



## CS Update

December 30, 2011



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PREVIOUS ISSUES OF CS UPDATE ARE AVAILABLE AT THE FOLLOWING LINK:

<http://www.icsi.edu/Member/CSUpdate/tabid/1635/Default.aspx>

Disclaimer: - Due care and diligence is taken in compilation of the CS Update. The Institute does not own the responsibility for any loss or damage resulting from any action taken on the basis of the contents of the CS Update. Anyone wishing to act on the basis of the contents of the CS Update is advised to do so after seeking proper professional advice.



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# FROM ICS

## THE COMPANY SECRETARIES (AMENDMENT) BILL, 2010

*We are happy to inform that both the The Company Secretaries (Amendment) Bill, 2010 Houses of Parliament, i.e., Rajya Sabha (on December 12, 2011) and Lok Sabha (on December 19, 2011) have passed the Company Secretaries (Amendment) Bill, 2010 which is awaiting assent of the Hon'ble President of India.*

The Company Secretaries (Amendment) Bill, 2010 proposes to amend the Company Secretaries Act, 1980 to apply certain provisions of the Limited Liability Partnership Act, 2008 to the Company Secretaries Act, 1980 in order to allow the members of the professional Institute governed by the Company Secretaries Act, 1980 to form the limited liability partnership and insert new definitions of 'firm', 'partner', 'partnership' and 'sole proprietorship' for the said purpose. It will enable the members of the CS Institute to form LLPs and take benefits of provisions of the LLP Act. This will also enlarge the spectrum of the services provided by members of the CS Institute and will also ensure the competitiveness of the members of the Institute.

The Company Secretaries (Amendment) Bill, 2010 was introduced in the Rajya Sabha on 28<sup>th</sup> April, 2010 and referred to the Standing Committee on Finance by the Speaker of the Lok Sabha on 4<sup>th</sup> May, 2010 for examination and report thereon. The Committee vide its report dated 26<sup>th</sup> August, 2010 expressed agreement with the Amendment proposal of the Bill and recommended the same for consideration.

The Company Secretaries (Amendment) Bill, 2010 was discussed and passed in Rajya Sabha on 12<sup>th</sup> December, 2011 and introduced and passed by Lok Sabha on 19<sup>th</sup> December, 2011 along with the Chartered Accountants (Amendment) Bill, 2010 and Cost and Works Accountants (Amendment) Bill, 2010.

The amendments proposed in the Company Secretaries (Amendment) Bill, 2010 are as under: -

1. Amendment to section 2 (2) of the Principal Act (the Company Secretaries Act, 1980) to insert in sub-section (1) after clause (f), clauses (fa) (gb) (gc) and (jj) to define the terms firm, partner, partnership and sole proprietorship as per details given below: -

‘(fa) ‘firm’ shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932, and includes, -

- (i) The limited liability partnership as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008; or
- (ii) The sole proprietorship,



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registered with the Institute;'

`(gb) `partner' shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 or in clause (q) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008, as the case may be;'

`(gc) `partnership' means –

(A) a partnership as defined in section 4 of the Indian Partnership Act, 1932; or

(B) a limited liability partnership which has no company as its partner;'

`(jj) `sole proprietorship' means an individual who engages himself in the practice of the profession of the Company Secretaries or offers to perform services referred to in clauses (b) to (f) of sub-section (2);'

2. Amendment to Section 26 to add explanation to section 26 of the Act to clarify that the company includes any limited liability partnership having company as its partner as under: -

"Explanation – For the removal of doubts, it is hereby declared that the `company' shall include any limited liability partnership which has company as its partner for the purposes of this section."

The Bill will become an Act on receipt of assent of the President.

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## HIGHLIGHTS OF THE COMPANIES BILL, 2011

Detail can be accessed at:

<http://www.icsi.edu/WebModules/LinksOfWeeks/HIGHLIGHTS-COMPANIES%20BILL2011.pdf>



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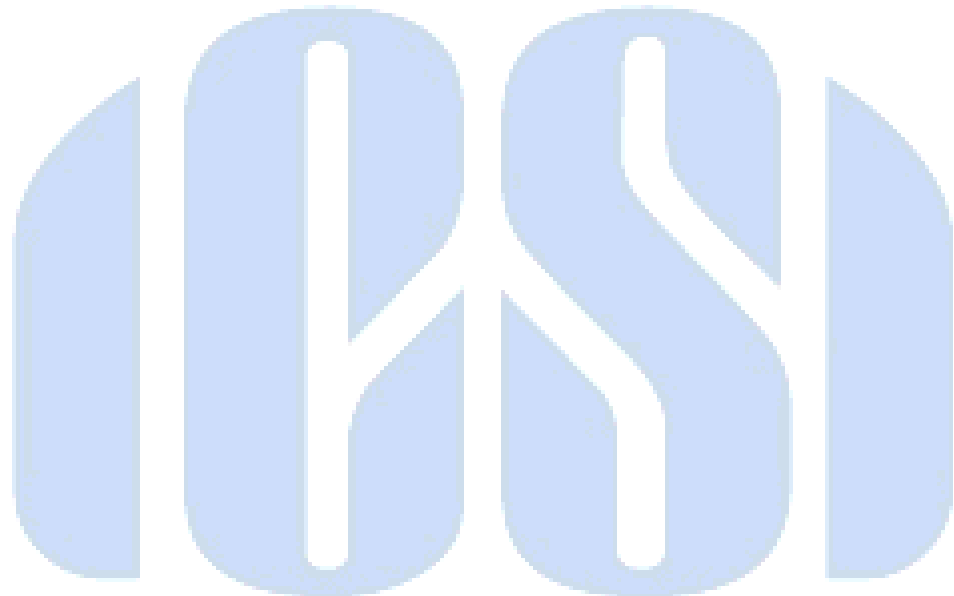
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## REQUEST TO FILE BALANCE SHEET IN XBRL AT THE EARLIEST TO AVOID LATE FEE

Dear Member,

A select class of companies have to file their financial statements for financial year 2010-11 using eXtensible Business Reporting Language (XBRL) vide "Companies (Filing of Documents and Forms in eXtensible Business Reporting Language) Rules, 2011".

Owing to fervent requests from stakeholders, last date of XBRL filings by a company have been extended up to 31.12.2011 or within 60 days from its due date of filing, whichever is later, without any additional fees vide the Ministry's Circular No. 69/2011 dated 30.11.2011. **Please note that companies filing after expiry of this extended timeline would be charged additional fee as per their normal 23AC and 23ACA filings. i.e., late fee for such companies would be calculated with effect from original due date of filing.**

You are therefore advised to ensure that your company files its financial statements in XBRL at the earliest.

For further information, kindly visit MCA website [www.mca.gov.in](http://www.mca.gov.in).

Regards

N.K. Jain

Secretary & CEO

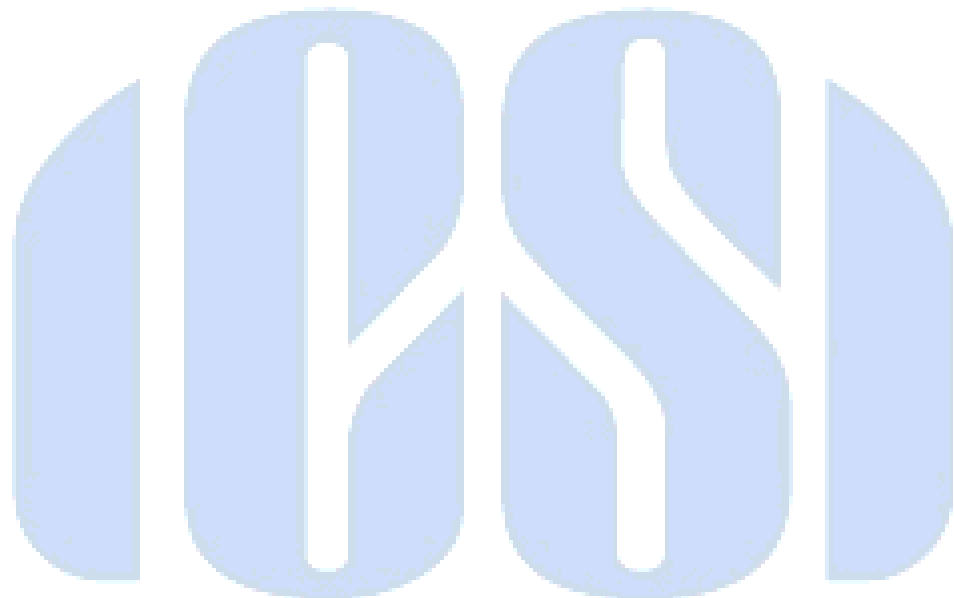
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## FAQs ON PEER REVIEW

Details can be accessed at:

<http://www.icsi.edu/WebModules/LinksOfWeeks/FAQ-PRB.pdf>

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## GUIDELINES FOR PEER REVIEW OF ATTESTATION SERVICES BY THE PRACTISING COMPANY SECRETARIES

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99



सं. 204]  
No. 204]

नई दिल्ली, मंगलवार, अक्टूबर 18, 2011/आश्विन 26, 1933  
NEW DELHI, TUESDAY, OCTOBER 18, 2011/ASVINA 26, 1933

**THE INSTITUTE OF COMPANY SECRETARIES OF INDIA**  
In pursuit of Professional Excellence  
"Statutory Body under an Act of Parliament"

### NOTIFICATION

New Delhi, the 17th October, 2011

**ICSI No. 1 of October, 2011.**— The Council of the Institute of Company Secretaries of India pursuant to the Company Secretaries Act, 1980, as amended by the Company Secretaries (Amendment) Act, 2006 has issued the following Guidelines for Peer Review of Attestation Services by the Practising Company Secretaries, namely: -

#### 1. Introduction

The Company Secretaries Act, 1980 (the Act) was enacted to make provision for the regulation and development of the profession of Company Secretaries, the Institute of Company Secretaries of India set up under the said Act has been conducting examinations and prescribing standards for adherence by its members. The concept of whole-time practice, which gained its initial recognition in 1988, has gained momentum after the enactment of the Companies (Amendment) Act, 2000 which required Compliance Certificate to be issued by Practising Company Secretary for certain size of companies. Our members in practice are also being recognised for issuing certificates under various laws.

Excellence is the hallmark of success in a competitive environment. The performance can be judged and enhanced to that level of excellence only by evaluation by a competent professional. The Council of the Institute, therefore, decided to introduce Peer Review for Practising

Company Secretaries to periodically review the PCS firms and evaluate the quality, sufficiency of systems, procedures and practices, so that excellence in their performance is maintained.

The Council of the Institute has been constituted under the Company Secretaries Act, 1980 for discharging the functions assigned to the Institute under the Act. Section 15 of the Act provides that "the duties of carrying out the provisions of this Act shall be vested in the Council" and enumerates various duties of the Council. With a view to regulate the profession of Company Secretaries and in terms of the powers vested, the Council is thus authorised to issue these guidelines for Peer Review. These guidelines serve as a mechanism intended to further enhance the quality of professional work of Practising Company Secretaries over a period of time, thereby ensuring that the profession of Company Secretaries continues to serve the society in the manner envisaged.

## 2. Objectives

2.1 The main objective of Peer Review is to ensure that in carrying out their attestation services and professional assignments, the PCS (a) comply with the Technical Standards laid down by the Institute and (b) have in place proper systems (including documentation systems) for maintaining the quality of the attestation services work they perform. The Council has specified in these guidelines for Peer Review, the Technical Standards in relation to which peer review is to be carried out. Peer review does not seek to redefine the scope and authority of the Technical Standards specified by the Council but seeks to enforce them within the parameters prescribed by the Technical Standards.

2.2 Peer Review is directed towards maintenance as well as enhancement of quality of attestation services and to provide guidance to members to improve their performance and adhere to various statutory and other regulatory requirements. Essentially, through a review of attestation services engagement records, peer review identifies the areas where a practising member may require guidance in improving the quality of his performance and adherence to various requirements as per applicable technical Standards.

2.3 These guidelines provide a framework of the Peer Review process and the requirements of what is expected of a member during the conduct of a peer review.

2.4 These guidelines may be called the "Guidelines for Peer Review of Attestation Services by Practising Company Secretaries".

2.5 These guidelines shall be applicable w.e.f. 1st October. 2011.

## 3 . Key Definitions - For the purpose of these guidelines,

3.1 *Attestation Services* - Means services involving the secretarial audit issuing of various certificates, but does not include:



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- Management consulting Engagement;
- Representing a client before the Authorities;
- Testifying as expert witness; and
- Providing expert opinion on points of principle, such as secretarial standards or the applicability of certain laws, on the basis of facts provided by the client,
- The phrase 'Attestation Services' is used in these guidelines interchangeably with secretarial or compliance audit Services, Attestation Functions and secretarial audit functions.

3.2 *Member* - Means a member of the Institute of Company Secretaries of India.

3.3 *Practice Unit* - Means members in practice, whether practicing individually or a firm of Company Secretaries.

3.4 *Peer Review* - Means an examination and review of the systems, procedures and practices to determine whether they have been put in place by the practice unit for ensuring the quality of attestation services as envisaged and implied/ mandated by the Technical Standards and whether these were effective or not during the period under review.

3.5 *Peer Review Board* - Means a Board established by the Council in terms of these Guidelines to conduct peer review. The expression "Peer Review Board" is hereinafter referred to as "Board".

3.6 *Regulator* - Means Government or any regulatory body constituted by the Parliament or State Legislature who is/are empowered to regulate the Acts which include various attestation services which the Council may, from time to time, prescribe to cover as attestation services for the purpose of peer review.

3.7 *Reviewer* - Means any member engaged to carry out peer review of practice unit from the panel of reviewers. –

3.8 *Technical Standards* - Mean and include:

- Secretarial Standards issued by the Institute of Company Secretaries of India, wherever mandatory;
- Guidance Notes on Secretarial Standards issued by the Institute of Company Secretaries of India;
- Compliance of the Guidance Notes issued by the Institute of Company Secretaries of India;
- Notifications/Directions issued by the Council of Institute of Company Secretaries of India; and
- Compliance of the provisions of the various relevant Statutes and/or Regulations, which are applicable in the context of the specific engagements being reviewed.

