Dani	ACS - 34835	WIRC
43	Mr. Ronak Murlidharbhai Khanvani	ACS - 34836	WIRC
44	Mr. Dhanraj Krishna Saliyan	ACS - 34837	WIRC
45	Ms. Priya Hiralal Agrawal	ACS - 34838	WIRC
46	Mr. Nilay Pravinchandra Modi	ACS - 34839	WIRC
47	Mr. Shwetank Patni	ACS - 34840	NIRC
48	Mr. M Muthusamy	ACS - 34841	SIRC
49	Mr. Gopal Goenka	ACS - 34842	EIRC
50	Mr. Raj Kumar	ACS - 34843	NIRC



51	Ms. Khusboo Srivastava	ACS - 34844	NIRC	102	Mr. Kamlesh Purviya	ACS - 34895	WIRC
52	Ms. Nikita Singhal	ACS - 34845	NIRC	103	Ms. Nikita Mohan Galani	ACS - 34896	WIRC
53	Ms. Sadichcha Satish Pawar	ACS - 34846	WIRC	104	Ms. Saloni Deepakbhai Shah	ACS - 34897	WIRC
54	Mr. Mayankkumar Chimanbhai Padiya	ACS - 34847	WIRC	105	Ms. Amruta Jeevan Joshi	ACS - 34898	WIRC
55	Ms. Madhumita Sarkar	ACS - 34848	EIRC	106	Mr. Ravinder Pal Singh	ACS - 34899	NIRC
56	Ms. Savita Kumari Agrawal	ACS - 34849	EIRC	107	Mr. Krishnan G.	ACS - 34900	WIRC
57	Mrs. Milan Bhatia	ACS - 34850	EIRC	108	Mr. Rajiv Kumar Kamra	ACS - 34901	NIRC
58	Ms. Dikshita Kundalia	ACS - 34851	EIRC	109	Mrs. Jyoti Chettri	ACS - 34902	EIRC
59	Mr. Deepak Ramtri	ACS - 34852	NIRC	110	Mr. Preyash Hemendra Parekh	ACS - 34903	WIRC
60	Mr. Dipendra Chaudhary	ACS - 34853	NIRC	111	Mr. Nandkumar Dadaso Patil	ACS - 34904	WIRC
61	Ms. Parul Choudhary	ACS - 34854	NIRC	112	Mr. Sandeepkumar Gopalji Bhanushali	ACS - 34905	WIRC
62	Ms. Priyanka Harnotia	ACS - 34855	NIRC	113	Ms. Suvarna Baburao Hedau	ACS - 34906	WIRC
63	Mr. Md Tanveer Alam	ACS - 34856	NIRC	114	Ms. Sweta Sinha	ACS - 34907	EIRC
64	Ms. Navneet Kaur Chandok	ACS - 34857	NIRC	115	Mr. Santosh Kumar Jha	ACS - 34908	EIRC
65	Mr. Manmohan Pareek	ACS - 34858	NIRC	116	Mr. Sirish Jain	ACS - 34909	EIRC
66	Ms. Sheetal Bharti	ACS - 34859	NIRC	117	Ms. Priti Agarwal	ACS - 34910	EIRC
67	Ms. Kamna Chauhan	ACS - 34860	NIRC	118	Ms. Priyanka Bhauwala	ACS - 34911	EIRC
68	Mr. Prakash Darak	ACS - 34861	NIRC	119	Ms. Ankita Jain	ACS - 34912	EIRC
69	Ms. Anshita Agarwal	ACS - 34862	NIRC	120	Mrs. Sudha Agarwal	ACS - 34913	EIRC
70	Mr. Shashank Chaturvedi	ACS - 34863	NIRC	121	Ms. Priti Bansal	ACS - 34914	EIRC
71	Mr. Rishi Gupta	ACS - 34864	NIRC	122	Ms. Sreya Mitra	ACS - 34915	EIRC
72	Mr. Mayank Bansal	ACS - 34865	NIRC	123	Ms. Kirti Jain	ACS - 34916	EIRC
73	Ms. Chanchal Nandlal Mittal	ACS - 34866	NIRC	124	Mr. Jay Prakash Lahoti	ACS - 34917	EIRC
74	Ms. Devika Sharma	ACS - 34867	NIRC	125	Ms. Swati Rampuria	ACS - 34918	EIRC
75	Ms. Payal Jain	ACS - 34868	NIRC	126	Ms. Sejal Kishor Adhia	ACS - 34919	EIRC
76	Ms. Shrutika Khandelwal	ACS - 34869	NIRC	127	Ms. Sohini Chatterjee	ACS - 34920	EIRC
77	Ms. Tanisha Yadav	ACS - 34870	NIRC	128	Mr. Gaurav Aggarwal	ACS - 34921	NIRC
78	Ms. Bharti Makhija	ACS - 34871	NIRC	129	Ms. Sakshi Aggarwal	ACS - 34922	NIRC
79	Ms. Urvashi Aggarwal	ACS - 34872	NIRC	130	Ms. Shilpa Bansal	ACS - 34923	NIRC
80	Ms. Shalu Pansari	ACS - 34873	NIRC	131	Ms. Natasha Mittal	ACS - 34924	NIRC
81	Ms. Lakshmi Pradeep	ACS - 34874	SIRC	132	Ms. Saamra Rizvi	ACS - 34925	NIRC
82	Mr. Kiran Bhimappa Desai	ACS - 34875	SIRC	133	Mr. Gavendra Singh	ACS - 34926	NIRC
83	Mr. Karthik S N	ACS - 34876	SIRC	134	Ms. Nitanshu Gandhi	ACS - 34927	NIRC
84	Mr. Siddhartha Sudhir Shevde	ACS - 34877	WIRC	135	Mr. Karan Vir Bindra	ACS - 34928	NIRC
85	Ms. Priya Shridhar Shetty	ACS - 34878	WIRC	136	Mr. Devesh Kumar	ACS - 34929	NIRC
86	Mr. Vikas Achyut Pethe	ACS - 34879	WIRC	137	Ms. Vanita Arora	ACS - 34930	NIRC
87	Ms. Mithila Mohan Rathod	ACS - 34880	WIRC	138	Ms. Sunita Kumari	ACS - 34931	NIRC
88	Ms. Snehal Ramesh Ghatpande	ACS - 34881	WIRC	139	Ms. Meenu Gupta	ACS - 34932	NIRC
89	Ms. Avni Rajanbhai Desai	ACS - 34882	WIRC	140	Mr. Mukul Sharma	ACS - 34933	NIRC
90	Ms. Sayalee Laxman Kulkarni	ACS - 34883	WIRC	141	Ms. Rimpay	ACS - 34934	NIRC
91	Mr. Rahul Agrawal	ACS - 34884	WIRC	142	Ms. Divya Choudhary	ACS - 34935	NIRC
92	Mr. Padamsinh Balasaheb Patil	ACS - 34885	WIRC	143	Ms. Neha Agarwal	ACS - 34936	NIRC
93	Mr. Sumit Ashokkumar Bulchandani	ACS - 34886	WIRC	144	Mr. Khem Chand	ACS - 34937	NIRC
94	Mr. Shaileshkumar Pritambhai Koshti	ACS - 34887	WIRC	145	Ms. Nikita Taneja	ACS - 34938	EIRC
95	Ms. Prachi Manoj Bajaj	ACS - 34888	WIRC	146	Ms. Ritika Agarwal	ACS - 34939	NIRC
96	Ms. Sharvari Suhas Khadke	ACS - 34889	WIRC	147	Ms. Anubha Samariya	ACS - 34940	NIRC
97	Mr. Anay Nitin Kembhavi	ACS - 34890	WIRC	148	Ms. Vandana Gupta	ACS - 34941	NIRC
98	Ms. Jinal Shailesh Shah	ACS - 34891	WIRC	149	Ms. Prachi Dua	ACS - 34942	NIRC
99	Ms. Megha Jain	ACS - 34892	WIRC	150	Mr. Pritesh Sanjay Sonawane	ACS - 34943	WIRC
100	Ms. Nidhi Mahendrakumar Shah	ACS - 34893	WIRC	151	Ms. Heta Maheshbhai Vashi	ACS - 34944	WIRC
101	Ms. Bhumi Vipul Shah	ACS - 34894	WIRC	152	Mr. Ravi Raj Satya Narayan Sah	ACS - 34945	WIRC



27	Sh Gyan Chandra Misra	ACS-15606	NIRC	2	Mr. Indra Jeet Yadav	ACS - 33994	12810 NIRC
28	Sh Jayesh Kumar N Sanghrajka	ACS-6403	WIRC	3	Sh. Sachin Naveen Sinha	ACS - 24045	12811 WIRC
29	Ms Shilpi Saxena	ACS-20014	WIRC	4	Mr. Akshay Dilip Paranjape	ACS - 34556	12812 WIRC
30	Sh H R Patel	ACS-1624	WIRC	5	Ms. Kiran Kumari	ACS - 32855	12813 NIRC
31	Sh Samir Kr Kotak	ACS-16442	WIRC	6	Mr. Sumit Ghai	ACS - 34637	12814 NIRC
32	Sh Rakesh Awasthi	ACS-10075	WIRC	7	Ms. Ashmika Poddar	ACS - 31954	12815 EIRC
33	Sh Kamlesh Lalit Ratadia	ACS-14750	WIRC	8	Mr. Kavindra Kumar Gupta	ACS - 33533	12816 NIRC
34	Ms Dipti Dilip Joshi	ACS-21676	WIRC	9	Mr. Kamala Kanta Giri	ACS - 34449	12817 EIRC
35	Sh Rakesh Borar	ACS-9046	NIRC	10	Sh. Jatinkumar Devendra Kumar Bhavsar	ACS - 25835	12818 WIRC
36	Sh K Gururaj	ACS-11918	SIRC	11	Mr. Nitesh Kumar Ranga	ACS - 33166	12819 NIRC
37	Sh Mukesh Kr Rustagi	ACS-11605	NIRC	12	Mr. Malay Mukeshbhai Shah	ACS - 28281	12820 WIRC
38	Ms Moksha Umesh Kotian	ACS-23946	WIRC	13	Ms. Tannushree	ACS - 32039	12821 NIRC
39	Ms Namrata Madan	ACS-16463	NIRC	14	Mr. Ajinkya Rajendra Gandhi	ACS - 34452	12822 WIRC
40	Ms Sharmila Somani	ACS-20767	WIRC	15	Mr. Aakash Ravindra Kathale	ACS - 34524	12823 WIRC
41	Ms Promila Aggarwal	ACS-32287	NIRC	16	Ms. Amita Gola	FCS - 5318	12824 NIRC
42	Sh B Krishnamurthy	ACS-5792	SIRC	17	Mr. Pranav Vitthal Mehta	ACS - 33576	12825 WIRC
43	Sh K Sekhar	ACS-10953	SIRC	18	Ms. Sapna Heerachand Jain	ACS - 24524	12826 NIRC
44	Sh Tarun Kr Chaurasia	ACS-21141	NIRC	19	Ms. Tabassum Ruwabali Khan	ACS - 34626	12827 WIRC
45	Sh Sanjay Tulsio Wadhwa	ACS-18155	WIRC	20	Ms. Trupti Ravikant Chavan	ACS - 32200	12828 WIRC
46	Sh R Venkatramani	ACS-182	SIRC	21	Mr. Shinto Stanly	ACS - 30860	12829 SIRC
47	Sh V Natarajan	ACS-9961	EIRC	22	Mr. Manish	ACS - 34487	12830 NIRC
48	Ms Manisha Gupta	ACS-15928	NIRC	23	Sh. N H Venkataraman	ACS - 25951	12831 SIRC
49	Sh Suneel Bhat	ACS-25522	NIRC	24	Mr. Vijay Mahenderabhai Dakshini	ACS - 34688	12832 WIRC
50	Sh Hitesh Jayantilal Desai	ACS-3870	WIRC	25	Ms. Puja Biyani	ACS - 34670	12833 EIRC
51	Sh Abdul Nadeem Mohammad	ACS-19171	WIRC	26	Ms. Deepa Sharma	ACS - 34333	12834 NIRC
52	Sh K V Srinivasan	ACS-16904	WIRC	27	Mr. Mohammad Khalid	ACS - 34335	12835 NIRC
53	Sh Vishwas Chandrakant Raje	ACS-3862	WIRC	28	Ms. Shalini Misra	ACS - 34325	12836 NIRC
54	Sh Sumit Gupta	ACS-17001	NIRC	29	Ms. Sonal Kanungo	ACS - 20950	12837 WIRC
55	Sh Sanjeev Dahiya	ACS-17028	NIRC	30	Mrs. Smita Tripathi	ACS - 23438	12838 SIRC
56	Sh Deepak Sankhla	ACS-12257	WIRC	31	Mr. Kundan Kumar Mishra	ACS - 34501	12839 NIRC
57	Sh Vishal Almal	ACS-14260	SIRC	32	Ms. Sapna Gupta	ACS - 31087	12840 WIRC
58	Sh Nagesh Babu K C	ACS-23325	SIRC	33	Mr. Gaurav Karwa	ACS - 34499	12841 NIRC
59	Sh K R Ramesh	ACS-11784	SIRC	34	Ms. Harini V	ACS - 34757	12842 SIRC
60	Sh Vinod Kr Mehrotra	FCS-4303	NIRC	35	Ms. Princi Kapoor	ACS - 32214	12843 NIRC
61	Sh Kashmir Lal Kamboj	FCS-2649	WIRC	36	Mr. Santosh Machhindra Ambre	ACS - 34787	12844 WIRC
62	Sh Raghavan Srinavasa J	FCS-6370	SIRC	37	Ms. Sysha Kumar	ACS - 15299	12845 WIRC
63	Ms Kanika Verma	FCS-5780	NIRC	38	Mr. Giftson Abraham J	ACS - 34250	12846 SIRC
64	Sh Ashish Midha	FCS-3207	NIRC	39	Ms. Shalini Kashyap	ACS - 32383	12847 NIRC
65	Sh Sajjan Kr Khandelwal	FCS-1912	EIRC	40	Mr. Tejas Sudhakar Tungare	ACS - 33430	12848 WIRC
66	Sh Prabhudas Ranchhodas Rajkotia	FCS-2153	WIRC	41	Ms. Apeksha Kekre	ACS - 33411	12849 WIRC
67	Sh Augustine John Serrao	FCS-2947	SIRC	42	Ms. Deepika Rathore	ACS - 34331	12850 NIRC
				43	Sh. Pramod H Mehendale	FCS - 4604	12851 WIRC
				44	Ms. Dimple Sachdeva	ACS - 27511	12852 NIRC
				45	Mr. T H Vijay Prasad	ACS - 34433	12853 SIRC
				46	Mr. Prasad Raghunath Baraskar	ACS - 30414	12854 WIRC
				47	Mr. Anurag Fatehpuria	ACS - 34471	12855 EIRC
				48	Mrs. Neha Mehra	ACS - 26134	12856 NIRC
				49	Mr. Bhavesh Soni	ACS - 33475	12857 NIRC
				50	Ms. Umeet Kaur Gujral	ACS - 32153	12858 NIRC

Certificate of Practice

S. No	Name	ACS/FCS No.	CP No.	Region
1	Ms. Smita Singh	ACS - 32546	12809 NIRC	

Issued*

* Issued During the Month of January, 2014



CHARTERED SECRETARY



News From the Institute

51	Ms. Aditi Dhanuka	ACS - 34659	12859 EIRC
52	Ms. Mamta Malhotra	FCS - 6000	12860 NIRC
53	Sh. K N Nagesha Rao	FCS - 3000	12861 SIRC
54	Mr. Ram Lal Nath	ACS - 32218	12862 WIRC
55	Sh. P R Sriraman	FCS - 7470	12863 SIRC
56	Mr. Hareesh Malusare	ACS - 23949	12864 WIRC
57	Mr. Ankit Kumar Jindal	ACS - 34485	12865 NIRC
58	Ms. Anjana Varghese	ACS - 32286	12866 SIRC
59	Mr. Naresh Kishanchand Senani	ACS - 34143	12867 WIRC
60	Mr. Rakesh Sharma	ACS - 34107	12868 NIRC
61	Ms. Ankita Mehra	ACS - 33288	12869 NIRC
62	Mr. Ketan Sanjeev Navlihalkar	ACS - 34560	12870 WIRC
63	Mr. Puthi Srikanth Kumar	ACS - 34521	12871 SIRC
64	Sh. Sanjay Ravindrakumar Desai	ACS - 18238	12872 WIRC
65	Ms. Pooja Jain	ACS - 34679	12873 SIRC
66	Ms. Sweta Agarwal	ACS - 33983	12874 EIRC
67	Ms. Jyoti Singh	ACS - 18215	12875 NIRC
68	Ms. G Bowthira	ACS - 34575	12876 SIRC
69	Sh. H S Shah	FCS - 2029	12877 WIRC
70	Mr. Rahul Rungta	ACS - 33728	12878 EIRC
71	Ms. Sayali Vidyadhar Bhide	ACS - 21898	12879 WIRC
72	Mr. Alok Omprakash Khairwar	ACS - 34555	12880 WIRC
73	Ms. Khushboo Gupta	ACS - 31702	12881 NIRC
74	Ms. Renuka Babulal Kothari	ACS - 32962	12882 WIRC
75	Ms. Gunjan Gupta	ACS - 33724	12883 EIRC
76	Mr. Nrupang Bhumiitra Dholakia	ACS - 34722	12884 WIRC
77	Mrs. Princy Anand	ACS - 26294	12885 NIRC
78	Ms. Sheetal	ACS - 33935	12886 NIRC
79	Sh. Daksh Wadhwa	ACS - 15704	12887 NIRC
80	Mrs. Anju Biyani	ACS - 20012	12888 NIRC
81	Sh. Naresh Tiwari	ACS - 26932	12889 SIRC
82	Ms. Shalini Shrivastav	ACS - 25554	12890 WIRC
83	Mr. Mitesh Jitendra Shah	ACS - 30250	12891 WIRC
84	Mr. K Sankar Makesh	ACS - 33965	12892 SIRC
85	Sh. Amit Sikri	ACS - 17200	12893 NIRC
86	Ms. Karishma Sharma	ACS - 34703	12894 NIRC
87	Ms. Mehak Bangia	ACS - 31095	12895 NIRC
88	Mr. Nagaraj M O	ACS - 34768	12896 SIRC
89	Mr. Pratik Shrikant Dhole	ACS - 34529	12897 WIRC
90	Mr. Ankitkumar Bharatbhai Patel	ACS - 33252	12898 WIRC
91	Sh. Narender Pal Gupta	FCS - 2105	12899 NIRC
92	Mr. Lalit Avinash Bhanu	ACS - 32788	12900 WIRC
93	Sh. Vivek Surana	ACS - 24531	12901 SIRC
94	Mr. Nitin Bhatia	ACS - 34405	12902 NIRC
95	Ms. Tamanna Mudgal	ACS - 32498	12903 NIRC
96	Sh S Natarajan	ACS - 19931	12904 SIRC
97	Mrs. Deepali Jindal	ACS - 28197	12905 NIRC
98	Sh. Anup Vaibhav C. Khanna	FCS - 6786	12906 WIRC
99	Mrs. Vidhya Pratik Boob	ACS - 22022	12907 WIRC
100	Mrs. Neha Seth	ACS - 25235	12908 NIRC

101	Mr. Sujith S	ACS - 31205	12909 SIRC
102	Ms. Poonam Pokhariyal	ACS - 27958	12910 NIRC
103	Mr. Surya Prakash M	ACS - 31877	12911 SIRC
104	Ms. Dipti Parashar	ACS - 25460	12912 WIRC

