

Circulars/Notifications

Given below are the important Circulars and Notifications issued by the CBDT, CBEC, MCA, RBI, SEBI and IRDA during the last month for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/notification. You are requested to please submit your feedback and suggestions on the column at eboard@icai.in



(Matter on Direct Taxes has been contributed by the Direct Taxes Committee of the ICAI)

I. NOTIFICATIONS

1. Double taxation agreement for avoidance of double taxation and prevention of fiscal evasion with United Kingdom and Northern Ireland – Amendment in Notification dated 11-2-1994

In exercise of the powers conferred by section 90 of the Income-tax Act, 1961, the Central Government, hereby, directs that all the provisions of Protocol amending the convention between the Government of the Republic of India and the Government of the United Kingdom of Great Britain and Northern Ireland, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, shall be given effect to in the Union of India with effect from the 27.12.2013.

[Notification No. 10/2014, dated 10-2-2014]

2. Amendment in Notification No.61/2013 dated 8-8-2013

Section 10(15)(iv)(h) exempts any interest payable by any public sector company in respect of bonds or debentures and subject to such conditions as may be notified by the Central Government. In exercise of the powers conferred by Section 10(15)(iv)(h) of the Income-tax Act, 1961, the Central Government had through Notification 61/2013 dated 8-8-2013 authorised specified entities, namely, Cochin Shipyard Ltd., Airport Authority of India Ltd, IIFCL, RECL etc., to issue during the financial year 2013-14 tax-free, secured, redeemable, non-convertible bonds, aggregating to specified amounts. The said notification also laid down conditions to be fulfilled namely eligibility, tenure of bonds, PAN, Rate of interest, issue expense & brokerage, public issue, private placement, repayment of bonds and selection of merchant bankers.

The Board has through this notification amended Notification No. 61/2013 dated 8-8-2013, thereby omitting Airport Authority of India Ltd from the list of specified entities. Further, the allocated amounts of bonds, which REC, NHB and NTPC Limited have been authorised to issue have been increased.

[Notification No. 11/2014, dated 13-2-2014]

The complete text of the above mentioned notification can be downloaded from the link below: <http://law.incometaxindia.gov.in/DIT/Notifications.aspx>

II. CIRCULARS

1. Clarification on taxability of Awards received by a Sportsman

On 22nd January, 1986, the CBDT had issued Circular No. 447 on 22nd January, 1986 clarifying that awards received by a sportsman, who is not a professional, will not be liable to tax in his hands as the award will be in the nature of a gift and/or personal testimonial. This circular was applicable when the gift was not taxable in the hands of the recipient. Thereafter, in the year 2005 there was a fundamental change in the manner of treatment of gift through insertion of sub-clauses (xiii), (xiv) and (xv) of sub-Section 2(24). Corresponding amendments were also made in Section 56(2) by insertion of clauses (v), (vi) and (vii), thereby making an amount of money or immovable property received without consideration taxable subject to provisions of these clauses. The CBDT has, through this circular, clarified that the Circular No. 447 became inapplicable w.e.f. 1-4-2005 since statutory provisions have overridden the same.

It has further clarified that the tax exemption can only be sought by eligible persons in respect of rewards covered by the approvals granted by the Central Government under Section 10(17A).

[Circular No. 2/2014, dated 20-01-2014]

2. Explanatory Notes to the provisions of Finance Act, 2013

Explanatory notes to the provisions of Finance Act, 2013 as assented by President on 10th May, 2013 have been given by way of this circular. This circular thus explains the substance of the direct tax provisions of the Act contained in the Finance Act, 2013.

[Circular No. 3/2014, dated 24-01-2014]

3. Relaxation of time limit for filing ITR-V and processing of such returns

It had come to the notice of the Board that for the want of ITR-V, a large number of electronically filed returns for A.Y. 2009-10 were not processed as such returns had become *non-est* in view of Circular No. 3 of 2009. Likewise, for A.Y. 2010-11 and 2011-12, a large number of electronically filed returns still remained pending with the Income-tax Department for want of receipt of valid ITR-V form at CPC. Even though relaxation of time for furnishing ITR-V was granted by DGIT (Systems), the issue persisted. This resulted in non-issuance of refunds which remained pending with Income-tax Department.