3.9 *Qualified Assistant* - means a person assisting the reviewer for carrying out peer review, who is a member of the Institute and has undergone adequate training in the manner considered appropriate by the Board in terms of clause 15.1 of the Guidelines.





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3.10 Words and expressions used and not defined in these guidelines shall have the meanings assigned to them under the Company Secretaries Act, 1980 and the Company Secretaries Regulations, 1982 framed thereunder.

#### 4. Authority of the Guidelines on Peer Review

4.1 The guidelines on Peer Review shall apply to all or any of the following cases :

- (a) Whenever a peer review is mandated
- (b) Whenever a peer review is requested
- (c) Whenever peer review is conducted.

4.2 The Guidelines on Peer Review are issued in relation to conduct of members in attestation services;

- to promulgate an appropriate mechanism for ensuring the quality of attestation services and guide the members to conduct themselves in a manner that the Council considers appropriate;
- to provide guidance in relation to the statutory powers and obligations with respect to the parties involved in peer review;
- to prescribe the scope of peer review and the procedures to be adopted during the conduct of a peer review: and
- to establish the expected conduct of members during a peer review.

#### 5. Powers of the Council

- To constitute the Board and to fill in the vacancies arising in the Board from time to time.
- To decide upon, from time to time, the Technical Standards the implementation of which fall within the purview of the peer review process.
- To refer such matters to the Board as the Council may deem fit.

#### 6. Peer Review Board

##### 6.1 Establishment and Appointment

- (1) The Board shall be established by the Council.
- (2) The Board shall consist of a maximum of seven members to be appointed by the Council, of whom at least four shall be from amongst the Members of the Council.
- (3) The balance members of the Board shall be drawn from amongst prominent members of high integrity and reputation, including but not limited to former public officials, regulatory authorities etc.
- (4) The Council shall appoint the Chairman and the Vice-Chairman from amongst the Members of the Council.
- (5) At least one-half of Council Members on the Board shall hold Certificate of Practice.
- (6) The tenure of the Peer Review Board shall be co-terminus with the tenure of the Council and the term of a member shall be for such period as may be prescribed by the Council.
- (7) Any vacancy(ies) on the Board shall be filled in by the Council.



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(8) Members of the Disciplinary Committee of the Institute of Company Secretaries of India shall not concurrently serve on the Board.

## 6.2 Meetings

- (1) No business shall be transacted at a meeting of the Board unless there are present at least three members, including the Chairman or in his absence, the Vice-Chairman,
- (2) If there is no quorum within half an hour of the time fixed for the meeting, the meeting shall stand adjourned to a date, time and place fixed by the Chairman or in his absence, the Vice-Chairman.
- (3) The Board shall meet not less than four times in a year.

## 6.3 Reporting

The Board shall submit proceedings of the meeting of the Board within 30 days from the date of the meeting to the Council.

## 7. Scope of Peer Review

7.1 The peer review process is directed at the attestation services of a practice unit.

- (1) Once a practice unit is selected for review, its attestation engagement records pertaining to the immediately preceding financial year shall be subjected to review. Provided that the records of attestation services relating to years prior to the financial year beginning 1.04.2004 shall not be subjected to review.
- (2) The Review shall focus on:
  - (i) Compliance with Technical Standards.
  - (ii) Quality of Reporting.
  - (iii) Office systems and procedures with regard to compliance of attestation services systems and procedures.
  - (iv) Training Programs for staff (including apprentices) concerned with attestation functions, including appropriate infrastructure.

## 8. Powers of the Board

8.1 The duty of carrying out the provisions of these guidelines shall be vested in the Board.

8.2 In particular, and without prejudice to the generality, of the foregoing powers, the duties of the Board shall include:

- (1) To call for information from practice units in such form as it deem fit.
- (2) To maintain a panel of Reviewers.
- (3) To define the terms of appointment of the reviewers.
- (4) To send a Panel of at least three reviewers (from the Board's own panel) to the practice unit and allow the practice unit to choose any one reviewer from the panel so forwarded to it: Provided that in case the practice unit would like to have reviewers from another State/Region (and undertakes to bear the extra costs that would be incurred for TA/DA etc.) and none of the reviewers as identified





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by the Board for the practice unit are from outside the place of business of the practice unit, then the practice unit may make a special request to the Board to provide names of reviewers from outside the State/Region where the practice unit has his place of business.

- (5) To examine the aspects of basis of selection of records pertaining to the attestation services in terms of the appropriate Technical Standards.
- (6) To arrange for such training programs for reviewers as may be deemed appropriate;
- (7) To prescribe the system, practice and procedure to be observed in relation to peer reviews; and
- (8) On considering the Report of a reviewer, to do any or all of the following:
  - (a) To issue recommendations to the practice unit;
  - (b) To order a further peer review to be carried out;
- (9) After considering the report of the reviewer and compliance of recommendations by the Practice Unit, wherever deemed appropriate by the Board, to issue Peer Review Certificate.
- (10) To guide the members on best practices on peer review.

8.3 Where deemed appropriate, after the conclusion of a cycle of reviews or at the end of each such period as may be determined, the Board shall have the powers to make a Special Report to the Council on:

- (i) General issues regarding the level of implementation and adherence to Technical Standards amongst practice units.
- (ii) Its own suggestions for further improvement in quality of attestation services.

8.4 The Board may perform any other thing or act as may be incidental to, or which it considers necessary or expedient for the performance of its functions, or exercise of its powers as delegated to it by the Council, including the formation of subcommittees and regional benches of the Board for specific tasks.

## 9. Compliance with Peer Review Guidelines

9.1 Practice units are required to comply with the provisions of these guidelines. Practice units failing in this regard will be required to undergo appropriate review of their quality controls by the Board in terms of such specific directions as may be given to it by the Council in these regards from time to time, and as intimated to the members

## 10. Qualifications of the Reviewer

10.1 The nature and complexity of peer review require the exercise of professional judgement. Accordingly, an individual serving as a reviewer shall:-

- (a) Be a member;
- (b) Possess at least ten years experience; and

(c) Be currently in the practice as Company Secretary in Practice.

10.2 The Board may examine the quality of the report and shall have powers to remove the reviewer from the panel of reviewers in case the quality of the review/report fails to match the desired standards.

## 11. Members/ Firms Subject to Review

11.1 Peer review will be implemented on the basis of random selections from the practice units or at the request of practice unit.

11.2 If company/concern requests the Board for the conduct of peer review of its secretarial auditor (practice unit), the Board shall take due cognizance of such request and in that case the cost of the peer review shall be borne by such company/ concern.

11.3 If Council / Government or any regulatory body requests the Board for conduct of peer review of any Practice Units, the Board shall take due cognizance of such request and in that case the cost of peer review shall be borne by the referred practice unit.

11.4 The Peer Review Board may alter/change/modify the above method of selection with prior approval of the Council.

## 12. Obligations of the Practice Unit

12.1 Provisions of access to any record or document to a reviewer:

(1) Any person to whom this clause applies and who is reasonably believed by a reviewer to have in his possession or under his control any record or other document, which contains or is likely to contain information relevant to the peer review shall:

- (i) Produce to the reviewer or afford him access to any record or document specified by the reviewer or any other record or document which is of a class or description so specified, and which is in his possession or under his control/being in either case a record or other document which the reviewer reasonably believes is or may be relevant to the peer review, within such time as the reviewer may reasonably require;
- (ii) If so required by the reviewer, afford and provide to him such explanation or further particulars in respect of anything produced in compliance with a requirement under sub clause (i) above, as the reviewer shall specify; and
- (iii) Provide to the reviewer all assistance in connection with peer review which he is expected to provide.

(2) Where any information or matter relevant to a practice unit is recorded otherwise than in a legible form, the practice unit shall provide and present to the reviewer a reproduction of any such information or matter, or of the relevant part or it in a legible form, with a suitable translation in English if the matter is in any other language, and such translation is requested for by the reviewer.

(3) The practice unit shall ensure that the reviewer is given access to all documents relevant to his review no matter which office of the practice



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unit these documents may be available in, in case the practice unit has more than one office.

(4) A practice unit shall allow the reviewer to inspect, examine or take any abstract of or extract from a record or document or copy there from which may be required by the reviewer.

12.2 For the purpose of this clause a person means a Partner/ Sole Proprietor of the practice unit to which the particular review relates or any person employed by or whose services are engaged by such unit.

### 13. Periodicity of Peer Review

13.1 The peer review of every practice unit should be mandatorily carried out at least once in a block of five years. However, if the Board so decides or otherwise at the request of the practice unit, the peer reviews for a practice unit can be conducted at shorter intervals.

### 14. Cost of Peer Review

14.1 The cost of Peer Review for reviewer and his qualified assistant(s) as may be decided by the Board from time to time, shall be borne by the Practice unit. In case reviewer has to conduct second review, the same rate would apply to the second review also. Each of the branch/ office under review would be considered separately.

### 15. Training and Development

15.1 To ensure that the objective of peer review is attained in letter and spirit, adequate training facilities shall be provided, from time to time, to the Reviewer(s) and other persons who assist the Board as and when and in the manner considered appropriate by the Board. Reviewers shall be expected to be fully familiar with all procedures, prescriptions, guidelines and other decisions as may be issued by the Board from time to time.

### 16. Review Framework

16.1 Essentially, a peer review entails a review of attestation engagement records and related financial/other statements to ascertain that the practice unit is adhering to Technical Standards. Where a practice unit is not following Technical Standards in certain situations, suggestions and recommendations for improvement may be made, and possibly followed by a further review, in keeping with the primary thrust of peer review.

16.2 The methodological approach involved in peer review can be defined in terms of three stages viz. planning, execution and reporting, which are summarized below;

#### (i) Planning

- **Intimation** - A practice unit will be intimated in writing about an impending peer review and will be sent a Questionnaire for





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completion together with a panel of three suggested names of reviewers. The practice unit will have to give its choice of reviewer within a period of 15 days from the day of receipt of the panel sent by the Board.

- **Return of completed Questionnaire** - The practice unit shall have to complete and return the Questionnaire to the reviewer within one month of receipt. The information will be used for the planning of the review. In addition, practice units will be required to enclose a complete list of their attestation services clients, and to provide any other information the reviewer considers necessary to facilitate the selection of a sample of attestation services engagements, representative of the practice unit's client portfolio, for review.

## (ii) Sample of Attestation services Engagements

- (a) from the complete attestation services client list, an initial sample will be selected by the reviewer. Practice units will be intimated of the selection in writing about two weeks in advance, requesting the relevant records of the selected attestation services clients to be made available for review.
- (b) At the execution stage, the initial sample may be reduced to a smaller actual sample for review. However, if the reviewer considers that the actual sample does not cover a fair cross-section of the practice unit's attestation services engagements, he may make further selections.

## (iii) Confirmation of visit

In consultation with the practice unit date(s) will be set for the on-site review to be carried out. Flexibility will be permitted to ensure that members are not inconvenienced at especially busy periods. The on-site review date(s) will be arranged by mutual consent such that the review is concluded within sixty days of intimation.

- (i) Peer review visits will be conducted at the practice unit's head office or other officially noted/recorded place of office. The complete on-site review of a practice unit may take at least a full day depending upon the size of the practice unit. This is based on the assumption that the practice unit concerned has made all the necessary information and documentation available to the reviewer for his review. However, in any case this on-site review should not extend beyond three working days.

## (ii) Initial meeting

An initial meeting will be held between the reviewer and a partner/sole proprietor of the practice unit designated to deal with the review (designated partner). The primary purpose of this meeting is to confirm the accuracy of the responses given in the Questionnaire. The description of the system in the Questionnaire may not fully explain all the relevant procedures and policies adopted by the practice unit and this initial meeting can provide additional information. The reviewer should have a full



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understanding of the system and be able to form a preliminary evaluation of its adequacy at the conclusion of the meeting.

### (iii) Compliance Review-General Controls

(a) The reviewer may carry out a compliance review of the General Controls and evaluate the degree of reliance to be placed upon them. The degree of reliance will, ultimately, affect the attestation services engagements to be reviewed. The following five key controls will be considered as General Controls:

- Independence
- Maintenance of Professional Skills and standards
- Outside Consultation
- Staff Supervision and Development
- Office Administration

Practice units are expected to address each of the five key control areas.

(b) In each key control area there shall be supplementary questions and matters to consider. These are intended to ensure that the kind of controls that are expected to be maintained, are installed and operated within practice units.

(c) All questions in the questionnaire may not necessarily be relevant to particular types of practice units because of the size and culture etc. However, practice units should still assess their internal control systems to ascertain whether they address the objectives under the five key control areas.

### (iv) Selection of attestation services engagements to be reviewed

(a) The number of attestation services engagements to be reviewed depends upon:

- The number of practicing members involved in attestation services engagements in the practice unit;
- The degree of reliance placed, if any, on general quality controls; and
- The total number of attestation services engagements undertaken by the practice units for the period under review.

(b) The engagements reviewed should be a balanced sample from a variety of different types of companies. Accordingly, if the reviewer considers that the actual sample is not representative of the practice unit's attestation services client portfolio, he may make further selections from the initial sample or from the complete attestation services client list.

### (v) Review of records

The reviewer may adopt a compliance approach or substantive approach or a combination of both in the review of attestation services engagement records.





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- (a) Compliance approach-Attestation services Engagements
  - The compliance approach is to assess whether proper control procedures have been established by the practice unit to ensure that attestation services are being performed in accordance with Technical Standards.
  - Practice units should have procedures and documentation sufficient to cover each of the key areas. Members in smaller practices may find some of the documentation too elaborate for most of their clients and so should tailor their attestation services documentation to suit their particular circumstances with justification for doing so provided to the reviewer.
- (b) Substantive approach-Attestation services Engagements

A substantive approach will be employed if the reviewer chooses not to place reliance on the practice unit's specific controls on attestation engagements or is of the opinion that the standard of compliance is not satisfactory. This approach requires a review of the attestation working papers in order, to establish whether the attestation work has been carried out as per norms of Technical Standards.