Cancelled*

1	Mr. Rachit Mittal	ACS 24577	8857 NIRC
2	Ms. Roopali Agrawal	FCS 6172	9467 NIRC
3	Mr. Sandip Kumar Mishra	FCS 7197	12391 WIRC
4	Mr. Amit Sharma	ACS 25870	9370 NIRC
5	Mr. Rohit Tandon	ACS 22665	8490 NIRC
6	Ms. Swati Sandhal	ACS 32484	12037 NIRC
7	Mr. Tushar Dey	FCS 7425	12149 NIRC
8	Mr. Vikas Goela	ACS 12713	12611 NIRC
9	Ms. Maya Menon	ACS 20656	12525 SIRC
10	Ms. S Akila	ACS 15861	11742 SIRC
11	Ms. Likitha V	ACS 26646	9987 SIRC
12	Mr. Srinivasasitharam Appikatta	ACS 21173	9808 SIRC
13	Ms. Priyanka Shastri	ACS 29506	11209 NIRC
14	Ms. Supriya Garg	ACS 32138	11848 NIRC
15	Ms. Nitu Goel	ACS 32708	12144 EIRC
16	Mr. Joseph P G	ACS 31929	11828 EIRC
17	Mr. Ashish Kumar Dhandhanya	ACS 29105	11010 EIRC
18	Ms. Shikha Singhal	ACS 22160	8018 NIRC
19	Mr. Amit Anand	ACS 13409	11927 NIRC
20	Mr. Jitender Kumar	ACS 30349	11743 NIRC
21	Mr. Tejas Ramakant Saraf	ACS 26225	10772 WIRC
22	Ms. Neha Gupta	ACS 30317	11662 NIRC
23	Mr. Vikas Gupta	ACS 30124	12174 NIRC
24	Ms. Nidhi Agarwal	ACS 25730	12777 NIRC
25	Ms. Monika	ACS 33956	12734 NIRC
26	Ms. Geetanjali Taneja	ACS 26112	10800 NIRC
27	Ms. Sonali Varshney	ACS 31787	11948 NIRC
28	Ms. Anjali Yadav	ACS 23464	12571 NIRC
29	Mr. Atul Kumar	ACS 30426	11817 NIRC
30	Mr. Karan Mehra	ACS 33137	12273 NIRC
31	Mr. Varun Deshmukh	ACS 21693	10009 WIRC

Licentiate ICSI

S. No	Name	Licentiate No.	Region
Admitted**			
1	Ms. Monu Khandelwal	6605	WIRC
2	Ms. Anusha G A	6606	SIRC
3	Ms. A Divya Ponnarasi	6607	SIRC
4	Mr. Ram Kumar Pugaliya	6608	NIRC

* Cancelled During the Month of January, 2014

** Admitted During the Month of January, 2014



ANNUAL MEMBERSHIP FEE/CERTIFICATE OF PRACTICE FEE FOR 2013-14

In accordance with section 20(1) (c) of the Company Secretaries Act 1980 read with Regulation 8 of the Company Secretaries Regulations 1982, the name of members who could not remit their annual membership fee for the year 2013-14 by the last extended date i.e. 31st August, 2013 stand removed from the Register of Members w.e.f. 1st September, 2013. The list of such members (as on 25-02-2014) is given herein below. The specified members are requested to get their name restored by making an application in Form BB (available on the website of the Institute i.e www.icsi.edu) and making a payment of the Annual membership fee for the year 2013-14. (Associate - Rs 1125/- & Fellow - Rs 1500/-) with the entrance fee (Associate- Rs. 1500/- & Fellow - Rs. 1000/- respectively) and restoration fee of Rs. 250/.

S. No	ACS/FCS No.	CP. No.	Name	Region
1	ACS - 168		Sh. V E Mascarenhas	WIRC
2	ACS - 208		Sh. J P Bajpai	NIRC
3	ACS - 221		Sh. Sisir Kumar Dhar	EIRC
4	ACS - 306		Sh. K C Joseph	SIRC
5	ACS - 351	1271	Sh. K Padmanabhan	SIRC
6	ACS - 357		Sh. Madan Lal Thaper	NIRC
7	ACS - 493		Sh. Vinodchandra R. Shah	WIRC
8	ACS - 535	4477	Sh. Sadananda S Kamath	SIRC
9	ACS - 561		Sh. R P Sachdev	NIRC
10	ACS - 581		Sh. S Viswanathan	SIRC
11	ACS - 841	4081	Sh. N S Varshney	WIRC
12	ACS - 1039		Sh. M L Sah	NIRC
13	ACS - 1102		Sh. Raju Primlani	NIRC
14	ACS - 1109		Sh. G Prabhaker	SIRC
15	ACS - 1190		Sh. R Vaidyanathan	SIRC
16	ACS - 1411	2229	Sh. S J Sastri	SIRC
17	ACS - 1445		Sh. Barun Das	EIRC
18	ACS - 1469		Sh. G B Forbes	WIRC
19	ACS - 1530		Sh. K G Nair	SIRC
20	ACS - 1672		Sh. Nirmalmay Ghosh	WIRC
21	ACS - 2034		Sh. G Srinivasan	SIRC
22	ACS - 2172	3495	Sh. M Sundararajan	WIRC
23	ACS - 2262		Sh. Bijay Kumar Singhanian	SIRC
24	ACS - 2373		Sh. Ajit S Rao	WIRC
25	ACS - 2419		Sh. Devaki Prosad Chakravarti	EIRC
26	ACS - 2606		Sh. T S Sakthidharan	SIRC
27	ACS - 2656		Sh. Jayant R Marathe	WIRC
28	ACS - 2734		Sh. Jitendra Jiwanlal Sawjany	WIRC
29	ACS - 2807		Sh. N G Srinivasan	WIRC
30	ACS - 2917		Sh. Vijay J Kapadia	WIRC

31	ACS - 3093		Sh. Jayyant D Kaluskar	WIRC
32	ACS - 3167		Sh. S K Malhotra	NIRC
33	ACS - 3201		Sh. M Nachimuthu	SIRC
34	ACS - 3439	3700	Sh. Arun Kumar Jain	NIRC
35	ACS - 3578		Sh. Sunil S Kothare	WIRC
36	ACS - 3585		Sh. E S Srivatsan	SIRC
37	ACS - 3709	7065	Sh. P Srinivasan	SIRC
38	ACS - 3712		Sh. Prakash Chandra Jain	WIRC
39	ACS - 3837		Sh. M Ashfaq Ahmed	SIRC
40	ACS - 3889		Sh. T V R K Sarma	SIRC
41	ACS - 4029		Sh. Arvind P Sathe	WIRC
42	ACS - 4139		Sh. Rakesh Kumar Gupta	NIRC
43	ACS - 4182		Sh. Rajan U Babu	SIRC
44	ACS - 4340		Sh. A R S Mani	SIRC
45	ACS - 4367		Ms. Sharmila Nasarpuri	NIRC
46	ACS - 4371		Sh. Jacob R Cherian	SIRC
47	ACS - 4402		Sh. Ram Charan Tibrewala	EIRC
48	ACS - 4441		Sh. R Balasubramanian	WIRC
49	ACS - 4635		Sh. C Ramulu	WIRC
50	ACS - 4681		Sh. Anil Vasant Gokhale	WIRC
51	ACS - 4799	5221	Sh. V Kalidas	WIRC
52	ACS - 4893		Sh. Hemal Sumantrai Desai	WIRC
53	ACS - 4999		Sh. Sajjan Singh Sidhu	NIRC
54	ACS - 5031		Sh. Kewal Handa	WIRC
55	ACS - 5177		Sh. K Swaminathan	EIRC
56	ACS - 5246		Sh. P S Sivaramakrishna	SIRC
57	ACS - 5265		Sh. Ashok Kumar Mehandiratta	NIRC
58	ACS - 5313		Sh. Naresh Kumar Munjal	NIRC
59	ACS - 5378		Sh. Muhammad R Mullick	WIRC
60	ACS - 5379		Sh. V V Subramanian	WIRC
61	ACS - 5388		Sh. J S Varma	WIRC
62	ACS - 5429		Sh. Navin Kumar	NIRC
63	ACS - 5558		Sh. K E Ranganathan	SIRC
64	ACS - 5567		Dr. R Subramanian	SIRC
65	ACS - 5575		Sh. S Srinivasan	SIRC
66	ACS - 5651		Sh. M Bhaumik	EIRC
67	ACS - 5898		Ms. Anuradha Bose	EIRC
68	ACS - 5927		Sh. R S Agarwal	EIRC
69	ACS - 5977		Sh. R Subramanyam	WIRC
70	ACS - 5987		Sh. A Srinivasa Rao	SIRC
71	ACS - 6058		Sh. Anil Bhalchandra Kale	WIRC
72	ACS - 6080		Sh. Hari Hara Subramonian	SIRC
73	ACS - 6088		Sh. Krishnan Venkateraman	SIRC
74	ACS - 6123		Sh. Satyen Dhariwal	WIRC
75	ACS - 6127		Sh. Bharat Nanikram Thawani	WIRC
76	ACS - 6177		Sh. S S Agarwal	EIRC
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78	ACS - 6346		Sh. P K Gupta	NIRC



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81 ACS - 6485	Sh. Kamlesh J Shah	WIRC	128 ACS - 10080	Ms. Manisha M Joshi	WIRC
82 ACS - 6587	Sh. P G Agrawal	WIRC	129 ACS - 10113	Sh. M N Venkatraman	SIRC
83 ACS - 6616	Sh. Natarajan Subbaraman	WIRC	130 ACS - 10145	Sh. Atul Gupta	WIRC
84 ACS - 6712	Sh. R N Ramakrishnan	WIRC	131 ACS - 10146	Sh. Pankaj Kalani	WIRC
85 ACS - 6842	Sh. L Venkatesan	SIRC	132 ACS - 10151	Sh. Umesh Kumar Shukla	NIRC
86 ACS - 6864	Sh. Gyan Chordia	WIRC	133 ACS - 10180	8534 Sh. Ravi Joshi	EIRC
87 ACS - 6903	Sh. Ashok Kumar V Shah	EIRC	134 ACS - 10228	Sh. R Krishnamurthy	SIRC
88 ACS - 7006	Sh. Manhas Suri	NIRC	135 ACS - 10265	Sh. Ramachandra P Hegde	WIRC
89 ACS - 7069	Sh. V Sankaranarayanan	WIRC	136 ACS - 10277	Ms. Ruby Yazdi Bulsara	WIRC
90 ACS - 7085	Sh. J R Reshamwala	WIRC	137 ACS - 10287	Sh. Navneet Kumar Bhalani	WIRC
91 ACS - 7086	Sh. Gopal R Menghani	WIRC	138 ACS - 10323	Ms. Neena	NIRC
92 ACS - 7201	Sh. Bibek R Purakaystha	WIRC	139 ACS - 10488	Sh. S Ravindran	SIRC
93 ACS - 7272	Ms. Vibhuti A Mainkar	WIRC	140 ACS - 10609	Sh. Rakesh Paliwal	NIRC
94 ACS - 7602	Sh. Atul Kumar Mittal	NIRC	141 ACS - 10747	Ms. Renu Jagdish	NIRC
95 ACS - 7646	Sh. Venkataraman Krishnaprasadh	SIRC	142 ACS - 10766	Sh. Lesley Joseph	SIRC
96 ACS - 7667	Sh. Rakesh Kumar Jain	WIRC	143 ACS - 10790	Sh. Kalyan Ghosh	NIRC
97 ACS - 7673	Sh. S K Sharma	WIRC	144 ACS - 10818	Sh. Mahendra Kumar Pandey	EIRC
98 ACS - 7733	Sh. R K Ravishankar	SIRC	145 ACS - 10845	Sh. Naresh Kumar Aggarwal	NIRC
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104 ACS - 8357	Sh. Sanjai Maheshwari	NIRC	151 ACS - 11164	Sh. Paramjit Singh Rana	NIRC
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113 ACS - 9047	Sh. Lalit Kumar Varma	NIRC	160 ACS - 11577	Sh. Arvind Kumar Jain	NIRC
114 ACS - 9055	Sh. Bharat Kumar Seta	EIRC	161 ACS - 11589	Sh. Satish Joshi	NIRC
115 ACS - 9205	Sh. G Raghuvan	SIRC	162 ACS - 11757	Sh. Vinod Kumar Bapna	WIRC
116 ACS - 9212	Sh. S M Saurastri	WIRC	163 ACS - 11770	Sh. Narendra Y Gangan	WIRC
117 ACS - 9331	Sh. T V Venkatanarayan	WIRC	164 ACS - 11902	7683 Ms. Monica Jain	NIRC
118 ACS - 9379	Ms. Surabhi Agarwal	NIRC	165 ACS - 11911	Ms. Paramjeet Kaur	NIRC
119 ACS - 9396	Sh. Gyan Chand Jain	NIRC	166 ACS - 11970	Sh. G S Kurmi	SIRC
120 ACS - 9482	Sh. Mohamed Mahaboob Basha	SIRC	167 ACS - 12008	Sh. Bharat Bhushan Jain	NIRC
121 ACS - 9493	Sh. Shaik Rahmatullah	SIRC	168 ACS - 12024	Sh. Surendra Joshi	EIRC
122 ACS - 9633	Sh. Ajay Malhotra	WIRC	169 ACS - 12040	Sh. Neeraj Kumar Gupta	NIRC
123 ACS - 9715	Sh. V Kothandaraman	WIRC	170 ACS - 12050	Sh. Pankaj Sachdeva	NIRC
124 ACS - 9800	Ms. G Savithri	SIRC	171 ACS - 12072	Sh. Rebala Balarami Reddy	SIRC
125 ACS - 9857	Sh. H Srinivasan	SIRC	172 ACS - 12170	Sh. Naveen Surya	WIRC
			173 ACS - 12183	Sh. Lal Ji Kumar	NIRC

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175	ACS - 12278	Sh. Krishna Ramachandran	SIRC	223	ACS - 14468	Sh. Aditya Tripathi	NIRC
176	ACS - 12450	Sh. S Ananthkrishnan	WIRC	224	ACS - 14469	Sh. Mandar Meenanath Velankar	WIRC
177	ACS - 12471	Sh. Pankaj Dhanuka	EIRC	225	ACS - 14520	Sh. Deepak Bhim Rao Shadambikar	WIRC
178	ACS - 12476	Ms. Rupal Sinha	NIRC	226	ACS - 14664	Sh. Sriram Venkiteswaran Iyer	WIRC
179	ACS - 12518	Ms. Meeta Manchanda	NIRC	227	ACS - 14708	Sh. Rajeev Chandrakant Ghadi	WIRC
180	ACS - 12532	Ms. Malini Kapoor	NIRC	228	ACS - 14732	Sh. Md. Afzal Lodhi	WIRC
181	ACS - 12545	Sh. Chirag D Shah	WIRC	229	ACS - 14851	Sh. Gautam Vohra	NIRC
182	ACS - 12548	Ms. Sunita Srinivasan	SIRC	230	ACS - 14860	Sh. Raghvendra Singh	NIRC
183	ACS - 12599	Sh. J Krishnamohan	SIRC	231	ACS - 14892	Ms. Puja Ahuja	EIRC
184	ACS - 12600	Ms. Lakshmi Sivarajan	WIRC	232	ACS - 14947	Sh. Himanshu Chhabra	NIRC
185	ACS - 12640	9453 Ms. Vallari Goyal	WIRC	233	ACS - 15074	Ms. Prabha Rohit Mallya	WIRC
186	ACS - 12701	Ms. Rajini Krishna Srinivasan	SIRC	234	ACS - 15076	Sh. Vikas Kochhar	WIRC
187	ACS - 12710	Sh. Umakanta Das	WIRC	235	ACS - 15161	Sh. Rajender Kumar	NIRC
188	ACS - 12766	Sh. Sunil Gupta	NIRC	236	ACS - 15173	Sh. Asim Choudhary	NIRC
189	ACS - 12818	Sh. K. Rajagopal	SIRC	237	ACS - 15196	Sh. P Suresh Babu	SIRC
190	ACS - 12828	Ms. Meenakshi Shivkumar	SIRC	238	ACS - 15458	Sh. Ravindra Rajaram Dhupkar	WIRC
191	ACS - 12835	Sh. K.S. Sashidhar	SIRC	239	ACS - 15489	Sh. Banwari Lal Saboo	WIRC
192	ACS - 12880	Sh. Sanjay Gupta	NIRC	240	ACS - 15589	Ms. Chitra Bhalla	NIRC
193	ACS - 12897	3810 Sh. Vikas Goyal	NIRC	241	ACS - 15637	Sh. Sujit Kumar Parakh	EIRC
194	ACS - 12936	Sh. Prithijit Lahiri	EIRC	242	ACS - 15687	Sh. Nariman Jahangir Amalsadiwala	WIRC
195	ACS - 12952	6275 Sh. Rajesh Kumar Singhanian	EIRC	243	ACS - 15760	Ms. Garima Goel	WIRC
196	ACS - 12989	Sh. Venkateswara Rao T	SIRC	244	ACS - 15830	Sh. Pravesh Kumar Sharma	NIRC
197	ACS - 13013	7367 Sh. Subhash Chand Gupta	NIRC	245	ACS - 15893	Ms. Sandhya Chandrasekaran	SIRC
198	ACS - 13054	10073 Sh. R. Raja	WIRC	246	ACS - 15960	Ms. Sandeep Kaur	NIRC
199	ACS - 13148	Sh. Navin Kumar Mishra	NIRC	247	ACS - 16063	Sh. Amit Rustagi	WIRC
200	ACS - 13160	8243 Sh. S Rajagopalan	SIRC	248	ACS - 16065	Ms. Sonika Subhash Sunda	WIRC
201	ACS - 13191	Sh. S. Rajagopal	WIRC	249	ACS - 16070	Sh. S Uma Maheshwar	SIRC
202	ACS - 13226	Sh. V Ramachandran	WIRC	250	ACS - 16071	4831 Ms. Lakshmi Subramanian	WIRC
203	ACS - 13352	Ms. Vishakha Kumar	EIRC	251	ACS - 16104	Sh. Arvind Kumar	NIRC
204	ACS - 13398	Sh. Satish Anand Sharma	WIRC	252	ACS - 16156	Ms. Shivali Sharma	NIRC
205	ACS - 13406	Sh. Sanjay Nautiyal	NIRC	253	ACS - 16169	Sh. Anurag Chauhan	WIRC
206	ACS - 13410	Sh. Milind Dattatraya Joshi	WIRC	254	ACS - 16192	Sh. Ranjan Kumar	EIRC
207	ACS - 13462	Ms. Harmeet Gujral Dang	NIRC	255	ACS - 16217	Ms. B. Pallavi Hegde	SIRC
208	ACS - 13491	Sh. Bijay Kumar Lenka	WIRC	256	ACS - 16296	Sh. Sundeep Soni	EIRC
209	ACS - 13548	Ms. Geetha Srinivasan	SIRC	257	ACS - 16304	Sh. Pankaj Parnami	NIRC
210	ACS - 13552	Ms. Santoshri Roy	NIRC	258	ACS - 16306	Sh. Nikhilesh Kumar Verma	NIRC
211	ACS - 13669	Sh. Akhilesh Kumar Nand	NIRC	259	ACS - 16351	Sh. V. Natarajan	NIRC
212	ACS - 13704	Sh. Vinod Kumar Bapna	NIRC	260	ACS - 16445	Sh. Y Murali Krishna	SIRC
213	ACS - 13728	Sh. Kanaiya Liladher Thakker	WIRC	261	ACS - 16458	Sh. P Suresh Babu	SIRC
214	ACS - 13781	Ms. S Sandhyalakshmi	SIRC	262	ACS - 16501	Sh. Amit Kumar Gupta	NIRC
215	ACS - 13826	Sh. Priya Ranjan	EIRC	263	ACS - 16527	Ms. Sanchana Subhash Kaushik	WIRC
216	ACS - 13854	Sh. Purna Chandra Choudhury	WIRC	264	ACS - 16575	Sh. Mitesh Dhirajlal Haria	WIRC
217	ACS - 13895	Ms. Kirti Popli	NIRC	265	ACS - 16709	Sh. Sanjay Kumar Miranka	WIRC
218	ACS - 14110	Sh. Suraj Kumar Vishwakarma	WIRC	266	ACS - 16777	Sh. Neeraj Jain	NIRC
219	ACS - 14141	Sh. Lokesh Rajpal	NIRC	267	ACS - 16795	Sh. Varun Gupta	NIRC
220	ACS - 14309	Sh. Sanjay Maloo	SIRC				
221	ACS - 14341	Sh. Ankit Goel	NIRC				





