

CHARTERED SECRETARY

THE JOURNAL FOR CORPORATE PROFESSIONALS

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Time
Management
Time is Money



THE INSTITUTE OF
Company Secretaries of India

IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

COMPANY SECRETARIES BENEVOLENT FUND

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FOR FURTHER DETAILS PLEASE VISIT : www.icsi.edu/csbf

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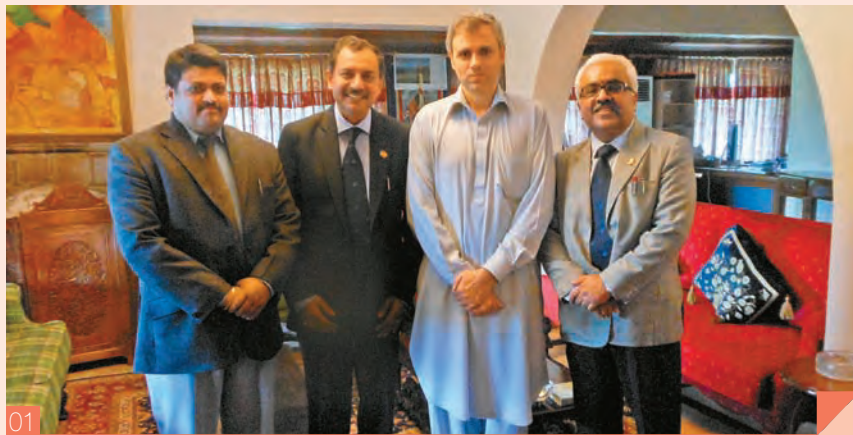
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CHARTERED SECRETARY



June
2012

- 01 » Meeting of ICSI delegation with Hon'ble Chief Minister, Jammu & Kashmir - Standing from Left: Sudhir Anand, Nesar Ahmad, Omar Abdullah (Hon'ble Chief Minister, Jammu & Kashmir) and Umesh H. Ved.
- 02 » Press Conference - Sitting from Left: Shouket Hussian Rafique, N.K. Jain, Nesar Ahmad and Umesh H. Ved.
- 03 » NIRC-Gurgaon Chapter - Half Day Seminar on an Overview of Consolidated FDI Policy & Important Changes - Sitting from Left: P.N. Kumar, Hitender Mehta, Vinod Jain, Punit Handa, Dhananjay Shukla & S.K. Agarwal.
- 04 » SIRC - Salem Chapter - Investor Awareness Programme jointly with MSE Ltd. - Sitting from Left: S. Venkateswaran (Director, MSE Ltd.), V. Nagappan (Director, MSE Ltd. & Chairman, MSE ICM), K. Venkataraman (MD & CEO, Karur Vysya Bank Ltd.), V. Balasubramaniam (Secretary, MSE Ltd.) and S. Solaiyappan.
- 05-06 » 13th National Conference of Practising Company Secretaries on Emerging Trends & Opportunities - Preparedness for PCS - Inaugural Session - Nesar Ahmad addressing. Others sitting from Left: N.K. Jain, Rajiv Bajaj, Naved Masood (Secretary, MCA), Dr. M. Veerappa Moily (Hon'ble Union Cabinet Minister of Corporate Affairs, Govt. of India), Omar Abdullah (Hon'ble Chief Minister, Jammu & Kashmir), Mushtaq Ahmad (Chairman & CEO, J&K Bank), Umesh H. Ved and Parvez Ahmad (Executive President, J&K Bank).
- 07-10 » Address by the dignitaries from Left: Mushtaq Ahmad, Naved Masood, Dr. M. Veerappa Moily and Omar Abdullah.
- 11 » Release of Conference Souvenir cum Backgrounder.
- 12 » Release of ICSI Publication titled Referencer on e-Forms.
- 13 » Rendition of National Anthem to mark the conclusion of the Inaugural Session.





ICSI IMAGES

14 » First Technical Session on Emerging Opportunities for the Company Secretary Profession - Sitting from Left: D.K. Pandoh, Parvez Ahmad (Executive President, J&K Bank), Mushtaq Ahmad Mir (Director, Wizkid Consultancy & Financial Services Pvt. Ltd.), Atul H. Mehta, Anil Jhumkhawala and Dr. Fayaz Ahmad Nika (Associate Professor, Govt. Degree College, Sapore).

15-20 » Address by the Speakers from Left: Atul H. Mehta, Anil Jhumkhawala, Parvez Ahmad, Fayaz Ahmad Nika, Mushtaq Ahmad Mir and D.K. Pandoh.

21 » Second Technical Session on Secretarial Audit - Tool for Good Governance - S. Koley addressing. Others sitting from Left: B. Narasimhan, Sudhir Babu C and Sudhir Anand.

22-23 » Address by the Speakers from Left: Sudhir Babu C and Sudhir Anand.

24 » Third Technical Session on Opportunities for Practising Company Secretaries in Companies Bill. Sitting from Left: Umesh H. Ved (addressing), S M Sundaram and Rajender Kapoor (Director, Webtel Electronics Pvt.Ltd.)

25-27 » Address by the Speakers from Left: S.M. Sundaram, Rajender Kapoor and Shouket Hussian Rafique.

28 » Fourth Technical Session on Peer Review - A Tool for Professional Excellence. - R. Sridharan (Vice Chairman, Peer Review Board, ICSI, addressing). Others sitting from Left: Rifat Ara and N.L. Bhatia.

29 » Valedictory Session - Sitting from Left: Umesh H. Ved, Hon'ble Justice Dilip Raosaheb Deshmukh (Chairman, CLB), Nesar Ahmad, Dr. Talat Ahmed (VC, University of Kashmir, Srinagar), Rajiv Bajaj and Parvez Ahmad.

30-33 » Address by Nesar Ahmad, Dr. Talat Ahmed, Justice Raosaheb Deshmukh and N.K. Jain.

34 » A view of the invitees, dignitaries and delegates.





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At a Glance

Articles (A 229 - 266)

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A Practical Guide to Shareholders' Agreement

p- 708

Rishikesh G. Vyas

This article endeavours to canvas Shareholders' Agreement (SHA) concentrating on narrating the essential elements in a SHA. Facets like ROFR, ROFO, TAR, DAR, Put & Call Option with milestone judicial pronouncements ranging from 1959 to 2012 with windfall coverage of Legitimacy of Pre Emption Rights in SHA, Legitimacy of Put Option in SHA v. SCRA, Options in equity Instruments v. FDI Policy and SHA v. SEBI SAST, have been briefly explained.

Can a Body Corporate invest in a Partnership Firm?

p- 715

D K PrahladaRao

The Companies Bill, 2011 by clause 186, *inter alia*, provides that no company shall directly or indirectly acquire by way of subscription, purchase or otherwise the securities of any other body corporate exceeding the limits of 60% or 100% of the paid up share capital and free reserves. This provision is identical to the provision in the Act. However, in the Bill, the amount in the securities premium account has been added, in addition to the paid up capital and free reserves for computing the percentage limits mentioned above.

Conducting Board Evaluation

p- 719

Prof. R Balakrishnan

Board evaluation is a recent concept and few corporates in India are already conducting Board evaluation. This concept came from the five words from the Higgs Report of U.K (2003). This article examines the reasoning for evaluation coupled with what is being evaluated and who would evaluate and the process of evaluation. The evaluation of the performance of non-executive / independent directors will not only enable the directors to focus more on their area of weaknesses but it will also build on their strengths enabling them to add value to the company and thereby to the shareholders in enhancing the value creation.

SAT's Observations on Directors' Responsibilities

p- 725

S Balakrishnan

The judgement in the matter of Ashok Kumar Mishra v. SEBI has thrown up a number of interesting observation/posers which are: Date of cessation of a M.D as a director; Responsibility of M.D for misleading Press advertisements; Manipulation of share prices through misleading advertisements; and unpardonable delay between institution of a case and the date of judgement. The article carries the writer's comments on the above posers.

Nominee v. Heir

p- 728

S.M. Jain

Obviously, it looks a bit unpalatable that a nominee, who is a repository of such a big confidence of the depositor, insured person, bank account holder or other property owner, as the case may be, should merely be only "a collector" of the money or the like but jural postulates so indicate all conclusively. Conservative people don't make assignment and entitlements to a stranger and therefore, ordinarily, a nominee, must have some kinship with the heir but it is not so. This article has surveyed the chronological exposure of this concept and its present status.

Art of Preparing Annual Reports A Global Overview

p- 731

Sriraman Parthasarathy

Recent developments in corporate financial reporting indicate a greater emphasis on better voluntary disclosures by the companies regarding their performance and state of affairs. The quality and the transparency with which such disclosures are made in the Annual Reports enhance the comfort and the credibility of the Reporting Entity. The expectations of the readers of the Annual Reports have increased over a period of time and professional managements are doing their best to meet those expectations by way of making the Annual Reports more educative and exhaustive.



Understanding Peer Review Methodology with Focus on Efficient Administration of the office of a Practising Company Secretary

p- 738

R Sridharan & Golki Beswala

With each practical application of the peer review process, the areas of improvement would be discernible and accordingly, the process will gradually get refined. Also, an office of a Practising Company Secretary must have certain established systems, policies and procedures to ensure quality control of the attestation assignments handled by it depending on the size and level of the Practice Unit. Putting in place simple office systems and procedures would not only ensure smooth running of the office but also allow performance of work in an efficient manner bringing fewer frustrations, lower costs, more time and value to the business.

Legal World (LW 66 - 76)

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- ◆ **LW 53.06.2012** When the offence is committed by a company, its directors alone cannot be prosecuted without prosecuting the company. [SC]
- ◆ **LW 54.06.2012** Delay beyond the specified period in SICA cannot be condoned under the general provisions of the Limitation Act. [Del]
- ◆ **LW 55.06.2012** Supreme Court appoints an independent arbitrator even when the contract provided for a named arbitrator therein.
- ◆ **LW 56.06.2012** Supreme Court issues elaborate directions to Lakshadweep Administration regarding environmental issues with respect to setting up beach resorts.
- LW 57.06.2012** Delhi High Court issues directions to ICAI with respect to the guidelines framed for allowing a "Writer" for differently abled candidates.
- ◆ **LW 58.06.2012** When the contract provides for the assumption of service tax on the service provider, it is him who has to bear the service tax and not the assessee who is the recipient of the service. [SC]
- ◆ **LW 59.06.2012** Multifunctional printers to be taxed at general rate. [Del]
- ◆ **LW 60.06.2012** Delhi High Court awards reinstatement and back wages to the wrongfully dismissed employee.
- ◆ **LW 61.06.2012** Dismissal of application not properly signed by the authorised representative of the management cannot be found fault with. [Del]
- ◆ **LW 62.06.2012** Supreme Court reaffirms the interpretation of the term "service" with respect to housing construction.

From the Government (GN 107 - 131)

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- ◆ The Companies (Director Identification Number) Amendment Rules, 2012
- ◆ Constitution of CLB Benches
- ◆ Modification of CLB order dated 28/1/2010
- ◆ Investor Education and Protection Fund (Uploading of information regarding unpaid and unclaimed amounts lying with companies) Rules, 2012
- ◆ Guidelines for declaring a financial Institution as Public Financial Institution under section 4A of the Companies Act, 1956
- ◆ Compliance of the provisions of Companies Act, 1956 and the Rules made there under.
- ◆ Filing of Cost Audit Report (Form-I) and Compliance Report (Form-A) in the eXtensible Business Reporting Language (XBRL) mode.
- ◆ Name Availability Guidelines, 2011
- ◆ Amendment to the Consent Circular dated 20th April 2007
- ◆ Revised Position Limits for Trading Member (Banks) in Exchange Traded USD:INR derivative contracts
- ◆ Securities And Exchange Board of India (Alternative Investment Funds) Regulations, 2012
- ◆ Review of Regulatory Compliance and Periodic Reporting
- ◆ Filing Offer Documents under SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009
- ◆ Auction calendar for allocation of FII debt limit

Other Highlights

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- ◆ Members Admitted/ Restored
- ◆ Certificate of Practice Issued/Cancelled
- ◆ Licentiate ICSI Admitted
- ◆ Payment of Annual Membership and Certificate of Practice Fee
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- ◆ Post Membership Qualification Course in Corporate Governance
- ◆ 40 Years of Chartered Secretary on CD-ROM
- ◆ Chartered Secretary- New Advertisement Tariff
- ◆ Publications Released during
 - ◆ 13th National Conference of PCS
 - ◆ ICSI Capital Markets Week

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. Securities and Exchange Commission of Pakistan (SECP) issues Draft "Voluntary Guidelines for Corporate Social Responsibility"

Securities and Exchange Commission of Pakistan ("SECP") in order to promote responsible business conduct has introduced the Draft Voluntary Guidelines for Corporate Social Responsibility. These Guidelines primarily aim at encouraging responsible business activities that support community growth for public interest and eliminate practices that harm the public sphere.

The Draft Guidelines are applicable to all public companies that have initiated or intend to initiate corporate social responsibility activities. Further, it is expected that all public companies shall endeavor to adopt working models that complement the recommended guidelines with a focus on fair, transparent and responsible business practices.

Through the said guidelines, the SECP has exerted upon two aspects, i.e., the governance practices and independent assurance. Thus as a primary step, the policy related to the CSR activities is expected to be prominently disclosed by companies on appropriate medium of communication for stakeholders. Thereafter, assurance from an independent external party is required for verification of reported activities.

The guidelines shall be applicable to all public companies and are expected to take effect from July 1, 2012.

The guidelines are open for public comments.

The Draft Voluntary Guidelines for Corporate Social Responsibility can be accessed at: <http://www.secp.gov.pk>

2. Launch of Revised Code of Corporate Governance by Monetary Authority of Singapore-2 May 2012

The Monetary Authority of Singapore (MAS) has accepted the recommendations made by the Corporate Governance Council (Council) on the Code of Corporate Governance (Code), and issued the revised Code of Corporate Governance.

The key changes to the Corporate Governance Code are focused on the areas of director independence, board composition, director training, multiple directorships, alternate directors, remuneration practices and disclosures, risk management, as well as shareholder rights and roles.

The revised Code will take effect in respect of Annual Reports relating to financial years commencing from 1 November 2012.

Details can be accessed at:
<http://www.mas.gov.sg>

GREEN CORNER

GREEN IDEA

'SAY NO' to polythene bags



Stop choking the world

- ◆ Stop the use of poly bags for any purpose
- ◆ Use substitutes - Paper Bags/ Jute Bags
- ◆ Create Awareness in residential areas & offices
- ◆ Avoid carrying poly bags from vendors
- ◆ Become a part of killing the demand for poly bags

Something Good:

Finance Minister Pranab Mukherjee in Union Budget 2012 has announced Rs.200 crore for research to develop plant and seed varieties that yield more and can resist climate change.

To Remember

June 5 - World Environment Day

June 14 - World Blood Donor Day

Quote of the month



Green Economy

"With the world looking ahead to the Rio+20 UN Conference on Sustainable Development in June 2012, the UNEP Green Economy report challenges the myth that there is a trade-off between the economy and the environment. With smart public policies, governments can grow their economies, generate decent employment and accelerate social progress in a way that keeps humanity's ecological footprint within the planet's carrying capacity"



- Ban Ki Moon
UN Secretary General

FORTHCOMING EVENTS

The United Nations Conference on Sustainable Development (UNCSD),

taking place in Rio de Janeiro, Brazil, from 20-22 June 2012

Details can be accessed at <http://www.unep.org>

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.



From the President



Lost time is never
found again ●●

Benjamin Franklin

Dear Professional Colleagues,

No one is so powerful that he can stop the march of time' - this is what the phrase 'time and tide wait for none' is all about. The dynamic business environment that require the professionals like us to be more dynamic and efficient to meet the growing expectations of businesses has put us in a situation of time deficit. No one has time to wait, every situation demands value added and quick response. It is more so in the case of professionals.

Effective management of time appears to be the only solution to meet this dynamism. As professionals we have to deal with multitude of business issues such as compliances, governance, strategic issues, financial, legal and Human Resource issues. This requires multi tasking and it could only be efficiently done by effective time management. We have to utilize the time optimally and meaningfully. If we manage time optimally we will always have enough time to invest in our professional and technical skills upgradation that in turn help us efficiently discharging our professional responsibilities. It will also help us to seize every little opportunity.

Planning and organisation is prerequisite for Time Management. It requires prioritizing the tasks as all tasks, are not equally important. The best way to achieve an ideal time management level is to learn from past experiences. We need to analyze time sheet data to figure it out, "Why a particular amount of time was consumed for a particular task". Setting deadline helps in reminding to get the works done on time. And last but most important is to make SMART goals. It is necessary that goals must be Specific, Measurable, Achievable, Realistic and Time bound.

SMART goals help one to focus on target and get the target achieved in a time bound manner.

Meeting with Chief Minister, Jammu & Kashmir

We had an opportunity to meet Shri Omar Abdullah, Hon'ble Chief Minister of Jammu and Kashmir. We apprised him of the activities and initiatives of the Institute towards development of the profession in Jammu & Kashmir. We also apprised the Hon'ble Chief Minister about the role that Company Secretaries can play in the economic development of the State and Small and Medium enterprises. We also submitted a request to recognise the Company Secretaries under Jammu & Kashmir VAT Act, 2005 to appear before the VAT Authorities and to conduct VAT Audit. Hon'ble Chief Minister assured us of considering the same.

Meeting with Vice Chancellor of University of Kashmir

A delegation of the Institute met Prof. (Dr.) Talat Ahmad, Vice Chancellor and senior faculty member of University of Kashmir and discussed matters of mutual interest. The discussion ranged from opening of oral coaching centre in the University campus to holding jointly workshops, seminars, continuing education and training programmes on academics/professional interest; Regular exchange of journals; Recognizing membership of the ICSI, as equivalent to Masters Degree for the purpose of pursuing Ph.D. course in Management, Commerce and Law; Exchange of faculty, undertaking joint research studies in mutually beneficial fields relevant to corporate management, Governance, CSR, financial markets, including commercial laws. Dr. Ahmad assured the delegation of all support and cooperation in this regard. It will help the Members and Students of J&K region in enhancing the professional knowledge and developing skills and to contribute to the mainstream of the professional and economic development.



Visit to Surat, Vadodara and Ahmedabad

I had the opportunity to visit Surat, Vadodara and Ahmedabad Chapters on May 11-12, 2012 and discussed matters of professional interest with members and students of the region and interacted with print & electronic media in these cities.

13th National Conference of Practising Company Secretaries

13th National Conference of Practising Company Secretaries on the Theme "Emerging Trends and Opportunities - Preparedness for PCS" was successfully organised on May 25-26 at Srinagar, Kashmir. The conference was inaugurated with the gracious presence of Shri Omar Abdullah, Hon'ble Chief Minister of J&K, Dr. M Veerappa Moily, Hon'ble Minister of Corporate Affairs, Shri Naved Masood, Secretary, MCA, Shri Mustaq Ahmad, Chairman & Chief Executive Officer J&K Bank. Valedictory session was graced by Justice Shri Dilip Roasaheb Deshmukh, Chairman, Company Law Board and Prof. (Dr.) Talat Ahmad, Vice Chancellor, Kashmir University. I wish to place on record my sincere appreciations to my colleagues on the Council, Chairman and members of NIRC, Chairman and Members of Management Committee of Srinagar Chapter, and Jammu Chapter, Team ICSI and all of you for making the conference a grand success.

ICSI Corporate Governance Week

As you are aware the Institute is actively engaged in promoting good corporate governance practices amongst the businesses in India as enumerated in its vision and mission. In furtherance of this cause the Institute has decided to observe "ICSI Corporate Governance Week" from 27th August to 31st August, 2012. During the "ICSI Corporate Governance Week", it is proposed to organize programmes on emerging topics in the areas of corporate governance, corporate social responsibility and sustainability throughout the length and breadth of the country through Regional Councils and Chapters of the Institute.

I invite all of you to extend your full support and cooperation in making the Week a grand success.

Peer Review

You would be pleased to note that a separate webpage containing information about Peer Review has been

uploaded on the ICSI website at the link www.icsi.edu/prb. A Peer Review Manual has also been released by the Board to facilitate the Peer Reviewers and the Practice Units. Till date nine (9) Training Programmes for Peer Reviewers have been organised empanelling over 150 peer reviewers throughout the country and more such training programmes are planned to be organized in other regions during June-July-August this year. Through the Random Selection Process, 52 Practice Units were identified in first stage and Peer Reviewers are being appointed for conduct of Peer Review. We have an ambitious plan to have Peer Reviews in about 500 Practice Units in the current year.

C S Benevolent Fund

I wish to emphasize that the Company Secretaries Benevolent Fund has been constituted to extend support to our brethren in times of hardship, distress and other unfortunate events. This being a collective effort, the size of the membership to the fund becomes important when it comes to extending financial support to our members. I wish to emphasize that the larger the membership of the Benevolent Fund, the easier it would be for the Fund to provide adequate financial assistance to the members. I, therefore, call upon those of you who have not become the member of the Fund to be the life members of Company Secretaries Benevolent Fund and extend the umbrella of benevolence to your less fortunate brethren in times of distress.

I also wish to mention here the efforts made by Headquarters, Regional Councils and some of the Chapters in organising CSBF cultural evenings/programmes towards spreading the awareness amongst the members about the CSBF and also to increase its Corpus so that the level of support to the needy families could be substantially enhanced. I request all Regional Councils and Chapters to organise such cultural evenings/programmes to propagate the message of benevolence amongst the fraternity of Company Secretaries.

With kind regards,

Yours sincerely,

New Delhi
May 31, 2012

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Articles

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A Practical Guide to Shareholders' Agreement

This article is an endeavour to canvas Shareholders' Agreement concentrating on the essential elements in a shareholders agreement along with significant judicial pronouncements.

INTRODUCTION

Shareholders Agreement can be labelled as a glorified quasi partnership deed, and is essentially a contract between some or all of the shareholders in a company and frequently the company itself wherein typically rights are granted to those shareholders who are party to the agreement that are above and beyond the rights that are inherent in the shares that they own, and is intended to ensure that those shareholders obtain the benefits of additional rights that they bargained for when making their investments. It serves to fill the gaps in areas not covered by the Companies Act or Company Articles and explicitly confirms important commercial terms of agreed arrangements which would not otherwise be captured in a contract between the shareholders.





Vital Clauses

RIGHT OF FIRST REFUSAL (ROFR) = Right of Option to Purchase Shares

ROFR in short and simple terms is the right of a person to take advantage of a transaction before it is made open to other parties and covers almost any sort of asset. In brief, the right of first refusal is similar in concept to a call option. It is a contractual right that gives its holder the option to enter a business transaction with the owner of something, according to specified terms, before the owner is entitled to enter into that transaction with a third party. In shareholders' agreement the right of first refusal bestows shareholders the opportunity to purchase the shares of another shareholder who wishes to sell his shares to a third party. One of the most important considerations in negotiating a right of ROFR is whether the selling shareholder must first obtain a *bona fide* offer from a third party before offering the other shareholders the first right of refusal (often referred to as a "hard" right of refusal). The alternative is that the shareholder who wishes to sell his shares makes an offer to the other shareholders and, if such offer is not accepted, may make the same offer to a third party within a prescribed time-frame (often referred to as a "soft" right or a "right of first offer"). The bottom line about ROFR is that they restrict marketability.

RIGHT OF FIRST OFFER (ROFO)= Right of Option to Sell Shares

ROFO(also known as a Right of First Negotiation) is a contractual obligation by the owner of an asset to a rights holder to negotiate the sale of an asset with the rights holder before offering the asset for sale to third parties. If the rights holder is not interested in purchasing the asset or cannot reach an agreement with the seller, the seller has no further obligation to the rights holder and may sell the assets freely. For Illustration - A Car Company Porsche is coming out with a limited edition Car whereby it forms an elite owner's club wherein membership would be limited to just the top customers - like those who own three or more Porsche models, who would be given right of first refusal on special edition car. ROFO is related to ROFR, but the former is considered to favor the seller while the latter is considered to favor the rights holder. Assets that have a right of first refusal attached to them can be more difficult to sell because potential buyers may not want to go to the trouble of negotiating a deal that must be offered to another party first.

TAG ALONG RIGHTS (TAR)= The Minorities Right

TAR (also known as Piggy Back Rights) is a contractually guaranteed obligation conferring right to minority shareholders to sell their stake in a company if the majority shareholder does so and are used by investors to facilitate their exit from an investment. The tag-along rights further guarantee exactly same terms to the minority shareholder. This protects the minority shareholder from the possibility that a new majority owner will come along and ruin the company or take it in a

direction detrimental to the minority shareholder. Thus, the third party, if they wish to purchase the shares, must be prepared to purchase all of the outstanding shares. The benefit to the minority shareholder is that they can avoid being in business with an unwanted new co-owner and also ensures that all shareholders will receive similar buyout offers. A shortcoming of tag along rights is that it may cause long delays in the sale of shares. Inserting such a right in the shareholder agreement has the advantage of making minority shareholders feel more comfortable that they will be able to exit at the same time as a majority shareholder. On the other hand, from the point of view of the exiting shareholder who has found a party to buy its shares, it will be important to secure the agreement of any potential buyer to buy not only its shares but the shares of all other shareholders who wish to exercise these rights. As such, this provision may narrow the universe of potential buyers.

DRAG ALONG RIGHTS (DAR)=The Majorities Right

DAR(also known as a "bring-Along") protects the interests of majority shareholders) by providing that any third party who has agreed to purchase the majority shareholder's shares is also able to purchase any minority shareholding in the company. The majority shareholder is able to literally drag along the minority shareholder in his share sale. The majority owner doing the dragging must give the minority shareholder the same price, terms, and conditions as any other seller thus preventing majority shareholders from being caught in the situation where a lucrative opportunity is missed due to the potential purchaser's insistence on acquiring 100% of the shares and the minority





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shareholder's refusal to sell his shares. Drag Along rights are more controversial. A drag along right gives the investing shareholder the right to force the other investor(s) to exit should the investing shareholder exit, once again, usually on the same price and terms. In private equity transactions for investors, drag along rights are usually a *sine qua non* for any investment. Some private equity investors affectionately refer to their Drag Along rights as their "nuclear option." On the other hand, for many business owners, a drag along right represents a Damocles sword, a threat that they may be forced to sell their business if the investor decides to drag him or her along, usually at a valuation over which he or she has no control. In a nutshell, the negotiation between an owner and investor with respect to drag along rights is a function of the relative bargaining strength of the parties and their negotiating ability. It balances the legitimate desire of an investor to exit from an investment at a time that suits them (minority investments in particular may be extremely difficult to exit without a Drag Along) with the legitimate right of a business owner not to have his or her interest in a business sold against his or her will.

PUT and CALL OPTION = Right to sell & buy

Put and Call options are generic terms to mean right but not an obligation to respectively sell and buy the stocks and they are omnipresent in modern investment agreements. To begin with, an "option" is the right or entitlement, but not an obligation, of a person to buy or sell an asset. Such options are created by contract and essentially represent contractual obligations of transacting parties. A "put option" is the right (but not obligation) of a holder of shares in a company to sell those shares to another person at a pre-determined price otherwise known as "strike price". Now when the option is franchised by the shareholder, the other person being the buyer will be obligated to purchase the shares at the strike price. The adverse of a put option is a "call option", which grants the right (but not the obligation) to a person to acquire shares in a company from an existing shareholder at a strike price. When an option is exercised by the holder thereof, the shareholder being the seller will be obligated to sell the shares to the option holder at the strike price. The rationale assumption of the application of either a put option or a call option is to transfer the relevant shares from the seller to the buyer at the strike price.

Milestone Judicial Pronouncements

1) Gherul Parekh v. Mahadeo Das Maiya

1959 AIR 781 1959 SCR Supl. (2) 406 (Supreme Court)

Agreements which are collateral to wagering agreements which are held to be non-enforceable under Section 30 of the Contract Act, are perfectly legal and can be enforced in a court of law.

2) S.P Jain v. Kainga Cables Ltd

1965 AIR 1535 1965 SCR (2) 720 (Supreme Court)

If the terms of the shareholders agreement are not incorporated in the Articles of Association (AOA) of the Company then in such a case Company is not bound by the terms of such agreement.

3) V.B. Rangaraj v. V.B. Gopalakrishnan

AIR 1992 SC 453, 1992 73 CompCas 201 SC (Supreme Court)

Companies Act makes it obvious that AOA is binding on company and shareholders and transfer of shares is regulated by AOA. The only restrictions on transfer of shares are the one contained in AOA and hence restrictions not specified in AOA are neither binding on company nor on the shareholders.

4) Mafatlal Industries Ltd. v. Gujarat Gas Co. Ltd

1999 97 Comp Cas 301 Guj, (1998) 2 GLR 1436 (Gujrat)

The distinction between a private and a public company is that in private company provision of restriction of transfer is contained in AOA whereas AOA of public company cannot contain such restrictions. Hence, the ratio of V.B. Rangaraj Case would apply to public companies with a greater force. Shareholders are free to sell the shares to any party and the shareholders agreement not having been incorporated into the AOA cannot be enforced.

5) Rolta India Ltd. v. Venire Industries Ltd.

2000 (2) BomCR 241, 2000 100 Comp Cas 19 Bom (Bombay)

An agreement between shareholders of a company would not bind the company, and the shareholders cannot infringe upon a director's fiduciary rights and duties. Further, shareholders cannot dictate terms to directors, unless they exercise their rights to remove directors under the Act or unless the provisions of the pooling agreement have been incorporated in the articles of association of the company. A pooling agreement cannot be used to supersede the statutory rights given to the Board of Directors to manage the company, the underlying reason being that the shareholders cannot achieve by pooling agreement that which is prohibited to them, if they are voting individually. The shareholder is dealing with his own property. He is entitled to consider his own interests, without regard to interests of other shareholders. Directors are fiduciaries of the Company it is their duty to do what they consider best in the interests of the Company. They cannot abdicate their independent judgment by entering into pooling agreements.

6) IL and FS Trust Co. Ltd. v. Birla Perucchini Ltd

2003 (3) BomCR 334, 2004 121 Comp Cas 335 Bom (Bombay)

The provisions in an agreement between the shareholders of a company cannot be enforced against the company in question (even if the company is a party to such agreement) unless the same provisions have been reflected in the articles of association of the company.



**7) M.S. Madhusoodhanan v. Kerala Kaumudi Pvt. Ltd
2003 (6) ALD 1 SC, 2003 117 Comp Cas 19 SC
(Supreme Court)**

Consensual agreements between shareholders relating to their shares do not impose restriction on transferability of shares and they can be enforced like any other agreement. Not disagreeing with the decision in V.B Rangaraj but distinguishing itself from the facts in that judgment, held that a restriction in relation to identified members on identified shares of a private company did not amount to restriction of transferability of shares *per se*.

**8) Smt. Pushpa Katoch v. Manu Maharani Hotels Ltd
2006 131 Comp Cas 42 Delhi, 121 (2005) DLT 333
(Delhi)**

The articles of association of a public limited company shall prevail over any family settlement. The Court noted that even if there was a provision for pre-emptive rights in the articles of association, it would have been *ultra vires* the provisions of the Act, as no company can provide in the articles of association any matter which offends the specific provision of an Act, namely, sub-section (2) of section 111A of the Act which specifically provides that the shares or debentures and any interest therein of a public company shall be freely transferable.

**9) Western Maharashtra Development Corpn. Ltd. v.
Bajaj Auto Limited
ARBITRATION PETITION NO.174 OF 2006 (Bombay)**

Section 111A of the Companies Act, 1956 mandates that there can be no restriction whatsoever on the transferability of shares in a public company. Consequently, an agreement granting a right of pre-emption in respect of some such shares has been held as patently illegal. The principle of free transferability must be given a broad dimension in order to fulfill the object of the law. Imposing restrictions on the principle of free transferability is a legislative function, simply because the postulate of free transferability was enunciated as a matter of legislative policy when Parliament introduced Section 111A in the Companies Act, 1956. That is a binding precept which governs the discourse on transferability of shares. Section 9 of the Act gives an overriding force and effect to the provisions of the Act notwithstanding anything to the contrary contained in the memorandum or articles of the company or in any agreement executed by it. Accordingly, a provision contained in the memorandum, articles or Agreement, to the extent to which it is repugnant to the provisions of the Act, is regarded as void.

**10) Messer Holdings Limited v. Shyam Madanmohan Ruia
APPEAL NO. 855 of 2003 (Bombay High Court)**

A consensual private arrangement between shareholders of a public limited company on a voluntary basis for putting restrictions in share transfer is not violative of Section 111A of the Companies Act 1956 and does not violate the principle of "free transferability of shares"; neither is it a mandatory provision for the company to be a party in such a share transfer

Some private equity investors affectionately refer to their Drag Along rights as their "nuclear option." On the other hand, for many business owners, a drag along right represents a Damocles sword, a threat that they may be forced to sell their business if the investor decides to drag him or her along, usually at a valuation over which he or she has no control.

agreement, relating to share transfer restrictions nor is it necessary to incorporate share transfer restrictions in the Articles of Association ("AOA") of the company. The only safeguard to be taken in such a case is that the Articles of Association of the Public Company should not incorporate the pre-emptive rights as agreed between the shareholders. The pre-emptive rights as agreed between shareholders will be legally enforceable and the Company, upon receipt of the transfer deed duly executed by the shareholders or by the shareholder and a third party pursuant to pre-emptive rights shall be bound to register the shares. On the other hand, the pre-emptive rights as agreed in SHA between shareholders shall not be enforceable in the case of shares of a private company unless the Articles of Association of the Company incorporates such pre-emptive rights. The legislative intent of the section is not to curtail the rights of the shareholders to enter into any consensual agreement for transfer of particular shares as has been interpreted in the Bajaj case. Shares are to be treated as any other movable property carrying with it certain rights and obligations that can be transacted upon in any way that the holder wishes to.

**11) Jer Rutton Kevsmanek and Another v. Gharda
Chemicals Limited and Others
2000 (2) BomCR 56, (2000) 1 BOMLR 553 COMPANY
APPEAL NO.24 OF 2010 in COMPANY PETITION
NO.132 OF 2010 (Bombay)**

The Companies Act recognizes only two types of companies, public and private. There is no third category of company, which retains the characteristics of a private company after becoming a public company. As the Company was a public company since 17 August 1988, the Resolution to change its status to a private



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company pursuant to an amendment to Section 43A of the Act was not passed confirming its status as a public company. Section 111 of the Act would not apply to the Company since it applied to private companies and would not be relevant to deemed public companies after Section 43A of the Act was amended in 2000. Section 111A of the Act applies to the Company pursuant to which the shares must be freely transferable. Article 57 of the Articles would no longer be applicable after the Company became a public company by virtue of Section 9 of the Act, which stated that the Act overrode the Articles of a company. Further the decision of the Division Bench of the Bombay High Court in *Messer Holdings v. S.M. Ruia* was distinguished on the ground that it dealt with *inter se* agreements between the shareholders of a public company and did not deal with restrictions on transfer contained in the Articles of Association of a company. Further, the Ruia judgment overruled the Western Maharashtra judgment only to the extent of *inter se* agreements between shareholders and the statutory principles contained in the Western Maharashtra judgment did not appear to be affected.

12) Subhkam Ventures (I) (P.) Ltd. v. SEBI 2010] 99 SCL 159 (SAT - Mum.) (Securities Appellate Tribunal)

Control as defined under the Takeover Regulations does not include negative control and protective rights conferred, such as board representation, quorum rights and supermajority rights by themselves are inadequate to constitute "control". 'Control' is a proactive and not a reactive power. And the power by which an acquirer can only prevent a company from doing what the latter wants to do is by itself not a control. In short control means effective control.

13) Vodafone International Holdings B.V v. UOI

CIVIL APPEAL NO.733 OF 2012 (arising out of S.L.P. (C) No. 26529 of 2010) (Supreme Court)

Provisions of the Shareholders' Agreement imposing restrictions even when consistent with Company legislation, are to be authorized only when they are incorporated in the Articles of Association, a view we do not subscribe. Justice Radhakrishnan has expressed the view that *Rangaraj v Gopalakrishnan*, may have been wrongly decided because shareholders have the freedom to contract unless there are specific restrictions in legislation.

Legitimacy of Pre-Emption Rights in Shareholders Agreements

The Supreme Court in *V.B. Rangaraj v. V .B. Gopalakrishnan*(*supra*) had held that in the case of private limited Companies restriction on transfer of shares will be valid only if the same are fused in the Articles of Association of the Company.

The Delhi High Court and CLB in *Smt. Pushpa Katoch v. Manu Maharani Hotels Ltd.* 2006 131 Comp Cas 42 Delhi, 121 (2005) DLT 333 (Delhi) held that in the case of listed shares there cannot be any restrictions namely rights of first refusal because section 111A of the Companies ACT 1956 contemplates free share transferability.

The Bombay High Court in *Western Maharashtra Development Corporation v. Bajaj Auto Ltd.* (Arbitration Petition No. 174 of 2003) had viewed that the 'restriction on the transferability of shares in private company has to be contrasted with cases involving public companies where the law provides for free transferability and any restrictions on transfer in case of listed shares is bad in law and illegal.

The Division Bench of the Bombay High Court in *Messer Holdings Limited v. Shyam Madanmohan Ruia*, upheld the earlier interpretation given to the words 'free transferable' used in section 111A in the *Western Maharashtra Development Corporation v. Bajaj Auto Ltd* case. The Court examined the real intent of section 111A, the motive for its insertion in the Companies Act, and observed :

- 1) When the shares were in physical form, board of directors used arbitrary powers to reject transfer of shares leading to lot of complaints by the transferees.
- 2) That situation was partially remedied by insertion of section 22A of the Securities Contract Regulation Act, which laid down only four grounds on which any board could reject transfers.
- 3) With the introduction of the concept of dematerialized shares through the Depositories Act, 1996, section 22A got deleted and section 111A was introduced in the Companies Act to deal with rectification of register.

The Court's findings on the aforesaid was that it was never intended by the law to take away the right of shareholder to deal with their shares and if the law maker intended to take away the



right of disposal of any shareholder, it would have made an express provision in that regard. Importantly the Court had held that Section 111A is not a law dealing with the right of the shareholders to enter into consensual arrangement by way of pledge, preemption/ sale or otherwise *inter-se* between the shareholders to which the company is not a party.

On that basis it will be sagacious to understand that the expression 'freely transferable' in section 111A does not mean that the shareholder cannot enter into consensual arrangement with the third party for dealing in his own shares. The restrictions on share transfer functions only in respect of shares held by specific shareholders. Every shareholder is free to deal in his shares, including the small shareholders who pledge their shares when they raise personal loans in favour of banks/lenders. Since section 111A is not a law dealing with the right of shareholder hence Section 9 also has no application in case of such arrangements. But in farsighted view it must be noted that Supreme Court in *V. B. Rangaraj v. V. B. Gopalakrishnan* has viewed that Section 82 of the Companies Act governs manner of share transfer and in order to make it enforceable it is necessary to incorporate the restrictive provisions in the Articles. It is recommended to integrate restrictive provisions in the Articles till the Apex Court does not provide its affirmative seal to the judgment given by the Bombay High Court in *Messer Holdings Limited v. Shyam Madanmohan Ruia*.

Legitimacy Of Put Option In Shareholders Agreement v. Securities Contract (Regulation) Act, 1956

The only way the legality of put option can be questioned to find is whether a contract which provides an option to the Investor to sell his shares to the promoter at a consideration fixed on a date where the performance is to be done on a later date, amounts to a "forward contract" which is prohibited under Securities Contract (Regulation) Act, 1956.

Private Limited Companies

In *Dahiben Umed bhai Patel and others v. Norman James Hamilton and others* (1983) 85 BOMLR 275, 1985 57 Comp Cas 700 Bom it was held that shares of a private limited company are not marketable securities within the definition of the term marketable security as defined in Section 2(h) of the SCRA. Since shares of private limited company are not freely transferable it does not come under the purview of SCRA as the purpose of the Act was to control securities which were normally dealt on the stock exchange, that is to say Public Limited Companies. Since SCRA has no application to the Private Limited Companies a private company can enter into forward transactions of shares.

Unlisted Public Limited Companies and Listed Public Limited Companies

In *Mysore Fruit Products Ltd. and Others v. The Custodian and others* (2005) 107 BOMLR 955 it was held that since the shares of Unlisted Companies are "marketable" in nature therefore SCRA will be applicable to unlisted public companies. The only restriction on transfer of shares in a Public Limited Company is the contract for transfer of shares must not be a "forward contract". Hence all the consequences applicable to Listed Public Limited Company will follow in respect of an Unlisted Public Company.

The issue of put/call option came up in the *Cairn Vedanta* deal where SEBI had directed the parties that pre-emption rights and the put/call option be removed from the share purchase agreement. The enforceability of put and call options on securities of an Indian company under The Securities Contracts (Regulation) Act, 1956 (SCRA) and the notifications issued under that permit only 'spot delivery' contracts in securities transactions outside the exchange. A spot delivery contract is one where the transfer of securities and payment of consideration take place on the same or next day. There is one school of thought that views options as only contingent contracts and they become completed contracts only when the option is exercised (in which case they need to be settled the same day or next day). But there is another school of thought which relies on a judgment of the Bombay High Court in *Niskalp Investments and Trading Co. Ltd. v. Hinduja TMT Ltd* 2008 143 Comp Cas 204 Bom, 2007 79 SCL 368 Bom where the court refused to accept that a contingent contract is outside the purview of SCRA's proscription. This ambiguity on the enforceability of options in securities only leads to chaos and uncertainty. Thus does it mean that put option is a spot delivery contract as is permissible under SCRA, or is it a forward contract and thus illegal. The Securities Exchange Board of India (SEBI) in three separate cases involving MCX Stock Exchange Limited (April 2010), Vedanta Resources and Cairn Energy (April 2011) and Vulcan Engineers Limited (May 2011) had outlawed clauses in agreements dealing with forward contracts such as buyback agreements and put and call options. In view of the provisions of the Securities Contracts (Regulation) Act, 1956 (SCRA) and notifications issued thereunder, the validity of put and call options on securities of public limited companies entered into outside the stock exchange has been in doubt but in aforesaid three instances SEBI has been making its stand clearer i.e such options are invalid.



Options In Equity Instruments v. FDI Policy

The options controversy started in October 2011 when the DIPP issued the FDI Policy in which it specifically introduced language stating that any equity infusions by foreign parties with "in-built options of any kind" would be treated as ECB and would have to comply with the ECB Regulations. This invited unprecedented opposition from stakeholders and industry players, drew and highlighted the negative impact of this provision leading to DIPP to issue a corrigendum deleting the Clause. Although the RBI has not issued any formal notification explicitly dealing with the legality of put and call options, but the trends wherein companies have received show cause notices from the RBI while attempting to exercise their put and call options shows that RBI lays that there are no options. According to the RBI, such an optional right fails on two counts:—

Options are derivative contracts and thus should conform to ECB guidelines:

- Options are derivative contracts and are not valid and legal under Indian securities law unless they are traded on a recognized Stock Exchange.
- Investment with options contravenes foreign exchange laws because it is not mandatory for the option holder to exercise the options.
- Only Securities and Exchange Board of India registered foreign institutional investors and non-resident Indians are eligible to invest in stock-traded derivative contracts.
- Investments through put and call options as debt rather than equity and hence ECB guidelines have to be complied with.

Shareholders Agreement viz SEBI SAST

Diverging from its earlier ruling in *Rhodia S.A. v. SEBI*, (Appeal No. 36/2001) SAT's landmark order in *Subhkam Ventures India Private Limited v. SEBI* Appeal No 8 of 2008, (Date of Decision 15/01/2010) has removed ambiguity as to whether veto rights constitute 'control' under the Takeover Code. SAT reasoning seemed to be premised on the fact that a veto right is only a negative right and does not allow the investor to carry out the actions on its own. The requirement of making an open offer under the Takeover Code is triggered not only on the acquisition of shareholding beyond prescribed thresholds but also pursuant to any acquisition or change in 'control' (regardless of acquisition of any shares). While the former is comparatively straightforward, the latter has always raised various uncertainties especially in light of the broad and inclusive definition of 'control'. Consequently, certain arrangements



customary in private equity investments (such as veto rights etc.) have always been open to regulatory scrutiny (i.e., on whether such arrangements constitute 'control'). The entire discussion on the question as to whether control should be positive or negative, proactive or reactive is unnecessary, as the Takeover Regulations are fairly clear that an ability to 'control' the management or policies of the company amounts to control and the nature of such control is of no consequence as the definition of control elaborates that it could be obtained in any manner whatsoever. SAT laid down some general principles as to what constitutes "control" and noteworthy is the distinction being made between proactive power and reactive power. The list is clearly an over-kill and it is very difficult for one to agree with SAT's view that these rights have been granted solely in the interests of minority protection and good corporate governance. The importance of this ruling is that it sets to rest an issue that has caused a great amount of consternation amongst investors and their advisors. In a sense, the ruling also emboldens the financial investors' position by a long stretch as it has permitted a great number of supermajority rights that can be included without being in control.

Conclusion

Parties should enter into a shareholders' agreement fully and carefully defining their rights and obligations. The parties need to understand the issues and the risks limitations inherent in using a company structure and attempt to craft an agreement which fits the particular circumstances. Dealing with these issues effectively in a Shareholders' Agreement not only has the potential to improve the position for the minority shareholders, but it will assist the majority shareholders in reducing the risk of subsequent disputes and litigation by setting an explicit framework within which the parties can operate. While many shareholders' agreement do have similar terms, there is really no such thing as a customary agreement and each agreement should be tailored to meet the particular needs and interests of the parties involved in the business. ■



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Can a Body Corporate invest in a Partnership Firm?

Section 372A of the Companies Act, 1956 permits a company to invest in the securities of any other body corporate. A partnership firm not being a body corporate, it is logical that a company cannot invest in a partnership firm.

Investment of funds outside the business of a company is a legitimate activity which a company may undertake in terms of regulatory provisions of company law. Such investment may be trade and non trade investments. Trade investments are mostly in downstream industries which supplies raw materials or components and investments in such industries will bring about better rapport and preferred terms of supplies. The companies under a 'group' may as well set up an investment company which has as its core business, buying and selling of securities, both on short term and long term basis.

At the corporate level, investment has been used as a potent instrument for expansion and diversification of company's business often

resulting in holding-subsidary company relationship in terms of section 4 of the Companies Act, 1956 (the Act). The strength of this relationship rests on the voting rights which investments confer on the holder thereof. There may be different levels of investment which may not be equal to holding/subsidary relationship but nonetheless effective in terms of control and influence. Many Indian companies have established a wide network of subsidiaries abroad as a business strategy.

Regulatory Framework for Investment

The Companies Act by section 372A prescribes regulatory framework for inter-corporate loans, acquisition by way of subscription, purchase or otherwise the securities of any other body corporate and the provision of guarantee. There is a combined financial limit for the aforesaid purposes up to 60% of paid up share capital and free reserves or 100% of free reserves of a company, whichever is higher. These limits may be exceeded by a special resolution passed in a general

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meeting fixing the limit up to which further investment may be made by a company. The percentage limits are relevant from the point of view of cash out-go from the company. Many Indian corporate have used this investment route for the purpose of investing in Joint Ventures or Wholly Owned Subsidiaries in foreign countries. The Foreign Exchange Management Act (FEMA) also provides for an upper limit of 400% net worth of an Indian company for the purpose of investment abroad in Joint Ventures and Wholly Owned Subsidiaries. Foreign entities/non-residents has the facility of investing in companies in India through Foreign Direct Investment Scheme (FDI Scheme).

Nature of Investment

It is clear that what is permitted by section 372A of the Act is the investment in the securities of any other bodies corporate, which by definition includes companies incorporated outside India. The bodies corporate are, in other words, companies incorporated in India and abroad. The question that arises for consideration is whether a body corporate, within the meaning of the Act, can also invest in Partnership Firms. This should be answered in the negative, as section 372A contemplates and permits an Indian company to invest in the securities of any other body corporate. The Partnership Firm, not being a body corporate does not qualify for investment by Indian and foreign companies.

A perusal of the Indian Partnership Act, 1932 will further strengthen the limitation prescribed by section 372A of the

Act. A partnership firm is not a legal entity and the partnership is a relation between persons who have agreed to share profits of a business carried by all or any of them acting for all. The relationship of Partnership arises from contract and not by status. More importantly, if a partnership firm incurs loss, it will in effect erode the capital of the partners and if the capital is inadequate, the partners will have to "bring in" additional funds to meet the liabilities of the partnership firm. In a worse situation, the losses of the partnership will have to be met out of personal assets of the partners. This will also extend to companies, if companies are permitted to invest in partnership firms. This will expose the assets of a limited company to unlimited and unascertainable risks.

Clarification On Investment in Partnership Firms

Whether an incorporated company can be a partner in a partnership firm is left unanswered by the Indian Partnership Act, 1932. Curiously, the Companies Act, 1956 is also silent in this regard. There is nothing to suggest in law that a body corporate cannot become a partner in a partnership firm. This arises out of the fact that a company is a legal person in the eye of law and such persons are competent to contract and entitled to be a partner. However, there is one limitation which needs to be recognised that a company or corporation cannot lawfully employ its funds for purposes not authorised by its constitutional documents. *Prima facie*, it is *ultra vires* for an incorporated company to enter into partnership with other persons. (Lindley on Partnership, 10th edition).

It is further stated that it is possible to overcome this difficulty



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by having special clauses in the Memorandum of Association, permitting a company specifically to make investments in a partnership firm. While a company can legitimately do this, the reverse of it is not possible in the case of a partnership firm as it is not a legal entity in the eye of the law. Apart from the legal perspective, business consideration will not favour investment in partnership firm because of unlimited liability.

Apart from Section 372A, section 292 (1) (d) also provides for investment of surplus funds of a company. The quantum of investment and the nature thereof are to be decided by the Board or a Committee thereof. What is permitted is the short term investment of surplus funds of a company in current assets like Government and trust securities, bonds, commercial paper etc. A current investment by its nature is readily realisable and is intended to be held for not more than one year from the date on which such investment is made as defined in Accounting Standard 13 (AS 13) and it is not comparable to the investment in corporate securities under section 372A.

It appears that the Act has indirectly recognised the legality of a company being or becoming a partner in a partnership firm. A case in point relates to the provision in section 370 (1B) of the Act which provides for grant of loan to a partnership firm having body corporate as a partner. Sections 370 and 372, dealing with inter-corporate loans and investments have been made inapplicable on or after the commencement of the Companies (Amendment) Act, 1999 effective from 31-10-1998 and stands included in section 372A of the Act. Similarly the offices of managing agency and secretaries or treasurers have also been abolished by the Act in the year 1956.

There are, however, references to 'investment in partnership firms' under the general instructions for preparation of Balance Sheet, in respect of "non-current investments" under Schedule VI to the Companies Act. Schedule VI has been recently revised. The revised Schedule VI classifies investments as "current investments" and "non-current investments". While investments in equity instruments is classified both under "current" and "non-current" investments, investment in partnership firms stands included in

"current" investments. The format of Balance Sheet, whether old or new, is a statutory format and provides for disclosure of investments in partnership firms. If investment in partnership firms cannot be made by the bodies corporate, why then Schedule VI provides for such disclosure and what purpose it serves?

Case Laws

A few cases in relation to the Income Tax Act have been reported which have bearing on an Incorporated Company entering into a Partnership for carrying on certain items of business. In *Ganga Metal Refining Co. Pvt. Ltd. v. Commissioner of Income Tax, West Bengal* [AIR 1967 Calcutta 429 (U54C92)], three limited companies incorporated under the Act entered into a joint venture as unregistered firm. The High Court of Calcutta held that such a venture is neither a partnership firm under the Partnership Act or the Income Tax Act. It can be regarded as an association of persons under section 3 of the I.T. Act.

It was also observed in the above case that normally and juristically if two companies under the Companies Act enter into a partnership, then each company becomes an agent for the other and agrees to share profits. This will create many problems for the two incorporated companies. They will have to be agents in such a manner which may not be permissible at all by their own charter, articles and memorandum. It will be difficult to apply the very specific rights and obligations between partners in the case of companies as partners in relation to Partnership Act. If the partnership is to be registered with the Registrar of Firms, then the companies as partners will have to obey both the Registrars under the Companies Act and the Partnership Act. The access of each Partner to other Partner's books of account will make nonsense of the Companies Act provision, as under the latter access to books of accounts are available to the directors of the Companies.





Articles

Can a Body Corporate invest in a Partnership Firm?

The Companies Bill, 2011 by clause 186, *inter alia*, provides that no company shall directly or indirectly acquire by way of subscription, purchase or otherwise the securities of any other body corporate exceeding the limits of 60% or 100% of the paid up share capital and free reserves. This provision is identical to the provision in the Act. However, in the Bill, the amount in the securities premium account has been added, in addition to the paid up capital and free reserves for computing the percentage limits mentioned above.

The above case came up for consideration in the context of one of the companies seeking to set off the loss of partnership business against the income from its usual business. The Court held that the assessee is not entitled to set off the loss against its other income.