In order to mitigate the grievances of the taxpayers pertaining to non-receipt of tax refunds, the Board has, in exercise of powers conferred under Section 119(2)(a) of the Act, further relaxed and extended the date for filing ITR-V Form for the aforesaid Assessment Years 2009-10, 2010-11 and 2011-12 till 31.03.2014 for returns e-filed with refund claims within the time allowed under Section 139 of the Act. The taxpayer may now send the signed copy of ITR-V by 31.3.2014 through speed post. The Board has also relaxed the time-frame of issuing the intimation under Section 143(1) of the Act, and has directed that such returns shall be processed within a period of six months from end of the month in which ITR-V is received and the intimation of processing of such returns shall be sent to the assessee concerned as per laid down procedure.

The circular has further clarified that provisions of Section 244A(2) would apply while determining the interest on such refunds.

[Circular No. 4/2014, dated 10-2-2014]

4. Clarification regarding disallowance of expenses under section 14A of the Income-tax Act in cases where corresponding exempt income has not been earned during the FY

The Finance Act, 2001 introduced Section 14A of the Act with retrospective effect from 1.4.1962 to provide that no deduction shall be allowed in respect of expenditure incurred relating to income which does not form part of total income under the Act. The Board was reported of a controversy that had arisen as to whether disallowance can be made by invoking section 14A of the Act even in those cases where no income has been earned by an assessee, which has been claimed as exempt during the financial year.

After due consideration the Board has, through this circular, clarified that expenses which are relatable to earning of exempt income have to be considered for disallowance irrespective of the fact whether such income has been earned during the financial year or not. In effect, even where the taxpayer has not earned any exempt income in a particular year, Section 14A along with Rule 8D provides for disallowance of the expenditure.

[Circular No. 5/2014, dated 11-2-2014]

5. Clarification regarding scope of additional income-tax on distributed income under section 115R of the Income-tax Act

Section 115R of the Income-tax Act, 1961 provides for levy of additional tax on distributed income to unit holders. The CBDT has been reported that some field officers are taking a view that mutual funds/specified companies are required to pay additional income tax under the said Section not only on income distributed by way of dividend but also on payments made at the time of redemption/repurchase of units as well as at the time of allotment of bonus units to existing investors.

The Board has examined the matter and has clarified that section 115R specifies the provisions relating to tax on distributed income, Redemption/repurchase of units are not in the nature of distributed income to the unit holders and hence the same are outside the purview of the Section. Also, since issue of bonus shares is not akin to distribution of the income by way of dividend, the same would not be subjected to additional income tax under section 115R of the Act.

[Circular No. 6/2014, dated 11-2-2014]

The complete text of the above mentioned circulars can be downloaded from the link below: <http://law.incometaxindia.gov.in/DIT/Circulars.aspx>

III. PRESS RELEASE

1. Double taxation agreement for avoidance of double taxation and prevention of fiscal evasion with Fiji

As per this Press release, an agreement for avoidance of double taxation and prevention of fiscal evasion with respect of taxes on income has been signed between the Republic of India and the Republic of Fiji on 30.01.2014. The Finance Minister Shri P. Chidambaram speaking on the occasion stated that the Agreement will provide tax stability

to the residents of India and Fiji and facilitate mutual economic cooperation as well as stimulate the flow of capital, technology and services between both the countries.

[Press Release, dated 30-01-2014]

The complete text of the above Press Releases can be downloaded from the link below: <http://www.incometaxindia.gov.in/home.asp>



(Matter on Indirect Taxes has been contributed by the Indirect Taxes Committee of the ICAI)

I. SERVICE TAX

1. Definition of 'Governmental Authority' expanded

Notification No. 02/2014 - ST, dated 30th January, 2014 amends the definition of '**Governmental Authority**' as an authority or a board or any other body;

- (i) Set up by an Act of Parliament or a State Legislature; or
- (ii) Established by Government, with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.

This amendment has expanded the scope of previous definition of Governmental Authority, under Mega Exemption Notification No. 25/2012 dated 20.06.2012, which defined it as an authority or a board or any other body, set up by an Act of Parliament or a State Legislature and established with 90% or more participation by way of equity or control by Government. Post amendment only one of the two above-mentioned conditions needs to be satisfied in order to qualify as Governmental Authority.