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269	ACS - 16837	Ms. Geetanjali Gupta	NIRC	315	ACS - 18826	Mrs. Sheetal Satej Jaywant	SIRC
270	ACS - 16859	Ms. Shalini Mehta	WIRC	316	ACS - 18843	Sh. Niranjana Kumar Singh	NIRC
271	ACS - 16870	Ms. Rupa Radhakrishnan	NIRC	317	ACS - 18845	Sh. Jayaraman Srinivasan Iyer	WIRC
272	ACS - 16875	Sh. Rohit Kathuria	SIRC	318	ACS - 18860	Ms. Shilpi Agarwal	NIRC
273	ACS - 16876	Sh. Ajay Hemrajani	NIRC	319	ACS - 18875	Ms. Tanu Ritesh Sarin	NIRC
274	ACS - 16880	Sh. Debashish De	WIRC	320	ACS - 18939	Sh. Hanuman Kumar Sharma	WIRC
275	ACS - 16990	7094 Sh. Ashish Jain	NIRC	321	ACS - 18955	Sh. Yogesh Ishwarlal Dave	WIRC
276	ACS - 17077	Sh. Kishor Kumar Kapoor	NIRC	322	ACS - 18992	Ms. Gunjan Khaitan	EIRC
277	ACS - 17143	Sh. Ajit Ramamurthy Varanasi	WIRC	323	ACS - 19008	Ms. Jasleen Virdi	NIRC
278	ACS - 17152	Sh. Shanker Bhatia	NIRC	324	ACS - 19094	Ms. Pooja Gupta	WIRC
279	ACS - 17327	5757 Ms. Nitasha Gupta	EIRC	325	ACS - 19118	Sh. Rajnish Matta	SIRC
280	ACS - 17403	Ms. Sangeeta Jain	EIRC	326	ACS - 19244	Ms. Anita Shrirang Dhane	WIRC
281	ACS - 17460	Sh. Sudheer Kuppa	SIRC	327	ACS - 19278	Ms. Bindu Sharma	NIRC
282	ACS - 17535	Sh. Ashish Chandak	EIRC	328	ACS - 19376	Sh. Raghvendra Kumar Verma	NIRC
283	ACS - 17543	Ms. Ketki Vijay Buddhisagar	WIRC	329	ACS - 19383	Sh. Jaydeep Krishnan Kurup	WIRC
284	ACS - 17564	Sh. Kanchi Srinivas	SIRC	330	ACS - 19418	Ms. Gitanjali Khandelwal	WIRC
285	ACS - 17610	Sh. V Viswanath	SIRC	331	ACS - 19471	Sh. Aruna Kumar Patri	NIRC
286	ACS - 17624	Sh. Lakshmikanth Rachamadugu	SIRC	332	ACS - 19571	Sh. Deepak Sharma	NIRC
287	ACS - 17675	Sh. Sachin Harlalka	NIRC	333	ACS - 19599	Sh. Mandar Shreenivas Nargund	WIRC
288	ACS - 17723	Sh. Ravindra Yogesh Shenoy	WIRC	334	ACS - 19631	Sh. Jayesh S Jariwala	WIRC
289	ACS - 17726	Ms. Sudha Gupta	WIRC	335	ACS - 19632	Sh. Samudra Acharyya	NIRC
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292	ACS - 17771	Sh. Vinay Bhushan	WIRC	338	ACS - 19729	Sh. Ajay V K	NIRC
293	ACS - 17789	Ms. Garima Chawla	NIRC	339	ACS - 19773	Sh. Alok Gupta	NIRC
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297	ACS - 18178	Sh. Rikhab P Chand	SIRC	343	ACS - 19987	8064 Mrs. Snehal Amol Phirange	WIRC
298	ACS - 18219	Ms. Poorti Sachdeva	NIRC	344	ACS - 20011	Vivek Singhania	EIRC
299	ACS - 18259	Sh. Manoj Baid	EIRC	345	ACS - 20052	Ms. Shruti Anand Singh	EIRC
300	ACS - 18260	Sh. Sunil Kumar Sethi	WIRC	346	ACS - 20073	Sh. Prateek Jain	WIRC
301	ACS - 18284	Sh. Iyer Vaidhyadnan Radhakrishnan	WIRC	347	ACS - 20158	Sh. Gopalan R.	SIRC
302	ACS - 18374	6500 Sh. Manish Shah	WIRC	348	ACS - 20264	Ms. Kalpana Manharlal Patel	WIRC
303	ACS - 18396	Sh. Sunil Mishra	SIRC	349	ACS - 20274	11555 Ms. Chhama Goel	NIRC
304	ACS - 18479	Sh. Manish Rustagi	NIRC	350	ACS - 20467	Sh. Anantha Narayanan R.	SIRC
305	ACS - 18526	Ms. Gauri Pandit	SIRC	351	ACS - 20575	Sh. Sandeep Jain	WIRC
306	ACS - 18624	Sh. Rajesh Issar	NIRC	352	ACS - 20578	Sh. Amit Maheshwari	WIRC
307	ACS - 18636	Ms. Priya Rastogi	NIRC	353	ACS - 20709	Sh. Sudhanshu Shekhar Thakur	NIRC
308	ACS - 18667	Sh. Umeshkumar Vasantray Bhatt	WIRC	354	ACS - 20875	Ms. Ramaswami Rajalakshmi Iyer	SIRC
309	ACS - 18709	Sh. Neeraj Aggarwal	NIRC	355	ACS - 20930	Sh. Sachin Sarda	WIRC
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311	ACS - 18749	Sh. Hara Prasad Rout	EIRC	357	ACS - 21289	Sh. Inderjeet Panwar	WIRC
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364	ACS - 21538	Ms. Asmita Anantsen Upadhye	WIRC	410	ACS - 24311	Ms. Shilpa Jain	NIRC
365	ACS - 21544	Ms. Shweta Singh	WIRC	411	ACS - 24355	Ms. Navneet Kaur Anand	NIRC
366	ACS - 21610	Mr. Ashish Shyam Sunder Bhattad	WIRC	412	ACS - 24392	8877 Ms. Shruti Gupta	NIRC
367	ACS - 21702	Sh. Tarun Kumar Sharma	NIRC	413	ACS - 24409	11482 Ms. Neha Gera	NIRC
368	ACS - 21833	Sh. Chanakya Chandra Patil	SIRC	414	ACS - 24449	Ms. Harpreet Singh Gulati	NIRC
369	ACS - 21836	Ms. Praveenya Yarala	SIRC	415	ACS - 24451	Sh. Anand Arora	NIRC
370	ACS - 21904	11174 Ms. Richa Sharma	WIRC	416	ACS - 24459	Sh. Vishnu Ramchandra Murkar	WIRC
371	ACS - 21958	Mr. Abhishek Pandey	WIRC	417	ACS - 24462	Ms. Poonima Kishore	NIRC
372	ACS - 21985	Sh. Nipun Gunvantrai Doshi	WIRC	418	ACS - 24510	Sh. Rajesh Dwarkadas Bhatia	WIRC
373	ACS - 22020	Ms. Komal Jolly	NIRC	419	ACS - 24580	Ms. Bani Ahuja	NIRC
374	ACS - 22142	Mr. Neeraj Mudgal	NIRC	420	ACS - 24710	Ms. Monica Pasricha	SIRC
375	ACS - 22170	Mrs. Hemiksha Bhojwani	WIRC	421	ACS - 24730	Ms. Sonal Khandelwal	NIRC
376	ACS - 22214	Ms. Shashi Bindu S	SIRC	422	ACS - 24986	Ms. Saloni Mehta	NIRC
377	ACS - 22309	Sh. Bhaskar Sharma	EIRC	423	ACS - 25091	Sh. Shervyn Ronald Essex	WIRC
378	ACS - 22384	Ms. Richa Singhal	NIRC	424	ACS - 25148	Ms. Nidhi Aggarwal	NIRC
379	ACS - 22552	Ms. Anjali Mathur	NIRC	425	ACS - 25200	Ms. Vrushali P. Eksambekar	WIRC
380	ACS - 22586	Ms. Bharti Kukreja	NIRC	426	ACS - 25240	Sh. Chandrashekhara Shastry Sistla	SIRC
381	ACS - 22600	11316 Mrs. Swapna Samadhan Doifode	WIRC	427	ACS - 25241	Sh. Durgesh Singh	NIRC
382	ACS - 22821	Sh. Parthasarathy R	NIRC	428	ACS - 25248	Sh. Rajesh Jain	NIRC
383	ACS - 22868	Ms. Aarti Jagdish Juman	WIRC	429	ACS - 25388	Ms. Disha Hasamukh Mandalia	WIRC
384	ACS - 22888	Mrs. Hetal Hiren Shah	WIRC	430	ACS - 25492	10203 Ms. Mishi Bhatnagar	WIRC
385	ACS - 22930	Sh. Vishwanath Pareek	NIRC	431	ACS - 25504	Ms. Garima Gautam	NIRC
386	ACS - 23031	Sh. Varun Sood	NIRC	432	ACS - 25633	9729 Ms. Chandni Agarwal	NIRC
387	ACS - 23105	Sh. Tanmay Anand Joshi	WIRC	433	ACS - 25636	Ms. Shipra Goswami	NIRC
388	ACS - 23123	8381 Sh. Amit Savarkar	WIRC	434	ACS - 25704	Ms. Soniya Shrikant Keni	WIRC
389	ACS - 23124	8323 Ms. Khushboo Kothari	EIRC	435	ACS - 25801	Sh. Sumit Kumar Dhanuka	NIRC
390	ACS - 23195	Mr. V Vasudev	NIRC	436	ACS - 25808	Ms. Poonam Wadhwa	NIRC
391	ACS - 23196	Ms. Bhawna Gulati	NIRC	437	ACS - 25874	Ms. Bharti Sandeep Jain	WIRC
392	ACS - 23211	Sh. Amit Vijay Karia	WIRC	438	ACS - 25986	Ms. Nisha Narendra Rijhwani	WIRC
393	ACS - 23235	Sh. Rushabh Anantrai Desai	WIRC	439	ACS - 26048	Ms. Sangeeta Pokhriyal	NIRC
394	ACS - 23341	Ms. Prathibha Lakshmanan	SIRC	440	ACS - 26065	9403 Sh. Ankur Goyal	NIRC
395	ACS - 23342	Ms. Juhi Chaudhary	NIRC	441	ACS - 26098	Ms. Cheshta Narang	NIRC
396	ACS - 23385	Ms. Priyanka Banga	NIRC	442	ACS - 26125	Sh. Ankit Kothari	NIRC
397	ACS - 23574	10659 Ms. Shikha	NIRC	443	ACS - 26146	Mrs. Sarika Aggarwal	NIRC
398	ACS - 23642	Ms. Eti Suri	NIRC	444	ACS - 26214	Mrs. Kiran Agarwal	EIRC
399	ACS - 23660	Mrs. Surabhi Prakash Gokhale	WIRC	445	ACS - 26282	10112 Sh. Sunil Kumar Yadav	NIRC
400	ACS - 23688	Ms. Gunjan Singh	NIRC	446	ACS - 26438	Ms. Medha Devadhar	WIRC
401	ACS - 23693	Sh. Abhishek Kumar Patni	EIRC	447	ACS - 26446	Mr. Sumant Khedekar	WIRC
402	ACS - 23710	Mrs. Priya Chopra	NIRC	448	ACS - 26492	Mrs. Mayuri Priyank Hariawala	WIRC
403	ACS - 23768	Ms. Neha Bajpai	SIRC	449	ACS - 26502	10586 Ms. Tanvi Tejendra Joshi	WIRC
404	ACS - 23815	Mrs. Nidhi Tandon	NIRC	450	ACS - 26529	Mr. Ramanjaneyulu Kothapalli	SIRC
405	ACS - 23938	Ms. Shweta Aggarwal	NIRC	451	ACS - 26687	Ms. Seema Ratilal Bulsara	WIRC
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List of Members Whose Names Stand Removed from the Register of Members

453	ACS - 26748	11098	Ms. Vandana Gupta	NIRC	499	ACS - 29354	10751	Mr. Gaurav Garg	NIRC
454	ACS - 26750		Ms. Pratibha Ajeet Kumbhat	WIRC	500	ACS - 29520	11516	Sh. Rachit Kukreja	NIRC
455	ACS - 26775		Sh. Sunil Kumar	NIRC	501	ACS - 29528		Ms. Juili Bhuskute	WIRC
456	ACS - 26866		Ms. Nikita Kumari Sharma	WIRC	502	ACS - 29586		Sh. Shrikant Shashikant Malani	WIRC
457	ACS - 26910		Ms. Vidhi Tejpal	NIRC	503	ACS - 29645		Ms. Bhawna Salwan	NIRC
458	ACS - 26965		Ms. Pragya Suresh Jain	NIRC	504	ACS - 29683		Mr. Greevas Job Panakkal	SIRC
459	ACS - 27010		Ms. Neha Kapoor	NIRC	505	ACS - 29696		Mrs. Neha Agrawal	EIRC
460	ACS - 27013		Ms. Payal Bhaichand Nagda	WIRC	506	ACS - 29762		Sh. Asim Ahmed Rizvi	NIRC
461	ACS - 27054	10033	Ms. Pooja Lohia	EIRC	507	ACS - 29796		Sh. Raj Kumar Goyal	NIRC
462	ACS - 27124		Ms. Reena Felix Lewis	WIRC	508	ACS - 29911		Ms. Kavita Vedwal	NIRC
463	ACS - 27150		Ms. Sarieka Verma	NIRC	509	ACS - 29967		Mr. Madduri Venkata Krishna Reddy	NIRC
464	ACS - 27216		Ms. Shweta Aggarwal	NIRC	510	ACS - 30044	11484	Mr. Sunil Sharma	NIRC
465	ACS - 27231		Sh. Jitendra Prasad	NIRC	511	ACS - 30061		Mr. Nikunj Berlia	EIRC
466	ACS - 27377		Mr. Susshil Daga	NIRC	512	ACS - 30092		Mrs. Khushboo Ashok Solanki	WIRC
467	ACS - 27447		Mr. Ashish Kumar Vijay	NIRC	513	ACS - 30183		Ms. Keerthi Mundhra	SIRC
468	ACS - 27459		Ms. Shaile	NIRC	514	ACS - 30261		Ms. Vishani Khemka	NIRC
469	ACS - 27682	10959	Mrs. Sonal Vinay Bilala	WIRC	515	ACS - 30313	10931	Ms. Anushri Lahoti	WIRC
470	ACS - 27687		Ms. Richa Jaiswal	EIRC	516	ACS - 30371		Ms. Swati Mittal	NIRC
471	ACS - 27708		Sh. Avneesh Kumar	NIRC	517	ACS - 30411		Mr. Bikesh Kumar Yadav	NIRC
472	ACS - 27731		Ms. Paramdeep Kaur Kalsi	NIRC	518	ACS - 30432		Ms. Malvika Saini	EIRC
473	ACS - 27797		Mr. V Radhakrishnan	SIRC	519	ACS - 30439		Ms. Vinita Chechani	NIRC
474	ACS - 27807		Mr. Mehul Chheda Ramji	WIRC	520	ACS - 30447		Mr. Kalpit Khandelwal	NIRC
475	ACS - 27838		Mrs. Priya Choudhary	NIRC	521	ACS - 30496		Mr. Varun Kumar Prabhakar	NIRC
476	ACS - 27859		Mr. Akshay Singh Naruka	NIRC	522	ACS - 30573		Mr. Avdhesh Bansal	NIRC
477	ACS - 27869		Ms. Sadi Shirisha Reddy	SIRC	523	ACS - 30588		Mr. Akshay Anant Kulkarni	WIRC
478	ACS - 27874		Mr. Govind Kumar	SIRC	524	ACS - 30593		Mr. Narain Ka Raamkumar	SIRC
479	ACS - 27902		Ms. Vishakha Prakash Brahmankar	WIRC	525	ACS - 30615		Ms. Samridhi Rajit Upadhyaya	WIRC
480	ACS - 27984		Ms. Mugdha Sanjay Daflapurkar	WIRC	526	ACS - 30624		Ms. Ruchi Kumari Sablaka	EIRC
481	ACS - 28258		Ms. Dipti Sharma	WIRC	527	ACS - 30643	11577	Ms. Priyanka Toshniwal	NIRC
482	ACS - 28363		Mr. Nevil Rameshbhai Savjani	WIRC	528	ACS - 30683		Ms. Rajni Agarwal	EIRC
483	ACS - 28457		Mr. Vineet Sunil Kakkad	WIRC	529	ACS - 30759		Ms. Ranu Jain	NIRC
484	ACS - 28541		Mr. Sanjay Kishor Dingare	WIRC	530	ACS - 30804	11394	Mr. Anirudh Chandak	EIRC
485	ACS - 28611		Ms. Ankita Jayeshkumar Sarvaiya	WIRC	531	ACS - 30806		Mr. Ajay Jagdish Wagle	WIRC
486	ACS - 28666		Mr. Govind Thakur	NIRC	532	ACS - 30851	11473	Ms. Sweta Bhadani	SIRC
487	ACS - 28699	10344	Mr. Ashutosh Avinash Muglikar	WIRC	533	ACS - 30857		Ms. Neha Priyadarshini	WIRC
488	ACS - 28810		Mr. Nishant Singla	NIRC	534	ACS - 30868		Ms. Savita Harish	SIRC
489	ACS - 28828	10432	Ms. Priyanka Saxena	NIRC	535	ACS - 30886		Ms. Geeta Jaria	EIRC
490	ACS - 28872		Ms. Aditi Ashok Jain	WIRC	536	ACS - 30897		Ms. Manisha Chhillar	NIRC
491	ACS - 28913		Mr. Prateek Jain	NIRC	537	ACS - 30939		Mr. Rajesh Deepak Palande	WIRC
492	ACS - 28943		Ms. Saman Kausar	NIRC	538	ACS - 30968		Ms. Jyoti Sharma	EIRC
493	ACS - 28967		Mr. Vikas Kumar	NIRC	539	ACS - 30972		Ms. Kamalpreet Kaur Chhabra	NIRC
494	ACS - 29013		Mrs. Bhavina Rupesh Acharya	WIRC	540	ACS - 30977		Mr. Nakul Kohli	NIRC
495	ACS - 29046		Ms. Neetu	NIRC	541	ACS - 30982		Mr. Uday Mahesh Ranalkar	WIRC
496	ACS - 29219		Ms. Kanika Gupta	NIRC	542	ACS - 31021		Mr. Vishal Jain	WIRC
497	ACS - 29255	10603	Mrs. Simul Rohan Shah	WIRC	543	ACS - 31164		Mr. Manish Kumawat	NIRC
498	ACS - 29264		Mr. Manmay Kiran Kalyankar	WIRC	544	ACS - 31202		Ms. Sonica Sharma	NIRC
					545	ACS - 31352		Ms. Surbhi Sati	NIRC