Circular by the DCA

The Department of Company Affairs* issued a Circular [Circular No. 1-81 (20-1-81-CL-V) dated 14-9-1981] which is relevant to the present discussion. In this Circular, the DCA has answered the question whether a company can enter into a partnership or not in the following words, "that *prima facie* a company entering into a partnership with some other person or some other company would be *ultra vires* and will be against the principle that a particular company or an incorporated body cannot lawfully employ funds for purposes not authorised by its constitution which would normally be the memorandum and articles of association.

In view of this, while considering applications for registration of firms with bodies corporate as partners under the Indian Partnership Act, 1932, the State Governments should examine the applications before them and find out whether memorandum and articles of association of the applicant

incorporated companies contain any special articles, which authorise the incorporated companies to enter into partnerships and the articles can also take care of the possible anomalies which have been pointed out in the Calcutta High Court's ruling in the case of *Ganga Metal Refining Company P. Ltd. v. Income Tax Commissioner, West Bengal*, (1968) 38 Comp Cas 117; AIR (1967) Cal 429.

The point for consideration is how can a company incorporate special articles for investment in partnership firms, if the incorporated companies can only make investment as per section 372A of the Act.

Position In Respect Of LLPs

LLPs are differently placed when compared to partners in a partnership firm. Section 3 of LLP Act declares that an LLP is a body corporate formed and incorporated under the LLP Act and is a legal entity separate from that of its partners. Section 7 recognises bodies corporate as being partners in an LLP. Hence, a public company may invest in LLP and *vice versa*, as both are legal entities. However, investments by an LLP depend upon the Partnership Agreement between the partners. There is no provision in the LLP Act which corresponds to section 372A of the Act, permitting, *inter alia*, investment in the purchase of shares of any other body corporate.

The Companies Bill, 2011

The Companies Bill, 2011 by clause 186, *inter alia*, provides that no company shall directly or indirectly acquire by way of subscription, purchase or otherwise the securities of any other body corporate exceeding the limits of 60% or 100% of the paid up share capital and free reserves. This provision is identical to the provision in the Act. However, in the Bill, the amount in the securities premium account has been added, in addition to the paid up capital and free reserves for computing the percentage limits mentioned above.

Conclusion

The prescription in section 372A should be seen in the context of a legal entity investing its funds in another legal entity. Investment activity requires securing the safety of investments made and manner of investment should not impair the investment itself which is a business asset. Business considerations firmly entrenched in the exercise of voting power as an instrument of control outweighs any other considerations. Trade investments bring about synergy of operations and provide a basis for preferential treatment in business transactions. This has contributed to the expansion and diversification of Industries, both nationally and internationally. Investment opportunities in modern times have expanded by leaps and bounds and this calls for protection of investor's interests.

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Conducting Board Evaluation

The concept of Board evaluation is quite a recent one and few corporates in India are doing it at this point of time. The concept came for the first time from the five words from the Higgs Report published in January 2003, which read Board should evaluate their performance. In UK, the Combined Code adopted these five words into its requirement under the Code in July 2003.

INTRODUCTION

According to the U K Combined Code, the Board should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors.

Individual evaluation should aim to show whether each director continues to contribute effectively and to demonstrate commitment to the role (including commitment of time for Board and committee meetings and any other duties). The Chairman should act on the results of the performance evaluation by recognizing the strengths and addressing the weaknesses of the Board and, where appropriate, proposing new members be appointed to the Board or seeking the resignation of directors.

performance evaluation of the Board, its committee and its individual directors has been conducted. The non-executive directors, led by the senior independent director, should be responsible for performance evaluation of the Chairman, taking into account the views of executive directors.

Board committee and individual evaluation are now a part of the reporting requirement placed on companies by the Combined Code. Although the responsibility to ensure that this task is undertaken lies with the Chairman, in practice this will probably fall on the company secretary to organize. The Code does not prescribe the way in which an evaluation - whether for Board, committee or individual - should be completed. The requirement is to undertake a formal and rigorous evaluation every year and to state in the annual report how the performance evaluations have been conducted. The Chairman is required to act on the evaluation by recognizing strengths and addressing any weaknesses identified.

Why Evaluation

The failures of several corporates throughout the world

The Board should state in the annual report how



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starting from Enron, WorldCom, Tyco, Qwest, Merck, Mirant, AOL, FreddieMac, Sunbeam, Parmalat..... have led the investors, Regulators and the general public at large to question the effective functioning of the Board of any company. The investors have started questioning the collective decision making competency in terms of quality, skills and even the capabilities of individual directors who hold the position in any company.

The question really arises as to why at all evaluation and why the company should undertake an evaluation process? One answer could be this is required to comply with the requirement of the Combined Code of UK, in terms of reporting to shareholders'. Second thing could be to demonstrate best practice in the corporate governance arena. Although, these are valid reasons, they should not be the only reasons for persuading the company to embark on the exercise of Board evaluation process.

The ultimate motivation for a company should be the expectation of improved functionality; this could be improved performance of individual directors through identifying potential weaknesses which can be addressed through additional training where required; or it could be an improvement in the way in which the Board or a committee operates, by a change in administrative procedure.

With such a clear mandate for and wide-ranging implication of overseeing the evaluation process, the profile of a nomination committee should increase. Shareholders will also want to

know that the committee can properly discharge its responsibilities unless it can report that it has in place a formal and rigorous annual evaluation of its own performance, that of the Board, the other committees and the individual directors.

What is to be Evaluated?

The next question that arises is what is to be evaluated or appraised, wherever the responsibility ultimately sits. The Higgs Report is vague on this matter and it is left to the individual company to define how it should meet its obligation in this regard.

The Combined Code of UK provides three areas for conducting Board evaluation, namely - (1) Board (2) Committees (3) Individual directors. Perhaps, companies need to find out a solution as to how they should approach these matters and structure their programme for evaluation which could differ from industry to industry and corporate to corporate. To put it in simple terms, the companies are being asked to evaluate the "process" and its "people".

The Board and committees being collective bodies may like to assess the feedback from an evaluation of their processes on a collective basis. However, for assessing the strength and weaknesses from an individual evaluation, the Chairman needs to get involved and get a personal feedback from each of the directors.

There could be a degree of overlap between these two processes - yet indeed some companies will attempt to undertake an all embracing single evaluation. There is a view that Board and committee evaluation should be separate from the individual director's evaluation since both the approach to undertaking the exercise and the feedback methods are likely to be different in its approach. The Higgs Guidance on performance evaluation provides checklist of some of the areas that might be evaluated for Board and individuals, which appears at the end of this article as Annexure.

For corporates which are adopting this concept for the first time as a new concept of undertaking evaluation, it is probably easier to start with the less intimidating task of a Board and committee "process" evaluation rather than going into the individual director's evaluation since tackling the individual evaluation may be much more personal and subjective.

Who would lead the Process of Evaluation?

The Combined Code of UK provides that it is the Chairman's overall responsibility to ensure that an evaluation of the Board, its committees and individual directors is undertaken on an annual basis. In this process, the Chairman should be assisted by the nomination committee, supported by his



Board and company secretary, but in the final analysis, it is the Chairman who will be responsible for identifying the skills base against which the Board is to be judged and it is for the Chairman to set the agenda to ensure that this objective is achieved.

How does the Chairman do it

Before commencing the evaluation process, it is very important for the Chairman to ensure that there is a good degree of "buy in" from all participants - i.e., the members of the Board and committees. The Chairman should obtain general consent for the specific areas of operation / skills to be appraised and a general agreement of the criteria against which these subjects are to be measured. If the evaluation process is undertaken internally, the Chairman perhaps could nominate a lead Board member - a senior non-executive director for that matter - who could be proactively involved - the director could be the director of human resources and / or the company secretary.

On the contrary, if the evaluation process is undertaken through an external source, then, whoever is leading the project would need to demonstrate a good degree of objectivity, understand the objective of the Chairman and help to set an appropriate agenda. Key to the process will be an appreciation of the seniority of the individuals being appraised and an understanding of the hierarchy within the Board; they will need to engender a good degree of trust from all participants to ensure full value is derived from the exercise, which is undertaken.

How to Conduct the Evaluation

None of the regulatory bodies and laws prevalent in any country lay down a system for evaluation as to how to conduct the evaluation. Companies have to evolve a system of their own for evaluation. The Higgs guidance on performance evaluation provides certain guidelines. However, one of the following methods could be adopted for evaluating the performance.

Assessment of the Board / Committee framework

Under this method, a quick assessment could be made with reference to the number of meetings, number of attendances by individual members, the average length of meetings, number of reports received from various parties e.g. Internal audit, number of presentations on special issues of concern and number of reports to the Board from committees and to the management etc.

Productivity measures

Under this method, there is a fairly straight forward examination to ascertain whether the issues that are required by the Board / committee charter are actually discussed - liaison between internal audit and external auditor is part of

None of the regulatory bodies and laws prevalent in any country lay down a system for evaluation as to how to conduct the evaluation. Companies have to evolve a system of their own for evaluation. The Higgs guidance on performance evaluation provides certain guidelines.

the objectives and one can determine whether the topic has actually been discussed and whether the Board / committee itself was aware of issues involved and the potential problems. Finally, the appropriate action taken.

Feedback based

Under this method, the issues relating to governance which are being given greater profile, like more in depth scrutiny, internal control systems, development of accounting policies and procedures, valuation of non current assets, related party transaction, consolidated accounts, taxation issues, liability arising out of those and better external and internal coordination could be considered.

Subjective assessments of issues discussed and activities of the Board / Committees

Under this method, one has to be guided by the Higgs guidance and have one to one dialogue with Chairman and the non-executive director and assess the strength and weaknesses and arrive at a subjective assessment.

Measures impact on areas where benefits are perceived to accrue from Board / Committees

Under this method, one has to actually see the end benefit derived following the resolution from the Board / Committees.

Assessing performance against Board / Committee charter

Under this method, the performance against the agreed charter could be compared and the performance is measured.

Evaluating the Chairman

The Combined Code makes it the responsibility of the non-executive directors to undertake a performance evaluation of



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the Chairman and in this respect the performance of a Chairman will invariably incorporate questions on his leadership and leadership style and the relationships he has with management, shareholders and other stakeholders. In addition, his style of Board management and the role he plays in developing his team should be reviewed.

These evaluation points could as well be applied to the Chairmen of Board Committees. The same observations made concerning subjectivity about the people appraisal can also be applied to the Chairman's evaluation; the larger the number of contributors to this review, the more objective the evaluation becomes.

Again, the less threatening and more objective approach to this may be to issue a questionnaire to at least the non-executive directors and possibly to the whole Board and the senior independent directors to use these responses as the basis for private discussions with the Chairman.

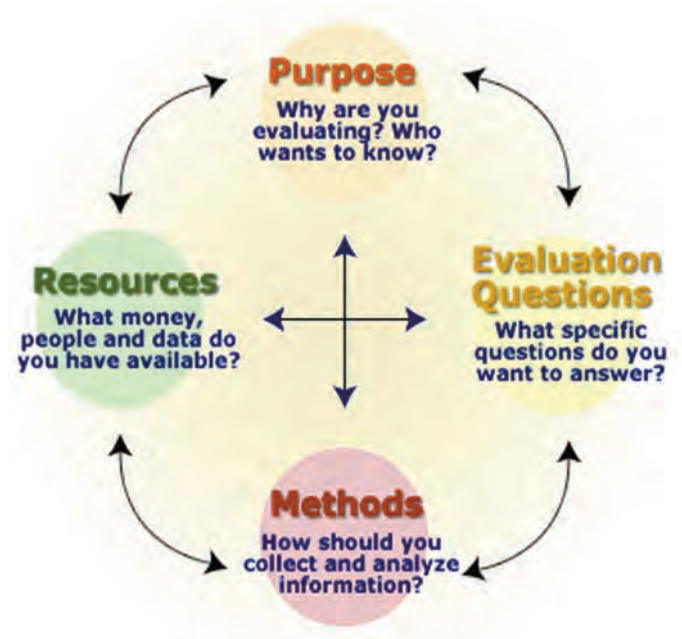
Indian Regulations on this subject

Clause 49 of the Listing Agreement prescribes for the mechanism for evaluation of non-executive directors. This provision as on date is a non-mandatory one prescribed vide Annexure 1C (7) under its head "Mechanism for evaluating non-executive Board Members". The clause further reads that the evaluation is done by a peer group comprising entire Board members and such evaluation process be used for the continuance of the terms of appointment of the non-executive director.

Clause 49 v. Uk Combined Code

Clause 49 of Listing Agreement talks about the evaluation of only non-executive director while the UK Combined Code talks about the evaluation of the entire Board, spelling out, the evaluation of individual director including committees, the performance of the concerned director / Committees and at least the entire Board which is a larger concept. The non-executive directors, led by the independent directors should be responsible for the evaluation of the Chairman taking into account the views of executive directors on the subject matter as envisaged in the UK Combined Code. It is not out of place to mention here that the requirement for performance evaluation was not in the previous Combined Code and this was introduced only in year 2003 following the Higgs Review suggestions for Good Practice. Higgs Guidance suggested Performance Evaluation Guidance as follows: -

- Guidance on performance evaluation
- Performance evaluation of the Board
- Performance evaluation of the non-executive director



The guidance on performance evaluation of Higgs does not go into detail about how to conduct the evaluation process. Rather it does not mention what target measures of performance could be used in the process. The Higgs guidance simply made the following suggestions:

- a. In the annual report, the Board should state how the evaluation was conducted.
- b. The Chairman is responsible for selection of an effective evaluation process and also acting on its outcome.
- c. Evaluation process would be objectively done if an external third party was brought to carry out the process. (This suggestion, indirectly means, there is a risk that the evaluation process would not be objective without the involvement of the assistance of an external agency such as a firm of consultants.)

The revised clause 49 under its heading "IX. Report on Corporate Governance" spells out that there shall be a separate section on Corporate Governance in the annual reports of company. The report should state the detailed compliance report on Corporate Governance. It further says that Non compliance of any mandatory requirement i.e. which is part of the listing agreement with reasons thereof.

The clause further states that the corporate governance report should state the extent to which the non-mandatory requirements have been adopted should be specifically highlighted.



Conclusion

In spite of general acceptance that Board/Committee performance needs to be measured and assessed, very little work has been done in regard to developing robust method of review. The Blue Ribbon Committee, which had made recommendations for audit committee review, came out with ten basic recommendations and the Higgs Guidance suggested only guiding factors in the form of suggested questionnaire. However, recent corporate governance shocks have led to the whole question of corporate governance to be re-examined and as a fall out of this there has been focus on performance measurement of Board / committees in some of the countries.

One can conclude by saying that the review done through "Peer group review mechanism" is one of the scientific ways for appraising the performance of non-executive / independent directors. This process of critical analysis of the performance of non-executive / independent directors will not only enable the directors to focus more on their areas of weaknesses but it will also build on their strengths enabling them to add value to the company and thereby to the shareholders in enhancing the value creation.

ANNEXURE

Performance Evaluation Guidance (Higgs Guidance)

Guidance on performance evaluation

The Code provides that the Board should undertake a formal and rigorous evaluation of its own performance and that of its committees and individual directors. Individual evaluation should aim to show whether each director continues to contribute effectively and to demonstrate commitment to the role (including commitment of time for Board and Committee meetings and on other duties). The Chairman should act on the results of the performance evaluation by recognizing the strengths and addressing the weaknesses of the Board and, where appropriate, proposing new members be appointed at the Board or seeking the resignation of directors. The Board should state in the annual report how such performance evaluation has been conducted.

It is the responsibility of the Chairman to select an effective process and to act on its outcome. The use of external third party to conduct the evaluation will bring objectivity to the process.

The non-executive directors, led by the senior independent director, should be responsible for performance evaluation of the

The ultimate motivation for a company should be the expectation of improved functionality; this could be improved performance of individual directors through identifying potential weaknesses which can be addressed through additional training where required; or it could be an improvement in the way in which the Board or a committee operates, by a change in administrative procedure.

Chairman, taking into account the views of executive directors. The evaluation process will be used constructively as a mechanism to improve Board effectiveness, maximize strength and tackle weaknesses. The results of Board evaluation should be shared with the board, as a whole while the results of the individual assessments should remain confidential between the Chairman and the non-executive director concerned.

The following are some of the questions that should be considered in a performance evaluation. They are, however, by no means of definitive or exhaustive and companies will wish to tailor the questions to suit their own needs and circumstances.

The response to these questions and others should enable Boards to assess how they are performing and to identify how certain elements of their performance areas might be improved.

Performance evaluation of the Board

- How well has the Board performed against any performance objective that has been set?
- What has been the Board's contribution to the testing and development strategy?



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- What has been the Board's contribution to ensuring robust and effective risk management?
- Is the composition of the Board and its committees appropriate, with the right mix of knowledge and skills to maximize performance in the light of future strategy? Are inside and outside the Board relationships working effective?
- How has the Board responded to any problem or crises that have emerged and could or should these have been foreseen?
- Are the matters specifically reserved for the Board the right ones?
- How well does the Board communicate with the management team, company employees and others? How effectively does it use mechanism such as the AGM and the annual report?
- Is the Board as a whole up to date with latest development in the regulatory environment and the market?
- How effective are the Board's committees {specific questions on the performance of each committee should be included such as, for example, their role, their composition and their interaction with the Board}

The processes that help underpin the Board's effectiveness should also be evaluated. For example:

- Is appropriate, timely information of the right length and quality provided to the Board and its management responsive for clarification or amplification? Does the Board provide helpful feedback to management on its requirements?
- Are sufficient and committee meetings of appropriate length held to enable proper consideration of issues? Is time used effectively?
- Are Board procedures conducive to effective performance and flexible enough to deal with all eventualities?

In addition, there are some specific issues relating to the Chairman which should be included as part of an evaluation of the Board's performance e.g.:

- Is the Chairman demonstrating effective leadership of the Board?
- Are relationships and communication with shareholders well managed?
- Are relationship and communications within the Board constructive?
- Are the processes for setting the agenda working? Do they enable Board members to raise issues and concerns?
- Is the company secretary being used appropriately and to maximum value?

Performance evaluation of the non-executive director

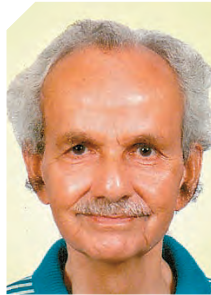
The Chairman and other Board members should consider the following issues and the individual concerned should also be asked to assess themselves. For each non-executive director:

- How well prepared and informed are they for Board meetings and is their meeting attendance satisfactory
- Do they demonstrate a willingness to devote time and effort to understand the company and its business and a readiness to participate in events outside the Boardroom such as site visits
- What has been the quality and value of their contribution at Board meetings
- What has been their contribution to development of strategy and to risk management
- How successfully have they brought their knowledge and experience to bear in the consideration of strategy
- How effectively have they probed to test information and assumptions? Where necessary, how resolute are they in maintaining their own views and resisting pressure from others
- How effectively and proactively have they followed up their area of concern
- How effective and successful are their relationship with fellow Board members, the company secretary and senior management? Does their performance and behavior engender mutual trust and respect within the Board
- How actively and successfully do they refresh their knowledge and skills and are they up-to date with
 - ◆ the latest developments in areas such as corporate governance framework and financial reporting
 - ◆ the industry and market conditions
- How well do they communicate with fellow Board members, senior management and others, for example shareholders? Are they able to present their views convincingly yet diplomatically and do they listen and take on Board the views of others?



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SAT's Observations on Directors' Responsibilities

Recently, under the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, the Managing Director of a company was held liable though he did not attend three consecutive meetings of the Board and he ceased to be the director and had also resigned from the Board. To some of the observations made by the SAT, in this case, the writer offers his views and comments.

The judgement of Securities Appellate Tribunal (SAT) in the matter of *Ashok Kumar Mishra v. Securities and Exchange Board of India** makes the following interesting observations / posers:

- i) When does a M.D. cease to be a director - the date of actual tendering his resignation, the date of its acceptance (by whom?) or after the third Board meeting he does not attend;
- ii) Can the M.D. be held responsible for all the false and misleading advertisements that are issued to the Press, particularly in the light of the term of his appointment. (In this instant case, "to manage the company and control the Board of directors;"
- iii) Companies sometimes issue advertisements



*Gist of the Ruling is published in January 2011 issue of Chartered Secretary at page 55.



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SAT's Observations on Directors' Responsibilities



only to influence the price of its scrip as a result whereof the trading volume increases immensely. The promoters/directors offload their own shares after the advertisements/notices are published in the press; and

- iv) The unpardonable delay between the institution of the original case and the date of the judgement of SAT. It is correctly said that justice delayed is justice denied.

The writer gives below his comments on the above observations and posers, *seriatim*.

i) Date of Cessation of the office of Director

Section 283 (g) of the Companies Act (the Act) states that "the office of a director shall become vacant when he absents himself from three consecutive meetings of the Board of directors, or from all meetings of the Board for a continuous period of three months, whichever is longer, without obtaining leave of absence from the Board".

Interestingly Clause 148 (b) of the Companies Bill, now before Parliament, stipulates that "the office of a director shall become vacant, *inter-alia*, when he absents himself from all meetings of the Board of directors held during a period of 12 months with or without seeking leave of absence from the Board".

This provision to bail out directors for long absence from their meetings has been explained in Clause 149 (2) - "the resignation of a director shall take effect from the date on which the notice is received by the company or the date, if any, specified by the directors in the notice, whichever is later". Incidentally this 'innovation' was being recommended by this writer for the past many years, to avoid any dispute as to when a director's resignation becomes effective - the date of the letter, the effective date mentioned in the letter or the date of the resolution of the Board accepting the resignation.

In the instant case it has to be seen whether the only defence sought by the appellant that he had resigned as M.D. of the Company after 30/6/2002 and that he was not a party to any decision taken by the company with effect from this date. The easiest method to prove this is to find whether the company had advised ROC and the members about this important change. It is surprising that while entering into this controversy on the alleged resignation, SEBI did not ask for copies of the statutory forms supposed to be filed with ROC; the appellant also did not volunteer this information. If it has not been filed, the Company (meaning its Board) could have been hauled up! If filed there would have been no dispute about the date of cessation.

The background for a provision to grant leave of absence can be traced to those days when many of the companies were foreign-owned and a majority of the directors were foreigners. There was no fast air service and long sea voyages to and fro used to take up a significant part of the leave. During this period when Board meetings had to be held, these directors could not be present and to preempt their disqualification due to non-participation, this escape route was provided.

ii) Responsibility of the Managing Director *vis-a-vis* The Board of Directors

This is the second poser. The term of appointment of the Managing Director is said to include "to manage the company and to control the Board of Directors". This writer has thought and thought and is still at a loss to understand the implication of the term, 'to control the Board'. Can he be compared to a Prime Minister in a cabinet system of Government? His influence and in turn his powers as we have seen from recent developments in our country is not unlimited. He has to listen to his party's dictate, pamper his



colleagues but unfortunately he and he alone is responsible for any misfeasance.

SAT has held in the instant case that he has to be held responsible for all misfeasance - in this particular instance for all false and misleading advertisements issued in the Press. If the M.D. was not a party to any decision he thought was not legal, he should have, as rightly pointed out by SAT, come out with a disclaimer, particularly to Stock Exchanges.

It is also pertinent to refer to section 2 (26) of the Act "managing director means a director, who, by virtue of an agreement with the company or of a resolution passed by the company in general meeting or by its Board of directors or, by virtue of its memorandum or articles of association, is entrusted with substantial powers of management (Amendment Act 1960) which would not otherwise be exercisable by him and includes a director occupying the position of a managing director, by whatever name called".

The dictionary meaning of the term 'manage' is "be in charge of, run, supervise, staff, et al".

iii) Misleading Advertisements

The above third poser is very important and topical. In the instant case SAT has rightly held that the company never intended to issue bonus shares though the statutory resolutions were passed by the Board and at the Annual General Meeting. The resolutions were passed and the advertisements issued only to influence the price of the script as a result whereof the trading volumes increased immensely. It is also admitted by the parties appearing before us that the promoters of the company offloaded their shares soon after the advertisements/notices were published in the press.



Managing director means a director, who, by virtue of an agreement with the company or of a resolution passed by the company in general meeting or by its Board of directors or, by virtue of its memorandum or articles of association, is entrusted with substantial powers of management (Amendment Act 1960) which would not otherwise be exercisable by him and includes a director occupying the position of a managing director, by whatever name called.

There is no escape for the Managing Director from this misdemeanor.

iv) Unpardonable Delay

The last poser and in the writers opinion (with which he will conclude his article) is the long delay between the issue of bonus shares in June/July 2002 and the date of SAT's order dated 15/11/2010. It is a truism that "justice delayed is justice denied". Much has been said on this unhappy situation. It was recently reported that the backlog in Madras High Court could be brought down considerably if the number of actual judgements is equal to the sanctioned quota!

This writer will hold the fourth poser as the most important in that company secretaries in service should not fudge information that they know is not genuine. They should not fall prey to cajolery or threat, but should be true to their profession and to ICSI by sticking to the correct stand. This writer remembers an instance in his professional career that though he questioned the correctness of an advertisement supposed to go under his signature, the directors went ahead, even showing that this had been signed by him. For him there was no other honourable alternative but to resign, though in the process he had to bear considerable pecuniary loss! ■



Articles

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Nominee v. Heir

The controversial question as to whether it is the nominee or the legal heir who is entitled to receive the property of a deceased has cropped up before courts time and again and yet the controversy remains unsolved. This article calls for conceptual clarity on the rights of the nominee *vis-à-vis* the legal heir.

The law as it is, the law as laid down and the law as it ought to be are the three situations which need be comprehended, segregated and delineated for correctly understanding the concept of Nominee and Heir and their respective status. The "Nominee" is required to be there under several statutes viz. Insurance Act 1938, Employees Provident Fund (MP) Act 1952, Banking Regulations Act 1949 and other Debt, Financial and Monetary laws including Government Saving Certificates Act 1959 etc. and very often he is not heir apparent. Our Supreme Court usually plays a role of crucial differentiator when the meanings of two words is ostensibly identical and overlap each other.

For quite some time there crept in an erroneous conception holding ground that a nominee under Section 39 of the Insurance Act 1938 got an

absolute right to the amount due under a Life Insurance Policy on the death of the assured and that the language of Section 39 looked like altering the course of succession law in the given circumstances of a particular case. This view was more or less propounded by the decisions of Allahabad High Court in *Kesaridevi v. Dharma Devi* AIR 1962 All.355 and the two decisions of Delhi High Court in *S.Fauza Singh v. Kuldeep Singh* AIR 1978 Delhi 276 and *Mrs. Uma Sehgal v. Dwarka Das Sehgal* AIR 1982 Del. 36 etc. Apparently this view lacked





strategic thinking and critical analysis of the legal position and it was difficult to swallow the salt of these decisions.

Then there was a contrary view as well that the nominee under Section 39 of the Insurance Act 1938 was nothing more than an agent to receive the money due under a Life Insurance Policy and that the money remained the property of the assured during his lifetime and on his death formed part of his estate subject to the law of succession applicable to him. This view was expressed in the cases of *Raballav Dhandharia v. Gangadhar Nath Mall*. AIR 1956 Cal 275, *Life Insurance Corporation of India v. United Bank of India Ltd*. AIR 1970 Cal. 513, *D. Mohan navelu Mudaliar v. Indian Insurance & Banking Corporation Ltd*. AIR 1957 Mad 115, *Sarojini Amma v. Neelkanth Pillai* AIR 1961 Ker. 126 and *Atma Ram Mohanlal Panchalv. Gunvanti Ben* AIR 1977 Guj. 134.

It could therefore be observed that most of the High Courts took a view that a "nominee" is only an agent to receive the money. However, as referred hereinabove the Allahabad High Court in *Kesari Devi v. Dharmesh Devi* and the Delhi High Court in *Fauja Singh v. Kuldeep* and *Uma Sahgal v. Dwarak Das Sahgal* took a different view but this anomalous position was resolved by the Supreme Court in the case of *Sarbati Deviv. Usha Devi* (1984) 1 SCC 424. In this *Sarbati Devi's* case the Supreme Court referred to the full bench decision of Allahabad High Court in *Raja Ram v. Mata Prasad* AIR 1972 All. 167 and observed that Allahabad High Court itself did not take into consideration the *ratio decidendi* in *Raja Ram's* case while dealing with the case of *Kesari Devi*. The Apex court was of the view that *Raja Ram's* case correctly interpreted Section 39 of the Insurance Act and that this case must have set at rest the doubts that were created by *Kesari Devi's* case about the true import of Section 39 of the Act.

We now therefore have three cases of the Apex Court that is the case of *Sarbati Devi* as referred above, *Vishin N. Khanchandani & another v. Vidya Lachmandas Khanchandani & anr.* (2006) 6 SCC 724 and *Ramchandra Talwar & another v. Devendra Kumar Talwar & others* (2010) 10 SCC 671. These decisions are more or less identical so far as the proposition that a nominee would only be an agent to collect the money and that no substantive right would vest in him in the money that he would collect. The case of *Vishin N. Khanchandani* very elaborately discussed the pros and cons of this proposition. Commenting on the judgement of Delhi High Court in *Uma Sahgal's* case the court observed that the Delhi High Court concluded that the nominee had no right in the lifetime of the assured to the amount payable under the policy and that his right would spring up only on the death of the assured. However, the Delhi High Court having reached to this conclusion did not proceed to examine the possibility of an existence of a conflict between the law of succession and the right of the nominee under Section 39 of the Insurance Act. The Delhi High Court did not say anything



as to which of the two would prevail in the event of the conflict. The High Court erroneously equated a nominee to the heirs and legatees of the assured and proceeded to hold that the nominee succeeded to the estate with "all "plus" and "minus" points". The Delhi High Court did not properly appreciate the two decisions of Madras High Court of *Karuppa Gounder and Mundkar's* case.

In the case of *Ram Chandra Talwar* the Supreme Court very elaborately and pointedly referred to Sub-section 2 of Section 45-ZA of the Banking Regulation Act, 1949. In this Section it is mentioned that in respect of deposits where a nominee made in the prescribed manner purports to confer on any person the right to receive the amount of deposit from the banking company, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of sole depositor or as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner. On this *non obstante* provision a dubious logic was advanced and it was contended that it excluded all persons including legal heirs of the deceased depositor to claim any right over the subject amount but Supreme Court conceived such a submission as quite fallacious being based on a complete misconception and held that this provision merely put the nominee in the shoes of the depositor after his death and clothed him with the exclusive right to receive the money lying in the account. It gave him all the rights of the depositor so far the depositor's amount was concerned, but the court observed that by no stretch of imagination it made the nominee the owner of the money lying in the account. Imperceptibly the court felt that in the event of apparent



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Nominee v. Heir

The Apex Court has by now and by a series of decisions demolished the old judicial distortions attached to the concept of nominee by according a practical and functional approach. The exponents of the present days jurisprudence refuse to take a limited version of justice which is dangerously narrow and try to look at a concept without any passion, prejudice or predilections and all objectively.

conflicting view of such provision, we should fall on the aim and object of the particular enactment for resolving the same and when we view the Banking Regulation Act 1949, we find that this enactment was meant to consolidate and amend the law relating to Banking and it was nowhere concerned with the question of succession. All the moneys receivable by the nominee by virtue of Section 45-ZA (2) would, therefore, form part of the estate of the deceased depositor and devolve according to the rule of succession to which the depositor might be governed. In the circumstances Section 6(1) of the Government saving Certificates Act, 1959 is also materially and substantially the same as the provisions of Section 45-ZA (2) of the Banking Regulation Act, 1949.

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of nominee by according a practical and functional approach. The exponents of the present days jurisprudence refuse to take a limited version of justice which is dangerously narrow and try to look at a concept without any passion, prejudice or predilections and all objectively.

With this general perception of the concept I would now cursorily glance at the concept of nominee *vis-à-vis* other statutes i.e. EPF Act, 1952 and Companies Act, 1956. Sub-para 3 of Para 63 of the EPF Scheme, 1952 provides that if a member has a family at the time of making a nomination the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by such member in favour of a person not belonging to his family shall be invalid. Then very recently the Bombay High Court in the case of *Antonio Joao Fernandes v. APFC Panji Goa & ors.* 2010 (4) LLJ 460 referring to various cases held that under Employees Provident Fund & Misc. Provisions Act, 1952–Section 2(1) and Employees Provident Fund Scheme, para 61 that on nomination of PF amount, the nominee has no title and that persons entitled to succeed on heirs under law of succession are entitled to entire amount of PF of deceased, to the exclusion of nominee. There had been difference of opinion among various High Courts whether the nominee got the amount standing to credit of the deceased employee under EPF Act, 1952 to the exclusion of other heirs but this Bombay High Court case has taken care of this controversy and set at rest the conflict of opinion.

The law relating to nomination of shares is set out in Section 109-A of the Companies Act, 1956 pursuant to the amendment which became effective from 31.10.1998. Now Section 109-A sets out the rights of the holder of shares to nominate as well as the rights of the nominee. The Bombay High Court in the case of *Harsha Nitin Kokate v. Saraswat Co-operative Bank Ltd.* (2010) 5 Taxmann Com.43 (Bom) interpreted Section 109-A of the Companies Act and ruled that the rights of a nominee to shares of a company would override the rights of heirs to whom property may be bequeathed but in view of the Supreme Court case of *Sarbati Devi* and subsequent other cases it is doubtful whether this case of Bombay High Court would hold ground whether nomination under the Companies Act would give ownership rights. The Bombay High Court's main premise of nomination under Section 109-A has a reference to the provisions of the Depositories Act, 1996 which could be a salient feature of this case.

It is, therefore, submitted that some sincere efforts have been made herein to reconcile various view points on the concept of nominee and his rights *vis-à-vis* the legal heirs and conceptually clear concept is made available after analyzing summarily the available case law and it is concluded that the nominee is simply a collector of money and none else. ■





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Art of Preparing Annual Reports A Global Overview

This Article deals primarily with the art of preparing annual reports from an international perspective by way of elucidating the core objectives and the key principles of annual report preparation, typical contents of the annual reports, expectations of the stakeholders, emerging new concepts in presenting the required information in the annual reports from a global perspective.

INTRODUCTION

Reporting to the shareholders is now at the centre stage of reforms and is an important activity on the part of the management of the company. The reporting requirements are partly driven by regulatory provisions and primarily driven by the corporate culture / interest of the professional managements in disclosing the required information to the shareholders. Recent developments in corporate financial reporting indicate a greater emphasis on better voluntary disclosures by the companies regarding their performance and state of affairs.

The quality and the transparency with which such disclosures are made in the Annual Reports enhance the comfort and the credibility of the Reporting Entity. The expectations of the readers of the Annual Reports have increased over a period of time past and professional managements are making their best

efforts to meet those expectations by way of making the Annual Reports more educative and exhaustive.

Core Objectives of Reporting to Shareholders

An essential element in the implicit agreement between a company and an investor is that the investor will receive meaningful information on how the company they invested in is progressing. This obligation is expected to be substantially discharged through Annual Reports.

Keeping the above spirit of preparing the annual reports, there are three general components that need to be ensured in Reporting to the Shareholders, namely,

- Overview, objectives and highlights of the entity
- Review of the entity's operations or activities
- Details and analyses of the entity's financial performance/position and its relationship with its various stakeholders.



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The above can be set out in various ways, depending on the nature of the business and the industries in which the company operates. The layout chosen, however, should have regard to the reporting principles set out above and the needs and expectations of shareholders.

Keeping the above in mind, there could be several objectives associated with the reporting to the shareholders. Some of the significant objectives are discussed below:

- To educate and inform shareholders (potential as well as current). This would include all matters of relevance to shareholders in their position as ultimate owners.
- To impart unbiased knowledge about the organization in an informative, structured and cost-effective manner.
- To report on the stewardship of the company by the directors and management over the previous year
- To document the effectiveness of the accountability
- To report on performance during the period under review and put that performance in context
- To explain the objectives of the company and to Outline strategy and future direction
- To fulfill legal and regulatory responsibilities

The key message from the above explanation is that the primary purpose of annual reports is accountability, particularly to shareholders. The most important factor is sharing of information and developments in the company and industry, with the investors and others to establish and maintain corporate democracy.

OECD Principles of Corporate Governance

Organization for Economic Cooperation and Development (OECD) has issued certain principles to evaluate and improve the legal, institutional and regulatory framework for corporate governance in countries and to provide guidance and suggestions for stock exchanges, investors, companies, and

A recent study by an international agency found that companies have two main reasons for producing an annual report. The first is to meet the government's regulatory requirements. The second is to market the company to key stakeholders.

other parties that have a role in the process of developing good corporate governance. One of the key principles related to Disclosure and Transparency is that the corporate governance framework should ensure that timely and accurate disclosure is made on all material matters regarding the company, including the financial situation, performance, ownership, and governance of the company.

According to these principles, information should be prepared and disclosed in accordance with high quality standards of accounting and disclosure of financial and non-financial information. The disclosure should include, but not be limited to, material information on:

- The financial and operating results of the company
- Company objectives
- Major share ownership and voting rights
- Remuneration policy for members of the Board and key executives, and information about Board members, including their qualifications, the selection process, other company directorships and whether they are regarded as independent by the Board
- Related party transactions
- Foreseeable risk factors
- Issues regarding employees and other stakeholders
- Governance structures and policies, in particular, the content of any corporate governance code or policy and the process by which it is implemented

United Nations (UN) Guidance on Good Practices in Corporate Governance Disclosure

The United Nations has published Guidance on Good Practices in Corporate Governance Disclosures on the basis of a consultative process and Inter Governmental Working Group of Experts of International Standards of Accounting and Reporting (ISAR) deliberations in this area and there is an updated version also of the UNCTAD 2002 report "Transparency and Disclosure Requirements for Corporate Governance" (TD/B/COM.2/ISAR/15). Some of the significant disclosures dealt with in this Guidance document are given below:



Financial disclosures

- Enterprises should disclose their financial and operating results
- The board's responsibilities regarding financial communications should be disclosed
- Enterprises should fully disclose significant transactions with related parties

Non-Financial Disclosures

- The objectives of the enterprise should be disclosed
- The beneficiary ownership structure should be fully disclosed to all interested parties. Changes in the shareholdings of substantial investors should be disclosed to the market as soon as a company becomes aware of them
- Rules and procedures governing the acquisition of corporate control in the capital markets and extraordinary transactions such as mergers and sales of substantial portions of corporate assets should be disclosed.
- The structure, role and functions of the Board
- The Board's role and functions must be fully disclosed
- Ethics policy and support structure
- Duties and qualifications of the Board and key executives
- The Board should disclose whether it has a performance evaluation process in place, either for the board as a whole or for individual members. Disclosure should be made of how the board has evaluated its performance and how the results of the appraisal are being used.
- Directors should disclose the mechanism for setting directors' remuneration and its structure.
- The Board should disclose whether it has established a succession plan for key executives and Board members to ensure that there is a strategy for continuity of operations.
- Conflict of interest affecting members of the Board should, if they are not avoidable, at least be disclosed. The Board of directors should disclose whether it has a formal procedure for addressing such situations, as well as the hierarchy of obligations to which directors are subject.
- The Board should disclose whether there is a mechanism protecting the rights of other stakeholders in a business. The role of employees in corporate governance should be disclosed.
- The Board should disclose its policy and performance in connection with environmental and social responsibility and the impact of this policy and performance on the company's sustainability. The Board should give appropriate disclosures and assurance regarding its risk management objectives, systems and activities.
- The Board should disclose existing provisions for identifying and managing the effects of risk bearing activities. The board should report on internal control systems designed to mitigate risks. Such reporting should include risk identification mechanisms.
- The Board should disclose that it has confidence that the

external auditors are independent and their competency and integrity have not been compromised in any way. The process for the appointment of and interaction with external auditors should be disclosed. Enterprises should disclose the scope of work and responsibilities of the internal audit function and the highest level within the leadership of the enterprise to which the internal audit function reports. Enterprises with no internal audit function should disclose the reasons for its absence.

According to the UN Guidance, all material issues relating to corporate governance of the enterprise should be disclosed in a timely fashion. The disclosure should be clear, concise and precise and should be governed by the "substance over form" principle. Where there is a local code on corporate governance, enterprises should follow a "comply or explain" rule whereby they disclose the extent to which they followed the local code's recommendations and explain any deviations. Where there is no local code on corporate governance, companies should follow recognized international good practices.

Key Reporting Principles

Based on the international practices/guidance available, some of the key reporting principles to be kept in mind at the time of reporting to the shareholders are summarized below;

- ◆ **Consistency**
The reporting format should be consistent so that shareholders are able to make easy comparisons with reports from prior periods. But consistency should not mean that the reporting and business developments, which could improve the effectiveness of the reporting format, should be overlooked.
- ◆ **Demonstration of Company's Confidence**
The entity should use its objectives and strategy to underpin its reporting and providing the context for its activities and performance. Strategic statements set in isolation from the rest of the reporting can appear as hollow statements of intent. The Reporting document should contain really good discussions to clearly demonstrate that those running the entity know what is important to their company. Poorly managed companies would not have that level of confidence.
- ◆ **Focus on Significant Matters**
Key information and messages can get lost in the volume of data and the use of jargon. The Reporting document should help the reader to understand key strategic messages and to navigate easily through the report by using clear and consistent headings along with tables and charts.



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Most of the disclosures in the annual reports are governed by the regulatory requirements of the respective countries and the trend of providing newer / innovative information / analysis to the Stakeholders, *suomoto*, by the professional managements of the corporates is also on the rise.

- ◆ **Bridge the GAAP**

Whenever the reporting document contains non-GAAP disclosures, the reader should easily identify which are the non-GAAP numbers and it should always be reconciled to GAAP disclosures. Further, clear definitions of the terms used in non GAAP disclosures should be used.

- ◆ **Reporting is not a Kitchen Sink**

The reporting document should not contain anything and everything without any prioritization, assessment of its importance, etc. Mixture of irrelevant information just to fill the pages would serve no purpose.

- ◆ **Clarity**

The report should be written in plain English with a simple layout so that key messages are readily identified. This should be the norm for any kind of reporting to the shareholders.

- ◆ **Specific/Straight Forward**

While preparing the annual reports, the contents should be written on the assumption that shareholders are not industry or finance specialists. Many times, the information presented in the annual reports are presented in a complex manner making it difficult for the shareholders to understand. Narratives should be concise and to-the-point, although this does not mean leaving out important material in order to meet any specific length limit.

- ◆ **Disclose when you are in Doubt**

Transparency is the fundamental principle to be kept in mind while reporting to the shareholders. If there are significant reportable items which are not clear and subject to interpretations, it is always better to disclose the same with the logic/justification for the position adopted by the Company rather than not disclosing the same.

Contents of Annual Report

An annual report is a comprehensive report on a company's activities throughout the preceding year. Annual reports are intended to give shareholders and other interested people information about the company's activities and financial performance. Most jurisdictions require companies to prepare and disclose annual reports, and many require the annual report to be filed at the company's registry. Companies listed on a stock exchange are also required to report at more frequent intervals (depending upon the rules of the stock exchange involved).

According to the US SEC, the annual report to shareholders is the principal document used by most public companies to disclose corporate information to their shareholders. It is usually a state-of-the-company report, including an opening letter from the Chief Executive Officer, financial data, results of continuing operations, market segment information, new product plans, subsidiary activities, and research and development activities on future programs.

The Annual Report sent to the Shareholders once in a year in India contain the Directors Report, Management Discussion & Analysis, Auditors' Report and Financial Statements. Further, various entities also provide additional details such as the Company's Historical Performance, Report on Current and Future Operations, Compliance with Corporate Governance Principles and Practices, Report on Corporate Social Responsibility Activities, Shareholder Information etc.

A recent study by an international agency found that companies have two main reasons for producing an annual report. The first is to meet the government's regulatory requirements. The second is to market the company to key stakeholders.

Keeping all the above in mind, the contents of a typical annual report would include:

- Chairperson's Report
- CEO's Report
- Directors Report
- Auditor's Report on Corporate Governance
- Corporate Governance Statement of Compliance
- Statement of Directors' Responsibilities
- Letter to the Shareholders

The annual report should contain financial statements including:

- Auditor's report on the financial statements
- Balance sheet
- Statement of retained earnings
- Income statement
- Cash flow statement
- Notes to the financial statements & Accounting policies

The details provided in the report are of use to investors to understand the company's financial position and future direction. The financial statements are usually compiled in



compliance with IFRS and/or the domestic GAAP, as well as domestic legislation.

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In addition to the statutory disclosures, there are several voluntary disclosures which could be seen in the modern annual reports of major companies. This is the outcome of voluntary effort on the part of companies to educate the shareholders and to give a better insight of the management, operations, economy and prospects of the company.

What do the different stakeholder groups want from the Annual Report?

The varied and diverse groups such as investors, government, industry, community, employees, customers, vendors, analysts, and media are all interested in very different aspects of a company. Each group will want to see its own interests are reflected in the annual report. A series of polls carried out by an international agency recently asked people what factors they considered most important when making a judgment about a company. It is found that different groups of people thought very different things were important. Some of such items noted in the survey are given below;

Financial Performance
Treatment of Staff
Customer Service
Quality of Management
Image and Reputation
Quality of Products
Social Responsibility
Corporate Strategy
Market Share
Accessibility/openness to Enquiries
Honesty/Integrity
Long Established
Valuation
Cashflow
Sector/Industry in which they operate
Environmental Responsibility

For companies, the primary stakeholder group is overwhelmingly the existing shareholders and potential investors. What do these people want from an annual report? Some of the views of the investors/shareholders during the survey are given below;

- "We want a document that presents a good investment

case, details of the business drivers and strategy put in the context of the marketplace, and a description of any risk factors that might face that company."

- "Investors want an open, frank, honest view of the company and evidence that it is well managed."
- "Critical are accurate figures, accessibility and reliability, as well as material that is well sign posted and which hangs together coherently."
- "Too much narrative dilutes the message."
- "PR spin... glossy pictures ... detract the annual report."
- "I detest reports that waste pages on environmental garbage. Environmental statements are all the rage but ... it's not useful or meaningful information. CSR statements are often bland and meaningless."

Corporates try their level best to meet the above expectations of their primary stakeholders, but at the same time they include material to meet the needs of customers, employees and media audiences. Some of the key Comments from Corporates arising out of the survey are as under;

- "We use the annual report as an advertising medium for our products. We focus on the brands and on the new collections."
- "The annual report ... forms a branding exercise also."
- "The Report and Accounts tries to be so many things to so many people. It is often the main marketing document for the Group, but it is also a statutory document."
- "We attempt to give a full and frank overview. Our report and accounts now run to several pages, very lengthy."
- "The Report and Accounts tries to be so many things to so many people. Hence it clearly will not fulfill all of those roles as well as it might."

The users of the annual reports look out for quality information and information that matches their expectations. The problem for most users is that they usually have inadequate or incomplete information about the companies they have invested in to manage the ever changing dynamics of the current global economic situation. What makes things worse is that past financial performance - as every investor will tell you - is not the only guide to future returns. The annual report has a far more positive role to play in the whole process of governance and accountability. If companies are to fulfill both their legal and wider communications responsibilities effectively, they need to be very clear about their objectives. They also need to understand where the annual report fits as part of their total communications approach.

Successful companies meet the objective of managing the expectations by having the strong relationships with customers, suppliers, staff, shareholders, and society and with the leadership that aligns them to a common purpose.

The annual report cannot and should not focus on every single issue that is relevant to every single stakeholder. The annual report should focus on the issues that are material to the



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business as a whole, and bring them together in a single, coherent story. It should reveal the 'value proposition' of the total business. Communications and accountability are the hallmarks of good leaders, and that is the role of the annual report: to summarise all the critical issues that affect the success of the business, explain how they have created the past year's results, forecast how they might plan out in the future, and explain what is being done to ensure the company's future success in that environment.

New Concepts in Reporting to the Shareholders

The economic crisis was a sharp reminder that financial measurement alone cannot provide sufficient insight into business performance. Investors - and other stakeholders - are now demanding that management teams provide clear, unambiguous information about issues such as external drivers affecting their business, their approach to governance and managing risk, and how the business model really works.

Some of the emerging concepts where more and more disclosures are appearing in the Annual Reports globally are detailed below;

Corporate Governance

In brief, Corporate Governance denotes voluntary ethical code of business and management of companies. It aims to maximize the effectiveness and accountability of the Board of Directors. Corporate Governance deals with terms, procedure, practices and implicit rules that determines a company's ability to take managerial decisions to maximize long term shareholders value and also to take care of all other shareholders in the enterprise.

Investors want to be assured about a couple of key items: that their money is in safe hands, that the assets they've entrusted are being deployed effectively and with sufficient controls to protect

them from excessive risk. Good corporate governance isn't the pre-definition of roles and responsibilities. It is the very lifeblood of the best companies in the world; it's a way of reporting on business that requires management to "tell it how it is", rather than hiding behind the minimum statutory reporting requirement. Various Regulators have framed certain rules for desirable corporate governance and the Companies globally now have started to disclose the same.

Management Policies & Overview of Company

The current trend in annual accounts is to impart more transparency by disclosing various corporate and management objectives and policies, profile of the company and analyses of financial conditions and prospects. Some major heads are:

- Products and Product Range
- Area of Specialization
- Customers Profile and Market Stage
- Competitors
- Future Plans, Trends and Goals
- Financial Condition and Analysis
- Government Policy
- Risks and Threats

Sustainability Reporting

In these days, the stakeholders are pushing for information about companies' sustainability performance and it has become a real challenge for companies to respond efficiently and effectively. For multinational companies, it is also a challenge to report information that is based on consistent data from across the organisation. Ideally, reporting on sustainability is integrated into a single integrated report that communicates every aspect of a company's performance.

Organizations can improve their sustainability performance by measuring, monitoring and reporting on it, helping them to have a positive impact on society and the economy and thereby, ensure a sustainable future for the company. Effective sustainability reporting is a powerful part of communicating with stakeholders about how you are performing against your objectives. Companies that embrace this are likely to have an advantage over their competitors and boost value for shareholders.

The concept of accounting and disclosure of environmental matter has been rapidly emerging as an important dimension in corporate reports particularly in manufacturing organisation. Ecological balance sheets could become a part of the annual reports in the coming decades.

Corporate Social Responsibility

There is growing attention on what contribution companies are making to our society and that negative perceptions can have a dramatic impact on the business and its reputation. Corporate social reporting is a new achievement to discharge the social obligations of the Corporates. The Directors' Report discharge this obligation in some of the cases, by briefly touching upon the

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issues related to the social responsibilities. However, recent developments include new financial reporting tools like Social Income Statement, Social Balance Sheet and Corporate Social Report. It is worth noting that in several countries Regulators are making the Corporate social Responsibility a mandatory activity on the part of the Companies.

Economic Value Added (EVA)

Traditional approaches to measure 'Shareholders Value Creation' have used parameters such as earnings capitalization, market capitalization and present value of future cash flows. Extensive equity research has now established that it is not earnings per share, but value which is important. EVA is a new concept being applied to understand and evaluate financial performance.

EVA is residual income after charging the company for the cost of capital provided by lenders and shareholders. In other words, EVA represents the Value Added to the shareholders by generating operating profits over and above the cost of capital employed in the business. It is those companies which earn higher returns than cost of capital that create value. Companies which earn lower returns than cost of capital are destroyers of shareholder value.

Brand Valuation

A balance sheet discloses the financial position of a company which is influenced by the economic sources it controls - its financial structure, liquidity and solvency, and its capacity to adapt to changes in the environment. However, it is becoming increasingly clear that intangible assets have a significant role in the growth of a company, so quite often to search for the value it leads back to understanding, evaluating and enhancing the intangible assets of the business.

A brand is much more than a trade mark or a logo. It is a trust mark of promise of quality and authenticity any person can rely upon. Brand equity is the value addition provided to a product or company by its brand name. It is the financial pursuit that a buyer is willing to pay for the brand over a generic or less worthy brand. It is not created overnight. It is the result of valueless pursuit of quality in manufacturing, selling services, advertising and marketing. Capitalizing the value of a company's intangible

assets on the balance sheet is a recent phenomenon. The task of measuring brand value is a complex one. Several models are available for accomplishing this e.g. brand-earnings multiple model, utility cost method, return on capital method, premium profit methods etc. These models are however, still subject of debate among researchers and using such models and data in predicting the future of any company, is risky, and should be adjudged critically.

Human Resource Valuation

Human resources represent the collective expertise, innovations, leadership, entrepreneurial, professional and managerial skills evolved in the employees of an organization. The non-human asset is reorganized as an asset and is therefore, recorded in the books and reported in the financial statements, whereas human assets are totally ignored by accountants. The fact that intellectual capital is an important and valuable asset has been validly recognized in the recent years.

Conclusion

The expectations of the Stakeholders are increasing every day and thanks to the globalization, the awareness amongst Shareholders has also increased substantially. Given the expectations of the shareholders/ society at large in obtaining more and more information from corporate managements and the complexity associated with some of the information presented in accordance with statutory requirements, the process of annual reporting to the shareholders poses a great challenge to corporate leadership. Preparation of the Annual Reports can no longer be considered as a formality by filling up pages with minimum / irrelevant/ complex information which the readers cannot put it in good use. In line with the shareholders expectations, the corporate sector is also at present moving towards the concept of shareholders education, transparency in disclosures and fulfillment of social obligations. Needless to add that many corporate entities globally have already initiated the required steps in this direction and are setting benchmarks for ensuring enhanced and value added disclosures in their Annual Reports to the Stakeholders.