### 16.3 Reporting

#### (i) Preliminary Report of Reviewer

- At the end of an on-site review, the reviewer shall, before making his report to the Board, communicate a preliminary report to the practice unit. The reviewer shall report on the areas where systems and procedures had been found to be deficient or where he has noticed non-compliance with reference to any other matter.
- The reviewer shall not name any individual in his reports.
- The practice unit shall have 21 days beginning the day after the day the preliminary report is received, by the practice unit from the reviewer to make any submissions or representations, in writing to the reviewer, concerning the preliminary report.

#### (ii) Interim Report of Reviewer

- (a) If the reviewer is satisfied with the reply received from the practice unit, he shall submit an appropriate Report to the Board. In case the reviewer is not satisfied with the reply of the practice unit, the reviewer shall accordingly submit his Interim Report to the Board.
- (b) In pursuance of the provisions contained in the above clause or on receipt of a request from the practice unit, the Board may instruct the reviewer to - again carry out the review after six months to verify that systems and procedures have been streamlined and accordingly, on being satisfied, submit a report to the Board.
- (c) On receiving a report from a reviewer in terms of these, the Board, having regard to the Report and any submissions or representations attached to it, may:



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- make recommendations to the practice unit concerned regarding the application by it of Technical Standards;
- if it is of the opinion that
  - (1) In case the review is related to a firm, any one or more or all of the partners in the firm may have failed to observe, maintain or apply, as the case may be, Technical Standards;
  - (2) In case the review is related to a member practicing on his own account, the member may have failed to observe, maintain or apply, as the case may be, Technical Standards;  
Then;
  - (3) Issue instructions to the reviewer to carry out, within such period as may be specified in the instructions (which period shall not commence earlier than six months after the date on which the instruction is issued), a further peer review as regards the practice unit to which the report relates; and
  - (4) Specify in the instruction, the matters as regards which the review is to be carried out;

(d) The Board will make recommendations to the practice unit where:

Based on the report of the reviewer, it appears that the practice unit has satisfied all key control objectives, which the Board has determined and/or prescribed in respect of maintenance of/adherence to Technical Standards but where further improvements could be made to internal quality control systems; and

Based on the report of the reviewer, it appears that the practice unit has satisfied the major key control objectives but some weaknesses exist in others. The practice unit is expected to consider the recommendations for rectifying the weaknesses thus identified and informed by the Board and take all necessary actions to ensure that all key control areas are addressed.

(e) A follow up review will be required where the practice unit has not satisfied the Board that all the key control objectives have been maintained and where, in the view of the Board the deficiencies are likely to materially affect the overall quality of an attestation services engagement of the practice unit. In such cases the Board will also make recommendations, which it expects the practice unit to implement in order to ensure the maintenance of Technical Standards. The implementation of these recommendations will be examined during the follow up review.

(f) In case the reviewer is not satisfied even at the subsequent review, he shall submit his Report to the Board incorporating his reasons for dissatisfaction.

(iii) final Report of Reviewer



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(a) The reviewer will prepare a final Report to the Board (the Reviewer's Report), incorporating the findings as discussed with the practice unit. The final report will be examined/inspected by the Board in terms of the degree of compliance with the Technical Standards by the reviewed practice unit. The model forms of such final Reports shall be communicated to the reviewer by the Board.

(b) The Board shall consider the reviewer's final report and the practice unit's submissions. Thereafter, the Board may issue recommendations, if considered appropriate, to the practice unit and/or instruct the Reviewer to perform any follow-up action. The Board may, if deemed fit, then issue Peer Review Certificate to the practice unit.

(iv) The reviewer shall not communicate any Report(s) unless the examination of such Report(s) and related records has been made by him or by a partner or an employee of his firm.

## 17. Referral of Disputes and Appeal

17.1 Where a dispute arises over the powers of reviewers or the process or conclusions reached after the review or to any other matter related to the review, the practice unit, the reviewer or both may refer the dispute, in writing, to the Board. Such referral shall have to be made within two months in such manner as may be prescribed by the Board in these regards.

17.2 Where a dispute is referred, after considering any submissions or representations (which shall be made in writing) made by the relevant practice unit and/or the relevant reviewer, the Board-

- Shall decide the dispute within six months and communicate such decision to each of the parties to the dispute;
- May issue directions relating to the matter in dispute to such practice unit or the reviewer concerned and require such unit or reviewer to comply with them;
- Shall convey its decision in these regards to the appellant within 15 days from the date of the decision, so as to provide the appellant sufficient time to respond.

17.3 Where a practice unit is dissatisfied with the decision of the Board, it may refer the matter to the Council within two months in such manner as may be prescribed.

## 18. Immunity

18.1 A practice unit, which makes available records or documents to a reviewer, shall not incur any liability under the Code of Conduct under the Company Secretaries Act, 1980 and the Regulations framed thereunder, by reason of compliance with these Guidelines on Peer Review .

18.2 The reviewer, by virtue of carrying out the peer review shall not incur any liability other than the liability arising out of his own conduct under the Code of Conduct under the Company Secretaries Act, 1980 and Regulations framed thereunder as well as under the relevant clauses of these Guidelines.





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18.3 The members of the Peer Review Board shall not incur any liability by virtue of their having discharged the responsibilities as given in these Guidelines and/or as may in future be specified by the Council, other than the liability arising out of their own conduct under the Code of Conduct under the Company Secretaries Act, 1980 and Regulations framed thereunder as well as under the relevant clauses of these Guidelines.

## 19. Confidentiality

19.1 Strict confidentiality provisions shall apply to all those involved in the peer review process, namely, reviewers, members of the Board, the Council, or any person who assists any of these parties.

19.2 Those persons subject to the secrecy provision:

(1) Shall at all times after his/ their appointment preserve and aid-in preserving secrecy with regard to any matter coming to his/ their knowledge in the performance or in assisting in the performance of any function, directly or indirectly related to the process and conduct of peer review.

(2) Shall not at any time communicate any such matter to any other person; and

(3) Shall not at any time permit any other person to have any access to any record, document or any other material in any form which is in his/their possession or under his/their control by virtue of his/their being or having been so appointed or his/their having performed or having assisted any other person in the performance of such a function.

19.3 Non-compliance with the secrecy provisions in the above clause shall amount to professional misconduct as defined under Section 22 of the Company Secretaries Act, 1980.

19.4 A statement of confidentiality (appended as Annexure 'A') shall be filled in by the persons who are responsible for the conduct of peer review i.e., reviewers/ the members of the Board and others who assist them.

## 20. Procedural Departures

20.1 Where the persons who are responsible for the conduct of peer review (reviewers, the members of the Board and others who assist them) have not followed the prescribed procedures, they shall have to justify significant departures and such justification shall have to be mandatorily made known to the Council in the periodic Reports of the Board to the Council.

## Annexure 'A'

### Statement of Confidentiality

[In accordance with the Guidelines on Peer Reviews this statement of confidentiality is to be filled in by the persons who are responsible for the conduct of peer review i.e. reviewers, members of the Board and others who assist them, individually. The Reviewer shall be responsible for taking this undertaking from all those persons who assist him or are likely to assist him in conducting peer reviews, and shall send the same



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to the Board. This statement of Confidentiality should be renewed every year.]

To  
The Chairman,  
Peer Review Board,  
The Institute of Company Secretaries of India

Sir,

I hereby declare that my attention has been drawn to the need for confidentiality in the conduct of peer reviews. I therefore undertake and assure that in so far as any or all of the following relate to me or are brought to my knowledge/attention, in any manner whatsoever, whensoever, I will ensure that on my part

- Working papers shall always be kept securely so that unauthorised access is not gained by anyone.
- The practice unit's attestation services procedures shall not be disclosed to third parties.
- Any information with regard to any matter coming to my knowledge in the performance or in assisting in the performance of any function during the conduct of peer reviews shall not be disclosed to any person.

Access to any record, document or any other material, in any form which is in my possession, or under my control, by virtue of my being or having been so appointed or my having performed or having assisted any other person in the performance of such a function, shall not at any time be permitted to any other person.

I understand that any breach of the provisions regarding confidential information contained in the Guidelines on Peer Review will be considered as gross negligence and, subject to investigation, will result in appropriate action.

Signature:  
Name:  
Designation:  
Date:  
Place:  
Taken on record on (date)  
By  
Signature:  
Name:  
Designation:

By Order of the Council of the Institute of Company Secretaries of India  
N.K. JAIN, Secy. & CEO  
[ADVT. 111/4/121 /11 /Exty.]

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## MEMORANDUM OF UNDERSTANDING WITH MAICSA

A Memorandum of Understanding was entered into between the MALAYSIAN INSTITUTE OF CHARTERED SECRETARIES AND ADMINISTRATOR (MAICSA) and THE INSTITUTE OF COMPANY SECRETARIES OF INDIA (ICSI) at the 39<sup>th</sup> National Convention of Company Secretaries at Agra on October 14, 2011.

The important highlights of the MOU are:

- It will help students and members of both institutes to –
  - Attend training programmes organized by other Institutes.
  - Visit offices and work places of members of other Institutes.
  - Attend organized visits to professional places of interest e.g. companies, stock exchanges, securities commissions.
- Both Institutes also agree to –
  - Exchange course materials, case studies, research publications.
  - Undertake joint research projects which are mutually beneficial.

The MOU is available at the following link:

<http://www.icsi.edu/WebModules/LinksOfWeeks/MAICSA.pdf>

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## RE-OPENING THE REGISTRATION PROCESS OF CERTIFIED FACILITATION CENTERS

Details can be accessed at:

<http://www.icsi.edu:8888/cfc/cfc.aspx>

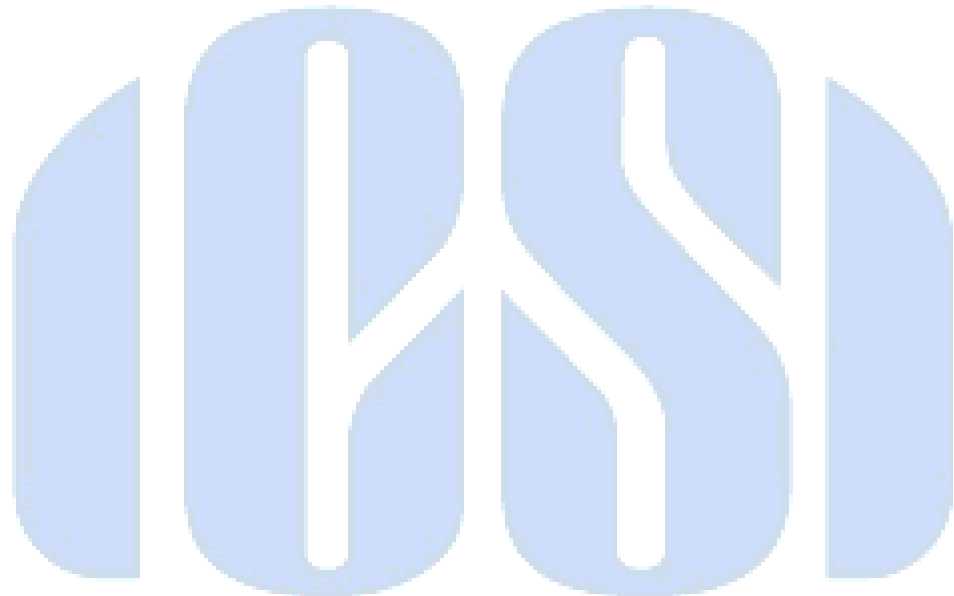


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## RECORDING OF WEBCAST ON XBRL ARRANGED BY ICSI

Details can be accessed at:

<http://www.streamonweb.com/ICSI/archivals>

<http://68.233.237.91/mca/Default.aspx>



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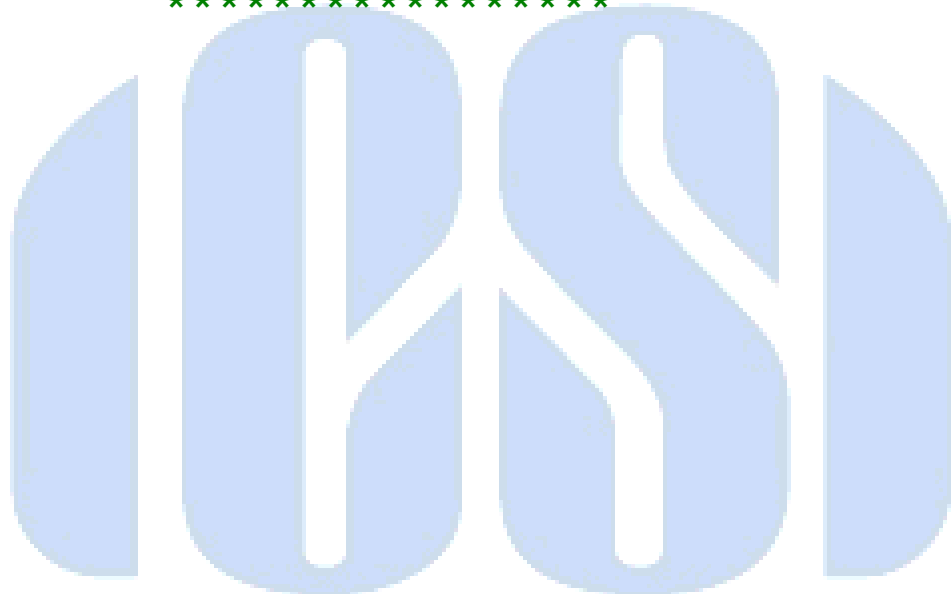
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## CG & CSR : WATCH

The Institute has always been in the frontline to promote good corporate governance and it has been the constant endeavour of the Institute to raise awareness among the members and students in Corporate Governance arena. This watch gives an update of the latest happenings in the area of Corporate Governance and Corporate Social Responsibility.