[Notification No. 02/2014 - ST, dated 30th January, 2014]

2. No Service Tax required to be paid on Services provided by an Authorised Person or Sub-Brokers to Member of Commodity Exchange on which no tax was levied during 10.09.2004 to 30.06.2012

Notification 03/2014-ST dated 3rd February, 2014 provides that no Service Tax is required to be paid on services provided by an authorised person or sub-brokers to the member of a recognised/registered association, in relation to a forward

contract, during the period commencing from the 10th day of September 2004 and ending with the 30th day of June, 2012 on which Service Tax was not being levied in accordance with the prevalent practice. The notification has been issued in exercise of the powers under section 11C of the Central Excise Act, 1944 (1 of 1944), read with Section 83 of the Finance Act.

[Notification No. 03/2014 - ST, dated 3rd February, 2014]

3. Clarification regarding availment of CENVAT credit of tax dues paid under Voluntary Compliance Encouragement Scheme, 2013 and Issue of Discharge Certificate

Circular No. 176/2/2014- ST, dated 20th January, 2014 clarifies that CENVAT credit shall only be available after payment of entire service tax dues with interest, if any, and obtaining discharge certificate in form VCES 3 since the declaration made under the Scheme becomes conclusive only on issuance of acknowledgement of discharge certificate under Section 107(7) of the Finance Act, 2013.

Further, the Circular also directs the Chief Commissioners to issue Form VCES 3 within stipulated period of seven working days from the date of furnishing the details of payment of tax dues along with interest (if any) by the declarant as provided under Rule 7 of the VCES Rules.

[Circular No. 176/2/2014-ST, dated 20th January, 2014]

II. CUSTOMS

1. Form I of Custom Baggage Declaration Regulations, 2013 amended

Notification No. 10/2014-Customs (N.T.), dated February 10, 2014 amends the Customs Baggage Declaration Regulations, 2013 as follows:

- i) These regulations may be called the Customs Baggage Declaration (Amendment) Regulations, 2014.
- ii) In Form I – Indian Customs Declaration Form, the words ‘Number of Baggage’ would be substituted by “Number of Baggages (including hand baggages)”
- iii) In Form I – Indian Customs Declaration Form, the limit of Indian Currency allowed to be carried is enhanced from ₹7500 to ₹10000.

[Notification No. 10/2014-Customs (N.T.), dated 10th February, 2014]

2. Duty Drawback Rates changed w.e.f. 25.01.2014

Notification No. 05/2014-Cus. (NT) dated January 21, 2014 read with Circular No. 3/2014-Cus, dated January 30, 2014 has amended Duty Drawback Rates for a dozen chapters with effect from 25.01.2014. These amendments have been made on account of representations received from Export Promotion Councils, Trade Associations, individual segments of industry, as well as feedback from field formations and other Departments. A detailed list can be downloaded from www.cbec.gov.in.

[Notification No. 05/2014-Cus. (NT) dated January 21, 20, Circular No. 3/2014-Cus, dated 30th January, 2014]

III. HIGHLIGHTS OF INTERIM BUDGET 2014-15 SERVICE TAX

1. Amendment in Notification No. 25/2012-Service Tax, dated the 20th June, 2012

Notification No. 04/2014 dated 17th February, 2014 amends the earlier Notification No. 25/2012 dated 20th June, 2012 by inserting entries after entry 2 and 39 respectively as follows:

- i) 2A. Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation
- ii) 40. Services by way of loading, unloading, packing, storage or warehousing of rice

This simply means that the above mentioned services form a part of the Mega Exemption List under Service Tax now.

[Notification No. 04/2014 dated 17th February, 2014]

2. Rice—exemptions from service tax

Circular No. 177/3/2014-ST, dated 17th February, 2014 clarifies the doubts regarding the scope and applicability of various exemptions available to various activities in relation to rice, under the negative list approach, as follows:

- i) Transportation of Rice by a rail/vessel or by goods transport agency: Transportation of food stuff by rail/vessel or by goods transport agency is exempt from levy of service tax. Food Stuff includes rice.
- ii) Loading, unloading, packing, storage and warehousing of rice.
- iii) Milling of paddy into rice: When paddy is milled into rice, on job work basis, service tax is exempt under sl.no. 30 (a) of notification 25/2012-ST dated 20th June, 2012, since such

milling of paddy is an intermediate production process in relation to agriculture.

