



The Institute of
Company Secretaries of India
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

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CS UPDATE

May 21, 2007

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MCA UPDATES

- Ministry Of Company Affairs Renamed As Ministry Of Corporate Affairs
- Role check for Indian companies

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Wednesday, May 16, 2007

Source: <http://pib.nic.in/release/release.asp?relid=27990>

MINISTRY OF COMPANY AFFAIRS RENAMED AS MINISTRY OF CORPORATE AFFAIRS

NEW NAME: NEW VISION

17:49 IST

The 'Ministry of Company Affairs' has been renamed as the 'Ministry of Corporate Affairs' vide Presidential Notification dated the 9th May 2007 amending the Government of India (Allocation of Business) Rules, 1961. "The new name not merely reflects a change in the form but also in the vision and approach that drives the initiatives of the Ministry", said the Minister, Shri Prem Chand Gupta while recounting the reasons for changing the name.

The focus of the Ministry's working is no longer limited to the administration of companies but has increasingly acquired an all-inclusive role of addressing a wide sweep of functions - Corporate Governance reforms and the emerging legal framework. With the introduction of the 'Limited Liability Partnership Bill' proposing a new corporate structure, the amendments in the Acts governing the three professional institutions viz. the Institute of Chartered Accountants of India, the Institute of Costs & Works Accountants of India, and the Institute of Company Secretaries of India, notification of Accounting Standards, the initiatives being taken towards operationalisation of the 'Competition Commission of India', etc., the Ministry has, during the period of last two years, re-oriented itself to meet the expectations of a vibrant corporate sector in its march towards the global competitive environment.

The implementation of MCA21 e-Governance Project, a mission mode project under the National e-Governance Plan, has brought about a complete turn around in the manner of delivery of services to the corporate sector. It is online, it is fast, it is transparent and it has largely eliminated the need for the stakeholders to physically visit the Registrars' offices and the drudgery of queuing-up with loads of paper. With more than 4.5 crore sheets of legacy records having been scanned and digitised, and the continuous enrichment of the electronic registry on an on-going basis the citizens can view public documents on-line any time anywhere from the comforts of their offices or homes.

The Ministry is engaged in a complete revamp of the legal framework for the corporate sector. A new form of body corporate is proposed to be enabled through the proposed legislation on Limited Liability Partnerships for which the Bill has already been introduced in the Parliament. It is expected that this new framework will provide a significant boost to the growth of professional and knowledge domain in the country in an organised form. Similarly, amendments to the Competition Act, 2002 are at advanced stages of processing to enable operationalisation of a full-fledged Competition Commission of India.

The Companies Act, 1956 is itself under a comprehensive revision. Having followed the process of wide consultation with the stakeholders and examination of the proposals by an Expert Group headed by Dr. JJ Irani, the draft for the new Company Law is at the vetting stage. "We can understand the anxiety of the corporate world who have been waiting for this new law but it has to be appreciated that the Companies Act, 1956 is the single largest piece of legislation and it takes time to re-write a piece of legislation which is envisaged to be not only simple and easy to understand but also forward-looking in keeping with the dynamic process of change in an international environment," explained the Minister.

The notification of Accounting Standards is another milestone to bring the Indian corporate financial reporting systems in line with the international practices. The new Accounting Standards are not only expected to strengthen the system of disclosures for the stakeholders but also bring about parity with the international standards in a significant manner. This has become important in view of the Indian corporate stretching their operations beyond the national boundaries.

Comprehensive restructuring of the legal framework apart, the Ministry is currently involved in restructuring its work processes both at the Head Office as well as in the field set up. The plan includes provision for a 'new look' physical infrastructure facilities with new office complexes planned to be constructed at certain places and the others being spruced up matching the corporate expectations.

Corporate Governance and investor protection are also priority areas. The Ministry has redefined its vision and proposes to work towards taking the corporate governance to a level that enables India to compete with the developed economies with simultaneous focus on creating investor awareness and the need for adoption of Corporate Social Responsibility as a part of the enlightened good Corporate Governance practices. The Ministry has sponsored two important websites namely www.watchoutinvestors.com and www.investorhelpline.in under the Investor Education and Protection Fund in furtherance of its investor education and protection plans. While the first is a Registry of economic defaulters indicted by various regulatory authorities/ Courts, the second is a window provided for effectively addressing the investors' grievances.