News From the Institute



List of Members Whose Names Stand Removed from the Register of Members

546	ACS - 31353	Mr. Sachin Kumar	NIRC	594	FCS - 1488	Sh. B B Biradar	SIRC
547	ACS - 31401	Ms. Vineeta Agarwal	NIRC	595	FCS - 1490	Sh. R N Thorat	WIRC
548	ACS - 31518	Mr. Arkat Venugopal Mudhaliar	SIRC	596	FCS - 1558	Sh. Devendra Bhandari	WIRC
549	ACS - 31529	Ms. Neeti Sharma	NIRC	597	FCS - 1579	680 Sh. Srinivasan Krishna Mani	WIRC
550	ACS - 31534	Ms. Samina Asrar	NIRC	598	FCS - 1586	Sh. M S Ganesh	SIRC
551	ACS - 31565	Mr. Akanshu Sharma	NIRC	599	FCS - 1718	Sh. Laxman Kumar	WIRC
552	ACS - 31571	Ms. Bhuwaneshwari Rathore	SIRC	600	FCS - 1719	Sh. Anil J. Jhala	WIRC
553	ACS - 31592	Mr. Prashanth Kamath	SIRC	601	FCS - 1777	Sh. J Jawaharlal	SIRC
554	ACS - 31793	Mr. Nikhil Shyam Sunder Jangid	WIRC	602	FCS - 1803	Sh. N P Venkatasubbaiah	SIRC
555	ACS - 32025	Ms. Kalavathi S	SIRC	603	FCS - 1866	Sh. I M Desai	WIRC
556	ACS - 32078	Ms. Swapna Khopkar	WIRC	604	FCS - 1877	Sh. P K Viswanathan	SIRC
557	ACS - 32146	Ms. Garima Agarwal	NIRC	605	FCS - 1965	Sh. Pradeep Kumar Jain	NIRC
558	ACS - 32168	Ms. Sakshi Jain	NIRC	606	FCS - 1998	Sh. Annu Lal Gupta	NIRC
559	ACS - 32201	Mr. Jithin P G	SIRC	607	FCS - 2020	Sh. Kuppaswamy Nageswaran	WIRC
560	ACS - 32264	Ms. Sheetal Chhikara	NIRC	608	FCS - 2176	Ms. K S Lakshmi	SIRC
561	ACS - 32266	Ms. Richa Sharma	NIRC	609	FCS - 2211	Sh. P M Salaskar	WIRC
562	FCS - 35	Dr. R M Dave	WIRC	610	FCS - 2308	Sh. Ravi M Kishore	SIRC
563	FCS - 42	Sh. N Krishnan	SIRC	611	FCS - 2487	Sh. Inder Mohan Gauba	NIRC
564	FCS - 70	Sh. Shiva Nath Prasad	EIRC	612	FCS - 2552	Sh. Anil Kumar Maheshwari	NIRC
565	FCS - 98	Sh. K K Narayan	WIRC	613	FCS - 2579	Ms. Radha Manohar Bellani	WIRC
566	FCS - 202	19 Sh. Solaimalai Sundararajan	SIRC	614	FCS - 2590	Sh. A James Chandramohan	SIRC
567	FCS - 224	155 Sh. B J Murthy	SIRC	615	FCS - 2633	Sh. Deepak Dawar	NIRC
568	FCS - 295	Sh. Krishnabal Jain	WIRC	616	FCS - 2634	2272 Sh. Jaswant Lal Gupta	NIRC
569	FCS - 332	Sh. A V Raghavan	NIRC	617	FCS - 2640	Ms. Nimmoo Kanayyalal	SIRC
570	FCS - 379	Sh. R A Krishnan	SIRC	618	FCS - 2662	Sh. Tarlochan Singh	NIRC
571	FCS - 399	Sh. R Venkataraman	SIRC	619	FCS - 2663	Sh. Sharad Vaid	NIRC
572	FCS - 439	Sh. S Krishnamurthy	SIRC	620	FCS - 2680	Sh. C Sudhakar	SIRC
573	FCS - 493	Sh. V K Swaminathan	SIRC	621	FCS - 2738	8100 Sh. Bal Mukund Khurana	NIRC
574	FCS - 533	Sh. P K Padmanabhan	SIRC	622	FCS - 2853	Sh. Nambiar P Balakrishnan	SIRC
575	FCS - 677	Sh. Arun M Mehta	WIRC	623	FCS - 2881	Sh. Navneet Kumar Sehgal	NIRC
576	FCS - 707	Sh. Dhan Raj Baid	NIRC	624	FCS - 2909	Sh. Mukesh Kumar Gupta	NIRC
577	FCS - 711	2923 Sh. John Paul Fernandes	WIRC	625	FCS - 2958	Sh. Dinesh Kumar Sood	NIRC
578	FCS - 747	Sh. P N Shah	WIRC	626	FCS - 3111	Sh. Arviend Bhide	WIRC
579	FCS - 749	72 Sh. Upendra Kumar Raina	NIRC	627	FCS - 3138	Sh. Cyrus Raja	WIRC
580	FCS - 842	Sh. S Muralidharan	SIRC	628	FCS - 3163	Sh. Hemraj Baid	SIRC
581	FCS - 857	Sh. Hem Raj Singal	NIRC	629	FCS - 3263	Sh. G Venkateswara Rao	NIRC
582	FCS - 945	Sh. Ramasundra Naga Ratnam	SIRC	630	FCS - 3412	Sh. Sumanta Nayak	NIRC
583	FCS - 1029	Sh. Ram Rukkaya Mallar	WIRC	631	FCS - 3442	Sh. Tulsi Ram Tibrewala	EIRC
584	FCS - 1059	77 Sh. Karun Kumar Dasgupta	EIRC	632	FCS - 3451	Sh. P Balakrishna Shetty	SIRC
585	FCS - 1160	Sh. Sanjay S Soman	WIRC	633	FCS - 3474	Sh. Faqir Chand Goel	NIRC
586	FCS - 1171	Sh. K R Seshadri	SIRC	634	FCS - 3517	Sh. Samir Vrajendra Telivala	WIRC
587	FCS - 1186	Sh. Kedar Kumar R. Agrawal	WIRC	635	FCS - 3548	Sh. Rahul Kumar Gaur	NIRC
588	FCS - 1228	Sh. S Subbarao	SIRC	636	FCS - 3611	Sh. Atul Vishal Sood	NIRC
589	FCS - 1236	5316 Sh. Pritkar Deb	EIRC	637	FCS - 3645	Sh. K P V Ramanarayana	SIRC
590	FCS - 1247	Sh. R S Biyala	EIRC	638	FCS - 3688	Sh. Girish M Nachane	SIRC
591	FCS - 1301	Sh. R N Vyas	WIRC	639	FCS - 3951	Sh. S J Ahmad	NIRC
592	FCS - 1405	Sh. K S Sundararajan	SIRC	640	FCS - 3952	Sh. K Elaango	SIRC
593	FCS - 1435	1049 Sh. A R G Subramanian	SIRC	641	FCS - 3965	Sh. Manohar Bellani	WIRC





News From the Institute

List of Members Whose Names Stand Removed from the Register of Members

642	FCS - 3990	Sh. B Satyanarayana	SIRC
643	FCS - 4212	Sh. Basant Kumar Bang	WIRC
644	FCS - 4214	Sh. Devendra Kumar Bubna	EIRC
645	FCS - 4222	9792 Sh. R K Pillai	SIRC
646	FCS - 4325	Sh. G Manoharan	SIRC
647	FCS - 4405	Sh. Deepak Kapoor	NIRC
648	FCS - 4495	3458 Sh. S Sreenivasan	SIRC
649	FCS - 4550	Sh. Kedar Ram R Laddha	WIRC
650	FCS - 4608	Sh. Anil Kumar Singh	SIRC
651	FCS - 4635	Sh. Kumar M Susir	WIRC
652	FCS - 4652	Sh. Sudhakar Awasthi	NIRC
653	FCS - 4665	Sh. Vikas Chaurasia	NIRC
654	FCS - 4677	Sh. Ayaz Tajmohammed Shaikh	WIRC
655	FCS - 4706	Sh. Sunil Kumar Wadhwa	NIRC
656	FCS - 4737	Sh. Satya Narain Jaiswal	NIRC
657	FCS - 4761	Sh. Harmeet Singh Rekhi	NIRC
658	FCS - 4855	Ms. Seema Rani Nagpal	NIRC
659	FCS - 5033	Sh. Satish Chandra Raval	EIRC
660	FCS - 5050	Ms. S Geetha	SIRC
661	FCS - 5100	2920 Sh. Krishan Arora	NIRC
662	FCS - 5177	Ms. Geeta Rani Arora	NIRC
663	FCS - 5179	4252 Sh. Deepak Pratapbhai Thakker	WIRC
664	FCS - 5230	Sh. Vikash Jain	NIRC
665	FCS - 5319	4381 Sh. Rajesh Gupta	NIRC
666	FCS - 5542	4839 Sh. Vineet Kumar Tripathi	NIRC
667	FCS - 5618	Ms. Beena R Shah	NIRC
668	FCS - 6017	Sh. Rajesh Jaykumar Doshi	NIRC
669	FCS - 6018	Sh. Amit Ramesh Bathia	WIRC
670	FCS - 6190	Sh. Gajanan C Deshmukh	WIRC
671	FCS - 6340	Ms. Shweta Sharma	NIRC

The members who were holding Certificate of Practice as specified above may also get their Certificate of Practice restored by making an application in Form D (available of the website of the Institute) duly completed in all respects with payment of Rs 1250/- (COP Annual Fee Rs 1000/- + Restoration Fee Rs 250/-). The fee can be remitted by way of:

- On-Line payment (through Institute's website www.icsi.edu).
- Cash/ cheque at par /demand draft drawn in favour of 'The Institute of Company Secretaries of India', payable at New Delhi (indicating on the reverse name and membership number).

For any support/assistance, please write to Mr. Saurabh Bansal, Asst. Education Officer at email saurabh.bansal@icsi.edu or contact at telephone No.011-45341062/87 or Mobile No.9868128682.

ANNUAL CERTIFICATE OF PRACTICE FEE FOR THE YEAR 2013-14

In accordance with the Regulation 11 (1) (d) of the Company Secretaries Regulations 1982, the Certificate of Practice of the members who could not remit their annual Certificate of Practice fee for the year 2013-14 by the specified date i.e. 30th September, 2013 stand cancelled w.e.f. 1st October, 2013. The list of these members is given herein below. The members whose name is appearing in the list may get their Certificate of Practice restored by making an application in Form D (available on the web-site of the Institute i.e www.icsi.edu) with the payment of Rs. 1250/- (Annual Certificate of Practice Fee of Rs 1000/- for the year 2013-14 and restoration fee of Rs. 250). It may be noted that last date for restoration of Certificate of Practice is 31st March 2014.

S. No	Member No.	CP. No.	Member Name	Region
1	ACS - 1746	9250	Sh. N R Narayanan	WIRC
2	ACS - 2338	5258	Sh. Rajendra Popatlal Shah	WIRC
3	ACS - 3462	9687	Sh. R Soundararajan	SIRC
4	ACS - 3577	4347	Sh. Prakash B Karyekar	WIRC
5	ACS - 3774	11746	Sh. M Sivaraman	SIRC
6	ACS - 4508	11414	Sh. Sankar Mukherjee	EIRC
7	ACS - 6360	10262	Sh. S K Mukhopadhyay	EIRC
8	ACS - 6931	8697	Sh. P Ramachandran	SIRC
9	ACS - 9553	11464	Ms. Akila Ravikrishnan	SIRC
10	ACS - 10671	3901	Ms. Arti Ghosal	EIRC
11	ACS - 12529	10502	Sh. Alok Pandya	NIRC
12	ACS - 12924	9423	Sh. Rajesh Kumar Agarwal	WIRC
13	ACS - 13224	3530	Sh. Natarajan Sriram	SIRC
14	ACS - 13699	8867	Sh. Ayan Chakraborty	WIRC
15	ACS - 14451	8095	Sh. Ashish Agarwal	NIRC
16	ACS - 15160	7750	Sh. Nawal Kishore Chandgotia	EIRC
17	ACS - 15195	5595	Ms. Richa Kalra	NIRC
18	ACS - 15226	9421	Sh. N Kannan	SIRC
19	ACS - 15725	10413	Ms. Parul Khosla	NIRC
20	ACS - 16252	7395	Dr. Ashutosh Anil Sandhe	WIRC
21	ACS - 16418	5062	Ms. Reena Mishra	NIRC
22	ACS - 16917	8423	Sh. Bhagirath Savailal Bhatt	WIRC
23	ACS - 17103	7763	Ms. Kavitha Venkatanarasimhan	SIRC
24	ACS - 17547	6504	Ms. Manjiri Kedar Harishchandra	WIRC
25	ACS - 17635	7927	Ms. Gauri Sandeep Sahasrabudhe	WIRC
26	ACS - 17720	8097	Mrs. Jyoti Udar	SIRC

News From the Institute

List of Members Whose Certificate of Practice Stands Cancelled



27	ACS - 17814	7336 Sh. Naveen Perla	SIRC	67	ACS - 27021	9670 Ms. Smita Jain	EIRC
28	ACS - 18529	9985 Sh. Shyam Sundar L.V.	SIRC	68	ACS - 27141	10515 Ms. Saras Goyal	WIRC
29	ACS - 19214	7819 Sh. Manish Chirania	WIRC	69	ACS - 27162	11688 Mrs. Jyoti Sud	NIRC
30	ACS - 19467	9582 Ms. Ananthalakshmi S	SIRC	70	ACS - 27454	9879 Mr. Vidyasagar K	WIRC
31	ACS - 19771	7661 Ms. M S Durga	SIRC	71	ACS - 27986	10053 Mr. Navneet Singh	NIRC
32	ACS - 19830	7121 Ms. Sneha Shripad Karmarkar	WIRC	72	ACS - 28322	10982 Ms. Charu Lata Seth	NIRC
33	ACS - 19854	10454 Ms. Chaman Agarwal	NIRC	73	ACS - 28349	11235 Mr. Ravindra Agarwal	EIRC
34	ACS - 19865	11365 Sh. Manoj Kumar Rajan	SIRC	74	ACS - 28562	10739 Mr. Rakesh Hiralal Gangwani	WIRC
35	ACS - 19996	10689 Ms. Amita Jain	EIRC	75	ACS - 28767	11032 Mr. Harshal Arun Nasikkar	WIRC
36	ACS - 20124	11324 Mrs. Madhuvanti Patwardhan	WIRC	76	ACS - 28969	11465 Ms. Neha Khatri	NIRC
37	ACS - 20386	8334 Ms. Neha Jain	NIRC	77	ACS - 29026	10521 Mr. Ashish Goyal	WIRC
38	ACS - 21816	9145 Sh. Prashant Chandrakant Surve	WIRC	78	ACS - 29092	10497 Ms. Anuradha Sharma	NIRC
39	ACS - 22112	10480 Ms. Meenakshi Gupta	NIRC	79	ACS - 29114	10605 Ms. Minakshi Bajoria	EIRC
40	ACS - 22292	11542 Ms. Nidhi Khandelia	NIRC	80	ACS - 29892	10924 Ms. Pallavi Sandhir	NIRC
41	ACS - 22529	10468 Ms. Sunita	NIRC	81	ACS - 30068	11586 Ms. Trupti Ramesh Lad	WIRC
42	ACS - 22557	11068 Sh. L B Gopalan	SIRC	82	ACS - 30142	10946 Mr. Pankaj Kamalakar Pendse	WIRC
43	ACS - 22596	8387 Ms. Ankita Singh	NIRC	83	ACS - 30384	11370 Mr. Rishi Raj Garg	NIRC
44	ACS - 22875	8576 Sh. Tushar Sudhir Pahade	WIRC	84	ACS - 30870	11695 Mr. Navin Kumar Agarwal	EIRC
45	ACS - 23072	11172 Ms. Dhvani Fatehpuria	EIRC	85	ACS - 30899	11429 Mrs. Amisha Dharam Popat	WIRC
46	ACS - 23594	10037 Ms. Priyanka Khandelwal	WIRC	86	ACS - 31255	11785 Mr. Tarun Arora	NIRC
47	ACS - 23631	11026 Ms. Amreen Khan	WIRC	87	ACS - 31284	11753 Mr. G Ramasankaran	SIRC
48	ACS - 23855	8575 Mr. Amit Sagar Kochar	WIRC	88	ACS - 31473	11783 Ms. Pooja Raju Thanawala	WIRC
49	ACS - 24558	10419 Ms. Tejinder Kaur Brogu	NIRC	89	ACS - 31822	11679 Mr. Muhammed Sahal K	SIRC
50	ACS - 24694	10008 Ms. Duiti Ramchandani	NIRC	90	FCS - 303	7912 Sh. Subhash Chander Lamba	NIRC
51	ACS - 24804	10340 Ms. Rekha Anil Gupta	WIRC	91	FCS - 377	217 Sh. N R S Murthy	SIRC
52	ACS - 24879	8916 Sh. Laxmikant Ambadasrao Jaipurkar	WIRC	92	FCS - 752	3386 Sh. Jayant R Shah	WIRC
53	ACS - 25038	10854 Ms. Swati Arora	NIRC	93	FCS - 774	8683 Sh. Tushar Kanti Bhattacharya	EIRC
54	ACS - 25156	10614 Ms. Nikita Jain	NIRC	94	FCS - 1561	5562 Sh. V S Wadagbalkar	WIRC
55	ACS - 25174	11551 Ms. Harpreet Kaur Bhamra	EIRC	95	FCS - 1907	8414 Sh. Som Chandra Jain	NIRC
56	ACS - 25278	11711 Ms. Loveleena Ahuja	NIRC	96	FCS - 1937	9825 Sh. D S Gunasingh	WIRC
57	ACS - 25516	10767 Mrs. Puja Maheshwari	NIRC	97	FCS - 3831	8049 Sh. Ranjit Singh Kang	NIRC
58	ACS - 25648	11585 Ms. Mira Agarwal	EIRC	98	FCS - 4518	7678 Sh. Goutam Bandyopadhyay	WIRC
59	ACS - 25810	9256 Ms. Nargis Khalili	EIRC	99	FCS - 5265	8042 Sh. Uday Madhusudan Karnik	WIRC
60	ACS - 25976	11718 Ms. Shruti Audumber Kondewar	WIRC	100	FCS - 5345	9953 Ms. Bharti Dey	NIRC
61	ACS - 26006	11361 Ms. Kajal Kaushik	NIRC	101	FCS - 5850	2456 Sh. Mohan S Rao	SIRC
62	ACS - 26078	11368 Mrs. Nitisha Saurabh Sohoni	WIRC	102	FCS - 6203	9102 Sh. K A Sivasankaran	SIRC
63	ACS - 26202	10114 Ms. Aditi Daga	WIRC	103	FCS - 6632	7132 Sh. Dilip Kumar Niranjana	NIRC
64	ACS - 26326	9493 Sh. Arvind Harlalka	EIRC	104	FCS - 7001	7673 Mr. Shaurya Mitra Tomar	NIRC
65	ACS - 26602	10065 Mr. Ramakant Dhanaka	NIRC				
66	ACS - 26921	9702 Mrs. Richa Piyush Jhuria	WIRC				

For any clarification /assistance , please write to Mr. Rajeshwar Singh ,Senior Assistant at email rajeshwar.singh@icsi.edu or contact at telephone No.011-45341063 or Mobile No.9868128682.