[Circular No. 177/3/2014-ST, dated 17th February, 2014]

EXCISE & CUSTOMS

1. Significant Changes in Rates of Excise & Customs duties

S. No.	Particulars	Old Rate	New Rate
1.	Excise Duty on Capital Goods and Consumer Non-Durables	12%	10%
2.	Small cars, motor cycles, scooters and commercial vehicles	12%	8%
3.	SUV	30%	24%
4.	Large & Mid Segment Cars	24/20%	27/24%
S. No.	Particulars	Old Rate	New Rate
5.	Mobile Handsets	6%	6% with CENVAT Credit & 1% without CENVAT Credit
6.	Road Construction Machinery	CVD Exempt	Exemption from CVD withdrawn
7.	Capital goods imported by the Bank Note Paper Mill India Private Limited.	No Concessional customs duty	5% of concessional customs duty

This is an illustrative list. Details can be obtained from www.cbec.gov.in.

[Notification No. 04/2014-CE, dated 17-02-2014, Notification No. 05 /2014-Cus., dated 17th February, 2014]



(Matter on FEMA has been contributed by CA. Manoj Shah and CA. Hinesh Doshi)

1. Risk Management and Inter Bank Dealings

A.P. (DIR Series) Circular No. 92 dated 13th January, 2014

Under the extant regulations, the facility of cancellation and rebooking is not permitted for forward contracts, involving Rupee as one of the currencies, booked by residents to hedge current and capital account transactions. However, exporters are allowed to cancel and rebook forward contracts to the extent of 50% of the contracts booked in a financial year for hedging their contracted export exposures and importers are allowed to cancel and rebook forward contracts to the extent of 25% of the contracts booked in a financial year for hedging their contracted import exposures.

On a review of the evolving market conditions and with a view to providing operational flexibility in respect of current and capital account transactions, RBI has allowed, in case of contracted exposures, forward contracts in respect of all current account transactions as well as capital account transactions with a residual maturity of one year or less to be freely cancelled and rebooked. As far as the exposure of the FIIs/QFIs/other portfolio investors is concerned, forward contracts booked by these investors, once cancelled, can be rebooked up to the extent of 10% of the value of the contracts cancelled. The forward contracts booked by these investors may, however, be rolled over on or before maturity.

2. Clarifications on establishment of Liaison Office/Branch Office/ Project Office in India by Foreign Entities - General Permission

Notification No.FEMA.293/2013-RB dated 12th November, 2013 and A.P. (DIR Series) Circular No.93 dated 15th January, 2014

In terms of Regulation 4 of Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000, no entity or person, being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, Iran or China shall establish in India, a branch office or a liaison office or a project office or any other place of business by whatever name called, without the prior permission of RBI.

RBI has now clarified that the provisions of the said Regulation 4 shall, *ibid* along with their specified conditions apply for entities from Hong Kong and Macau also. Accordingly, applications from entities registered in/resident of Hong Kong and Macau, for establishment of Liaison/Branch/Project Offices or any other place of business by whatever name called shall require prior approval from RBI.

Consequently, Regulation 4 of Notification No. FEMA 22/2000-RB is amended *vide* Notification No. FEMA 293/2013-RB dated 12th November, 2013 effective from 6th December, 2013.

3. Clarifications on Conversion of External Commercial Borrowing (ECB) and Lumpsum Fee/Royalty into Equity A.P. (DIR Series) Circular No. 94 dated 16th January, 2014

Under the extant regulations, an Indian company can issue equity shares against ECB subject to certain conditions and pricing guidelines as prescribed by the RBI from time to time regarding value of equity shares to be issued.

On queries being raised as to how the Rupee amount against which equity shares are to be issued shall be arrived at *i.e.*, what rate of exchange shall be applied to the amount in foreign currency borrowed or owed by the resident entity from/to the non-resident entity, the RBI has clarified that where the liability sought to be converted by the company is denominated in foreign currency as in case of ECB, import of capital goods, *etc.* it will be in order to apply the exchange rate prevailing on the date of the agreement between the parties concerned for such conversion. However, the borrower company may issue equity shares for a Rupee amount less than that arrived at as mentioned above by a mutual agreement with the ECB lender. It may be noted that the fair value of the equity shares to be issued shall be worked out with reference to the date of conversion only.