The Government established the Serious Frauds Investigation Office (SFIO) in October, 2003 in the backdrop of certain corporate frauds committed in the past including the stock market scam. The SFIO is fully functional now and has already completed investigations in about 30 cases of serious frauds referred to it by the Ministry. Following a multi-disciplinary investigation approach, the SFIO is being further strengthened with improvement of skill-sets.

Establishment of an Indian Institute of Corporate Affairs has been envisioned to provide a think-tank support to the ministry in partnership with the corporate sector in its efforts to translate its vision into a reality. "We look forward to a very meaningful participation of the corporate leadership and professionals through this platform on an on-going basis," the Minister said. The proposed institute is envisaged to perform multiple roles of knowledge management, think-tank, capacity building for the ministry's staff and provision of value added services through a single registry in addition to implementation of financial literacy programmes to enhance the investor awareness.

The revised nomenclature is more representative of the new role of the Ministry, captured in the new vision: "To be a leader and partner in initiatives for corporate reforms, good governance and enlightened regulation, with a view to promote and facilitate effective corporate functioning and investor protection".

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ROLE CHECK FOR INDIAN COMPANIES

As a further step towards improving e-governance, an initiative of Role Check is being taken by Ministry of Company Affairs. MCA plans to implement role check at the time of filing of eforms and shall be made mandatory from July 01, 2007 This implies that at the time of filing of e-forms, if the e-form is not digitally signed by authorised person, then it shall not be accepted on MCA21 portal. The check shall be performed for:

- Director
- Authorised Signatory (Manager/Secretary)
- Practising Professional

Role check can be performed only after the authorized signatories have registered their Digital signature certificates (DSC) with MCA.

Once the role check is implemented, system shall verify whether the signature on the e-form filed, is of an authorised signatory of the company.

I. STEP BY STEP PROCESS TO BE FOLLOWED FOR REGISTRATION OF DIRECTOR'S DSC IS AS UNDER:

1. Click on the '**Register DSC**' link available on the MCA portal homepage.
2. On the next screen, click on the '**Director**' link on the left hand panel and fill-up your DIN. Please ensure that the DIN is approved and typed correctly.
3. System shall verify that the DIN is valid and approved. If the DIN is filled incorrectly or DIN filled is not approved, system will throw an error message to that effect.
4. Fill-up rest of the particulars and ensure that details filled are as per DIN- 1. If the applicant has filed DIN-4, then fill the details as submitted in DIN-4 form.
5. Click on the '**Next**' button. The system would verify the details.
6. If the details filled do not match with DIN-1/ DIN-4, as the case may be, for the reason that you do not have your DIN application details, you can retrieve DIN-1 form from 'Get DIN application' link on the MCA portal or in case of DIN-4, you can get the details from the company in which you are a director.
7. If the details are correct, the system would prompt you to select the DSC.
8. Click on the '**Select Certificate**' button to browse and select the certificate. Please ensure that the selected DSC belongs to the applicant, whose particulars are being registered.
9. System shall validate the DSC. If the selected DSC is already registered against given DIN, system will give an informatory message. If a different DSC is already registered against the given DIN, system will ask if the user wants to update his/ her DSC.
10. **Type** the displayed system generated text for verification in the box provided.
11. Click on '**I agree**' button to agree to the declaration that details furnished are correct.
12. Click on the '**Submit**' button to register your DSC.
13. Acknowledgement message is displayed to the user.
14. User can take a print-out of the acknowledgement.
15. The applicant can click on the '**Reset**' function to clear the data in the fields.

II. STEP BY STEP PROCESS TO BE FOLLOWED FOR REGISTRATION OF MANAGER'S/SECRETARY'S DSC IS AS UNDER:

1. Click on the '**Register DSC**' link available on the MCA portal homepage
2. On the next screen, click on the '**Manager/Secretary**' link on the left hand panel and fill-up the particulars. Please ensure that the Income tax PAN and other details are as per the information filed in DIN-3 Form.
3. Click on the '**Next**' button. The system would verify the details.
4. If PAN details do not exist in the system due to non-filing of DIN-3 form or details filled do not match with details submitted in DIN-3 form, system will throw an error message to that effect.
5. If the details do not match with DIN-3 filing for the reason that you do not have the details filed in DIN-3 form, you can get the details from the company in which you are manager/ secretary.
6. If the details are correct, the system would prompt to select the DCS.
7. Click on the '**Select Certificate**' button to browse and select the certificate. Please ensure that the selected DSC belongs to the applicant, whose particulars are being registered.
8. System shall validate the DSC. If the selected DSC is already registered against given PAN, system will give an informatory message. If a different DSC is already registered against the given PAN, system will ask if the user wants to update his/ her DSC.
9. **Type** the displayed system generated text for verification in the box provided.
10. Click on '**I agree**' button to agree to the declaration that details furnished are correct.
11. Click on the '**Submit**' button to register your DSC.
12. Acknowledgement message is displayed to the user.
13. User can take a print-out of the acknowledgement.
14. The applicant can click on the '**Reset**' function to clear the data in the fields.