### NEW DEVELOPMENTS

1. **The Hong Kong Stock Exchange Publishes Consultation Conclusions on Review of the Corporate Governance Code and Associated Listing Rules**

The Stock Exchange of Hong Kong Limited, a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited (HKEx), on 18<sup>th</sup> December 2010, published a "Consultation Paper on Review of the Code on Corporate Governance Practices and Associated Listing Rules" (Consultation Paper) containing proposals to amend the Corporate Governance Code and the Rules pertaining to corporate governance and to simplify language to improve the clarity, certainty and efficacy of the Listing Rules. The consultation period ended on 18 March 2011.

The Exchange published its "Consultation Conclusions on Review of the Corporate Governance Code and Associated Listing Rules" on 28<sup>th</sup> October, 2011.

The amended Rules which becomes effective between January 1, 2012 and April 1, 2012 stress that directors should ensure that they are fully aware of their duties under the law and the Rules, take an active interest in the issuer's affairs and obtain a general understanding of its business. To provide a sound regulatory framework appropriate for the market and maintain a high standard of corporate governance, a combination of Listing Rules, Code Provisions and Recommended Best Practices has been adopted.

Overall market feedback indicated general support for the proposals, although certain aspects of the proposals drew diverse views.

The details can be accessed at:

<http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp2010124cc.pdf>



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## 2. Institute of Directors (IoD) (UK) Submission on Executive remuneration discussion paper

The Institute of Directors (UK) has submitted its response (on 25.11.2011) on Discussion paper seeking views on issues relating to executive remuneration.

The discussion paper on Executive remuneration issued by Department for Business Innovation and Skills can be accessed at:

<http://www.bis.gov.uk/assets/biscore/business-law/docs/e/11-1287-executive-remuneration-discussion-paper.pdf>

**Key proposals made by the IoD in its response include the following:**

- More diversity amongst independent non-executive directors. Boards with members from diverse professional backgrounds are more likely to exhibit "objective scepticism" in respect of remuneration policy than current or former CEOs.
- Introduction of a binding shareholder vote on executive remuneration policy.
- Engagement of remuneration committees, on a voluntary basis, with employee representatives as part of the remuneration setting process.
- Greater transparency regarding the potential conflicts of interest experienced by remuneration consultants.
- A substantial simplification of executive remuneration packages.

Commenting on the IoD's submission, Simon Walker, Director General of the IoD, said:

- "The IoD has noted, with growing concern, the rapid rise in executive remuneration at the largest listed UK companies over the last 10-15 years. We are aware of the difficult challenges faced by remuneration committees in responding to a global market for executive talent. But the current pace of increase in executive pay is unsustainable. The legitimacy of UK business in the eyes of wider society is significantly damaged by pay packages that are not clearly linked to company performance."
- "A higher level of professional diversity amongst independent non-executive directors will assist boards in aligning executive pay with society's expectations. Shareholders should also play a more active oversight role."
- "Remuneration committees should explore ways of engaging with employees on remuneration policy. This will be important in increasing the legitimacy of executive remuneration in the eyes of wider society."

The details can be accessed at:

<http://press.iod.com/2011/11/25/iod-calls-for-action-on-executive-pay/>

## GREEN CORNER

### GREEN IDEA



If:

- You care about the environment
- You want to save energy.
- You want to be green.

Use CFL/LED light in place of *incandescent bulb*

Interesting fact:

- Switching just one **light bulb** off in every household would reduce carbon dioxide by 90 billion pounds per year.
- Replacing one incandescent bulb with a LED light bulb prevents the release of 300 pounds of carbon dioxide in just one year.

Something good:



**Nano Ganesh** is a product which allows farmers to use mobile phones to remotely monitor and switch on irrigation pumps used for watering crops in remote locations. Farmers earlier had to walk several kilometres to turn on the irrigation pumps that water their fields. With the electrical supply often erratic, they sometimes found that there was no electricity when they reached the pump. Nano Ganesh allows them to remotely check to see that there is electricity, and to automatically turn the pump on and off, all through a mobile phone.

To Remember:

- December 1 - World AIDS Day
- December 2 - International day for abolition of Slavery
- December 5 - International Volunteer Day for Economic and Social Development
- December 9 - International Anti-Corruption Day
- December 10 - International Human Rights Day

## **Quote of the Month**

"Good corporate governance is about 'intellectual honesty' and not just sticking to rules and regulations, capital flowed towards companies that practiced this type of good governance." –



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Mervyn King (Chairman: King Report)

## Feedback & Suggestions

Readers may give their feedback and suggestions on this page to Mrs. Alka Kapoor, Joint Director, ICSI (alka.kapoor@icsi.edu)

Disclaimer:

The contents under **CG & CSR: Watch** have been collated from different sources. Readers are advised to cross check from original sources.



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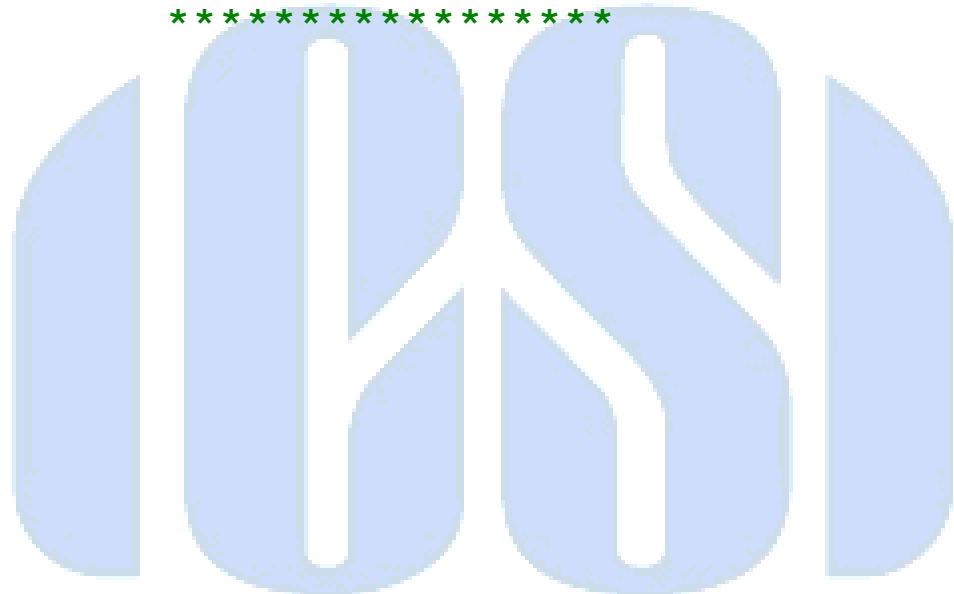
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# MCA UPDATE



## THE COMPANIES (ACCOUNTING STANDARDS) (SECOND AMENDMENT) RULES, 2011

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY PART II,  
SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA  
MINISTRY OF CORPORATE AFFAIRS  
NOTIFICATION

New Delhi, dated 29 December, 2011

GSR :- In exercise of the Powers conferred by clause (a) of sub-section (1) of section 642 read with sub-section (1) of section 210A and sub-section (3C) of section 211 of the Companies Act, 1956 ( 1 of 1956), the Central Government in consultation with the National Advisory Committee on Accounting Standards, hereby makes the following amendments in the Companies (Accounting Standards) Rules, 2006, namely :-

- (1) These rules may be called the Companies (Accounting Standards) (Second Amendment) Rules, 2011.
  - (2) They shall come into force on the date of their publication the Official Gazette.
- In the Companies (Accounting Standards) Rules, 2006, (hereinafter referred to as the said rules), in the Annexure, Under the heading "B. ACCOUNTING STANDARDS", in the sub-heading "Accounting Standard (AS) 11" relating to "The Effects of Changes in Foreign Exchange Rates", after paragraph 46, the following paragraph shall be inserted, namely,-
  - " 46A. (1) In respect of accounting periods commencing on or after the 1st April, 2011, for an enterprise which had earlier exercised the option under paragraph 46 and at the option of any other enterprise (such option to be irrevocable and to be applied to all such foreign currency monetary items), the exchange differences arising on reporting of long-term foreign currency monetary items at rates different from those at which they were



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initially recorded during the period, or reported in previous financial statements, in so far as they relate to the acquisition of a depreciable capital asset, can be added to or deducted from the cost of the asset and shall be depreciated over the balance life of the asset, and in other cases, can be accumulated in a "Foreign Currency Monetary Item Translation Difference Account" in the enterprise's financial statements and amortized over the balance period of such long term asset or liability, by recognition as income or expense in each of such periods, with the exception of exchange differences dealt with in accordance with the provisions of paragraph 15 of the said rules.

- (2) To exercise the option referred to in sub-paragraph (1), an asset or liability shall be designated as a long term foreign currency monetary item, if the asset or liability is expressed in a foreign currency and has a term of twelve months or more at the date of origination of the asset or the liability:

Provided that the option exercised by the enterprise shall disclose the fact of such option and of the amount remaining to be amortized in the financial statements of the period in which such option is exercised and in every subsequent period so long as any exchange difference remains unamortized."

[F.No.17/133/2008-CL.V]

RENUKA KUMAR

Joint Secretary to the Government of India

Foot Note: The Principal regulations were published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) vide GSR 739(E), dated the 7<sup>th</sup> December, 2006 and amended vide notification number G.S.R.212(E), dated the 27<sup>th</sup> March, 2008 and subsequently amended by GSR No. 225(E), dated the 31<sup>st</sup> March, 2009 and GSR No. 378(E), dated the 11<sup>th</sup> May, 2011.

## THE COMPANIES (ACCOUNTING STANDARDS) AMENDMENT RULES, 2011

TO BE PUBLISHED IN THE GAZETTE OF INDIA,  
EXTRAORDINARY PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA  
MINISTRY OF CORPORATE AFFAIRS

### Notification

New Delhi dated <sup>29/12</sup> December, 2011

GSR. :- In exercise of the powers conferred by clause (a) of sub-section (1) of Section 642 read with sub-section (1) of Section 210A and sub-section (3C) of Section 211 of the Companies Act, 1956 (1 of 1956), the Central Government in consultation with the National Advisory Committee on Accounting Standards, hereby makes the following amendment in the Companies (Accounting Standards) Rules, 2006, hereinafter called the said rules, namely:-

- (1) These rules may be called the Companies (Accounting Standards) Amendment Rules, 2011.  
  
(2) They shall come into force on the date of their publication in the Official Gazette.
- In the said rules, in the annexure under the heading "B. Accounting Standard", in the sub-heading "Accounting Standard (AS) 11" relating to "The Effects of Changes in Foreign Exchange Rates", in paragraph 46, for the words and figures "46. In respect of accounting periods commencing on or after 7<sup>th</sup> December, 2006 and ending on or before 31<sup>st</sup> March, 2012", the following shall be substituted, namely :-



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"46. In respect of accounting periods commencing on or after 7<sup>th</sup> December, 2006 and ending on or before 31<sup>st</sup> March, 2020.

{F.No. 17/133/2008-CL.V}

  
RENUKA KUMAR

Joint Secretary to the Govt. of India

Foot Note: The Principal regulations were published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) vide GSR 739(E), dated the 7<sup>th</sup> December, 2006 and amended vide notification number G.S.R.212(E), dated the 27<sup>th</sup> March, 2008 and subsequently amended by GSR No. 225(E), dated the 31<sup>st</sup> March, 2009 and GSR No. 378(E), dated the 11<sup>th</sup> May, 2011.



**GREEN INITIATIVES IN CORPORATE GOVERNANCE - FURTHER CLARIFICATION REGARDING PARTICIPATION BY SHAREHOLDERS OR DIRECTORS IN MEETINGS UNDER THE COMPANIES ACT, 1956 THROUGH ELECTRONIC MODE-AUTHORIZATION REGARDING E-VOTING.**

**General Circular No. 72/2011**

**No. 17/95/2011-CL-V  
Government of India  
Ministry of Corporate Affairs**

**5<sup>th</sup> floor, 'A' Wing, Shastri Bhawan,  
Dr. Rajendra Prasad Road, New Delhi  
Dated 27.12.2011**

**To**  
**All the Regional Directors.**  
**All the Registrar of Companies.**

**Sub.: - Green Initiatives in Corporate Governance –Further Clarification regarding participation by Shareholders or Directors in meetings under the companies Act, 1956 through electronic mode-authorization regarding e-voting.**

**Sir,**

Reference Ministry's Circular No. 35/2011 dated 06.06.2011, Para (ii) of which inter-alia provides, as under -

"In respect of shareholders meetings to be held during the financial year 2011-12, video conferencing facility for shareholders is optional. Thereafter, it is mandatory for all listed companies."

2. Further, Para (v) of the circular provides as under in case of e-voting in general meetings.

"In the case of e-voting in general meetings, the Ministry of Corporate Affairs are presently authorizing only National Security Depository Ltd and Central Depository Services (India) Ltd as agencies for providing and supervising electronic platforms for electronic voting subject to the condition that they obtain a certificate from Standardization Testing and Quality Certification (STQC) Directorate, Department of Information Technology, Ministry of Communication and IT, Government of India, New Delhi."



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- 2 -

3. It has been brought to the notice of the Ministry that the aforesaid mandatory requirement is in variance with the Companies Act, 1956 as also the relevant provisions proposed in the Companies Bill, 2011. On re-examination of the matter, it has accordingly been decided that the mandatory requirement for holding shareholders meetings through video conferencing shall continue to be optional for listed companies for the subsequent years too.

4. It is further stated that Para (v) of the above circular be replaced as under. "For e-voting in general meetings, any agency providing electronic platform for e-voting is required to obtain certificate from Standardization Testing and Quality Certification (STQC) Directorate, Department of Information Technology, Ministry of Communication and IT, Government of India, New Delhi."

It is clarified that this Ministry shall not authorize any agency for the purpose of providing video conferencing facilities by the corporate sector.