RBI has further clarified that the principle of calculation of INR equivalent for a liability denominated in foreign currency as mentioned above shall apply, *mutatis mutandis*, to all cases where any payables/liability by an Indian company such as, lump sum fees/royalties, *etc.* are permitted to be converted to equity shares or other securities to be issued to a non-resident subject to the conditions stipulated under the respective Regulations.

4. Clarifications on Facilities for Persons Resident outside India

A.P. (DIR Series) Circular No. 96 dated 20th January, 2014

Presently, Foreign Institutional Investors (FIIs) are allowed to approach any AD Category I bank for hedging their currency risk on the market value of entire investment in equity and/or debt in India as on a particular date subject to certain conditions specified by RBI.

However, RBI has been receiving references from market participants as to whether, along similar lines, it is possible for FIIs and other foreign investors to effect remittances on cash/TOM/spot basis to a bank other than the designated AD Category-I custodian bank. In this connection, RBI has clarified that a foreign investor is free to remit funds through any bank of its choice for any transaction permitted under FEMA, 1999 or the Regulations/Directions framed there under. The funds thus remitted can be transferred to the designated AD Category-I custodian bank through the banking channel. Note should, however,

be taken that KYC in respect of the remitter, wherever required, is a joint responsibility of the bank that has received the remittance as well as the bank that ultimately receives the proceeds of the remittance. Besides, the remittance receiving bank is required to issue FIRC to the bank receiving the proceeds to establish the fact the funds had been remitted in foreign currency.

5. Foreign investment in India by SEBI registered Long term investors in Government dated Securities

A.P. (DIR Series) Circular No. 99 dated 29th January, 2014

Currently, the limit for investments by SEBI registered Foreign Institutional Investors (FIIs), SEBI registered Qualified Foreign Investors (QFIs) and long term investors registered with SEBI in Government securities stands at USD 30 billion, out of which a sub-limit of USD 5 billion is available for investment by long term investors in Government dated securities.

On a review and in consultation with GoI, RBI has decided to enhance, with immediate effect, the existing sub-limit of USD 5 billion available to long term investors registered with SEBI – Sovereign Wealth Funds (SWFs), Multilateral Agencies, Pension/ Insurance/Endowment Funds and Foreign Central Banks for investment in Government dated securities to USD 10 billion, within the total limit of USD 30 billion available for foreign investments in Government securities.

The operational guidelines in this regard shall be issued by SEBI.

6. Export/import transactions

A. Third party payments for export / import transactions

A.P. (DIR Series) Circular No. 100 dated 4th February, 2014

RBI *vide* A. P. (DIR Series) Circular No. 70 dated 8th November, 2013 permitted AD Category I banks to allow third party payments for export of goods & software/import of goods subject to the conditions stated therein.

However, in view of the difficulties faced by exporters/importers in meeting the condition “firm irrevocable order backed by a tripartite agreement should be in place” specified in the aforesaid circular, RBI has now decided that this may not be insisted upon in case where documentary evidence for circumstances leading to third party payments/name of the third party being mentioned in the irrevocable order/invoice has been produced. This shall be subject to the following conditions:

- (i) AD bank should be satisfied with the bonafides of the transaction and export documents, such as, invoice/FIRC.
- (ii) AD bank should consider the FATF statements while handling such transaction.

Further, with a view to liberalising the procedure, RBI has also withdrawn the limit of USD 100,000 eligible for third party payment for import of goods.

B. Export Data Processing and Monitoring System (EDPMS) for Export of Goods and Services

A.P. (DIR Series) Circular No. 101 dated 4th February, 2014

Under the extant regulations, AD banks are required to submit various returns like XOS (export outstanding statements), ENC (Export Bills Negotiated/sent for collection) for acknowledgement of receipt of Export documents, Sch. 3 to 6 (realisation of export proceeds), EBW (write-off of export bills), ETX (extension of realisation of export bills) relating to Export transaction under FEMA to RBI. These returns are being managed on a different solo application or manually.