III. STEP BY STEP PROCESS TO BE FOLLOWED FOR REGISTRATION OF PRACTISING PROFESSIONAL'S DSC IS AS UNDER:

1. Click on the '**Register DSC**' link available on the MCA portal homepage
2. On the next screen, click on the '**Practising Professional**' link on the left hand panel and fill-up the particulars. Please ensure that the details filled as per the records of your professional institute.
3. Click on the '**Next**' button. The system would verify the details from the records provided by the concerned professional institute.
4. If the membership or enrolment number is wrong or details filled do not match with the records provided by the professional institute, system will throw an error message to that effect. If you do not have the details as recorded by your Institute, you can get the details from your Institute.
5. If the details are correct, the system would prompt to enter the income tax PAN.
6. The applicant is asked to verify and confirm the PAN. On confirmation, the system would prompt to select the DCS.
7. Click on the '**Select Certificate**' button to browse and select the certificate. Please ensure that the selected DSC belongs to the applicant, whose particulars are being registered.

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8. Type the displayed system generated text for verification in the box provided.
9. Click on '**I agree**' button to agree to the declaration that details furnished are correct.
10. Click on the '**Submit**' button to register your DSC.
11. Acknowledgement message is displayed to the user.
12. User can take a print-out of the acknowledgement.
13. The applicant can click on the '**Reset**' function to clear the data in the fields.

For more details log on to the website of Ministry of Company Affairs i.e. www.mca.gov.in

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CAPITAL MARKET UPDATES

- **Renewal of Certificate of Registration by portfolio managers**

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**DEPUTY GENERAL MANAGER
INVESTMENT MANAGEMENT DEPARTMENT**

SEBI/IMD/DOF-I/SRP/Cir No. 1/93251 /2007
May 11, 2007

**To
All Registered Portfolio Manager**

Dear Sirs,

Sub: Renewal of Certificate of Registration

As required under Section 12 of the SEBI Act and also under Regulation 3 of SEBI (Portfolio Managers) Regulations, 1993, a portfolio manager can function as such only under a Certificate of Registration issued by SEBI. It has also been specified under Regulation 9B of the SEBI (Portfolio Managers) Regulations, 1993 that such certificate of registration shall be valid for a period of three years from the date of its issue. Further, Regulation 9(1) of the aforesaid regulations requires a portfolio manager to make an application for renewal three months before the expiry of the validity of the certificate of registration. However, it is noticed that at times application for renewal is not made in time. It is also possible that an application for renewal made by a portfolio manager is not disposed off by the expiry of the registration due to some reasons. As a result, the portfolio manager and its clients are not quite clear whether the entity can continue to act as a portfolio manager after expiry of registration. This circular intends to clarify these matters

1. If the application for renewal is not received at SEBI by the expiry date of the certificate of registration, the portfolio manager shall:
 - a. cease to be a portfolio manager on the date of such expiry,
 - b. immediately stop carrying on the portfolio manager activities from the date of such expiry, and such portfolio managers may either transfer their business to another SEBI registered portfolio manager or allow the client to withdraw the securities and funds in its custody at the option of the client, and in either case, without any additional cost to the client.

The option shall be granted to each client separately.

If the portfolio manager fails to comply with all of the above, it will be considered as a violation of Section 12 and may attract action under the relevant provision of SEBI Act, 1992.

No application for renewal can be made after the date of expiry of registration of the Portfolio Manager. If the erstwhile Portfolio Manager makes an application after the expiry of registration such application will be considered as a fresh application for registration under the Regulations.

2. If the application for renewal is received at SEBI less than 3 months before the expiry of registration and SEBI has not advised otherwise by the date of expiry of registration, the portfolio manager shall stop undertaking any fresh business / clients from the date of expiry of the registration.