Company Secretaries Benevolent Fund

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



Region	LM No.	Name	Member Number	City
EIRC				
	1	10195 Sh. Anand Kumar Jha	FCS - 7103	Hooghly Dist
NIRC				
	2	10192 Mr. Vishant Kumar Jain	ACS - 30319	Delhi
	3	10198 Mr. Surya Prakash	ACS - 32917	Delhi
SIRC				
	4	10191 Mr. D K D Prasad	ACS - 34820	E G Distt
	5	10194 Mr. V Marikannan	ACS - 30767	Dindigul
	6	10203 Sh. Agate Joseph Easow	ACS - 27538	Ernakulam
	7	10204 Sh. Bijoy Prabhakaran Pulipra	FCS - 7475	Thiruvananthapuram
	8	10207 Ms. Veena B	ACS - 32405	Coimbatore
	9	10208 Ms. Aradhana Dilip Rewatkar	ACS - 24471	Secunderabad
	10	10210 Ms. P Latha	ACS - 31559	Secunderabad
	11	10215 Ms. Pavana Jyothi Ayaluru	ACS - 32818	Hyderabad
	12	10216 Mr. Ramesh Chowdaiah Kasapura	ACS - 29079	Bhadravathi
	13	10217 Mr. Bhamidi S Krishna Sirish	ACS - 34437	East Godavari (Distt)

Region	LM No.	Name	Member Number	City
WIRC				
	14	10190 Mr. Darshan Hasmukhbhai Soni	ACS - 30220	Gandhinagar
	15	10193 Mr. Arvind Kumar Vagadoda	ACS - 29218	Ahmedabad
	16	10196 Sh. Nilesh Arvind Pradhan	FCS - 5445	Mumbai
	17	10197 Sh. Yogesh Dinanath Dabholkar	FCS - 6336	Thane Distt
	18	10199 Mr. Vijay Ramesh Gupta	ACS - 33236	Thane
	19	10200 Ms Prajakta Vasant Padhye	FCS - 7478	Dombivli (East)
	20	10201 Sh. Amey Vijay Lotlikar	ACS - 21081	Thane
	21	10202 Mr. Abhijeet Krishna Yerukar	ACS - 32670	Nashik
	22	10205 Mr. Vishal Shankar Patil	ACS - 30178	Pune
	23	10206 Mr. Pravin Navamoney	ACS - 29093	Mumbai
	24	10209 Sh. Manoj Kumar Ramrakhyan	ACS - 14616	Ahmedabad
	25	10211 Ms. Snehal Ramesh Ghatpande	ACS - 34881	Pune
	26	10212 Mr. Manish Satish Raut	ACS - 28162	Thane
	27	10213 Mr Nrupang Bhumitra Dholakia	ACS - 34722	Mumbai
	28	10214 Mr. Manish Madhukar Rajvaidya	ACS - 29168	Nagpur

* Enrolled during the period from 21st January 2014 to 20th February 2014.



List of Companies Registered for Imparting Training During the Month of January 2014

Region	Training Period	Stipend
Eastern		
Shri Surendra Gupta Company Secretary Senco Gold Ltd Diamond Prestige 41A, A.J.C Bose Road 10 th Floor, Kolkata - 700017	15/3 Months	Suitable
Shri Dipankar Sarkar Director Sarkar Dairy Pvt Ltd P.O-Hatthuba, B.B.D Sarani, Ghosh Para, P.S-Habra, Dist-North 24 Parganas West Bengal 743 269	15 Months	Suitable
Shri Subrat Pradhan Company Secretary Annapurna Microfinance Pvt Ltd HIG - 97, Dharma Vihar Khandagiri, Bhubaneswar Odisha - 751030	15/3 Months	Suitable
Mr. Vishal Kanodia Company Secretary Cordlife Sciences India Pvt. Ltd. 43 Ashutosh Choudhury Avenue Sunny Towers Kolkata 700 019	15 Months	Suitable
Shri V Agarwal Director Powercon Cement Ltd., Room No. 35, 5 th Floor 6A Cliverow Kolkata 70000	15 Months	Suitable

NIRC

Shri Ashok Kumar Monga Company Secretary PEC Ltd. Hansalaya 15 Barakhamba Road New Delhi - 11 0001	15/3 Months	Suitable
Shri Devesh Sachdev Director - CEO Fusion Microfinance Pvt Ltd C-3, Community Centre Naraina Vihar New Delhi - 110028	15/3 Months	Suitable
Shri Saurabh Kalia Partner Sastra Legal Advocates & Solicitors E 96 Malcha Marg Chanakya Puri New Delhi 110021	15 Months and 15 days	Suitable
Shri Pankaj Khurana Compliance Manager Om Sakk India Industries Limited 80 th Mile Stone, Village Jhattipur G.T. Road, Panipat Haryana - 132103	15/3 Months	Suitable
Shri Sanjiv Vasudeva Director - Commercial SABIC Innovative Plastics India Pvt. Ltd 9 th Floor, Tower B Building no.9, DLF Cyber City Phase-III Gurgaon - 122002	3 Months	Suitable
The Manager Century Infrapower Pvt. Ltd. S 23 Alankar Plaza Central Spine Vidhadhar Nagar Jaipur	15 Months	Suitable
The Manager Biogenetic Drugs Pvt. Ltd. 66 Mathura Vaish Nagartonk Road Jaipur	15 Months	Suitable
Shri S R Joshi Advocate Joshi Bapna & Co., 27 Indira Nagar Gopalpura Circle Tonk Road Jaipur 302018	15 Months	Suitable



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Shri Pawan Garg Managing Director CPR Capital Services Ltd., SS 21 & 22, 2d Floor Aditya Mega Mall Plot No. 9 D, CBD Shahdara Delhi 110032	15 Months	Suitable	Mr. Abhishek Kapoor Company Secretary Hisar Metal Industries Limited Near Industrial Development Colony Hisar 125 005	15 Months	Suitable
Shri K R Radhakrishnan Company Secretary GE India Industrial Pvt. Ltd. Building No. 7A, DLF Cyber City Phase III Sector 25 - A Gurgaon 122009	3 Months	Suitable	Mr. Prashant Kumar Company Secretary KJS Cement Limited Ground Floor Unit No. 005 Copia Corporate Suites Jasola New Delhi 110044	15 Months	Suitable
Shri Ajay Virmani Managing Director Lords Chloro Alkali Limited A 263, IInd Floor Defence Colony New Delhi 110 024	15 Months	Suitable	Mr. Lalit Khanna Company Secretary Smart Ventures Limited S Global Knowledge Park 19A & 19B, Sector 125 NOIDA 201301	15 Months	Suitable
Shri Rakesh Mehrotra Chief Financial Officer KRBL Limited 5190 Lahori Gate Delhi 110006	15 Months	Suitable	The Director R K G Finvest Limited 22 Basement Rajindra Park New Delhi 110 060	15 Months	Suitable
Ms. Kritika Kohli Celebrity & Company Secretary Utasv Fashion Pvt. Ltd., 18 Sant Nagar East of Kailash Delhi 110065	15 Months	Suitable	The Director Sital Leasing & Finance Limited 322, 3 rd Floor S S Plaza Commercial Complex Mayfield Garden Sector 47 Gurgaon 122001	15 Months	Suitable
Mr. Harshita C Kochhar Company Secretary Jaipur Metro Rail Corpn. Ltd. Khanij Bhavan Behind Udyog Bhavan C Scheme Jaipur	15 Months	Suitable	The Director Apoorva Leasing Finance and Invtment Co. Limited 104 A Single Storey Ramesh Nagar New Delhi 110 015	15 Months	Suitable
Mr Anoop Dawar Corporate Law Partners A 79 Lower Ground Floor East of Kailash New Delhi 110 065	15 Months	Suitable	Shri Kishan Poddar Director Ginni Spectra Pvt. Ltd., Ginni House 85/86 Burmese Colony Near Sethi Colony Jaipur 302004	15 Months	Suitable
Mr .G S Banga Mangaging Director Merits Capital Market Services Pvt.Ltd 65 Old Rajinder Nagar Market New Delhi 110060	15 Months	Suitable	Shri Alok Sharma Director Astrain TS Consultinv Pvt. Ltd. GF 25B, Tower B2, Spaze 1 Tech Park, Sohna Road Sector 49, Gurgaon 122002	15 Months	Suitable



SIRC

Shri Baminee Viswanat 15 Months Suitable
Company Secretary
Lenovo India Pvt. Ltd.
Ferns Icon, Level-2
Doddenakundi Village
Marathhalli Outer Ring Road
Bangalore 560 037

Shri Ramaprasad S 15 Months Suitable
Senior Vice President –
Group Legal & Company Secretary
Lifestyle International Pvt Ltd
77 Town Centre, Building no.3,
5th floor, West wing, Off HAL Airport road
Yemlur P.O
Bangalore 560 037

Ms. Priya Y. Hattaraki 15 Months Suitable
Manager - HR, ADD/SPML group
Delhi Waste Management Ltd
No.8, ICON, 5th floor, 80 Ft. Main road
Indiranagar, HAL 3rd stage
Bangalore 560 075

Shri Aruna Boyanapalle 15 Months Suitable
Asstt. Company Secretary
Srinivasa Hatcheries Limited
'Srinivasa House', Plot No. 1028
Road No. 45
Jubilee Hills
Hyderabad 500033

Shri Dinesh Singh 15 Months Suitable
Company Secretary
Nova Medical Centers Pvt. Ltd.
No. 23, First Floor
Leela Galleria, The Leela Palae
Old Airport Road
Bangalore 560008

Shri Vapasvi Deora 15 Months Suitable
P Murali Consultants Pvt.Ltd.
6-3655/2/3 Somajiguda
Hyderabad 500 082

WIRC

Shri Naresh Mehta 15/3 Months Suitable
Hon. Secretary
Bharat Diamond Bourse
Tower-A, G-Block
Bandra-Kurla Complex,
Bandra East
Mumbai - 400051

Ms. Adelia Castelino 15/3 Months Suitable
Director

In-Solutions Global Pvt Ltd
Suite# 601/602/618, 6th floor
Palm Spring, Link Road
Malad (W),
Mumbai - 400064

Shri Satyan S Israni 15 Months Suitable
Partner
SD Israni Law Chambers
Advocates & Solicitors (UK)
11, Tulsiani Chambers, 9th floor
Above HDFC Bank, Nariman Point
Mumbai 400 021

Ms. Rachana A Sanganeria 15 Months Suitable
Company Secretary
Parag Milk Foods Pvt Ltd
20th floor, Nirmal Building
Nariman Point
Mumbai 400021

Ms. Usha Iyengar 15 Months Suitable
Company Secretary
AMW Motors Ltd
7th floor, Tower 1, Equinox Business Park
Peninsula Techno Park
Off Bandra Kurla Road, L.B.S Marg
Mumbai 400070

Shri Jayesh Damle 15 Months Suitable
Company Secretary
Bramhacorp Limited
3 Queens Garden
Residency Club
Pune 411 001

Shri Pramod Kumar 15 Months Suitable
Director
R K Agarwal Trading Co. (P) Ltd.,
89/1 Hirabhai Market
Diwan Ballubhai Road
Ahmedabd 380 022

Shri Atit Soni 15 Months Suitable
Company Secretary
Clearwater Capital Partners (I) Pvt.Ltd.,
201, 2nd Floor, Central Plaza
166 CST Road
Kalina
Mumbai 400 008

The Whole Time director 15 Months Suitable
326 Sardar Gruh Building
198 Lokmanya Tilak Road
Near Crawford Market
Mumbai 400 002





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Shri Mukesh Tank 15 Months Suitable
 Company Secretary
 Veritas (I) Limited
 701 Embassy Centre
 Nariman Point
 Mumbai 400 021

Shri Vishwanath Subramaniam 15/3 Months Suitable
 Associate Director - Controllers
 JM Financial Services Ltd.,
 1st Floor, B Wing, Suashish IT Park
 Plot No. 68 E
 Off. Datapada road
 Opp. Tata Steel
 Borivli (East)
 Mumbai 400 066

Dr. Sandeep Dadia 15/3 Months Suitable
 CEO
 Aditya Birla Insurance Brokers
 One Indiabulls Centre
 Tower 1, 14th Floor
 Jupiter Mill Compound
 841 Senapat Bapat Marg
 Elphistone Road
 Mumbai 400 013

Shri D S Ladwa 15 Months Suitable
 Company Secretary
 Bhairaav Erectors Limited
 Bhairaav House
 Muthaliya Residency
 Dattaram Lad Marg
 Kalachowky
 Mumbai 400033

Mr Raju Pembenni 15 Months Suitable
 Vice President - Finance
 DBS Bank Ltd.
 5th Floor, Fort House
 221 Dr. D N Road
 Fort
 Mumbai 400 001

Ms. Snehal Patel 15 Months Suitable
 Director
 Oasis Tradelink Ltd.
 1st Floor, Maruti House
 Opp. Sales Indias Showroom
 Ashram Road
 Ahmedabad 380 009

The Company Secretary 15 Months Suitable
 JSW Cement Limited
 JSW Centre
 Bandra Kurla Complex
 Bandra (East)
 Mumbai 400 051



News From the Regions

➤ Eastern India Regional Council

Synergy Siliguri 2014

On 11 and 12.2.2014 Synergy Siliguri 2014, an event for promoting MSMEs in North Bengal and providing them a single window platform to get their queries resolved was held at Savin Kingdom, Siliguri by the Government of West Bengal in association with the Confederation of Indian Industry (CII).

The Institute of Company Secretaries of India (ICSI) was the only professional Institute invited to be associated with the event by opening a helpdesk cum clinic throughout the event, to organise an Investor Awareness Programme (IAP) and to organise a session on Corporate Governance for the delegates and entrepreneurs.

CS Somenath Ganguly and CS Arani Guha, Practising Company Secretaries along with Dr. Tapas Kumar Roy, Education Officer, EIRO attended the programme. The Institute arranged a helpdesk cum clinic to address the issues of entrepreneurs and prospective entrepreneurs. The help desk also had a lot of queries from students about the Company Secretaries Course.

Ganguly and Guha along with Dr. Roy addressed the issues and queries raised by the visitors at the help desk cum clinic throughout the event and on 11.2.2014 addressed the session on Investor Awareness, on 12.2.2014 on Corporate Governance. The sessions were well attended and appreciated by the participants.

The event worked as a window for the persons attending the event to have their issues resolved as well as increasing the awareness about ICSI in the region.

With the MOU being entered into between the ICSI and the Government of West Bengal for association in the MSME sector, more such events will be held in the future wherein ICSI will have a major role to play.

Study Circle Meeting on Compromise, Arrangement, Merger & Acquisition in NCLT

On 1.2.2014 the EIRC of the ICSI organized its 1st Study Circle Meet for the year 2014 on Compromise, Arrangement, Merger & Acquisition in NCLT at CLB Library, Company Law Board, Kolkata. The meet was inaugurated by CS Sutanu Sinha, Chief Executive, ICSI.

CS Arun Khandelia, Chairman, EIRC – ICSI in his welcome address introduced the topic and speaker of the meet. He said whenever NCLT will come into existence members of the ICSI will become stronger in their field.

Chief Guest CS Sutanu Sinha in his address provided the overview and acceptance of NCLT in law. He also spoke on Business Economics of India and its position in World, Capital Investment, to understand Business and to understand the needs.

CS Ranjit Kanodia, Past Chairman, ICSI-EIRC explained the topic Compromise, Arrangement, Merger & Acquisition in National Company Law Tribunal.

Speaker CS Anjan Kumar Roy, Secretary and Treasurer, ICSI-EIRC while addressing about the advantage of NCLT talked on the process of growing NCLT in law, opportunity after NCLT, BIFR, small company mergers, disclosures, share capital, networks, creditor's responsibility etc. He also talked on Notice of Meeting (FISS), Members-Creditors/Debentures, Statement of Details, Valuation of Report, Board Meeting and Details of Directors Applications, Notice to other Regulators, Effect of the Compromise/ Arrangement, Order of Tribunal to file with ROC, Grievance against Takeover, Powers of ROC/FERA/FEMA etc. During the meet the queries raised by the participants were replied satisfactorily. The programme was appreciated by one and all present.

Carrier Awareness Programme

ON 7.2.2014 the EIRC of the ICSI organized a Carrier Awareness Programme at Kabi Sukanta Mahavidyalaya, Bhadreswar, Hooghly, West Bengal. Utpal Mukherjee, Executive Officer, ICSI-EIRO and Dr. Tapas Kumar Roy, Education Officer, ICSI-EIRO were the speakers. Mukherjee addressed on the structure of the Institute, course curriculum, subjects of CS course, prospects as CS professional, registration procedure, training requirements, etc. Dr. Tapas Kumar Roy gave a brief about course contents stage wise, registration procedure including fee structure of CS course, compulsory training programme, etc. A large number of students attended the programme.

Saraswati Puja Celebration

On 4.2.2014 the Regional Council celebrated Saraswati Puja at the ICSI-EIRC Library located at EIRC Office. The members and students in large number along with officials of EIRO worshipped Goddess Saraswati, the mother of learning.

BHUBANESWAR CHAPTER Investor Awareness Programmes

The Chapter conducted 10 Investor Awareness Programmes from 19.01.2014 to 16.02.2014 in different parts of Odisha. On 19.01.2014, two programmes were conducted, one at Deoli, Block: Bolagarh and another at Rasol, Via: Pichukoli, Dt. Khurda. Out of the three programmes conducted on 2.2.2014, one was held





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at Bhubaneswar and the other two Near Govt. UP School, Po: Tikatala and Panchayat Samiti Office, at Po. Sanapadar, Dist. Khurda. Further the Chapter conducted one programme at the Office of the Registrar of Companies, Odisha on 14.02.2014. On 15.02.2014, two Investor Awareness Programmes were held at Gram Panchayat Office, at Po. Siko, Via: Jankia and Gram Panchayat Office, at Po. Hirapur under Khurda district of Odisha. Another two programmes were conducted on 16.02.2014 with one at Po. Bhipur Gram Panchayat Office, Begunia and other at Po. Keluhapatna, Badaharana Gram Panchayat of Khurda district. The programmes were held under the aegis of IEPF, MCA, Govt. of India. Guidance and support were received from RD (E), ROC, Cuttack, MCA and the HQ as well as the EIRC of the ICSI for success of all the above programmes. Investors/ general public, school/college teachers, retired persons, members of Mahila Samiti of rural areas, housewives, advocates, members of the Institute and students, small traders and businessmen attended the programmes in large numbers. Investor related information booklet, writing kits and other relevant information were provided to the investors in all the programmes free of cost. There was a question hour session for the investors in each of the programmes wherein various queries raised by the participants were replied by the speakers of the programme. Necessary feedback was collected from the participating investors at all the programmes. B. Mishra, Registrar of Companies-cum-official liquidator, Odisha attended as Chief Guest the programmes held on 02.02.2014 at Bhubaneswar and on 14.02.2014 at Cuttack and also addressed the investors. CS A. Acharya, Chairman, CS D. Mohapatra, Vice Chairman, CS P. Nayak, Treasurer & Secretary, CS J.B. Das, Members of the Managing Committee of the Chapter attended and also addressed at the above places. In addition CS S.K. Sahoo, PCS, Cuttack; CS B.K. Sahu, Dy. Company Secretary, NALCO; CA Satyananda Routray, Practising CA, Cuttack; CS D.S. Mishra, PCS, Bhubaneswar also addressed at some of the programmes. Local Sarpanch, Block Chairman, Head Masters of the local area also attended and addressed at some of the programmes held in the rural areas of the state. Proceedings of the programme held on 02.02.2014 at Bhubaneswar and also at other places were published with photographs in the local newspapers and was also telecast in TV channels.