If the annual reports are prepared keeping in mind the statutory requirements, emerging global trends of providing enhanced/ qualitative disclosures by making it more educative and informative and by maintaining the core principle of transparency, it would go a long way in building confidence in the minds of the Shareholders and other stakeholders. ■

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Understanding Peer Review Methodology with Focus on Efficient Administration of the office of a Practising Company Secretary

The previous article of the authors was aimed at providing an overview of the Guidelines issued by the Institute. This article strives to explain the peer review methodology and the office systems and procedures vital for an efficient administration of Practising Company Secretary's (PCS) office.

The issue of Guidelines for Peer Review of Attestation Services by Practising Company Secretaries ("the Guidelines") by the Institute of Company Secretaries of India ("the Institute") is an exemplary step towards maintaining and enhancing the quality of attestation services rendered by the members of the Institute in practice. These Guidelines shall act as a mechanism to uphold the standards of the profession and instil a sense of greater trust and confidence in the eyes of the various stakeholders.

We know that the process of peer review encompasses an examination and review of the systems, procedures and practices by a Peer

Reviewer 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.

Peer Review Methodology

The methodology of conducting a Peer Review consists of four stages, namely, preparation, planning, execution and reporting as explained below:

Stage I - Preparation

Embarking on a peer review, this stage includes selection of a Practice Unit for conducting peer review, notification of an impending review to the Practice Unit, the appointment of a Reviewer and intimation of his appointment.

(a) Notification to the Practice Unit:— A Practice Unit which has been selected for a Peer Review will be notified in writing by the Peer Review Board ("the Board"). The Practice Unit so selected will also be sent a Questionnaire (as per prescribed

* Central Council Member, The ICSI & Vice Chairman (Peer Review Board).



format) together with a panel of three suggested reviewers for selection by the Practice Unit.

(b) Selection and Appointment of Reviewer:– The Practice Unit will select one out of the three Reviewers and intimate to the Board within fifteen days of receipt of the panel and the Board will intimate the Reviewer so selected.

(c) Intimation to the Practice Unit:– On receipt of consent by the selected Reviewer, the Practice unit will be notified of such acceptance.

Stage II- Planning

(a) Information to be furnished by Practice Unit:– The Practice Unit shall within one month of being notified about peer review, furnish the following information to the Reviewer:

- (i) Completed Questionnaire sent by the Board.
- (ii) Complete list of attestation service clients for the year in respect of which the review is being done.

Apart from the above, the Reviewer may also seek from the Practice Unit any other information or further/ additional clarification on the information already furnished in order to facilitate selection of sample attestation services for review.

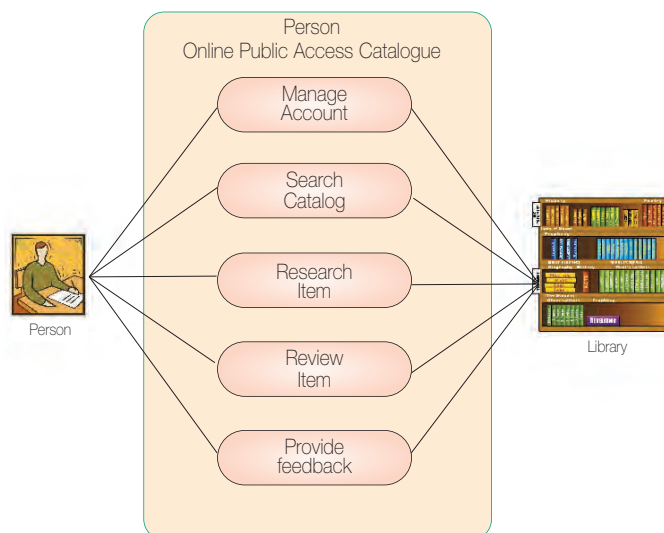
(b) Selection of Sample Attestation services Engagements by the Reviewer:– On receiving the information from the Practice Unit, the Reviewer shall select a sample of the attestation services that he would like to review and intimate the same to the Practice Unit. The sample should cover a fair cross-section of the Practice Unit's attestation services engagements. The Reviewer shall give the Practice Unit at least two weeks time to make available the necessary records of the selected attestation services for review.

(c) Confirmation of visit: - The Reviewer will plan for an on-site review visit or initial meeting in consultation with and mutual consent of the Practice Unit in such a manner that the entire review process is completed within sixty days from the date of notification to the Practice Unit about its selection for review.

Stage III - Execution

(a) On-site review:– Peer Review visits will be conducted at the Practice Unit's head office or other officially noted/ recorded place of office. This on-site review should not extend beyond three working days.

(b) Initial meeting with the Practice Unit:– Before the commencement of the actual review, an initial meeting will be held between the Reviewer and the Practice Unit to discuss the agenda of the peer review and accuracy of the information given in the Questionnaire. This will help the Reviewer to



understand the system prevailing in the Practice Unit and to form a preliminary evaluation of the adequacy of the systems.

(c) Compliance Review-General Controls:– The Reviewer is required to carry out a compliance review of the following General Controls to understand the functioning of the office of the Practice Unit and to evaluate the degree of reliance to be placed upon them for effective review:

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

(d) Selection of Attestation Service Engagements for Review:– The number of assurance service engagements to be reviewed shall depend upon various factors such as the number of practicing members involved in attestation service engagements in the Practice Unit, standard of quality controls generally prevailing and their reliability and the total number of attestation service engagements undertaken by the Practice Unit for the period under review. From the initial sample selected at the planning stage, the Reviewer, in consultation with the Practice Unit, may reduce or enlarge the initial sample size of attestation service engagements for review.

(e) Review of Records:– In the conduct of peer review, the Reviewer may adopt a compliance approach or substantive approach or combination of both. As per the Guidelines, the compliance approach is to assess whether proper control procedures have been established / followed by the Practice Unit and sufficient documentation maintained to ensure that attestation services are being performed in accordance with



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Technical Standards. The Reviewer should ensure that the general controls on which he intends to rely upon is generally evident and functioning effectively in the Practice Unit during the period under review. Based on such evaluation, the reviewer needs to decide on the nature and extent of substantive procedures to obtain sufficient appropriate review evidence that the Practice Unit's attestation processes meet the professional standards expected of it by the Institute. On the basis of his judgement, if the Reviewer chooses to rely upon the general controls, then a lower level of substantive testing may be justified. In cases, where the Reviewer chooses not to rely upon the general controls or is of the opinion that the standard of compliance is not satisfactory or appropriate, then he should adopt a higher level of substantive testing which involves a review of the attestation working papers (documentation) in order to establish whether the attestation work has been carried out as per the Technical Standards. Where the size of a Practice Unit is small or medium or not having elaborate general controls, the Reviewer should adopt substantive approach for conduct of review.

Stage IV- Reporting

(a) Preliminary Report:– After completion of the on-site review, the Reviewer shall, before making his report to the Board, communicate to the Practice Unit, a preliminary report on the areas where the systems and procedures are deficient or non-compliant with reference to any matter that has been noticed by him. Within twenty-one days after the date of receipt of the preliminary report, the Practice Unit shall make any submissions or representations, in writing to the Reviewer.

(b) Interim Report:–

- (i) If the Reviewer is satisfied with the reply received from the Practice Unit, he shall submit a Peer Review Report to the Peer Review Board along with his initial findings, response by the Practice Unit and the manner in which the responses have been dealt with. A copy of the report shall also be forwarded to the Practice Unit.
- (ii) In case the Reviewer is of the opinion that the response by the Practice Unit is not satisfactory, the Reviewer shall accordingly submit an Interim Report to the Peer Review Board incorporating his reasons for the same. In such case, the Peer Review Board may make recommendations to the Practice Unit regarding the application by it of Technical Standards and shall issue instructions for a "Follow Up" review not earlier than six months from the date on which the instruction is issued.

Proper office environment is necessary for the efficiency of work and quality of performance by employees in an office. Putting in place simple office systems and procedures would not only ensure smooth running of the office but also allow performance of work in an efficient manner bringing fewer frustrations, lower costs, more time and value to the business.

(c) Final Report:– Subsequent to follow-up review, the Reviewer shall submit a final report to the Peer Review Board incorporating the findings as discussed with the Practice Unit. In case the Reviewer is dissatisfied even at the follow-up review, then he shall submit his final report incorporating the reasons for dissatisfaction. On the basis of the Reviewer's final report and the Practice Unit's submissions, the Board may either issue Peer Review Certificate to the Practice Unit or issue instructions to the Reviewer for a "Follow-up" review.

The process of peer review explained above shall also focus on the examination of office systems and procedures followed by the Practice Unit with regard to compliance of attestation services and training and capacity building programs for staff (particularly, the Apprentice Trainees).

Review of Office Systems and Procedures

Every Practice Unit is expected to put in place office systems and procedures including appropriate infrastructure to ensure that the attestation services are being carried out in accordance with the applicable Technical Standards and the quality of reporting is maintained. The applicability of office systems and procedures shall vary depending on the size and level of the Practice Unit. The Peer Reviewer shall verify whether the office systems and procedures followed by the Practice Unit were effective and operating continuously during the period under review. We provide below some efficient office systems and procedures which should be established and continuously followed by a Practice Unit to ensure quality control and the existence and effectiveness of the same shall be reviewed by the Peer Reviewer during the conduct of peer review process:

- (i) Acceptance of assignment –** Before accepting any



attestation engagements, the Practice Unit must follow the procedure of receiving an appointment/ engagement letter (also includes emails) from its client and also provide written confirmation of acceptance of the attestation engagement. The appointment letter should contain details about the nature and scope of the assignment, professional fee details and billing arrangements, management's responsibility and other important terms and conditions. The proprietor/ partner of the Practice Unit must invariably ensure communication with the previous PCS about his acceptance of the assignment as prescribed under the Code of Conduct for PCS issued by the Institute.

(ii) Allocation/Delegation of work assignments:- The Practice unit should ensure that the work responsibility allocated to staff is commensurate with his/ her professional competence. The assistants should be given proper directions, explained their responsibilities and objectives of what they are doing before taking up the assignment. There should exist a system for scheduling of tasks, planning the time required and setting up realistic time frames within which a particular engagement may be completed which would help in time management.

(iii) Review of work done:- The managers/ supervisors should monitor and periodically review the work done by the assistant(s) / Apprentice trainee(s). Before signing the reports/ certificates prepared by the Apprentice trainee(s), the proprietor/ partner must review the report on the basis of working papers collected and maintained by the Apprentice Trainee(s).

(iv) Document management system:- The Practice Unit must have a well established records management system to ensure easy filing, storage and retrieval of information. The record management system should be kept simple and easy to understand and manage. However, it is well acknowledged that document storage of paper documents is less convenient and more time consuming when documents are in need of retrieval. In today's era of digitisation, the Practice Unit should also follow digital or electronic records management system by scanning the physical documents into digital format and then storing on an individual computer hard drive or on an individual hard drive which can be accessed via all the computers on a particular network. Digital document management keeps important documents and digital files at our fingertips, eliminates walls of filing cabinets, and provides the utmost in information security and disaster recovery.

(v) Maintenance of office library including e-library:- The Practice Unit should also set up an office library consisting of reference books and literature which would not only help the staff/ Apprentice Trainee(s) in augmenting their theoretical knowledge but also provide in-house consultation. The library

should be easily accessible at all times. Apart from maintaining a physical library, the Practice Unit should also have access to a Digital Library. Digital libraries facilitate creation, organization and management of multimedia digital content and provide search, retrieval and other information services over computer networks and other electronic media. Digital libraries not only offer significant and unparalleled improvement and value addition to library services but also save the precious time, strength and the energy of the users. Some of the important points to be considered in developing a digital library are digital collection or material selection, conversion of existing print, audio and video into digital format, cataloguing or metadata creation, storing, creating portals or gateway to the electronic collection available on the web and integrated access interface.

(vi) Office Décor and Infrastructure:- The Practice Unit must ensure that the décor/ appearance of the office is satisfactory and cluster/ dirt free. The office must be well equipped with necessary machines such as computers, printers, scanners, shredders, fax, telephones, etc. and easy access should be facilitated to the users at all times.

The above is not an exhaustive list and only illustrates certain important aspects of examination. The Peer Reviewer, on the basis of his judgment and depending on the size of the Practice Unit, may examine any other matters also.

Review of training and capacity building programs for staff

In a Practice Unit, the field work for attestation assignments is usually delegated to Apprentice Trainee(s)/ assistants depending on their professional competence and the Partners / Proprietor of the Practice Unit authenticate their reports on the basis of the field work done by them and the working papers maintained. During discharge of their duties, the Trainees and staff are also required to interact and communicate with the clients. As such it is very important for a Practice Unit that the Apprentice Trainee and other staff are imparted periodical training and ensure that they take part in capacity building and professional development programmes. It is beyond doubt that the training sharpens practical skills of trainees and provides a platform where education and experience merge in a subtle way and it is this confluence which makes for a better professional. The need for imparting adequate training to the staff and ensuring their participation in capacity building programs can be emphasised as follows:

- Providing adequate theoretical knowledge for on the job practical application
- Improving professional skill and competence



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- Development of personal/ managerial skills
- Development of professional attitude
- Inculcating professional ethics

Obligations of the Practice Unit

- The Apprentice Trainee and other staff must be imparted periodical training through well planned in-house mechanism for training and upgrading the technical skills of the staff.
- The Practice Unit should also ensure that the Apprentice Trainee(s) take part in capacity building and professional development programmes including seminars, workshops, lectures organised by the Regional councils of the Institute.
- The staff must have access at all times to office library, internet and other sources of updated technical knowledge for necessary consultation.

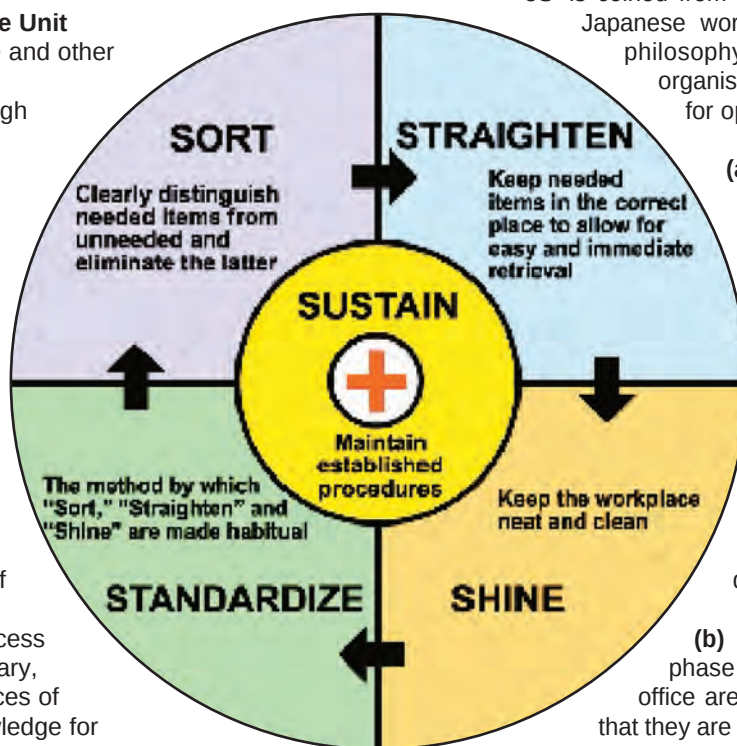
Model Office of a Practising Company Secretary

While discussing or reading about the topic, peer review of Practising Company Secretaries, one question that naturally crops up is how should an ideal office of a Practising Company Secretary be? Though there are no laid down standard rules, office systems or procedures for administration for a Practising Company Secretary, we have made an attempt to put forward the ingredients of a successful working environment in the office of a Practising Company Secretary.

Proper office environment is necessary for the efficiency of work and quality of performance by employees in an office. Putting in place simple office systems and procedures would not only ensure smooth running of the office but also allow performance of work in an efficient manner bringing fewer frustrations, lower costs, more time and value to the business.

(i) 5S Methodology

The office 5S management methodology is an important organisational technique that originated from Japan. The term '5S' is coined from the first letters of each of the 5 Japanese words that form the basis of this philosophy. This method is used for organising a workplace and is excellent for optimising an office environment.



(a) Seiri (Sorting):– This is the basic principle requiring removal of non-essential items from the office space resulting into an uncluttered office space. All those items which are not needed should be discarded and what one can do without for a long time should be filed or stored in a separate area. It can be implemented by sifting through the items in the office and appropriately tagging those that need to be discarded or stored.

(b) Set in Order (Seiton):– This phase involves straightening up the office area by arranging needed items so that they are readily accessible and labeled so that anyone can find them or put them away. It focuses on the need for arranging tools and equipment in an order that promotes optimum work flow. Having designated locations for all items in the work area enables employees to take control over their operations. Employees will be able to immediately see if things are out of place and if more materials, supplies, or tools need to be ordered.

(c) Shine/ Sweep (Seiso):– The third phase is dedicated to cleanliness. It is about creating a work environment that people want to work in. Each and every item in the office should be kept in immaculate condition. The Shine step includes three primary activities which include getting the workplace clean, maintaining its appearance, and using preventative measures to keep it clean. The key purpose is to keep everything in top condition so that when someone needs to use something, it is ready to be used. Striving to maintain each item in its best condition extends its usability in the long term and also helps in making work easier.

(d) Standardize (Seiketsu):– Bringing standardization into the office allows for systems to be put in place so everyone follows procedures the same way. It can be achieved by laying down systems and procedures, developing checklists, office procedure manuals and other mechanisms leading to lower error rate. Standards should be easily understood and easy to communicate.



(e) Sustain (Shitsuke):– The fifth and final "S" is about creating habits. The attitudes and activities must be institutionalized and repeated until they become part of the culture and the fabric of everyday work. Education about the 5S System and its benefits is a useful tool to sustain the program. Regular audits should be conducted to measure 5-S performance in each work area and the results should be posted in public areas. Appropriate recognition and reward should be provided to team members who have successfully implemented the 5S methodology.

Further, office administration is now a combination of human resource management, information technology management, office resource management, written communication and verbal communication.

(ii) Human Resource Management

Human resource management is the management of an organization's workforce, or human resources and focuses on recruitment of, management of, and providing direction for the organisation's employees. It enables employees to contribute effectively and productively to the overall direction and the accomplishment of goals and objectives of the organisation. In relation to the office of a Practising Company Secretary, this function comprises of:

- **Staff Induction Programme** to acquaint the new appointee with the office policies and systems and the existing Staff
- **Imparting training** of Trainees/ Other Staff, both in-house and on-the-job to provide adequate theoretical knowledge and matching the same to the practical experience
- **Assignment of work** on the basis of required skills and competence
- **Maintaining motivation** by providing incentives
- **Staff Supervision and Development** including development of managerial skills, professional attitude and ethics
- **Review of work** to satisfy that in carrying out the assignment the policies and procedures established by the firm has been followed ensuring compliance with the applicable Technical Standards and providing guidance in the areas of further improvement.
- **Performance appraisal** and **Awarding recognition** for excellence in work performance in the form of any title such as "Employee/ Trainee of the Month" or cash bonuses, etc.
- **Ensuring employee welfare** by providing favourable working conditions and amenities such as rest and lunch rooms, transport, medical assistance, health and safety, etc.
- Ensuring availability of expertise for in-house as well as outside consultation.

(iii) Information Technology Management:

Information technology management is concerned with the management of all the technology resources of a firm according

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to its needs and priorities. These resources may include tangible investments like computer hardware, software, data, networks and data centre facilities, as well as the staffs who are hired to maintain them. It entails the following activities:

- Setting up **sufficient number of workstations** (computer units) ensuring uninterrupted work flow.
- Necessary and latest **software installations** on computers to aid completion of work in an easier and faster way.
- Protecting computers from viruses by **installing Antivirus software** and updating it regularly.
- **Periodically updating computer operating systems** to stay in tune with technology requirements and to fix security holes.
- Taking **regular data backup** to protect against any unfortunate loss of data and to store a copy of backup offsite.
- **Password-protecting** important documents, files and folders.
- **Preventive maintenance** of computer hardware and software

(iv) Office Resource Management:

Office resource management deals with the management of available office resources in the most efficient way possible including human resources and technology resources, which have already been discussed above. It constitutes the following functions:

- Maintaining simple, spacious and cluster-free **office space**
- Following proper **document management system** to



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- ensure easy filing, storage and retrieval of information
- **Placing charts/lists/circulars** on walls or setting up a paper file centrally in the office to provide everyone easy access to certain important information.
- **Time management** by keeping task lists, planning time and setting realistic time frames.
- Setting up an **office library** comprising of reference books, books on literature for consultation
- **Maintaining office equipments**, furnitures and other tangible assets in clean and working condition

(v) Written and Verbal Communication:

Communication plays a very important role in the administration of any office. Further, in our profession also, regular communication with the clients, either written or verbal, is inevitable. So it is quite imperative to ensure that communication of opinions, ideas, thoughts or directions to staff should be clear and precise in order to achieve the desired result.

Written communication

- Written communication is a permanent means of communication and is useful where record maintenance is required.
- While preparing audit reports, issuing certificates or expressing opinions on legal/secretarial matters to clients or in the course of sending or replying to e-mails, attention should be given that the communication is understandable, brief, truthful and comprehensive.
- Effective writing involves careful choice of words, their organization in correct order in sentences formation as well as cohesive composition of sentences. Here it should be noted that it is not necessary to use difficult language or heavy words in your communication; it may be written in very simple language. The important thing is that the message should be clearly conveyed without any ambiguity.

It is essential for the Company Secretaries, whether in practice or employment, to develop effective written communication skills and to encourage the same in all employees through proper training.

Verbal/ Oral Communication

People communicate in businesses with each other most often by oral communication. Verbal communication can be used to inform, inquire, argue and discuss topics of all kinds. It is vital to teaching and learning, as well as forming bonds and building relationships with other people. Interpersonal communication and public speaking are the two basic types of verbal communication. Etiquette is very important in interpersonal speaking and hierarchical communication. To be an effective communicator one must speak in a manner that is not offending to the receiver. It is necessary to pay attention to what you say and how you say it. Speaking clearly and enunciating words and being conscious of nonverbal aspects such as eye contact, posture and facial expressions will produce the desired effect.



Concept of Audit Trails and Audit Diary

A Practising Company Secretary is required to issue various reports and certificates to its clients from time to time with regard to the state of compliance with the applicable laws, rules, regulations, circulars, or notifications as stipulated by the statutory and regulatory authorities. Before issuing any such certificate or report, it is requisite for the PCS to perform audit of the relevant records, documents, files, registers, etc. based on the certification requirements of his clients in order to form his own opinion. The auditing assignments normally undertaken by a Practising Company Secretary includes the following:

- Secretarial audit for issuing Secretarial Audit Report,
- Compliance audit for issuing Compliance certificate in terms of Section 383(1A) of the Companies Act, 1956,
- Corporate governance audit for issuing Corporate Governance Certificate in terms of Clause 49 of the Listing Agreement,
- Annual Return audit for signing of Annual Return of a listed company under section 161 of the Companies Act, 1956,
- Share Transfer Audit of listed companies for issue of Certificate under Clause 47(c) of the Listing Agreement.

Audit Trails

Audit Trail refers to the series of documents, computer files, and



other records that are examined during an audit, and shows how the company has complied with the relevant and applicable statutory laws, rules, regulations, circulars, notifications, etc. during a particular year or the period of review or for a particular event. An Audit Trail is a chain of evidence that can be used to trace the various actions performed by the company as required under various statutory laws and it helps to verify whether the actions were in adherence/ compliance with the rules and regulations laid down by the statute. An audit trail can be either a paper or electronic trail that provides documented history of a transaction in a company.

Audit trails can be simplistic or complicated, depending on the scope and complexity of the audit .i.e. various statutes, laws, rules and regulations being covered for the purpose of audit. The wider the scope of audit, the greater number of documents needs to be examined by the PCS for issuing the report. The presence of a reliable and easy to follow audit trail is an indicator of good internal controls instituted by a company, and forms the basis of objectivity. An audit trail consisting of careful record keeping will provide the necessary documentation. Maintaining an organized, easy-to-use filing system keeps these documents within easy reach at all times and also speeds the audit process.

While conducting peer review of a Practice Unit, the Peer Reviewer should also verify whether the Practice Unit has followed proper Audit Trail during the course of audit for issuing various reports and certificates and whether working papers and copies of supporting documents/ evidence/ details obtained from the clients during the course of audit have been properly

While conducting peer review of a Practice Unit, the Peer Reviewer should also verify whether the Practice Unit has followed proper Audit Trail during the course of audit for issuing various reports and certificates and whether working papers and copies of supporting documents/ evidence/ details obtained from the clients during the course of audit have been properly maintained.

maintained.

Audit Diary

The Apprentice Trainees and other staff must maintain diaries to record daily activities undertaken during the course of an audit including proceedings of any meeting/discussion held, verbal explanations and clarifications given, observations made etc. Audit Diary is an important tool in the hands of the auditor / audit team which provides information on the following:

- Who** - who has carried out the audit?
- Where** - where has the audit been conducted?
- When** - when is audit undertaken?
- What** - what is purpose and scope of audit?

The contents of the diary, *inter alia*, include name and basic info of the company, Information of the auditor, scope & objective of the audit being carried out, methodology of audit, period of audit, documents verified during the course of audit, the important points which need further clarification/ discussion, etc. Such diaries should be periodically inspected by the PCS to maintain proper records about the progress of training imparted to the Apprentice Trainees.

Maintaining audit diary by the members of the audit team of the Practice Unit is undoubtedly of great importance because of the reasons enumerated as follows:

- There are less chances of missing any observations / irregularities as they are instantaneously recorded in the audit diary.
- It works as a proof of the work done during the audit.
- It can be used as evidence in a case of negligence charge against the PCS.
- It can be used for future guidance and reference.
- It helps in completing the audit work smoothly.

Conclusion

On a plain reading of the peer review methodology, it is true that it appears to be a simple and obvious process without much complexity. However, with each practical application of the peer review process, the areas of improvement would be discernible and accordingly, the process will gradually get refined. Also, an office of a Practising Company Secretary must have certain established systems, policies and procedures to ensure quality control of the attestation assignments handled by it depending on the size and level of the Practice Unit. Putting in place simple office systems and procedures would not only ensure smooth running of the office but also allow performance of work in an efficient manner bringing fewer frustrations, lower costs, more time and value to the business. ■



Corporate Laws



LW 53.06.2012

ANEETA HADA V. M/S. GODFATHER TRAVELS & TOURS PVT LTD; ANIL HADA V. M/S. GODFATHER TRAVELS & TOURS PVT LTD; AVNISH BAJAJ V. STATE & ANR; EBAY INDIA PVT. LTD V. STATE & ANR [SC]

Criminal Appeal No. 838 of 2008 with Criminal Appeal No. 842 of 2008, Criminal Appeal No. 1483 of 2009 and Criminal Appeal No. 1484 of 2009.

Dalveer Bhandari, Sudhansu Jyoti Mukhopadhyaya & Dipak Misra, JJ.

[Decided on 27/04/2012]

Offences by company-Vicarious liability of directors - Whether directors alone can be prosecuted without prosecuting the company-Held, No.

Brief facts of the issue involved

The main issue involved in this batch of appeal is whether directors alone of a company can be prosecuted without making the company as one of the accused. The Supreme Court in the case of *Sheoratan Agarwal & Anr v. State of Madhya Pradesh*, (1984) 4 SCC 352 had held that directors alone could be prosecuted without making the company as an accused party. However, the Supreme Court in the case of *State of Madras v. C.V. Parekh & Anr* (1970) 3 SCC 491 has held that without impleading the company its directors cannot be prosecuted. Conflicting judgments have been passed from time to time and the issue was once again raised in the present batch of appeals. After considering numerous judgments and making an elaborate analysis, the Supreme Court of India had restated the law on this aspect.

Decision and Reason

With greatest respect to the learned Judges in *Sheoratan Agarwal (supra)*, the authoritative pronouncement in *C.V. Parekh (supra)* has not been appositely appreciated. The decision has been distinguished despite the clear dictum that the first condition for the applicability of Section 10 of the 1955 Act is that there has to be a contravention by the company itself. In our humblest view, the said analysis of the verdict is not correct. Quite apart, the decision in *C.V. Parekh (supra)* was under Section 10(a) of the 1955 Act and rendered by a three-Judge Bench and if such a view was going to be expressed, it would have been appropriate to refer the matter to a larger Bench. However, the two-Judge Bench chose it appropriate to distinguish the same on the rationale which we have reproduced hereinabove. We repeat with the deepest respect that we are unable to agree with the aforesaid view.

We have already opined that the decision in *Sheoratan Agarwal (supra)* runs counter to the ratio laid down in the case of *C.V. Parekh (supra)* which is by a larger Bench and hence, is a binding precedent. On the aforesaid ratiocination, the decision in *Anil Hada (supra)* has to be treated as not laying down the correct law as far as it states that the director or any other officer can be prosecuted without impleadment of the company. Needless to emphasize, the matter would stand on a different footing where there is some legal impediment and the doctrine of *lex non cogit ad impossibilia* gets attracted.

In view of our aforesaid analysis, we arrive at the irresistible conclusion that for maintaining the prosecution under Section 141 of the Act, arraigning of a company as an accused is imperative. The other categories of offenders can only be brought in the dragnet on the touchstone of vicarious liability as the same has been stipulated in the provision itself. We say so on the basis of the ratio laid down in *C.V. Parekh (supra)* which is a three-Judge Bench decision. Thus, the view expressed in *Sheoratan Agarwal (supra)* does not correctly lay down the law and, accordingly, is hereby overruled.



LW 54.06.2012

AGARPARA JUTE MILLS LTD v. BIFR & ORS [DEL]

WP (C) No.2728 of 2012

Sanjay Kishan Kaul & Rajiv Shakdher, JJ.

[Decided on 08/05/2012]

Section 25 (1) of the Sick Industrial Companies (Special Provisions) Act, 1985 read with section 5 of the Limitation Act, 1963 - Appeal filed after the prescribed period- whether the delay can be condoned-Held,No.

Brief facts

The appeal filed by the appellant before the AAIFR has been dismissed vide impugned order dated 9.11.2011 as being barred by time. The petitioner applied for a certified copy of the order on the same date, which was received on 12.11.2010 but filed the appeal on 31.1.2011. Thus, it is not in dispute that the appeal is barred by time and is even beyond the window of extra fifteen (15) days available to the appellant, the same being filed even beyond sixty (60) days. The appeal was accompanied by an application for condonation of delay. In terms of the impugned order the AAIFR has found that it has no power to condone the delay beyond the period of sixty (60) days in view of the provisions of Section 25 (1) of the Sick Industrial Companies (Special Provisions) Act, 1985 (hereinafter referred to as the SICA).

Decision: Petition dismissed.

Reason

We are in agreement with the view taken by the AAIFR in view of the statutory provision. Where the legislature prescribed a special limitation for the purpose of the appeal and the period of limitation of 60 days was to be computed after taking the aid of Section 45 and 12 of the Limitation Act, the specific inclusion of these sections meant that to that extent only the provisions of the Limitation Act stood extended and the applicability of the other provisions, by necessary implication stood excluded.

As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are 'but not thereafter' used in the proviso to sub-section (3). In our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of section 5 of that Act. Parliament did not need to go further. To hold that the Court could entertain an application to set aside the Award beyond the extended period under the proviso, would render the phrase 'but not

thereafter' wholly otiose. No principle of interpretation would justify such a result.

Apart from the language, 'express exclusion' may follow from the scheme and object of the special or local law. Even in a case, where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the Court to examine whether and to what extent the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation.

Even otherwise if the merits of the explanation given for filing the appeal belatedly are examined, (as much stress was laid on this aspect by learned counsel for the petitioners) we find that the same do not disclose sufficient cause as it is the own say of the petitioner that an appeal filed by the holding company is pending and the opinion received earlier was against filing an appeal but a subsequent opinion advised the petitioner to file an appeal and, thus, the appeal has been filed belatedly. The petitioner having received the certified copy, obtained the legal opinion and taken a conscious decision not to file an appeal cannot subsequently file an appeal belatedly and plead that the delay should be condoned because another legal advice received thereafter was to file an appeal.

We, thus, find that neither is there any power to condone the delay with the AAIFR nor was there any sufficient cause shown to condone the delay, thus, on both accounts there is no ground made out to interfere with the impugned order under Article 226 of the Constitution of India. ■

General Laws

LW 55.06.2012

BIPROMASZ BIPRON TRADING SA v. BHARAT ELECTRONICS LIMITED [SC]

Arbitration Petition No.19 of 2011

Surinder Singh Nijjar, J.



[Decided on 08/05/2012]

Arbitration and Conciliation Act, 1996 - Section 11 - Appointment of arbitrator by court - Contract contained a named arbitrator - Whether the court can appoint an arbitrator - Held, Yes.

Brief facts

The Respondent had entered into a contract with the Petitioner by way of placing a Purchase Order for the supply of Hydraulic Motor, Actuating Cylinder, EL Motor EDM, Converter and GYRO Unit. The contract contained an arbitration clause under which the CMD of the Respondent was nominated as the sole arbitrator. Disputes arose between the parties and the Petitioner approached the Supreme Court for the appointment of arbitrator. Respondent contested that as per the contract only the CMD of the company can be appointed as the arbitrator.

Decision: Petition allowed.

Reason

I have heard the learned counsel for the parties. It would not be possible to reject the petition merely on the ground that this Court would have no power to make an appointment of an arbitrator other than the Chairman-cum-Managing Director or his designate. This Court would have the power to appoint a person other than the named arbitrator, upon examination of the relevant facts, which would tend to indicate that the named arbitrator is not likely to be impartial. In this case, the petitioner had clearly pleaded that the named arbitrator is a direct subordinate of the CMD and employee of the respondent. CMD is the controlling authority of all the employees, who have been dealing with the subject matter in the present dispute and also controlling authority of the named arbitrator. Apprehending that the CMD, who had been dealing with the entire contract would not act impartially as an arbitrator, the petitioner had issued a notice on 20th May, 2011. In this notice, it was pointed out that while the entire process of the performance of the contract was going on, the CMD had issued a letter on 5th June, 2009 to the petitioner stating that as per the company's directives, all pending supplies as on that date were "put on hold". After the aforesaid communication, no communication was issued to the petitioner for supply of the goods as per the Purchase Order dated 3rd December, 2009. Even subsequently, there were difficulties when a further lot of 24 units were supplied. The detailed submissions made by the petitioner have been noticed in the earlier part of the judgment.

Keeping in view the aforesaid facts, I am of the opinion that it would not be unreasonable for the petitioner to entertain the plea that the arbitrator appointed by the respondent would not be impartial. The CMD itself would not be able to act independently

and impartially being amenable to the directions issued by the Ministry of Defence. In similar circumstances, this Court in the case of *Denel (Proprietary) Limited v. Bharat Electronics Limited & Anr. (Supra)*, observed as follows:-

"However, considering the peculiar conditions in the present case, whereby the arbitrator sought to be appointed under the arbitration clause, is the Managing Director of the Company against whom the dispute is raised (the respondents). In addition to that, the said Managing Director of Bharat Electronics Ltd. which is a "government company" is also bound by the direction/instruction issued by his superior authorities. It is also the case of the respondent in the reply to the notice issued by the respondent, though it is liable to pay the amount due under the purchase orders, it is not in a position to settle the dues only because of the directions issued by the Ministry of Defence, Government of India. It only shows that the Managing Director may not be in a position to independently decide the dispute between the parties."

In my opinion, the facts in the present case are similar and, therefore, a similar course needs to be adopted.

LW 56.06.2012

UNION TERRITORY OF LAKSHADWEEP & ORS v. SEASHELLS BEACH RESORT & ORS [SC]

Civil Appeal of 2012 (Arising out of SLP (Civil) No.5967-5968 of 2012)

T.S. Thakur & Gyan Sudha Misra, JJ.

[Decided on 11/05/2012]

Environment (Protection) Act, 1986 - Section 3 - Setting up of beach resort - Compliance with environmental issues - Supreme Court issues elaborate directions.

Brief facts

These appeals have been filed by the Union Territory of Lakshadweep against an order dated 16th January, 2012 passed by the High Court of Kerala at Ernakulam whereby the High Court has directed the appellants to process the applications made by respondent No.1-Seashells Beach Resort, hereinafter referred to as respondent, for all clearances including finalisation of CRZ norms and pending final decision on the same, to permit the respondent to run the resort established by it at Agatti. The High Court has further directed the appellants to issue travel permits and entry passes required by tourists making use of the accommodation in the said resort.

Lakshadweep Administration finds fault with the direction



issued by the High Court on several grounds including the ground that respondent-writ petitioner before the High Court had no licence from the Tourism Department and no clearance from the Coastal Zone Regulatory Authority or the Pollution Control Board to run the resort established by it. It is alleged that the direction issued by the High Court amounts to permitting the respondent to run a resort *sans* legal permission and authority and without any check, control or regulation regarding its affairs. The Administration also points out that diversion of land use *qua* different survey numbers in Agatti was obtained by one of the partners of the respondent for construction of dwelling houses and not for establishing a commercial establishment like a tourist resort and that respondent No.1 had misused the said permission by constructing a resort in the No Development Zone (NDZ) falling within 50 metres of High Tide Line and thereby violated the CRZ norms. The respondent has, according to the Administration, constructed cottage at a distance of 28 metres from the High Tide Line on the western side of the sea and thus violated the terms of the permission given to it. The Administration further alleges that it had never permitted the respondent to run a resort and that it had on the basis of a permission obtained from the local panchayat, which had no authority to issue such permission, started bringing tourists, including foreign tourists, to the resort on the pretext that the accommodation was in the nature of 'home stay'. The Administration asserts that neither the Union Territory of Lakshadweep nor the Government of India have taken any policy decision regarding permitting home stay arrangements on the Lakshadweep islands and that the High Court had completely overlooked the fact that all development in relation to the said islands shall have to be in accordance with the Integrated Island Management Plan and the CRZ norms. The Administration also relies upon a Notification dated 6th January, 2011 issued by the Government of India in exercise of its powers under Section 3 of the Environment (Protection) Act, 1986 which notification is intended to promote conservation and protection of the Island's unique environment and its marine area and to promote development through a sustainable integrated management plan based on scientific principles, taking into account the vulnerability of the coast to natural hazards.

Decision: Directions issued.

Reason

We have referred copiously to the pleadings of the parties only to draw the contours of the controversy before us. Broadly speaking only two questions arise for our determination in the backdrop set out above. These are:

- 1) Whether the High Court was in the facts and circumstances of the case correct in allowing the interim prayer of the respondent and permitting him to run the resort? and
- 2) If the answer to question No. 1 be in the negative, what is the way forward?

We shall deal with the questions *ad-seriatim*.

Re. Question No. 1

The High Court has not indeed done justice to the issues raised by the parties, whether the same relate to the alleged violations committed by the respondent-entrepreneur in setting up of a resort or the Administration permitting similar resorts to operate in the garb of 'home stay' arrangement while preventing the respondent from doing so. The High Court has not even referred to the Notification dated 6th January, 2011 issued by the Government under Section 3 of the Environment (Protection) Act, 1986 or the effect thereof on the establishment of the project that does not so far have a final clearance and completion certificate from the competent authority and is being accused of serious violations. The High Court's order proceeds entirely on humanitarian and equitable considerations, in the process neglecting equally, if not more, important questions that have an impact on the future development and management of the Lakshadweep Islands. We are not, therefore, satisfied with the manner in which the High Court has proceeded in the matter. The High Court obviously failed to appreciate that equitable considerations were wholly misplaced in a situation where the very erection of the building to be used as a resort violated the CRZ requirements or the conditions of land use diversion. No one could in the teeth of those requirements claim equity or present the administration with a *fait accompli*. The resort could not be commissioned under a judicial order in disregard of serious objections that were raised by the Administration, which objections had to be answered before any direction could be issued from a writ Court. We have, therefore, no hesitation in holding that the order passed by the High Court is legally unsustainable. Question No. 1 is accordingly answered in the negative, and the impugned order set aside.

Re. Question No. 2

In the light of the above we have no difficulty in directing the constitution of an Expert Committee with a request to it to look into the matters set out in the terms of reference which we are setting out herein below.

- (I) The Committee shall use its expertise for evaluation of the draft IIMPs received from CESS or others that may be received in due course, and make such additions or alterations in the same as it may consider proper having regard, *inter alia*, to the following:
 - (a) The development already in existence and the future developments, conservation and preservation of the entire area keeping in view the statutory Notification dated 6th January, 2011 issued by the Government of India under the provisions of the Environment Protection Act, 1986.



- (b) The impact of the proposed development on the livelihood of indigenous population and the various vulnerability issues.
 - (c) Reservation/identification of suitable locations and areas for creation of public and semi-public facilities for development of tourism in the islands.
 - (d) Redevelopment/sustainable development of inhabited and/or uninhabited areas of each island as independent and self-contained units or as part of a larger development plan along scientific lines.
- (II) The Committee may consider and recommend incorporation in the IIMP, Development Control Regulations governing the developmental activity in accordance with the final proposals on the IIMP for the purpose of islanders' seeking clearances for permissible development activities on the islands. Such regulations may also include setting up of an appellate authority for the grievance redressal of the islanders with respect to such clearances. The Committee may suggest an outer time frame within which the Authority may have to respond to the applications of the islanders seeking permission for development activities.
- (III) The Committee may examine the desirability and the feasibility of running 'home stays' for tourism purpose in the islands and may suggest the same to be incorporated in the IIMPs. The Committee may examine and suggest necessary guidelines keeping in mind environmental, economic and security considerations for running of such Home stays including norms/rules for such 'home stays' and the number of 'home stays' to be permitted, the number of permits to be granted, the norms for identification of houses for home stays, and the facilities to be offered etc.
- (IV) The Committee may in its wisdom and discretion make suggestions on any other issue concerning the islands which it may deem fit.

The Committee shall examine allegations regarding violation of the CRZ and other irregularities committed by the respondent or by other individuals/entities in relation to establishment and/or running resorts and 'home stays' in the islands. Allegations regarding irregularities in the matter of grant of permits to the tourists visiting the islands as also in regard to permissions granted to the resort owners/home stays to operate on the islands shall also be examined by the Committee. So, also the Committee shall be free to examine whether any official of the Lakshadweep Administration has been guilty of any act of omission or commission in the discharge of his official duties and if considered necessary recommend action against such officials.

LW 57.06.2012

SUBHASH CHANDRA VASHISHTH v. INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA [DEL]

W.P.(C) 2619/2012 & CM NO.5629/2012

SAHAI ENDLAW, J.

[Decided on 02/05/2012]

Disabilities Act-facilities for differently abled candidates - examinations of ICAI-Guidelines for permitting a writer for a differently abled candidate - rigours of certain conditions-court removes such conditions and issues directions to be considered.

Brief facts

This petition filed in public interest has been listed and is taken up for hearing on urgent mentioning. The petitioner, an Advocate, invites attention of this Court to the difficulties likely to be faced by the differently abled candidates in the examinations being held by the respondent, The Institute of Chartered Accountants of India (ICAI). It is pleaded that the Guidelines prescribing the procedure to be followed regarding granting of Writer and extra time to the Differently Abled Candidates taking the examination, are arbitrary and impractical and interfere with the right of the said candidates to take the examination.

The petition takes objection to the following conditions: - a. The Writer should not be above 20 years of age as on the date of commencement of a particular examination. b. The Writer should be the same person for all the papers of an examination and no request for Change of Writer is permitted. c. The Writer should not be a relative of the candidate for whom he/she is acting as a Writer.

The petitioner, immediately after issuance of Guidelines aforesaid, made a representation to the Chief Commissioner under the Disabilities Act for taking up the issue with the respondent ICAI and this petition is filed when the respondent ICAI in spite of directive of the said Chief Commissioner, has not changed the Guidelines.

Decision: Directions issued.

Reason

We are of the view that once embargo on the qualifications of the Writer is put, we do not find any purpose in fixing the upper age limit of 20 years or in excluding the relative of the examinee from being his/her Writer. It is normally seen that it is easy for a relative to come forward and become the Writer for a differently abled. We find merit in the contention of the



counsel for the petitioner that in this season of examinations, any under 20 years of age person is likely to be busy in his/her own examination and unlikely to agree to be a Writer for a differently abled examinee. The purpose of the respondent ICAI of preventing use of unfair means, can be taken care of by allowing only those person, even if related to the examinee and even if over 20 years of age, who are not familiar with the subject of examination viz. persons who is either a Chartered Accountant, Company Secretary, Cost Accountant or qualified in Corporate Laws or Commerce stream can be prohibited. Other persons irrespective of relationship and age should be allowed by the respondent ICAI to act as Writer.

In so far as change of Writer is concerned, the counsel for respondent ICAI makes a statement at the bar that in case there is a need to change the Writer for the reasons beyond the control of the examinee or the Writer, and a request in this behalf is made, change would be allowed.

We direct accordingly and we make it clear that our directions aforesaid are only for the current examinations and the said Examination Committee in its meeting to be held will be entitled to take its own decision after considering the difficulties pointed out by the petitioner in this petition. This petition shall also be placed before the Examination Committee and treated as representation of the petitioner and the aforesaid arrangement made by us for the present examinations would not be reflective of any final opinion in this matter.

In view of aforesaid, we do not deem it expedient to keep this petition pending. We also make it clear that in case any amendments in the Guidelines are made by the respondent ICAI pursuant to the recommendations of the Examination Committee and the petitioner still feels aggrieved thereagainst, it would be open to the petitioner to approach the Courts again. ■

R.M. Lodha & H.L. Gokhale, JJ.

[Decided on 25/04/2012]

Service tax-Material handling service - Material handling contract - obligation to assume tax liability on the handler - Service tax to be borne by the recipient-Recipient shifted the liability to the handler - Whether tenable - Held, Yes.

Brief facts

The appellant a Govt. of India undertaking is engaged in the manufacture of steel products and pig-iron for sale in the domestic and export markets. The respondent is a partnership firm carrying on the business of transportation of goods. In the year 1997, the appellant appointed the respondent as the handling contractor in respect of appellant's iron and steel materials and a formal contract was entered into between the two of them on 17.6.1998. Terms and conditions for handling of iron and steel materials though recorded in a separate document formed a part of this contract. Clause 9.3 thereof read as follows:-

"9.3. The Contractor shall bear and pay all taxes, duties and other liabilities in connection with discharge of his obligations under this order. Any income tax or any other taxes or duties which the company may be required by law to deduct shall be deducted at source and the same shall be paid to the Tax Authorities for the account of the Contractor and the Company shall provide the Contractor with required Tax Deduction Certificate."

The service tax was brought into force on 5.11.1997 vide Notification No.44/77 with effect from 16.11.1997. Consequent thereupon, the appellant deducted 5% tax on the bills of the respondent for the period 30.11.1997 to 6.8.1999. The respondent, however, refused to accept the deductions, and raised a dispute for arbitration under clause 15 of the terms and conditions mentioned above. This dispute was referred for the arbitration of a sole arbitrator, a retired Judge of the Delhi High Court.

The arbitrator dismissed the claim of the respondent and the respondent filed an appeal before the High Court of Judicature at Bombay. A Learned Single Judge of the High Court allowed the petition. The appellant preferred an appeal to a Division Bench of Bombay High Court against the said judgment and order, which dismissed the appeal. Being aggrieved by the said judgment and order, the present appeal has been filed.

Decision: Appeal allowed.

Reason

We have noted the submissions of both the learned counsel. If

Tax Laws

LW 58.06.2012

RASHTRIYA ISPAT NIGAM LIMITED v. M/S DEWAN CHAND RAM SARAN[SC]

Civil Appeal No.3905 of 2012 (Arising out of SLP(Civil) No. 17943 of 2008)



we see the evolution of the service tax law, initially the liability to pay the service tax was on the service provider, though it is now provided by the amendment of 2000 that the same is on the person who avails of the service. It is relevant to note that the agreement between the parties was entered into on 7.6.1998. The appellant had deducted 5% service tax on the bills of the respondent for the period 30.11.1997 to 6.8.1999 which in fact it was required to deduct under the service tax law as it then stood. Subsequently, by the amendment of the definition of assessee effected on 12.5.2000 (though retrospectively effective from 16.7.1997) the liability to pay the service tax was shifted to the person who was availing the service as the assessee. We must note that it is thereafter that the parties have gone for arbitration, and the respondent has relied upon the changed definition of assessee to contend that the tax liability was that of the appellant.

We are concerned with the question as to what was the intention of the parties when they entered into the contract on 7.6.1998, and how the particular clause 9.3 is to be read. Since clause 9.3 of the contract refers to the liabilities of the contractor in connection with discharge of his obligations, one will have to refer to clause 6 of the Terms and Conditions. If we look into this clause 6.0, we find that the obligations of the contractor are defined and spelt out in minute details.

Clause 6.0 is split into 33 sub-clauses, and it provides for obligations of the contractor in various situations concerning the clearance of consignments, and the services to be provided by the respondent as the handling contractor wherefrom the tax liability arises. The contractor is made responsible for pilferage, any loss or misplacement of the consignments also. Clause 9.0 which deals with payment of bills, provides in clauses 9.1 and 9.2 that the bills will be prepared on the basis of the actual operations performed and the materials accounted on the basis of weight carried and received. Clause 9.3 has to be seen on this background. The tax liability will depend upon the value of the taxable service provided, which will vary depending upon the volume of the goods handled.

It was submitted on behalf of the respondent that clause 9.3 and the contract must be read as a whole and one must harmonise various provisions thereof. However, in fact when that is done as above, clause 9.3 will have to be held as containing the stipulation of the contractor accepting the liability to pay the service tax, since the liability did arise out of the discharge of his obligations under the contract. It appears that the rationale behind clause 9.3 was that the petitioner as a Public Sector Undertaking should be thereby exposed only to a known and determined liability under the contract, and all other risks regarding taxes arising out of the obligations of the contractor are assumed by the contractor.

As far as the submission of shifting of tax liability is concerned, as observed in paragraph 9 of *Laghu Udyog Bharati (Supra)*, service tax is an indirect tax, and it is possible that it may be passed on. Therefore, an assessee can certainly enter into a contract to shift its liability of service tax. Though the appellant became the assessee due to amendment of 2000, his position is exactly the same as in respect of Sales Tax, where the seller is the assessee, and is liable to pay Sales Tax to the tax authorities, but it is open to the seller, under his contract with the buyer, to recover the Sales Tax from the buyer, and to pass on the tax burden to him. Therefore, though there is no difficulty in accepting that after the amendment of 2000 the liability to pay the service tax is on the appellant as the assessee, the liability arose out of the services rendered by the respondent to the appellant, and that too prior to this amendment when the liability was on the service provider. The provisions concerning service tax are relevant only as between the appellant as an assessee under the statute and the tax authorities. This statutory provision can be of no relevance to determine the rights and liabilities between the appellant and the respondent as agreed in the contract between two of them. There was nothing in law to prevent the appellant from entering into an agreement with the respondent handling contractor that the burden of any tax arising out of obligations of the respondent under the contract would be borne by the respondent.

If this clause was to be read as meaning that the respondent would be liable only to honour his own tax liabilities, and not the liabilities arising out of the obligations under the contract, there was no need to make such a provision in a bilateral commercial document executed by the parties, since the respondent would be otherwise also liable for the same. Therefore, clause 9.3 will have to be read as incorporated only with a view to provide for contractor's acceptance of the tax liability arising out of his obligations under the contract.

In any case, assuming that clause 9.3 was capable of two interpretations, the view taken by the arbitrator was clearly a possible if not a plausible one. It is not possible to say that the arbitrator had travelled outside his jurisdiction, or that the view taken by him was against the terms of contract. That being the position, the High Court had no reason to interfere with the award and substitute its view in place of the interpretation accepted by the arbitrator.

In view of what is stated above, the respondent as the contractor had to bear the service tax under clause 9.3 as the liability in connection with the discharge of his obligations under the contract. The appellant could not be faulted for deducting the service tax from the bills of the respondent under clause 9.3, and there was no reason for the High Court to interfere in the view taken by the arbitrator which was based, in any case on a possible interpretation of clause 9.3. The learned single Judge as well as the Division Bench clearly erred in interfering with the



award rendered by the arbitrator. Both the judgments will, therefore, have to be set-aside.

LW 59.06.2012

**RICOH INDIA LIMITED v. COMMISSIONER
[DEL]**

STA No. 06/2010

Sanjiv Khanna & R.V. Easwar, JJ.

[Decided on 04/05/2012]

Delhi Value Added Tax Act, 2004 - Multi functional printers / machines - Classification-Whether falls under 4% tax schedule-Held, No.

Brief facts

Ricoh India Limited has preferred the present appeal under Section 81 of the Delhi Value Added Tax Act, 2004 (VAT, Act, for short) against the order dated 10th March, 2010 passed by the Appellate Tribunal, Value Added Tax, New Delhi (for short, the tribunal) in Appeal No.319/ATVAT/07-08. By the impugned order, the tribunal has affirmed the order dated 13th December, 2007, passed by the Commissioner, Department of Trade and Taxes, disposing of the application for advance ruling filed by the appellant under Section 84 of the VAT Act. The tribunal has upheld the finding of the Commissioner that multi functional printers/copiers/scanners having HSN code No.8471.60.29 and sales of spares and consumables of the above products having HSN code No. 8473.30.99 during the period 1st April, 2005 to 31st March, 2007 are taxable under the residuary head and, therefore, attract value added tax @ 12.5% and do not fall under Entry No. 41A of the third Schedule of the VAT Act and, therefore, are not taxable @ 4%.