3. If the application is received at SEBI within the prescribed time and SEBI has not advised otherwise, the portfolio manager may continue to act as such even after expiry of the certificate of registration. If renewal is granted, it will be deemed to be in continuation of the earlier registration.

4. If renewal is refused by SEBI for whatever reason, the portfolio manager shall:

- a. cease to be a portfolio manager on the date of expiry of registration or the date of receipt of communication of refusal to grant renewal,
- b. immediately stop carrying on the portfolio manager activities from the date of such expiry, and such portfolio managers may either transfer their business to another SEBI registered portfolio manager or allow the client to withdraw the securities and funds in its custody at the option of the client, and in either case, without any additional cost to the client. The option shall be granted to each client separately.

On failure to comply with the above, SEBI may initiate any action that may be deemed appropriate under the provisions of the SEBI Act, 1992.

5. It is clarified that in the above cases, the application for renewal shall mean the application complete in all respects. Incomplete application will be treated as no application.

6. If a portfolio manager wishes to surrender the registration voluntarily before the expiry of the registration, it shall intimate its existing clients about the same at least one month in advance before making request for surrender of certificate of registration to SEBI.

Yours faithfully,

S. R. Prasad

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FEMA UPDATES

- Liberalised Remittance Scheme for Resident Individuals- Enhancement of limit from USD 50,000 to USD 100,000

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RBI/2006-2007/379
A. P. (DIR Series) Circular No. 51

May 08 , 2007

To,

All Category - I Authorised Dealer Banks

Madam / Sir,

**Liberalised Remittance Scheme for Resident Individuals- Enhancement
of limit from USD 50,000 to USD 100,000**

Attention of Authorised Dealer Category I (AD – Category I) banks is invited to A. P. (DIR Series) Circular No. 64 dated February 4, 2004 and A. P. (DIR Series) Circular No. 24 dated December 20, 2006 on the Liberalised Remittance Scheme for Resident Individuals (the Scheme).

2. As announced in the Annual Policy Statement for the year 2007-08 (para 137), the existing limit of USD 50,000 per financial year under the Scheme has been enhanced to USD 100,000 per financial year (April- March). Accordingly, AD Category – I banks may allow remittance up to USD 100,000, per financial year, for any permitted current or capital account transactions or a combination of both. The modified Application cum Declaration form is annexed.

3. It is clarified that such remittances are allowed under the Scheme only in respect of permissible current or capital account transactions. All other transactions which are otherwise not permissible under FEMA and those in the nature of remittance for margins or margin calls to overseas exchanges / overseas counterparty are not allowed under the Scheme.

4. It is further clarified that banks should not extend any kind of credit facilities to resident individuals to facilitate remittances under the Scheme.

5. All other conditions mentioned in A. P. (DIR Series) Circular No. 64 dated February 4, 2004 and A. P. (DIR Series) Circular No. 24 dated December 20, 2006 shall remain unchanged.

6. Necessary amendments to Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000 (Notification No. FEMA 16/2000-RB dated 3rd May 2000) are being notified separately.

7. AD - Category I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

8. The directions contained in this Circular have been issued under Section 10 (4) and 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(Salim Gangadharan)
Chief General Manager

[Annex to A. P. (DIR Series) Circular No. 51 dated May 08, 2007]

Application cum Declaration for purchase of foreign exchange under the Liberalised Remittance Scheme of USD 100,000 for Resident individuals
(To be completed by the applicant)

I. Details of the applicant

- a. Name
- b. Address.....
- c. Account No.....
- d. PAN No.....

II. Details of the foreign exchange required

- 1. Amount (Specify currency).....
- 2. Purpose

III. Source of funds:

IV. Nature of instrument

- Draft.....
- Direct remittance.....

V. Details of the remittance made under the Scheme in the financial year (April- March) 200...

Date :..... Amount :.....

VI. Details of the Beneficiary

- 1. Name
- 2. Address
- 3. Country
- 4*. Name and address of the bank.....
- 5*. Account No.....

(* Required only when the remittance is to be directly credited to the bank account of the beneficiary)

This is to authorize you to debit my account and effect the foreign exchange remittance/issue a draft as detailed above. (strike out whichever is not applicable).

Declaration

I,(Name), hereby declare that the total amount of foreign exchange purchased from or remitted through, all sources in India during the financial year as per item No. V of the Application, is within the limit of USD 100,000/-(US Dollar One lakh only), which is the limit prescribed by the Reserve Bank for the purpose and certify that the source of funds for making the said remittance belongs to me and will not be used for prohibited purposes.