Yours faithfully,

(U. C. Nahta)

Director (Investigation & Inspection)

Copy to: -

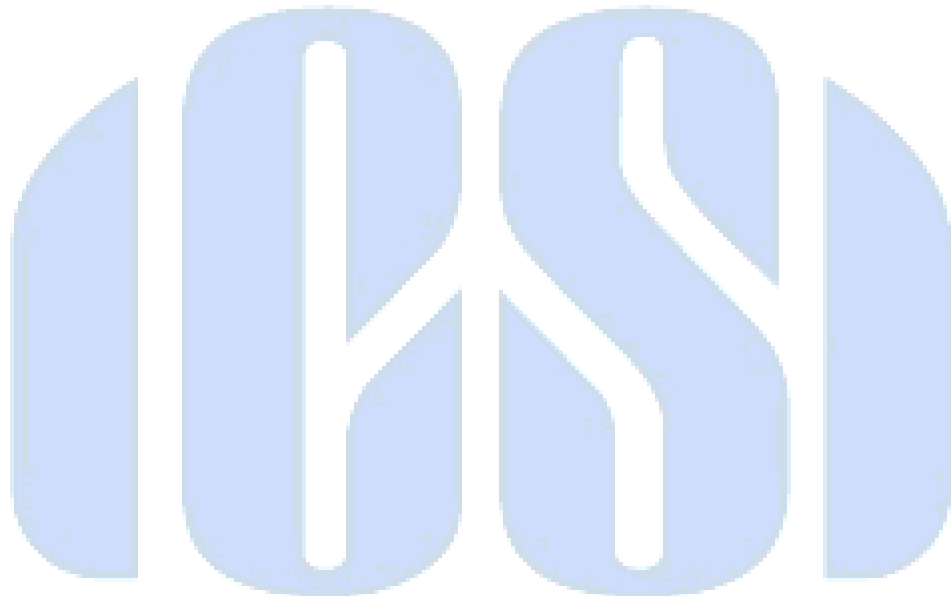
1. All stake holders, ICAI, ICSI, ICWAI, Chambers of Commerce etc.
2. PS to CAM.
3. PS to MOS.
4. PS to Additional Secretary & all Joint Secretaries.

## THE COMPANIES (AMENDMENT) REGULATIONS, 2011

The relevant MCA notification dated 16<sup>th</sup> December, 2011 can be accessed at the following link:

[http://www.mca.gov.in/Ministry/notification/pdf/Companies\\_Amendment\\_Regulations2011.pdf](http://www.mca.gov.in/Ministry/notification/pdf/Companies_Amendment_Regulations2011.pdf)

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## COMPANY LAW SETTLEMENT SCHEME, 2011

**General Circular No. 71/2011**

**F. No. 2/11/2011-CL V  
Government of India  
Ministry of Corporate Affairs**

5<sup>th</sup> Floor, A Wing, Shastri Bhavan,  
Dr. R.P. Road, New Delhi,  
Dated the 15<sup>th</sup> Dec, 2011

To

All Regional Director,  
All Registrars of Companies.

**Subject: Company Law Settlement Scheme, 2011**

Sir,

In continuation of the Ministry's General Circulars No. 59/2011 dated 05.08.2011, No. 60/2011 dated 10.08.2011 and No. 65/2011 dated 04.10.2011 on the subject cited above, it is stated that the said scheme has been extended upto 15<sup>th</sup> January, 2012. It is further stated that this Scheme will not be extended beyond 15.01.2012.

2. All the terms and conditions of the General Circulars No. 59/2011 dated 05.08.2011 and No. 60/2011 dated 10.08.2011 will remain the same.

Yours faithfully,

Sd/-

(U.C. Nahata)

Director (Inspection & Investigation)

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## ALLOTMENT OF DIRECTOR'S IDENTIFICATION NUMBER (DIN) UNDER COMPANIES ACT, 1956

General Circular No. 70/2011

No 2/1/2011-CL.V  
Government of India  
Ministry of Corporate Affairs

5<sup>th</sup> floor, 'A' Wing, Shastri Bhawan,  
Dr. R. P. Road, New Delhi  
Dated the 15<sup>th</sup> December, 2011

To

All Regional Directors  
All Registrar of Companies.

**Sub: Allotment of Director's Identification Number (DIN) under Companies Act, 1956**

Sir,

In continuation of General Circulars No. 32/2011 dated 31.05.2011 and No. 36/2011 dated 04.10.2011 on the subject cited above, I am directed to say that the time for filing form DIN-4 by DIN holders for furnishing PAN and to update PAN details has been extended upto 29.02.2012.

Yours faithfully,

Sd/-  
(U.C. Nahata)  
Director (Inspection & Investigation)

Copy to:

1. ICAI/ICWAI/ICSI/All Chamber of Commerce with a request to give wide publicity to their members.
2. DIN Cell to issue message through e-mail and SMS to all existing DIN holders who have not furnished their PAN earlier at the time of obtaining DIN, to furnish their PAN by filing form DIN-4 by 29.02.2012 to avoid penal action.

Copy for information to:

1. PS to CAM and PS to MOS
2. PPS to Secretary, Additional Secretary, Joint Secretaries

\*\*\*\*\*



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## AMENDMENT TO SCHEDULE XIV TO THE COMPANIES ACT, 1956

[PUBLISHED IN THE GAZETTE OF INDIA, PART – II, SECTION 3, SUB-SECTION (i) EXTRAORDINARY]

GOVERNMENT OF INDIA  
MINISTRY OF CORPORATE AFFAIRS

Notification

New Delhi, dated the 14 December, 2011.

G.S.R. (E) – In exercise of the powers conferred by sub-section (1) of section 641 of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following alterations in the Schedule XIV of the said Act namely :-

In Schedule XIV to the Companies Act, 1956, under the heading "II PLANT AND MACHINERY", under item (ii) relating to special rates, in sub-item B.7, for the entries, the following entries shall respectively be substituted, namely :-

### Schedule XIV

#### Rates of depreciation

Name of assets	Single Shift		Double Shift		Triple Shift	
	W.D.V.	S.L.M.	W.D.V.	S.L.M.	W.D.V.	S.L.M.
1	2	3	4	5	6	7
-----						
"7. Mineral oil Concerns Field operations (above ground) Portable boilers, drilling tools, well-head tanks, etc. (NESD)	30 percent.	11.31 percent.	--	--	--	--
7A. Rigs (NESD)	10 percent.	3.34 percent.	--	--	--	--
-----						

F : 2/6/2008 CL-V

-sd-  
(U C Nahta)  
Director (Inspection & Investigation)



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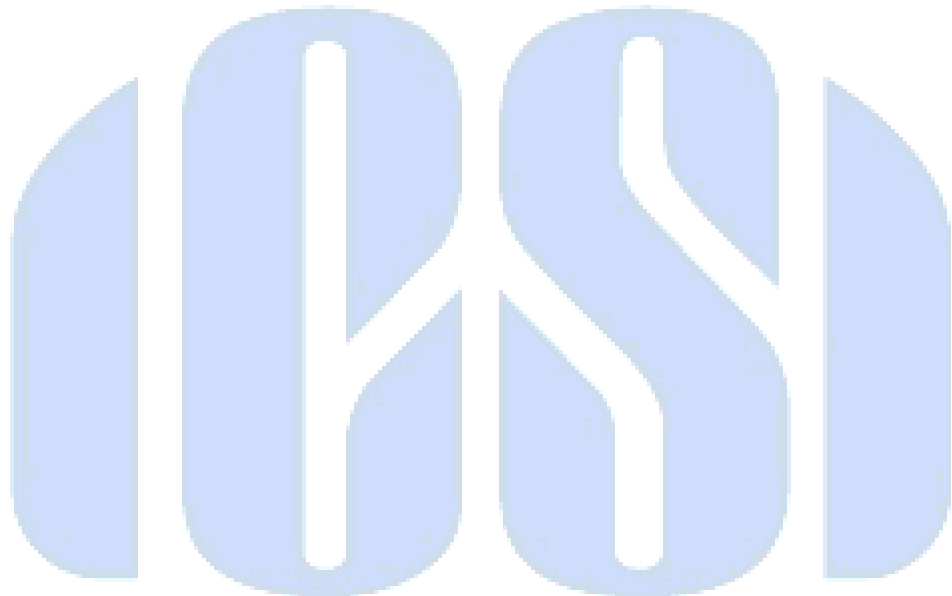
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**Note:-** The Principal Schedule was inserted by the Companies Amendment Act, 1988 and subsequently amended by the following notifications, namely :--

- (i) GSR 416(E) dated 14-5-1993;
- (ii) GSR 756(E) dated 16-12-1993;
- (iii) GSR 788(E) dated 04-11-1994;
- (iv) GSR 101(E) dated 01-03-1995;
- (v) GSR 500(E) dated 18-8-1998;

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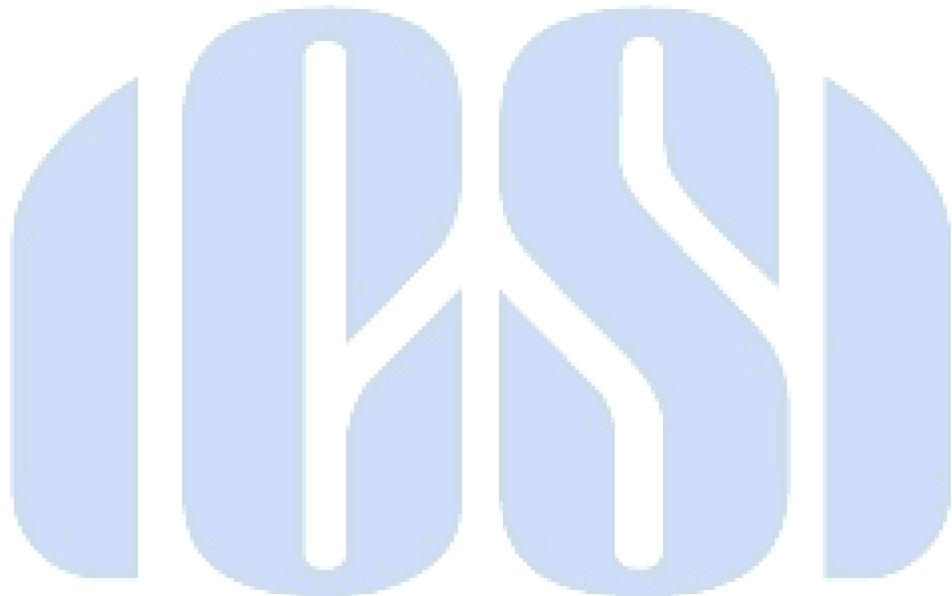


## UNLISTED PUBLIC COMPANIES (PREFERENTIAL ALLOTMENT) AMENDMENT RULE, 2011

The relevant MCA notification dated 14<sup>th</sup> December, 2011 can be accessed at the following link:

[http://www.mca.gov.in/Ministry/notification/pdf/Unlisted\\_Public\\_Companies14dec.pdf](http://www.mca.gov.in/Ministry/notification/pdf/Unlisted_Public_Companies14dec.pdf)

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## LAST DATE OF FILING OF BALANCE SHEET AND PROFIT & LOSS ACCOUNT IN XBRL MODE EXTENDED



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General Circular No: 69/2011

No. HQ/MCA/DigitisedBS/AR/2009

Government of India

Ministry of Corporate Affairs

5th Floor, "A" Wing, Shastri Bhawan,  
Dr. R.P. Road, New Delhi – 110001

Dated 30.11.2011

All the Regional Directors,  
All the Registrar of Companies/ Official Liquidators  
All stakeholders

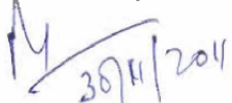
**Sub: Filing of Balance Sheet and Profit and Loss Account in extensible Business Reporting Language (XBRL) mode.**

Sir,

In partial modification of Para 1 of the Ministry's Circular no. 57/2011 dated 28.07.2011, the last date for filing financial statements in XBRL mode without any additional fee due to delay by those Phase-I class of companies (excluding exempted class) whose Balance Sheet date for FY 2010-11 is on or after 31.03.2011, has been extended up to 31.12.2011 or within 60 days of their due date of filing, whichever is later.

2. This issue with the approval of the Competent Authority.

Yours faithfully,

  
30/11/2011  
(U.C.Nahta)

Director (Inspection & Investigation)

\*\*\*\*\*

## MINISTRY OF CORPORATE AFFAIRS

### REQUEST TO FILE ANNUAL RETURN AND THE BALANCE SHEET AT THE EARLIEST TO AVOID LAST MINUTE RUSH

"DEAR CORPORATES / MEMBERS,

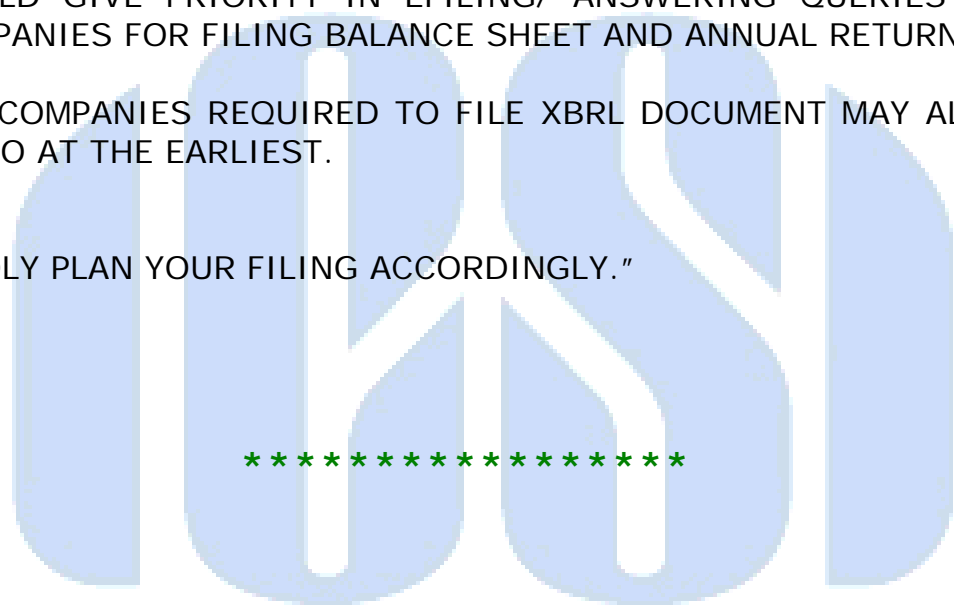
TO AVOID LAST MINUTE RUSH AND SYSTEM CONGESTION IN MCA21 TOWARDS END OF DECEMBER 2011, KINDLY EXPEDITE FILING OF ANNUAL RETURN AND BALANCE SHEET WITHOUT WAITING FOR THE LAST DAYS OF THE MONTH.