Decision : Appeal dismissed.

Reason

The substantial question of law, on which we have heard learned counsel for the parties and which requires adjudication, is as under: - "Whether the multi-functional printers/machines and their spares and consumables, during the period 1st April, 2005 to 31st March, 2007, are taxable under Entry No. 41A of the third schedule of the Delhi Value Added Tax, 2004 or are taxable under the residuary head @ 12.5%?"

There are four schedules to the VAT Act relating to the rate of tax. Schedule I consists of goods which are exempt from tax. There are three entries in the schedule II and the goods mentioned in said entries are taxable @ 1%. Goods mentioned in schedule III are taxable @ 4% (enhanced to 5% after 13.1.2010). There are 12 entries in Schedule IV and the goods

mentioned in the said entries are taxable @ 20%. All other goods which are not classified and mentioned in the Schedules I to IV are taxable @ 12.5%. The main and principal dispute is whether the products sold by the appellant are covered by Entry No.41A of the third schedule of the VAT Act or are unclassified goods that attract tax @12.5%. In case the goods in question are covered by Entry No.41A of the third schedule of the VAT Act, the tax payable is @ 4%, otherwise, the tax is payable @ 12.5%.

In order to decide whether or not a multi-functional printer/machine is an input or output unit under Entry 41A of the VAT Act, we feel that the doctrine of dominant or principal purpose has to be applied. Note 1 read with the Rules of interpretation of Central Excise Tariff Act and Explanatory notes of Customs Cooperation Council support our ratio. Accordingly, it has to be determined in each case with reference to machines in question whether its principal or dominant purpose is to work as an input or output unit of the computer i.e. automatic data processing machines whether analogue, hybrid or electronic. While applying the aforesaid test, reference can be made to the rules of interpretation of the provisions of Central Excise Tariff Act, 1985 with the explanatory notes updated from time to time published by the Customs Cooperation Council, Brussels. These would include the relevant section and chapter notes. However, reference to the relevant chapter and section note must be made with caution. The chapter/section notes when general can be referred to and applied. But they can also specifically deal with and explain a particular entry, which may not be synonymous/identical or meet the description of the entry in the notification issued under the VAT Act. In such circumstances, to apply the Section or Chapter Notes not relating to general principles of interpretation, would lead to difficulties and incongruities. This caution is necessary in view of the Notes (2) to (4) of the notification, which have been interpreted above. Thus, with regard to the period after 30th November, 2005, the question of law mentioned above is answered holding, *inter alia*, that the doctrine of dominant purpose of the multi functional machine will determine/decide whether it is an input or output unit of an automatic data processing machine. In case the principal or dominant purpose is to act as input or output unit, then it would qualify and will be covered by Entry 41A at Sr. No.3. However, in case multi-functional machine is a duplicator or a photocopying machine, which incidentally can be used as a printer or a scanner etc., the said machine would not qualify and cannot be treated and regarded as input or output unit of automatic data processing machine. Said machines would not qualify under Entry 41A and will be covered by the residuary tax rate. Question referred to above is accordingly answered.

As noted above, the factual aspects with reference to each machine has to be examined. The appellant had applied for advance



adjudication/ruling. They should have produced necessary data/particulars to show and establish that principal/dominant object of the machine was to perform functions of an input or output unit of an automatic data processing machine. The onus was on the appellant to show and establish the principal or dominant purpose as they were the manufacturers or traders of the said machines. Thereafter, it was open to the Revenue to contradict or take a contrary stand, on basis of the relevant material and evidence, if required and necessary take help of expert evidence. In the absence of factual details, we cannot give any firm opinion. We are not inclined to remit the matter, as the appellant had made an application for advance ruling and there have been lapses on their part and more importantly the question and issue can be examined at the stage of assessment/appellate proceedings. The question of law is accordingly answered. The appeal is partly allowed and the order of the tribunal to the extent contrary to the observations made above shall be treated as set aside. In the facts and circumstances of the case, there will be no order as to costs. ■

was denied to him by the Labour Court even after coming to the conclusion that his services had been illegally terminated by the respondent-management and he had not abandoned his job and only a lump-sum compensation of Rs. 20,000/- was awarded to him. The petitioner-workman felt that he was entitled to be re-instated in service with full back wages and so he knocked the doors of the High Court for getting that relief.

Decision : Petition allowed.

Reason

In the present case it was not the case of the respondent-employer, which is a private company that the appointment of the petitioner was illegal for any reason or that there was no requirement of attendants any more. It was also not its case that the petitioner was employed on temporary basis or as a daily wager, which was the position in most of the cases where the Supreme Court had awarded compensation only in lieu of the relief of re-instatement and back wages. The petitioner-workman had put in more than three years of service at the time of illegal termination of his services and he would have continued to serve for more period as the employer has been claiming that it never intended to terminate his services and he himself had abandoned his job, which defence, of course, has not been accepted by the Labour Court. During the course of hearing of this matter the learned counsel for the respondent-management had submitted that the respondent firm has been closed down but this was not the defence plea either before the Labour Court or in this writ petition and so it cannot be entertained, much less accepted for denying the relief of re-instatement to the petitioner-workman. In its counter affidavit the respondent had simply pleaded that it will not be in its interest to re-instate the petitioner-workman but no justification was given for such a plea. In one decision of this Court in *Jaipal Sharma v .P.O., Labour Court & Anr* (2002) 95 FLR 1204, this Court while reversing the decision of the Labour Court in not giving the relief of re-instatement and back wages to the workman involved in that case without giving any reasons for denying him those reliefs had granted the relief of re-instatement and back wages to the workman.

For all these reasons, the award of the Labour Court in the present case to the extent it has declined the reliefs of re-instatement and back wages is not sustainable at all. It is a case of arbitrary exercise of discretion by the Labour Court. So, this writ petition succeeds and the petitioner-workman is granted the relief of re-instatement in service and considering the fact that he had not worked with the respondent all these years he is awarded only 50% back wages.

LW 61.06.2012

**MANAGEMENT OF M/S JANPATH HOTEL
v. ALL INDIA PARAYATAN JAN MAZDOOR
SABHA & ORS [DEL]**

Industrial Laws

LW 60.06.2012

**HARI KRISHAN & ANR V. MANAGEMENT OF
M/S NORTHERN SCALES COMPANY [DEL]**

W.P. (C) 18888-89/2006

P.K.Bhasin, J.

[Decided on 14/05/2012]

Industrial Disputes Act,1947 - Section 25(F) read with article 226 of Constitution of India - Illegal termination - Relief of reinstatement and back wages not awarded by labour court - Whether correct - Held, No.

Brief facts

By way of this writ petition the petitioner-workman, who was employed as an attendant with the respondent Company, had challenged the award dated 04-10-06 in ID Case No. 137/1996 whereby the relief of re-instatement in service with back wages



W.P. (C) 19898/2005

P.K.Bhasin, J.

[Decided on 08/05/2012]

Section 10 of the Industrial Disputes Act read with Order 9 Rule 13 Civil Procedure Code - Improper application moved to set aside an ex-parte award - Tribunal rejected the application-whether correct-Held, Yes.

Brief facts

This writ petition has been filed by the petitioner-management for setting aside the order passed by the Industrial Tribunal whereby the application filed by it for setting aside of the *ex-parte* Award dated 16.03.2004 whereby the workmen concerned awarded the relief of payment of officiating allowance for the period they were asked by their employer, the petitioner herein, to perform the duties of higher posts without their having been promoted to those posts, has been rejected. The petitioner has also challenged the Award.

Decision: Petition dismissed.

Reason

The *ex-parte* Award came to be passed by the Industrial Tribunal upon receipt of a Reference from the appropriate Government under Section 10 of the Industrial Disputes Act in respect of the demand of some of the workers employed at Janpath Hotel for regular pay scales in respect of the posts held by them. The statement of claim was filed on behalf of the workmen wherein they had claimed that even though they were performing the duties of higher posts but they were not getting the pay scales attached to those posts and not even getting officiating allowance by the management for taking work from them meant for higher posts.

The petitioner management did not contest the claim of the workmen by not entering appearance before the Industrial Tribunal and consequently it was ordered to be proceeded against *ex-parte*. After recording *ex-parte* evidence of the workmen the Industrial Tribunal passed an Award in favour of the workmen and the relief given to them.

The petitioner management subsequently filed an application for setting aside of the afore-said *ex-parte* Award on 8th May, 2004 giving reasons for its non-appearance during the trial. The workmen opposed that application on the ground of delay and that it was not signed by the representative of the management.

Despite several opportunities granted to the management. The management has not taken any action to correct the mistake. They have not filed nay new application signed by the departmental representative or by the authorized

representative on whose prayer or application the relief sought for can be granted or even considered.

After giving my thoughtful consideration to the rival submissions of the parties I see no merit in this writ petition and the same is liable to be dismissed for the reason that the impugned order dated 16th March, 2004 shows that the person who had moved the application under Order IX Rule 13 CPC had failed to show that he had been authorized by the petitioner management to move that application. In this writ petition also nothing has been claimed as to who was that person by the name of Mr. S.N. Khanna who had moved that application. Thus, it cannot be accepted that the application under Order IX Rule 13 CPC had been rejected on hyper-technical ground justifying interference by this Court in exercise of its writ jurisdiction. ■

Consumer Laws

LW 62.06.2012

NARNE CONSTRUCTION PVT LTD v. UNION OF INDIA & ORS [SC]

Civil Appeal Nos. 4432-4450 of 2012 (Arising out of S.L.P. (C) Nos.3499-3517 of 2011)

T.S. Thakur & Gyan SudhaMishra, JJ.

[Decided on 10/05/2012]

Consumer Protection Act, 1986 - Section 2(1) (o)-Housing construction-Supreme Court reiterates and reaffirms the law.

Brief facts

The short question that falls for determination in these appeals by special leave is whether the appellant-company was, in the facts and circumstances of the case, offering any 'service' to the respondents within the meaning of the Consumer Protection Act, 1986 so as to make it amenable to the jurisdiction of the fora established under the said Act.

Relying upon the decision of this Court in *Lucknow*



Development Authority v. M.K. Gupta (1994) 1 SCC 243, the High Court has answered the question in the affirmative and held that the respondents were 'consumers' and the appellant was a 'service' provider within the meaning of the Act aforementioned, hence amenable to the jurisdiction of the fora under the said Act.

Decision : Appeal dismissed.

Reason

In the context of the housing construction and building activities carried on by a private or statutory body and whether such activity tantamounts to service within the meaning of clause (o) of Section 2(1) of the Act, the Court observed:

"As pointed out earlier the entire purpose of widening the definition is to include in it not only day to day buying and selling activity undertaken by a common man but even such activities which are otherwise not commercial in nature yet they partake of a character in which some benefit is conferred on the consumer. Construction of a house or flat is for the benefit of person for whom it is constructed. He may do it himself or hire services of a builder or contractor. The latter being for consideration is service as defined in the Act. Similarly when a statutory authority develops land or allots a site or constructs a house for the benefit of common man it is as much service as by a builder or contractor. The one is contractual service and other statutory service. If the service is defective or it is not what was represented then it would be unfair trade practice as defined in the Act. Any defect in construction activity would be denial of comfort and service to a consumer. When possession of property is not delivered within stipulated period the delay so caused is denial of service. Such disputes or claims are not in respect of Immovable property as argued but deficiency in rendering of service of particular standard, quality or grade. Such deficiencies or omissions are defined in Sub-clause (ii) of Clause (r) of Section 2 as unfair trade practice. If a builder of a house uses substandard material in construction of a building or makes false or misleading representation about the condition of the house then it is denial of the facility or benefit of which a consumer is entitled to claim value under the Act. When the contractor or builder undertakes to erect a house or flat then it is inherent in it that he shall perform his obligation as agreed to. A flat with a leaking roof, or cracking wall or substandard floor is denial of service. Similarly when a statutory authority undertakes to develop land and frame housing scheme, it, while performing statutory duty renders service to the society in general and individual in particular."

This Court further held that when a person applies for allotment of building site or for a flat constructed by development authority and enters into an agreement with the developer or a contractor,



the nature of the transaction is covered by the expression 'service' of any description. The housing construction or building activity carried on by a private or statutory body was, therefore, held to be 'service' within the meaning of clause (o) of Section 2(1) of the Act as it stood prior to the inclusion of the expression 'housing construction' in the definition of 'service' by Ordinance No.24 of 1993.

In the light of the above pronouncement of this Court the High Court was perfectly justified in holding that the activities of the appellant- company in the present case involving offer of plots for sale to its customers/members with an assurance of development of infrastructure/amenities, lay-out approvals etc. was a 'service' within the meaning of clause (o) of Section 2(1) of the Act and would, therefore, be amenable to the jurisdiction of the fora established under the statute. Having regard to the nature of the transaction between the appellant- company and its customers which involved much more than a simple transfer of a piece of immovable property it is clear that the same constituted 'service' within the meaning of the Act.

Suffice it to say that the legal position on the subject is fairly well-settled by the pronouncements of this Court and do not require any reiteration. The High Court has correctly noticed the said pronouncements and applied them to the facts of the case at hand leaving no room for us to interfere with the answer given by it to the solitary question raised by the appellant-company. ■

ATTENTION MEMBERS

The Institute has already introduced various online services to the members and students through the Institute's websites www.icsi.edu / www.icsi.in. For encouraging members to avail the online services available through Institute's portal www.icsi.in, it has been decided to waive henceforth the transaction charges of 2% presently being charged from the stakeholders while remitting the payments online. Members will now have to remit the actual amount of fee only whereas transaction charges will be met by the Institute. The waiver of transaction charges will be applicable for all types of online payments to be made by the members like Annual fee, Certificate of Practice fee, CSBF and other fee or charges.

The annual membership fee / certificate of practice fee for the year 2012-13 has become due for payment w.e.f. 1st April, 2012. The members are requested to utilise the online services for remittance of the same and to avail the benefit being extended by the Institute.



From the Government

Corporate Laws



01 The Companies (Director Identification Number) Amendment Rules, 2012

Issued by the Ministry of Corporate Affairs vide F.No. 2/1/2011-CL V Dated 28.05.2012.]

In exercise of the powers conferred by clause (a) and clause (b) of sub-section (1) of section 642 read with sections 266 A, 266 B and 266 E of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following rules, further to amend the Companies (Director Identification Number) Rules, 2006 namely:-

1. Short title and commencement
 - (1) These rules may be called the Companies (Director Identification Number) Amendment Rules, 2012.
 - (2) They shall come into force with effect from 29th May, 2012.
2. In the Companies (Director Identification Number) Rules, 2006,-
 - (a) after FORM NO. DIN 1, in Annexure 1, for item (i) and entries relating thereto, the following shall be substituted, namely:-

- "(i) The photograph and document attached to the Form DIN-1 belongs to me. I further confirm that all required documents have been duly attested by me or duly attested by either Public Notary or a Gazetted Officer of a Government and are attached to the Form DIN-1 and".
- (b) in FORM NO. DIN-4,-
- (i) in serial number 2, after the box and words "☐ Present Residential address", the following shall be inserted, namely:-
 - ☐ Photograph of Director/designated Partner.
 - ☐ Residential Status
 - ☐ Verification as per Annexure- 1 of DIN rules
 - ☐ Verification as per Annexure- 2 of DIN rules
- (ii) After serial number 6 and entry relating thereto, the following shall be inserted, namely:-
"6A. Whether resident in India ☐ Yes ☐ No"
- (iii) in Attachments, against serial number 1, in the entry, the asterisk mark "*" shall be omitted.
- (c) after FORM NO. DIN 4, in Annexure 2, -
- (i) in item (i) after sub-item (l) and entry relating thereto, the following shall be inserted, namely:-
"(m) Photograph of Director/designated partner
(n) Residential Status
(o) Verification as per Annexure- 1 of DIN rules
(p) Verification as per Annexure- 2 of DIN rules";
- (ii) for item (ii) and entry relating thereto, the following shall be substituted, namely:-
"(ii) The photograph and document attached to the Form DIN-4 belongs to me. I further confirm that all required documents have been duly attested by me or duly attested by either Public Notary or a Gazetted Officer of a Government and are attached to the Form DIN-4 and".

Renuka Kumar
Joint Secretary

02 Constitution of CLB Benches

Issued by the Company Law Board vide F.No. 10/43/2005-CLB Dated 04.05.2012.]

1. In exercise of the powers conferred by Sub-Section 4(B) of Section 10(E) of the Companies Act, 1956 (1 of 1956) read with Regulation 4 of Company Law Board Regulation, 1991, amended from time to time and in supersession of all earlier orders, the Chairman Company Law Board hereby constitutes the following Benches for the purpose of exercising and discharging the Board's powers and functions in the manner specified below:-
- (a) Matters filed before the Principal Bench before 31st March 2008 and pending in the following Benches shall



be dealt with by anyone of the following: -

NEW DELHI BENCH

1. Justice Shri Dilip Raosaheb Deshmukh, Chairman
2. Shri B.S.V. Prakash Kumar, Member (Judicial)

KOLKATA BENCH

1. Justice Shri Dilip Raosaheb Deshmukh, Chairman
2. Shri Amlesh Bandopadhyay, Member (Technical)

MUMBAI BENCH

1. Justice Shri Dilip Raosaheb Deshmukh, Chairman
2. Smt. Vimla Yadav, Member (Technical)

CHENNAI BENCH

1. Justice Shri Dilip Raosaheb Deshmukh, Chairman
2. Shri Kanthi Narahari, Member (Judicial)
3. Smt. Lizamma Augustine, Member (Judicial)

(b) Matters pending before the Additional Principal Bench as on 31st March 2008 shall be dealt with by the Chennai Bench consisting of any one of the following:

- a. Justice Shri Dilip Raosaheb Deshmukh, Chairman
- b. Shri Kanthi Narahari, Member (Judicial)
- c. Smt. Lizamma Augustine, Member (Judicial)

(c) The Constitution of the Benches shall be as under:

(1) Matters relating to sections 247, 250, 269 and 388B of the Act shall be dealt by Principal Bench at New Delhi consisting of Justice Shri Dilip Raosaheb Deshmukh, Chairman

(2) Matters relating to all Sections except 247, 250, 269 and 388B of the Act shall be dealt by New Delhi Bench consisting of anyone of the following:

- a. Justice Shri Dilip Raosaheb Deshmukh, Chairman
- b. Shri. B.S.V. Prakash Kumar, Member (Judicial)

(3) Matters relating to all Sections except 247, 250, 269 and 388B of the Act shall be dealt by Kolkata Bench consisting of anyone of the following:

- a. Justice Shri Dilip Raosaheb Deshmukh, Chairman
- b. Shri Amlesh Bandopadhyay, Member (Technical)

(4) Matters relating to all Sections except 247, 250, 269 and 388B of the Act shall be dealt by Mumbai Bench consisting of anyone of the following:

- a. Justice Shri Dilip Raosaheb Deshmukh, Chairman
- b. Smt. Vimla Yadav, Member (Technical)

(5) Matters relating to all Sections except 247, 250, 269 and 388B of the Act shall be dealt by Chennai Bench consisting anyone of the following:

- a. Justice Shri Dilip Raosaheb Deshmukh, Chairman
- b. Shri. Kanthi Narahari, Member (Judicial)
- c. Smt. Lizamma Augustine, Member (Judicial)

From the date of joining of Shri Kanthi Narahari as Member, Chennai Bench, Smt. Lizamma Augustine, Member will hear and dispose off only such matters as are part heard by her, up to the date of her superannuation i.e. 1st June 2012.

2. Matters in which upon conclusion of final hearing orders have been reserved by the Members under transfer vide office order of even number dated 30/4/2012, such

Members would pass orders in such matters at their new place of posting after due notice to the parties.

3. The Benches may, at their discretion, hold sittings in any other city or town falling within their respective geographical jurisdiction or any other place outside their jurisdiction with the consent of the parties.
4. This Order shall come into force with effect from 7th May 2012.

P.K. Malhotra

Secretary, Company Law Board

03 Modification of CLB order dated 28/1/2010

Issued by the Company Law Board vide F.No. 10/43/2005-CLB Dated 12.05.2012.]

1. In partial modification of the Company Law Board's Order of even number dated 28/1/2010, para I (c)(i) shall be read as under:

"Matters relating to sections 247, 250, 269 and 388B of the Act shall be dealt by Principal Bench at New Delhi consisting of Smt. Vimla Yadav, Member."

2. This Order shall be in force from 16th May 2011 to 15th July 2011.

P.K. Malhotra

Secretary, Company Law Board

04 Investor Education and Protection Fund (Uploading of information regarding unpaid and unclaimed amounts lying with companies) Rules, 2012

Issued by the Ministry of Corporate Affairs vide F.No. 5/10/2011-IEPF Dated 10.05.2012.]

In exercise of the powers conferred by clauses (a) and (b) of sub-section (l) of Section 642 of the Companies Act, 1956(1 of 1956), read with sub-section (3) of Section 205C of that Act, the Central Government here by makes the following rules, namely: -

Short title and Commencement.-

1. (1) These rules may be called the Investor Education and Protection Fund (Uploading of information regarding unpaid and unclaimed amounts lying with companies) Rules, 2012.
- (2) They shall come into force with effect from 20th May, 2012.

2. Definitions;

In these rules, unless the context otherwise requires-



From the Government

- (a) 'Act' means the Companies Act, 1956;
 (b) 'eForm' means eform specified in the rules;
 (c) Financial year means the financial year as defined under Subsection (17) of Section 2 of the Companies Act, 1956;
 (d) Words and expressions used in these rules and not defined herein but defined in the Act shall have the meaning as assigned to them in the Act;

3. Filling of information regarding unpaid and unclaimed amounts.-

Every Company (including Non-banking Financial Companies and Residuary Non-banking Companies) shall, within a period of 90 days after the holding of Annual General Meeting or the date on which it should have been held as per the provisions of section 166 of the Act and every year thereafter till completion of the seven years period, identify the unclaimed amounts as referred to in sub-section (2) of section 205C of the Act, Separately furnish and upload on its own website as also on the Ministry's website or any other website as may be specified by the Government a statement or information through eForm 5 INV, separately for each year, containing following information, namely:-

- (a) the names and last known addresses of the persons entitled to receive the sum;
 (b) the nature of amount;
 (c) the amount to which each person is entitled;
 (d) the due date for transfer into the Investor Education and Protection Fund; and
 (e) such other information as considered relevant for the purpose;

Provided that, for the financial year ended March 31, 2011, the information shall be filed, latest by the July 31, 2012.

4. Verification of eForm.-

The information referred to in rule 3 shall be duly verified and certified by a chartered accountant or a company secretary or a cost accountant practicing in India or by the statutory auditors of the company.

5. Default In filing of information.-

If a company fails to furnish and upload information or furnishes and uploads false information on the website, the company, and every officer of the company who is in default, shall be liable and in such case the provisions of Section 629A of the Companies Act, 1956 shall be applicable.

A.K. Srivastava
 Joint Secretary

June
 2012



CHARTERED SECRETARY

760 (GN-109)

FORM 51NV

Statement of unclaimed and unpaid amounts

[Pursuant to rule 3 of the Investor Education and Protection Fund (Uploading of information regarding unpaid and unclaimed amounts lying with companies) Rules, 2012]

Note 1 - Please adhere to the 'Process for uploading Investor-wise details' as mentioned on the Acknowledgment, to be generated upon upload of this eForm.

Note 2 - All fields marked in * are to be mandatorily filled.

1. (a) *Corporate identity number (CIN) of company		Pre-III
(b) Global location number (GLN) of company		
2. (a) Name of the company		
(b) Address of the registered office of the company		
(c) e-mail ID of the company		
3. (a) *Financial year ended		(DD/MM/YYYY)
(b) *Date of annual general meeting (AGM) or Due date whichever is earlier		(DD/MM/YYYY)
4. *Whether registered with Reserve Bank of India (RBI)	☐ Yes ☐ No	
5. *Number of small shareholders of the company		
6. *Number of small depositors of the company		
7. Details of unclaimed and unpaid amounts		
(a) *Amount of Unclaimed and unpaid dividend		
(b) *Amount of application moneys received and due for refund		
(c) *Amount of matured deposits		
(d) *Amount of matured debentures		
(e) Interest accrued on the amounts referred to in clause (a) to (d) above		
(i) *Unpaid dividend		
(ii) *Application money due for refund		
(iii) *Matured deposit with companies		
(iv) *Matured debentures with companies		
Total		

Verification

To the best of my knowledge and belief, the information given in this form and its attachments is correct and complete.

I have been authorised by the Board of directors' resolution number* dated* (DD/MM/YYYY) to sign and submit this form.

To be digitally signed by

Managing director or director or manager or secretary of the company

*Designation

*Director identification number of the director or Managing Director; or Income-tax permanent account number (income-tax PAN) of the manager; or Membership number, if applicable or income-tax PAN of the secretary (secretary of a company who is not a member of ICSI, may quote his/ her income-tax PAN)

Certificate

It is hereby certified that I have verified the above particulars (including attachment(s)) from the records of

and found them to be true and correct. I further certify that all required attachment(s) have been completely attached to this form.

☐ Chartered accountant (in whole-time practice) or ☐ Cost accountant (in whole-time practice) or
☐ Company secretary (in whole-time practice) ☐ Statutory auditor

*Whether associate or fellow ☐ Associate ☐ Fellow

*Membership number or certificate of practice number

This eForm has been taken on file maintained by the registrar of companies through electronic mode and on the basis of statement of correctness given by the company.



05 Guidelines for declaring a financial Institution as Public Financial Institution under section 4A of the Companies Act, 1956

Issued by the Ministry of Corporate Affairs vide General Cir. No. 10/2012 F. No. 3/2/2011-CLV dated 21.05.2012.]

- Section 4A of the Companies Act, 1956 was inserted by the Companies (Amendment) Act, 1974 (41 of 1974) with effect from 01st February, 1975. Sub-section (2) of Section 4A of the Act empowers the Central Government, subject to the provision of sub-section (1) of section 4A of the Act, to notify in the official Gazette such other institution as it may think fit to be Public Financial Institutions (PFI).
 - The Ministry had framed certain criteria for declaring a Financial Institution as PFI under section 4A, of the Companies Act, 1956 vide General Circular No. 34/2011 dated 2.6.2011. The issue has since been revisited and it has been decided that any Financial Institution applying for declaration as PFI shall fulfill the following criteria:-
 - A company or corporation should be established under a special Act or the Companies Act, 1956 being a central act;
 - Main business of the company should be industrial infrastructural financing;
 - the company must be in existence for atleast 3 years and its financial statements should show that its income from industrial infrastructural financing activities exceeds 50% of its total income.
 - the net-worth of the company should be minimum of Rs.1000 (Rs. One Thousand) crore.
 - company is registered as a Infrastructure Finance Company (IFC) with RBI or as a Housing Finance Company (HFC) with National Housing Bank;
 - NOC from RBI NHB, in the case of IFC HFC, with regard to supervisory concerns, if any, must be obtained and enclosed with the application.
 - Such IFCs HFCs, after being declared as PFIs are required to disclose in their audited Financial Statements that they are complying with the directions and conditions laid down by this Ministry.
 - It is, however, clarified that in the case of Central Public Sector Undertakings/State Public Sector Undertakings, no restriction shall apply with respect to financing specific sector(s) and net-worth as stated in para 2(c) and (d) above respectively.
- This issues with the approval of the competent authority.

Sanjay Shorey
Joint Director

06 Compliance of the provisions of Companies Act, 1956 and the Rules made there under.

Issued by the Ministry of Corporate Affairs vide General Cir. No. 09/2012 F. No. 17/146/2011-CLV dated 15.05.2012.]

- The Ministry had issued general circular no. 33/2011 dated 01/06/2011 wherein it was, *inter alia*, stated that in order to ensure corporate governance and proper compliances of the provisions of the Companies Act, 1956, it had been decided that no request, whether oral, in writing or through e-Forms, for recording any event based information/ changes shall be accepted by the Registrar of companies from such defaulting companies, unless they file their updated balance sheets and annual returns with the office of the Registrar of Companies. Further, the Ministry has issued General Circular No. 63/2011 dated 06.09.2011, wherein it was stated that in the interest of stakeholders certain event based information /changes were allowed to be filed and accepted by the Registrar of companies from such Defaulting Companies.
- Now on requests received from various Corporates & Professionals and difficulties experienced by the stakeholders in filing Form No.8 and Form No.10 (for modification of charges under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFESI), it has now been decided to accept filing of the followings Forms:-

a)	Form No.8 and Form No.10	Particulars of modification of charge(s) under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
b)	Form 17	Particulars of Satisfaction of Charge(s) from defaulting companies also.

- This circular shall be effective from 20.05.2012.

U.C. Nahta
Director (Inspection & Investigation)

07 Filing of Cost Audit Report (Form-I) and Compliance Report (Form-A) in the eXtensible Business Reporting Language (XBRL) mode.

Issued by the Ministry of Corporate Affairs vide General Cir. No. 08/2012 F. No. 52/17/CAB-2011 dated 10.05.2012.]

- It has been decided by the Ministry of Corporate Affairs to mandate the cost auditors and the companies to file Cost Audit Reports (Form-I) and Compliance Reports (Form-A) for the year 2011-12 onwards (including the



From the Government

overdue reports relating to any previous year) by using the XBRL taxonomy. These reports, required to be filed in the XBRL format, would be based on the Taxonomy on XBRL being developed for the formats (Form-I & Form-A) given in the following Rules:

- (i) Companies (Cost Accounting Records) Rules, 2011
 - (ii) Cost Accounting Records (Telecommunication Industry) Rules 2011
 - (iii) Cost Accounting Records (Petroleum Industry) Rules 2011
 - (iv) Cost Accounting Records (Electricity Industry) Rules 2011
 - (v) Cost Accounting Records (Sugar Industry) Rules 2011
 - (vi) Cost Accounting Records (Fertilizer Industry) Rules 2011
 - (vii) Cost Accounting Records (Pharmaceutical Industry) Rules 2011
 - (viii) Companies (Cost Audit Report) Rules, 2011
2. Hence, all cost auditors and companies, which are liable to file Cost Audit Reports (Form-E) and Compliance Reports -(Form-A), are requested to file their reports with the Central Government after 30th June, 2012 in the XBRL mode by which time the relevant taxonomy together with Form-I & Form-A in XBRL format is likely to be ready and notified.
 3. The Institute is requested to circulate this General Circular for the information of all concerned.

B.B. Goyal
Adviser (Cost)

Sanjay Shorey
Joint Director

08 Name Availability Guidelines, 2011

Issued by the Ministry of Corporate Affairs vide General Cir. No. 07/2012 F. No. 17/90/2011-CL-V dated 25.04.2012.]

1. Please refer to this Ministry's earlier Circulars no.45/2011 dated 08.07.2011 and 48/2011 dated 22.07.2011 on the subject cited above. In this regard, I am directed to say that matter regarding availability of name by the system online without backend process by the Registrar of Companies (ROC) on certification given by practising professionals in the manner provided at Para 3 of the Circular no.45/2011 dated 08.07.2011 has been re-examined in this Ministry and it has been decided as under :-

- (i) The facility of name approval through STP mode on certification by professional will continue to be available. However, such names will be put to online check by the system for ascertaining similarity with trademarks. If there is similarity of proposed name with any existing trademark, the work item will be transferred for processing in non STP mode.
 - (ii) All the names applications submitted in STP mode will be put for system check and if there is exact match of any of the two words (other than the words private limited/limited) proposed in new company's name with any existing company's name, then such name will also be processed in non-STP mode.
 - (iii) All the names approved in STP mode will be made available on the dash board of the concerned ROC for immediate examination. Such STP approved names will not be available for filing of incorporation documents up to:-
 - (a) 1900 hrs. of the same day, if the name through STP mode is approved by the system upto 1100 hrs. on any working day.
 - (b) 1900 hrs. of the any next working day if the name is approved after 1100 hrs. on any working day or on holiday/non-working day.
 - (iv) Name approval application in case of single word (other than words private limited/limited) shall not be processed in STP mode.
2. This circular shall be implemented w.e.f 20.05.2012
 3. All RDs/ROCs should take note of this circular and ensure its compliance, and discrepancies, if any, should be brought to the notice of this Ministry immediately.

09 Amendment to the Consent Circular dated 20th April 2007

Issued by the Securities and Exchange Board of India vide CIR/EFD/1/2012 dated 25.05.2012.]

SEBI had issued Circular No.EFD/ED/Cir.-01/2007 dated 20th April 2007 providing the framework for passing of consent orders and for considering requests for composition of offences. On the basis of the experience gained and with the purpose of providing more clarity on its scope and applicability, it has been decided to partially modify the same as follows:

1. SEBI shall not settle the defaults listed below:
 - i. Insider trading i.e. violation of Regulation 3 and 4 of the SEBI(Prohibition of Insider Trading)Regulations, 1992;
 - ii. Serious fraudulent and unfair trade practices which,



- in the opinion of the Board, cause substantial losses to investors and/or affects their rights, especially retail investors and small shareholders or have or may have market wide impact, except those defaults where the entity makes good the losses due to the investors;
- iii. Failure to make the open offer (except where the entity agrees to make the open offer or if in the opinion of the Board, the open offer is not beneficial to the shareholders and / or the case is referred for adjudication);
 - iv. Front-running; for the purpose of this circular, front running means usage of non public information to directly or indirectly, buy or sell securities or enter into options or futures contracts, in advance of a substantial order, on an impending transaction, in the same or related securities or futures or options contracts, in anticipation that when the information becomes public; the price of such securities or contracts may change;
 - v. Defaults relating to manipulation of net asset value or other mutual funds defaults where the actions of the asset management company (AMC)/mutual fund (MF)/sponsor, result in substantial losses to the unit holders, except cases where the entity has made good the losses of the unit holders to the satisfaction of the Board;
 - vi. Failure to redress investor grievances(except cases where the issue involved is only of delayed redressal);
 - vii. Failure to make such disclosures under the ICDR and Debt Securities Regulations, which in the opinion of the Board, materially affect the right of the investors;
 - viii. Non-compliance of summons issued by SEBI;
 - ix. Non compliance of an order passed by the Adjudicating Officer (AO), Designated Member (DM) or Whole Time Member (WTM);
 - x. Any other default by an applicant who continues to be non-compliant with any order passed by the (AO) or (DM) or (WTM). Notwithstanding anything contained in this circular, based on the facts and circumstances of the case, the HPAC/Panel of WTMs may settle any of the defaults listed above.
2. No consent application shall be considered.
 - i. Before the completion of any investigation / inspection or contemplated in respect of the alleged default;
 - ii. If an alleged default is committed within a period of two years from the date of any consent order except where the default is minor in nature;
 - iii. If the applicant has already obtained more than two consent orders, for a period of three years, from the date of the last consent order;
 - iv. Where more than one proceeding arising out of the

same cause of action is pending, unless it is for all the proceedings.

3. One application may be considered for a single proceeding or multiple proceedings arising from the same cause of action but in no case, shall one application be considered for multiple proceedings arising from different causes of action.
4. No consent application shall be considered, if filed, after 60 days from the date of-
 - (i) service of the notice to show cause, including supplementary notices, if any, issued by the Designated Authority (DA)/AO, DM and WTM, whichever is later.
 - (ii) this circular, if the proceedings before the DA/AO, DM and WTM are pending as on that date.

Provided that the Competent Authority may condone the delay, if the delay is beyond the control of the applicant.

Provided further that the said condition shall not apply in respect of cases pending before the Tribunal/Courts.

Explanation – Where multiple proceedings have been initiated for the same cause of action, a consent application filed within the limitation period specified above, for any one proceeding, shall be deemed to have been made within the prescribed time for the remaining proceedings also, for which the settlement is sought.

5. The consent terms shall be determined in terms of the Guidelines annexed herewith as **Annexure A***.
6. All consent applications after coming into effect of this Circular, shall be filed in the revised format, herewith attached as **Annexure B***.
7. All consent applications shall be accompanied with a non refundable processing fee of ` 5,000/- (Rupees five thousand only) per applicant, by way of a "Demand Draft" in favour of "Securities and Exchange Board of India" payable at Mumbai.
8. The consent application in the prescribed format, containing all the necessary details / documents, shall be assigned a registration number, which shall be communicated to the applicant and quoted for future correspondence. In case the specified details/documents as submitted by the applicant are incomplete or vague, the deficient application shall be returned forthwith to the applicant without assigning a registration number, detailing the deficiencies contained therein.
9. The applicant shall be granted not more than one opportunity to resubmit the rectified application, if it so desires, within a period of 15 days from the date of service of the letter from SEBI. The application resubmitted within the stipulated period only shall be

* Not reproduced here. For Annexures log on to SEBI website: www.sebi.gov.in and then refer to the Circular.



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registered for processing. The Competent Authority may extend the time in deserving cases.

10. The Authority within SEBI before whom the enforcement proceeding(s) is pending, in respect of which the consent application is filed, shall be informed about the filing of the said application. The Authority may continue the proceedings except passing the final order till the conclusion of the consent proceedings. In cases where the criminal complaint has not yet been filed but is envisaged, the filing of a complaint may be kept in abeyance till the conclusion of the consent proceedings. In case of rejection of the terms of consent by the Panel of WTMs, the said proceedings shall be continued from the stage at which it was pending.
11. The High Powered Advisory Committee (HPAC) shall consist of a retired Judge of a High Court and three other external experts, as may be decided by the Board from time to time.
12. There shall be Internal Committee(s) comprising of a Chief General Manager, not administratively associated with the case and Division Chiefs of the concerned Operational Department and Legal/ Enforcement Department of SEBI respectively, for assisting the HPAC. The Internal Committee will require the applicant to appear before it for formulating terms of consent as per the Guidelines annexed to this Circular, where after the applicant shall submit the consent terms, including the non-monetary directives, if any, within one week. The consent terms shall be placed before the HPAC for its consideration and recommendations.
13. The recommendations made by the HPAC, shall be placed before the Panel of two Whole Time Members for their approval. The HPAC/ Panel of WTMs may, considering the facts and circumstances of the case and the gravity of the charges:-
 - (i) enhance the settlement amount in serious cases as per the scheme of the Act, or
 - (ii) reduce the settlement amount if the settlement amount is disproportionately higher considering the nature of violation, or
 - (iii) refuse to consider the case under the consent process.
14. The consent terms finally approved by the Panel of WTMs, i.e. the Settlement Amount (SA) along with the directives, if any, shall be communicated to the applicant.
15. The applicant shall within 15 days from the date of receipt of the intimation send its acceptance of the said terms and remit the SA in lump sum. In case of non-acceptance of the SA and directives, if any or non-communication of acceptance within the stipulated time, the application shall be treated as rejected.
16. A consent application may be withdrawn only once, at

any stage prior to the consideration of the application by the HPAC.

17. In case of rejection of the consent application, no request for reconsideration shall be considered and no subsequent application with respect to the same default shall be considered by SEBI at any stage thereafter. This clause shall come into effect on the expiry of 30 days from the date of this circular.
18. The consent application shall be disposed of expeditiously, preferably within a period of six months from the date of registration of the consent application.
19. The Consent order, containing the alleged misconduct, legal provisions alleged to have been violated, facts and circumstances of the case and the consent terms, shall be hosted on the website of SEBI.
20. This Circular shall come into force with immediate effect. All new applications and pending applications as on the date of this circular, except cases where the consent terms have been received from the applicant for placing before the HPAC or cases pending at any stage thereafter, shall be dealt in accordance with this circular.

J. Ranganayakulu
Executive Director

10 Revised Position Limits for Trading Member (Banks) in Exchange Traded USD:INR derivative contracts

Issued by the Securities and Exchange Board of India vide CIR/DNPD/2/2012 dated 23.05.2012.]

1. SEBI Circular No. CIR/DNPD/5/2010 dated July 30, 2010, inter alia, provides for position limits applicable for USD:INR derivatives contracts wherein Annexure II, para-3 of page 5 stipulates the norms applicable to Trading Member (Banks).
2. Your attention is drawn to RBI Circular No: RBI/2011-12/569 dated May 21, 2012 on 'Risk Management and Inter-bank dealings'. The Circular, inter alia, revised norms on position limits for Authorized Dealers Category - I (AD Category - I) banks.
3. In light of the above, Annexure II, para-3 of page 5 of the above stated SEBI Circular, stands modified as under: "Gross open positions of the bank across all contracts (both futures and options contracts) not to exceed 15% of the total open interest or USD 100 million whichever is **lower**".
4. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the



- development of, and to regulate the securities market.
5. This circular is available on SEBI website at www.sebi.gov.in under the category "Derivatives-Circulars".

Shashi kumar
Joint Director

11 Securities And Exchange Board of India (Alternative Investment Funds) Regulations, 2012

Issued by the Securities and Exchange Board of India vide LAD-NRO/GN/2012-13/04/11262 dated 21.05.2012.]

In exercise of the powers conferred by sub-section (1) of Section 30 read with sub-section (1) of Section 11, clause (ba) and clause (c) of sub-section (2) of Section 11 and sub-section (1) and (1B) of Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) the Securities and Exchange Board of India hereby, makes the following regulations, namely, -

CHAPTER - I Preliminary

Short title and commencement.

1. (1) These regulations shall be called the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.
- (2) These regulations shall come into force on the date of their notification in the Official Gazette.

Definitions.

2. (1) In these regulations, unless the context otherwise requires, the terms defined herein shall bear the meanings assigned to them below, and their cognate expressions and variations shall be construed accordingly,-
 - (a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (b) "Alternative Investment Fund" means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which,-
 - (i) is a privately pooled investment vehicle which collects funds from investors, whether Indian or foreign, for investing it in accordance with a defined investment policy for the benefit of its investors; and
 - (ii) is not covered under the Securities and Exchange

Board of India (Mutual Funds) Regulations, 1996, Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999 or any other regulations of the Board to regulate fund management activities:

Provided that the following shall not be considered as Alternative Investment Fund for the purpose of these regulations,-

- (i) family trusts set up for the benefit of 'relatives' as defined under Companies Act, 1956;
 - (ii) ESOP Trusts set up under the Securities and Exchange Board of India (Employee Stock Option Scheme and Employee Stock Purchase Scheme), Guidelines, 1999 or as permitted under Companies Act, 1956;
 - (iii) employee welfare trusts or gratuity trusts set up for the benefit of employees;
 - (iv) 'holding companies' within the meaning of Section 4 of the Companies Act, 1956;
 - (v) other special purpose vehicles not established by fund managers, including securitization trusts, regulated under a specific regulatory framework;
 - (vi) funds managed by securitisation company or reconstruction company which is registered with the Reserve Bank of India under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; and
 - (vii) any such pool of funds which is directly regulated by any other regulator in India;
- (c) "associate" means a company or a limited liability partnership or a body corporate in which a director or trustee or partner or Sponsor or Manager of the Alternative Investment Fund or a director or partner of the Manager or Sponsor holds, either individually or collectively, more than fifteen percent of its paid-up equity share capital or partnership interest, as the case may be;
 - (d) "Board" means the Securities and Exchange Board of India established under Section 3 of the Act;
 - (e) "certificate" means a certificate of registration granted by the Board under regulation 6;
 - (f) "change in control" in relation to a company or a body corporate, means:
 - (i) if its shares are listed on any recognized stock exchange, change in control within the meaning of clause (e) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;



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- (ii) in any other case, change in the controlling interest or change in legal form;

Explanation.— For the purpose of sub-clause (ii), the expression “controlling interest” means an interest, whether direct or indirect, to the extent of more than fifty percent of voting rights or interest;

- (g) “company” means a company incorporated under the Companies Act, 1956;
- (h) “corpus” means the total amount of funds committed by investors to the Alternative Investment Fund by way of a written contract or any such document as on a particular date;
- (i) “debt fund” means an Alternative Investment Fund which invests primarily in debt or debt securities of listed or unlisted investee companies according to the stated objectives of the Fund;
- (j) “equity linked instruments” includes instruments convertible into equity shares or share warrants, preference shares, debentures compulsorily or optionally convertible into equity;
- (k) “form” means any of the forms set out in the First Schedule;
- (l) “hedge fund” means an Alternative Investment Fund which employs diverse or complex trading strategies and invests and trades in securities having diverse risks or complex products including listed and unlisted derivatives;
- (m) “infrastructure fund” means an Alternative Investment Fund which invests primarily in unlisted securities or partnership interest or listed debt or securitized debt instruments of investee companies or special purpose vehicles engaged in or formed for the purpose of operating, developing or holding infrastructure projects;

Explanation.— “Infrastructure” shall be as defined by the government of India from time to time.

- (n) “inspecting authority” means any one or more person appointed by the Board to exercise powers conferred under regulation 30;
- (o) “investee company” means any company, special purpose vehicle or limited liability partnership or body corporate in which an Alternative Investment Fund makes an investment;
- (p) “investible funds” means corpus of the Alternative Investment Fund net of estimated expenditure for administration and management of the fund;
- (q) “manager” means any person or entity who is appointed by the Alternative Investment Fund to manage its investments by whatever name called and may also be same as the sponsor of the Fund;

- (r) “private equity fund” means an Alternative Investment Fund which invests primarily in equity or equity linked instruments or partnership interests of investee companies according to the stated objective of the fund;

- (s) “SME” means Small and Medium Enterprise and shall have the same meaning as assigned to it under the Micro, Small and Medium Enterprises Development Act 2006 as amended from time to time;

- (t) “SME fund” means an Alternative Investment Fund which invests primarily in unlisted securities of investee companies which are SMEs or securities of those SMEs which are listed or proposed to be listed on a SME exchange or SME segment of an exchange;

- (u) “social venture” means a trust, society or company or venture capital undertaking or limited liability partnership formed with the purpose of promoting social welfare or solving social problems or providing social benefits and includes,-

- (i) public charitable trusts registered with Charity Commissioner;
- (ii) societies registered for charitable purposes or for promotion of science, literature, or fine arts;
- (iii) company registered under Section 25 of the Companies Act, 1956;
- (iv) micro finance institutions;

- (v) “social venture fund” means an Alternative Investment Fund which invests primarily in securities or units of social ventures and which satisfies social performance norms laid down by the fund and whose investors may agree to receive restricted or muted returns;

- (w) “sponsor” means any person or persons who set up the Alternative Investment Fund and includes promoter in case of a company and designated partner in case of a limited liability partnership;

- (x) “trust” means a trust established under the Indian Trusts Act, 1882 or under an Act of Parliament or State Legislation;

- (y) “unit” means beneficial interest of the investors in the Alternative Investment Fund or a scheme of the Alternative Investment Fund and shall include shares or partnership interests;

- (z) “venture capital fund” means an Alternative Investment Fund which invests primarily in unlisted securities of start-ups, emerging or early-stage venture capital undertakings mainly involved in new products, new services, technology or intellectual property right based activities or a new business model;

- (aa) “venture capital undertaking” means a domestic company;



- (i) which is not listed on a recognised stock exchange in India at the time of making investment; and
- (ii) which is engaged in the business for providing services, production or manufacture of article or things and does not include following activities or sectors:
 - (1) non-banking financial companies;
 - (2) gold financing;
 - (3) activities not permitted under industrial policy of Government of India;
 - (4) any other activity which may be specified by the Board in consultation with Government of India from time to time;
- (2) All other expressions unless defined herein shall have the same meaning as have been assigned to them under the Act or the Securities Contracts (Regulation) Act, 1956, (42 of 1956) or the Companies Act, 1956 (1 of 1956), or any statutory modification or re-enactment thereto, as the case may be.

CHAPTER - II

Registration of Alternative Investment Funds

3. (1) On and from the commencement of these regulations, no entity or person shall act as an Alternative Investment Fund unless it has obtained a certificate of registration from the Board:

Provided that an existing fund falling within the definition of Alternative Investment Fund which is not registered with the Board may continue to operate for a period of six months from commencement of these regulations or if it has made an application for registration under sub-regulation (5) within the said period of six months, till the disposal of such application:

Provided further that the Board may, in special cases, extend the said period up to a maximum of twelve months from the date of such commencement:

Provided further that existing schemes will be allowed to complete their agreed tenure, such funds shall not raise any fresh monies other than commitments already made till registration is granted under regulation 6:

Provided further that if such existing funds are not able to comply with conditions specified under these regulations, they may apply for exemption to the Board from strict compliance with these regulations and the Board upon examination may provide such exemptions or issue such instructions as may be deemed appropriate.
- (2) The funds registered as venture capital fund under Securities and Exchange Board of India (Venture

Capital Funds) Regulations, 1996 shall continue to be regulated by the said regulations till the existing fund or scheme managed by the fund is wound up and such funds shall not launch any new scheme after notification of these regulations:

Provided that the existing fund or scheme shall not increase the targeted corpus of the fund or scheme after notification of these regulations.

Provided further that venture capital funds may seek re-registration under these regulations subject to approval of two-thirds of their investors by value of their investment.

- (3) Any entity referred to in sub-regulation (1) who fails to make an application for grant of a certificate within the period specified therein shall cease to carry on any activity as an Alternative Investment Fund.
- (4) Alternative Investment Funds shall seek registration in one of the categories mentioned hereunder and in case of Category I Alternative Investment Fund, in one of the sub-categories thereof:
 - (a) "Category I Alternative Investment Fund" which invests in start-up or early stage ventures or social ventures or SMEs or infrastructure or other sectors or areas which the government or regulators consider as socially or economically desirable and shall include venture capital funds, SME Funds, social venture funds, infrastructure funds and such other Alternative Investment Funds as may be specified;

Explanation.— For the purpose of this clause, Alternative Investment Funds which are generally perceived to have positive spillover effects on economy and for which the Board or Government of India or other regulators in India might consider providing incentives or concessions shall be included and such funds which are formed as trusts or companies shall be construed as "venture capital company" or "venture capital fund" as specified under sub-section (23FB) of Section 10 of the Income Tax Act, 1961.
 - (b) "Category II Alternative Investment Fund" which does not fall in Category I and III and which does not undertake leverage or borrowing other than to meet day-to-day operational requirements and as permitted in these regulations;

Explanation.— For the purpose of this clause, Alternative Investment Funds such as private equity funds or debt funds for which no specific incentives or concessions are given by the government or any other Regulator shall be included.
 - (c) "Category III Alternative Investment Fund" which employs diverse or complex trading strategies



and may employ leverage including through investment in listed or unlisted derivatives.

Explanation.— For the purpose of this clause, Alternative Investment Funds such as hedge funds or funds which trade with a view to make short term returns or such other funds which are open ended and for which no specific incentives or concessions are given by the government or any other Regulator shall be included.

- (5) An application for grant of certificate shall be made for any of the categories as specified in sub-regulation (4) in Form A as specified in the First Schedule to these regulations and shall be accompanied by a non-refundable application fee as specified in Part A of the Second Schedule to these regulations to be paid in the manner specified in Part B thereof.
- (6) The Board shall take into account requirements as specified in these regulations for the purpose of considering grant of registration.
- (7) Without prejudice to the powers of the Board to take any action under the Act or regulations made there under, the certificate of registration shall be valid till the Alternative Investment Fund is wound up.
- (8) The Board may, in the interest of the investors, issue directions with regard to the transfer of records, documents or securities or disposal of investments relating to its activities as an Alternative Investment Fund.
- (9) The Board may, in order to protect the interests of investors, appoint any person to take charge of records, documents, securities and for this purpose, also determine the terms and conditions of such an appointment.

Eligibility Criteria.

4. For the purpose of the grant of certificate to an applicant, the Board shall consider the following conditions for eligibility, namely, -
 - (a) the memorandum of association in case of a company; or the Trust Deed in case of a Trust; or the Partnership deed in case of a limited liability partnership permits it to carry on the activity of an Alternative Investment Fund;
 - (b) the applicant is prohibited by its memorandum and articles of association or trust deed or partnership deed from making an invitation to the public to subscribe to its securities;
 - (c) in case the applicant is a Trust, the instrument of trust is in the form of a deed and has been duly registered under the provisions of the Registration Act, 1908;
 - (d) in case the applicant is a limited liability partnership, the partnership is duly incorporated and the

partnership deed has been duly filed with the Registrar under the provisions of the Limited Liability Partnership Act, 2008;

- (e) in case the applicant is a body corporate, it is set up or established under the laws of the Central or State Legislature and is permitted to carry on the activities of an Alternative Investment Fund;
- (f) the applicant, Sponsor and Manager are fit and proper persons based on the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008;
- (g) the key investment team of the Manager of Alternative Investment Fund has adequate experience, with at least one key personnel having not less than five years experience in advising or managing pools of capital or in fund or asset or wealth or portfolio management or in the business of buying, selling and dealing of securities or other financial assets and has relevant professional qualification;
- (h) the Manager or Sponsor has the necessary infrastructure and manpower to effectively discharge its activities;
- (i) the applicant has clearly described at the time of registration the investment objective, the targeted investors, proposed corpus, investment style or strategy and proposed tenure of the fund or scheme;
- (j) whether the applicant or any entity established by the Sponsor or Manager has earlier been refused registration by the Board.