Signature of the applicant

(Name)

Certificate by the Authorised Dealer

This is to certify that the remittance is not being made by/ to ineligible entities and that the remittance is in conformity with the instructions issued by the Reserve Bank from time to time under the Scheme.

Name and designation of the authorised official:

Place:

Signature:

Date: Stamp and Seal

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BANKING UPDATES

- **Guidelines on Corporate Governance in NBFCs**

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DNBS.PD/CC 94/03.10.042/2006-07

May 8, 2007

The Chairman/CEO

1. All Deposit taking NBFCs with deposit size of Rs 20 crore and above
2. All non-deposit taking NBFCs with asset size of Rs 100 crore and above (NBFC-ND-SI).

Dear Sir,

Guidelines on Corporate Governance

As it is evident, the need for good corporate governance has been gaining increased emphasis over the years. Globally, companies are adopting best corporate practices to increase the investors confidence as also that of other stakeholders. Corporate Governance is the key to protecting the interests of the stake-holders in the corporate sector. Its universal applicability has no exception to the Non-Banking Financial Companies (NBFCs) which too are essentially corporate entities. Listed NBFCs which are required to adhere to listing agreement and rules framed by SEBI on Corporate Governance are already required to comply with SEBI prescriptions on Corporate Governance.

2. In order to enable NBFCs to adopt best practices and greater transparency in their operations following guidelines are proposed for consideration of the Board of Directors of the class of NBFCs to whom this circular is addressed.

Constitution of Audit Committee

- i) In terms of extant instructions, an NBFC having assets of Rs. 50 crore and above as per its last audited balance sheet is already required to constitute an Audit Committee, consisting of not less than three members of its Board of Directors, the instructions shall remain valid.
- ii) In addition, NBFC-D with deposit size of Rs 20 crore may also consider constituting an Audit Committee on similar lines.

Constitution of Nomination Committee

iii) The importance of appointment of directors with 'fit and proper' credentials is well recognised in the financial sector. In terms of Section 45-IA(4)(c) of the RBI Act, 1934, while considering the application for grant of Certificate of Registration to undertake the business of non-banking financial institution it is necessary to ensure that the general character of the management or the proposed management of the non-banking financial company shall not be prejudicial to the interest of its present and future depositors. In view of the interest evinced by various entities in this segment, it would be desirable that NBFC-D with deposit size of Rs 20 crore and above and NBFC-ND-SI may form a Nomination Committee to ensure 'fit and proper' status of proposed/existing Directors.

Constitution of Risk Management Committee

iv) The market risk for NBFCs with Public Deposit of Rs.20 crore and above or having an asset size of Rs.100 crore or above as on the date of last audited balance sheet is addressed by the Asset Liability Management Committee (ALCO) constituted to monitor the asset liability gap and strategize action to mitigate the risk associated. To manage the integrated risk, a risk management committee may be formed, in addition to the ALCO in case of the above category of NBFCs.

Disclosure and transparency

v) The following information should be put up by the NBFC to the Board of Directors at regular

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intervals as may be prescribed by the Board in this regard:

- progress made in putting in place a progressive risk management system, and risk management policy and strategy followed
- conformity with corporate governance standards viz. in composition of various committees, their role and functions, periodicity of the meetings and compliance with coverage and review functions, etc.

Connected Lending

vi) The companies should comply with the instructions on connected lending relationships, as detailed in Annex. The instructions relate to credit facilities to the Directors, loans and advances to relatives of the NBFC's Directors or to the Directors of other companies and their relatives and other entities, timeframe for recovery of such loans, etc.

3. NBFCs shall frame their internal guidelines on corporate governance, enhancing the scope of the guidelines without sacrificing the spirit underlying the above guidelines and it shall be published on the company's web-site, if any, for the information of various stakeholders.

Yours faithfully,

(P. Krishnamurthy)
Chief General Manager In-Charge

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Instructions on Connected Lending Relationships

The NBFCs should evolve appropriate operating procedures and information systems for ascertaining the interest of their own Directors as also the interest of the Directors of other companies for the purpose of implementing these instructions and for monitoring ongoing compliance therewith.