Two Days Workshop on Enabling Service Tax Practice

On 24 and 25.01.2014, the Chapter organized a two day workshop on Enabling Service Tax Practice at Bhubaneswar. The proceedings of the session were undertaken by Anil Sood, Advocate, New Delhi. D.N. Panda, Judicial Member, Central Excise & Service Tax Appellate Tribunal, New Delhi Chaired the session. The two days session was well covered with evolution of service tax, various rules framed thereunder, indirect taxation, Taxability of services, Negative List of Services, Declared Services, Exemptions under various notifications, Service Tax & its National scenario. The workshop was attended by around 70 executives of various companies dealing with service tax and other taxes, members of

the ICSI, etc. CS A Acharya, Chapter Chairman in his welcome address said that the Chapter had organized for the first time this workshop for the benefit of the members dealing with service and other taxes.

Republic Day Celebration

On 26.01.2014 the Chapter joined the Nation in celebrating its 65th Republic Day at its office premises wherein Office bearers of the Managing Committee of the Chapter, Members of the Institute, Students, Faculties of oral coaching classes & invited dignitaries were present. CS A. Acharya, Chapter Chairman unfurled the tricolor. P.K. Das, Head (HRD), IDC of Odisha Limited, Bhubaneswar was the Chief Guest of the programme. This was followed by the rendition of National Anthem by all.

ICSI – ICRA Joint Seminar

On 28.01.2014, the Chapter hosted the ICSI – ICRA Joint Seminar at its premises. Chief Guest P.K. Das, Joint Secretary, Industries, Govt. of Odisha while addressing a gathering of about 200 participants, said that the Company Secretaries play a vital role in guiding the Companies in various important matters relating to Corporate Laws and ensure that the Companies must follow the Rules & Regulations in letter and spirit so that the investor's money can be protected.

A.D. Sarkar, Manager (Business Development), ICRA Limited, Kolkata representing on behalf of ICRA in his address said that being a platform of this joint seminar with ICSI, ICRA takes a great pleasure by organising this seminar at Bhubaneswar. He also highlighted the features of BLR ratings and Grading products. Further he said that prudence and transparency are the key parameters for sustainable and inclusive growth. During the full day seminar eminent speakers like CS L.D. Sahoo, Advocate, CS N. Pradhan, Managing Director, G U Financial Services Private Limited, CS B. Debata, Practising Company Secretary addressed the seminar on the topics Corporate Governance, Capital Market, IPO/FPO, ICDR, NBFC with reference to MFI in 4 technical sessions. Proceedings of the programme was published in regional newspapers with photographs.

Celebration of Basant Panchami

On 04.02.2014, the Chapter celebrated 'Basant Panchami' Puja of Devi 'Saraswati' at its premises amidst the presence of students, members, faculties of the Chapter. On this auspicious day, the Chapter Office was well decorated. A large number of students and members of the Chapter visited the Chapter office and offered puspunjali to Devi Saraswati the Goddess of Learning. Devi Saraswati was immersed in river Kuakhai on 06.02.2014.

Cricket Match

The Chapter organized a friendly cricket match between its members & students on 16.02.2014 at Nalco Community Centre, Bhubaneswar. While inaugurating the match Chapter Chairman CS A. Acharya said that the ICSI Bhubaneswar Chapter is continuously



extending its support and cooperation to the students for their success in the examinations by providing library, oral coaching facilities, various professional development programmes and study circle meetings etc. CS Sunita Mohanty, Vice Chairperson, EIRC of the ICSI, Kolkata presented the trophy to the winning team of students. CS B.K. Sahu, Deputy Company Secretary, NALCO won the man of the match trophy. Abhisek Pothal, Professional Development Student was the Captain of the students' team, CS K.N. Ravindra, Company Secretary, NALCO, Bhubaneswar was the Captain of the members' team.

HOOGHLY CHAPTER Half Day Workshop on Companies Act, 2013

On 19.1.2014 the Hooghly Chapter of EIRC of the ICSI organized a Half Day Workshop on Companies Act, 2013 at its premises. CS Ravi Varma, was the Guest Speaker on E-Governance (Electronic Governance) for E-Governance (Effective Governance) under the Companies Act, 2013. The other Guest Speaker CS Narendra Singh, Company Secretary, Aditya Birla Group, delivered his address on Balancing between Companies Act, 2013 and SEBI Laws. Around fifty participants attended the workshop.

Republic Day Celebration

On 26.1.2014 the 65th Republic Day was celebrated with full enthusiasm at the Chapter Office. CS Jamshed Alam, Chapter Chairman hoisted the National Flag at the Chapter Office, Rishra. On this occasion a debate was organized on "Business v. Ethics". A good number of students participated in the debate/competition. An interactive session by CS Anil Dubey was conducted on "Mind - Ultimate Way to Excellence".

Full Day Workshop on Various topics on NBFCs

On 2.2.2014 a full day workshop was organized by Hooghly Chapter of ICSI at CMA Bhawan, Howrah on various topics on NBFCs. Guest Speaker Mohit Bhuteria, Practising Chartered Accountant addressed on Practical approach to Compliances of Non-Deposit taking NBFCs. CS Nivedita Shankar, Senior Associate with Vinod Kothari & Company, was the Guest Speaker who spoke on Impact of Companies Act, 2013 on NBFCs. Another Speaker CS Nidhi Bothra, Executive Vice President, Vinod Kothari Consultants Pvt. Ltd. addressed on an Overview of Regulatory Framework of NBFCs. A total of 50 participants were present on the occasion. Earlier, CS Jamshed Alam, Chapter Chairman in his welcome address said that the topics chosen for the workshop are very relevant in the current scenario.

Saraswati Puja Celebration

On 4.2.2014 the Chapter at its office celebrated Saraswati Puja on the occasion of Basant Panchami which was attended by Members and Students who prayed the deity of wisdom.

Full Day Workshop

On 9.2.2014 a full day workshop was organized by the Chapter at Sarat Sadan, Howrah Maidan on the Companies Act, 2013. Dr. Debashis Mitra, Practising Chartered Accountant was the Guest Speaker who talked on CSR, Accounts & Fraud Reporting under Section 185 of the Companies Act, 2013. Another Speaker CS Anjan Roy, Past Chairman, EIRC of ICSI delivered his session on Annual Return, Board Meeting and Managerial Remuneration. A total of 77 participants attended the workshop. Earlier, CS Jamshed Alam, Chapter Chairman, in his welcome address explained the importance of the topics in the present scenario.

Half Day Workshop on Practical Discussion on Industrial & Labour Laws

On 15.2.2014 a half day workshop was organized by the Chapter at CMA Bhawan, Howrah for Practical Discussion on Industrial & Labour Laws. Guest Speaker CS Siddhartha Murarka and 20 participants were present at the workshop.

PICNIC

On 16.2.2014 a picnic was organized at Nundy Bagan, Rishra. A large number of students and members participated and enjoyed the picnic. The venue was at the bank of the river Ganga. Various types of games and events were there for entertainment.

Investor Awareness Programme

On 19.1.2014 an Investor Awareness Programme was organized by the Chapter at Rishra. The Speakers were CS Ravi Varma and CS Narendra Singh. Around 50 participants were present at the programme.

Another Investor Awareness Programme was held on 02.02.2014 at CMA Bhawan, Howrah. The Speaker was CS Gautam Dugar, Immediate Past Chairman. Around 50 participants were present at the programme.

Yet again on 16.2.2014 the Chapter organized an Investor Awareness Programme at Konnagar. CS Jamshed Alam was the speaker of the programme which was attended by around 80 participants.

NORTH EASTERN CHAPTER Study Circle Meeting on Human Value in Life, Appeals under Income Tax Act and Registration and Assessment of Trust under Income Tax Act

On 18.1.2014 the North Eastern Chapter of EIRC of the ICSI organised a Study Circle Meeting on the above topic at Guwahati. Acharya Sri Govind Ram Sharma from Belda, Haridwar delivered his address on Human Value in Life. The topic on Appeals under Income Tax Act and Registration was



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explained by Anadee Nath Misshra (Commission of Income Tax (Appeal) at Guwahati. The topic on Registration and Assessment of Trust under Income Tax Act was addressed by Arun Bhowmick, Asst. Commissioner of Income Tax (Trust Circle) Guwahati. The queries raised by the participants were suitably replied by the speakers. Around 70 members including students attended the study circle.

RANCHI CHAPTER **Career Awareness Programme**

On 24.1.2014 the Chapter conducted a career awareness programme at Vivekananda Vidya Mandir, H Sector II and Kendriya Vidyalaya, CRPF Dhurwa. Another programme was held at Kairali School, Sector II on 13.2.2014 by S.Sreejesh, Administrator, S.B. Prasad and Akhand Kirti. The officials gave a presentation on "Career as a Company Secretary" and replied the queries of the students about the course, subjects, prospects of the profession etc. The Principal and other teachers of the school appreciated the efforts of ICSI for creating awareness about the CS course.

> Northern India **Regional Council**

Rajasthan State Conference on Strategic Opportunities for CS in New Companies Act, 2013 (Host: Jodhpur Chapter)

On 11.1.2014 at the Rajasthan State Conference on Strategic Opportunities for CS in the Companies Act, 2013 (Host: Jodhpur Chapter) Justice Dr. Vineet Kothari, Hon'ble Judge, Rajasthan High Court was the Chief Guest. Key-note address was given by CS Akhil Prasad, Country Counsel India and Company Secretary, BOIENG International Corporation and CS Ilam C Kamboj, AVP Legal and Company Secretary, Hero Motocorp Ltd. Chairmen of Technical Sessions: CS G P Madaan (Past Chairman, NIRC-ICSI), Founder & CEO, Corporate Knowledge Foundation and CS Hitender Mehta (Past Chairman, NIRC-ICSI), Partner, Vaish Associates; Speakers were CS Atul Mittal (Council Member, ICSI), Director - Tax & Regulatory, Deloitte Touche Tohamtsu India Pvt. Ltd. CS Saurabh Kalia, Advocate; Stuti Bansal, Advocate, Corporate Professionals; CS Sanjeev Gemawat, Vice President Legal, DLF; CS Lalit Kumar, Partner, J Sagar Associates, Advocates & Solicitors and Suneel Keswani, Corporate Trainer. Guests of Honour at the Valedictory Session were: Ajoy Naqib, General Manager, SBBJ; Kamal Mehta, Chairperson, Jodhpur National University and Niaz Mohd, Deputy Mayor, Jodhpur.

Vaishali Study Group Meeting on Data Privacy, Cyber Security and Indian Law

On 11.1.2014 at the Vaishali Study Group Meeting on Data Privacy, Cyber Security and Indian Law CS Anuj Agarwal was the speaker.

Meeting with Past Chairmen of NIRC

On 17.1.2014 the Regional Council organised a meeting with Past Chairmen of NIRC CS Harish K Vaid, CS Nesar Ahmad, CS Sanjay Grover, CS Rajiv Bajaj, CS M G Jindal, CS S K Aggrawal, CS H S Grover, CS Paramjeet Singh, CS Virender Ganda, CS Yogesh Gupta, CS G P Madaan, CS Satwinder Singh & CS Hitender Mehta.

One Day National Seminar jointly with SAFIM on Sustainability - Corporate Evolution through Consciousness

On 18.1.2014 at the One Day National Seminar jointly with SAFIM on Sustainability – Corporate Evolution through Consciousness T N Chaturvedi, Chairman SAFIM Advisory Board and Former Governor, Karnataka & Kerala was the Chairman of the Inaugural Session. Guests of Honour were: Dr A K Balyan, MD & CEO Petronet LNG Ltd. and Member SAFIM Advisory Board and CS S N Ananthasubramanian, then President, ICSI and CS Harish K Vaid, then Vice-President, ICSI.

Chairmen of the Technical Sessions were: Dr. Ramesh C Vaish, Chartered Accountant & B L Bagra, Former CMD, NALCO. Guest Speakers were: Avimukt Dar, Partner, IndusLaw; Dr.Akhil Prasad, Country Counsel India and Company Secretary, Boeing International Corporation India, Amita Joseph, Founder Director, Business Community and Foundation; Dr. Jai Prakash Singh, Sri Aurobindo Foundation for Integral Management; K G Narendranath, Dy. Editor, The Financial Express; Ashok B Chakraborty, Chief Sustainability Officer, National Foundation for Corporate Social Responsibility, Indian Institute of Corporate Affairs (Ministry of Corporate Affairs) and Prof. Subhasis Ray, Associate Professor, Xavier Institute of Management, Bhubaneswar.

West Delhi Study Group Meeting on Accounts, Audit & CSR under the Companies Act, 2013

On 19.1.2014 at the West Delhi Study Group Meeting on Accounts, Audit & CSR under the Companies Act, 2013 CS Gopal Mandal was the speaker.

Study Circle Meeting on Prevention of Sexual Harassment at Work Place

On 24.1.2014 at the Study Circle Meeting on Prevention of Sexual Harassment at Work Place CS Rajesh Arora, (Vice President - Company Secretary, NIIT Limited) and CS Vandana Bhatia were the speakers.



East Delhi Study Group Meeting on Related Party Transaction under The Companies Act, 2013

On 25.1.2014 at the East Delhi Study Group Meeting on Related Party Transaction under the Companies Act, 2013 CS Ranjeet Pandey, Past Chairman NIRC was the speaker.

Flag Hoisting, Republic Day Celebration and Planting of Saplings

On 26.1.2014 at the Flag Hoisting & Republic Day Celebration and Planting of Saplings CS S N Ananthasubramanian, then President, the ICSI, CS Harish K Vaid, then Vice-President, the ICSI and CS Nesar Ahmad, Past President, ICSI were the speakers.

Study Circle Meeting on Endless Ambit of Scheme of Arrangements

On 2.2.2014 the Regional Council organised a Study Circle Meeting on Endless Ambit of Scheme of Arrangements.

Valedictory Session of 185th MSOP

On 17.1.2014 the Regional Council organised the Valedictory Session of 185th MSOP. CS Amit Manchanda was the Chief Guest.

Inauguration of 186th MSOP

On 29.1.2014 at the inauguration of 186th MSOP, CS Isha Khosla, IAS, (Addl. Dy. Commissioner, Govt. of India) was the Chief Guest.

Investor Awareness Programmes on Understanding the Capital Market

The Regional Council organised Investor Awareness Programmes as under:

On 15.12.2013 the programme was held at Laxmibai College, University of Delhi. On 24.12.2013 the programme was held at Sarvodaya Co-Ed. Sr.Sec. School, Sector 2, Rohini. On 15.1.2014 the programme was held at ICSI-NIRC Building, 4, Prasad Nagar Institutional Area, New Delhi. On 29.1.2014 the programme on Capital Market - Future & Options was held at Janki Devi Memorial College, Delhi. On 6.2.2014 the programme on Investor Protection was held at Amity Law School, NOIDA.

GHAZIABAD CHAPTER Professional Development Programme/Full Day Seminar on Governance and Compliances

On 15.2.2014 the Chapter of the ICSI conducted a one day Professional Development Programme on Governance and Compliances at its premises, Ghaziabad. CS Manish Gupta was the speaker of the First Technical Session on Board Governance under Companies Act 2013. He enumerated the new provisions

relating to Directors and their comparison with the provisions of the old law. The post lunch session was conducted by Advocate Saurabh Kumar Singh who addressed on "Insider Trading". He spoke at length on the concepts and the practical aspects to be considered in capital markets. The sessions were highly interactive and informative.

Professional Development Programme/Full Day Seminar on the Companies Act, 2013

On 01.02.2014 the Chapter organized its 12th Professional Development Programme/One Day Seminar on "Corporate Governance" at its premises. Vineet K Chaudhary, Member, NIRC of the ICSI was the Chief Guest and inaugurated the programme. Chief Guest Vineet K Chaudhary, took the First Technical Session on "Overview & Opportunities for Professionals under Companies Act 2013" and shared rich insights about the opportunities bestowed on Company Secretary by the New Companies Act. The session was very interactive and response of participants was overwhelming. Post lunch session was on "Companies Act 2013 Accounts & Audit", CA Mukesh Goyal explained in detail the provisions and intricacies related to the Accounting and Auditing which a Company Secretary should be aware of. The programme concluded after the valedictory session.

GURGAON CHAPTER 16th MSOP

The Chapter organized its 16th MSOP from 10.02.14. The Dignitaries present on this occasion were CS Santosh Sharma, Chairman Gurgaon Chapter, who in his address emphasized the importance of MSOP training. CS Shyam Agrawal addressed the students and informed them about the importance of CS profession. He emphasized on the value of a CS in the corporate world.

Study Circle Meeting

ON 1.2.2014 the Chapter organized a Study Circle Meeting on Practical approach to ESOPs. Guest Speaker CS Uma Shankar explained the participants about the importance of Employee Stock Options Plan (ESOP) in the corporate world. He started the session by giving the participants an introduction to ESOP. He then explained everyone about the steps involved in designing an ESOP scheme. He also covered the Legal and Regulatory aspects of ESOP along with the compliance aspect. In the end, he explained the participants about the Role of Company Secretary in employment and in practice. The Meeting was attended by Members.

JAIPUR CHAPTER Study Circle Meeting

On 25.1.2014 a Study Circle Meeting was organized on various issues related to "Class action suit qua Fraud - Impact & Remedies



News From the Institute & Regions

for CS, NCLT Rules & Procedures - Emerging Avenues, and Professional Misconduct - Rulings of Supreme Court". The speakers of the programme were Advocate CS Susshil Daga and CS Nipun Singhvi.

Republic Day Celebration

On 26.1.2014 the Chapter celebrated the 65th Republic Day. The Flag hoisting was done by Chief Guest Naveen Mathur, HOD, Department of Business Administration, University of Rajasthan. Shyam Agrawal, Chairman, NIRC of the ICSI stressed on the Corporate Governance culture and said that corporate governance is helpful not only in corporate world but also plays an important role in the political field. A large number of members, students, other Managing Committee members and staff participated in the programme. The programme was coordinated by CS Neetu Maheshwari, Chapter Secretary.

Career Awareness Programme

On 16.2.2014 the Chapter participated in Career fair organized by Maheshwari Public School, Jaipur. The students participated in large numbers were informed about the CS Course and the procedure, its scope, enrolment criteria, examination procedure, future prospects of the profession and other allied issues. More than 300 students participated in the programmes with full enthusiasm. Brochures explaining Company Secretary ship Course were distributed to the students. The queries raised by the students and other visitors were satisfactorily replied.

>> Southern India Regional Council

Inaugural session of 18th MSOP

On 22.1.2014 the 18th Management Skills Orientation Programme (MSOP) of the ICSI – SIRC was inaugurated by Dr. M Manuneethi Cholan, ROC, Tamilnadu, Chennai. Sarah Arokiaswamy, Joint Director, ICSI SIRO in her welcome address explained the participants about the guidelines of the programme and advised them to be interactive with the faculty members.

CS Dr. Baiju Ramachandran, Chairman, ICSI – SIRC expressed his happiness that his first official address after assuming as Chairman, is the inauguration of the 18th MSOP. He highlighted the participants that their learning process is actually going to start only on getting the membership. To be a successful professional, updated knowledge is required, he added. He observed that there has been a paradigm shift in the role of

Company Secretary from being a mere compliance professional to a multi-faceted personality. Dr. Baiju advised the participants to excel in whatever areas of employment chosen and as custodians of good governance, company secretaries should follow the ethics and be bold enough to explain the board in case of any violations of rules in the company. He concluded by quoting that corporates are in requirement of the right people rather than the good people.