Furnishing of Information.

5. (1) The Board may require the applicant to furnish any such further information or clarification regarding the Sponsor or Manager or nature of the fund or fund management activities or any such matter connected thereto to consider the application for grant of a certificate or after registration thereon.
- (2) If required by the Board, the applicant or Sponsor or Manager shall appear before the Board for personal representation.

Procedure for grant of Certificate.

6. (1) The Board may grant certificate under any specific category of Alternative Investment Fund, if it is satisfied that the applicant fulfills the requirements as specified in these regulations.
- (2) The Board shall, on receipt of the registration fee as specified in the Second Schedule, grant a certificate of registration in Form B.
- (3) The registration may be granted with such conditions as may be deemed appropriate by the Board.

Conditions of certificate.

7. (1) The certificate granted under regulation 6 shall, inter-



alia, be subject to the following conditions:-

- (a) the Alternative Investment Fund shall abide by the provisions of the Act and these regulations;
- (b) the Alternative Investment Fund shall not carry on any other activity other than permitted activities;
- (c) the Alternative Investment Fund shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any material change in the information already submitted.

- (2) An Alternative Investment Fund which has been granted registration under a particular category cannot change its category subsequent to registration, except with the approval of the Board.

Procedure where registration is refused.

- 8. (1) After considering an application made under regulation 3, if the Board is of the opinion that a certificate should not be granted, it may reject the application after giving the applicant a reasonable opportunity of being heard.
- (2) The decision of the Board to reject the application shall be communicated to the applicant within thirty days.
- (3) Where an application for a certificate is rejected by the Board, the applicant shall cease to carry on any activity as an Alternative Investment Fund:
Provided that nothing contained in these regulations shall affect the liability of the applicant towards its existing investors under law or agreement.

CHAPTER III

Investment Conditions And Restrictions Investment Strategy.

- 9. (1) All Alternative Investment Funds shall state investment strategy, investment purpose and its investment methodology in its placement memorandum to the investors.
- (2) Any material alteration to the fund strategy shall be made with the consent of atleast two-thirds of unit holders by value of their investment in the Alternative Investment Fund.

Investment in Alternative Investment Fund.

- 10. Investment in all categories of Alternative Investment Funds shall be subject to the following conditions:-
- (a) the Alternative Investment Fund may raise funds from any investor whether Indian, foreign or non-resident Indians by way of issue of units;
- (b) each scheme of the Alternative Investment Fund shall have corpus of atleast twenty crore rupees;
- (c) the Alternative Investment Fund shall not accept from

an investor, an investment of value less than one crore rupees:

Provided that in case of investors who are employees or directors of the Alternative Investment Fund or employees or directors of the Manager, the minimum value of investment shall be twenty five lakh rupees.

- (d) the Manager or Sponsor shall have a continuing interest in the Alternative Investment Fund of not less than two and half percent of the corpus or five crore rupees, whichever is lower, in the form of investment in the Alternative Investment Fund and such interest shall not be through the waiver of management fees:
Provided that for Category III Alternative Investment Fund, the continuing interest shall be not less than five percent of the corpus or ten crore rupees, whichever is lower.
- (e) the Manager or Sponsor shall disclose their investment in the Alternative Investment Fund to the investors of the Alternative Investment Fund;
- (f) no scheme of the Alternative Investment Fund shall have more than one thousand investors;
- (g) the fund shall not solicit or collect funds except by way of private placement.

Placement Memorandum.

- 11. (1) Alternative Investment Fund shall raise funds through private placement by issue of information memorandum or placement memorandum, by whatever name called.
- (2) Such information or placement memorandum as specified in sub-regulation (1) shall contain all material information about the Alternative Investment Fund and the Manager, background of key investment team of the Manager, targeted investors, fees and all other expenses proposed to be charged, tenure of the Alternative Investment Fund or scheme, conditions or limits on redemption, investment strategy, risk management tools and parameters employed, key service providers, conflict of interest and procedures to identify and address them, disciplinary history, the terms and conditions on which the Manager offers investment services, its affiliations with other intermediaries, manner of winding up of the Alternative Investment Fund or the scheme and such other information as may be necessary for the investor to take an informed decision on whether to invest in the Alternative Investment Fund.

Schemes.

- 12. (1) The Alternative Investment Fund may launch schemes subject to filing of placement memorandum



with the Board.

- (2) Such placement memorandum shall be filed with the Board at least thirty days prior to launch of scheme along with the fees as specified in the Second Schedule:

Provided that payment of scheme fees shall not apply in case of launch of first scheme by the Alternative Investment Fund.

- (3) The Board may communicate its comments, if any, to the applicant prior to launch of the scheme and the applicant shall incorporate the comments in placement memorandum prior to launch of scheme.

Tenure.

13. (1) Category I Alternative Investment Fund and Category II Alternative Investment Fund shall be close ended and the tenure of fund or scheme shall be determined at the time of application subject to sub-regulation (2) of this regulation.
- (2) Category I and II Alternative Investment Fund or schemes launched by such funds shall have a minimum tenure of three years.
- (3) Category III Alternative Investment Fund may be open ended or close ended.
- (4) Extension of the tenure of the close ended Alternative Investment Fund may be permitted up to two years subject to approval of two-thirds of the unit holders by value of their investment in the Alternative Investment Fund.
- (5) In the absence of consent of unit holders, the Alternative Investment Fund shall fully liquidate within one year following expiration of the fund tenure or extended tenure.

Listing.

14. (1) Units of close ended Alternative Investment Fund may be listed on stock exchange subject to a minimum tradable lot of one crore rupees.
- (2) Listing of Alternative Investment Fund units shall be permitted only after final close of the fund or scheme.

General Investment Conditions.

15. (1) Investments by all categories of Alternative Investment Funds shall be subject to the following conditions:-
- (a) Alternative Investment Fund may invest in securities of companies incorporated outside India subject to such conditions or guidelines that may be stipulated or issued by the Reserve Bank of India and the Board from time to time;
- (b) Co-investment in an investee company by a Manager or Sponsor shall not be on terms more

favourable than those offered to the Alternative Investment Fund;

- (c) Category I and II Alternative Investment Funds shall invest not more than twenty five percent of the corpus in one Investee Company;
- (d) Category III Alternative Investment Fund shall invest not more than ten percent of the corpus in one Investee Company
- (e) Alternative Investment Fund shall not invest in associates except with the approval of seventy five percent of investors by value of their investment in the Alternative Investment Fund;
- (f) Un-invested portion of the corpus may be invested in liquid mutual funds or bank deposits or other liquid assets of higher quality such as Treasury bills, CBLOs, Commercial Papers, Certificates of Deposits, etc. till deployment of funds as per the investment objective;
- (g) Alternative Investment Fund may act as Nominated Investor as specified in clause (b) of sub-regulation (1) of regulation 106N of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009.
- (2) Notwithstanding the conditions as specified in sub-regulation (1), the Board may specify additional requirements or criteria for Alternative Investment Funds or for a specific category thereof.

Conditions for Category I Alternative Investment Funds.

16. (1) The following investment conditions shall apply to all Category I Alternative Investment Funds:-
- (a) Category I Alternative Investment Fund shall invest in investee companies or venture capital undertaking or in special purpose vehicles or in limited liability partnerships or in units of other Alternative Investment Funds as specified in these regulations;
- (b) Fund of Category I Alternative Investment Funds may invest in units of Category I Alternative Investment Funds of same sub-category:
Provided that they shall only invest in such units and shall not invest in units of other Fund of Funds:
Provided further that the investment conditions as specified in sub-regulations (2), (3), (4) or (5) shall not be applicable to investments by such funds.
- (c) Category I Alternative Investment Funds shall not borrow funds directly or indirectly or engage in any leverage except for meeting temporary funding requirements for not more than thirty days, on not more than four occasions in a year and not more than ten percent of the corpus.



(2) The following investment conditions shall apply to venture capital funds in addition to conditions laid down in sub-regulation (1):-

- (a) at least two-thirds of the corpus shall be invested in unlisted equity shares or equity linked instruments of a venture capital undertaking or in companies listed or proposed to be listed on a SME exchange or SME segment of an exchange;
- (b) not more than one-third of the corpus shall be invested in:
 - (i) subscription to initial public offer of a venture capital undertaking whose shares are proposed to be listed;
 - (ii) debt or debt instrument of a venture capital undertaking in which the fund has already made an investment by way of equity or contribution towards partnership interest;
 - (iii) preferential allotment, including through qualified institutional placement, of equity shares or equity linked instruments of a listed company subject to lock in period of one year;
 - (iv) the equity shares or equity linked instruments of a financially weak company or a sick industrial company whose shares are listed.

Explanation.- For the purpose of these regulations, "a financially weak company" means a company, which has at the end of the previous financial year accumulated losses, which has resulted in erosion of more than fifty percent but less than hundred percent of its net worth as at the beginning of the previous financial year.

(v) special purpose vehicles which are created by the fund for the purpose of facilitating or promoting investment in accordance with these regulations:

Provided that the investment conditions and restrictions stipulated in clause (a) and clause (b) of sub-regulation (2) shall be achieved by the fund by the end of its life cycle.

- (c) such funds may enter into an agreement with merchant banker to subscribe to the unsubscribed portion of the issue or to receive or deliver securities in the process of market making under Chapter XB of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 and the provisions of clause (a) and clause (b) of sub-regulation (2) shall not apply in case of acquisition or sale of securities pursuant to such subscription or market making.
- (d) such funds shall be exempt from regulation 3 and 3A of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 in respect of investment in companies listed on SME Exchange or SME segment of an exchange pursuant

to due diligence of such companies subject to the following conditions:

- (i) the fund shall disclose any acquisition or dealing in securities pursuant to such due-diligence, within two working days of such acquisition or dealing, to the stock exchanges where the investee company is listed;
- (ii) such investment shall be locked in for a period of one year from the date of investment.

(3) The following conditions shall apply to SME Funds in addition to conditions laid down in sub-regulation (1):-

- (a) atleast seventy five percent of the corpus shall be invested in unlisted securities or partnership interest of venture capital undertakings or investee companies which are SMEs or in companies listed or proposed to be listed on SME exchange or SME segment of an exchange;
- (b) such funds may enter into an agreement with merchant banker to subscribe to the unsubscribed portion of the issue or to receive or deliver securities in the process of market making under Chapter XB of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;
- (c) such funds shall be exempt from regulation 3 and 3A of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 in respect of investment in companies listed on SME Exchange or SME segment of an exchange pursuant to due diligence of such companies subject to the following conditions:
 - (i) the fund shall disclose any acquisition or dealing in securities pursuant to such due-diligence, within two working days of such acquisition or dealing, to the stock exchanges where the investee company is listed;
 - (ii) such investment shall be locked in for a period of one year from the date of investment.

(4) The following conditions shall apply to social venture funds in addition to the conditions laid down in sub-regulation (1):-

- (a) atleast seventy five percent of the corpus shall be invested in unlisted securities or partnership interest of social ventures.
- (b) such funds may accept grants, provided that such utilization of such grants shall be restricted to clause (a).
- (c) such funds may give grants to social ventures, provided that appropriate disclosure is made in the placement memorandum.
- (d) such funds may accept muted returns for their investors i.e. they may accept returns on their investments which may be lower than prevailing



returns for similar investments.

(5) The following conditions shall apply to Infrastructure Funds in addition to conditions laid down in sub-regulation (1):-

- (a) at least seventy five percent of the corpus shall be invested in unlisted securities or units or partnership interest of venture capital undertaking or investee companies or special purpose vehicles, which are engaged in or formed for the purpose of operating, developing or holding infrastructure projects;
- (b) notwithstanding clause (a) of sub-regulation (5), such funds may also invest in listed securitized debt instruments or listed debt securities of investee companies or special purpose vehicles, which are engaged in or formed for the purpose of operating, developing or holding infrastructure projects.

Conditions for Category II Alternative Investment Funds.

17. The following investment conditions shall apply to Category II Alternative Investment Funds:-

- (a) Category II Alternative Investment Funds shall invest primarily in unlisted investee companies or in units of other Alternative Investment Funds as may be specified in the placement memorandum;
- (b) Fund of Category II Alternative Investment Funds may invest in units of Category I or Category II Alternative Investment Funds:
Provided that they shall only invest in such units and shall not invest in units of other Fund of Funds.
- (c) Category II Alternative Investment Funds may not borrow funds directly or indirectly and shall not engage in leverage except for meeting temporary funding requirements for not more than thirty days, not more than four occasions in a year and not more than ten percent of the corpus;
- (d) Notwithstanding clause (c), Category II Alternative Investment Funds may engage in hedging, subject to guidelines as specified by the Board from time to time;
- (e) Category II Alternative Investment Funds may enter into an agreement with merchant banker to subscribe to the unsubscribed portion of the issue or to receive or deliver securities in the process of market making under Chapter XB of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009.
- (f) Category II Alternative Investment Funds shall be exempt from regulation 3 and 3A of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 in respect of investment in companies listed on SME Exchange or SME segment of an exchange pursuant to due diligence of such companies subject to the following conditions:

- (i) the fund shall disclose any acquisition or dealing in securities pursuant to such due-diligence, within two working days of such acquisition or dealing, to the stock exchanges where the investee company is listed;
- (ii) such investment shall be locked in for a period of one year from the date of investment.

Conditions for Category III Alternative Investment Funds.

18. The following investment conditions shall apply to Category III Alternative Investment Funds:-

- (a) Category III Alternative Investment Funds may invest in securities of listed or unlisted investee companies or derivatives or complex or structured products;
- (b) Fund of Category II Alternative Investment Funds may invest in units of Category I or Category II Alternative Investment Funds:

Provided that they invest solely in such units and shall not invest in units of other Fund of Funds.

- (c) Category III Alternative Investment Funds may engage in leverage or borrow subject to consent from the investors in the fund and subject to a maximum limit, as may be specified by the Board:

Provided that such funds shall disclose information regarding the overall level of leverage employed, the level of leverage arising from borrowing of cash, the level of leverage arising from position held in derivatives or in any complex product and the main source of leverage in their fund to the investors and to the Board periodically, as may be specified by the Board.

- (d) Category III Alternative Investment Funds shall be regulated through issuance of directions regarding areas such as operational standards, conduct of business rules, prudential requirements, restrictions on redemption and conflict of interest as may be specified by the Board.

Other Alternative Investment Fund.

19. The Board may lay down framework for Alternative Investment Funds other than the Funds falling in the categories specified in these regulations.

CHAPTER IV

General Obligations And Responsibilities And Transparency

General Obligations.

20.(1) All Alternative Investment Funds shall review policies and procedures, and their implementation, on a regular basis, or as a result of business developments, to ensure their continued appropriateness.



- (2) The Sponsor or Manager of Alternative Investment Fund shall appoint a custodian registered with the Board for safekeeping of securities if the corpus of the Alternative Investment Fund is more than five hundred crore rupees:

Provided that the Sponsor or Manager of a Category III Alternative Investment Fund shall appoint such custodian irrespective of the size of corpus of the Alternative Investment Fund.

- (3) All Alternative Investment Funds shall inform the Board in case of any change in the Sponsor, Manager or designated partners or any other material change from the information provided by the Alternative Investment Fund at the time of application for registration.
- (4) In case of change in control of the Alternative Investment Fund, Sponsor or Manager, prior approval from the Board shall be taken by the Alternative Investment Fund.
- (5) The books of accounts of the Alternative Investment Fund shall be audited annually by a qualified auditor.

Conflict of Interest.

- 21.(1) The Sponsor and Manager of the Alternative Investment Fund shall act in a fiduciary capacity towards its investors and shall disclose to the investors, all conflicts of interests as and when they arise or seem likely to arise.
- (2) Manager shall establish and implement written policies and procedures to identify, monitor and appropriately mitigate conflicts of interest throughout the scope of business.
- (3) Managers and Sponsors of Alternative Investment Fund shall abide by high level principles on avoidance of conflicts of interest with associated persons, as may be specified by the Board from time to time.

Transparency.

22. All Alternative Investment Funds shall ensure transparency and disclosure of information to investors on the following:
- (a) financial, risk management, operational, portfolio, and transactional information regarding fund investments shall be disclosed periodically to the investors;
- (b) any fees ascribed to the Manager or Sponsor; and any fees charged to the Alternative Investment Fund or any investee company by an associate of the Manager or Sponsor shall be disclosed periodically to the investors;
- (c) any inquiries/ legal actions by legal or regulatory bodies in any jurisdiction, as and when occurred;
- (d) any material liability arising during the Alternative Investment Fund's tenure shall be disclosed, as and

when occurred;

- (e) any breach of a provision of the placement memorandum or agreement made with the investor or any other fund documents, if any, as and when occurred;
- (f) change in control of the Sponsor or Manager or Investee Company.
- (g) Alternative Investment Fund shall provide at least on an annual basis, within 180 days from the year end, reports to investors including the following information, as may be applicable to the Alternative Investment Fund:-
- A. financial information of investee companies.
- B. material risks and how they are managed which may include:
- (i) concentration risk at fund level;
- (ii) foreign exchange risk at fund level;
- (iii) leverage risk at fund and investee company levels;
- (iv) realization risk (i.e. change in exit environment) at fund and investee company levels;
- (v) strategy risk (i.e. change in or divergence from business strategy) at investee company level;
- (vi) reputation risk at investee company level;
- (vii) extra-financial risks, including environmental, social and corporate governance risks, at fund and investee company level.
- (h) Category III Alternative Investment Fund shall provide quarterly reports to investors in respect of clause (g) within 60 days of end of the quarter;
- (i) any significant change in the key investment team shall be intimated to all investors;
- (j) alternative Investment Funds shall provide, when required by the Board, information for systemic risk purposes (including the identification, analysis and mitigation of systemic risks).

Valuation.

- 23.(1) The Alternative Investment Fund shall provide to its investors, a description of its valuation procedure and of the methodology for valuing assets.
- (2) Category I and Category II Alternative Investment Funds shall undertake valuation of their investments, atleast once in every six months, by an independent valuer appointed by the Alternative Investment Fund:
- Provided** that such period may be enhanced to one year on approval of atleast seventy-five percent of the investors by value of their investment in the Alternative Investment Fund.
- (3) Category III Alternative Investment Funds shall ensure that calculation of the net asset value (NAV) is independent from the fund management function of



the Alternative Investment Fund and such NAV shall be disclosed to the investors at intervals not longer than a quarter for close ended Funds and at intervals not longer than a month for open ended funds.

Obligation of Manager.

24. The Manager shall be obliged to:

- (a) address all investor complaints;
- (b) provide to the Board any information sought by Board;
- (c) maintain all records as may be specified by the Board;
- (d) take all steps to address conflict of interest as specified in these regulations;
- (e) ensure transparency and disclosure as specified in the regulations.

Dispute Resolution.

25. An Alternative Investment Fund, by itself or through the Manager or Sponsor, shall lay down procedure for resolution of disputes between the investors, Alternative Investment Fund, Manager or Sponsor through arbitration or any such mechanism as mutually decided between the investors and the Alternative Investment Fund.

Power to call for information.

26. (1) The Board may at any time call for any information from an Alternative Investment Fund or its Manager or Sponsor or trustee or investor with respect to any matter relating to its activity as an Alternative Investment Fund or for the assessment of systemic risk or prevention of fraud.
- (2) Where any information is called for under sub-regulation (1) it shall be furnished within the time specified by the Board.

Maintenance of Records.

27. (1) The Manager or Sponsor shall be required to maintain following records describing:
- (a) the assets under the scheme/fund;
 - (b) valuation policies and practices;
 - (c) investment strategies;
 - (d) particulars of investors and their contribution;
 - (e) rationale for investments made.
- (2) The records under sub-regulation (1) shall be maintained for a period of five years after the winding up of the fund.

Submission of reports to the Board.

28. The Board may at any time call upon the Alternative Investment Fund to file such reports, as the Board may desire, with respect to the activities carried on by the

Alternative Investment Fund.

Winding up.

29. (1) An Alternative Investment Fund set up as a trust shall be wound up:
- (a) when the tenure of the Alternative Investment Fund or all schemes launched by the Alternative Investment Fund, as mentioned in the placement memorandum is over; or
 - (b) if it is the opinion of the trustees or the trustee company, as the case may be, that the Alternative Investment Fund be wound up in the interests of investors in the units; or
 - (c) if seventy five percent of the investors by value of their investment in the Alternative Investment Fund pass a resolution at a meeting of unitholders that the Alternative Investment Fund be wound up; or
 - (d) if the Board so directs in the interests of investors.
- (2) An Alternative Investment Fund set up as a limited liability partnership shall be wound up in accordance with the provisions of The Limited Liability Partnership Act, 2008:
- (a) when the tenure of the Alternative Investment Fund or all schemes launched by the Alternative Investment Fund, as mentioned in the placement memorandum is over; or
 - (b) if seventy five percent of the investors by value of their investment in the Alternative Investment Fund pass a resolution at a meeting of unitholders that the Alternative Investment Fund be wound up; or
 - (c) if the Board so directs in the interests of investors.
- (3) An Alternative Investment Fund set up as a company shall be wound up in accordance with the provisions of the Companies Act, 1956 (1 of 1956).
- (4) An Alternative Investment Fund set up as a body corporate shall be wound up in accordance with the provisions of the statute under which it is constituted.
- (5) The trustees or trustee company or the Board of Directors or designated partners of the Alternative Investment Fund, as the case may be, shall intimate the Board and investors of the circumstances leading to the winding up of the Alternative Investment Fund.
- (6) On and from the date of intimation under sub-regulation (5) of regulation 29, no further investments shall be made on behalf of the Alternative Investment Fund so wound up.
- (7) Within one year from the date of intimation under sub-regulation (5) of regulation 29, the assets shall be liquidated, and the proceeds accruing to investors in the Alternative Investment Fund shall be distributed to them after satisfying all liabilities.
- (8) Notwithstanding anything contained in sub-regulation



(7) and subject to the conditions, if any, contained in the placement memorandum or contribution agreement or subscription agreement, as the case may be, in specie distribution of assets of the Alternative Investment Fund, shall be made by the Alternative Investment Fund at any time, including on winding up of the Alternative Investment Fund, as per the preference of investors, after obtaining approval of at least seventy five percent of the investors by value of their investment in the Alternative Investment Fund.

- (9) Upon winding up of the Alternative Investment Fund, the certificate of registration shall be surrendered to the Board.

CHAPTER V

Inspection

Board's right to inspect.

30. The Board may suo motu or upon receipt of information or complaint appoint one or more persons as Inspecting Authority to undertake inspection of the books of account, records and documents relating to an Alternative Investment Fund for any of the following reasons, namely, -

- to ensure that the books of account, records and documents are being maintained by the Alternative Investment Fund in the manner specified in these regulations;
- to inspect complaints received from investors, clients or any other person, on any matter having a bearing on the activities of the Alternative Investment Fund;
- to ascertain whether the provisions of the Act and these regulations are being complied with by the Alternative Investment Fund;
- to inspect suo motu the affairs of an Alternative Investment Fund, in the interest of the securities market or in the interest of investors.

Notice before inspection.

- (1) Before ordering an inspection under regulation 30, the Board shall give not less than ten days notice to the Alternative Investment Fund.
- (2) Notwithstanding anything contained in sub-regulation (1) where the Board is satisfied that in the interest of the investors no such notice should be given, it may by an order in writing direct that the inspection of the affairs of the Alternative Investment Fund be taken up without such notice.
- (3) During the course of an inspection, the Alternative Investment Fund against whom the inspection is being carried out shall be bound to discharge its obligations as provided in regulation 32.

Obligation of Alternative Investment Fund on inspection.

- (1) It shall be the duty of every officer of the Alternative Investment Fund in respect of whom an inspection has been ordered under regulation 30 and any other associated person who is in possession of relevant information pertaining to conduct and affairs of such Alternative Investment Fund including Manager, if any, to produce to the Inspecting Authority such books, accounts and other documents in his custody or control and furnish him with such statements and information as the said Authority may require for the purposes of the inspection.
- (2) It shall be the duty of every officer of the Alternative Investment Fund and any other associated person who is in possession of relevant information pertaining to conduct and affairs of the Alternative Investment Fund including the manager to give to the Inspecting Authority all such assistance and shall extend all such co-operation as may be required in connection with the inspection and shall furnish such information as sought by the Inspecting Authority in connection with the inspection.
- (3) The Inspecting Authority shall, for the purposes of inspection, have power to examine on oath and record the statement of any employees, directors or person responsible for or connected with the activities of Alternative Investment Fund or any other associated person having relevant information pertaining to such Alternative Investment Fund.
- (4) The Inspecting Authority shall, for the purposes of inspection, have power to obtain authenticated copies of documents, books, accounts of Alternative Investment Fund, from any person having control or custody of such documents, books or accounts.

Submission of report to the Board.

33. The Inspecting Authority shall, as soon as possible, on completion of the inspection submit an inspection report to the Board:

Provided that if directed to do so by the Board, he may submit an interim report.

Communication of findings, etc. to the Alternative Investment Fund.

34. The Board may after consideration of the inspection report and after giving reasonable opportunity of hearing to the Alternative Investment Fund or its trustees, directors or manager issue such direction as it deems fit in the interest of securities market or the investors including directions in the nature of :-



From the Government

- (a) requiring an Alternative Investment Fund not to launch new schemes or raise money from investors for a particular period;
- (b) prohibiting the person concerned from disposing of any of the properties of the fund or scheme acquired in violation of these regulations;
- (c) requiring the person connected to dispose of the assets of the fund or scheme in a manner as may be specified in the directions;
- (d) requiring the person concerned to refund any money or the assets to the concerned investors along with the requisite interest or otherwise, collected under the scheme;
- (e) prohibiting the person concerned from operating in the capital market or from accessing the capital market for a specified period.

CHAPTER VI

Procedure for Action in Case of Default

Liability for action in case of default.

35. (1) An Alternative Investment Fund which-
- (a) contravenes any of the provisions of the Act or these regulations;
 - (b) fails to furnish any information relating to its activity as an Alternative Investment Fund as required by the Board;
 - (c) furnishes to the Board information which is false or misleading in any material particular;
 - (d) does not submit periodic returns or reports as required by the Board;
 - (e) does not co-operate in any enquiry, inspection or investigation conducted by the Board;
 - (f) fails to resolve the complaints of investors or fails to give a satisfactory reply to the Board in this behalf, shall be dealt with in the manner provided under the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.
- (2) Sub-regulation (1) shall not prejudice the powers of the Board to issue directions or measures under regulation 34 or under sections 11, 11B, 11D, sub-section (3) of section 12 or section 24 or Chapter VIA of the Act or under any other law for the time being in force.

CHAPTER VII

Miscellaneous

Power of the Board to issue clarifications.

36. In order to remove any difficulties in the application or interpretation of these regulations, the Board may issue

clarifications and guidelines in the form of circulars or issue separate circular or guidelines or framework for each category of Alternative Investment Funds.

Delegation of powers.

37. The powers exercisable by the Board under these regulations shall also be exercisable by any officer of the Board to whom such powers are delegated by the Board by means of an order made under section 19 of the Securities and Exchange Board of India Act, 1992.

Amendments to other Regulations.

38. The regulations specified in the Third Schedule to these regulations shall be amended in the manner and to the extent stated therein.

Repeal and Saving.

39. (1) The Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 hereby shall stand repealed.
- (2) Notwithstanding such repeal:
- (a) Anything done or any action taken or purported to have been done or taken, including suspension or cancellation of certificate of registration, any inquiry or investigation commenced or show cause notice issued under the repealed regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations;
 - (b) All venture capital funds or schemes launched by such venture capital funds prior to date of notification of these regulations shall continue to be governed by provisions of Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 till the fund or Scheme is wound up:
Provided that such funds shall not launch any new Scheme after notification of these regulations;
 - (c) Any application made to the Board under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 and pending before it shall be deemed to have been made under the corresponding provisions of Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.
- (3) After the repeal of Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996, any reference thereto in any other regulations made, guidelines or circulars issued thereunder by the Board shall be deemed to be a reference to the corresponding provisions of these regulations.



FIRST SCHEDULE-FORM FORM A

**Securities and Exchange Board of India
(Alternative Investment Funds) Regulations, 2012**
See regulation 3

Application for Grant of Certificate of Registration as Alternative Investment Fund

Securities and Exchange Board of India
SEBI Bhavan, C4-A, G Block, Bandra Kurla Complex,
Mumbai 400051 - India

Instructions

1. This form is meant for use by the applicant for grant of certificate of registration as an Alternative Investment Fund.
2. The applicant should complete this form, and submit it, along with all supporting documents to the Board at its head office at Mumbai.
3. This application form should be filled in accordance with these regulations.
4. The application shall be considered by the Board provided it is complete in all respects.
5. All answers must be legible and all the pages must be numbered with signature/ stamp on each page of the form.
6. Information which needs to be supplied in more detail may be given on separate sheets which should be attached to the application form and appropriately numbered.
7. The application must be signed and all signatures must be original.
8. The application must be accompanied by an application fee as specified in the Second Schedule to these regulations.

1. General Information

- (a) Name, address of the registered office, address for correspondence and principal place of business, telephone number(s), fax number(s), e-mail address of the applicant.
- (b) Name, direct line number, mobile number and e-mail of the contact person(s).
- (c) Legal structure of applicant - Whether the applicant is a company or trust or limited liability partnership or a body corporate.
- (d) Date and place of incorporation/ establishment.
- (e) Category under which the application is made -

1. Category I Alternative Investment Fund- Venture Capital Fund
2. Category I Alternative Investment Fund- Social

Venture Fund

3. Category I Alternative Investment Fund- SME Fund
4. Category I Alternative Investment Fund- Infrastructure Fund
5. Category I Alternative Investment Fund- Other
6. Category II Alternative Investment Fund
7. Category III Alternative Investment Fund

- (f) In case the applicant proposes to register as a Category III Alternative Investment Fund, whether the fund shall be open ended or close ended.
- (g) Whether the applicant or its associates or its sponsor(s) or its manager(s) is/ are registered with the Board, Reserve Bank of India or any other regulatory authority in any capacity along with the details of its registration.
- (h) Details of infrastructure for conducting activities as an Alternative Investment Fund
- (i) Copy of the draft placement memorandum.

2. Details Of Applicant

I. In case applicant is a Trust:

1. Write-up on the activities of the applicant
2. Whether the Trust Deed is registered under the provisions of the Registration Act, 1908. (Enclose relevant extract of the Registered Trust Deed)
3. Whether the Trust Deed permits the carrying on of the activity of an Alternative Investment Fund
4. Whether the applicant is prohibited by its trust deed from making an invitation to the public to subscribe to its units;
5. Provide details of Trustees/ Trustee Company as below:
 - a. Whether Trustee is an individual or a Trustee company.
 - b. Name, registered office address, telephone number(s) and fax number(s) of the Trustees/ Trustee Company.
 - c. Name, direct line number, mobile number and e-mail of the contact person(s).
 - d. Identity and Address proof of Trustees/ Directors of the Trustee Company
 - e. Whether the Trustee Company is registered with Board, Reserve Bank of India or any other regulatory authority in any capacity along with the details of its registration.
 - f. Brief write up on the activities of the Trustee Company/ Profile of Trustees.

II. In case applicant is a Company:

1. Write-up on the activities of the applicant



From the Government

2. Shareholding pattern and profile of the directors (Enclose Identity proof and address proof of the directors)
3. Whether the Memorandum of Association permits carrying on of the activity of an Alternative Investment Fund (Enclose relevant extract of the Memorandum of Association)
4. Whether the applicant is prohibited by its memorandum and articles of association from making an invitation to the public to subscribe to its securities;

III. In case applicant is a limited liability partnership:

1. Write-up on the activities of the applicant
2. Beneficial ownership pattern and profile of the partners (Enclose Identity proof and address proof of the partners)
3. Whether the partnership deed is duly registered under the provisions of the Limited Liability Partnership Act, 2008 and permits carrying on of the activity of an Alternative Investment Fund (Enclose relevant extract of the Partnership Deed)
4. Whether the applicant is prohibited by its partnership deed from making an invitation to the public to subscribe to its securities;

IV. In case applicant is a Body Corporate

1. Write-up on the activities of the applicant
2. Shareholding pattern and profile of the directors (Enclose Identity proof and address proof of the directors)
3. Whether the applicant is set up or established under the laws of the Central or State Legislature
4. Whether the applicant is permitted carrying on of the activity of an Alternative Investment Fund (Enclose relevant extract of the relevant Statute/Act)
5. Whether the applicant is prohibited by its memorandum and articles of association from making an invitation to the public to subscribe to its securities;

3. DETAILS OF SPONSOR(S) (Sponsor shall be as defined in sub-regulation (w) of regulation 2),

- (a) Name, address of registered office, address for correspondence and principal place of business, telephone number(s), fax number(s), e-mail address of the sponsor.
- (b) Name, direct line number, mobile number and e-mail of the contact person(s).
- (c) Legal status of the sponsor (whether sponsor(s) is/are individual/company/limited liability

partnership/body corporate) and date and place of incorporation/ establishment, wherever applicable.

- (d) In case of Sponsor being individual(s), provide a brief profile of the Sponsor including professional qualification. In case of Sponsor(s) being other than individual, write up on shareholding pattern/ Partnership interests and profile of the directors/partners including their professional qualification.

- (e) Identity proof and address proof of the Sponsor (if sponsor is an individual)/ directors of Sponsor (if sponsor is a company)/ partners of the Sponsor (if sponsor is a limited liability partnership).

- (f) Whether the Sponsor or its director(s)/ partner(s) is/are registered with the Board.

- (g) Details of past experience of the Sponsor(s) in advising or managing pools of capital or in fund or asset or wealth or portfolio management or in the business of buying, selling and dealing of securities or other financial assets.

- (h) Copies of the financial statements for the previous financial year

- (i) Whether, the Sponsor has floated any Alternative Investment Funds/ Venture Capital Funds previously, which are registered with the Board. If yes, details of the same.

4. Details Of Manager

- (a) Name, address of the registered office address for correspondence, telephone number(s), fax number(s), of the Manager(s).
- (b) Name, direct line number, mobile number and e-mail of the contact person(s).
- (c) Legal status of the Manager (whether Manager(s) is/are individual/company/limited liability partnership/body corporate) and date and place of incorporation/ establishment, wherever applicable.
- (d) Write up on the activities of the Manager including past experience in advising or managing pools of capital or in fund or asset or wealth or portfolio management or in the business of buying, selling & dealing of securities or other financial assets.
- (e) Identity proof and address proof of the Manager (if manager is an individual)/ directors of Manager (if manager is a company)/ partners of the Manager (if manager is a limited liability partnership).
- (f) In case of Manager being a company or limited liability partnership, shareholding pattern/ Partnership interests and profile of the directors/



Partners

- (g) Brief profile of Key Investment Team including experience and professional qualification
- (h) Copies of the financial statements for the previous financial year
- (i) Whether, the Manager has managed/advised any Alternative Investment Funds/ Venture Capital Funds previously, which are registered with the Board. If yes, details of the same.

5. Details Of Business Plan And Investment Strategy

- (a) Investment objective and investment style/ strategy of the fund.
- (b) The target investors
- (c) The target industries/ sectors, if any
- (d) Proposed corpus
- (e) Proposed fees to the Sponsor and Manager
- (f) Tenure of the fund or scheme
- (g) Details of proposed use of leverage in case of Category III Alternative Investment Fund

6. Details Of Regulatory Action Taken In The Past, If Any

- (a) Whether the applicant or Sponsor or its directors/ partners or Manager or its Directors/ Partners or Trustees/ Trustee Company or its directors are/ were involved in any litigation connected with the securities market and any order has/ had been passed against them for violation of securities laws. (If Yes, provide details. If No, enclose a declaration to that effect).
- (b) Whether the applicant/ Sponsor/ Trustee/ Manager or its directors or Partners or employees are / have been involved in any litigation connected with the securities market which may have an adverse bearing on the business of the applicant or any order has/ had been passed against them for violation of securities laws. (If Yes, provide details. If No, enclose a declaration to that effect).
- (c) Whether applicant/ Sponsor/ Trustee/ Manager or its directors or Partners has/ have been refused a certificate by the Board or its/ their certificate has been suspended at any time prior to this application. (If Yes, provide details. If No, enclose a declaration to that effect).

7. Other Information/Declarations

- (a) Amount contributed/ proposed to be contributed by the Sponsor(s)/Manager(s) as per clause (d) of regulation 10 along with details of the same. (Provide copies of commitment letters from the sponsor(s)/manager(s)).
- (b) Whether the applicant, Sponsor and Manager are fit

and proper persons based on the criteria specified in the Securities and Exchange Board of India (Intermediaries) Regulations, 2008; (Enclose a declaration to that effect).

- (c) Declaration that the applicant shall comply with the provisions of regulation 10 with respect to investment in the Alternative Investment Fund.
- (d) Declaration that the applicant shall comply with the provisions of regulation 15 and 16 with respect to general investment conditions and conditions for the applicable category.

Declaration Statement (To Be Given As Below)

We hereby agree and declare that the information supplied in the application, including the attachment sheets, is complete and true.

AND we further agree that, we shall notify the Securities and Exchange Board of India immediately any change in the information provided in the application.

We further agree that we shall comply with, and be bound by the Securities and Exchange Board of India Act, 1992, and the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, and Government of India guidelines/instructions as may be announced by the Securities and Exchange Board of India from time to time.

We further agree that as a condition of registration, we shall abide by such operational instructions/directives as may be issued by the Securities and Exchange Board of India from time to time.

For and on behalf of _____
(Name of the applicant)

Authorized signatory

(Signature)

FORM B

Securities and Exchange Board of India

(Alternative Investment Funds) Regulations, 2012

See regulation 6

Certificate of registration as Alternative Investment Fund

- I. In exercise of the powers conferred by sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), read with the regulations made thereunder, the Board hereby grants a certificate of registration to _____ as an Alternative Investment Fund subject to the conditions specified in the Act and in the regulations made thereunder.
- II. The Category of the Alternative Investment Fund shall be - _____.



From the Government

III. The Registration Number of the Alternative Investment Fund is

IN/AIF / Category__ / _____.

Date :

Place : MUMBAI

By Order

Sd/-

For and on behalf of
Securities and Exchange Board of India

SECOND SCHEDULE

Securities and Exchange Board of India

(Alternative Investment Funds) Regulations, 2012

See sub-regulations (2) and (5) of regulation 3, sub-regulation (2) of regulation 6 and sub-regulation (2) of regulation 12

FEES

PART A

Amount To Be Paid As Fees

Application fee	` 1,00,000
Registration fee	` 5,00,000
Scheme Fee	` 1,00,000
Re-registration Fee	` 1,00,000

PART B

The fees specified above shall be payable by bank draft in favour of "The Securities and Exchange Board of India". at Mumbai.

Third Schedule

[see regulation 38]

1. Amendment to Securities and Exchange Board of India (Issue of Capital and Disclosure) Regulations, 2009.

- (i) In regulation 2, in sub-regulation (1), in clause (zd), in sub-clause (i) after the words "venture capital fund". and before the words "and" the words "Alternative Investment Fund" shall be inserted;

- (ii) In regulation 37, in the proviso, clause (b) shall be substituted with the following namely, .

"(b) equity shares held by a venture capital fund or alternative investment fund of category I or a foreign venture capital investor"

Provided that such equity shares shall be locked in for a period of at least one year from the date of purchase by the venture capital fund or alternative investment fund or foreign venture capital investor".

2. Amendment to Securities and Exchange Board of

India (Foreign Venture Capital Investors) Regulations, 2000, -

- (i) In regulation 2,

- (a) clause (l) shall be substituted with the following namely, .

"(l) "Venture Capital Fund" means a fund registered with the Board under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 or under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 in the sub-category of "Venture Capital Fund" under Category I Alternative Investment Fund".

- (b) clause (m) shall be substituted with the following namely, .

"(m) "Venture Capital undertaking" means a venture capital undertaking as defined under clause(aa) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012",

- (c) In sub-regulation (2), after the words "Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996:" the words and numbers "or Securities and Exchange Board of India (Alternative Investment Funds) Regulation, 2012", shall be inserted.

- (ii) In regulation 4, in sub-regulation (1), clause

- (e) after the words "venture capital fund" the words "or Alternative Investment Fund" shall be inserted:

- (iii) In regulation 11, in clause (b), after the words "venture capital fund" the words "or alternative investment fund," shall be inserted;

- (iv) In regulation 11, in clause (c), the words "venture capital undertaking" wherever occurring shall be replaced with the words "venture capital undertaking or investee company as defined in clause (o) of sub-regulation (1) of regulation 2 of Securities and Exchange Board of India (Alternative Investment Funds) Regulation, 2012".

3. Amendments to Securities and Exchange Board of India (Substantial Acquisitions of Shares and Takeover) Regulations, 2011.

- (i) In regulation 2, in sub-regulation (1), in clause (q), in sub-clause (2) after item (viii) the following new item shall be inserted namely, -

"(viiiia) an alternative investment fund and its sponsor, trustees, trustee company and manager";.

- (ii) In regulation 10, in sub-regulation (4), in clause (f) the words "venture capital fund". wherever occurring shall be replaced with the words "venture capital fund or Category I Alternative Investment Fund",

U.K. Sinha
Chairman



12 Review of Regulatory Compliance and Periodic Reporting

Issued by the Securities and Exchange Board of India vide CIR / MIRSD / 6/2012 dated 14.05.2012.]

- SEBI (Merchant Bankers) Regulations, 1992 have been amended vide notification no. LAD-NRO/GN/2011-12/40/7335 dated March 29, 2012, a copy of which is available on SEBI website www.sebi.gov.in. With the said amendment, merchant bankers are required to submit a periodic report in such manner as may be specified by the Board from time to time. Further, in terms of SEBI Circular No. MIRSD/DPS-2/MB/Cir-16/2008 dated May 06, 2008, merchant bankers are required to submit half-yearly report in electronic form.
- In order to strengthen the compliance mechanism and the role of the Boards of Merchant Bankers, 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.
- The Boards of Merchant Bankers shall, henceforth, review the report and record its observations on (i) the deficiencies and non-compliances, (ii) corrective measures initiated to avoid such instances in future, (iii) pre-issue and post-issue due diligence process followed and whether they are satisfied and (iv) track record of past issues managed.
- Accordingly, with effect from half year ended March 31, 2012, the Compliance Officer of the Merchant Banker shall send the report in the revised format to SEBI at mb@sebi.gov.in on half yearly basis within three months of the expiry of the half year. The other terms and conditions mentioned in the circular mentioned in Para 1 shall remain unchanged.
- Further, merchant bankers are required to report changes in their status or constitution in accordance with Circular no. CIR/MIRSD/7/2011 dated June 17, 2011. The same information has also been incorporated in the revised format.
- 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.
- This circular is available on SEBI website (www.sebi.gov.in) under the categories "Legal Framework" and "Circulars".

K. Saravanan
Deputy general Manager

13 Filing Offer Documents under SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009

Issued by the Securities and Exchange Board of India vide CIR/CFD/DIL/5/2012 dated 03.05.2012.]

- Please refer to circular No. SEBI CIR/CFD/DIL/9/2010 dated October 13, 2010 on the captioned subject.
- In partial modification of the above referred circular, it has been decided that the draft offer documents in respect of issues of size upto ₹ 500 crores shall be filed with the concerned regional office of the Board under the jurisdiction of which the registered office of the issuer company falls. Merchant Bankers are accordingly advised to file the draft offer documents / offer documents with the concerned office of the Board, based on the estimated issue size as indicated below:-

Sl. No.	Region in which registered office of the issuer falls	Jurisdictions covered in this region	Name and address of the office of the Board where draft offer document / offer document is required to be filed
Estimated issue size of upto ₹ 500 crore			
i.	Northern Region	Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Uttar Pradesh, Chandigarh, Delhi, Uttarakhand	SEBI Northern Regional Office, 5th Floor, Bank of Baroda Building, 16 Sansad Marg, New Delhi - 110 001
ii.	Eastern Region	Assam, Bihar, Manipur, Meghalaya, Nagaland, Orissa, West Bengal, Tripura, Arunachal Pradesh, Mizoram, Jharkhand	SEBI Eastern Regional Office, 3rd Floor L & T Chambers 16 Camac Street, Kolkata - 700 017
iii.	Southern Region	Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, Puducherry	SEBI Southern Regional Office, D'Monte Building, 3rd Floor, No. 32, D'Monte Colony, TTK Road, Alwarpet, Chennai - 600 018
iv.	Western Region	Gujarat, Rajasthan	SEBI Western Regional Office, Unit No: 002, Ground Floor, SAKAR I, Near Gandhigram Railway Station, Opposite Nehru Bridge, Ashram Road, Ahmedabad - 380 009
		Maharashtra, Madhya Pradesh, Dadra and Nagar Haveli, Goa, Daman, Diu, Chhattisgarh	SEBI Head Office, SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai - 400051
Estimated issue size greater than ₹ 500 crore			
v.	All regions	All jurisdictions	SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai - 400051



From the Government

3. Merchant Bankers are further advised to file three copies of the draft offer documents / one copy of the offer documents with the office indicated above.
4. The amendments made vide this circular shall come into effect for all draft offer documents for issues which are filed with SEBI on or after May 14, 2012.
5. The above are specified in exercise of the powers conferred under Section 11 read with Section 11A of the Securities and Exchange Board of India Act, 1992. This circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and "Issues and Listing".

Sanjay Puro
Deputy General Manager

14 Auction calendar for allocation of FII debt limit

Issued by the Securities and Exchange Board of India vide CIR/IMD/FIIC/12/2012 dated 27.04.2012.]

1. SEBI has been allocating FII debt limits through open bidding platform since February 2009 as and when free limits are available. The utilisation status of FII debt limits and the free limits available as on 15th of every month and at the end of every month are being disseminated on SEBI website.
2. It has been decided that henceforth auction of debt limits shall be conducted on 20th of every month (if 20th is holiday, auction shall be done on the next working day), based on availability of free limits at the end of respective previous month. The auction shall be conducted if the free limit in any category (Government debt old, Government debt long term, corporate debt old and Corporate debt long term infra with one year lock-in and one year residual maturity clause) is more than INR 1,000 cr, in the following manner:
 - i. **Duration of bidding:** The bidding shall be conducted as per SEBI circular no. IMD/FII&C/37/2009 dated February 06, 2009 for two hours duration from 15:30 hrs to 17:30 hrs.
 - ii. **Amount of bid:** In partial amendment to clause 3 (h) of the aforesaid circular IMD/FII & C/37/2009, no single entity shall be allocated more than INR 250 cr. or one-tenth of free limit whichever is higher. If a single entity bids on behalf of multiple entities, in terms of para 7 of SEBI circular CIR/IMD/FIIC/18 /2010 dated November 26, 2010, then such bid would also be limited to INR 250 cr. or one-tenth of free limit for every such single entity. Further, in partial amendment to clause 3 (c) and 3(d) of the aforesaid circular IMD/FII&C/37/2009, the minimum amount which can be bid for shall be INR 1 cr. with tick size of INR 1 cr.
- iii. **Price of bid & Allocation method:** Pricing of bid and allocation methodology shall be as per SEBI circular no. IMD/FII & C/37/2009 dated February 06, 2009.
- iv. **Time period for utilization of the limits:** Time period for utilisation of debt limit shall be as per SEBI circular no. CIR/IMD/FIIC/18 /2010 dated November 26, 2010 i.e. 90 days for corporate debt old and corporate debt long term infra category and 45 days for Government debt old and Government debt long term category.
3. Auction of limit shall be held alternatively on Bombay Stock Exchange Limited (BSE) and National Stock Exchange of India Ltd. (NSEIL) offered platform starting with BSE on May 21, 2012. Modalities of the auction platform including authentication and bidding through multiple bid process shall be as per the circulars by the Exchanges.
4. The fees for the auction process shall be remitted to SEBI by the respective custodians of the entities within 3 working days after the auction process.
5. The notification of ensuing auction process shall be published along with FII debt utilisation status (at the end of every month), as disseminated on SEBI website.
6. A copy of this circular is available at the web page "F.I.I." on our website www.sebi.gov.in. The custodians are requested to bring the contents of this circular to the notice of their FII clients.

Medha Soparote
Deputy General Manager

ATTENTION LICENTIATES

The Annual Licentiate Subscription of Rs. 1000/- for the year 2012-13 became due for payment w.e.f. 1st April, 2012.

The last date for payment is 30th June, 2012. Subscription can be remitted by way of Demand Draft / Cheque Payable at New Delhi or Cheque at par favouring "The Institute of Company Secretaries of India".

For queries, if any, contact Membership Section on Telephone No. 011-45341063 or Mobile No. 9868128682.

Online Services available to Members



Attention Members !

Members of the Institute are informed that online services are already available to members for making applications/requests for Membership and other related issues. The process of ACS/FCS admissions/Issue of Certificate of Practice have since been made online and the members can generate their letter of admission of ACS/FCS/issue of certificate of practice on their own through Institute's portal www.icsi.in. The details of the same are given below:

A) Facility for making Online applications/requests on the following through Institute's portal www.icsi.in:

- u Admission as an ACS/FCS
- u Issue of Certificate of Practice
- u Change of Address
- u Duplicate I-Card for Members
- u Request for Issue of Chartered Secretary
- u Restoration/Cancellation of Membership
- u Renewal/Restoration/Cancellation of Certificate of Practice
- u Approval of Proprietorship Concern/Partnership Firm Name of Company Secretaries in Practice
- u Enrolment as Life Member of CSBF
- u Issue of Transcripts

B) Facility for acceptance of payment online from the Members is available through Institute's portal www.icsi.in

- u Annual Membership fee
- u Certificate of Practice fee
- u Restoration fee and Entrance Fee
- u CSBF subscription.

C) Online change of address by the members on their own through Institute's portal www.icsi.in

The members can change their professional/residential address/contact details through Institute's portal www.icsi.in by following the steps given below:

- i. Login to portal www.icsi.in
- ii. Login to self profile by entering the membership number and password
- iii. Once logged in, the member has to click on the Link 'Change of Address'
- iv. A window will be displayed with the buttons 'Professional' and 'Residential'
- v. Click on the relevant Button i.e. Professional or Residential and change the details and click on 'go' button
- vi. A screen will be displayed with the options 'Existing details as per records' and 'Enter change details'
- vii. Change the details as required and press on 'submit' button
- viii. The details will be automatically updated once authenticated by Membership Section

D) Automation of ACS/ FCS Admission letters and Issue of Certificate of Practice letters

The newly admitted ACS/FCS members and Certificate of Practice Holders can generate their letter of admission confirming their ACS/FCS number and date of admission and letter confirming their Certificate of Practice number and date of issue by creating/resetting their password at Institute's portal www.icsi.in by following the steps given below:

- i. Login to portal www.icsi.in
- ii. Login to your profile by entering the membership number and password
- iii. Once logged in, the member has to click on the Link 'Letters'
- iv. A window will be displayed with the dropdown list 'ACS/FCS Letter/Issue of Certificate of Practice Letter'
- v. Click on the relevant option i.e. 'ACS/FCS Letter/Issue of Certificate of Practice Letter' and press on 'Submit' button
- vi. Letter in PDF format will be displayed (Make sure that pop up blocker is not on in Internet Explorer Browser)

Members are requested to utilize the aforesaid online services available on Institute's portal www.icsi.in for availing realtime services and provide their feedback on the same to Mrs. Meenakshi Gupta, Joint Director at email id meenakshi.gupta@icsi.edu or Mr. Santosh Kumar Jha, Programmer at email id santosh.jha@icsi.edu. In case of any difficulty in availing the online services, please contact the said officials on telephone numbers 011-45341048/62/24636467.



Institute News



MEMBERS ADMITTED

Sl. No.	Name	Membership No.	Region
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FELLOWS*

1	Ms. Ritu Deb	FCS - 6754	EIRC
2	Sh. Virendra Kumar Gupta	FCS - 6755	NIRC
3	Mrs. Kiran Amarpuri	FCS - 6756	NIRC
4	Ms. Aditi Jain	FCS - 6757	NIRC
5	Sh. Birendra Kumar Patra	FCS - 6758	NIRC
6	Ms. Nishu Tomar	FCS - 6759	NIRC
7	Sh. Dhir Singh Bhati	FCS - 6760	NIRC
8	Sh. Mukesh Kumar Agarwal	FCS - 6761	NIRC
9	Sh Lokesh Taneja	FCS - 6762	NIRC
10	Sh. Pradeep Kumar Srivastava	FCS - 6763	NIRC
11	Sh. S Ganesh	FCS - 6764	SIRC
12	Sh Ashwinkumar Jivanbhai Patel	FCS - 6765	WIRC
13	Sh Ashish Churiwala	FCS - 6766	EIRC
14	Sh. Trilok Chand Singla	FCS - 6767	NIRC
15	Mrs. Aparna Nakul Chablani	FCS - 6768	WIRC
16	Ms. Mansi Damani	FCS - 6769	EIRC

* Admitted on 20th April, 30th April, 2012 and 10th May, 2012



Live Phone-in Programme / Panel Discussion with President, ICSI on LOK SABHA TV



On 5.5.2012 a Live Phone-in Programme/Panel discussion with Nesar Ahmad, President, The ICSI on the Companies Bill was telecast on LOK SABHA TV during the programme "LEGAL POINT" from 2:00 to 2:30 P.M.