1. Credit facilities to the Directors

1.1 In order to obviate conflict of interest in the lending operations of the NBFC, it should not grant any loan, advance or non-fund based facility or any other financial accommodation / facility to:

- a) its directors or their relatives;
- b) to any firm in which any of its Directors is interested as Partner, Manager, Employee or Guarantor;
- c) any individual in respect of whom any of its Directors is a Guarantor;
- d) any company of which, or the subsidiary or the holding company of which, any of the Directors of the NBFC is a Director, Managing Agent, Manager, Employee or Guarantor or any firm in which he holds substantial interest;
- e) any entity, whether incorporated or not which uses as a part of its name or in connection with its business, the name of the NBFC or any such word as would show its association with the NBFC.

1.2 Any existing arrangements may be allowed to continue up to the date when they are due. They should, however, not be renewed or extended any further.

1.3 NBFCs are required to submit information pertaining to loans and advances granted to their directors, relatives and other entities referred to in item 1.1 above for each quarter end (i.e. as on 31st March, 30th June, 30th September and 31st December) in the enclosed Proforma 1 to the Regional Office concerned of the Department of Non-Banking Supervision within 15 days from the close of the respective quarter. If there is nothing to report, a nil statement may be submitted.

2. Timeframe for recovery of loans

2.1 In cases where the NBFC has already provided credit facilities to its directors as prohibited in 1.1 above, immediate steps should be initiated to recover the amounts of the loan or advance together with interest, if any, as soon as the loan or advance falls due for repayment in terms of the loan agreement.

2.2 In case there is no repayment date fixed for any facility, the same may be recovered within a period of one year from the date of this circular.

3. Definitions

3.1 The term "substantial interest" for the purpose of these guidelines:

- (i) in relation to a company, means the holding of a beneficial interest by an individual or his spouse or minor child, whether singly or taken together, in the shares thereof, the amount paid-up on which exceeds five lakhs of rupees or ten per cent of the paid-up capital of the company, whichever is less;
- (ii) in relation to a firm, means the beneficial interest held therein by an individual or his spouse or minor child, whether singly or taken together, which represents more than ten per cent of the total capital subscribed by all the partners of the said firm;

3.2 The scope of the term "relative" shall be as defined in the Companies Act, 1956.

**Information in respect of loans and advances
sanctioned to the Directors of NBFCs, their relatives
and other entities mentioned in paragraph 1.3 of Annex**

Name of the NBFC :
Position as on :

Sr.	Name of the Borrowers (relationship)	Limits Sanctioned (Rs. in lakhs)							
		Date of Sanction/ Renewal	Type of Facility		Secured	Un-secured	Nature and Value of Security	Due Date/ Date of Maturity	
			Funded	Non-funded					
1	2	3	4	5	6	7	8	9	

Amount Outstanding (Rs. in Lakhs)				
Secured	Unsecured	Total (100% of Funded and 50% of Non-funded Limits)	Whether in excess of exposure norms/limits stipulated by RBI	Action initiated in case of Overdue/ NPA Accounts
10	11	12	13	14

Note:

Different types of facilities sanctioned to a borrower should be indicated separately against columns 4 and 5.

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TAX LAW UPDATES

- **New Simplified Income-Tax Return Forms For 2007-08**

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NEW SIMPLIFIED INCOME-TAX RETURN FORMS FOR 2007-08

THE new simplified income-tax return forms for 2007-08 unveiled by the Hon'ble Finance Minister Shri. P Chidambaram on April 28 came into effect from 15th May, 2007. The new form for the individual taxpayer is simpler and does not require him to give a statement on expenditure as envisaged earlier in form 2F. The new form does not require the tax payer to file any additional papers or certificates as annexures. The income-tax return forms for corporates, professionals and charitable organisations have also been simplified.

The list of respective forms is as under:

Sl. No.	Form Name	Form Description
1	ITR-1	For Individuals having Income from Salary & Interest
2	ITR-2	For Individuals & HUFs not having Income from Business or Profession
3	ITR-3	For Individuals/HUFs being partners in firms and not carrying out business or profession under any proprietorship
4	ITR-4	For Individuals & HUFs having income from a proprietary business or profession
5	ITR-5	For firms, AOPs and BOIs
6	ITR-6	For Companies other than companies claiming exemption under section 11
7	ITR-7	For persons including companies required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D)
8	ITR-8	Return for Fringe Benefits
9	ITR-V	INDIAN INCOME TAX RETURN VERIFICATION FORM [Where the data of the Return of Income/Fringe Benefits in Form ITR-1, ITR-2, ITR-3, ITR-4, ITR-5, ITR-6 & ITR-8 transmitted electronically without digital signature]
10	Rule-12	Rule-12
11	Acknowledgement	Acknowledgement for e-Return and non e-Return

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CASE LAW

- Peerless General Finance and Investment Co. Ltd. Vs. Poddar Projects Ltd. and Anr.