DURING THIS PERIOD, ROC FACILITATION CENTRES/ HELP DESKS WOULD GIVE PRIORITY IN EFILING/ ANSWERING QUERIES OF COMPANIES FOR FILING BALANCE SHEET AND ANNUAL RETURN.

THE COMPANIES REQUIRED TO FILE XBRL DOCUMENT MAY ALSO DO SO AT THE EARLIEST.

KINDLY PLAN YOUR FILING ACCORDINGLY."

\*\*\*\*\*



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# RBI UPDATE

## EXTERNAL COMMERCIAL BORROWINGS (ECB) DENOMINATED IN INDIAN RUPEES (INR) - HEDGING FACILITIES FOR NON-RESIDENT ENTITIES



RESERVE BANK OF INDIA  
Foreign Exchange Department  
Central Office  
Mumbai - 400 001

RBI/2011-12/326

A. P. (DIR Series) Circular No.63

December 29, 2011

To

All Category-I Authorised Dealer Banks

Madam / Sir,

### External Commercial Borrowings (ECB) denominated in Indian Rupees (INR) - hedging facilities for non-resident entities

Attention of Authorized Dealers Category – I (AD Category – I) banks is invited to the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 dated [May 3, 2000 \[Notification No. FEMA 25/RB-2000 dated May 3, 2000\]](#), as amended from time to time.

2. In terms of [A.P. \(Dir Series\) Circular No. 27 dated September 23, 2011](#),
  - i. "eligible borrowers" have been permitted to avail of ECBs designated in INR from foreign equity holders under the automatic/ approval route, as the case may be, as per the extant ECB guidelines.
  - ii. NGOs engaged in microfinance activities have been permitted to avail of ECBs designated in INR, under the automatic route, from overseas organisations and individuals as per the extant ECB guidelines.

In order to facilitate the same, it has been decided to allow non-residents to hedge their currency risk in respect of ECBs denominated in Indian Rupees, with AD Category I banks in India, as per the details given in the Annex.

3. Necessary amendments to the Notification No. FEMA.25/RB-2000 dated May 3, 2000 [Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000] are being notified separately.

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



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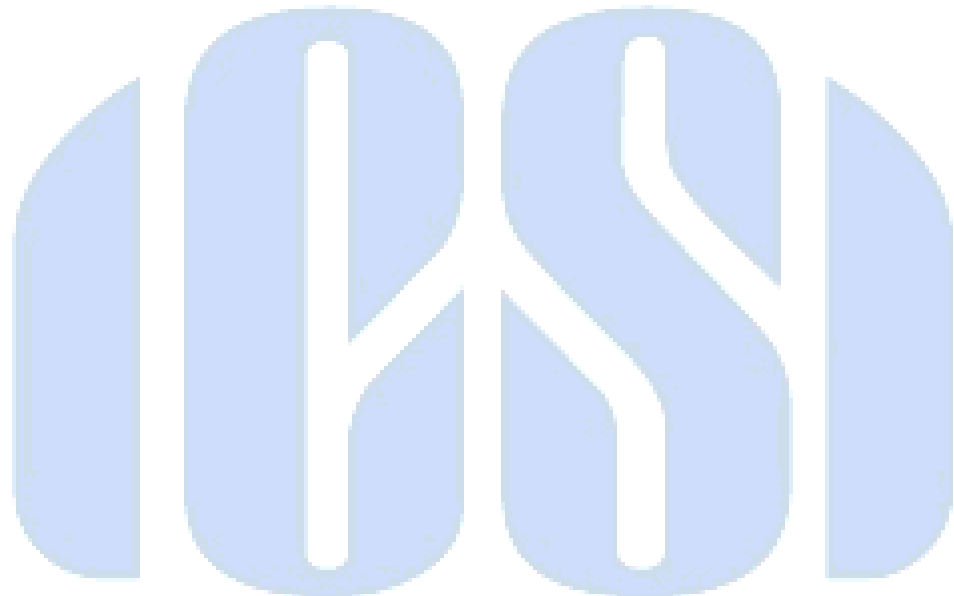
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5. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Meena Hemchandra)  
Chief General Manager-in-Charge





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Annex  
[Annex to A.P. DIR Circular No.63  
dated December 29, 2011]

## ECBs denominated in INR - Hedging Facilities for Non-Resident Entities

### Purpose

To hedge the currency risk arising out of ECBs designated in INR with AD Category- I banks in India.

### Products

Forward foreign exchange contracts with rupee as one of the currencies, foreign currency-INR options and foreign currency-INR swaps.

### Operational Guidelines, Terms and Conditions

- The foreign equity holder / overseas organisation or individual approaches the AD bank in India with a request for forward cover in respect of underlying transaction for which he needs to furnish appropriate documentation (scanned copies would be acceptable), on a pre-deal basis to enable the AD bank in India to satisfy itself that there is an underlying ECB transaction, and details of his overseas banker, address, etc. The following undertakings also need to be taken from the customer -
  - o That the same underlying exposure has not been hedged with any other AD Category- I bank/s in India.
  - o If the underlying exposure is cancelled, the customer will cancel the hedge contract immediately.
- The amount and tenor of the hedge should not exceed that of the underlying transaction and should be in consonance with the extant regulations regarding tenor of payment / realization of the proceeds.
- On due date, settlement is to be done through the correspondent bank's Vostro or the AD bank's Nostro accounts. AD banks in India may release funds to the beneficiaries only after sighting funds in Nostro / Vostro accounts.
- The contracts, once cancelled, cannot be rebooked.



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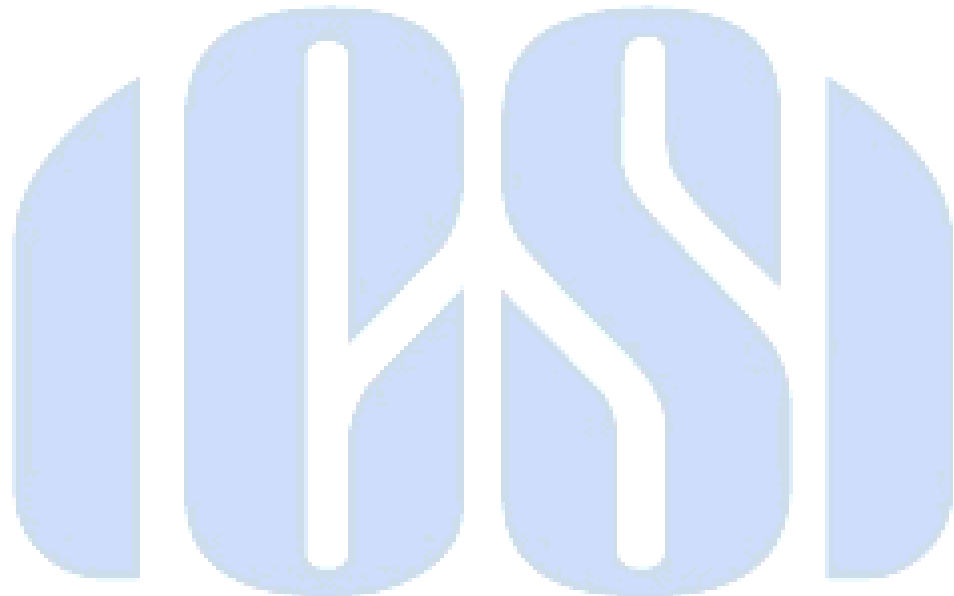


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- The contracts may, however, be rolled over on or before maturity subject to maturity of the underlying exposure.
- On cancellation of the contracts, gains may be passed on to the customer subject to the customer providing a declaration that he is not going to rebook the contract or that the contract has been cancelled on account of cancellation of the underlying exposure.

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## EXIM BANK'S LINE OF CREDIT TO THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF CONGO

RBI/2011-12/319

A. P. (DIR Series) Circular No.62

December 27, 2011

To

All Category-I Authorised Dealer Banks

Madam / Sir,

### Exim Bank's Line of Credit of USD 168 million to the Government of the Democratic Republic of Congo

Export-Import Bank of India (Exim Bank) has concluded an Agreement dated July 11, 2011 with the Government of the Democratic Republic of Congo, making available to the latter, a Line of Credit (LOC) of USD 168 million (USD one hundred sixty eight million) for financing eligible goods, services, machinery and equipment including consultancy services to be exported from India for the purpose of financing Ketende Hydro-electric Project in Congo. The goods, services, machinery and equipment including consultancy services from India for exports under this Agreement are those which are eligible for export under the Foreign Trade Policy of the Government of India and whose purchase may be agreed to be financed by the Exim Bank under this Agreement. Out of the total credit by Exim Bank under this Agreement, the goods and services including consultancy services of the value of at least 75 per cent of the contract price shall be supplied by the seller from India and the remaining 25 per cent goods and services (other than consultancy services) may be procured by the seller for the purpose of Eligible Contract from outside India.

2. The Credit Agreement under the LOC is effective from October 20, 2011 and the date of execution of Agreement is July 11, 2011. Under the LOC, the last date for opening of Letters of Credit and Disbursement will be 48 months from the scheduled completion date(s) of contract(s) in the case of project exports and 72 months (July 10, 2017) from the execution date of the Credit Agreement in the case of supply contracts.

3. Shipments under the LOC will have to be declared on GR / SDF Forms as per instructions issued by the Reserve Bank from time to time.

4. No agency commission is payable under the above LOC. However, if required, the exporter may use his own resources or utilize balances in his Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange. Authorised Dealer Category- I (AD Category-I) banks may allow such remittance after realization of full payment of contract value subject to compliance with the prevailing instructions for payment of agency commission.





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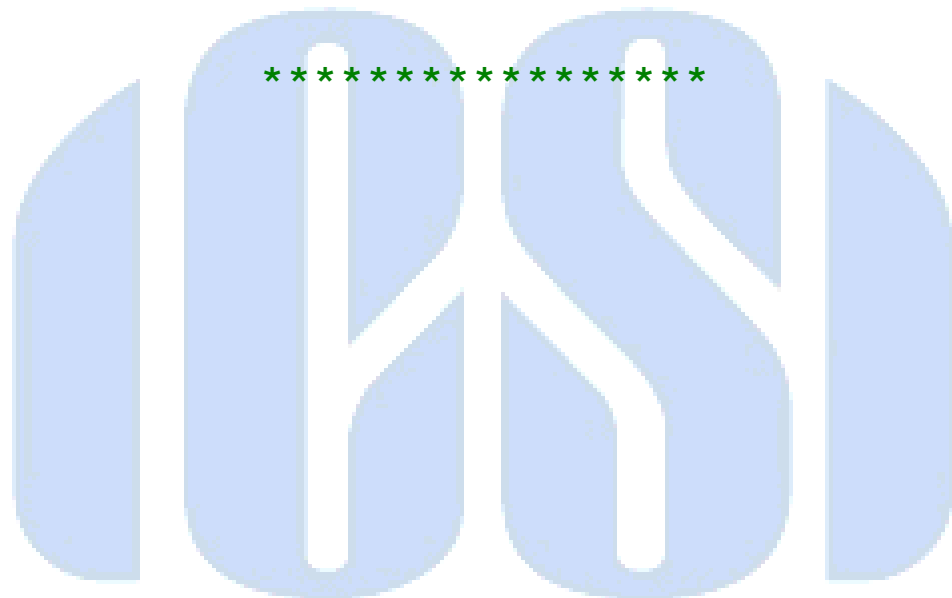


5. AD Category-I banks may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the Line of Credit from the Exim Bank's office at Centre One, Floor 21, World Trade Centre Complex, Cuffe Parade, Mumbai 400 005 or log on to [www.eximbankindia.in](http://www.eximbankindia.in).

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

Yours faithfully,

**(Rashmi Fauzdar)  
Chief General Manager**





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## Exim Bank's Line Of Credit To The Government Of The Republic Of Maldives

RBI/2011-12/318  
A. P. (DIR Series) Circular No.61

December 27, 2011

To  
All Category-I Authorised Dealer Banks

Madam / Sir,

### Exim Bank's Line of Credit of USD 40 million to the Government of the Republic of Maldives

Export-Import Bank of India (Exim Bank) has concluded an Agreement dated August 12, 2011 with the Government of the Republic of Maldives, making available to the latter, a Line of Credit (LOC) of USD 40 million (USD forty million) for financing eligible goods, services, machinery and equipment including consultancy services to be exported from India for the purpose of financing the construction of 500 housing units in Maldives. The goods, services, machinery and equipment including consultancy services from India for exports under this Agreement are those which are eligible for export under the Foreign Trade Policy of the Government of India and whose purchase may be agreed to be financed by the Exim Bank under this Agreement. Out of the total credit by Exim Bank under this Agreement, the goods and services including consultancy services of the value of at least 75 per cent of the contract price shall be supplied by the seller from India and the remaining 25 per cent goods and services (other than consultancy services) may be procured by the seller for the purpose of Eligible Contract from outside India.

2. The Credit Agreement under the LOC is effective from October 25, 2011 and the date of execution of Agreement is August 12, 2011. Under the LOC, the last date for opening of Letters of Credit and Disbursement will be 48 months from the scheduled completion date(s) of contract(s) in the case of project exports and 72 months (August 11, 2017) from the execution date of the Credit Agreement in the case of supply contracts.

3. Shipments under the LOC will have to be declared on GR / SDF Forms as per instructions issued by the Reserve Bank from time to time.

4. No agency commission is payable under the above LOC. However, if required, the exporter may use his own resources or utilize balances in his Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange. Authorised Dealer Category- I (AD Category-I) banks may allow such remittance after realization of full payment of contract value subject to compliance with the prevailing instructions for payment of agency commission.

5. AD Category-I banks may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the Line of Credit from the Exim Bank's office at Centre One, Floor 21, World Trade Centre Complex, Cuffe Parade, Mumbai 400 005 or log on to [www.eximbankindia.in](http://www.eximbankindia.in).