The Programme was also repeated on 6.5.2012 between 12:00 Noon and 12:30 P.M. on LOK SABHA TV

17	Sh. Nadeem Pasha	FCS - 6770	NIRC
18	Mrs. Surbhi Chaudhary	FCS - 6771	NIRC
19	Sh. Balasubramanian V Nath	FCS - 6772	SIRC
20	Sh. S Chandrasekar	FCS - 6773	SIRC
21	Sh Ganesh Kumar Moningi	FCS - 6774	SIRC
22	Sh. R Muthukrishnan	FCS - 6775	SIRC
23	Sh. Rutul Jayantkumar Shukla	FCS - 6776	WIRC
24	Sh. Manuj Sehgal	FCS - 6777	NIRC
25	Sh Rakesh Kumar Singh Chauhan	FCS - 6778	NIRC
26	Mrs. E A Karthikeyan	FCS - 6779	SIRC
27	Sh. V Hemanth Ananth Ram	FCS - 6780	SIRC
28	Ms. Binju Nirlap Vora	FCS - 6781	WIRC
29	Ms. Ruchi Sharma	FCS - 6782	NIRC
30	Mr. Akshay Saxena	FCS - 6783	NIRC
31	Sh. S Rajagopal	FCS - 6784	SIRC
32	Mr. Rajeev Ranjan	FCS - 6785	NIRC

ASSOCIATES*

1	Mr. Chethan	ACS - 29958	SIRC
2	Ms. Drishti Vesasi	ACS - 29959	WIRC
3	Mr. Puneet Shah	ACS - 29960	EIRC
4	Mr. Mandar Gurunath Chavan	ACS - 29961	WIRC
5	Mrs. Renu Bhutra	ACS - 29962	EIRC
6	Mr. Dinesh Vats	ACS - 29963	NIRC
7	Mr. Aman Thukral	ACS - 29964	NIRC
8	Mr. S Ganesh	ACS - 29965	SIRC
9	Ms. Varsha Sharma	ACS - 29966	NIRC
10	Mr. Madduri Venkata Krishna Reddy	ACS - 29967	NIRC
11	Mr. Mohit Kaushik	ACS - 29968	NIRC
12	Mr. Gaurav Rajoriya	ACS - 29969	NIRC
13	Mr. Mohit Gupta	ACS - 29970	NIRC
14	Ms. Sakshi Malhotra	ACS - 29971	NIRC
15	Ms. Sonali Sharma	ACS - 29972	NIRC
16	Mr. Amit Kumar	ACS - 29973	NIRC
17	Ms. Monal Gupta	ACS - 29974	NIRC

* Admitted on 20th April, 30th April, 2012 and 10th May, 2012



18	Ms. Menaka A	ACS - 29975	SIRC	71	Mr. C N Kranthi Kumar	ACS - 30028	SIRC
19	Mr. Dhirav Ramesh Shah	ACS - 29976	SIRC	72	Mr. Agnelo Anthony Fernandes	ACS - 30029	WIRC
20	Ms. Shraddha Vasanth	ACS - 29977	SIRC	73	Mr. Bhuvnesh Joshi	ACS - 30030	NIRC
21	Ms. Chaitanya Tummala	ACS - 29978	SIRC	74	Ms. K Sindhu	ACS - 30031	SIRC
22	Mr. Amit Sharma	ACS - 29979	NIRC	75	Ms. Shailaja R	ACS - 30032	NIRC
23	Mr. Vineet Vinayak Panse	ACS - 29980	WIRC	76	Ms. Mukta Jain	ACS - 30033	EIRC
24	Mr. Suvir Govind Saraf	ACS - 29981	WIRC	77	Mr. Jitendra Jain	ACS - 30034	WIRC
25	Mr. Nitin Prakash Jain	ACS - 29982	WIRC	78	Ms. Swapna Sundari Sahu	ACS - 30035	WIRC
26	Mr. Ziaul Hasan Khan	ACS - 29983	NIRC	79	Ms. Nidhi Agarwal	ACS - 30036	EIRC
27	Mr. Manish Khanna	ACS - 29984	EIRC	80	Ms. Astha Daluja	ACS - 30037	EIRC
28	Mr. Amit Girishkumar Gor	ACS - 29985	WIRC	81	Ms. Shailvi Agarwal	ACS - 30038	NIRC
29	Mr. Madhur Nandkishor Agrawal	ACS - 29986	WIRC	82	Mr. Chetan Batra	ACS - 30039	NIRC
30	Ms. Hetali Madhukant Vyas	ACS - 29987	WIRC	83	Ms. Shallu Sharma	ACS - 30040	NIRC
31	Mr. Amit Kumar Gupta	ACS - 29988	NIRC	84	Mr. Vaibhav Sharma	ACS - 30041	NIRC
32	Mr. Amar Kumar Nayak	ACS - 29989	EIRC	85	Ms. Suman Choudhary	ACS - 30042	NIRC
33	Mr. Sanjiv Kumar	ACS - 29990	NIRC	86	Sh. Davender Kumar	ACS - 30043	NIRC
34	Ms. Sneha Jaiswal	ACS - 29991	EIRC	87	Mr. Sunil Sharma	ACS - 30044	NIRC
35	Ms. L Bharathi	ACS - 29992	SIRC	88	Ms. Shreya Bhandari	ACS - 30045	NIRC
36	Mr. Shyam Lal Sharma	ACS - 29993	WIRC	89	Ms. Divya Gandhi	ACS - 30046	NIRC
37	Mr. Maneesh Sharma	ACS - 29994	WIRC	90	Ms. Priya Gupta	ACS - 30047	NIRC
38	Mr. Gaurav Jain	ACS - 29995	NIRC	91	Mr. Devdutta Dilip Khire	ACS - 30048	WIRC
39	Ms. Rupali Mehta	ACS - 29996	NIRC	92	Ms. Deepika Undre	ACS - 30049	WIRC
40	Ms. Niyati Haresh Bhavsar	ACS - 29997	WIRC	93	Mr. Prakash Bathanhbhu Thakare	ACS - 30050	WIRC
41	Ms. Chaitali Sheth	ACS - 29998	SIRC	94	Mr. Saurabh Somani	ACS - 30051	WIRC
42	Ms. Sonam Mahesh Malkan	ACS - 29999	SIRC	95	Mr. Rohit Mahansaria	ACS - 30052	EIRC
43	Mr. Abhay Kumar Singh	ACS - 30000	WIRC	96	Mr. Ratnesh Kumar Pandey	ACS - 30053	NIRC
44	Mr. Subhash Kumar Choudhary	ACS - 30001	EIRC	97	Ms. Archana Sastry Nudurupati	ACS - 30054	SIRC
45	Ms. Neha Sengar	ACS - 30002	NIRC	98	Mr. Bimal Parmar	ACS - 30055	WIRC
46	Sh. Omkar Satish Kaulgud	ACS - 30003	WIRC	99	Ms. Srilakshmi Meruga	ACS - 30056	SIRC
47	Mr. Prasanta Kumar Patra	ACS - 30004	EIRC	100	Mr. Naveen Prakash	ACS - 30057	SIRC
48	Mr. Pankaj Rai	ACS - 30005	NIRC	101	Ms. Nidhi Nayan Parekh	ACS - 30058	WIRC
49	Ms. Bijal Ankit Shah	ACS - 30006	WIRC	102	Ms. Garima Malkani	ACS - 30059	NIRC
50	Mr. Kiran Mathukumalli	ACS - 30007	SIRC	103	Ms. Shilpa Gupta	ACS - 30060	NIRC
51	Ms. Anjana	ACS - 30008	SIRC	104	Mr. Nikunj Berlia	ACS - 30061	EIRC
52	Ms. Anushree M L Jois	ACS - 30009	SIRC	105	Ms. Deepika	ACS - 30062	NIRC
53	Ms. Kshanika Mukhija	ACS - 30010	WIRC	106	Ms. Tanu Singh	ACS - 30063	NIRC
54	Ms. Nimisha Tengshey	ACS - 30011	WIRC	107	Ms. Shweta Gupta	ACS - 30064	NIRC
55	Ms. Thriveni Shetty	ACS - 30012	WIRC	108	Ms. Monali Kumar Shah	ACS - 30065	WIRC
56	Mr. Krishna Sharma	ACS - 30013	WIRC	109	Ms. Trupti Arun Sharma	ACS - 30066	WIRC
57	Ms. Geeta Jha	ACS - 30014	NIRC	110	Ms. Divisha Hitesh Jangla	ACS - 30067	WIRC
58	Mr. Nilesh Nemchand Shah	ACS - 30015	WIRC	111	Ms. Trupti Ramesh Lad	ACS - 30068	WIRC
59	Ms. Rajni Miglani	ACS - 30016	NIRC	112	Mr. Hemen Joshi	ACS - 30069	WIRC
60	Ms. Priya Jain	ACS - 30017	NIRC	113	Mr. Swarup Sarkar	ACS - 30070	EIRC
61	Ms. Ritika Nayyar	ACS - 30018	NIRC	114	Ms. Aparna Uparkar	ACS - 30071	WIRC
62	Mr. Trilok Chand Garg	ACS - 30019	NIRC	115	Mr. Sunny Arun Warghade	ACS - 30072	WIRC
63	Ms. Leena Dilip Parekh	ACS - 30020	WIRC	116	Mr. Rohit Ghaisas	ACS - 30073	WIRC
64	Mr. Karansingh Imansingh Karki	ACS - 30021	WIRC	117	Mr. Deepak Jain	ACS - 30074	NIRC
65	Mr. Rohish Narayan Samant	ACS - 30022	WIRC	118	Mr. Amit Kumar Jain	ACS - 30075	EIRC
66	Mr. Prabin Kumar Dokania	ACS - 30023	NIRC	119	Mr. Sebastian A Mathew	ACS - 30076	SIRC
67	Ms. Khusbu Khemka	ACS - 30024	EIRC	120	Ms. Neha Khandelwal	ACS - 30077	NIRC
68	Ms. Raina Rajesh Bhansali	ACS - 30025	WIRC	121	Ms. Bratati Bhattacharya	ACS - 30078	EIRC
69	Mr. Pratik Prakash Desai	ACS - 30026	WIRC				
70	Ms. Esha Milan Parmar	ACS - 30027	WIRC				



Restored*



CERTIFICATE OF PRACTICE

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

1	Ms. G Haritha	FCS - 5521	10749	SIRC
2	Ms. Shabnam	ACS - 29539	10750	NIRC
3	Mr. Gaurav Garg	ACS - 29354	10751	NIRC
4	Sh Sandeep Agarwal	ACS - 20301	10752	NIRC
5	Sh. Loveneet Handa	ACS - 25973	10753	NIRC
6	Ms. Ann Mathew	ACS - 22594	10754	SIRC
7	Sh. Satyaki Praharaj	FCS - 6458	10755	SIRC
8	Ms. Richa Kumar	ACS - 24872	10756	NIRC
9	Ms. Neha Gupta	ACS - 28625	10757	NIRC
10	Mrs. Shikha Gupta	ACS - 21650	10758	NIRC
11	Mr. Updesh Singh Tomar	ACS - 26607	10759	NIRC
12	Mr. Vinay B L	ACS - 26638	10760	SIRC
13	Sh. Pradeep Kumar Jain	FCS - 1929	10761	NIRC
14	Sh. Dhanesh Shrikrishna Rale	ACS - 19359	10762	WIRC
15	Mrs. Samita Vaibhav Tanksale	ACS - 26044	10763	WIRC
16	Sh. Vineet Chopra	FCS - 5259	10764	WIRC
17	Ms. Pooja Harish Taori	ACS - 27579	10765	WIRC
18	Ms. Ruchika Madhogaria	ACS - 27679	10766	NIRC
19	Mrs. Puja Maheshwari	ACS - 25516	10767	NIRC
20	Ms. Deepti Shriram Khandelwal	ACS - 23848	10768	WIRC
21	Mr. Pawan Kumar Kaushik	ACS - 27522	10770	NIRC
22	Ms. Heena Khurana	ACS - 29920	10771	NIRC
23	Sh. Tejas Ramakant Saraf	ACS - 26225	10772	WIRC
24	Ms. Megha Agarwal	ACS - 25739	10773	NIRC
25	Mr. Birendra Narayan Banka	ACS - 29788	10774	EIRC
26	Ms. Neha Sharma	ACS - 25128	10775	NIRC
27	Ms. Sunandini S	ACS - 28088	10776	SIRC
28	Ms. Yamini Jain	ACS - 22966	10777	WIRC
29	Sh. B.Unnikrishnan Nair	FCS - 5546	10778	EIRC
30	Ms. Swati Kochhar	ACS - 27252	10779	NIRC
31	Mr. Yatish Bhardwaj	ACS - 29932	10780	NIRC
32	Ms. Minaxi Pandey	ACS - 26980	10781	WIRC
33	Sh Ashwinkumar Jivanbhai Patel	FCS - 6765	10782	WIRC
34	Sh. Ajmal Ansari	ACS - 27213	10783	NIRC
35	Ms. Anushree Waghmare	ACS - 28469	10784	WIRC
36	Mr. Vikash Gupta	ACS - 29948	10785	NIRC
37	Mr. Vikas Kumar Verma	ACS - 29933	10786	NIRC
38	Mr. Saurabh Poddar	ACS - 29913	10787	SIRC
39	Mr. Bharat Kumar Amrutlal Prajapati	ACS - 25607	10788	WIRC
40	Mr. Gaurav Kumar Sharma	ACS - 28276	10789	NIRC

41	Mr. Tanay Ojha	ACS - 29658	10790	NIRC
42	Ms. Isha Shankar	ACS - 29051	10791	NIRC
43	Mrs. Soumya Gupta	ACS - 29052	10792	NIRC
44	Sh. M Rajendraprasath	ACS - 22451	10793	SIRC
45	Mr. Manish Chetani	ACS - 29459	10794	EIRC
46	Sh. J Baskaran	ACS - 5163	10795	SIRC
47	Sh. Vishal Kumar Sehgal	ACS - 24899	10796	NIRC
48	Ms. Neerupama Kabra	ACS - 28604	10797	EIRC
49	Ms. Bhagya Mysore Gopalakrishna	ACS - 29324	10798	SIRC
50	Ms. Preeti Bharat	FCS - 5672	10799	NIRC
51	Ms. Geetanjli Taneja	ACS - 26112	10800	NIRC
52	Ms. Pavitra Agarwal	ACS - 29922	10801	NIRC
53	Ms. Yuti Nagarkar	ACS - 29281	10802	WIRC
54	Mr. Sanjiv Kumar	ACS - 29990	10803	NIRC
55	Ms. R Nithya	ACS - 28909	10804	SIRC
56	Ms. Garima Grover	ACS - 27100	10805	NIRC
57	Mr. Madhur Nandkishor Agrawal	ACS - 29986	10806	WIRC
58	Mr. Gurvinder Singh	ACS - 29243	10807	NIRC
59	Mr. Gaurav Girish Singh Rathore	ACS - 29336	10808	NIRC
60	Mrs. Pavani Akilla	ACS - 25846	10809	SIRC
61	Mr. Dinesh Vats	ACS - 29963	10810	NIRC
62	Mr. Gaurav Jain	ACS - 29995	10811	NIRC
63	Ms. Sakshi Malhotra	ACS - 29971	10812	NIRC
64	Ms. Ankita Goyal	ACS - 24240	10813	NIRC
65	Mr. Madhur Jain	ACS - 29111	10814	NIRC
66	Mrs. Astha Gandhi	ACS - 28124	10815	WIRC
67	Ms. Roshan Abdul Sattar Kazi	ACS - 26490	10816	WIRC
68	Ms. Jaya Gupta	ACS - 29390	10817	NIRC

CANCELLED*

1.	Sh. Shashi Chandra Jha	ACS-10096	10058	EIRC
2.	Sh Ritesh Narendrabhai Kamdar	ACS-20154	8371	WIRC
3.	Sh. Gaurav Kandpal	ACS-26654	9854	NIRC
4.	Mr. Gaurav Kumar Sharma	ACS-28276	10459	NIRC
5.	Mr. Himanshu Dawra	ACS-27754	10178	NIRC
6.	Mr. Arun Bhalla	ACS-27585	9956	NIRC
7.	Sh. M Devendiran	FCS-3171	8291	SIRC
8.	Ms. Latika Rohara	ACS-23352	10268	NIRC
9.	Ms. Mona Bhandari	ACS-18544	10122	NIRC
10.	Ms. Jyoti Mishra	ACS-27293	10127	NIRC
11.	Ms. Krupa Shailesh Maniar	ACS-27732	10255	WIRC
12.	Ms. Shweta Omprakash Gupta	ACS-25083	9217	WIRC
13.	Sh. Padmakar Manjunath Rao	FCS-2677	10002	WIRC
14.	Sh. Yogesh Kumar Gupta	FCS-3148	10449	NIRC
15.	Sh. Suresh Kundnani	ACS-26641	10362	NIRC
16.	Ms. Anuradha Bose	ACS-5898	7162	EIRC
17.	Sh. Rajiv Gupta	ACS-25404	9887	EIRC
18.	Sh. D Giridhar Reddy	ACS-15491	8354	SIRC

* During the month of April, 2012



News from the Institute

19. Sh. K Sitaraman	FCS - 433	3473	WIRC
20. Sh. Prashant Tawade	ACS - 27181	10307	WIRC
21. Sh. Anurag Goel	FCS - 1642	9247	NIRC
22. Ms. Sandhya Kedia	FCS - 6634	6466	NIRC
23. Mrs. Neha Kumar Sunit	ACS - 28210	10315	NIRC
24. Ms. Priyanka Patni	ACS - 25710	9431	NIRC
25. Sh. Ajit Kumar	ACS - 22741	8135	NIRC
26. Sh. Amit Kumar			
Hasmukhbhai Bhalodi	ACS - 19079	8395	WIRC
27. Sh. Saurabh Parikh	ACS - 12615	7920	WIRC
28. Sh. Sharad Balkrishna			
Mule	FCS - 1104	7073	WIRC
29. Mr. Sumit Kumar Gururani	ACS - 22421	10543	NIRC
30. Sh. Rajeev Gupta	ACS - 14669	10714	NIRC
31. Sh. Madhu M Muvvala	ACS - 22494	8106	SIRC
32. Mrs. Shweta Rishiraj			
Kalantri	ACS - 26092	9397	WIRC
33. Mrs. Shilpa Rao	ACS - 25424	10507	WIRC
34. Sh. Raj Kumar Goyal	ACS - 29796	10769	NIRC
35. Sh. Gopi Chand Kari	FCS - 4490	2494	SIRC

LICENTIATE ICSI

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

1. Sh. Utkarsh Rastogi	6334	NORTH
2. Ms. Parul Mehra	6335	NORTH
3. Ms. Amulya Dasari	6336	SOUTH
4. Ms. Trapti Varshney	6337	NORTH
5. Sh. Hans Raj Rohara	6338	NORTH
6. Sh. Sourabh Kumar	6339	SOUTH
7. Ms. Sana Baqai	6340	NORTH
8. Sh. Vinil Kumar Tarunbhai Patel	6341	WEST
9. Sh. Rahul Shripad Katakhar	6342	WEST
10. Ms. Honey Jain	6343	NORTH
11. Ms. Megha Maheshwari	6344	NORTH
12. Sh. Shyam Sundar S.	6345	SOUTH
13. Sh. Jagdish Hemant Kumar		
Trivedi	6346	WEST
14. Ms. Sakshi Narang	6347	NORTH
15. Sh. Rahul Nirmal Jain	6348	WEST
16. Sh. Sagar Sanjay Wazarkar	6349	WEST
17. Ms. Pushpa S. V.	6350	SOUTH
18. Sh. Parvesh Maheshwari	6351	NORTH
19. Sh. Vishal Godha	6352	NORTH
20. Sh. Alpesh Chandubhai Lodhiya	6353	WEST
21. Sh. Chandra Shekara Acharya	6354	SOUTH
22. Sh. Sanjay Jain	6355	NORTH

* During the period 31.03.2012 to 30.04.2012

June
2012



CHARTERED SECRETARY

788

PAYMENT OF ANNUAL MEMBERSHIP AND CERTIFICATE OF PRACTICE FEE FOR THE YEAR 2012-13

The annual membership fee and certificate of practice fee for the year 2012-13 will **become due for payment w.e.f. 1st April, 2012. The last date for payment of fee is 30th June 2012.**

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

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

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

Mode of Remittance of Fee

The fee can be remitted by way of :

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

For queries,

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

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

See Reg. 10, 13 & 14

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

Sir,

I furnish below my particulars

- (i) Membership Number FCS/ACS:
- (ii) Name in full:
(in block letters) Surname Name
- (iii) Date of Birth:
- (iv) Professional Address:
- (v) Phone Nos. (Resi.) (Off.)
- (vi) Mobile No Email id
- (vii) Additions to or change in qualifications, if any:
1. Submitted for (tick whichever is applicable):
(a) Issue (b) Renewal (c) Restoration
2. (a) Particulars of Certificate of Practice issued / surrendered/Cancelled earlier

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

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

Yours faithfully,

(Signature)

Place:

Encl.

Date:

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



News from the Institute



List of Companies Registered for Imparting Training During the Month of April 2012

Region	Training Period	Stipend (Rs.)
Eastern		
Stock Broking Pvt.Ltd. 35, Chittaranjan Avenue, 4th Floor,Kolkata 700012 <i>info@skpbroking.Com</i>	15 Months Training	3500/-
Jharkhand Silk,Textile & Handicraft Development Corporation Ltd. D.I.C.Campus, Ratu Road, Ranchi 834001 Jharkhand <i>jharcraft@gmail.Com</i>	15 Months Training	3500/-
BFI Infotech Ltd. 31 Chowringhee Road, Kolkata 700016 <i>post@bflcorp.Com</i>	15 Months Training	3500/-
Nakamichi Securities Ltd. 27b, Camac Street 4th Floor, Kolkata 700016 <i>investorcell@nakamichi.Co.In</i>	15months Training	3500/-
Cri Ltd. Mahamayatala, Garia Main Road, Garia, Kolkata - 700 084, <i>ahmedabad@critips.Com</i>	15 Months Training	3500/-
Bhavyaadev Roadlines Pvt. Ltd 229, A.J.C Bose Road, Crescent Tower (9th Floor) Kolkata 700020 <i>bdri@bhavyaaglobal.Com</i>	15 Months Training	3500/-
Northern		
Consulting Engineering Services (India) Pvt. Ltd. 57, Nehru Place, (5th Floor) New Delhi 110019 <i>ces@cesinter.Com</i>	15 Months Training	3500/-

High Steet Fashions Pvt. Ltd. B-17 , B-18, B-3 & B-4, Baisgdown, Industrial Area Jaipur 302006 <i>highstreet.filatex@gmail.Com</i>	15 Months & 3 Months Pt Training	3500/-
Uniproducs (India) Ltd. C 15, Sector 57, Noida 201307 <i>upil_rewari@rediffmail.Com</i>	15 Months & 3 Months Pt Training	3500/-
Eichermotors Ltd. Building 9a, 16th Floor, Dlf Cyber City, Dlf Phase III,Gurgaon 122002 <i>www.eicher.In</i>	15 Months Training	3500/-
N.V. Marketing Pvt. Ltd. E 217 Greater Kailash - I, First Floor, New Delhi 110048 <i>contact@nvmarket.Com</i>	15 Months Training	3500/-
Mother Dairy Fruit & Vegetable Pvt. Ltd. Nddb House, A-3, Sector 1 Noida 201301 <i>www.motherdairy.com</i>	15 Months Training	3500/-
Himachal Pradesh Power Corporation Ltd. 2nd Floor, Uttam Bhawan, Shimla 171004	15 Months Training	3500/-
Dee Development Engineers Ltd. 1255, Sector 14, Faridabad 121007 <i>info@ddel.Net</i>	15 Months Training	3500/-
Urjaglobal Ltd. A-56, Sec-16 Noida-201301 <i>info@urjaglobal.In</i>	15 Months Training	3500/-
Zyxel Technology Private Ltd. 407, 4th Floor, Elegance Tower Jasola District Centre New Delhi-110 025 <i>atul@zyxel.In</i>	15 Months & 3 Months Training	3500/-
Srm Infrastructure Private Ltd. D-146, Saket, New Delhi 110017 <i>srminfra@gmail.Com</i>	15 Months Training	3500/-
Century Metal Recycling Private Ltd. Village Tatarpur, Dist.Palwal 121102 Haryana <i>century@century.In</i>	15 Months Training	3500/-
Varahi Ltd. Wz-8/1indl. Area, Kirti Nagar New Delhi-110015 (India)	15 Months & Training 3 Months Pt Training	3500/-



Lt Foods Ltd. Plot No.119, Sector 44 (Institutional Area) Gurgaon 122002 Haryana	15 Months Training	3500/-	State Bank Of Hyderabad Gunfoundry, Hyderabad 500001 <i>sbhgmop@sbhyd.Co.In</i>	3 Months Training	
Resonance Eduventures Private Ltd. J-2, Jawaharnagar Main Road, Kota Rajasthan-324005 <i>contact@resonance.ac.in</i>	15 Months & 3 Months Pt Training	3500/-	Gangotri Textiles Ltd. P.B. No.1020, 35 Robertson Road, R.S.Puram, Coimbatore 641002 <i>tibre@gangotritextiles.Com</i>	15 Months Training	3500/-
Jagannath Alloys Ltd. Vill.Kanech, G.T.Road, Opp.Gurudwara Attarsar Sahib Sahnawal, Ludhiana <i>jagannath369@yahoo.com.au</i>	15 Months Training	3500/-	Western Morgan Stanley India Capital Pvt. Ltd. 18f/19f, Tower 2, One Indiabulls Centre 841, Senapatibapatmarg Mumbai 400013 <i>Jagjeetk.Kaur@morganstanley.Com</i>	15 Months Training	3500/-
HCL Corporation Private Ltd. A-5 Sector 24, Noida 201301 U.P.	15 Months Training	3500/-	Motilaloswal Asset Management Company Ltd. Palm Spring Centre, 2nd Floor Palm Court Complex, New Link Road Malad (W), Mumbai 400064 <i>dipti.sharma@motilaloswal.Com</i>	15 Months Training	3500/-
Southern Essilor Manufacturing India Pvt. Ltd. 48 L & M, Kiadb Industrial Area Doddaballapur 561203 Bangalore North District, Karnataka	15 Months Training	3500/-	JSW Energy Ltd. 3rd Floor, The Enclave Behind Maratheudyogbhavan New Prabhadevi Road, Prabhadevi Mumbai 400025 <i>www.jsw.In</i>	15 Months Training	3500/-
Rajvir Industries Ltd. Surya Tower, 1st Floor, 105 Sardar Patel Road, Secunderabad 500003 <i>rajvirindustrieslimited.Com</i>	15 Months Training	3500/-	Shri Narakesari Prakashan Ltd. 28, Farmland Ramdaspath Nagpur 440010 <i>tbngp@tarunbharat.net</i>	15 Months Training	3500/-
Sowbhagya Media. Ltd. Plot No. 512, Road No. 31 Jubilee Hills Hyderabad 500033 <i>www.sowbhagya.In</i>	15 Months Training	3500/-	Trigyn Technologies Ltd. 27 Sadfiseepz-Sez Andheri (E) Mumbai, Maharashtra <i>parthasarathy.lyengar@trigyn.Com</i>	15 Months Training	3500/-
Saheli Exports Pvt .Ltd New No 25/Old No.10 Sir Madhavan Nair Road Mahalingapuramungambakkam Chennai-600034 <i>info@saheliexports.Com</i>	15 Months Training	3500/-	Percept Ltd. P 22, Raghuvanshi Estate, 11/12 S.B.Marg, Lower Parel Mumbai 400013	15 Months Training	3500/-
Blue Dart Aviation Ltd. 88-89, Old International Terminal, Meenambakkam, Airport, Chennai-600027 <i>palaniappann@bluedart.Com</i>	15 Months Training	3500/-	Aims Industries Ltd. Besides Geb Sub-Station, At & P.O. Gavasad, Padra-Jambusar Road, Tal Padra, Dist. Vadodara 391430 Gujarat, India <i>info@aims-industeries.com</i>	15 Months Training	3500/-
Economic Development Corporation Ltd. Lla Building (Iii Floor) 735, Anna Sali Chennai-600002 <i>tabcedco@gmail.Com</i>	15 Months Training	3500/-			
Ascend Telecom Infrastructure Private Ltd. "Bagmane Laurel" B Block, 6th Floor, 7th Level Bagmane Tech Park CV Raman Nagar Bangalore 560093	15 Months & 3 Months Pt Training	3500/-			
Saksoft Limited Sp Infocity, Module 1, 2nd Floor, 40, Dr.M.G.R.Salai, Kandanchavadi Perungudi, Chennai 600096 <i>narayan.s@saksoft.Co.In</i>	15 Months Training	3500/-			



News from the Institute

List of Practising Members Registered for the Purpose of Imparting Training During the Month of April, 2012



Sunfresh Agro Industries Private Ltd. Plot No.U-4 Prabhat Food Park, "Nirmalnagar" Post Tilaknagar, Tal.Rahata, Dist. Ahmednagar (M.S.)-413720	15 Months & 3 Months Training	3500/-
Champion Agro Ltd. Survey No.217, Palki Plot No.2, National Highway 8 - BVeraval (Shapar) 360024 Tal.Kotda Sangani Dist.Rajkot (Gujarat) <i>info@championagro.com</i>	15 Months Training	3500/-
Kushal Tradelink Pvt.Ltd. Plot O.43, B/S Navneet Prakashan Press B/H Govt G Colony sukhramnagar, Gomtipur, Ahmedabad 380023 <i>kushaltradelink@gmail.com</i>	15 Months Training	3500/-
Dilip Buildcon Ltd. E-5/99 Arera Colony, Bhopal <i>db@dilipbuildcon.co.in</i>	15 Months Training	3500/-
Bridgestone India Private Ltd. Plot No. 12, Kheda Growth Centre, Post Sagore 454774 Dist.Dhar, Madhya Pradesh,	15 Months Training	3500/-
Sunil Industries Ltd. D/8 Midc, Phase II Manpada Road, Domvibli (E) 421203 <i>info@sunilgroup.com</i>	15 Months Training	3500/-
Kgk Diamonds (I) Pvt.Ltd. 647 A Panchratna, Opera House, Mumbai 400004 <i>enquiry.india@kgkmail.Com</i>	15 Months & 3 Months Pt Training	3500/-
Smart Value Homes Ltd. Times Tower, 12th Floor Kamala Mills Compound Senapati Bapat Marg, Lower Parel (W) Mumbai 400013	15 Months Training	3500/-
Mangal Keshav Securities Ltd. 501, Heritage Plaza, Opp.India Oil Colony, J.P.Road, Andheri (West) Mumbai 400053 <i>harish.sarda@mangalkeshav.Com</i>	15 Months Training	3500/-
Radhe Renewable Energy Development Pvt.Ltd. Plot No.2621 & 2622 Gate No.1 Road D/2 Lodhika G.I.D.C. Kalawad Rod, P.O.Metoda, Tal.Lodhika, Dist.Rajkot 360021 Gujarat <i>Info@Radhegroup.Com</i>	15 Months Training	3500/-

MR. ADITYAVARDHAN SHINDE Company Secretary in Practice 1182/46kh, Takala, Rajarampuri Kolhapur-416 008	PCSA -2935
MR. SIDDHARTHA MURARKA Company Secretary in Practice 12 Waterloo Street, Kolkata- 400 069	PCSA -2936
MR. PRASHANT SHARMA Company Secretary in Practice 4 Th Floor, 327 Nawab Building Mumbai - 400 001	PCSA -2937
MR. NIMESH KUMAR Company Secretary in Practice Village Achpalgarhi Pilkhuwa, Panchsheel Nagar UP- 245 304	PCSA -2938
MS. PURVI JATIN JAJAL Company Secretary in Practice 910-913 Star Plaza Phulchab Chowk Rajkot Pin Code. 360 001	PCSA -2939
MR. KEYUR MAHENDRA KUMAR SHAH Company Secretary in Practice 41-B, Palmsping Complex Nr. Collegan Restaurant Pin Code 380 006	PCSA -2940
MS. SHIKHA DIXIT Company Secretary in Practice I-7, Naraina Vihar New Delhi - 110 028	PCSA -2941
MS. MAITHILI AMOL NANDEDKAR Company Secretary in Practice 50-C, Kamgar Nagar (Kurla - 2) Mumbai -400 024	PCSA -2942
MR ABHIJIT AVINASH JAGTA Company Secretary in Practice Flat No. 63, Ganaraya Heights Tel.,Exchange Road Nr. Rajmudra Society, Dhankawadi Pune - 411 043	PCSA -2943
MR PUSHPADANT V. SAHUJI Company Secretary in Practice C/O Hotel Madhuban Delux Plot No.-6, N-2, Cideo, Jalan Road Aurangabad -431 003	PCSA -2944



MR. CHAITANYA SRINIWAS JOGDEO Company Secretary in Practice E-1, Prkalpa Chs, Behind Damodar Chs 642/2/3, Bibwewadi Pune -411 037	PCSA -2945	MR. G. MUTHUKRISHNA Company Secretary in Practice 242, Sri Ganesh Vihar, 1st Street, R K Puram, Ganapathy, Coimbatore - 641 006	PCSA -2957
MS. SUREKHA BALKRISHNA GARG Company Secretary in Practice C-2/78, Ground Floor, Agrasen Society Nr. Taj Blue Diamond Hotel 8, Koregaon Park, Pune -411 001	PCSA -2946	MS. GEETIKA PANDYA Company Secretary in Practice Opp. Shakti Vidhyalaya Near B.M. Over Bridge, Satellite Ahmedabad - 380 005	PCSA -2958
MS. SUJATA CHOUBEY Company Secretary in Practice 89/115/3, D.N. Banerjee Road Bangur Park, Ground Floor P.O. Rishra Dist. Hooghly -712 248	PCSA -2947	MS. VANDANA JAIN Company Secretary in Practice 218-219, Starlit Tower, 29. Y.N. Road, Indore - 452 001	PCSA -2959
MR. PALELLI KONDAREDDY Company Secretary in Practice #204, Dattasai Apartments 8-3-229/A/1&2, Nr. Nisiet Yousufguda Chk Past Hyderabad - 500 045	PCSA -2948	MR. BRIJ AGNIHOTRI Company Secretary in Practice # 136/2, Ku Block, Vishakha Enclave Pitam Pura, New Delhi -110 034	PCSA -2960
MS. RAKHI CHANANA Company Secretary in Practice C-40, 11nd Floor, East Of Kailash New Delhi -110 006	PCSA -2949	MS. PRIYANKA VIJ Company Secretary in Practice C-209, Nirman Vihar Delhi - 110 072	PCSA -2961
MS. ANAMIKA RAJU Company Secretary in Practice L-1a/24, Mohan Garden Uttam Nagar New Delhi -110 059	PCSA -2950	MR. NAMDAV HARIMOHAN Company Secretary in Practice True Value House Nr. Sundarvan Bus Stop, Opp. Isro, Stellite, Ahmedabad - 380 015	PCSA -2962
MR. K.VIDYASAGAR Company Secretary in Practice Plot No. 4, Sector 17, Vashi Navi Mumbai -400 703	PCSA -2951	MR. RAJIV MAHAJAN Company Secretary in Practice 101, 1st Floor, Psr Complex, Model Gram Extension, Kochar Market, Ludhiana - 141 002	PCSA -2963
MS. DEEPTI R. ADAKE Company Secretary in Practice 26, Mangaldeep Residency Opp. Herwadkar School, Tikakwadi Bekgaum, Karnataka - 590 006	PCSA -2952	MR. ASHIM KUMAR SARKAR Company Secretary in Practice Flat No. 7se, 3rd Floor, 8 M.M. Feeder Rood Kolkata - 700 057	PCSA -2964
MR. AMIT DILIP PASARE Company Secretary in Practice Plot No. 16, Flat No. 2, Shriman Hsg. Soc. Karvenagar, Pune - 411 052	PCSA -2953	MS. NIDHI MEHTA Company Secretary in Practice J 7-9, Jal Mangal Deep , Bangur Nagar Goregaon (West) Mumbai - 400 090	PCSA -2965
MR. SANDEEP AGARWAL Company Secretary in Practice 509, Gt Road (South), 3rd Floor, Near Sandhya Bazar, Howrah - 711 101	PCSA -2954	MR. V. P. CHHABRA Company Secretary in Practice 386-C, Rajguru Nagar, Ludhiana	PCSA -2966
MR. ABHISHEK PERIWAL Company Secretary in Practice Flat No 11, Shree Apartment, Sector No.4, Vidya Dhar Nagar	PCSA -2955	MR. MANISH DEV GUPTA Company Secretary in Practice C-1/102a, Krishan Vihar, Delhi - 110 086	PCSA -2967
MR. VINAYAK ANAND BHAT Company Secretary in Practice 10th Cross, Thyagarajanagr, Bangalore Karnataka - 560 028	PCSA -2956	MS. RITIKA AGRAWAL Company Secretary in Practice 433, Akshay Giri Kunj -111 Paliram Road, Andheri West Mumbai -400 053	PCSA -2968



News from the Institute

MR. AVADHESH KUMAR PARASHAR
Company Secretary in Practice
1st Floor, Bakshi Complex
Plot No -68, Zone -II, M.P. Nagar Bhopal- 462 001

MS. SAKSHI TUTEJA
Company Secretary in Practice
D-176, Tagore Garden Extn.
New Delhi -110 027

PCSA -2969

PCSA -2970

MR. SUMIT GUPTA
Company Secretary in Practice
3, Brij Enclave, Nr. Jasvant Ki Chattri
Balkeshwar, Agra -282 004

PCSA -2971

MR. SANKARLAL GANGULI
Company Secretary in Practice
25/5, Gorakshabasi Road
Kanu Kunj Dumdum, Kolkata -700 028

MS. DIPAVALI ANAND PANCHAMIA
Company Secretary in Practice
402, 4th Floor, "Royal Menor",
Panchnath -1, Rajkot - 360 001

PCSA -2972

PCSA -2973

MS. NISHI TALWAR
Company Secretary in Practice
25/5, Gorakshabasi Road
Kanu Kunj Dumdum Kolkata -700 028

PCSA -2974



Company Secretaries Benevolent Fund

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



Sl. No.	LM No.	Name	Mem No.	City
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EIRC

1	9717	Sh. Ashok Kumar Purohit	ACS - 21123	HOOGLY DISTT
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2	9718	Mr. Birendra Kumar Nath	ACS - 26559	KOLKATA
3	9721	Mr. Ravindra Agarwal	ACS - 28349	KOLKATA
4	9722	Mr. Om Prakash Tripathy	ACS - 29521	KOLKATA
5	9723	Sh. Manoj Khagendra Shah	FCS - 4925	KOLKATA
6	9724	Sh. Maloy Kumar Gupta	ACS - 24123	KOLKATA

NIRC

7	9719	Ms. Meena Rohilla	ACS - 23330	CHANDIGARH
8	9737	Ms. Seema	ACS - 29949	GURGAON

SIRC

9	9720	Ms. R Divya Swaroopini	ACS - 29862	SALEM
10	9725	Ms Vijayalakshmi S	ACS - 20223	CHENNAI
11	9726	Sh. N N Parameswaran	ACS - 6113	PALAKKAD
12	9727	Sh. C M Kannan Unni	ACS - 3861	CHENNAI
13	9728	Sh. Arun Kumar	ACS - 26525	CHENNAI
14	9729	Ms. Bhoomijha Murali	ACS - 10779	CHENNAI
15	9730	Sh. Swaminadhan Balasundharam	ACS - 11114	CHENNAI
16	9731	Sh. J. Swaminathan	ACS - 15246	CHENNAI
17	9732	Sh. A Bala Murugan	ACS - 25985	TUTICORIN
18	9733	Sh. Jayapandi S	ACS - 21909	CHENNAI
19	9734	Ms. Jisha Gopal	ACS - 26945	THIRUVANANTHAPURAM
20	9735	Ms. J R Nagajayanthi	ACS - 14429	RR DISTT
21	9736	Mr. Saurabh Poddar	ACS - 29913	HYDERABAD
22	9738	Mr. Dhirav Ramesh Shah	ACS - 29976	CHENNAI
23	9739	Ms. Chaitanya Tummala	ACS - 29978	HYDERABAD
24	9740	Mr. Kiran Mathukumalli	ACS - 30007	HYDERABAD
25	9741	Sh. Ramesh Chandra Bhavuk	ACS - 22878	BANGALORE
26	9742	Ms. Sonam Mahesh Malkan	ACS - 29999	HYDERABAD

* During the Period 31st March, 2012 to 30th April, 2012.

June
2012



CHARTERED SECRETARY

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News From the Regions

■ Eastern India Regional Council

Full-day Seminar on Corporate Compliance and Professional Skills

On 24.3.2012 the EIRC of the ICSI organised a full-day Seminar on Corporate Compliance and Professional Skills at Hotel Golden Park.

CS Ranjeet Kr Kanodia, Chairman, EIRC in his welcome address said that in the new takeover code regulations, there are changes that need to be well understood as violations with regard to non-adherence of regulations will lead to penalties and with regard to director's liabilities he said that directors have highly demanding legal obligations to uphold. They also have a fiduciary duty to exercise skill, care and diligence and independent and nominee directors are held to be equally accountable to stakeholders. Kanodia said that after sessions of takeover code regulations and director's liabilities a Professional Skills Development programme is being held as professional skills are necessary for effective negotiation, communication and leadership skills.

CS (Dr). Navrang Saini, Regional Director [Eastern Region], Ministry of Corporate Affairs, the Chief Guest of the Inaugural Session in his deliberation welcomed the Initiative of EIRC of ICSI for conducting the programme on takeover code and director's liabilities and in his brief address on corporate compliance said that a company secretary should not sign any form or any document without proper verification and also pointed out that professional skills workshop benefits a professional to achieve potential and also help to reach top ranks of the profession.

The speaker of the First Technical Session on Takeover Code was Vijay Kr. Chandak, Managing Director, VC Corporate Advisors Pvt. Ltd who in his presentation emphasized on the evolution of SEBI Takeover Regulations, Importance of knowledge of Takeover Regulations, Comparative Gist of New & Old Takeover Regulations, Provisions of SEBI (SAST) Regulation, 2011 and ended his informative presentation with Schedule of Takeover Activities.

The speaker of the topic Director's Liabilities was Rajesh

Poddar, Deputy Company Secretary, ITC Ltd. and his very informative presentation to the august gathering pointed out that in today's corporate scenario, regulatory environment facing the directors of companies is rigorous, and their responsibilities more onerous. Tighter legislation and increasing globalization of business are subjecting directors and officers to closer scrutiny from shareholders, customers, employees, suppliers and regulators.

The speaker of the Second Technical Session on MSMEs was Suparno Moitra, Head - Eastern Region, NASSCOM who said that in most economies, smaller enterprises are much greater in number than large companies. SMEs are often said to be responsible for driving innovation and competition in many economic sectors. The Indian Micro and Small Enterprises (MSEs) sector plays a pivotal role in the overall industrial economy of the country and on the Topic "Professional Skills" the speaker was CA Naresh Agarwal. He discussed the effects and benefits of positive thinking for setting better priorities for excelling in the profession of CS. He then spoke on the importance of communication for better networking with clients, employees etc. He also explained about power of mind and said that we are using few percentage of our mind and by concentration we can improve the use of our mind. The sessions were followed by interactive Question - Answer sessions.

Half-day Workshop on Revised Schedule - VI of the Companies Act and Meeting with the President and the Vice President, the ICAI

On 21.4.2012 the EIRC of the ICSI organized an Interactive Meeting with the President and the Vice President, ICAI and also a half-day Workshop on Revised Schedule - VI of the Companies Act at Kolkata.

CS Ranjeet Kr. Kanodia, Chairman EIRC of the ICSI welcomed the special guests CA Jaydeep N. Shah, President, the ICAI (The Institute of Chartered Accountants of India), CA Subodh Agarwal, Vice-President, the ICAI, the speakers of the workshop CA Nirupam Halder, Past Chairman, EIRC of the ICAI and CA Kamal Agarwal, Partner, S.R. Batliboi & Co. In his address Kanodia expressed gratitude to the President and the Vice President of the ICAI for agreeing to be a part of the workshop and hoped that the interaction of the members of ICSI with them would prove beneficial as they can explore the possibilities of better coordination between the two professions. He thereafter gave a brief overview of the Revised Schedule - VI.

CA Subodh Agarwal, Vice-President, the ICAI, said that both the professions equally play an important role in economic development of our country. He also thanked CS Ranjeet Kr. Kanodia for taking the initiative for this type of meeting and wished that this type of interactions between professional bodies continue in future.



News from the Institute & Regions

CA Subodh Agarwal also in his deliberation acknowledged the contribution of Company Secretaries in good Corporate Governance and stakeholder relationship and said that ICSI have taken leaps in keeping up with the changing economic scenario. He pointed out that there is thirty one years' gap between formation of ICAI and ICSI but then also ICSI and ICAI in the new globalized, liberalised economic scenario play a very vital role economic development of the nation.

In his deliberation, CA Jaydeep N Shah, President ICAI appreciated CS Ranjeet Kanodia's initiative for organising this type of meeting with members of the ICSI. He then gave an overview of the new Companies Bill and said that the new Bill has been forwarded to Standing Committee and will be presented in the Parliament. Lastly as a concluding remark he presented a success mantra to the delegates present where he said that we become successful when share deep passion for excellence.

CA, Kamal Agarwal gave a detailed analysis of the preparation of Balance Sheet with respect to the Revised Schedule VI and said that whilst the pre-revised Schedule VI does not require companies to classify their assets and liabilities into current and non-current, the revised Schedule VI does so in order to facilitate a fair portrayal of the financial and liquidity position of a company to the readers of the financial statements.

CA Nirupam Haldar on his part while speaking on the Profit and Loss Account Preparation in terms of revised Schedule VI said that the revised Schedule VI, among other things, has prescribed a format for Statement of Profit and Loss mandating classification of expenses by their nature as opposed to by function and added a host of incremental disclosures.

The workshop was followed by a very interactive Q & A session by the participants.

21st AFAIRS Career Fair

From 21 to 23.4.2012 the EIRC of the ICSI participated in the 21st AFAIRS Career fair held at Ice Skating Rink, Kolkata. The event turned up to be a successful one as the fair attracted around 2000 visitors and a good majority of the visitors came to the ICSI stall and sought information about the CS course and the profession. The ICSI stall attracted students, parents, student counselors', teachers, members of professional bodies, press etc. The ICSI stall was decorated with ICSI wall posters and banners of ICSI. Books, prospectus of CS Foundation and Executive Programmes, Chartered Secretary and Student Company Secretary Bulletin etc. were displayed at the stall. The visitors were inquisitive about the CS course like the time period of the course, the fee structure, the contents, the opportunities after becoming a CS professional, etc.

On account of completion of ISC, WBCHSE and CBSE examinations, there was a good influx of visitors as many of them were curious about which career to choose. The fair continued for three days and the attractive advertisements of the fair were carried out in Times of India and The Telegraph

thus attracting a swarm of visitors.

The fair was also participated by reputed colleges/universities like Amity University, British Council, United States India Education Fund, Acharya Group of Institutions, Bengaluru, Indian Air Force, Indian Army, Indian Navy, Indian Coast Guard, Edwise Overseas Education Consultants, and other leading Colleges/Educational Institutions.

The ICSI was represented by CS Ranjeet Kanodia, Chairman, ICSI-EIRC, S.Sreejesh, Desk Officer (Career Awareness), ICSI-EIRO and CS Neha Moonka. They handled the queries well and informed about the ICSI Students Education Fund, the subjects of the course, the new syllabus of Foundation programme, ICSI E-learning initiatives and the flexibility of the course to study wherever a student wants to in India.

The fair proved to be an eye opener of the various opportunities that students can avail, once they clear their senior secondary examinations in India and they were also very happy to learn about the economical fees charged by the Institute for the course.

Full-Day Seminar on Capital Markets - Growth Drivers

On 26.4.2012 the ICSI organised a full-day Seminar to commemorate ICSI Capital Markets Week on the Theme Capital Markets - Growth Drivers at The Oberoi Grand, Kolkata.

CS Sutanu Sinha, Senior Director, ICSI welcomed the guests and the delegates and said that the Capital Markets week (23rd April to 28th April) is a unique concept devised by the Institute and has been conceived by CS Ashok Pareek, Council Member, the ICSI to create visibility of the Institute in the Capital Markets and the other aim was to inform the market that the members of the Institute can provide better and greater service to the Capital market than what it is now. He also said that a series of programmes were being held in various cities of the country to commemorate ICSI Capital Markets Week starting in Mumbai and ending in New Delhi.

CS Ashok Pareek, Council Member, the ICSI and Programme Director introduced the theme of the programme and said that the ICSI is actively engaged in promoting the interests of investors and the orderly development of the Capital markets. He said that where a capital market is stronger the economy of the nation also becomes robust, the theme of the program and the sub-themes of the programme has been chosen after much deliberation and keeping in mind the current scenario of the Capital markets. Pareek said that a Company Secretary plays a vital role in compliance and Corporate Governance and helps Corporates in fund raising and other activities and hoped that this seminar and its themes and the speakers would be helpful for them.

CS Ranjeet Kr Kanodia, Chairman ICSI-EIRC in his address said that the Capital Markets week is a step towards creating awareness about capital markets. He said that in India the



investment in markets is less compared to other developing nations. He said that we should focus on building investor confidence as stronger capital markets are beneficial for the economy.

D. Ravi Kumar, Chief General Manager, SEBI and the Guest of Honour in his address said that Capital Market is really a growth driver and SEBI is concerned with putting up controls and regulations. He pointed out that during the early years of our economy, Companies had entry barriers which have changed in the nineties, nowadays it's easier to conduct business and attract investment and for better investment, Credit rating is an important step and reaching to people to invest is another important step. He said that SEBI conducts Investor Awareness Programme for people, youngsters etc. to clarify myths about investment and to create awareness as better markets create employment and help in nation development. He also said that for attracting foreign institutional investors we should frame regulations for insider trading and keep a check on fraudulent transactions.

B Madhav Reddy, Managing Director & CEO, The Calcutta Stock Exchange Ltd. in his address said that the story of India is bought by the world and now is the time to sell it to our countrymen. He said that the Capital Market Week is a good initiative of the ICSI and we all should work together to make our story successful and should work towards nation development.

Hemant Kanoria Chairman & Managing Director, SREI Infrastructure Finance Ltd. and Chief Guest in his address said that the ICSI is a pioneer for implementing better Corporate Governance and transparency and SEBI has created a platform for growth and investment. He said that in India we have continuous changes in guidelines by the Government which is hurting investor sentiment and transparency which is essential for investment, we have to set up objectives in place to achieve development and one of the major objectives is to create trust among investors and other stakeholders. He stressed on the fact that it's also essential to bring in clarity about the role of professionals and to uphold common man's interest. Kanoria also released the SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2009 a quick Referencer.

The First Technical Session was on Capital Markets: Challenges, Opportunities for Innovation. Bhagirat B. Merchant, Past President, BSE in his deliberation said that a lot of legislation, regulatory framework has been put but there is less allocation of economic resources like savings of individuals. He said that in the present budget tabled, there has been a small percentage that has been set aside for the industries and industrial development requires investment. In India one of the unknown avenues is the corporate bond market, we are aware of Government bonds but corporate bonds are few except Infrastructure bonds that has emerged in the last two years. He said that we should have a vibrant bond market to bring in money. We should also look into mobilization of money from pension, life insurance,

investment trusts etc., we should be able to attract domestic investment. He said that there are challenges like Stock Exchanges are not able to boost investor confidence and trust, there is high volatility with low volumes and most importantly we say information is available to all but this is only true in theory not in reality.

P. K. Choudhury, Vice Chairman & Group CEO, ICRA Ltd. said that today the global financial markets are interconnected and it's very necessary to keep the Capital markets healthy as all financial markets are in sync with each other. He said that economic growth of a country is related to the development of its capital market. He said that for the development of a capital market we should provide sound investment opportunities for domestic as well as foreign investment and also importantly align the interests of the people who are related to the issuance of securities. He also said that Indian economy has a very strong resilience power and pointed out that if we look at the past, from that situation the current account deficit and fiscal deficit today have been in a much better position but however, the fiscal deficit movement is a big challenge for the Government at this point of time.

D. Ravi Kumar, Chief General Manager, SEBI in his deliberation said that there are challenges in the market and then spoke on the developments made in the primary and secondary markets. He also spoke on the role of intermediaries and their impact on the market, emphasized on the role of anti money laundering, the importance of corporate restructuring etc.

The Second Technical Session was on Recent Regulatory Changes in Capital Markets. CS Anjan Kumar Roy, Regional Council Member, ICSI-EIRC and Chairman of the Session introduced the theme and the speakers to the delegates.