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IN THE SUPREME COURT OF INDIA

Decided on: 13.02.2007

Appellants: **Peerless General Finance and Investment Co. Ltd.**

Vs.

Respondent: **Poddar Projects Ltd. and Anr.**

Act:

Companies Act, 1956 - Sections 10F, 108, 108(1A), 111A, 391 and 394

FACTS AND HISTORY OF THE CASE:

Certain shares of the appellant – company, Peerless General Finance and Investment Co. Ltd., were being held by Poddar Udyog Limited. Under a scheme of arrangement sanctioned by the Calcutta High Court on August 19, 1997, a part of the business division of Poddar Udyog Limited was transferred to the respondent No. 1 i.e. Poddar Projects Ltd. On September 3, 1999, respondent No. 1, Poddar Projects Limited, sold the shares to the respondent No. 2, Vijaya Finance Corporation Limited. The said respondent lodged the shares with the appellant-company (Peerless General Finance and Investment Co. Ltd.) herein for registration on November 12, 2001. The appellant-company refused to register the said shares on January 9, 2002. On May 16, 2002, the shares were again lodged for registration on behalf of the respondent No. 1- Poddar Projects Limited, but once again the appellant-company refused to register the same.

Such refusal led to the filing of an application by the respondents herein under Section 111A of the Companies Act, 1956 on October 28, 2002. The Company Law Board allowed the application filed by the respondent No. 1 herein by directing the appellant-company to register the original shares in favour of the respondent No. 1 i.e. Poddar Projects Ltd, but declined to grant any relief to the respondent No. 2 i.e. Vijaya Finance Corporation Limited. The respondent No. 2 accepted the order and did not prefer any appeal. The appellant-company being dissatisfied with the decision of the Company Law Board filed an appeal before the Calcutta High Court under Section 10F of the Companies Act, 1956.

Before the Calcutta High Court, it was submitted on behalf of the appellant-company that since no transfer deed was delivered in terms of Section 108(1A) of the Companies Act, the lodgment for registration was itself defective and could not, therefore, be acted upon. It was further submitted that till such time as the shares were not registered in favour of the respondent No. 1-company, the same could not be registered in the name of the subsequent transferee, namely, the respondent No. 2 herein. Certain other objections were also taken regarding cancellation of stamps and the fact that the transferee was not a desirable person.

The Calcutta High Court negated the submissions made on behalf of the appellant-company and affirmed those of the Company Law Board. It is against the said order of the Calcutta High Court that the instant appeal has been filed.

ISSUE RAISED IN THE APPEAL:

Question raised in the appeal was, whether for registration of transfer of shares effected under a scheme of arrangement or compromise or amalgamation sanctioned by a competent court under Sections 391 and 394 of the Companies Act, it is necessary to execute a further instrument of transfer as contemplated by Section 108 of the said Act.

DECISION:

At the time of the hearing of the appeal, it was submitted on behalf of the appellant-company that the said question had been rendered academic. It was submitted that during the pendency of the appeal, the appellant-company had complied with the direction of the Calcutta High Court and had registered the original shares in the name of the respondent No. 1-company i.e. Poddar Projects Limited. Since the respondent No. 2 had not preferred any appeal against the order of the Company Law Board, the same became final as far as the respondent No. 2 is concerned.

Although, on behalf of respondent No. 2, it was submitted that the decision of the Company Law Board, as applicable to the respondent No. 1, would also operate in its favour, such a submission is not acceptable since the respondent No. 2 stands on a different footing.

Till such time as the shares were not registered in the name of the respondent No. 1, the application of the respondent No. 2 for subsequent registration of the same shares in its name could not be considered. Accordingly, the direction given by the Company Law Board in respect of the respondent No. 1 could not apply to the respondent No. 2 and that is why the said respondent No. 2 did not prefer any separate appeal against the order of the Company Law Board.

As pointed out by learned senior counsel, appearing on behalf of the appellant-company, the questions raised in the appeal have been rendered academic having regard to the fact that the appellant-company has since registered the shares in question in the name of the respondent No. 1- company.

The appeal was, therefore, disposed of as having become infructuous and the questions raised therein are left open for decision in an appropriate case.

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