

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. Statement under Section 115UA(4)-Insertion of Rule 12CA and

introduction of new Form Nos. 64A and 64B

The Finance (No. 2) Act, 2014 inserted new chapter XII-FA containing the special provisions relating to business trusts. Section 115UA provides for tax on income of unit holder and business trust. Section 115UA(4) provides that any person responsible for making payment of the income distributed on behalf of a business trust to a unit holder shall furnish a statement to the unit holder and the prescribed authority, within such time and in such form and manner as may be prescribed, giving the details of the nature of the income paid during the previous year and such other details as may be prescribed. In exercise of the powers conferred by Section 295 read with section 115UA(4), the Central Board of Direct Taxes, has inserted Rule 12CA (along with Form No. 64A and Form No. 64B), which shall come into force from the day of their publication in the Official Gazette.

Rule 12CA on “Statement under section 115UA(4)” requires:

- (i) the statement of income distributed by a business trust to its unit holder to be furnished electronically under digital signature to the Principal Commissioner or the Commissioner of Income-tax within whose jurisdiction the principal office of the business is situated in Form No. 64A, duly verified by an accountant, by the 30th November of the financial year following the previous year during which such income is distributed.
- (ii) the statement of income distributed by a business trust to its unit holder to be furnished to the unit holder in Form No. 64B, duly verified by the person distributing the income on behalf of the business trust in the manner indicated therein, by 30th June of the financial

year following the previous year during which the income is distributed.

- (iii) the Director General of Income-tax (Systems) to specify the procedure for filing of Form No. 64A and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished.

[Notification No. 3/2015, dated 19-01-2015]

2. Section 80C of the Income-tax Act, 1961 – Notified plan under Section 80C(2)(viii) for deductions from total income

Section 80C provides for deduction from gross total income in respect of sums paid and investments made through specified modes like life insurance premia, deferred annuity *etc.* Under clause (viii) of Section 80C(2), deduction is available in respect of sums paid or deposited in the previous year by the assessee as subscription to any such deposit scheme that the government may specify by notification in the official gazette. Accordingly, in exercise of the powers conferred by Section 80C(2)(viii) of the Income-tax Act, 1961, the Central Government has specified the scheme for Girl child named ‘Sukanya Samridhhi Account’ for the purpose of said section which shall come into force with effect from the date of its publication in the Official Gazette.

Further, the Finance Minister has, *vide* Office Memorandum, dated 20.1.2015, decided to allow 9.1% rate of interest on investments in the said scheme during the Financial Year 2014-15.

[Notification No. 9/2015, dated 21-1-2015]

3. Agreement for avoidance of double taxation and prevention of fiscal evasion with South Africa – Amendment in Notification No. GSR 198(E), dated 21-4-1998

In exercise of the powers conferred by Section 90 of the Income-tax Act, 1961, the Central Government had notified that all the provisions of the protocol amending the agreement between the Government of the Republic of India and the Government of the Republic of South Africa for the avoidance

of double taxation and the prevention of fiscal evasion with respect to taxes on income, which was signed in Pretoria on the 26.07.2013, shall be given effect to in the Union of India with effect from the 26.11.2014.

[Notification No. 10/2015, dated 2-2-2015]

4. Income-tax (Second Amendment) Rules, 2015 –Safe Harbour Rules for Specified Domestic Transactions-Government company engaged in business of generation, transmission and distribution of electricity

In exercise of the powers conferred by Section 92CB and 92D read with Section 295 of the Income-tax Act, 1961, the Central Board of Direct taxes has, through this notification, amended Rules 10D, 10TA and inserted Rules 10TH, 10THA, 10THB, 10THC, 10THD and Form No. 3CEFB to provide the following:

- (i) Sub-Rule (2A) has been inserted in Rule 10D to provide that an eligible assessee, a person who has exercised a valid option for application of safe harbour rules and is a Government Company engaged in the business of generation, transmission or distribution of electricity, shall keep and maintain the information and documents specified therein.
- (ii) The heading “Safe Harbour Rules for International Transactions” shall be substituted under Rule 10T for the heading “Safe Harbour Rules”.
- (iii) Further, “Safe Harbour Rules for Specified Domestic Transactions” has been notified through the following rules:
 - (a) The word “Appropriate Commission” and “Government Company” has been defined under rule 10TH.
 - (b) ‘Eligible assessee’ has been defined under rule 10THA to mean a Government Company engaged in the business of generation, transmission or distribution of electricity and has exercised a valid option of safe harbor rules.
 - (c) Rule 10THB defines an ‘eligible specified domestic transaction’ to mean a specified domestic transaction, which comprises of supply of electricity by generating company or transmission or wheeling of electricity.
 - (d) Rule 10THC provides that the transfer price declared by the assessee, in respect of eligible specified domestic transaction entered by him, shall be accepted by the

income-tax authorities, if it is in accordance with the rules specified therein.

- (e) Rule 10THD provides the procedure to be followed for the purpose of exercising the option for safe harbour for which the application shall be furnished in Form No. 3CEFB.

[Notification No. 11/2015, dated 4-2-2015]

The complete text of the above Notifications can be downloaded from the link: <http://www.incometaxindia.gov.in/Pages/communications/notifications.aspx>

II. CIRCULARS

1. Explanatory Notes to the provisions of the Finance (No. 2) Act, 2014

This circular contains the Explanatory notes to the provisions of the Finance (No. 2) Act, 2014 as assented by President on 6th August, 2014. This circular, thus, explains direct tax provisions contained in the Finance (No. 2) Act, 2014.

[Circular No. 1/2015, dated 21-01-2015]

2. Chargeability of Interest under Section 234A of the Income-tax Act, 1961 on self assessment tax paid before the due date of filing of return of income

Interest under Section 234A is charged in case of default in furnishing return of income by an assessee. The interest is charged at the specified rate on the self assessment tax which is the amount of tax payable on total income as reduced by the amount of advance tax, TDS/TCS, any relief of tax, deductions, and tax credit allowed under the Act. Since self-assessment tax is not mentioned as a component of tax to be reduced from the amount on which interest under Section 234A of the Act is chargeable, interest is being charged on the amount of self-assessment tax paid by the assessee even before the due date of filing of return.

However, it has been held by the Hon’ble Supreme Court in the case of CIT vs. Prannoy Roy, 309 ITR 231 (2009) that the interest under section 234A shall be payable only on the amount of tax that has not been deposited before the due date of filing of the Income-tax return for the relevant assessment year.

Accordingly, the CBDT reviewed the present practice of charging interest and decided that no interest under Section 234A shall be charged on self assessment tax paid before the due date of filing of return.

[Circular No. 2/2015, dated 10-2-2015]

3. Clarification regarding 'Amounts not deductible' under Section 40(a)(i) of the Income-tax Act, 1961

If there has been a failure in deduction or in payment of tax deducted in respect of any interest, royalty, fees for technical services or other sum chargeable under the Act either payable in India to a non-resident (not being a company)/a foreign company or payable outside India, then disallowance of the related expenditure/payment is attracted under Section 40(a)(i) while computing income chargeable under the head "profit and gains of business or profession". This circular clarifies the doubts which have been raised about the interpretation of the term 'other sum chargeable' i.e. whether this term refers to the whole sum being remitted or only the portion representing the sum chargeable to income-tax under the Act.

In its Instruction No. 2/2014, dated 26.02.2014 the Central Board of Direct Taxes has clarified that the Assessing Officer shall determine the appropriate portion of the sum chargeable to tax as mentioned in Section 195(1), to ascertain the tax

liability on which the deductor shall be deemed to be an assessee in default under Section 201, in cases where no application is filed by the deductor for determining the sum so chargeable under Section 195(2).

In this circular, the CBDT has, in exercise of its powers under Section 119, clarified that for the purpose of disallowance of 'other sum chargeable' under Section 40(a)(i), the appropriate portion of the sum which is chargeable to tax shall form the basis of disallowance. Further, the appropriate portion shall be determined by the Assessing Officer having jurisdiction for the purpose of Section 195(1). Also, where the determination of 'other sum chargeable' has been made under sub-Section (2), (3) or (7) of Section 195 of the Act, such determination will form the basis for disallowance, if any, under Section 40(a)(i).