In order to simplify the procedure for filing various returns and for better monitoring, a comprehensive IT-based system called EDPMS has been developed by RBI which will facilitate the banks to report all the above mentioned returns through a single platform.

For detailed specifications and procedure for submission through the said system, please refer the circular available on RBI website at: <http://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=8733&Mode=0>

A cut-off date for shipping documents to be reported in the new system will be notified shortly which will be the commencement date of the new system. The entire shipping document should be reported in the new system after cut-off date and old shipping documents would continue to be reported in the old system till completion of the cycle. Both the old and new systems will run parallel to each other for some time before the old system is discontinued.

7. Review of the existing policy on FDI in the Insurance Sector

Press Note No. 2 (2014 Series) dated 4th February, 2014 issued by the Department of Industrial Policy & Promotion

Presently, FDI in the Insurance sector is permitted up to 26%, under the automatic route subject to the conditions stated in paragraph 6.2.17.7 of the Circular 1 of 2013 - 'Consolidated FDI Policy, effective from 5th April, 2013'

The Government of India has *vide* Press Note No. 2 (2014 Series) dated 4th February, 2014 revised paragraph 6.2.17.7 of the Circular 1 of 2013 to allow FDI under automatic route in Insurance sector which would cover Insurance Company, Insurance

Broker, Third Party Administrators and Surveyors and Loss Assessors upto 26% which would include FDI, FII and NRI investment subject to certain conditions specified.

For detailed conditions please refer the said Press Note issued by DIPP at: http://dipp.nic.in/English/acts_rules/Press_Notes/pn2_2014.pdf



(Matter on Corporate Laws has been contributed by CA. Jayesh Thakur)

MCA (www.mca.gov.in)

1. Regional Director must seek inputs from I-T department before filing

report on compromise or amalgamation cases

MCA has issued General Circular No. 1/2014 dated 15.01.2014 clarifying upon filing of Report u/s 394A of the Companies Act, 1956 that the Regional Director, while responding to notice on behalf of the Central Government under Section 394A of Companies Act, 1956 shall invite specific comments from Income Tax Department within 15 days of receipt of notice before filing his response to Court. If no response from Income Tax Department is forthcoming, it may be presumed that Income Tax Department has no objection to the action proposed under Section 391 or 394 as the case may be.

It is not for the Regional Director to decide correctness or otherwise of the Objections/ views of the Income Tax Department or other Regulators.

SEBI (www.sebi.gov.in)

1. Certification of Associated Persons in the Securities Markets, Regulations

SEBI *vide* Notification No. LAD-NRO/GN/2013-14/42/118, dated 27-1-2014 has clarified that all investment advisers (including their partners and representatives) offering investment advice, shall obtain certification from National Institute of Securities Market by passing the NISM-Series-X-B: Investment Adviser (Level 2) (IACE-2) Certification Examination. Provided that if such associated person has obtained certification by passing 'Certified Financial Planner' certification from the Financial Planning Standards Board India as on date of this notification or obtains the 'Certified Financial Planner' certification from FPSB India within thirty days from the date of this notification, he shall not be required to obtain

certification by passing the IACE-1 or IACE-2.

Notwithstanding anything contained in this notification, such associated person may also obtain certification from organisations and institutions accredited by NISM, for purpose of sub-regulation (2) of regulation 7 of the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013.

2. Issue and Listing of Debt Securities Regulations

SEBI *vide* Notification No. LAD-NRO/GN/2013-14/43/207, dated 31-1-2014 has made amendments in SEBI (Issue and Listing of Debt Securities) Regulations, 2008, the new regulations would be called the SEBI (Issue and Listing of Debt Securities) (Amendment) Regulations, 2014. The amendments have been made in regulation 2 and after regulation 6, regulation 6A has been inserted as regards filing of Shelf Prospectus by Companies under Section 31 of Companies Act, 2013 for public issuance of their debt securities.

3. ICDR Regulations

SEBI has issued Notification No. LAD-NRO/GN/2013-14/44/226, dated 4-2-2014 notifying the amendments made in Securities and Exchange

Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 and the regulations would be called SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2014. The amendments have been made in regulation 26 so that an issuer making an initial public offer may obtain grading for such offer from one or more credit rating agencies registered with the Board. Certain amendments have also been made in Schedule VIII & Schedule XIII.