CS Dr. B Ravi, Member, SIRC advised the participants to use the MSOP as a platform to transform the theoretical knowledge acquired from the books to practical knowledge. Ravi emphasized the participants to create a good network among them and share their knowledge and ideas.

In his scintillating address, Dr. M Manuneethi Cholan, RoC, Tamilnadu, Chennai observed that India is a fast developing country, competing with China. In any country, corporates play a vital role in developing the economy and it is the professionals like CS, who develop the corporates, the ROC added. He explained the participants about the expanding role of CS after the Companies Act, 2013 has come into force. The ROC advised the participants not to confine themselves to the Companies Act, but should also acquire knowledge on all the applicable laws. Since the CS has to satisfy his employers and regulators, he has to follow good ethics.

CS Ramasubramaniam C, Secretary of the Regional Council urged the participants to be more attentive during the MSOP and make it a pleasant learning experience.

COIMBATORE CHAPTER Programme on Scope of Company Secretaries in the Companies Act, 2013 including Secretarial Audit and Certification of Annual Return and Interaction with ICSI President

On 4.1.2014 the Coimbatore Chapter of SIRC of the ICSI organized a programme on the above topic at Indian Chamber of Commerce & Industry Hall, Coimbatore. CS R. Sridharan, Now President of the ICSI was the Guest Speaker who in his address explained in detail the scope of Company Secretaries in the Companies Act, 2013 with latest statistical data on Company Secretaries and Corporates covering under the Secretarial Audit & Certification of Annual Return. The session was highly informative, updated and lively and received applause from the members and students present.

On the same day, the Chapter organized an Interactive session with S N Ananthsubramanian, then President of the ICSI. He interacted with members and students on various initiatives taken by the ICSI during the year 2013 like e-Learning, e-Registration, etc.



65th Republic Day Celebration

On 26.1.2014 the Chapter celebrated 65th Republic day at its premises.

Study Circle Meeting on an Insight on Special Economic Zone

On 7.2.2014 the Chapter organized a Study Circle Meeting on the above topic at its premises. R Maheswaran, ACS, Vice President– Finance & Infrastructure, Hitech Infrastructure Private Limited (Special Economic Zone for Electronic Hardware and Software including ITES) was the speaker who in his address explained the concept, fundamentals and advantages available in SEZ [Special Economic Zone]. He highlighted the developments of SEZ in India and that of China with the help of Power Point presentation. The session was highly informative and lively, interacted nearly by 35 members and 50 students. A questions and answers session was also conducted before conclusion of the programme.

HYDERABAD CHAPTER Republic Day Celebrations

On 26.1.2014 the Chapter celebrated the Republic Day at its premises. CS Vasudeva Rao Devaki, Chapter Chairman welcomed the gathering for the celebration followed by rendition of the National Anthem by all the participants. In his address he said that students should take initiative and participate in the development programmes of the Nation.

CS Issac Raj P.G., Vice-Chairman of the Chapter, CS A.V. Rao, Treasurer and CS S. S. Marthi, Member, CS J. Krishna Murthy, former SIRC Chairman and CS Bala Chandra member were the speakers who emphasized the students to take initiative and make valuable contribution in the development of the nation and stated that every citizen of India must remember the history and the sacrifices made by the freedom fighters and significance of the Republic day. Some students also spoke on the occasion. A good number of Students and Members participated in the Republic Day Celebrations.

Western India Regional Council

INDORE CHAPTER 65th Republic Day Celebrations

On 26.1.2014 the Chapter celebrated the 65th Republic Day with its members and students who were full of patriotic fervour. CS Shashank Carpenter inaugurated the programme which was further continued by CS Varun Bhomia, Rohit Khandelwal and CS Gajendra Solanki. The programmes included activities like patriotic songs and poems by members followed by a dance

by CS Students. Activities like questionnaires and rapid fire were also organized based on national theme. At the end of the programme CS Ashish Karodia, Chapter Chairman addressed the members and the students to serve the Nation in all possible manner.

RAIPUR CHAPTER Picnic at Sirpur

On 12.01.2014, the Chapter organized a Picnic at “Sirpur” for its members and students. Around 12 members and 30 students joined the picnic. Sirpur was 84 kms away from Raipur. It is well known for its archaeological monuments. Situated on the bank of Mahanadi, it has a rich background of traditional cultural heritage and architecture. The Laxman temple, Budh Vihar and other historic monuments were the main attractions in Sirpur. In the archaeological splendour of Sirpur, Mahanadi, its green surroundings have also contributed tremendously. The students and members present actively participated in the sports/recreational activities like cricket, badminton, volleyball, playing cards, antakshri, songs and dances, etc.

Career Awareness Programme

On 16.01.2014 the Chapter organized a career awareness programme at Kanger Valley Academy, Ravishankar Shukla University Premises, Raipur (C.G.). CS Satish Kumar Batra, Immediate Past Chairman of the Chapter explained the CS course, structure, fees and employment opportunities/avenues in practice for the students and the queries raised by the students were nicely replied by him. Ninety-five students attended the programme. Prafulla Kumar Dash, Office in-charge of the Chapter distributed the course brochures to the participants.

Study Circle Meeting & Flag Hoisting Event

On 26.01.2014 the Chapter organized a study circle meeting followed by flag hoisting. The speakers of the Study Circle Meeting were CS S.K. Batra and CS Y.C. Rao who covered the topic “The Provisions of the Companies Act, 2013 brought into” and “Independent Directors under the Companies Act, 2013 - Duties & Responsibilities” respectively. The sessions were interactive. The Study Circle Meeting was attended by 34 members and 81 students. The session carried 2 PCH and 4 PDP hours.

CORRIGENDUM

The designation of co-author Nivedita Ketkar of the article titled Preventing Sexual Harassment – Parliament’s response appearing on page 176 of February 2014 issue of Chartered Secretary is wrongly mentioned as Co-founder, LegaLogic Consulting instead of Student, LLM (Innovation, Science, Technology and Law) Symbiosis Law School, Pune.

The inadvertent error is regretted.





ICSI - CCGRT

Programme on Compliances and Consent Orders under SEBI Act and Compounding under FEMA

ON 7.2.2014 the ICSI-CCGRT conducted a full day programme on Compliances and Consent Orders under SEBI Act & Compounding under FEMA at Navi Mumbai. The speakers of the programme were Shailashri Bhaskar, Practising Company Secretary (PCS) & Former Deputy General Manager at SEBI and Arvind K. Salvi, Former Deputy General Manager at Reserve Bank of India (RBI).

Shailashri Bhaskar enlightened the participants about Non-Compliances under SEBI's Prevention of Insider Trading Regulations & Takeover Regulations followed by Settlement Orders under SEBI Act. She pointed out the change in the nomenclature; earlier it was Consent Orders which has now been replaced by Settlement Orders.

She initiated the discussion by explaining various non-compliances or alleged violations under Takeover Regulation which included Non-filing of disclosures under regulations 29, 30 & 31 of the SEBI (SAST) 2011, Non-filing of exemptions reports with SEBI. She then discussed the non-compliances under insider trading regulations which included Closure of trading window, opposite transaction within 6 months, trading while in possession of unpublished price sensitive information and Delay in filing or non-filing of disclosures under Regulation 13 of SEBI (PIT) Regulations. Other non-compliances which were discussed included indulging in grey market operations, other Fraudulent and Unfair Trade Practices (FUTP) violations, not handling investor grievances and non-compliance of Clause 48 of the Listing Agreement.

She thereafter discussed the likely action which may be initiated by SEBI viz. adjudication, enquiry and filing of criminal complaint. Voluntary Action may be initiated for Settlement in case of offences which are civil in nature and Compounding in case of offences which are criminal in nature. She even threw light on the civil actions namely issue direction under 11B, suspensions, cancellation of certificate of registration, monetary penalty, action in a court of law & suspension of certificate. Based on her experience, she emphasised that settlement is expensive than adjudication and that under settlement there is no stigma attached and penalty is calculated as per the standard formula whereas under adjudication there is stigma attached to it and there is no fixed amount of penalty.

She even told the procedure for settlement viz. to make an application in Form- A which is available on the website of SEBI; to submit Waivers along with the application which says that a party shall waive their right of taking any legal proceedings against SEBI concerning any of the issue covered in the settlement order that may be passed; the findings of fact and conclusions of law; the proceedings before the SEBI or any officer; the right to all post-hearing procedures and appeal/review before/by SAT/court. She also threw light on the various documents which are to be attached with the application.

Through various examples, she then explained the calculation of settlement amount. She informed the participants about the instances when settlement application will not be entertained viz. if investigations is not complete, default within 2 years of the last settlement order, earlier application for the same default has been rejected, more than 2 settlement orders within a period of 36 calendar months, more than one proceeding is pending for the same action and filing beyond 60 days of the show cause notice. She said that settlement orders shall be notified through press release & put up on the SEBI website, failure to which will invite appropriate action and civil proceedings.

She concluded her session by explaining about Compounding under SEBI Act (where an offence is not only punishable with imprisonment but also with fine as well) and the procedure for the same.

Arvind K. Salvi spoke on the General Compliances and Compounding under FEMA. He commenced his session by discussing the role of CS namely ethics, compliance, governance, risk management, conflict resolution, etc. He then pointed out the salient features of FEMA viz. dealing in foreign exchange only through authorised person, current account which is fully convertible and capital account which is not fully convertible. Any person undertaking any forex transaction has to comply with the requirements prescribed.

He explained the meaning of compliance which means compliance of the provisions of FEMA 1999, any rule, regulation, notification, direction or order issued in exercise of the powers under this Act. Further he explained three stages of compliance namely before undertaking the transaction, while taking the transaction and after undertaking the transaction. He even discussed briefly various general compliances covering Rule No. 3 under Schedule I dealing with prohibition, Rule No. 4 under Schedule II dealing with government approval and Rule No. 5 under Schedule III dealing with RBI approval. Later on he even pointed out few common contraventions observed which includes ECB drawn down without loan registration number, FDI with delay or non-filing of Inflow etc. He then threw light on various offences and penalties under FEMA through Section 13, 14 & 15 which deals with penal provisions. Section 13 deals with the amount of penalty, Section 14 deals with adjudication, section 15 deals with certain type of contravention which does not involve money laundering or price sensitive information where voluntarily a person is asked to come forward and accept the fault and pay for it. Section 13 deals with contravention of act, rules, regulations, notifications, directions or orders and lays down penalties up to three times the sum involved in contravention where such amount is quantifiable, or up to two lakh rupees where the amount is not quantifiable and where such contravention is a continuing one, further penalty may extend to INR 5,000 per day after the first day during which the contravention continues.

He clarified that Section 3 (Dealing in Foreign Exchange), Section 4 (Holding of Foreign Currency), Section 5 (Current account transactions), Section 6 (Capital account transactions), Section 7 (Export of goods and services), Section 8 (Realisation & Repatriation of Foreign Exchange), Section 9 (Exemption from



realisation & repatriation), Section 10.6 (Mis-utilisation of Foreign Exchange) comes under the jurisdiction of Reserve Bank of India (RBI) whereas Section 3(a) (Hawala transaction) comes under the jurisdiction of Directorate of Enforcement.

He said that an appeal under section 17 or 19 of FEMA may be filed when the contravention is not quantifiable, when a contravention has been finally adjudicated & disposed of by the Adjudication Authority, in case of contraventions related to any transaction without proper approval or permission from the concerned government or any statutory authority, in case the requisite approval is not obtained. A contravention, *prima facie*, involving money laundering, security, etc. and needing investigation will not be compoundable. He even spoke on the means/sources of detection of contravention viz. voluntary disclosures, information from advertisements, analysis of data, market intelligence, RBI's inspections and other media reporting or complaints.

Further he elucidated the procedure of compounding viz. application, fees, examination by RBI, calling for additional documents (if required), opportunity of personal hearing, passing of compounding order, payment of penalty and issuance of certificate for payment of penalty. In conclusion, he shared that FEMA came into existence from 1st June, 2000 but Section 51 under FERA was kept alive under FEMA for 2 more years in order to deal with the residuary contraventions and became ineffective from 31st May, 2002.

During the Q&A session, the queries of the participants pertaining to recent issues on the subject were discussed and well addressed by the speakers. The programme was well attended and highly appreciated.

Programme on the Companies Act, 2013 (With Draft Rules & Forms thereunder)

ICSI- CCGRT, in continuation of its series of programmes on the subject, conducted a Programme on the Companies Act, 2013 (with draft rules and forms thereunder) at its premises in Navi Mumbai on 29.1.2014. The speakers of the programme were Dr. K. R. Chandratre, Practising Company Secretary (PCS), Pune & Former President of the ICSI, N L Bhatia, Practising Company Secretary (PCS), Mumbai and Shailesh H Rajadhyaksha, Consultant-Tata Capital Financial Services Ltd.

Dr. K R Chandratre discussed the appointment and qualification of directors and managerial personnel, managerial remuneration and Secretarial Audit. N L Bhatia gave an overview of the new provisions of the Companies Act, 2013 and discussed the new provisions with respect to the incorporation of companies and other related matters, charges and capital. Shailesh H Rajadhyaksha spoke on the new provisions with respect to meetings including Secretarial Standards for meetings and loans & Investments by companies under the Companies Act, 2013. The programme was interactive and well attended.

24th Residential Management Skills Orientation Programme (R-MSOP)

ICSI-CCGRT organised its 24th Residential Management Skills Orientation Programme (RMSOP) from 16.1.2014 to 31.1.2014 at CCGRT, Navi Mumbai. 41 participants across the country attended and completed the programme.

The programme was inaugurated by S N Ananthasubramanian, then President, ICSI. In his inaugural address he threw light on the recent initiatives/developments by ICSI for the benefit of its students and members viz. abolition of CC Papers; Revised syllabus making it more relevant, competitive and futuristic with the changing scenario; launching of online enrolments; introduction of e-SIP, e-EDP and e-MSOP thereby making ICSI an online academy; Primer on Companies Act, 2013 to make digital education available etc. He emphasised on the fact that technology will play a major role in cutting down the costs and will make affordable education available for students of ICSI; the digitalization of education will also solve various commuting issues. He informed that ICSI has entered into MOUs with the Indian Institute of Banking & Finance (IIBF), the Insurance Institute of India (III) and National Institute of Securities Markets (NISM) to offer joint programmes/courses for company secretaries; few courses under the same has already been launched. He updated the participants on the formation of the ICSI Governance Research & Knowledge Foundation which is a Section 25 company promoted by ICSI and gave a formal invitation to the young minds filled with zeal and enthusiasm, to be a part of it. Further, he also informed that ICSI is in the process of launching a full time CS Course of 2 years to be conducted at CCGRT.

Recognising the transition in the role of Company Secretaries from the sheltered species who used to follow the legacy left by others to being Governance Professionals, he highlighted the fact that the Companies Act, 2013 has given rebirth to the concept of Company Secretary and widened their scope thereby giving them substantial status and position to make own decisions and providing them with a platform which was not earlier provided by the Companies Act, 1956. He was clear that CS would emerge as a most respectful profession in near future and concluded his session by quoting the famous lines of Oscar Wilde viz. "Nothing that is worth knowing can be taught".

During the inaugural session, the participants also had the opportunity to interact with S.V Subramanian, Chairman of the SSB. Citing the lack of opportunities during his time of studentship, he pointed out that training programmes like MSOP groom the students making them ready to enter the corporate world as professionals. He advised the participants that there should be a sense of belongingness and responsibility towards the profession and the institution. Defining Professionalism as tremendous knowledge about one's profession, corporate laws and other legislations, he emphasised that fearless communication of one's views and most importantly professional ethics where one does not get biased while coming to any conclusion also becomes critical since people will eventually form an opinion about a professional's opinion.



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During the course of the 15 days programme, practical sessions like Preparation for Conducting and Convening Board Meetings, Project Presentations, Industrial Visit Experiential Learning etc. were conducted besides yoga sessions in the mornings and pre-dinner sessions and usual day technical sessions. Eminent faculties who are experts in the subject addressed the participants.

On 31.1.2014 at the valedictory session Chief Guest Chitra Ramakrishna, MD & CEO, NSE Ltd in her address provided guidance to the participants as they transit from Campus to Corporate as Professionals and enlightened them with the fundamental lessons which she learnt in this regard during her 3 decades of experience. She emphasised on the thorough understanding of the profession in today's scenario; the profession having become very challenging due to its continuously evolving nature. Recognising the role of professionals as the ones ensuring and assuring an organisation with regard to proper compliance, she pointed out that the need of the hour for a professional is to keep updating his/her knowledge. One needs to have leadership mindset and that does not necessarily mean to be associated with fancy designations, as leadership entirely

depends on one's approach. Many who do not encompass this mindset are left behind, while those who have it definitely go to greater heights in life. It is therefore essential that one figures out their own approach and their respective roles in this profession and always go with the spirit of what is expected out of the person as this will give respect and enhance the value of a person in an organisation. She reiterated the importance of four fundamental aspects for young professionals i.e. Core Values, Leadership Mindset, Commitment to deliver what is expected and Reassurance about Various Compliances and quoted that "SKY IS THE LIMIT for hardworking professionals".

Thereafter, she distributed 'Best Group', 'Best Presenter' and 'Best Participant' awards. The "Best Group" during the project presentations was awarded for the Project on "Evolving Role Of Company Secretaries" in which Arun K V, Kozhikode, Ritu Tiwari, Gwalior, Kalyani Lambe, Bhilai and Hirvita Shah, Ahmedabad were the Group Members. Lakhan Sukhdani from Satna was adjudged as the "Best Presenter" during the Group Project Presentations and Praniti Porwal from Indore was adjudged as the "Best Participant" of the 24th RMSOP Batch.



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ANNOUNCES!!!

Annual Membership Scheme (2013 – 2014)

An invitation to attend a variety of Professional Development Programs organized by ICSI-CCGRT

ICSI-CCGRT proposes its new schemes of Annual Membership for the Professional Development / Participative Programs organized by us during the period of 12 months, from October 01, 2013 to September 30, 2014.

The Scheme has been introduced keeping in view the convenience of making payment / taking approval at one time to attend different professional development programs organized during the period.

The New Annual Membership Schemes with its salient features are:

Scheme - I

- Membership @ ₹ 5,600/- *
- Entitled to attend 05 programs at CCGRT
- Validity of 06 Months from the month of registration

Only participants attending the program would be entitled to the background material

Scheme - II

- Membership @ ₹ 11,500/- *
- Entitled to attend 12 programs at CCGRT & Mumbai
- Validity of 12 Months from the month of registration

Scheme - IV

- Only for Outstation Members** i.e. other than Mumbai, Navi Mumbai & Thane
- Membership @ ₹ 9,000/- *
- Entitled to attend 05 programs held at CCGRT
- Validity of 12 months from the month of registration
- Accommodation at CCGRT will be complimentary subject to availability

Any Clarifications, please call Shri D V N S Sarma, Asst Director on – 09869539317

OR

Co-ordinator - 02241021533 / 03

* Including Service Tax @ 12.36%

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Fees will be accepted by way of Cash, D.D or Local cheque payable at Mumbai to be drawn in favour of "ICSI-CCGRT A/c". Cheque may be sent to Dean, ICSI - CCGRT at the address given below:

ICSI - CENTRE FOR CORPORATE GOVERNANCE, RESEARCH & TRAINING (CCGRT)

Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai 400 614.