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

Yours faithfully,

**(Rashmi Fauzdar)**  
Chief General Manager



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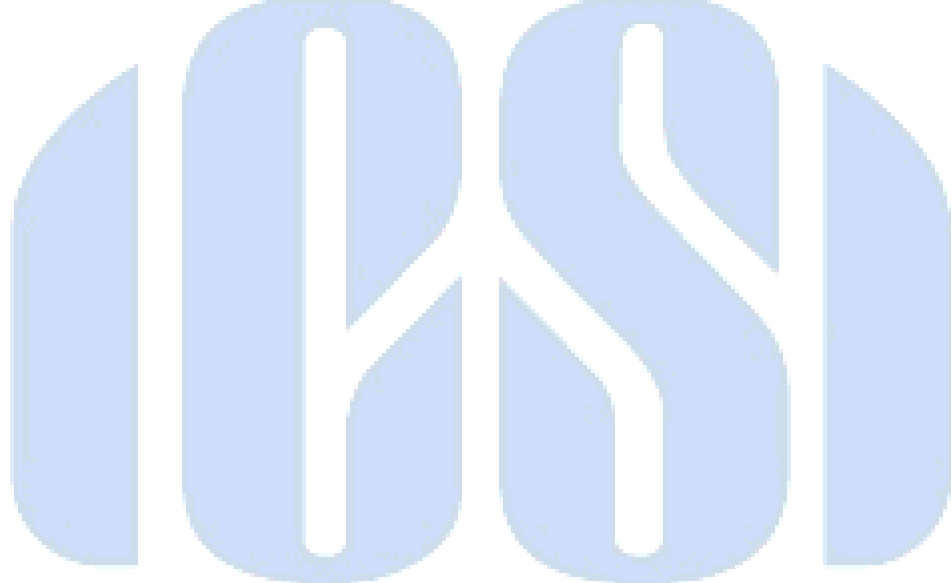
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# SEBI UPDATE





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भारतीय प्रतिभूति और विनिमय बोर्ड  
Securities and Exchange Board of India

# SEBI BULLETIN

DECEMBER 2011

VOL. 9

NUMBER 12

Detail can be accessed at:

[http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1325154148981.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1325154148981.pdf)

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## PUBLIC ISSUE OF DEBT SECURITIES- PROHIBITION ON PAYMENT OF INCENTIVES

CIRCULAR

CIR. /IMD/DF/22/2011

December 26, 2011

All Merchant Bankers  
All Stock-Brokers and Sub-brokers  
All Recognized Stock Exchanges

Dear Sir/ Madam,

### Sub: Public issue of Debt Securities- Prohibition on payment of incentives

1. It is gathered from market participants that in public issues of debt securities, some brokers/ distributors are passing on part of their brokerage/ commission to the final investor(s) for subscription to such public issue of debt. As a result, while on one hand it is giving an unfair advantage/bargaining power to a certain set of investors and distributors, on the other hand it is adding to the cost of issuance for the company.
2. In order to curb such practices, it is advised that in respect of public issues of debt securities, no person connected with the issue shall offer any incentive, whether direct or indirect, in any manner, whether in cash or kind or services or otherwise to any person for making an application for allotment of specified securities:  
  
Provided that nothing contained in this circular shall apply to fees or commission for services rendered in relation to the issue.  
  
For the purpose of the above guideline, the expression "person connected with the issue" includes a person connected with the distribution of issue.
3. All recognized stock exchanges are advised to bring to the notice of all their members and to disseminate the same on their respective websites for information.
4. This circular is issued in exercise of powers conferred under Section 11(1) and Section 11 A of the Securities and Exchange Board of India Act, 1992 read with Regulation 31(1) of SEBI (Issue and Listing of Debt Securities) Regulations, 2008 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  
Tel: No: 022-26449754  
Email: maninderc@sebi.gov.in



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## GUIDELINES IN PURSUANCE OF THE SEBI KYC REGISTRATION AGENCY (KRA) REGULATIONS, 2011 AND FOR IN-PERSON VERIFICATION (IPV)



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CIRCULAR

MIRSD/Cir- 26 /2011

December 23, 2011

SEBI Registered Intermediaries:

1. KYC Registration Agencies (KRAs),
2. Stock Brokers through Stock Exchanges,
3. Depository Participants (DPs) through Depositories,
4. Mutual Funds (MFs)
5. Portfolio Managers (PMs)
6. Venture Capital Funds (VCFs)
7. Collective Investment Schemes (CIS),

Association of Mutual Funds in India (AMFI)

Dear Sirs,

**Subject: Guidelines in pursuance of the SEBI KYC Registration Agency (KRA) Regulations, 2011 and for In-Person Verification (IPV)**

Please refer to SEBI circular no. MIRSD/Cir-23/2011 dated December 2, 2011 providing you a copy of the KRA Regulations, 2011 notified on December 2, 2011. With a view to implement the Regulations effectively, the following guidelines are being issued:

**1. Guidelines for Intermediaries:**

- i. After doing the initial KYC of the new clients, the intermediary shall forthwith upload the KYC information on the system of the KRA and send the KYC documents i.e. KYC application form and supporting documents of the clients to the KRA within 10 working days from the date of execution of documents by the client and maintain the proof of dispatch.
- ii. In case a client's KYC documents sent by the intermediary to KRA are not complete, the KRA shall inform the same to the intermediary who shall forward the required information / documents promptly to KRA.
- iii. For existing clients, the KYC data may be uploaded by the intermediary provided they are in conformity with details sought in the uniform KYC form prescribed vide SEBI circular no. MIRSD/SE/Cir-21/2011 dated October 05, 2011. While uploading these clients' data the intermediary shall ensure that there is no duplication of data in the KRA system.
- iv. The intermediary shall carry out KYC when the client chooses to trade/ invest / deal through it.
- v. The intermediaries shall maintain electronic records of KYCs of clients and keeping physical records would not be necessary.
- vi. The intermediary shall promptly provide KYC related information to KRA, as and when required.
- vii. The intermediary shall have adequate internal controls to ensure the security / authenticity of data uploaded by it.





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## 2. Guidelines for KRAs:

- i. KRA system shall provide KYC information in data and image form to the intermediary.
- ii. KRA shall send a letter to the client within 10 working days of the receipt of the initial/updated KYC documents from intermediary, confirming the details thereof and maintain the proof of dispatch.
- iii. KRA(s) shall develop systems, in co-ordination with each other, to prevent duplication of entry of KYC details of a client and to ensure uniformity in formats of uploading / modification / downloading of KYC data by the intermediary.
- iv. KRA shall maintain an audit trail of the upload / modifications / downloads made in the KYC data, by the intermediary in its system.
- v. KRA shall ensure that a comprehensive audit of its systems, controls, procedures, safeguards and security of information and documents is carried out annually by an independent auditor. The Audit Report along with the steps taken to rectify the deficiencies, if any, shall be placed before its Board of Directors. Thereafter, the KRA shall send the Action Taken Report to SEBI within 3 months.
- vi. KRA systems shall clearly indicate the status of clients falling under PAN exempt categories viz. investors residing in the state of Sikkim, UN entities / multilateral agencies exempt from paying taxes / filing tax returns in India.
- vii. A client can start trading / investing/ dealing with the intermediary and its group / subsidiary / holding company as soon as the initial KYC is done and other necessary information is obtained while the remaining process of KRA is in progress.

## 3. In-Person Verification (IPV):

With regard to the requirement of in-person' verification (IPV), SEBI has issued guidelines to the stock brokers and depository participants (DPs). However, in line with the uniformity brought out in the KYC procedure across intermediaries, the IPV requirements for all the intermediaries have now been streamlined and harmonized, as follows:

- i. It shall be mandatory for all the intermediaries addressed in this circular to carry out IPV of their clients.
- ii. The intermediary shall ensure that the details like name of the person doing IPV, his designation, organization with his signatures and date are recorded on the KYC form at the time of IPV.
- iii. The IPV carried out by one SEBI registered intermediary can be relied upon by another intermediary.
- iv. In case of Stock brokers, their sub-brokers or Authorised Persons (appointed by the stock brokers after getting approval from the concerned Stock Exchanges in terms of SEBI Circular No. MIRSD/DR-1/Cir-16/09 dated November 06, 2009) can perform the IPV.
- v. In case of Mutual Funds, their Asset Management Companies (AMCs) and the distributors who comply with the certification process of National Institute of Securities Market (NISM) or Association of Mutual Funds (AMFI) and have undergone the process of 'Know Your Distributor (KYD)', can perform the IPV. However, in case of applications received by the mutual funds directly from the





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clients (i.e. not through any distributor), they may also rely upon the IPV performed by the scheduled commercial banks.

In view of the above provisions, the following SEBI circulars/letters pertaining to IPV stand modified accordingly:

- i. Letter No. 47/2006/ISD/SR/122539 dated April 4, 2008
- ii. Letter No. MIRSD/DPS-III/130466/2008 dated July 02, 2008
- iii. Circular No. SEBI/MIRSD/Cir. No. 02/2010 dated January 18, 2010
- iv. Circular no. CIR/MIRSD/22/2011 dated October 25, 2011

#### 4. Applicability:

The KRA system shall be applicable for all new client accounts opened from January 1, 2012. Only for the client accounts opened between Jan 1 and Jan 31, 2012, the intermediaries may upload the KYC data on the KRA system and send the relevant KYC documents to KRA, by February 15, 2012. However, for client accounts opened from February 1, 2011, the intermediaries shall continue to follow the requirement of sending the same within 10 working days as given in para 1(i) of this circular. The existing clients can continue to trade / invest/ deal with their intermediaries as per the current practice.

5. The Stock Exchanges and Depositories are directed to:
  - i. bring the provisions of this circular to the notice of their Stock Brokers and DPs, as the case may be, and also disseminate the same on their websites;
  - ii. make amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision in co-ordination with one another, as considered necessary;
  - iii. monitor the compliance of this circular through half-yearly internal audits and inspections; and
  - iv. communicate to SEBI, the status of the implementation of the provisions of this circular.
6. In case of mutual funds, compliance of this circular shall be monitored by the boards of Asset Management Companies and the Trustees and in case of other intermediaries by their Board of Directors.
7. The names of KRAs would be notified separately.
8. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 and Regulation 17 of the SEBI (KYC (Know Your Client) Registration Agency) Regulations, 2011 to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.

Yours faithfully,

**B. N. Sahoo**  
Deputy General Manager  
022-26449250  
email: biranchins@sebi.gov.in



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## ESTABLISHMENT OF CONNECTIVITY WITH BOTH DEPOSITORIES NSDL AND CDSL – COMPANIES ELIGIBLE FOR SHIFTING FROM TRADE FOR TRADE SETTLEMENT (TFTS) TO NORMAL ROLLING SETTLEMENT

CIRCULAR

CIR/MRD/DP/ 14 /2011

December 20, 2011

To,

All Stock Exchanges

Dear Sir / Madam,

**Sub: Establishment of Connectivity with both depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to normal Rolling Settlement**

1. It is observed from the information provided by the depositories that the companies listed in Annexure 'A' have established connectivity with both the depositories.
2. The stock exchanges may consider shifting the trading in these securities to normal Rolling Settlement subject to the following:
  - a) At least 50% of other than promoter holdings as per clause 35 of Listing Agreement are in dematerialized mode before shifting the trading in the securities of the company from TFTS to normal Rolling Settlement. For this purpose, the listed companies shall obtain a certificate from its Registrar and Transfer Agent (RTA) and submit the same to the stock exchange/s. However, if an issuer-company does not have a separate RTA, it may obtain a certificate in this regard from a practicing company Secretary/Chartered Accountant and submit the same to the stock exchange/s.
  - b) There are no other grounds/reasons for continuation of the trading in TFTS.
3. The Stock Exchanges are advised to report to SEBI, the action taken in this regard in the Monthly/Quarterly Development Report.

Yours faithfully,

Harini Balali  
Deputy General Manager  
022-26449372  
email: [harinib@sebi.gov.in](mailto:harinib@sebi.gov.in)



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## Annexure A

SR. NO.	NAME OF THE COMPANY	ISIN
1.	Towa Sokki Limited	INE311M01018
2.	Atreya Petrochem Limited	INE313M01014
3.	The Chemo-Pharma Laboratories Limited	INE320M01019
4.	Associated Fin Lease Limited	INE290M01014
5.	Hindoostan Mills Limited	INE832D01020
6.	Naisargik Agritech (India) Limited	INE360M01015
7.	Asianlak Capital And Finance Limited	INE377M01019
8.	Thyrocare Laboratories Limited	INE099M01019
9.	Moryo Industries Limited	INE346M01014
10.	Vivo Bio Tech Limited	INE380K01017
11.	Aroma Enterprises (India) Limited	INE371M01012
12.	Advance Lifestyles Limited	INE900E01015
13.	Swagruha Infrastructure Limited	INE587J01019
14.	RSC International Limited	INE015F01019
15.	Pithampur Steels Limited	INE077H01015
16.	Rahul Merchandising Limited	INE149D01011
17.	Himachal Fibres Limited	INE723D01013
18.	Monota Securities Limited	INE815H01018
19.	Nimbus Industries Limited	INE470M01012
20.	High Ground Enterprise Limited	INE361M01013
21.	Pentokey Organy (India) Limited	INE702E01015
22.	Wyn Aqua Exports Limited	INE393M01016

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## REVIEW OF REGULATORY COMPLIANCE, PERIODIC REPORTING AND CONTENTS OF TRUST DEED



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CIRCULAR

CIR/MIRSD/25/2011

December 19, 2011

All Debenture Trustees registered with SEBI

Sir / Madam,

Sub: Review of Regulatory Compliance, Periodic Reporting and Contents of Trust Deed

### A. Regulatory Compliance

1. Debenture Trustees (DTs) are required to furnish quarterly report in electronic form in the prescribed format in terms of SEBI Circulars No. 1(98-99) dated September 01, 1998, DT Circular No. 2(1999-2000) dated April 19, 1999, MIRSD/DPS-2/DT/Cir-2/2004 dated March 09, 2004 and Cir No. MIRSD/DPS-2/DT/Cir-14/2008 dated May 06, 2008.
2. In order to strengthen the monitoring mechanism through periodic reporting, it has been decided to review the reporting format. The revised format as given in the [Annexure](#) includes the status of regulatory compliance and investor grievances redressal.
3. The board of directors of DT shall, henceforth, review the report and record its observations on (i) the deficiencies and non-compliances, and (ii) corrective measures initiated to avoid such instances in future.
4. Accordingly, in supercession of the circulars mentioned in Para 1, with effect from half year ending March 2012, the Compliance Officer of the DT shall send the report in the revised format to SEBI at [dt@sebi.gov.in](mailto:dt@sebi.gov.in) on half yearly basis within three months of the expiry of the half year.
5. Further, according to Circular no. MIRSD/DT/10/2011 dated June 20, 2011, DTs are required to report the changes in their status or constitution. The same information has now been incorporated in the revised format.