Soma Majumder, Deputy General Manager, SEBI in her presentation said that Securities and Exchange Board of India (SEBI) was set up to protect the interest of investors in securities market, promote the development of securities market and to regulate the securities market. She spoke on the evolution of ICDR, public issues and their relation to the applicability of ICDR, conditions for IPO, disclosures in OD, reforms in issue process. She then spoke on the amendments in ICDR regulations, amendments in listings agreements, SME exchange, investor friendly measures.

B Madhu Prasad, Vice Chairman, Keynote Corporate Services Limited in his presentation said that SEBI was formed to give comfort to investors. He said earlier we used to speak on permissions but today we speak about disclosures as disclosures aim for investor protection. He said that from 1992, the year SEBI was set up to till date there has been immense changes like the introduction of ICDR and today the regional stock exchanges have paved way for designated stock exchanges. Earlier companies were not keen on changes but today corporates are going in for better corporate governance and also independent directors are playing key roles for better running of businesses.



News from the Institute & Regions

The Third Technical Session was on SME Exchange: Empowering India's SME Sector. CS Arun Khandelia, Vice Chairman, ICSI-EIRC and Chairman of the session introduced the theme and the speakers to the delegates. K Hari, Vice President, NSE spoke on the NSE Emerged platform for SMEs. He said that the SMEs less than 10 crores have to list on Emerge, SMEs between 10 and 25 crores have choice whether to list on Emerge or on the main board and above 25 crores have to list on the main board. He also said that SME can give results to the exchange half-yearly than quarterly and they can put the results on the website itself. He also pointed out that for SME the IPO size is one lakh and for protecting investors, safeguards are built by SEBI. He then asked why the need for SME listing, one important point is to create visibility and for long term capital growth. He also pointed out that an issue on NSE Emerge is to compulsorily rated by a rating agency and due diligence would have to be done by an independent agency.

The Fourth Technical Session was on Indian Capital Market - How to Rebuild Investor Confidence. CS Deepak Kr Khaitan, Secretary, ICSI-EIRC and Chairman of the Session introduced the theme and the speakers to the delegates. Arun Kejriwal, Kejriwal Research & Investment Services, Mumbai in his deliberation said that an investor pays for investor protection but he doesn't get protected. He said that retail investors form a major chunk of the shareholding pattern of most companies and they should be heard and their presence should matter. He also said that investors do feel neglected and one of the main reasons investors are not aware of the complaint mechanisms and get carried by advice of others. He also said that investment is very important for our country as investment beats inflation and so investment is very essential and it's the duty of everybody to uphold investor confidence.

B Madhav Reddy, Managing Director & CEO, The Calcutta Stock Exchange Ltd. (CSE) in his address said that the world is going through a difficult phase and is looking good compared to others, we are consistently performing than other nations. He said that good corporate governance is an important step in upholding investor confidence. He then talked about CSE and its role in protecting and promoting investor interests etc.

All the technical sessions were followed by an Interactive Q & A session which was aptly handled by the speakers. The full day seminar was extensively covered by the press media.

ICSI President's Meeting with Chapters' Chairmen

On 10.4.2012 an interactive meeting of the President, Vice-President and Secretary & CEO, the ICSI with the Chairmen / Office bearers of Chapters was organized. The President, Vice President, Secretary & CEO discussed the conduct of

Professional Development Programmes for members, setting up of collaboration Oral Tuition Scheme at the Chapter, holding Career Awareness programmes, increasing student registration and providing better services to the students, better co-ordination with the Regional Council and increasing membership of CS Benevolent Fund. In the evening an Annual get-together of members was also organized.

In his address, CS Ranjeet Kr Kanodia, Chairman, ICSI-EIRC highlighted the initiatives taken by the EIRC such as the seminars and workshops on topics which has received an encouraging response from students and members alike, the preparations with respect to holding of ICSI Corporate Governance Award in Kolkata, organising press meets, attending career fairs, organising a good number of SIP, EDP and professional development programmes for students to clear backlog and also to organize special lectures for students for helping in their overall skill development, improving the quality of Oral Tuition Scheme, etc.

In their address to the august gathering, CS Nesar Ahmed, CS S. N. Ananthasubramanian and CS N.K.Jain, highlighted that ICSI has taken various initiatives towards growth and development of the members, students and the profession by undertaking extensive career orientation, professional development programmes, brand building, extensive research, re-organisation, infrastructure development as well as globalisation of profession. They said that the new vision document talks about becoming a global leader in promoting good corporate governance, and developing high caliber professionals facilitating good corporate governance.

CS Ashok Pareek, Central Council Member, the ICSI, CS Arun Khandelia, Vice-Chairman, CS Deepak Kr.Khaitan, Secretary, ICSI-EIRC also addressed the meeting on the said occasion.

On the same day the First Peer Reviewers' Training Programme in Eastern Region was conducted at Rotary Sadan. In the inaugural session CS Nesar Ahmad, President, CS S. N. Ananthasubramanian, Vice President, & Chairman, Peer Review Board, CS N. K. Jain, Secretary & CEO, CS R Sridharan and CS Ashok Pareek, Council Members, the ICSI and CS Ranjeet Kr. Kanodia, Chairman, ICSI-EIRC gave an overview on peer review to the participants. The training programme was conducted for the full-day and the sessions were addressed by CS S. N. Ananthasubramanian, CS R Sridharan, CS N.K. Jain & CS Ashok Pareek.

This was followed by a Press Conference. CS Nesar Ahmad, President, CS S. N. Ananthasubramanian, Vice-President and CS N. K. Jain, Secretary & CEO, the ICSI spoke on the initiatives of the Institute for professional development, the introduction of the new CS Foundation Programme syllabus and also explained the new vision document of ICSI, employment/practice opportunities of members. The press meet was also attended by CS Ashok Pareek, Council Member, ICSI, and CS Ranjeet Kanodia, Chairman, ICSI-EIRC. The Press conference was covered by leading newspapers like the Bengal Post, The Hindu, Business



Line(English),Kalam, Bartaman, Newz Bangla, Dainik Jagaran, Jansatta(Hindi) Azad Hind (Urdu), to name a few.

70th Management Skills Orientation Programme

Inaugural Session: On 27.4.2012 the 70th MSOP was inaugurated by CS Amit Sen, Past Vice-President, the ICSI and Managing Director, East India Pharmaceutical Works Ltd. Sen in his address briefed the participants about the duties and responsibilities of Company Secretaries in today's fast challenging corporate environment.

CS Ranjeet Kumar Kanodia, Chairman, EIRC stressed on the important role to be played by the Company Secretary in the changed economic scenario and added that company secretary being a trained professional in the areas of laws, management and accountancy can occupy the pivotal position in the management of the affairs of the corporate sector. He appealed the participants to take active part in the activities of the Institute, and spare some time for the Institute also from their busy job schedule. He also offered his best wishes to all the participants for their future career.

CS Deepak Kumar Khaitan, Secretary, EIRC said that MSOP training programme is unique in nature in the sense that it gives practical exposure as to how one should do his job successfully under high degree of competition.

Valedictory Session: On 14.5.2012 at the Valedictory Session Chief Guest CS B.P. Dhanuka, Past-President, the ICSI and Practising Company Secretary in his address mentioned that after gaining sufficient practical knowledge undergoing 15 days training programme the would be professionals should not confine themselves merely in giving advice and suggestions to their Board or clients but should also hold responsibilities for implementation of any kind of difficult assignment effectively. Dhanuka handed over the training completion certificates to the participants.

CS Ranjeet Kumar Kanodia, Chairman, EIRC, CS Arun Kumar Khandelia, Vice Chairman, EIRC, CS Deepak Kumar Khaitan, Secretary, EIRC and CS Anjan Kumar Roy, Immediate Past Chairman, EIRC & Regional Council Member were also present and addressed the participants. They stressed on the gradually increasing responsibilities of CS professionals. They also advised the participants to accept challenge and to encounter all problems by knowledge and wisdom, good behavior, proper dress code and timeliness.

Best Participant Awards: Enakshi Roy, Divya Bagree and Sadrata Deb were adjudged as the first, second and third best participants of the 70th MSOP. The programme ended with a colourful cultural programme organized by the participants.

HOOGHLY CHAPTER Half-day Workshop

On 6.5.2012 Hooghly Chapter of EIRC of the ICSI organized a

half-day Workshop on Export risk and Role of ECGC. The programme was organized at Sarat Sadan, Howrah Maidan.

CS Gautam Dugar, Chapter Chairman in his welcome address said that though the topic is not directly related with day-to-day professional work of CS but it is very useful to understand the intricacies of risks related to export for the entrepreneurs.

Amit Kumar, Assistant Manager (Business Development), ECGC was the Guest Speaker who in his address said that payments for exports are open to risks even at the best of times. The risks have assumed large proportions today due to the far-reaching political and economic changes that are sweeping the world. Export credit insurance is designed to protect exporters from the consequences of the payment risks, both political and commercial, and to enable them to expand their overseas business without fear of loss.

CS Manisha Saraf, Chapter Secretary coordinated the programme. Around 50 delegates attended the workshop.

Northern India Regional Council

Seminar on Shaping Values for Effective Corporate Governance

On 19.5.2012 NIRC-ICSI organised a one day seminar jointly with Sri Aurbindo Foundation for Integral Management (SAFIM) on Shaping Values for Effective Corporate Governance at Hotel Radisson, Noida. T N Chaturvedi, Former Governor (Karnataka & Kerala) was the Chief Guest on the occasion. Dr. Abid Hussain, Former Ambassador of India to USA & Member SAFIM Advisory Board presided over the Inaugural function. Arup Roy Choudhary, CMD, NTPC Ltd., Dr. A K Balyan, MD & CEO, Petronet LNG Ltd. & Member SAFIM Advisory Board, Nesar Ahmad, President, the ICSI, Rajiv Bajaj, Chairman, NIRC-ICSI, O P Dani, Past President, the ICSI & Vice Chairman, SAFIM, Vijay Poddar, Director & Member Executive Committee of SAFIM, Shyam Aggarwal, Secretary, NIRC-ICSI and A K Gurnani, Chairman, Noida Chapter, NIRC-ICSI were present on the dais during the inaugural function of the seminar. P K Mittal, Council Member, the ICSI, Dr G B Rao, Past President, the ICSI, K M Agrawal, Past President, the ICAI, Regional Council Members and about 350 members were present on the occasion. The seminar was webcast in the entire Northern Region.

CS Rajiv Bajaj in his welcome address said that the topic of the seminar is in line with the theme of NIRC for the year 2012 i.e. Capacity Building & Value Creation. He said that as Company Secretaries are part of the Board and guiding the Board, they also have to imbibe the ethical behaviour. He also said that ethics is the guiding force behind the success of every organisation and individual. He mentioned that there is no



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shortcut to success, we have to follow ethics.

Vijay Poddar gave the background of Sri Aurbindo and the Mother and said that the Mother thought that the message of the Aurbindo society should spread throughout the Country. Therefore Sri Aurbindo Society has been taking up initiatives in various directions so that the message reaches the people of the country. Latest initiative of Sri Aurbindo Society is the Integral management. He suggested managing oneself first.

O P Dani while introducing the theme of the seminar mentioned that ethics, values, ecology, new standards of quality and balancing the needs of local cultures with the global realities, conflict between short term and long term goals are some of the difficult issues being faced by the corporates. There is renewed questioning of the existing objectives, scope and contents of business and management and a search for a greater and more fulfilling synthesis. He said that SAFIM explore the future of business & management in the light of an integral vision. The integral management of the future has to be global, national and regional, secular & spiritual. It must embrace all the four dimensions of the individual and collective life of a man - physical, emotional, mental and spiritual. He briefed about the entire coverage of the programme.

Nesar Ahmad, while addressing the gathering said that the topic of the seminar is very apt as our Institute is working around for shaping the values of the professionals and creating leaders for good corporate governance. He said that the SAFIM is working day in and day out in shaping values in promoting good corporate governance. He informed about the various latest initiatives been taken by the Institute. He said that the vision 2020 document of the Institute has defined five core values viz. integrity, ethics, reliability, ownership and being stakeholders centric. He said that Company Secretary is the conscious keeper of the organisation and is the one who ensures corporate governance. He also mentioned about various arrangements of the Institute with OECD, WTO, GRI etc. and said that our Institute is the first Institute which came out with the Secretarial Standards. He shared one quote from Mahatma Gandhi and gave the message that first look at yourself and work positively so that everybody is benefited.

Dr A K Balyan, while addressing the gathering said that corporate governance is nothing but ethical conduct and transparency in the internal affairs of the Company. He said that corporate governance is a sub-set of governance and has the implication on all the stakeholders. It is not just compliance but it is far more than that as good governance leads to good business and the core values have dramatic effect on business. He defined organisational values and mentioned about the importance of values, values & corporate governance. He said that all organisations are value driven and there are different kinds of values like values that can be shared & lived, values may be conscious and un-discussed and values that are unconscious and un-discussed. There are greater chances of alignment of employee and organisational values in case of

values that can be shared & lived. He also discussed value strategy, shaping values, practices to shape values, sustainable business model and also UN Global Compact.

Arup Roy Choudhary addressed the Company Secretaries as the gatekeepers of the conscience of the corporates. He said that ethics, values etc. are different for different people. He said that there are two streams, one is management stream in which the main aim is to earn profit & the other stream is where profits are not important but the means to earn profit are more important. He suggested that every organisation and its Company Secretary should see that the organisation has core values. As CMD of NTPC, he said that our core values are "Be Committed" and he explained the same in detail. At the end, he concluded by saying "*Sankalp Shudh is Siddhi*".

R P N Singh, Hon'ble Minister of State for Corporate Affairs, Petroleum & Natural Gas who consented to be the Chief Guest to inaugurate the seminar, was not able to come due to some official exigency. In his message sent, he said that one of the most important developments in the philosophy of modern business is the realisation that business is not merely an economic engine but a living human organism. While maximising productivity and efficiency may be the object of a machine, the aim of an enterprise involving people has to be the fulfillment of human needs and aspirations and in the process, create value for the society in harmony with the laws of the Nature. The aim of any human resource development programme ought to be to release the tremendous creative power and potential of people by involving them in the development process. Corporate Excellence indicates one aspect of human development index; what is more important today is a holistic development of human personality. He appreciated the efforts of NIRC of the ICSI & SAFIM for creating awareness about management by consciousness by organising the seminars. He wished for the grand success of the seminar. His detailed message was read by Rajiv Bajaj for the delegates. T N Chaturvedi in his address said that Ethics are germane in every sphere of Life. The Corporate Sectors both Public and Private are of national concern and various committees like Narayan Murthy Committee and Naresh Chandra Committee have been established for Corporate Governance Recommendations. Ethics is something which encompasses in all walks of life. He said that there are core values in the society but there are functional & situational values also and we need to realise some ethical conduct deficit in each and every sector and that's why building a culture of ethics is essential. He suggested to have motivational and inspirational things for the employees, clarity of the objective, transparency and openness is essential. He suggested that sensitization about the social responsibility for building the culture of ethics & values is essential through these seminars, trainings etc. creation of trust within the organization is must and the environment in the organization should be such that feeling of the people should always go up.

Dr. Abid Hussain while addressing the gathering stressed upon



the importance of norms and values which are necessary for corporate sector to grow. He said that important thing for the country is civilization which is nothing but a bunch of values. If values disappear civilization will also disappear. He mentioned about the importance of leadership and gave valuable suggestions by taking examples from Gita.

A K Gurnani arranged release of the Co-branded Synergy Cards for the corporate members of NIRC by the hands of the Chief Guest & other dignitaries present.

First Technical session: Ranjeet Pandey, Immediate Past Chairman, NIRC-ICSI anchored the first technical session of the seminar.

Jitesh Khosla, Additional Chief Secretary, Government of Assam Chaired the First Technical Session.

Prof. Saiket Sen, Director, SAFIM spoke on the topic Ethics, Values, Real CSR & the Bottom Line. He with the help of various sayings from Mahabharata, Lee Kuan Yew, First Prime Minister of Singapore, Gary Hamel, World's most influential business thinker, Narayan Murthy, Founder Chairman of Infosys explained the importance of ethics & values. He discussed about the five bottom lines of the future like Evolutionary Bottom Line, Environmental Bottom Line, Social Bottom Line, Human Bottom Line and Economic Bottom Line.

Dr. Aditi Haldar, Director, GRI Focal Point India discussed the business perspective on running a successful company. She also discussed sustainable development & corporate action. She said that for corporation to be successful efficient management of the five capitals is essential which are natural capital, social capital, human capital, manufactured capital and financial capital. She also discussed in detail the corporate social responsibility and sustainability reporting.

Neha Kumar, Senior Technical Expert, IICA-GIZ Initiative while addressing the gathering talked about the relevance of Corporate Social Responsibility. She discussed the formulation of the National Guidelines for the business, structure of these guidelines and nine principles of these guidelines in detail. She also discussed the adoption methods and reporting framework of these guidelines.

Dr. Ashok Haldia, Director, PTC Financial Services Ltd. & SAFIM shared his experiences with the delegates and with the help of various examples explained that ethics and values are very important.

The Best Participants & the Best Presenters of 162nd Management Skills Orientation Programme of NIRC-ICSI were recognized & awarded by Jitesh Khosla. The identity cards for the corporate members of NIRC-ICSI were also released.

Second Technical Session: V K Sharma, SAFIM anchored the Second Technical Session of the seminar.

B L Bagra, CMD Nalco & Member, SAFIM Advisory Board Chaired the Second Technical Session of the seminar.

Nitin Seth, Country Head & MD, Fidelity India spoke on Self v. Organizational Values - Unity and Alignment. He talked about how to achieve a balance between these contradictory values. He said that true success is about achieving the whole purpose of your life. He talked in detail about Dharma, Moksha,

Materialism & Spirituality. According to him, spirituality is recognizing super conscious and materialism is desire and is inevitable that can't be ignored. Both are reality and reflect inherent duality that exists in human nature. He discussed how to achieve balance between spirituality & materialism. He also spoke on unity & alignment between self v. organizational values. Sumitro Sengupta, Director, SAFIM with the help of various sayings of Sri Aurbindo & the Mother explained the importance of values & ethics. He said that the existing paradigms are collapsing and there is a need to change attitudes, values and consciousness in order to bring lasting solution.

Meeting of Company Secretaries in Practice on Winding up - Role as Liquidator

On 16.4.2012 the NIRC of the ICSI organized a meeting of Company Secretaries in Practice on Winding up - Role as Liquidator. CS R.S. Bhatia was the speaker.

Study Circle Meeting on Practical Aspects of Intellectual Property Laws

On 20.4.2012 the Regional Council organized a Study Circle Meeting on Practical Aspects of Intellectual Property Laws. Vikas Mishra, Advocate was the speaker.

Conference on Capacity Building through Value Based Life

On 21-22.4.2012 the Regional Council organized a Conference on Capacity Building through Value Based Life. Sisters of ORC were the speakers.

One Day Seminar on Capital Markets - Growth Drivers during ICSI Capital Markets Week

On 28.4.2012 at the One Day Seminar on Capital Markets - Growth Drivers during ICSI Capital Markets Week, Ananta Barua, Executive Director, SEBI, Ashish Chauhan, Deputy CEO, Bombay Stock Exchange Ltd., CS Pavan Kumar Vijay, Past President, the ICSI, Prithvi Haldea, CMD, Praxis Consultant & Information Services Pvt. Ltd. were the speakers. Raj Rani Bhalla, Partner, Link Legal Advocates, P.K. Bindlish, Chief General Manager, SEBI, Sanjay Sehgal, Head, Department of Financial Studies, Delhi University, Deepa Bahal, Co-Head, Equity Capital Markets Execution, ICICI Securities Ltd. Jagannadham Thunuguntla, Strategist & Head of Research, SMC Global Securities Ltd. Harbinder Singh Sokhi of BSE, Praveen Trivedi, Joint Legal Adviser, SEBI and Amit Tandon, Managing Director, Institutional Investor advisory Services India Ltd. were the speakers.



News from the Institute & Regions

Cricket Match

On 29.4.2012 the Regional Council organized a Cricket March for members. A good number of members were present on the occasion.

Investor Awareness Programmes

On 23.4.2012 the Regional Council organised Investor Awareness Programme on Understanding the Capital Market at Kirori Mal College, Delhi. CS J.K. Bareja, Associate Professor, and CS Pawan Kumar Bhardwaj, Manager, NSE was the speaker.

On 24.4.2012 at the Investor Awareness Programme on Recent Developments in Capital Market held at Meera Bai Institute of Technology, New Delhi. CS J.K. Bareja, Associate Professor, and CS Pawan Kumar Bhardwaj, Manager, NSE was the speaker.

Management Skills Orientation Programme (MSOP)

On 11.4.2012 at the Inauguration of 162nd Management Skills Orientation Programme (MSOP) CS Rakesh Bhhatia, Chairman-cum-Managing Director, Bharatiya Global Infomedia Ltd. was the speaker.

On 28.4.2012 at the Valedictory Session CS Nesar Ahmad, President, the ICSI was the speaker.

Career Awareness Programmes

NIRC organised 14 Career Awareness Programmes during the month of April, 2012 in various schools & colleges located in Delhi and surrounding areas.

CS J K Bareja, CS Shiv Kumar Tyagi, CS Sangeeta Harpalani, CS Neha Sharma, CS Simranjeet Singh, T R Mehta and Himanshu Sharma addressed in these Career Awareness Programmes. The students were apprised about the mode of registration in the course, syllabus, structure of the course and also the avenues available after completion of the Company Secretary ship Course both in employment and in practice. Pamphlets explaining Career in Company Secretaryship Course were distributed to the students.

East Zone Study Group Meeting on ESOP

On 21.4.2012 at the East Zone Study Group Meeting on ESOP, CS Uma Shanker Acharya was the speaker.

North Zone Study Group Meeting on Apprehensions, Solutions, Plans and Strategies, to work in Legal Processing Outsourcing (LPO) Industry - Company Secretaries Perspective

On 29.4.2012 the North Zone Study Group Meeting discussed the above topic. CS Pankaj Parnami was the speaker.

West Zone Study Group Meeting on Direct Tax and Budget 2012

On 21.4.2012 at the West Zone Study Group Meeting on Direct Tax and Budget 2012, CS Gopal Mandal was the speaker.

South Zone Study Group Meeting on Role of CS in Managing SME IPO through BSE SME Stock Exchange

On 27.4.2012 at the South Zone Study Group Meeting on Role of CS in Managing SME IPO through BSE SME Stock Exchange CS G.P. Madaan & CS Anajali Aggarwal were the speakers.

Vaishali Study Circle

On 12.5.2012 at Vaishali Study Circle Meeting the topic Practical aspects of Payment of Stamp Duty was discussed. Ravinder Kumar, SDM (HQ), Department of Revenue, Govt. of NCT of Delhi was the Guest Speaker who presented an interactive session on the topic. The meeting was very interactive and lively and the queries raised were suitably replied by the speaker. The speaker also discussed many new developments and practical implications on stamp duty.

CHANDIGARH CHAPTER

Seminar on Service Tax

On 5.5.2012 the Chandigarh Chapter of NIRC of the ICSI organized a Seminar on the most obvious issue of Service Tax. The event was designed to give an overview of the changes brought by the Budget, 2012 and the practicalities associated with it.

Chief Guests were S.J.Singh, IRS, Commissioner of Central Excise & Customs, Chandigarh and VK Garg, IRS, Joint Secretary (TRU), Govt., of India and also the Key Speaker. The Seminar was garnished by the refreshing lectures/presentation of eminent speaker Balbir Singh, Partner of DSK Legal, New Delhi. The Speaker gave a short but comprehensive overview of the impact of the Service Tax. The Presentations were followed by views of S.J. Singh and V.K. Garg. An interactive Q&A session was also witnessed which gave fruitful insights to the audience. The queries of the listeners were adequately addressed by the speaker and the officials. The Seminar also witnessed the jubilant presence of more than 100 professionals and students.

Study Circle Meeting on General Provisions of Employees Provident Fund

On 30.04.2012 the Chandigarh Chapter of NIRC of the ICSI organized a Study Circle Meeting to discuss Ggeneral Provisions of Employees Provident Fund. Tamna Sehgal, Deputy Director (Audit), Employees Provident Fund Organisation, Chandigarh,



was the key speaker. She made elaborate power-point presentation on various provisions of Employees Provident Fund. The members actively participated in the discussion with the speaker. The Members raised various queries which were suitably replied and deliberated at length by the Speaker. More than 30 members attended the Study Circle Meeting. CS G.S.Sarin, Chapter Secretary coordinated the meeting.

Seminar on Corporate Governance and Risk Management

On 24.3.2012 Chandigarh Chapter of NIRC of the ICSI organized a one day Seminar on Corporate Governance and Risk Management in association with National Foundation for Corporate Governance (NFCG). The Seminar was inaugurated by Chetan Rao, IRS, Deputy Director, PGI, Chandigarh.

In the First Technical Session Dr. S. K. Chadha spoke on Business Ethics and Corporate Social Responsibility. In the Second Technical Session Dr.Sumeet Kaur spoke on Risk Management as a Tool for Good Governance. In the Third Technical Session Dr.Suveera Gill spoke on Role of Audit Committee in Financial Risk Management. In the Fourth Technical Session Dr.B.B.Tandon spoke on Role of Independent Director in Risk Management. In the Fifth Technical Dr.Monita spoke on implementing a Risk Management System and in the Sixth Technical Session Sonia Passi spoke on Corporate Governance.

The Presentations were followed by an interactive Question - Answer session which gave fruitful insights to the audience. The queries of the listeners were adequately addressed by speakers. More than 140 members/students attended the Seminar and appreciated the initiatives taken by the Chapter in organising the Seminar with NFCG.

GURGAON CHAPTER

Study Circle Meeting on Related Party Transactions & Legal Issues

On 20.4.2012 Gurgaon Chapter of NIRC of the ICSI organized a Study Circle Meeting on Related Party Transactions & Legal Issues. The meeting was addressed by CS I.C.Kamboj, Sr.GM & Company Secretary, Hero Motocorp Ltd. The speaker informed the members that a related party transaction is a transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged. Related party relationships are a normal feature of commerce and business. For example, entities frequently carry on parts of their activities through subsidiaries, joint ventures and associates. In those circumstances, the entity has the ability to affect the financial and operating policies of the investee through the presence of control, joint control or significant influence. Close members of the family of a person are the persons specified within the meaning of 'relative' under the Companies Act, 1956 and that person's domestic partner,

children of that person's domestic partner and dependents of that person's domestic partner. An awareness of various provisions is very much required so as to take adequate care while entering into related party transaction and disclosing the same in the Financial Statements. In a corporate world, the real owners are different from the management. So there is possibility that, management by using their powers may cheat the investors. To have control on all these activities the Companies Act imposes certain conditions through various sections, when a company entering into any transaction in which directors are interested. E.g. section 297 of the Companies Act, 1956 requires Board approval for entering into any contract or arrangement with the related parties. However this section will cover only transactions relating to sale, purchase or supply of any goods, materials and services or for underwriting the subscription of any shares in, or debentures of, the company .Further, there is a requirement to take Central Government approval if the company has more than one crore paid up capital. Clarifying certain definitions, he further explained that compensation includes all employee benefits (as defined in Ind AS 19 Employee Benefits) including employee benefits to which Ind AS 102 Share-based Payments applies. Employee benefits are all forms of consideration paid, payable or provided by the entity, or on behalf of the entity, in exchange for services rendered to the entity. It also includes such consideration paid on behalf of a parent of the entity in respect of the entity. Section 297 of the Companies Act, 1956, describes the transaction with certain persons as related party transaction. Related party relationship could have an effect on the profit or loss and financial position of an entity. Related parties may enter into transactions that unrelated parties would not. For example, an entity that sells goods to its parent at cost might not sell on those terms to another customer. Also, transactions between related parties may not be made at the same amounts as between unrelated parties.

Career Awareness Programme

On 30.4.2012 the Gurgaon Chapter of NIRC of the ICSI organized a career awareness programme in Gurgaon at CCA School, Gurgaon. During the programme the students were apprised about the mode of registration in the course, syllabus, structure of the course and also avenues available to the company secretaries both in employment and in practice. ICSI teacher's kit, brochures, pamphlets, posters received from the Institute for the programme was distributed. The programme was addressed by Animesh Srivastava, Executive Officer of the Gurgaon Chapter. Around 350 students taken together attended the programme from all streams i.e. commerce, science and humanities of the school. Detailed information was provided about the CS course. The film - Interview of Secretary & CEO on Doordarshan (Lok Sabha TV) was also shown which was liked by all present. The queries raised by the students were satisfactorily replied by the speaker.



News from the Institute & Regions

Half-day Seminar on Consolidated FDI Policy & Important Changes

On 11.5.2012 the Gurgaon Chapter in association with NIRC of the ICSI organized a half-day seminar on Consolidated FDI Policy & Important Changes at GIA Hall, Gurgaon. The seminar was addressed by CS Vinod Jain, FCA, FICWA and Central Council Member, the ICAI. Chairman CS Punit Handa in his inaugural address said that it is the intent and objective of the Government of India to attract and promote foreign direct investment in order to supplement domestic capital, technology and skills, for accelerated economic growth. Foreign Direct Investment, as distinguished from portfolio investment, has the connotation of establishing a lasting interest in an enterprise that is resident in an economy other than that of the investor. Moderator of the programme was CS Hitender Mehta, Partner, Vaish Associates who informed members that the Government has put in place a policy framework on Foreign Direct Investment, which is transparent, predictable and easily comprehensible. This framework is embodied in the Circular on Consolidated FDI Policy, which may be updated every year, to capture and keep pace with the regulatory changes. The Department of Industrial Policy and Promotion released the new consolidated foreign direct investment policy which is made effective from April 10, 2012. The New FDI Policy supersedes the earlier version of the consolidated FDI policy of 2011 and other press notes issued prior to April 9, 2012. CS Ranjeet Pandey, Past Chairman NIRC congratulated Gurgaon Chapter for organizing a series of half-day seminars and gave his best wishes.

Technical Session: CS Vinod Jain informed that a non-resident entity, other than a citizen of Pakistan or an entity incorporated in Pakistan, can invest in India, subject to the FDI Policy. A citizen of Bangladesh or an entity incorporated in Bangladesh can invest only under the Government route. An FII may invest in the capital of an Indian Company under the Portfolio Investment Scheme which limits the individual holding of an FII to 10% of the capital of the company and the aggregate limit for FII investment to 24% of the capital of the company. This aggregate limit of 24% can be increased to the sectoral cap/statutory ceiling, as applicable, by the Indian Company concerned through a resolution by its Board of Directors followed by a special resolution to that effect by its General Body and subject to prior intimation to RBI. The aggregate FII investment, in the FDI and Portfolio Investment Scheme, should be within the above caps. Indian companies can issue equity shares, fully, compulsorily and mandatorily convertible debentures and fully, compulsorily and mandatorily convertible preference shares subject to pricing guidelines/valuation norms prescribed under FEMA Regulations. Barring a few, most of the changes in the New FDI Policy are in respect to incorporation of the various press notes and circulars that various regulators have issued in the recent past. The changes made by DIPP in the New FDI Policy are not substantial, despite the fact that

much was anticipated by the foreign investors as a sweetener from the Indian Government in lieu of the recent uncertainties already looming large such as the impending introduction of the general anti avoidance rules and the latest budget announcements in light of the recent Vodafone judgment, etc. Moreover, the ambiguities which were previously prevailing have not been addressed under the New FDI Policy such as the uncertainties prevailing under the real estate sector on whether lock-in is applicable to a subsequent holder or not in case the original holder has already complied with the three year lock-in, number of issues regarding FDI in single brand retail trading and QFI regime. At the end a query session also took place among members.

Study Circle Meeting on Oppression & Mismanagement

On 18.5.2012 the Gurgaon Chapter of NIRC of the ICSI organized a Study Circle Meeting on Oppression & Mismanagement. The meeting was addressed by Hemant Sharma, Associate from Dhir & Dhir Associates, New Delhi. Explaining the meaning of oppression he said that under Sections 397-403 of Indian Companies Act, 1956 it means any act exercised in a manner burdensome, harsh and wrongful (Reference of Shanti Prasad Jain v. Kalinga Tubes Ltd. (1964) 1Comp LJ 117) and Sections 459-461 of English Companies Act, 1985 which says that a lack of probity and fair dealing in the affairs of the company to the prejudice of some portion of its members - *Elder v. Elder & Watson Ltd.*, (1952) Scottish Cases 49. He further informed that CLB has to act within the frame work of the principles of natural justice and also in accordance with its own regulations. Hence, provision of the Evidence Act and those of code of civil procedure do not apply to proceedings before CLB. Sections 397 and 398 do not confer exclusive jurisdiction on the company court to grant relief against oppression and mismanagement. The scope of these sections is to provide a convenient remedy against acts amounting to mismanagement and oppression. He further deliberated on mismanagement and said that it means mismanagement of resources during the course of business and it includes siphoning of funds, total absence of records, causing losses due to rash decisions, not maintaining proper records, manipulation of accounts, misuse of funds etc. Explaining the contents of petition he said that the petition must contain all material facts. In case of fraud, mismanagement, oppressive conduct, etc., full particulars must be alleged. Subsequent affidavits are not enough and it should be complied as per regulations 13,14 and 42A of Company Law Board Regulations, 1991, and also as specified in Form No - I. He concluded his discussion by informing section 402: Powers of [Company Law Board] on an application under section 397 or 398 and said that without prejudice to the generality of the powers of the [Company Law Board] under section 397 or 398, any order under either section may provide for the regulation of



the conduct of the company's affairs in future, the purchase of the shares or interests of any members of the company by other members thereof or by the company and in the case of purchase of its shares by the company as aforesaid, the consequent reduction of its share capital. At the end a brief question answer session also took place among members.

JAIPUR CHAPTER

Career Awareness Programmes

In May 2012 the Jaipur Chapter organized 07 Career Awareness Programmes. Dr. Girish Goyal, Chapter Secretary addressed the programmes. The students were apprised about the mode of registration in the course, syllabus, structure of the course, fee structure and also the avenues available after completion of the CS Course both in employment and in practice. Pamphlets explaining Career in CS Course were distributed to the students. The respective school administration provided very good support in organizing the programmes. About 600+ students participated in the said programmes.

Again during the 4th Quarter of Financial Year 2011-12 the Chapter organized 19 Career Awareness Programmes across Rajasthan.

Study Circle Meeting

On 5.5.2012 a Study Circle Meeting was organized on Takeover Code 2011. Key Speaker Raghav Bajaj apprised the members about recent changes and implications of new Takeover Code. He also stressed on various points i.e. definitions, disclosure requirement, and creeping time.

Times Education Expo - 2012

On 5 and 6.5.2012 the Chapter participated in the Times of India - Career Fair organized by Education Times (Times of India) at Birla Auditorium, Jaipur. The Fair attracted a good number of visitors - a good majority of which came to the ICSI stall and sought information about the CS course and the future dynamics of the course. The participants of the fair were inquisitive about the profession, time period of the course, role of a CS, fee structure, contents, cut off dates, and opportunity after becoming CS professional, etc. The details of various schemes and fee concession for economically backward students, viz. Education Student Fund Trust and fee concession for SC/ST/Physically challenged students were also explained. The academic facility available to the students in the form of Oral Coaching Classes in Chapter was also informed. The fair was for 2 days and the advertisement of the fair were on the Times of India and other publications thus attracting a good number of students and their parents. Various institutions, reputed colleges, universities, overseas colleges also participated in the fair.

Professional Development Programme

Inaugural Session: On 13.5.2012 the Conference was

inaugurated by Girish Goyal, Chapter Secretary. While delivering his address he said that such seminars are useful for updating the knowledge and such conferences also provide opportunity to know what is happening across the globe and what changes are required to be introduced to be at par with the global best practices.

Technical session: There were three technical sessions. The resource persons were Yash Dadda, PK Boob and Sushil Jhalan. *Valedictory Session:* Vimal Gupta, Chapter Chairman, and Shyam Agrawal, Secretary, NIRC while addressing in the programme said that company secretaries have proved their potential in the organization and is now well accepted by the corporate - that their contribution to the growth and development of industries is immense.

At the end of day's programme, successful participants were given away certificates of 08 PDP Credit Hours.

Full Day Seminar

On 18.3.2012 a full day Seminar was organized for the members. The Conference was inaugurated by Nesar Ahmad, President and N.K. Jain, Secretary and CEO, the ICSI.

Southern India Regional Council

Study Circle Meeting on Salient Features of SARFAESI Act

On 14.5.2012 the pros and cons of SARFAESI Act was elaborately discussed by B Dhanaraj, Advocate, Chennai in the Study Circle Meeting. The speaker explained that The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, allows banks and financial institutions to auction properties (residential and commercial) when borrowers fail to repay their loans and also enables banks to reduce their non-performing assets by adopting measures for recovery or reconstruction. The speaker further explained that if a borrower defaults on repayment of loan, the banks can declare the loan on NPA and auction it to recover the debt. On explaining how the auction price is decided, he said that it depends on the market value of the property.

Dhanaraj also pointed out that with the promulgation of SARFAESI Act a benchmark reform is created in the Indian banking sector. The speaker also quoted from a published source that the progress under this Act had been significant, as evidenced by the fact that during 2002-03 when the Act came into effect, there was an overall reduction of non-performing loans to 9.4 per cent of gross advances from 14 per cent in 1999-2000.



News from the Institute & Regions

One Day Programme on Capital Markets - Growth Drivers

On 25.4.2012 to commemorate the ICSI - Capital Markets Week, the ICSI - SIRC organized a one day programme on Capital Markets - Growth Drivers at Radisson Blue Hotel, Chennai. The programme was inaugurated by A D M Chavali, Executive Director, Indian Overseas Bank, Chennai and V Shankar, Director, Computer Age Management Services Limited, Chennai was the Guest of Honour. In the inaugural session, CS Sridharan R, Council Member, The ICSI and Programme Director in his welcome address emphasized that the ICSI has strong interface with the Capital Market and the ICSI is regularly conducting investor awareness programmes in rural and semi - rural areas all over India.

In his address, CS Ananthasubramanian S N, Vice President, The ICSI complimented the Capital Markets Committee for organizing the Capital Markets Week and wished the programme a success.

Guest of Honour V Shankar, in his address, opined that the individual investors are very much reluctant on investing in Capital Markets. He pointed out that the investment in gold and silver is more by the individuals. Shankar emphasized that some concrete foundational and structural measures has to be brought in educating the individuals to invest in capital markets. He observed that the Capital Market in India mainly rely on foreign investors. Shankar opined that it is the duty of the professional bodies and professionals to educate the citizens on the financial literacy. He suggested that the Government should take efforts to make changes in the curriculum and educate the students from school level, on financial literacy.

A D M Chavali, Executive Director, Indian Overseas Bank, Chennai, in his inaugural address, appreciated the ICSI and the SIRC for organizing the series of programmes as a part of the Capital Market Week. Chavali elaborated the delegates on the treasury market in India. He also spoke on the correlation between the equity and forex markets and observed that the inflow and outflow of FII have great impact on markets. Chavali observed that during the period between 2002 and 2008, Indian local markets converted into global markets. Chavali threw light on the roles played by the nationalized banks in capital markets. He suggested that the professionals should try to educate the individuals on investing in capital markets. Chavali also requested the ICSI to establish an exclusive capital market division to educate the investors.

The ICSI's publication titled Referencer on Certification of Securities Transfers - Clause 47(C) of the Equity Listing Agreement was released by the dignitaries on the occasion. The inaugural session concluded with the summing up of the proceedings by CS Narasimhan B, Council Member, The ICSI.

Session - I: The First Technical Session was on Capital

Markets: Challenges, Opportunities for Innovation. The session was addressed by P K Choudhury, Vice Chairman and Group CEO, ICRA Limited and Keyoor Bakshi, Past President, The ICSI. Choudhury elaborated the members on the important changes in the global market and Indian capital market. He explained various opportunities available for the professionals in financial markets.

In his address Keyoor Bakshi threw light on the opportunities available for the CS in the financial markets. He narrated the differences between the market makers and market operators and highlighted that market maker may well be a CS. The Past President also opined that the CS has more opportunities in the areas of M&A, IPR and their advice on the new takeover code to the Board is vital. He also suggested bringing out an exclusive e-journal on capital markets, to be circulated to members and students. Keyoor Bakshi also predicted that the Capital Market may increase by three times by the year 2020.

Session - II: The Second Technical Session was on Recent Regulatory Changes in Capital Markets and the speakers were B Madhu Prasad, Vice Chairman, Key Note Corporate Services Limited, Mumbai and B Narasimhan, Council Member, The ICSI. Madhu Prasad observed that lot of changes has happened in the capital markets in the period from 1993 to till date. He classified those changes under three heads, viz. the permission era, the pricing era and the participants. Prasad also made elaborate presentation on Issue of Capital and Disclosure Requirements [ICDR], which was introduced in August 2009. He concluded his address with a remark that India has transformed from control pricing regime to free pricing regime.

B Narasimhan spoke on the recent regulatory updates. Narasimhan focused on Disclosure of Track Record of the public issues managed by Merchant Bankers, Trade Controls in Normal Trading Session for IPO and other category of scrips, PSUs Disinvestment, etc. While deliberating Narasimhan explained that the Institutional Placement Programme means a further public offer of eligible securities by an eligible seller, which the offer, allocation and allotment of such securities is made only to qualified institutional buyers. He also threw light on the Offer for Sale of Shares by Promotes through the Stock Exchange Mechanism. Narasimhan made a Comparison of FPO [Follow on Public Offer], IPP and OFS [Offer for Sale].

Session - III: SME Exchange: Empowering India's SME Sector was the theme of the session. CS Ananthasubramanian S N, Vice President, the ICSI and Vishnu Vardhan M, Regional Head, South, BSE, Chennai were the speakers for the session. In his address, the Vice President observed that the SME sector in India is an unsung sector. He also explained that 94% of the SMEs in India are micro industries and out of these, nearly 90% is in proprietary form and hence there is more scope of CS in SME sector. He also quoted that nearly Rs.5, 000 crores has been allotted to



the SIDBI in the Union Budget. As the SMEs fall under the jurisdiction of SIDBI, the Vice President sighted a good growth to SME sector in India. He also observed that no efforts have been taken to list the SMEs in Capital Market.

Vishnu Vardhan, Regional Head, South, BSE, Chennai made an elaborate presentation of the SME sector and its present scenario in India. He also explained in detail the efforts taken by BSE in developing the SME sector in India. He observed that the BSE - SME Platform provides a great opportunity to the entrepreneurs to raise the equity capital for the growth and expansion of SMEs. It also provides immense opportunity to the investors to identify and invest in the good companies at early stage. Vishnu Vardhan also opined that the SMEs will help unleash the valuation of the company and in the process create wealth for all the stakeholders including investors, besides considerable long term capital gains tax benefits and facility to exit at any point of time. He explained that the Micro, Small and Medium Enterprises (MSMEs) contribute 8% of the country's GDP, 45% of the manufactured output and 40% of India's exports and concluded by informing that the SME sector provides employment to about 6 crore people through 2.6 crore enterprises.

Session - IV: The Fourth and Final Session of the programme was on Indian Capital Market - How to Rebuild Investor Confidence? The speakers were V Nagappan, Director, Madras Stock Exchange, Chennai and A K Narayan, President, Tamilnadu Investors Association, Chennai. Nagappan explained that the fact that we have less than 2 crores demat account points reveal that the local/retail investor participation is low. He observed that there is a general opinion among the public that they think the capital market is a place of gambling and opined that it is the duty of the Government, regulators and the professional bodies to educate the general public about the pros and cons of investing in capital market.

In his simple and illustrative speech, Narayan raised concern over the lack of investor's confidence. He pointed out that the investment on fixed deposits in banks, gold and real estates by the general public have increased than that of investing in the capital markets. Narayan asserted that awareness about Financial Planning, Risk Profiling, Asset Classes etc. should be created and impress the general public about the need for Equity Investment. He also suggested that the investors should be informed about Success Stories in Equity Investments and requested that the professional institutes like ICSI has vital role in educating the investors through investment awareness programmes.

Valedictory Session of 11th Management Skills Orientation Programme [MSOP]

On 4.4.2012 at the valedictory session of the 11th Management Skills Orientation Programme [MSOP], Suresh

B Menon, Regional Manager, Southern Regional Office, SEBI, Chennai delivered the valedictory address. Earlier, Sarah Arokiaswamy, Joint Director, ICSI - SIRO in her welcome address urged the participants to become a member of the CSBF at the earliest.

CS Marthi S S, Chairman, ICSI - SIRC, in his address highlighted the growing importance of CS in the corporate world and emerging areas of practice. 'The more you are updated with the happenings/acts pertaining to the profession, the more you will glow in the profession as CS' was the message of CS Dr. Ravi B, Member, ICSI - SIRC to the participants. Suresh B Menon, in his address highlighted the diversified roles of CS in the modern corporate world through a presentation, which was well received by the participants. Menon also urged the participants to work on their personality development. The certificates were distributed to the participants by the dignitaries.

Study Circle Meeting on Guidance Notes on Service Tax

On 4.4.2012 CS Babu Sankara Subramanian V, Company Secretary in Practice, Chennai was the speaker for the Study Circle Meeting on Guidance Notes on Service Tax. Babu elaborated the Guidance Notes A and B on Service tax. He spoke on the new approach of the Government to the service tax especially the concept of Service, taxability of services, Negative List, Declared services, exemptions and further the proposed rules of interpretation and Place of Provision of Services Rules, 2012. He also explored the possible area of scope for practice to the Company Secretary in the Service tax including the structuring of transaction. His discussion evoked a lively deliberation amongst the members and inspired to pursue further dimensions of service tax. The Chairman ICSI-SIRC summarized the proceedings and emphasized the need to have similar in-depth study and training of members in this area of service tax.

BANGALORE CHAPTER

One Day Seminar on Cross Border Transactions - Opportunities and Challenges

On 6.4.2012 the Bangalore Chapter of SIRC of the ICSI organised a one day Seminar on Cross Border Transactions - Opportunities and Challenges at Bangalore. Eighty two delegates participated in the programme.

Inaugural Session: CS Nesar Ahmad, President, The ICSI inaugurated the programme. Thereafter CS Gopalakrishna Hegde, Member, Central Council, The ICSI facilitated the signing of MOU between ICSI and the following institution for mutual benefit and growth and exchange of knowledge



News from the Institute & Regions

resources: ● Direct Taxes Regional Training Institute ● Alliance University ● Bangalore Stock Exchange Limited ● Bangalore Chamber of Industry and Commerce

If you come close you will be able to understand me; these distances increase misunderstandings were the opening lines by Jahanzeb Akhtar, IRS, Commissioner of Income Tax after signing the MOU with ICSI on behalf of DTRTI (Direct Taxes Regional Training Institute). It truly reflected the spirit and ethos behind the collaboration that Bangalore Chapter was forging with eminent institutions viz. DTRTI, BSE, Alliance University, and BCIC.

Thereafter CS N.K Jain, Secretary and CEO; CS Ananthasubramanian, Vice-President, The ICSI addressed the gathering sharing with them the important role that Company Secretaries can play in Cross Border Transactions and also shared some of the initiatives taken by the Institute in widening the scope of functioning of the members in the corporate sector.

CS Nesar Ahmad in his inaugural address added the thoughts shared by Jahanzeb Akhtar by stating his perception on how these tie ups with resourceful institutions will lead to the holistic development and expansion of CS Profession.

First Technical Session on Overseas Opportunities and Challenges : Guest Speaker for the First Technical Session CA and CS P. Chinnaraj, Consultant and Financial Advisor, Bangalore in his presentation on Overseas Opportunities and Challenges focused on the need for overseas investments and its benefits and how the tax rates influence the investment destinations. He also shared various case studies to highlight and explain the practical approach required to face and overcome the challenges while looking for overseas investments.

Technical Session II - EXIM Funding Options: The Guest Speaker of the Session Pranesh B.N, AGM - Regional Head-Corporate Banking, EXIM Bank of India, Bangalore in his presentation on EXIM Funding Options emphasized on the range of products and services offered by EXIM Bank at all stages of Export Business Cycle and various value based programmes available. He also explained in brief the types of financing programmes available with respect to Export Credit, Import Credit and loan financing for exports. He also dealt with the Buyers credit option and role of Commercial banks for the same.

Technical Session - III - FDI recent Regulatory Changes under FEMA: Guest Speaker N.Raja Sujith, Partner, Majmudar and Partners International Lawyers, India in his presentation on FDI recent Regulatory Changes under FEMA emphasised on the importance of FDI and the legal framework of certain key and prohibited sectors. He then highlighted the factors of External Commercial Borrowings in relation to FII and LLP and its process simplifications.

Press Meet

On 6.4.2012 the Bangalore Chapter of SIRC of the ICSI organised a Press Meet with CS Nesar Ahmad, President, The ICSI at The Goldfinch Hotel, Bangalore.

CS S.N.Ananthasubramanian, Vice-President, The ICSI; CS Gopalakrishna Hegde, Council Member, The ICSI; CS. N.K. Jain, Secretary & CEO, The ICSI; CS S.S. Marthi, Chairman, SIRC; CS S. Kannan Chairman, Bangalore Chapter of the ICSI and CS S.C. Sharada, Secretary, Bangalore Chapter of the ICSI were also present.

The President and Vice-President briefed the press on the initiatives being taken by the Institute for members and students, the Vision Plan including extensive career orientation, professional development programmes, brand building, extensive research projects, re-organization and infrastructure development. They also shared with the Press that the ICSI had entered into Memorandum of Understanding with various institutions in Bangalore. Twenty press/media persons attended the press meet and interacted with the dignitaries present.

ICSI President's Meet with FKCCI President and Vice-President

On 6.4.2012 CS Nesar Ahmad, President, The ICSI during his visit to Bangalore met J. R. Bangera, President, FKCCI and K. Shiva Shanmugam, Vice-President, FKCCI and discussed matters of mutual Interest.

CS S.N.Ananthasubramanian, Vice-President, The ICSI; CS Gopalakrishna Hegde, Council Member, The ICSI; CS. N.K. Jain, Secretary & CEO, The ICSI; and CS S. Kannan, Chairman, Bangalore Chapter of the ICSI were also present at the meeting.

ICSI President's Meet with the Members

On 6.4.2012 the Chapter organized a Meeting of the Members with the President of the Institute at Bangalore. CS Nesar Ahmad, President, The ICSI and CS S.N Ananthasubramanian, Vice-President; The ICSI; CS Gopalakrishna Hegde, Council Member The ICSI; CS R. Sridharan, Council Member The ICSI; CS N.K. Jain, Secretary and CEO, The ICSI; CS S.S. Marthi, Chairman, SIRC of The ICSI; CS Nagendra D Rao, Treasurer, SIRC of The ICSI and other Members were present for the meet.

The President addressed the Members and shared with them various initiatives taken by the Institute for the benefit of Members. CS S.N Ananthasubramanian, CS R. Sridharan, CS N.K. Jain, CS S.S. Marthi, also addressed the members.

Thirty-four members attended the meet and shared their views and suggestions on various issues/aspects relating to the profession.



Live interview on All India Radio

On 6.4.2012 CS Nesar Ahmad, President, The ICSI, CS Gopalakrishna Hegde, Council Member The ICSI; CS N.K. Jain, Secretary and CEO, The ICSI were interviewed live on All India Radio between 6.00 and 7.00 PM on "Career as a Company Secretary". They also replied a number of queries raised by the listeners. The programme was aired in most of the regions in Karnataka.

Peer Review Training Programme

On 7.4.2012 the ICSI organised at Bangalore a Peer Review Training Programme for the Members of Bangalore. The Bangalore Chapter facilitated the Headquarters in organizing the programme.

CS Nesar Ahmad, President, The ICSI, welcomed all the 21 members for the Peer Review Training Programme and gave a brief overview on the objective and importance of Peer Review. CS S.N Ananthasubramanian, Vice-President, The ICSI; CS Gopalakrishna Hegde, Council Member, The ICSI; CS R. Sridharan, Council Member The ICSI; CS S.S. Marthi, Chairman, SIRC of The ICSI and CS V. Sreedharan, Member, Peer Review Committee were also present.

Session I: CS V Sreedharan, Member, Peer Review Board commenced the training programme with an Overview on Peer Review and Guidance Notes of ICSI relevant to attestation services.

Session II: CS R Sridharan, Council Member, The ICSI and Vice-Chairman, Peer Review Board focused on Office Administration and Systems in the Office of PCS; Concept of Audit Trail; Audit Diary and significance of the same.

Session III: CS S N Ananthasubramanian, Vice-President, The ICSI and Chairman, Peer Review Board, explained the Compliance Approach and Substantive Approach to be adopted by Peer Reviewers.

Session IV: CS R Sridharan then made a presentation on how to carry out actual attestation assignments of Annual Return Certification, 383A Compliance Report and Certificate under Clause 47C of Listing Agreement.

Session V: CS R Sridharan addressed the session and explained in detail the procedure for Conduct of Internal Audit of Depository Participants and Reconciliation of Capital.

Panel Discussion: The programme concluded with the Panel Discussion with CS Nesar Ahmad, President, ICSI; CS S N Ananthasubramanian, Vice-President, The ICSI; CS R Sridharan, Council Member, The ICSI; and CS V Sreedharan, Member, Peer Review Board; as the panelists, who discussed certain important aspects on Peer Review and also fielded a volley of questions inter alia on working of Peer Review Board, Role of Peer Reviewers and procedures.