☎: 022 – 2757 7814 /15, 41021515 Fax: 022 – 27574384 ✉: ccgrrt@icsi.edu website <http://www.icsi.edu/ccgrrt>

Headquarters: ICSI House, 22 Institutional Area, Lodi Road, New Delhi – 110 003 Website: www.icsi.edu



Committees/Boards

THE STANDING AND OTHER COMMITTEES/BOARDS OF THE COUNCIL FOR THE YEAR 2014-2015

Sl. No.	Name	Designation
1 Executive Committee		
1.	R. Sridharan	Chairman
2.	Vikas Y. Khare	Member
3.	S N Ananthasubramanian	Member
4.	Anil Murarka	Member
5.	Sanjay Grover	Member
6.	Sudhir Babu C.	Member
7.	Renuka Kumar (Mrs.)	Member
2 Finance Committee		
1.	R. Sridharan	Chairman
2.	Vikas Y. Khare	Member
3.	Pradeep K. Mittal	Member
4.	Atul H. Mehta	Member
5.	Atul Mittal	Member
6.	Gopalakrishna Hegde	Member
7.	P. Sesh Kumar	Member
3 Examination Committee		
1.	R. Sridharan	Chairman
2.	Vikas Y. Khare	Member
3.	Arun Balakrishnan	Member
4.	Atul H. Mehta	Member
5.	Atul Mittal	Member
6.	B. Narasimhan	Member
7.	Sudhir Babu C.	Member
4 Disciplinary Committee		
1.	R. Sridharan	Presiding Officer
2.	Sanjay Grover	Member
3.	Sudhir Babu C.	Member
4.	S. Balasubramanian	Member
5.	S. K. Tuteja	Member

5 HR Committee

1.	R. Sridharan	Chairman
2.	Vikas Y. Khare	Member
3.	Atul Mittal	Member
4.	Sudhir Babu C.	Member
5.	Pradeep K. Mittal	Member

6 Financial Services Committee

1.	Atul H. Mehta	Chairman
2.	Anil Murarka	Member
3.	Ashok K. Pareek	Member
4.	Sanjay Grover	Member
5.	Sudhir Babu C.	Member
6.	Umesh H. Ved	Member
7.	Arun Balakrishnan	Member

7 Corporate Laws Committee

1.	Sanjay Grover	Chairman
2.	Anil Murarka	Member
3.	Atul H. Mehta	Member
4.	Gopalakrishna Hegde	Member
5.	Pradeep K. Mittal	Member
6.	Umesh H. Ved	Member
7.	U D Choubey (Dr.)	Member

8 Professional Development Committee

1.	R. Sridharan	Chairman
2.	Gopalakrishna Hegde	Member
3.	Anil Murarka	Member
4.	S N Ananthasubramanian	Member
5.	Pradeep K. Mittal	Member
6.	Ardhendu Sen	Member
7.	Renuka Kumar (Mrs.)	Member
8.	U D Choubey (Dr.)	Member
9.	Umesh H. Ved	Member

Committees/Boards

9 TEFC

1. Vikas Y. Khare
2. Arun Balakrishnan
3. Ashok K. Pareek
4. Atul H. Mehta
5. Atul Mittal
6. B. Narasimhan
7. Sanjay Grover
8. Sudhir Babu C.
9. P. Sesh Kumar

Chairman

- Member
- Member
- Member
- Member
- Member
- Member
- Member
- Member

10 PCS Committee

1. Anil Murarka
2. Atul H. Mehta
3. Atul Mittal
4. B. Narasimhan
5. Sanjay Grover
6. Sudhir Babu C.
7. Umesh H. Ved

Chairman

- Member
- Member
- Member
- Member
- Member
- Member
- Member

11 Information Technology Committee

1. Atul Mittal
2. Ashok K. Pareek
3. Atul H. Mehta
4. Gopalakrishna Hegde
5. B. Narasimhan

Chairman

- Member
- Member
- Member
- Member
- Member

12 Peer Review Board

1. Vikas Y. Khare
2. Atul H. Mehta
3. B. Narasimhan
4. Gopalakrishna Hegde
5. Mahesh Anant Athavale
6. Savithri Parekh (Ms.)
7. V. Sreedharan

Chairman

- Member
- Member
- Member
- Member
- Member
- Member
- Member

13 Placement Committee

1. Ashok K. Pareek
2. S N Ananthasubramanian
3. B. Narasimhan
4. Ardhendu Sen
5. Atul H. Mittal
6. Sudhir Babu C.

Chairman

- Member
- Member
- Member
- Member
- Member
- Member

14 Board of Discipline

1. Pradeep K. Mittal
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- Member

15 Secretarial Standards Board

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8. Suresh Krishnan
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18. M. S. Sahoo
19. Representative of MCA
20. Representative of SEBI
21. Representative of RBI
22. Representative of NSE
23. Representative of CII
24. Representative of FICCI
25. Representative of ASSOCHAM

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- Adviser
- Member
- Member
- Member
- Member
- Member
- Member
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- Member
- Member

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Chairman

- Member
- Member
- Member
- Member
- Member
- Member
- Member
- Member
- Member



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9. R. Ravi
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3. Harish K Vaid
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Member
Member
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STOP PRESS

Kind Attention Members

COUNCIL/REGIONAL COUNCILS ELECTIONS-2014

As the members are aware, the term of the existing Council and the Regional Councils will expire on 18th January 2015 and the elections for the Council and the Regional Councils will be held in the month of December 2014.

In accordance with Rule 5 of the Company Secretaries (Election to Council) Rules, 2006, a member, whose name is borne on the Register of Members (Register) on the 1st day of April 2014 shall be eligible to vote in the election from the Regional Constituencies within whose territorial jurisdiction his professional address falls on the said date provided that his name has not been removed from the Register on the date of publication of the list of voters. If the professional address is not borne on the Register on the relevant date, the residential address borne on the register shall determine his Regional Constituency.

In the case of members having their professional address outside India and eligible to vote, their Regional Constituencies shall be determined according to their professional address in India registered immediately before they went abroad or the residential addresses in India borne on the Register on the relevant date, whichever is later.

The names of the members who have not paid the annual membership fee for the year 2013-14 and for previous years stand removed from the Register with effect from the 1st September of the relevant year. The list of such members is available on the website of the Institute. In order to exercise their franchise at ensuing elections, the members are requested to get their names restored by making an application in Form BB (available on the website of the Institute) and making a payment of the arrears of Annual membership fee with the entrance fee (Associate- Rs. 1500/- & Fellow - Rs. 1000/- respectively) and restoration fee of Rs. 250/.

The Professional address of the members whose names are borne on the Register as on date are available on the website of the Institute in Members Directory link. The members are requested to check their professional address and intimate about changes, if any, to enable the Institute to include the names of the members in the concerned voters list.

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./Professor..... 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)



AN ICSI E-INITIATIVE

Primer on Companies Act, 2013

The Institute of Company Secretaries of India has developed comprehensive 'Primer on Companies Act, 2013' in the form of 16 videos of about 30-35 minutes each on various aspects of the Companies Act, 2013 and made the same available on the web site of the MCA (www.mca.gov.in), Institute (www.icsi.edu) and YouTube at the link: <http://www.youtube.com/user/icsicompaniesact2013>.

These videos endeavour to explain the fundamental provisions of law in as simple language as possible through interactive discussions. Some of the distinguished experts from government, regulators, industry, academia and professionals have participated as panelists and a leading advocate is the anchor in all episodes. The Primer covers the following:

EPISODE NO.	THEME	DETAILED COVERAGE
1	Philosophy, Thrust and Principles	Subordinate Legislation, Self-Regulation, Time Bound Delivery, Efficiency
2	Novelties	One Person Company, Small Company, Dormant Company, Registered Valuers, Layers of Companies, E-Governance, KMP, CSR, Corporate Governance
3	Incorporation	Memorandum, Articles, Entrenchment, Alterations of M&A, Registered Office, Certification by Professionals
4	Regulatory Jurisdiction	Responsibilities of MCA and SEBI, Rules, Regulations, Corporate Governance
5	Fund Raising	Public Offer, Private Placement, Deposits, Charges, Dividend
6	Management and Administration	General Meetings, Voting, E-voting, Resolutions
7	Disclosures and Transparency	Annual Return, Board's Report, Report on AGM, Promoter Holding
8	Accounts and Audit	NFRA, Rotation of Auditors, Reopening of Accounts, Voluntary Revision of Financial Statements, Internal Audit
9	Corporate Governance I	Accountability, Board Composition, Meetings, Various Committees, IDs
10	Corporate Governance II	Gender Diversity, Vigil Mechanism, Remuneration, Corporate Social Responsibility
11	Corporate Governance III	Responsibilities and Challenges of Company Secretary's Functions, Key Managerial Personnel, Secretarial Audit, Secretarial Standards
12	Enforcement Actions I	Inspection, Inquiry, Investigation, SFIO, Fraud, Mediation & Conciliation
13	Compromise, Amalgamation and Arrangements	Single forum for approval of mergers and acquisitions, Simple and shorter merger process for two small cos. or holding –subsidiary co., Power to acquire shares of dissenting shareholders, Purchase of minority shareholding
14	Investor Protection	IEPF, Class Action, Exit opportunity, E-Voting, Disgorgement, Deposits, Fair valuation by registered valuer, Oppression and mismanagement
15	Winding up	Voluntary, By Tribunal, Liquidators, Unregistered Companies, Summary Procedure for Liquidation
16	Enforcement Actions II	Penalties, Special Courts, Adjudication, NCLT, NCLAT, Supreme Court, Compounding D

DVD version of this knowledge initiative was launched at the hands of Hon'ble Minister for Corporate Affairs (I/C), Sh. Sachin Pilot, on the 7th of November, 2013 to coincide with the 41st National Convention of the Institute.

The Institute of Company Secretaries of India dedicates this initiative to the Nation.

This is the first level MOOCs (Massive Open Online Courses) of ICSI



THE INSTITUTE OF Company Secretaries of India

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

INVITATION OF APPLICATIONS FOR PANEL OF PAPER SETTERS AND / EXAMINERS FOR THE COMPANY SECRETARIES EXAMINATIONS

The Institute prepares and updates the panel of Paper Setters/ Examiners at regular intervals for conduct of CS Examinations. In this regard the Institute invites applications from suitably qualified, competent and experienced persons having academic flair and willingness to undertake such confidential academic assignments in the following subjects of Company Secretaries examinations:

Executive Programme		Professional Programme	
1	Company Law	1	Advanced Company Law and Practice
2	Cost and Management Accounting	2	Secretarial Audit, Compliance Management and Due Diligence
3	Economic and Commercial Laws	3	Corporate Restructuring, Valuation and Insolvency
4	Tax Laws and Practice	4	Information Technology and Systems Audit
5	Company Accounts and Auditing Practices	5	Financial, Treasury and Forex Management
6	Capital Markets and Securities Laws	6	Ethics, Governance and Sustainability
7	Industrial, Labour and General Laws	7	Advanced Tax Laws and Practice
		8	Drafting, Appearances and Pleadings
		9	Banking Law and Practice
		10	Capital, Commodity and Money Market
		11	Insurance Law and Practice
		12	Intellectual Property Rights – Law and Practice
		13	International Business – Laws and Practices

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, Information Technology, etc., with *five years experience* either in an academic position or in practice or in employment in the respective 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, Information Technology, 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 directly related to the above said subject(s) of examination(s) will be preferred.

SCALE OF HONORARIUM FOR EVALUATION OF ANSWR BOOKS:

Sl. No.	Stage of Examination	Rate
(i)	Executive Programme	Rs.80/- per answer book.
(ii)	Professional Programme	Rs.100/- per answer book.

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 along with relevant certificates 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 downloaded from the Institute's website:

<http://www.icsi.edu/portals/0/Application%20form%20Examinership.pdf>





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STEPS FOR ONLINE REGISTRATION :

1. Click the "Online Services" button on top of the ICSI website (www.icsi.edu)
2. Go to the Students tab and click on "Student Registration"
3. Click onto the checklist of documents as applicable to students on the basis of their qualification,
4. Now Click on 'Proceed to Registration'
5. Select the Course type as applicable viz. Foundation, Executive Programme etc.
6. Fill other fields.
7. Click on the option- 'Make Payment' for effecting necessary payments, (Payment is to be made either by credit/debit card / net banking or through bank challan system)
8. After making payment students shall get user name & password at their registered e-mail ID / or Mobile No. for uploading their documents. **Username of the student is "Student's Registration Number" which students get instantly after making payment.**
9. Students are further required to upload scanned copies of the documents in support of their qualifications in specified file formats by login at their respective accounts at "My Account" option to get their registration process completed.
10. File with the following specifications can be uploaded:
 - File format should be jpg, jpeg, png, gif, bmp
 - File sizes of documents should not exceed 5 MB
 - Size of Student Photo should be between 20KB -50KB
 - Size of Student Signature should be between 10KB-20KB

NOTE: Animated help to do online registration is also available on www.icsi.edu before student proceeds for online registration.

For any further information / clarification regarding online registration, please contact Ms. Geetanjali S. Rathore, Administrative Officer (Student Services) at E-mail Id grss@icsi.edu or at Tel. No. **0120-4522065**



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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",



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Email : ak.sil@icsi.edu website : www.icsi.edu



CONGRATULATIONS

Shri S. Samdani, FCS, Company Secretary, S Samdani & Associates on his being appointed as the Public Interest Director on the board of Vadodara Stock Exchange limited, Vadodara by SEBI w.e.f 20th January 2014.

CS QUIZ

A private limited company issued on the 12th October 2013 a notice for convening its annual general meeting to be held on 1st December 2013. No explanatory statement was attached to the notice. Is the notice valid?

Conditions

- 1] Answers should not exceed one typed page in double space.
- 2] Last date for receipt of answer is 8th April, 2014. 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 March, 2014 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 C D SWAMINATHAN, FCS 115 (12.07.1936 – 17.07.2013), a Fellow Member of the Institute from Chennai.

SHRI VIRENDRA KUMAR SINGHAL, FCS 252 (24.06.1938 – 10.11.2013), a Fellow Member of the Institute from New Delhi.

SHRI VIJAY KUMAR SHARMA, FCS 4543 (01.07.1954 – 25.06.2013), a Fellow Member of the Institute from New Delhi.

SHRI S. MOHAN, ACS 6480 (09.06.1951 – 22.03.2013), an Associate Member of the Institute from Chennai.

SHRI D N VAZE, ACS 8898 (17.07.1957 – 09.08.2012), 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.

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.

COMPUTER-BASED EXAMINATION FOR FOUNDATION PROGRAMME

JUNE, 2014

TIME-TABLE AND PROGRAMME

Day and Date of Examination	Subjects		Batch No.	Examination Timings	
				From	To
Saturday, 7 th June, 2014	Paper-1	Business Environment and Entrepreneurship AND	I	9.30 A.M.	11.00 A.M.
	Paper-2	Business Management, Ethics and Communication	II	12.00 Noon	1.30 P.M.
			III	2.30 P.M.	4.00 P.M.
			IV	5.00 P.M.	6.30 P.M.
Sunday 8 th June, 2014	Paper-3	Business Economics AND	I	9.30 A.M.	11.00 A.M.
	Paper-4	Fundamentals of Accounting and Auditing	II	12.00 Noon	1.30 P.M.
			III	2.30 P.M.	4.00 P.M.
			IV	5.00 P.M.	6.30 P.M.

COMPANY SECRETARIES EXAMINATIONS

JUNE, 2014

TIME-TABLE & PROGRAMME EXAMINATION TIMING : 9.00 A.M. TO 12.00 Noon

Date and Day	Executive Programme (Old Syllabus)	Professional Programme (Old Syllabus)	Executive Programme (New Syllabus)	Professional Programme (New Syllabus)
02.06.2014 Monday	General and Commercial Laws (Module-I)	Company Secretarial Practice (Module – I)	Company Law (Module-I)	Advanced Company Law and Practice (Module – I)
03.06.2014 Tuesday	Company Accounts, Cost and Management Accounting (Module-I)	Drafting, Appearances and Pleadings (Module-I)	Cost and Management Accounting (Module-I)	Secretarial Audit, Compliance Management and Due Diligence (Module – I)
04.06.2014 Wednesday	Tax Laws (Module-I)	Financial, Treasury and Forex Management (Module-II)	Economic and Commercial Laws (Module-I)	Corporate Restructuring, Valuation and Insolvency (Module – I)
05.06.2014 Thursday	NO EXAMINATION	Corporate Restructuring and Insolvency (Module-II)	NO EXAMINATION	Information Technology and System Audit (Module – II)
06.06.2014 Friday	Company Law (Module-II)	Strategic Management, Alliances and International Trade (Module-III)	Tax Laws and Practice (Module-I)	Financial, Treasury and Forex Management (Module – II)
07.06.2014 Saturday	Economic and Labour Laws (Module-II)	Advanced Tax Laws and Practice (Module-III)	Company Accounts and Auditing Practices (Module-II)	Ethics, Governance and Sustainability (Module – II)
08.06.2014 Sunday	NO EXAMINATION	Due Diligence and Corporate Compliance Management (Module-IV)	NO EXAMINATION	Advanced Tax Laws and Practice (Module – III)
09.06.2014 Monday	Securities Laws and Compliances (Module-II)	Governance, Business Ethics and Sustainability (Module-IV)	Capital Markets and Securities Laws (Module-II)	Drafting, Appearances and Pleadings (Module – III)
10.6.2014 Tuesday	NO EXAMINATION	NO EXAMINATION	Industrial, Labour and General Laws (Module-II)	Elective 1 out of below 5 subjects (Module – III)
				(i) Banking Law and Practice
				(ii) Capital, Commodity and Money Market
				(iii) Insurance Law and Practice
				(iv) Intellectual Property Rights – Law and Practice
				(v) International Business – Laws and Practices

ATTENTION MEMBERS

PMQ COURSE IN CORPORATE GOVERNANCE EXAMINATION JUNE 2014

- The Institute is pleased to announce that the Part-I next examination of the Post Membership Qualification (PMQ) in 'Corporate Governance' will be held from Thursday, June 5, 2014 to Tuesday, June 10, 2014 at the centres where the company secretaries June 2014 examination would be held.

TIME TABLE & PROGRAMME

DATE AND DAY	GROUP	MORNING SESSION 09.00 A.M. To 12.00 Noon.
05.06.2014 Thursday	I	Conceptual Framework of Corporate Governance
06.06.2014 Friday	I	Corporate and Board Management
07.06.2014 Saturday	I	Legal and Regulatory Framework of Corporate Governance
08.06.2014 Sunday		NO EXAMINATION
09.06.2014 Monday	II	Board Committees and Role of Professionals
10.06.2014 Tuesday	II	Corporate Governance — Codes and Practices

- Members of the Institute registered for the PMQ Course in Corporate Governance on or before November 30, 2013 are eligible for appearing in the PMQ Course in Corporate Governance Examination to be held in June 2014.
- The application forms (available in prospectus) for June 2014 examination from eligible candidates together with requisite examination fee @ Rs.1500/- per group by way of cash/crossed Demand Draft favouring "The Institute of Company Secretaries of India" payable at New Delhi may be submitted to the Institute by 25th April, 2014. The forms can, however, be accepted upto 5th May, 2014 along with a late fee of Rs.100/-.
- For further details please contact Ms. Banu Dandona, Assistant Director (Academics) at the Institute Head Quarters at New Delhi.

I BALANCE THE INTEREST OF ALL STAKEHOLDERS.

Over one million companies in the country are custodians of huge resources of the society and public. They drive the growth of the economy. It is, therefore, imperative that their operations should be so carried out that they exist forever to contribute to prosperity of the society and the economy even as they balance the interests of various stakeholders. This requires care for and adherence to law and justice, ethics, compliance, governance, risk management, conflict resolution etc. A Company Secretary, who is a regulated professional, ensures just that.

**I am a member of ICSI.
Only I do what I do.**



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