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## B. Contents of Trust Deed

- SEBI (Debenture Trustee) Regulations, 1993, allow DTs to incorporate additional clauses in the trust deed provided that these clauses do not dilute or contravene the provisions of the clauses specified in the Schedule-IV of the said Regulations. However, it has been observed during inspections that certain clauses are included in the trust deed that limit or extinguish the obligations of DTs in relation to any rights or interests of investors or are in conflict with the provisions of the Regulations. It may be noted that such clauses in the existing or new trust deeds shall not be applicable and shall stand null and void.

This circular is 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.

The circular is available on SEBI website ([www.sebi.gov.in](http://www.sebi.gov.in)) under the categories "Legal Framework" and "Circulars".

Yours faithfully,

**Ruchi Chojer**  
Deputy General Manager  
Phone No. 022-26449310  
Email id: [ruchic@sebi.gov.in](mailto:ruchic@sebi.gov.in)

[Encl: Annexure](#)

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# TAX LAW UPDATE

## LAST DATE OF SUBMISSION OF SERVICE TAX HALF YEARLY RETURN EXTENDED

F. No. 137/99/2011 – Service Tax  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs,  
\*\*\*\*\*

New Delhi, the 29<sup>th</sup> December 2011

### ORDER NO 3 /2011 – Service Tax

In exercise of the powers conferred by Rule 7(4) of the Service Tax Rules 1994 read with notification No. 48/2011-Service Tax dated 19<sup>th</sup> October 2011, Central Board of Excise and Customs hereby extends the date of submission of **half yearly return** for the period April 2011 to September 2011, from 26<sup>th</sup> December 2011 to **6<sup>th</sup> January 2012**.

This is being done in view of the fact that assesseees are facing problems in electronic filing of returns due to various reasons.

(Deepankar Aron)  
Director (Service Tax)  
CBEC, New Delhi

To

Chief Commissioners of Central Excise & Customs (All)  
Chief Commissioners of Central Excise (All)  
Director General of Systems  
Director General of Service Tax  
Commissioners of Service Tax (All)  
Commissioner (DPPR), Delhi

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## HANDLING OF CARGO IN CUSTOMS AREAS REGULATIONS, 2009 – CLARIFICATION

**Circular No. 54 / 2011-Customs**

F.No.450/55/2008-Cus.IV (Pt.III)  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
\*\*\*\*\*

229-A, North Block,  
New Delhi, dated 29<sup>th</sup> December, 2011.

To,  
All Chief Commissioners of Customs / Customs (Prev).  
All Chief Commissioners of Customs & Central Excise.  
All Commissioners of Customs / Customs (Prev).  
All Commissioners of Customs & Central Excise  
All Director General under CBEC.

**Subject: Handling of Cargo in Customs Areas Regulations, 2009 –  
Clarification - regarding.**

Attention is invited to the provisions of Handling of Cargo in Customs Areas Regulations, 2009 (HCCAR) and various circulars and instructions issued by the Board on the above subject from time to time.

2. At the time of introduction of the said regulations it was explained that it provides for a comprehensive mechanism for handling of goods in a customs area and set out the terms and condition for all facilities where customs cargo is handled. These Regulations also fulfilled the recommendation made by the Public Accounts Committee for formulating appropriate provisions to exercise adequate control over the cargo handling entities to ensure that the adequate infrastructure is set up at all customs areas for efficient handling of imported or export goods.

3. In this context, it is stated that Regulations 5 and 6, provide for conditions to be fulfilled by a Customs Cargo Service Provider (CCSP) and their responsibilities in relation to imported or export goods. Regulation 6(2) particularly provides that CCSP approved for custody of imported or export goods and for handling of such goods shall not lease, gift, sell or sublet or in any other manner transfer any of the premises in a customs area; or sub-contract or outsource functions permitted or required to be carried out by him in terms of these regulations to any other person, without the written permission of the Commissioner of Customs. The condition of such permission has been provided for the reason that the powers for approval of any place as 'Customs Area' and to approve / appoint a custodian under section 8 and 45 of the Customs Act, 1962, respectively, including the power for suspension or dismissal of such approval is vested with the jurisdictional Commissioner of Customs.

4. In this regard, a reference has been received from the Ministry of Shipping pointing out that the developmental activities in respect of major ports on Public Private Partnership mode are taking place wherein private operators are constructing and operating terminals in the land leased out to



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them. Such projects require obtaining the approval of Minister of Shipping/ Finance Minister/ Cabinet Committee of Infrastructure depending upon the cost of the project. Hence, they had represented that specific permission from another authority i.e., the Commissioner of Customs is unwarranted. Hence, they had requested to exclude Major port trusts from the purview of the said Regulations.

5.1. The matter was examined in detail. At the time of introduction of the said Regulations itself it was clarified vide Board's circular No.13/2009-Customs dated 23.3.2009 that Port Trusts of the notified major ports shall not be required to make an application for approval or renewal under these regulations, since section 45 of the Customs Act, 1962, which provides for approval of custodians, makes an exception to major ports. However, they are required to discharge the responsibilities cast upon them as specified in Regulation 6 which include obtaining written permission from the Commissioner of Customs prior to outsourcing or leasing part of the premises within a customs area. This has been provided in order to take into account the concerns of the revenue for safeguarding the duty on imported goods.

5.2. It is also important to note that the provisions of Section 128 of the Major Port Trusts Act, 1963 provide for saving of the right of Central Government for collecting duties and of power of Customs officers by specifically providing as follows:

*"128. Nothing in this Act shall affect—*

*(1) the right of the Central Government to collect customs duties ....., or*

*(2) any power or authority vested in the customs authorities under any law for the time being in force."*

6. In view of the above, it is clarified that all cases of lease, gift, sale or subletting or transfer of the premises in any other manner, in a customs area by major ports may be firstly examined to see whether required permission from the Central Government/ Ministry / Cabinet Committee has already been obtained or not. In cases where appropriate authority has already given permission for such lease or transfer of premises, then necessary written permission may be given by the Commissioner for such lease or transfer. On the contrary, if no approval of the Government has been obtained, then appropriate action may be initiated against the erring Custodian under the said Regulations and the Customs Act, 1962.

7. These instructions should be brought to the notice of all the concerned by way of issuance of instructions/ trade notice.

8. Difficulty faced, if any, may be brought to the immediate notice of the Board.

Yours faithfully,

(G.S. Sinha)  
OSD (Customs IV)

Internal Circulation: As usual

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# DGFT UPDATE

## AMENDMENT IN PARA 8.4.4(IV) OF THE FOREIGN TRADE POLICY, 2009-2014

To be published in the Gazette of India Extraordinary

Part II, Section 3, Sub-Section (II)

Government of India  
Ministry of Commerce and Industry  
Department of Commerce  
Udyog Bhawan

Notification No.92(RE-2010) /2009-2014  
New Delhi, the 28th December, 2011

### Subject: Amendment in Para 8.4.4(iv) of FTP

S.O (E) In exercise of the powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, read with paragraph 1.3 of the Foreign Trade Policy, 2009-2014, the Central Government hereby makes the following amendments in Paragraph 8.4.4 (iv) of Foreign Trade Policy, 2009-2014 (RE 2010).

2. At present Paragraph 8.4.4 (iv) of FTP contains a sentence "Supplier shall be eligible for benefits listed in paragraph 8.3(a) and (b) of FTP, whichever is applicable." This sentence would now be replaced by a new sentence, "In respect of non mega power projects, supplier shall be eligible for benefit listed in paragraph 8.3 (a) of FTP." Accordingly paragraph 8.4.4 (iv), incorporating this amendment would read as under :

### Amended Para 8.4.4(iv) of FTP {amended sentence has been highlighted}

" Supply of Capital goods and spares upto 10% of FOR value of capital goods to power projects in terms of paragraph 8.2(g), shall be entitled for deemed export benefits provided the ICB procedures have been followed at Independent Power Producer (IPP) / Engineering and Procurement Contract (EPC) stage. However, in regard to mega power projects, the requirement of ICB would not be mandatory, if the requisite quantum of power has been tied up through tariff based competitive bidding or if the project has been awarded through tariff based competitive bidding. Benefit of deemed exports shall also be available for renovation / modernization of power plants. **In respect of non mega power projects, supplier shall be eligible for benefits listed in paragraph 8.3(a) of FTP.** However, supply of goods required for setting up of any mega power project as specified in S.No. 400 of DoR Notification No. 21/2002-Customs dated 1.3.2002, as amended, shall be eligible for deemed export benefits as mentioned in paragraph 8.3(a), (b) and (c) of FTP, whichever is applicable, if such mega power project complies with the threshold generation capacity specified therein, in Customs Notification.

Further, supply of goods required for the expansion of existing mega power project as specified in Sl. no 400A of DoR Notification No. 21/2002- Customs dated 1.3.2002, as amended shall also be eligible for deemed export benefits as mentioned in paragraph 8.3 ( a), (b) and (c) of FTP, whichever is applicable."



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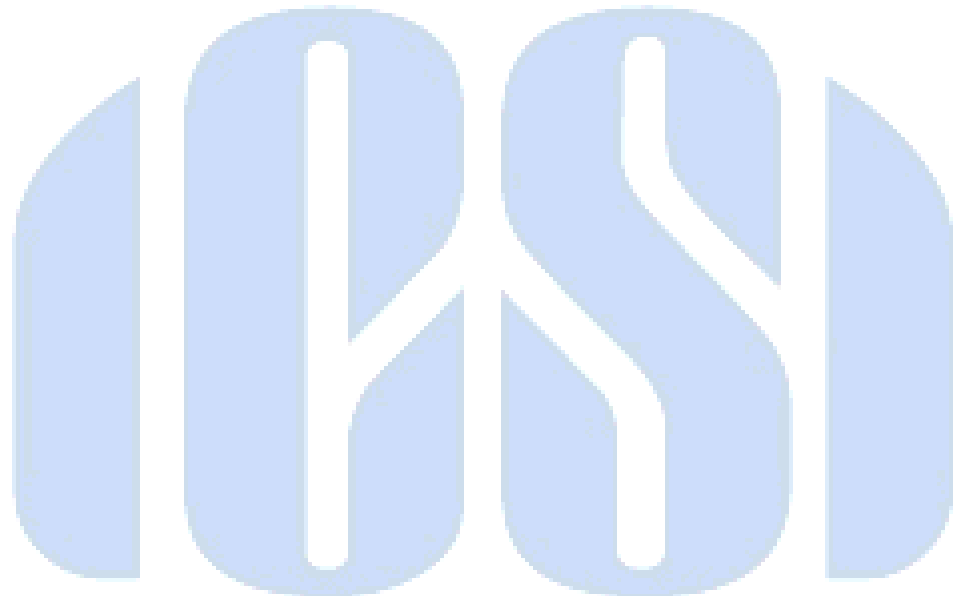
3. Effect of this amendment :

Supplies to non mega power projects shall henceforth be entitled to benefits for Deemed Exports only under Para 8.3(a) of FTP, viz., Advance Authorisation / Advance Authorisation for annual requirement / DFIA.

(Anup K. Pujari)  
Director General of Foreign Trade  
E-mail: dgft@nic.in

(Issued from F.No. 01/92/180/168/AM05/PC VI)

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## CLARIFICATION ON DEEMED EXPORT BENEFITS WHEN IMPORTED CAPITAL GOODS ARE DIRECTLY SUPPLIED AS SUCH TO PROJECT AUTHORITY

Government of India  
Department of Commerce  
Directorate General of Foreign Trade  
Udyog Bhawan, New Delhi – 110 011

**Policy Circular No.50/2009-2014 (RE 2010)**

**Dated: 28th December, 2011**

To

All Regional Authorities (RAs);  
CBEC & All Commissioners of Customs;  
Exporting Community.

**Subject: Clarification on Deemed Export benefits when imported capital goods are directly supplied as such to Project Authority - regarding.**

1. Policy Interpretation Committee in its meeting held on 15.03.2011 had *inter-alia* clarified as under:

“Issue of claiming Deemed Export benefits in cases of import made by the project authority was discussed. After detailed deliberation, it was decided that if the Bill of Entry is in the name of project authority deemed export benefits would not be available (such cases will be ineligible for grant of Deemed Export benefits). ”

2. Deemed exports benefits are admissible in terms of paragraph of 8.2 of FTP, if goods are manufactured in India. In the case of non mega power projects, for instance, if capital goods such as boilers, turbines, generators (BTGs) are being supplied to project authorities, then deemed export benefits are admissible only if such BTGs are manufactured in India. If these are imported and supplied as such, then such supplies do not amount to deemed exports, and hence deemed export benefits will not be admissible.

3. Accordingly, in continuation to PIC clarification, as given in paragraph 1 above, it is further clarified that in case capital goods have been imported by the contractor/sub-contractor and supplied as such to project authorities, then custom duties paid on such imports can not be refunded back as deemed export duty drawback under paragraph 8.3(b) of FTP.

4. All Regional Authorities may take note of this clarification for processing/review of deemed export claims.

5. This issues with the approval of Hon'ble Minister of Commerce, Industry & Textiles.

(L.B. Singhal)

Jt. Director General of Foreign Trade

Tel: 011-23062671

E-mail: lb.singhal@nic.in

(Issued from F.No. 01/92/180/168/AM05/PC VI)

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