ICSI President's visit to Alliance University

On 7.4.2012 the Bangalore Chapter of the ICSI organized a

visit to Alliance University, Bangalore to meet Dr. Madhukar Angur, Chancellor, Alliance University, Bangalore.

The ICSI delegation was headed by CS Nesar Ahmad, President, The ICSI along with other dignitaries: CS Gopalakrishna Hegde, Council Member, The ICSI; CS S.S. Marthi, Chairman, SIRC of the ICSI; CS Nagendra D Rao, Treasurer, SIRC of the ICSI; CS S. Kannan, Chairman, Bangalore Chapter of the ICSI; and CS S.C. Sharada, Secretary, Bangalore Chapter of the ICSI.

Dr. Madhukar Angur expressed his deep appreciation at the visit by the team of senior administrators from the ICSI and was equally delighted that signing of the MOU and the partnership would help in developing high caliber professionals, who will pursue with integrity and passion the promotion of best practices in corporate governance in organizations.

CS Nesar Ahmad also termed it to be an honour to enter into an MOU with Alliance University which is counted among the top ten universities in India - and acknowledged it as a leader in the knowledge industry.

Capital Markets Week

On 24.4.2012 to commemorate the Capital Markets week, the Bangalore Chapter of SIRC of the ICSI organized a one day programme on Capital Markets - Growth Drivers at Hotel Vivanta by Taj. S. Raman, Chairman and Managing Director, Canara Bank was the Chief Guest.

Bhaskar Bhat, Managing Director, Titan Industries Limited was the Key-note Speaker; Manjit Singh, Executive Director, Bangalore Stock Exchange Limited; and CS S.N Ananthasubramanian, Vice-President, the ICSI were the other dignitaries present.

Inaugural Session: Chief Guest S. Raman, Chairman and Managing Director, Canara Bank inaugurated the programme. CS S.N Ananthasubramanian in his address stated that this programme was part of a different initiative by the ICSI to bring together various segments of the Capital Market and to provide a professional platform for debate with the objective to trigger thoughts, new ideas, suggestions to increase the confidence of the retail or aam janata investors in the Capital Markets, so that more people invest in the same.

He stated that professionals should probably research and study the market, the effect of certain stocks on the SENSEX/NIFTY, the reasons for sustained influence on the same and focus more on their intangible effects.

There after Manjit Singh in his address interspersed with statistics and facts gave a demographic perspective on a macro level of the topic. He gave a brief overview of the growth of the capital markets from the 1970's to date. He also stated that though earlier SEBI used to look at SEC and other regulators on what to do, it has now emerged as the leader regulator which other regulators are looking to for ideas,



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reforms and new measures of regulation.

He enumerated some of the factors that have been the drivers of growth in the capital market as economic growth; Indian habit of saving; increasing urbanisation, education, prosperity, increased foreign investment, corporate transparency and corporate governance. He emphasised on the importance of Good Corporate Governance as it contribute to sustainable corporates by enhancing the performance of the companies, thereby increasing their access to outside capital by reducing the risk on investment and increasing investor confidence.

He further highlighted the role of professionals especially Company Secretaries in ensuring implementation of Good Corporate Governance in substance and not merely in form.

Bhaskar Bhatt in his key-note address had a very different take on the theme. He commenced his address by asking the audience to focus not merely on finance when talking about capital but also focus on all important aspects of human capital as they both go hand-in-hand, as people run companies and not processes and systems.

He accentuated the need for all concerned to think of the larger purpose so that the intellectualism in debates could reduce and leading to more meaning to what we do about Governance, organising markets, transparency etc.

Giving the analogy of IPL and how it has changed the game and management of the game of cricket Bhat called for attention to the fact that the markets valued talent and is willing to pay the right price for the talent and that opening up of the market and increasing transparency leads to creation of more opportunities.

He walked the audience through various stages of growth of the Capital market through the ages, where now it has moved to a high level of sophistication. He however, cautioned that though sophistication in the markets is a good thing and is very much required it has to be understood by the participants in the capital market if it is to be beneficial.

Talking about the role of professionals in the growth of the capital market he said that the main challenge for them would be to increase the number of investors in the capital markets which is a mere 2% of the entire population, by creating an atmosphere to increase the confidence of the investors in corporates and the capital markets thereby leading to inclusive growth which will in turn enhance transparency and good governance.

S. Raman, the Chief Guest in his inaugural address focused on the importance of Corporate Governance and stated that good corporate governance is consistent action/behaviour over many year and commands confidence, respect and good reputation across all stakeholders.

He emphasised on the need to not only build one's reputation but also take the steps to maintain the same as the consequences of losing one's reputation could prove very costly for corporates and could take years and years to earn

back/or repair. The role of professionals he added was to ensure that the corporates learn from the mistakes of others instead of repeating them and also in relooking at the existing laws/regulatory mechanism and giving suggestions in improving the same to create a better and growing market and subsequently the economy.

The Chief Guest then released the ICSI Publication - Reference on Reconciliation of Share Capital Audit.

Technical Session- I on Recent Regulatory Changes in Capital Market -Guest Speaker Murali Ananthasivan, Partner, J. Sagar Associates, Advocates in his presentation on Takeover Code - Major Changes highlighted the major reforms as per SEBI and stated that SEBI has initiated a process to make IPO forms shorter and simpler. He also dealt with the impact of such changes under FII and FDI and Mutual Funds. Thereafter, Gaurav Gupte, Principal Associate, Amarchand and Mangaldas and Suresh A. Shroff and Co., Mumbai, the other Guest Speaker in his presentation highlighted New methods to garner minimum public shareholding, offer for Sale through Stock Exchange and their Key Features and the upcoming proposals to streamline the disclosure requirements and procedures. He then explained briefly the Pre-IPO considerations for Unlisted Public Companies and the relevant preferential allotment rules. He also explained in brief the Due diligence requirements, enforcement trends and other developments with reference to Listing of Small and Medium Enterprises.

Technical Session - II on SME Exchange: Empowering India's SME Sector - Guest Speaker Jagdish Ahuja, Former President, Bangalore Stock Exchange Limited in his presentation dealt with the Current scenario of Capital markets across the globe and highlighted the statistical information on global economy with respect to markets, economy and monetary policies of various countries. He then focused on the FII and FDI trading activities for the year 2012. He also dealt with the impact of Budget 2012 -13 on the GDP and the 12th Five year plan and the comparative analysis of REPO rate cycle and Market cycle.

Thereafter, CS S.N Ananthasubramanian, Vice-President, The ICSI in his presentation highlighted Fund raising by SME and Listings of SMEs. He also dealt on contribution from SME and MSME to India in a larger perspective and its advantages and disadvantages. He then emphasized on Regulatory norms for SME under SEBI Guidelines and Obligations of Market makers and the Role that Company Secretaries can play in this sector.

Technical Session - III on Indian Capital Market - How to Rebuild Investor Confidence - Guest Speaker K. Sukumaran, Dean, School for Investor Education and Financial in his presentation focused on Strengths of Indian Securities Markets and Demand Side Realities of investors. He then emphasized on problems of retail investors and the initiatives undertaken in restoring investor confidence. He also dealt with the golden rules for beginners and steps to stock market



and various tactics of wealth creation and measures to rebuild investors' confidence.

Suresh B Menon, Chief General Manager and Regional Manager of SEBI - Southern Regional Office, Chennai, the other Guest Speaker in his presentation on Measures to Rebuild Investors' Confidence highlighted the Financial Educational Programmes offered by SEBI and the initiatives taken to educate the investors. He also briefly explained the SCORES-SEBI Complaint and Redress System which strives at uplifting the confidence of investors.

Seminar on Mergers and Acquisitions

On 20.4.2012 the Bangalore Chapter of the ICSI jointly with Bangalore Chamber of Industry and Commerce (BCIC) organised a full day seminar on Mergers and Acquisitions at Bangalore. Dr. Geeta Gouri, Member, Competition Commission of India was the Chief Guest. Around 50 participants attended the seminar.

Dr. Gouri in her address shared with the participants the types of cases pertaining to Merger and Acquisitions that have come before the Competition Commission and requested the members to share their views/suggestions etc., which could then be considered for amending Regulations/Guidelines to make them more comprehensive and meaningful.

Technical Session: I : H V Harish, VP-BCIC and Partner-National Management, Grant Thornton addressed on IFRS 3 - Business Combinations wherein he focused on Scope and key definitions under IFRS 3 (Revised 2008) and the Key differences between IFRS 3 and Accounting Standard 14 (AS14, Accounting for amalgamations). He then explained in detail the steps involved in Acquisition Method.

Technical Session: II: Ganesh Murthy, EVP & CFO, Mphasis while making presentation on Mergers & Acquisitions - An Industry Perspective emphasised on the need to have a specific strategy for M&A laid down and that such strategy needs to be in line with Company's overall objectives. He then highlighted the key factors for M&A and explained the aspects of sustainability of client relationships, Post merger synergy potential; Legal entity structure - tax issues such as repatriation of dividend, future sale of asset, deemed dividend etc. and Cultural issues.

Technical Session: III: Abhishek Goenka, Partner, BMR in his presentation on Changed Tax Landscape- after Budget 2012 highlighted the new paradigm of GAAR and its related issues. He also focused on the amendments in the Budget and its impact. He then dealt with the Operations in India relating to Repatriation of Surplus Eligibility for treaty relief and interplay with GAAR. He later briefly explained the taxability of control premium and impact on transfers where sale consideration is indeterminate.

Technical Session: IV: Kalpesh Maroo, Partner, BMR addressed on Tax and Regulatory Landscape wherein he pointed out that the M & A in India is governed by multiple

laws, Taxes & Duties and Regulation and highlighted the reasons why tax and regulatory considerations were important from an M&A context.

Technical Session: V: Vivek Bajaj, Vice-President, Corporate Trust and Loan Agency, HSBC, in his presentation stated that Escrow is a legal arrangement whereby a neutral third party, called the Escrow agent, holds an asset during the period in which the deal is being finalized by the other two or more parties. He then explained in detail the types and benefits of Escrows. He also enumerated the Advantages of Escrow Services to Contracting Parties in relation to regulatory and contractual escrows.

Technical Session: VI: Shashishekhar Chaugule, Client Service Director - Tax and Regulatory Services in his presentation focused on Treatment of Intangibles & Other Income-tax Matters related to Mergers and Acquisitions viz. Patents; Copyrights; Trademarks; Licences; Franchises; Know-how; Human capital; Non-compete fee; Goodwill; Business or commercial rights of similar nature.

Participation in Career Fair

On 28 - 29.4.2012 the Bangalore Chapter of SIRC of the ICSI participated in the Times Education Boutique and Career fair, 2012 at Palace Grounds, Bangalore.

A stall was set up on both days of the career fair. Scroller Standby and Mounted Posters about the CS course, and the banner of the Institute were displayed/put up at the stall. Prospectuses, Brochures and Course Study Materials were also displayed for reference of the visitors. More than 130 students and parents visited the ICSI Stall for enquiry about the CS Course and its prospects. Brochures with information about the CS course and contact details were given to the visitors of the stall.

HYDERABAD CHAPTER

42nd World Earth Day - Company Secretaries Celebrations

On 22.4.2012 the Chapter under the leadership of Dr. PVS Jagan Mohan Rao, Past President, the ICSI and in association with ICWAI - Hyderabad Chapter and FAPCCI organised the above programme.

Green Cycling: On the occasion a green cycling programme was organized wherein cycling was done from Hyderabad Chapter of Cost Accountants to Hyderabad Chapter of ICSI covering 5 Kms. CS S.S Marthi, Chairman, SIRC flagged the event at ICWAI Office. Dr. Rao covered a distance of around 4 km from his residence to Ramakrishna Math, Lower Tank Bund, Library, Himayatnagar and reached Hyderabad Chapter of Cost Accountants in his green Cycle in green suit.

Green Walk: A green walk was conducted with placards of world Earth Day from ICWAI office to ICSI office. A good



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number of members participated. Several members of public made enquiries about the World Earth Day thus participating indirectly. A Green breakfast was arranged at the ICSI-Hyderabad Chapter.

Presentation of Saplings to Eminent Personalities: Commemorating the 42nd World Earth Day a total of 42 saplings were presented to various people including Marri Shashidhar Reddy, Vice Chairman, National Disaster Management Authority; K Vijay Anand, IAS Managing Director, AP Genco; C Narsing Rao, IAS, CMD, Coal India Ltd; N K Nanda, CMD, NMDC; Dr K.S .Jawahar Reddy, IAS, Special Secretary to Chief Minister; Suthirtha Bhattacharjee, IAS, Principal Secretary to AP Government, Infrastructure & Investment; CS C Partha Sarathy, Chairman, Karvy Group; Nitin, Chief Engineer, ITC Kakatiya; P K Sharma, IFS, Addl. Prl. Chief Conservator of Forests (IT); PK Jha, IFS, Addl Prl. Chief Conservator of Forests/Spl. Secretary to Govt. MA & UD Dept.; TV9 Officials; Sakshi Officials; V S Raju, President, FAPCCI & others.

Programme on Our Earth - Climate Change - Challenges and Opportunities for Industry and Professionals

On 22.4.2012 the Chapter organised the above programme on the occasion of 42nd World Earth Day at FAPCCI. CS Shujath Bin Ali, Chairman, Chapter Chairman presided over the function. VS Raju, President, FAPCCI welcomed the gathering and informed about the importance of the Earth Day, Global Warming etc. N.K. Nanda, Chairman and Managing Director, NMDC was the Chief Guest and addressed the participants on Global Warming and coal, mining, etc.

Dr. PVS Jagan Mohan Rao, Former President, the ICSI initiated and coordinated the programme with active support of S S Marthi, Chairman-SIRC, Shujath Bin Ali, Chairman - Hyderabad Chapter and ANS Nageswara Rao, Chairman, ICWAI.

Programme on the occasion of Capital Markets Week on Recent trends in Indian Capital Markets and recent changes in Capital Market Laws

On 23.4.2012 the Chapter organized the above programme on the occasion of Capital Markets Week at the Chapter premises. CS P S Shastri, Consultant- Merchant Banking, Soubhagya Capital Options Pvt. Ltd. was the Chief Guest. He spoke on evolution of capital markets and capital market laws and changes

undergone in last 30 years and provided a comparative analysis with capital markets of western countries.

CS S. S. Marthi, Chairman-SIRC, in his address emphasized how Company Secretaries can take strategic initiatives in capital market and importance of a Company Secretary in a Company.

Seminar on SME Exchange & Listing

On 27.4.2012 the Chapter organised a one-day Seminar on SME Exchange & Listing at Hyderabad. CS Shujath Bin Ali, Chapter Chairman in his introductory address dealt with matters such as Vision and Role of ICSI and Various ICSI programmes. He shared his views with regard to celebrating Capital Markets Week and Objectives.

Lakshman Gugulothu, CEO, BSE-SME Exchange and the Chief Guest of the programme highlighted the significance of exchange and benefits that accrue to the SMEs by virtue of this initiative. Prof. P Udaya Shanker, Director In-charge (School of Enterprise Management), Ni-MSME was the Guest of Honour who explained the role played by the Institute for the promotion of MSMEs. The initiatives include adopting best practices, cluster approach, promotion of financial markets, etc. which were well explained by him. CS SS Marthi, Chairman, SIRC in his address shared the current trends. CS Sudhir Babu, Council Member, The ICSI introduced the theme to the members. The delegates comprised of Company Secretaries, Chartered Accountants, Cost Accountants, Advocates, Corporate Executives, Practising professionals, etc. Later, Prof P Udaya Shanker interacted with the officials to have joint initiatives for the promotion of MSMEs.

First Technical Session: In the First Technical Session CS B.Pavan Kumar, Director, B5 consulting was the Panel Moderator. The Speakers were Lakshman Gugulothu, CEO, BSE SME Exchange, Namshivaya, Director, Zen Securities, C.Kutumba Rao, Stock Analyst.

Pavan Kumar in his address introduced the concept and gave an overall perspective. Lakshman Gugulothu started with Vision and Mission of SMEs. Vision is about Wealth creation by the SMEs through inclusive economic growth. Mission is about to Provide world class platform for the SMEs and investors to come together and raise the equity capital. He spoke about BSE SME Platform which provides great opportunity to the entrepreneurs to raise equity capital for the growth and expansion of SMEs. He commented about corporate leveraging. He discussed debt capital v. equity capital and also about Banks v. Capital Markets. He further discussed how SME Board is different from Main Board. He added on how SME Exchange is evolved and how it is different from OTCEI model. He went on with Interpretation of SMEs Regulations and shared information about Bid and Ask Spread on SMEs Exchange. He further concluded by speaking about ODD lots Trading, Preparation for IPO and



investors investing in SMEs.

Namshivaya started with a PPT Presentation on SME Exchange. He discussed Market Making. He further discussed how SMEs Exchange helps SMEs. He discussed about Trading system of SMEs Exchange, Bid and Ask Spread on SMEs Exchange, ODD lots Trading, Preparation for IPO and Due Diligence. He further concluded by discussing the benefits of SMEs listing and Tax benefits for SMEs. C.Kutumba Rao gave views about corporate governance and corporate transparency. He pointed out certain details regarding the case of Varun Industries. He spoke about SMEs Platform and role of professionals in SMEs Listing. He advised Lakshman Gugulothu regarding lot changes due to which investors are finding difficulty in purchasing or selling shares. He concluded by discussing new investors, financial illiteracy, selection of Merchant Banker etc.

In the Second Technical Session CS Sudheendra Putty, Company Secretary, Infotech Enterprises Limited was the Panel Moderator. The Speakers were K K Maheshwari, CIL Securities Ltd., CS P.S.Rao, Company Secretary in Practice, Y. Suryanarayana, Advocate, Sanjay Gadhalay, Associate Director, Indian School of Business.

Sudheendra Putty shared his views about British Legacy and about World Wide Stock Exchanges. He further commented that SMEs are lagging to access to capital markets and also discussed about SMEs Platform.

K K Maheshwari discussed Merchant Banking and perspective of Merchant Banker in SMEs. He further discussed the role of Merchant Banker and procedure of SMEs issue. He concluded by discussing the Spread BSE SME Exchange.

P.S.Rao started sharing his experience which he gained since last six months in handling SMEs IPO. He gave introduction to issues relating to SMEs listing. He continued discussing about shortcomings for SMEs, valuation and cost concerns.

He further explained what concern one must take in preparation of offer documents and Marketing of IPO. He commented on Market Making and concluded by discussing about the companies opting for SMEs Listing.

He then discussed SMEs Regulatory Framework for IPO and Listing.

He discussed a few regulations of chapter 10B of SEBI (ICDR) Regulations, 2009. He presented the model listing agreement and explained the meaning of SMEs Exchange. He further concluded by discussing SMEs Exchange/platform in India, Evolution of Regulatory framework for listing on SMEs Exchange, snapshot of the Chapter 10B of ICDR and eligibility criteria for listing on NSE SMEs Platform.

Sanjay Gadhalay provided his views on SME (management, operational and financial) Bandwidth of companies and concluded by giving his views on new emerging India. Further interactive session continued with Lakshman Gugulothu where he replied the queries raised by the members.

SALEM CHAPTER

Capital Markets Week

On 23.4.2012 the Salem Chapter organized an interactive session on Capital Market: Growth Drivers at the Chapter premises in which CS Sreeraman initiated the discussions. The discussions dwelt on the four topics suggested by the Institute viz. (a) Challenges: Opportunities for Innovation (b) Recent Regulatory Changes in Capital Markets (c) SME Exchange: Empowering India's SME sector and (d) Indian Capital Market: How to Rebuild Investor Confidence. The Programme was very interactive and purposeful. Chairman and office bearers, members, student members and faculties participated. Chairman CS Solaiyappan S welcomed and introduced the theme.

Investor Awareness Programme

On 28.4.2012 the Madras Stock Exchange Limited and the Salem Chapter of the ICSI jointly organized an Investor Awareness Programme at Karur. The programme was part of the Capital Markets Week celebrated between 23.4.2012 and 28.4.2012. More than 150 investors participated and actively interacted with the paper presenters. S. Venkateswaran, Director, Madras Stock Exchange in his welcome address outlined the functions of the Madras Stock Exchange and how they are involved in educating the investors while investing in the primary and secondary markets. He listed out various types of instruments existing in the securities market and how one has to be careful while taking decisions.

The programme was inaugurated by Venkataraman, Managing Director & CEO of Karur Vysya Bank Limited, Karur, who was the Chief Guest. In his address Venkataraman discussed the importance of educating the Investors who at times lacks guidance as how to invest. He narrated the efforts taken by the Securities & Exchange Board of India (SEBI), the regulator of securities market, in creating awareness among investors about the market and the market sentiments.

N. Santhanam, Secretary, ICSI Salem Chapter, in his special address, identified the duties and responsibilities of the investors. He deliberated on the size and volume of the securities market to inform the investors as to why they have to be cautious in their decision making. He emphasised that the Institute is taking pioneering steps in contributing to the capital market.



Western India Regional Council

AHMEDABAD CHAPTER

Peer Review Training

On 12.5.2012 the ICSI launched a full day programme - Peer Review Training. The training was organized for Company Secretaries practising for the last ten years. The inauguration of Peer Review Training was held by the President - Nesar Ahmad, Vice President, S N Ananthasubramanian, Council Member & Vice Chairman Peer Review, R Sridharan, Council Member & Chairman PCS Committee, Umesh Ved, Chapter Chairman, Rajesh Parekh and Director Discipline of the institute, Ashok K Dixit along with 21 member participants.

R Sridharan deliberated a small note on an Overview of Peer Review by explaining the term "Peer" as a person of the same legal status or person who is equal to another in abilities, qualifications, age, background, and "review" means to look back upon (a period of time, sequence of events, etc.). Thus "Peer Review" is an evaluation of a peer's work or performance by a group of people in the same occupation, profession or industry. There were five sessions arranged followed by Panel discussion at the end.

The first session on Office Administration & Systems, Audit Trails was taken by R Sridharan. He focused on Office, System, Objectives, Control, 5 S Methodologies and Concept on Audit Trails and Audit Diary.

The second session was addressed by Vice President - S N Ananthasubramanian on Compliance Approach & Substantive Approach.

The third session was taken by Ashok K Dixit on Guidance Notes of ICSI relevant to attestation services. He described the Guidance Note on signing of Annual Returns, Corporate Governance, Compliance Certificate, Capital Reconciliation Certificate, Securities Transfer Certificate and Audit of Depository Participants.

The fourth session was addressed by R Sridharan with presentation on carrying actual attestation assignments of Annual Return Certification, Compliance Report and Certificate under Clause 47C of Listing Agreements.

The fifth session was taken by Ashok K Dixit by displaying presentation on Conducting Internal Audit of Depository Participants and Reconciliation of Capital Compliance of Clause 49 of Listing Agreement.

The Peer Review Training was concluded after Panel Discussions.

Press Conference

On the same day a Press Conference was organized between 11A.M. and 12.30 P.M. wherein Nesar Ahmad, S N Ananthasubramanian, Umesh H Ved and Rajesh Parekh interacted with the representatives of press. The press was informed about the developments and latest updates in ICSI.

Study Circle Meeting

A Study Circle Meeting was also organized from 5 P.M. to 7P.M. on the same day, wherein almost 125 members were present to hear the notes on Contemporary Issues in CS. The meeting was addressed by S N Ananthasubramanian who spoke on Members in Practice and then on Members in Employment. He said that in today's scenario CS acts as a Key Managerial Person with an expectation of resolving problems and suggesting solutions. They should ensure assurance of Secretarial Standards, enforcement of laws, work as top personnel in legal, administrative and other sectors.

Nesar Ahmad addressed the members by appealing them to read ICSI Vision 2020. He elaborated on stakeholders' expectation, Mission, Vision and Core Values, Environmental Scan, Resource Audit, Objectives and strategies for students, Members in Employment, Practice, Profession and Implementation and review of Vision 2020.

Capital Markets Week Mega Event

From 23.4.2012 to 28.4.2012 the Institute launched a week long programme - Capital Markets Week to create awareness amongst investors and to promote good governance in Capital Markets. It is in this backdrop, four sub-themes were discussed in four technical sessions in the mega programmes during the ICSI Capital Markets Week. The 5th mega programme during the Capital Markets Week organised by the ICSI was on 27.4.2012 at St Laurn Tower, Ahmedabad with 188 number of member participants. The full day programme began with the inaugural session, wherein Chinubhai R Shah, Past President, the ICSI inaugurated the event by releasing the publication titled Capital, Money and Commodity Market - Terms One Should Know. After his valuable deliberation on the subject welcome address was given by Umesh Ved, Council Member, the ICSI introduction of guests was made by Hitesh Buch, Vice Chairman WIRC, other key note address were delivered by S. N. Ananthasubramanian, Vice President, the ICSI, Suresh Gupta, Chief General Manager, SEBI and Ashok Dixit, Jt. Director, Council Affairs & Director Discipline of the Institute. Four Technical Sessions were arranged comprising as under:
First Technical Session: Capital Markets: Challenges, Opportunities for Innovation in which Bhagirath Merchant past President, Bombay Stock Exchange (BSE) and Chairman of



Tarragon Capital Advisors stated that despite better conditions of companies listed on stock exchanges, the capital markets are not performing well. The impact on capital markets can be attributed to 'policy paralysis'. He said that alliances are not allowing the Central Government to take any decision. India needs huge investments in infrastructure, roads, building, power and many sectors. But because of policy paralysis, the Government is neither able to reduce fiscal deficit nor able to invest in infrastructure. Merchant said "As returns are very less, selling shares is no more affordable and so retail investors have vanished. The markets are reflecting this economic slowdown."

Second Technical Session: Recent Regulatory Changes in Capital Markets was the topic wherein B. Narasimhan, Central Council Member & Chairman Capital Markets Committee of the ICSI and Suresh Gupta, Chief General Manager, SEBI, explained the present scenario in capital market and the recent regulatory changes therein. He urged investors to approach a regulator if they have any grievances or problem.

Third Technical Session: SME Exchange : Empowering India's SME Sector, was covered by Ravi Tyagi, Head of SME at National Stock Exchange (NSE), who spoke about SME Exchange, which was providing a platform for SMEs to get listed, and S N Ananthasubramanian, Vice-President, The ICSI explained that The Capital Markets play a pivotal role in the development of economy. The Stronger the Capital Market, the better are the prospects of economic development. Hence, a developed, dynamic and vibrant capital market immensely contributes to economic growth and development.

Fourth Technical Session: Indian Capital Market - How to Rebuild Investor Confidence was dealt with by VK Sharma, HDFC Securities Head of Business Private Broking and Wealth Management and Sanjay R Shah, Managing Director Prudent Corporate Advisory Services Ltd. Thereafter interactive session was held to solve the queries of the participants.

The seminar also provided an insight on the role of Company Secretaries in the Capital Market.

5th Management Skills Orientation Programme (MSOP)

From 17.3.2012 to 3.4.2012 the Ahmedabad Chapter of WIRC of the ICSI organized its 5th Management Skills Orientation Programme at the Chapter premises. CS Ashish Doshi, WIRC Member, CS Yagnavalkya Joshi, Chairman, TEFC of Ahmedabad Chapter and Chief Guest S N Misra, Registrar of Companies, Gujarat, were present during the inauguration of 5th MSOP. The total strength of Participants was 37 students who came across the state of Gujarat and Ahmedabad. Anu K. Varghese, EO, Ahmedabad Chapter along with CS Khushbu and CS Deepa Coordinated the MSOP.

During the MSOP, a galaxy of faculties including senior

Company Secretaries deliberated on various topics. The participants cherished and benefited from the knowledge and practical experiences of the seniors.

STARTI visit to 'Linkin Time India Pvt. Ltd' and mock Board Meetings were held in the Board Room of the Companies like Dishman Pharmaceuticals Ltd. and Gujarat Ambuja Exports Ltd, Ahmedabad. The participants were also given a live session of Project Presentation and Role Play to enable them to come out with their own ideas, views, presentation skills and knowledge. The arrangement was made for a visit to High Court for the participants with the cooperation of Navin Pahwa - Advocate of High Court, Ahmedabad.

At the Valedictory Session mementoes were given to the "Best Participant - 5th MSOP" - Drishti Vesasi and to the participants of the "Best Team" for Role Play.

PUNE CHAPTER

Investor Awareness Programmes

On 26.4.2012 the Chapter organized an Investor Awareness Programme at Akurdi and on 27.4.2012 the programme was held at Pune. Both the events were sponsored by Bombay Stock Exchange, Investor Protection Fund and were organized by the Pune Chapter of WIRC of the ICSI, jointly with CDSL and Asit C. Mehta, Investor Intermediates Limited. The programmes were organized free of cost with a view to spread the awareness about the Stock market amongst the Investors. There were in all two sessions which were as follows: One by Ajit Manjure, Deputy Manager, Business Development Cell of CDSL who shared the presentation and information about the Share Market and clarified few basic concepts/terms used in the stock market in India.

The next one was by CS Vivek Sadhale, Company Secretary & Head - Legal & Investor Relations, Persistent Systems Limited who shared his views along with the presentation on Initial Public Offer. The main feature about this programme was that, both the faculties made their presentations in English and explained the terms in Marathi. Due to this unique feature of the programme, the sessions became very interactive and many participants asked various queries which were satisfactorily replied by the faculties. There was big response to both the sessions and around 100 participants attended the same.

Half-day Seminar on Information Technology & Cyber Laws

On 28.4.2012 the Chapter organized a half-day Seminar on Information Technology & Cyber Laws. Considering the importance of IT Governance in the Company's Corporate Governance, the seminar was organised comprising two sessions. The programme structure was as under: Theme Introduction was by CS Pawan Chandak, Chairman; First



News from the Institute & Regions

Session was on IT Governance and Control by CA Chandan Chourasiya; Second Session on Cyber law and IT Act was by Advocate Vaishali Bhagwat. The programme was attended by around 40 delegates and two (2) Programme Credit Hours were allotted to the Members attending the programme.

Programme in honour of RoC, Maharashtra, Pune

On 3.5.2012 a programme was organized to honour Vishnu Katkar, former Registrar of Companies, Maharashtra Pune on his transfer from the office of the Registrar of Companies, Pune to one of the MCA offices in Mumbai. CS Pawan Chandak, Chapter Chairman honoured Katkar with the traditional Puneri Pagadi and a memento on behalf of all the members from Pune and wished him good luck for his future assignment.

Participation in Career Fair - Times Exhibition Fair

On 14 and 15.4.2012 the Times Group organized an education fair at Hotel Le Meridian, Pune. The Pune Chapter of WIRC of the ICSI participated in the said fair with a view to enhance the visibility of the profession and a move towards Brand building. Many students and professors from different areas and colleges visited the stall at the said education fair.

SURAT CHAPTER

Half-day Seminar and Meet with the President and the Vice President of the ICSI

On 11.5.2012 the Surat Chapter of WIRC-ICSI organized a Half-day Seminar and Meet with the President and the Vice President of the Institute at Surat. Around 80 delegates

participated in the Seminar.

Inaugural Session: The Seminar was inaugurated by CS Nesar Ahmad, President; CS S N Ananthasubramanian, Vice President, CS Umesh Ved, Central Council Member, The ICSI, CS Jitendra Bhagat, Chapter Chairman, CS Ranjit Kejriwal, Chapter Secretary and CS Kunjal Dalal, Chapter Treasurer. CS Jitendra Bhagat in his welcome address explained the theme and topics to be covered in the seminar and emphasized on different areas in which a Company Secretary can play a vital role.

CS Umesh Ved spoke on Peer Review and Initiative at ICSI and explained the concept of peer-review from ICSI's point of view. The seminar was structured in a way that helped participants to walk through the issues, starting from the relevance of the organizational context, along with the issues that have to be addressed, the intended or assumed impact of policies on students as well as members. CS S N Ananthasubramanian also talked on the relevant issue.

CS Nesar Ahmed in his address explained the way to become a professional. He also dealt with the topics XBRL, Syllabus, Technology introduced by ICSI, Oral Coaching classes, etc. and recommended visiting the ICSI site for mission, vision statement of the ICSI, etc.

On the occasion a Press Conference was also held with the President wherein Nesar Ahmed successfully replied the queries raised by the Press Reporters. V. Nagappan, Director, Madras Stock Exchange and Chairman, MSE ICM gave his key-note address. Nagappan explained the market risks involved and associated with the securities market. He advised the investors to take a long term decision instead of short-term approaches of making money. They should be watchful and should not be carried away by crooks while taking their decisions on investing in particular scrip. They should be cool, steady and decisive and choose good instruments. A systematic investment plan also would help them in getting a better return on their investments.

ATTENTION MEMBERS !

Compulsory Attendance of Professional Development Programmes by the Members

The Council of the Institute at its 200th Meeting held on March 18, 2011 at New Delhi amended the Guidelines for Compulsory Attendance of Professional Development Programmes by the Members to provide as under:

1.	Current block of three years	April 01, 2011 to March 31, 2014
2.	Min. number of Programme Credit Hours (PCH) to be acquired by Members in Practice	15 PCH in each year or 50 PCH in a block of three years w.e.f. April 01, 2011
3.	Min. number of PCH to be acquired by Members in Employment (i.e. members in whose name Form 32 has been filed to work as Company Secretary under the provisions of Sec. 383A of the Companies Act, 1956)	10 PCH in each year or 35 PCH in a block of three years w.e.f. April 01, 2011
4.	Min. number of PCH to be acquired by Members above the age of 60 years	Members above the age of 60 years are to obtain 50% of the PCH required to be obtained by the members below 60 years w.e.f. April 01, 2011.



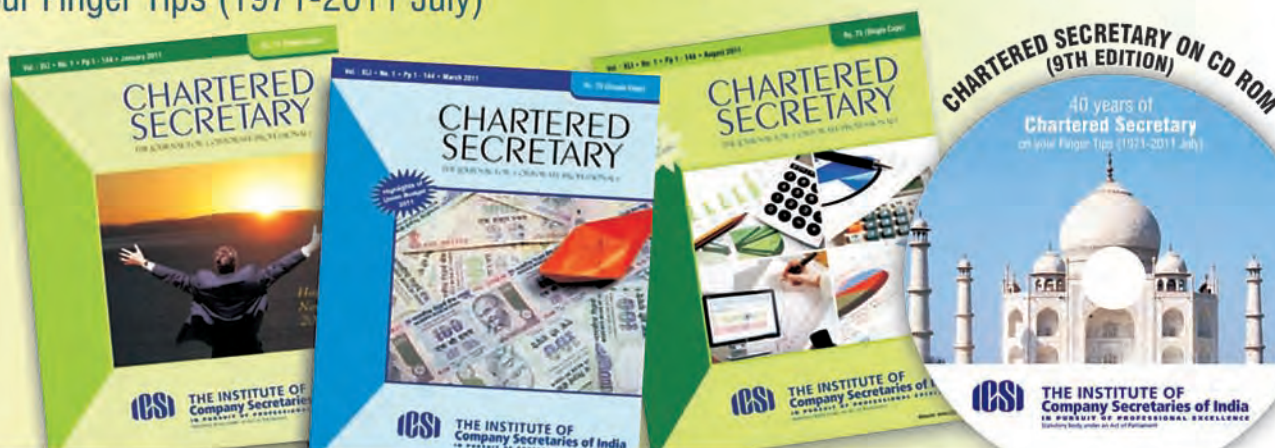
RULES FOR RENDERING EXPERT ADVISORY SERVICES TO MEMBERS

The Rules for rendering the Expert Advisory Services to members are as follows :

- (1) Only Members of the Institute are entitled to raise queries. Membership number should be mentioned while sending the query.
- (2) Queries should be self contained, unambiguous and pertaining to Corporate and Securities Laws. The querist should provide complete facts and in particular give the nature and the background of the industry or the business of the company alongwith a copy of the Memorandum and Articles of Association and other necessary documents referred to in the query.
- (3) The querist may give alternative view points and a solution, which he considers appropriate, or quote any author, publication or authority, though the Board need not necessarily be guided by it.
- (4) The Board reserves the discretion not to answer any query.
- (5) Matters pending before judicial or quasi-judicial authorities may not be answered by the Board at its discretion. The querist must, therefore, make an affirmation to this effect. The Board would not deal queries involving professional misconduct.
- (6) Hypothetical queries will not be answered.
- (7) It should be distinctly understood that notwithstanding the fact that the Board has been constituted by the Council, any opinion given or views expressed would represent nothing more than the opinion or views of the members of the Board and not the opinion or views of the Council.
- (8) The Institute reserves its right to reproduce the query and the opinion thereof in any manner including the right to publish the same in such form as it may deem proper, without disclosing the identity of the querist.
- (9) The Board shall make every endeavour to give its opinion within 30-45 days from the date of acceptance of the query but it would not be bound by any restriction in this regard.
- (10) Each query should be on a separate sheet. While sending the hard copies of the query, a soft copy of the same should also be furnished in CD or through e-mail to <alka.kapoor@icsi.edu> with a copy to <deepa.khatri@icsi.edu>.
- (11) A fee of Rs. 28090 [i.e. 25000 + 3090 (service tax @12.36%)] per query should be sent alongwith the query in the form of crossed demand draft/cheque drawn in favour of "The Institute of Company Secretaries of India" payable at New Delhi.
- (12) In case the Board declines to give its opinion, the fee will be refunded.
- (13) The queries conforming to above Rules should be addressed to the Secretary, Expert Advisory Board, the Institute of Company Secretaries of India, 'ICSI House', 22 Institutional Area, Lodi Road, New Delhi.

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ICSI HOUSE-22, Institutional Area, Lodi Road, New Delhi - 110 003,
Ph.: 011-45341024 Fax: 011-24626727 E-mail: ak.sil@icsi.edu Website : www.icsi.edu

Panel of Paper Setters/Examiners for CS Exams.

INVITATION OF APPLICATIONS FOR PANEL OF PAPER SETTERS AND EXAMINERS FOR THE COMPANY SECRETARIES EXAMINATIONS

The Institute is inviting applications for preparing a panel of Paper Setters and Examiners from qualified, competent and experienced persons in the following subjects of company secretaries examinations:

I	LEGAL DISCIPLINE SUBJECTS:	
	(a) Law:	
	(i) General and Commercial Laws	Executive Programme
	(ii) Tax Laws	Executive Programme
	(iii) Company Law	Executive Programme
	(iv) Economic and Labour Laws	Executive Programme
	(v) Securities Laws and Compliances	Executive Programme
	(b) Law and Practice:	
	(i) Company Secretarial Practice	Professional Programme
	(ii) Drafting, Appearances and Pleadings	Professional Programme
	(iii) Corporate Restructuring and Insolvency	Professional Programme
	(iv) Advanced Tax Laws and Practice	Professional Programme
	(c) Law and Management:	
	(i) Elements of Business Laws and Management	Foundation Programme
	(ii) Due Diligence and Corporate Compliance Management	Professional Programme
II	MANAGEMENT, BUSINESS COMMUNICATION, ETHICS AND SUSTAINABILITY DISCIPLINE SUBJECTS:	
	(i) English and Business Communication	Foundation Programme
	(ii) Strategic Management, Alliances and International Trade	Professional Programme
	(iii) Governance, Business Ethics and Sustainability	Professional Programme
III	ECONOMICS DISCIPLINE SUBJECT:	
	(i) Economics and Statistics	Foundation Programme
IV	ACCOUNTING AND FINANCE DISCIPLINE SUBJECTS:	
	(i) Financial Accounting	Foundation Programme
	(ii) Company Accounts, Cost and Management Accounting	Executive Programme
	(iii) Financial, Treasury and Forex Management	Professional Programme

SCALE OF HONORARIUM		
Stage of Examination	For Paper Setting	For Evaluation of Answer Books
Foundation Programme	₹ 5,000/- per paper	₹ 40.00 per answer book
Executive Programme	₹ 6,000/- per paper	₹ 50.00 per answer book
Professional Programme	₹ 7,000/- per paper	₹ 60.00 per answer book

QUALIFICATIONS:

A person applying for empanelment of his/her name as a Paper Setter/Examiner should be holding professional qualification as member of the Institute of Company Secretaries of India/Institute of Cost Accountants of India/Institute of Chartered Accountants of India at least for five years and/or a Doctorate Degree/Postgraduate Qualification with at least second class in the disciplines of Law, Management, Finance, Accounting, International Trade, Economics, English, etc., with five years experience either in an academic position or in practice or in employment in the concerned field/discipline having relevance to the subjects of examinations.

DESIRABLE EXPERIENCE:

Persons having adequate experience of teaching and as Head Examiner/Paper Setter/Examiner in subjects of Law, Management, Finance, Accounting, International Trade, Economics, English, etc., at graduate/post-graduate level or professional examinations or in writing book(s) or study material in the relevant subject(s) or any other specialised subjects at graduate/post-graduate level with relevant work experience having direct relevance to the aforesaid subject(s) of examination(s) will be preferred.

HOW TO APPLY:

Candidates fulfilling the above conditions and not registered as a student of the Institute may send their bio-data in the prescribed application form. The prescribed application form may be downloaded from the Institute's website <http://www.icsi.edu/webmodules/member/forms/examnew.pdf>. The blank application form can also be obtained by post from the Joint Director (Examinations), The Institute of Company Secretaries of India, C - 37, Institutional Area, Sector - 62, NOIDA - 201 309 or by sending an e-mail to: exam@icsi.edu

INVITATION OF APPLICATIONS FOR PANEL OF PAPER SETTERS AND EXAMINERS FOR THE POST MEMBERSHIP QUALIFICATION (PMQ) COURSE EXAMINATION IN "CORPORATE GOVERNANCE"

Applications are invited for preparing a panel of Paper Setters and Examiners in the following subjects of Post Membership Qualification Course (Part - I) Examination in "Corporate Governance".

Group -I

Paper - I	Conceptual Framework of Corporate Governance
Paper - II	Corporate and Board Management
Paper - III	Legal and Regulatory Framework of Corporate Governance

Group-II

Paper - IV	Board Committees and Role of Professionals
Paper - V	Corporate Governance - Codes and Practices

ABOUT THE PMQ COURSE

Post Membership Qualification (PMQ) Course in "Corporate Governance" of the Institute aims to provide its Members expert knowledge to understand, analyse and apply the principles and practices of good corporate governance in real life situation and enable them to gain acumen, insight and thorough knowledge relating to different aspects of corporate governance. The candidates are expected to acquire thorough knowledge of emerging concepts and issues, new developments, issues at national and international levels, global trends and developments, knowledge of regulatory framework, procedural, secretarial, documentation aspects, etc., relating to corporate governance so as to have an integrated view of the entire framework of corporate governance and that the candidates are fully equipped with technical and analytical skill required for corporate governance and decision making.

QUALIFICATIONS

A person applying for empanelment of his/her name as a Paper Setter or Examiner should be holding professional qualification as Member of the Institute of Company Secretaries of India/Institute of Cost Accountants of India/Institute of Chartered Accountants of India with ten years standing and/or a Doctorate Degree/Postgraduate Qualification with at least second class in the areas of Corporate Law, Management, Finance and Accounting with ten years work experience in senior managerial position or in practice or in eminent academic position in the concerned field having relevance to subjects of examinations.

DESIRABLE EXPERIENCE

Persons having adequate research/practical work experience in the corporate sector AND/OR teaching experience and having worked as Paper Setter or Examiner in subjects related to Corporate Laws, Management, Finance & Accounting discipline at post-graduate level or professional examinations OR having published research work to their credit in the relevant subject(s) OR any other specialised post-graduate/doctoral level qualification(s) with relevant work experience having direct relevance to aforesaid subject(s) of PMQ Course will be preferred.

HOW TO APPLY

Candidates fulfilling the above conditions **and not registered as a student of the Institute for pursuing Company Secretaryship and/or Post Membership Qualification (PMQ) Course** may send their bio-data in the prescribed application form. ***The prescribed application form may be downloaded from the Institute's website <http://www.icsi.edu/webmodules/member/forms/pmq.pdf>.*** The blank application form can also be obtained by post from the **Joint Director (Examinations), The Institute of Company Secretaries of India, C - 37, Institutional Area, Sector - 62, NOIDA - 201 309** or by sending an e-mail to: **exam@icsi.edu**



Post Membership Qualification Course in Corporate Governance

OBJECTIVES

- To enable the members to gain acumen, insight and thorough knowledge relating to the various aspects of corporate governance.
- To provide thorough knowledge of the legal and regulatory framework in India vis-à-vis corporate governance as well as procedural, secretarial and documentation aspects.
- To provide thorough knowledge of the global trends and developments so as to have an integrated view of the entire framework for corporate governance within which the companies operate.
- To equip the candidates with the technical and analytical skills in corporate governance and decision-making.

ELIGIBILITY CRITERIA

A person who is a member of the Institute is eligible for admission to the course.

COURSE FEE

Rs. 25,000/- payable at the time of registration.

REGISTRATION

A copy of the prospectus giving the registration procedure and other details can be purchased for Rs.500.

DIPLOMA CERTIFICATE

A candidate successfully completing the Corporate Governance Course shall be awarded a Diploma Certificate and shall be entitled to use the descriptive letters "DCG (ICSI)" to indicate that he/she has been awarded "Post Membership Diploma in Corporate Governance".



For further details, please visit : www.icsi.edu

For application write to:

Secretary & CEO



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From the Government



MINISTRY OF CORPORATE AFFAIRS GOVERNMENT OF INDIA

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IN OUR CONTINUED ENDEAVOR TO ENHANCE THE SERVICES TO STAKEHOLDERS, MCA ANNOUNCES LAUNCH OF UPGRADED LLP REGISTRY FROM 11TH JUNE 2012.

STAKEHOLDERS WILL NOW HAVE FACILITY OF ONLINE PAYMENT FROM ALL BANKS THROUGH NEFT OR USE INTERNET BANKING FROM SIX DESIGNATED BANKS OF MCA21, IN ADDITION TO CREDIT CARD PAYMENT.

TO FACILITATE THE TRANSITION LLP REGISTRY SERVICES WILL NOT BE AVAILABLE FOR 10 DAYS FROM 1ST JUNE 2012 TO 10TH JUNE 2012.

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- The Institute reserves the right not to accept order for any particular advertisement.
- The journal is published in the 1st week of every month and the advertisement material should be sent in the form of typed manuscript or art pull or open file CD before 20th of any month for inclusion in the next month's issue.

For further information write to:
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ATTENTION MEMBERS IN PRACTICE

EMPANELMENT AS A "REVIEWER" (AS PER THE GUIDELINES FOR PEER REVIEW OF ATTESTATION SERVICES BY PRACTICING COMPANY SECRETARIES)

The Council of the Institute approved the Guidelines for Peer Review of Attestation Services by Practicing Company Secretaries at its 202nd Meeting held on August 25-26, 2011 at New Delhi.

A copy of the Guidelines is available on the ICSI website (<http://www.icsi.edu/LinkClick.aspx?link=2242&tabid=2220&mid=4498>) and also published in the September, 2011 issue of the Chartered Secretary Journal.

The Guidelines have come into effect from October 1, 2011. The Peer Review exercise has already commenced from January 4, 2012. The Peer Review Board has been organising extensive training programmes for Peer Reviewers at various locations throughout the country.

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

- Be a member;
- Possess at least ten years experience and
- Be currently in the practice as Company Secretary.

Members in practice are invited to empanel themselves as a Peer Reviewer under the Guidelines for Peer Review of Attestation Services by PCS if they fulfill the aforesaid qualifications for being empanelled as a Peer Reviewer.

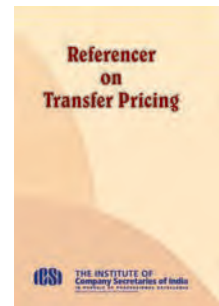
The Proforma for Empanelment as a "Reviewer" is available on the webpage of the Peer Review Board (<http://www.icsi.edu/AppointmentReviewer/tabid/2240/Default.aspx>). The duly filled in proforma may be sent to- The Secretary, Peer Review Board, Institute of Company Secretaries of India, 22, Institutional Area, Lodi Road, New Delhi 110 003 (email: sutanu.sinha@icsi.edu) in order to be eligible to attend the Peer Reviewers Training Programmes being organized by the Institute at different places.

Publications Released during

13th National Conference of Practising Company Secretaries

Referencer on Transfer Pricing

Transfer Pricing is the price used for accounting of Transfer of Goods or services from one associated entity to other in International Transaction. Finance Bill, 2012 has made significant changes in provisions relating to Transfer Pricing whereby Transfer Pricing provisions has been made available to specified domestic transaction w.e.f. 1st April, 2013. Company Secretary being the principal officer of the company, it is imperative for them to understand, appreciate and develop expertise on various dimensions of Transfer Pricing so as to guide the business.

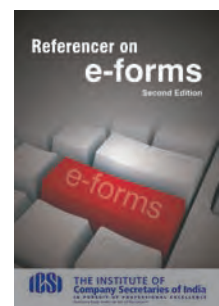


Recognising the relevance and inherent utility of the subject for Company Secretaries, the Institute has brought this Referencer on Transfer Pricing to provide the Company Secretary both in employment as well as in practice to appreciate the nuances of Transfer Pricing.

► ISBN 9789382207061 ► Price: ₹ 100/- (Excluding Postage)

Referencer on E Forms

The Companies incorporated under the Companies Act, 1956 are required to file various returns with the RoC on the MCA21 portal for event based and annual compliances. The Practicing Company Secretaries have been authorised to pre-certify such eforms before they are uploaded on the MCA portal. The Referencer has been prepared to facilitate the members to verify and pre-certify the e-form nos. 2, 5, 18 and 23. This Referencer contains detailed checklists along with the list of documents to be verified by a Practicing Company Secretary.



► ISBN 9789382207054 ► Price: ₹ 100/- (Excluding Postage)



Our Members

CONGRATULATIONS

Shri Nesar Ahmad, FCS,
President, The ICSI on his being nominated as Member to the School Board of the School of Management Studies, Indira Gandhi National Open University (IGNOU), New Delhi.

OBITUARIES

“Chartered Secretary” deeply regrets to record the sad demise of the following members:

SMT. BRIJESHNANDINI RAGHAW, ACS
(31.08.1976 - 16.05.2012), an Associate Member of the Institute from Gurgaon.

SHRI P. S. HARIHARAN, ACS
(10.01.1936 - 30.04.2012), an Associate Member of the Institute from Coimbatore.
May the almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the Departed Souls rest in peace.

CORRIGENDUM

The name of **Ms. Avneet Kaur, ACS - 27857**, Mohali in the list of Members enrolled as Life Members of the Company Secretaries Benevolent Fund at S. No. 193 LM No. - 9056 on page 659 of May, 2012 issue of Chartered Secretary Journal be read as follows:

LM No.	Name	Membership No.	City
9056	MS. KAJAL RAJNIKANT DESAI	ACS-28757	Pune

ATTENTION

PRACTISING COMPANY SECRETARIES

The Institute has come out with a CD containing list of Practising Company Secretaries as on 1st April 2012. The CDs are available at the headquarters of the Institute and will be supplied free of cost on receipt of request.

Request may please be sent to the Membership Section at email ids rajeshwar.singh@icsi.edu or member@icsi.edu.

For queries if any please contact on telephone No. 011-45341063/64 or on Mobile No. +919868128682

CS QUIZ

Prize query

Immovable property belonging to private limited company was sold by it through the medium of execution of a general power of attorney in favour of the purchaser thereof. Is the sale valid?

Conditions

- 1] Answers should not exceed one typed page in double space.
- 2] Last date for receipt of answer is 8th July, 2012.
- 3] Two prizes (a first and a second) in kind will be awarded to the best answers and the names of the contributors will be published in the journal.
- 4] The envelope should be superscribed 'Prize Query June, 2012 Issue' and addressed by name to :



N. K. Jain, Editor

The Institute of Company Secretaries of India, 'ICSI House', 22, Institutional Area, Lodi Road, New Delhi-110003.

Publications Released during ICSI Capital Markets Week

Basics of Mutual Fund Investment

In view of growing popularity of Mutual Funds, it becomes important that the investor understand the nuances of various dimensions of mutual fund operations. The Institute has brought out this publication to develop understanding of the functioning and operation of Mutual Funds among the existing and prospective investors. The Publication contains basic concepts, working of mutual funds, types of mutual funds, regulatory aspects, KYC requirements, governance norms, risk management etc.

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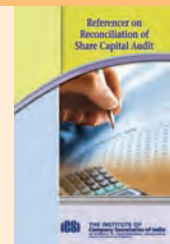


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This publication covers the detailed methodology for conducting the Audit and some other aspects such as scope of the audit, submission of certificate, professional liability, and documents to be verified/examined during the Audit process. This referencer will facilitate Company Secretaries and other professionals in understanding the nuances of reconciliation of share capital audit.

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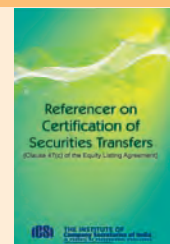
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(Clause 47(c) of Listing Agreement)

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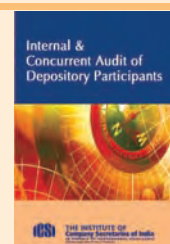


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