4. Price band on scrips forming part of index derivative not having individual derivative

SEBI has issued Circular No. MRD/DP/04/2014, dated 06-02-2014 wherein as a measure to protect against excessive price movements with respect to those scrips on which no derivatives products are available but which are part of Index Derivatives, it has been decided to implement appropriate individual scrip wise price bands upto 20% on such scrips.

RBI (www.rbi.gov.in)

1. Conversion of External Commercial Borrowing And Lumpsum Fee/Royalty Into Equity

RBI has issued Circular No. 94, dated 16-01-2014

to clarify that where the liability sought to be converted by the company is denominated in foreign currency as in case of External Commercial Borrowings, import of capital goods, etc. it will be in order to apply the exchange rate prevailing on the date of the agreement between the parties concerned for such conversion. Reserve Bank will have no objection if the borrower company wishes to issue equity shares for a rupee amount less than that arrived at by a mutual agreement with the ECB lender. It may be noted that the fair value of the equity shares to be issued shall be worked out with reference to the date of conversion only.

It is further clarified that the principle of calculation of INR equivalent for a liability denominated in foreign currency shall apply, *mutatis mutandis*, to all cases where any payables/liability by an Indian company such as, lump sum fees/royalties, etc. are permitted to be converted to equity shares or other securities to be issued to a non-resident subject to the conditions stipulated under the respective Regulations.

2. Collection of Account Payee Cheques

RBI has issued Circular DBOD.BP.BC.NO.87/21.01.001/2013-14, dated 22-1-2014 advising banks to strictly collect 'account payee' cheques only for their payee constituents. Banks may, however, consider collecting account payee cheques drawn for an amount not exceeding ₹50,000/- to the account of their customers who are co-operative credit societies, if the payees of such cheques are the constituents of such co-operative credit societies.

3. RBI allows securitisation cos. to acquire financial assets of other securitisation co.

RBI has issued Circular DNBS(PD)CC.NO.35/SCRC/26.03.001/2013-2014, dated 23-1-2014 to clarify upon the amendments made in Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and on the recommendations of the Key Advisory Group (KAG) constituted by the Government of India on the Asset Reconstruction Companies (ARCs) that RBI has permitted Securitisation Companies/Reconstruction Companies (SC/RCs) to convert a portion of debt into shares of the borrower company provided their shareholding does not exceed 26% of the post converted equity of the company under reconstruction. For the purpose



of enforcement of security interest, SC/RCs are required to obtain the consent of secured creditors holding not less than 60 percent of the amount outstanding to a borrower as against 75 per cent hitherto. SC/RCs are permitted to acquire debt from other SC/RCs subject specified conditions.

4. Revision of Bank Rate

RBI has issued Circular DBOD.NO.RET.BC.88/12.01.001/2013-14, dated 28-1-2014 with regard to revision of Bank Rate. It has been decided that consequent to the increase in the policy repo rate under the Liquidity Adjustment Facility (LAF) as announced in the Third Quarter Review of Monetary Policy RBI, the Bank Rate stands adjusted by 25 basis points from 8.75 per cent to 9.0 per cent with effect from 28.01.2014. All penal interest rates on shortfall in reserve requirements, which are specifically linked to the Bank Rate, also stand revised.

5. FCNR (B)/NRE Deposits – Exemption From Maintenance of CRR/SLR

RBI has issued Circular DBOD.NO.RET.BC.93/12.01.001/2013-14, dated 31-1-2014 clarifying that in order to give banks some time, the exemption granted on incremental FCNR(B)/NRE deposits from maintenance of CRR/SLR will be withdrawn with effect from 08.03.2014 i.e., only the eligible amount of incremental FCNR(B) and NRE deposits of maturities of three years and above from the base date of 26.07.2013, and outstanding as on 07.03.2014, would qualify for CRR/SLR exemption till their maturities/premature withdrawals. Further, advances extended in India against the incremental FCNR (B)/NRE deposits, qualifying for exemption from CRR/SLR requirements, will be eligible for exclusion from Adjusted Net Bank Credit, till their repayment, for computation of priority sector lending targets. ■