[Circular No. 3/2015, dated 12-02-2015]

The detailed circulars can be downloaded from the link: <http://www.incometaxindia.gov.in/Pages/communications/circulars.aspx>

III. INSTRUCTIONS

1. Acceptance of Order of High Court of Bombay in case of Vodafone India Services Pvt. Ltd.

The High Court of Bombay, in Vodafone India Services Pvt. Ltd. for A.Y. 2009-10 (WP No. 871/2014), held that the premium on share issue was on account of a capital account transaction and does not give rise to income and, hence not liable to transfer pricing adjustment. The CBDT has, through, this instruction informed all Principal CCITs/ DsGITs and CCsIT/DsGIT that it has accepted the decision of the Bombay High Court in said Writ petition and directed that the ratio decidendi of the judgement must be adhered to by the field officers in all cases where this issue is involved. The Board has also instructed that this may also be brought to the notice of the ITAT, DRP's and CsIT (Appeals).

[Instruction No. 2/2015, dated 29-1-2015]

The complete text of the above Instruction can be downloaded from the link: <http://www.incometaxindia.gov.in/Pages/communications/circulars.aspx>



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

A. EXCISE

1. Issue of summons in Central Excise and Service Tax matters

CBEC vide Instruction F. No 207/07/2014-CX-6 dated 20.01.2015 has further streamlined the process of issuance of summons:

- i) Summons need not always be issued when a simple letter, politely worded, can also serve the purpose of securing documents relevant to the investigation. Further, it is emphasised that the use of summons be made only as a *last resort* when it is *absolutely required*.
- ii) Summons by Superintendents should be issued after obtaining prior written permission from an officer not below the rank of Assistant Commissioner with the reasons for issuance of summons to be recorded in writing.
Due to operational reasons it is not possible to obtain written permission; oral/telephonic permission must be obtained and the same should be reduced to writing and intimated to

the officer according such permission at the earliest opportunity.

- iii) In all cases, where summons are issued, the officer issuing summons should submit a report and submit the same to the officer who has authorised the issue of summons.
- iv) CEO, CFO, General Managers of a large company or a PSU should not be issued summons at the first instance and should be summoned only when there are indications of involvement in the decision making process which lead to loss of revenue.

It may be noted that the aforesaid Instruction has been issued to remove the hardship faced by the assessee in pursuance of *circular no. F. No 208/122/89-CX.6 dated 13.10.1989 in respect of central excise and F. No. 137/39/2007-CX.4 dated 26.2.2007 in Service tax.*

[Instruction F. No 207/07/2014-CX-6 dated 20th January, 2015]

2. Adjudication of Central Excise and Service Tax Cases booked by DGCEI

CBEC vide Circular No. 994/01/2015-CX dated February 10, 2015 has specified the cases to be adjudicated by the ADG (Adjudication) of The Directorate General, Central Excise Intelligence (DGCEI) and jurisdictional Central Excise officers in the following manner:

SCNs	Adjudicating Authority
All cases where the duty involved is more than ₹5 crore	ADG (Adjudication) of DGCEI
Pertaining to jurisdiction of one executive Commissioner of Central Excise	The Jurisdictional Executive Commissioner
Pertaining to jurisdiction of multiple Commissionerates	Commissioner in whose jurisdiction the noticee from whom the highest demand of duty has been made falls.

Cases to be adjudicated by the officers below the rank of Commissioner shall be adjudicated only by the field officers in the executive Commissionerates. The guidelines shall apply mutatis mutandis to the Service Tax cases booked by DGCEI.

[Circular No. 994/01/2015-CX, Dated: February 10, 2015]

3. Introduction of Taxpayers Day - an initiative towards better governance

Central Government, in order to ensure good governance, to further simplify and modernise the tax system, expand the tax base and improve compliance, has decided that one day of the week, viz., Wednesday (9 AM to 1 PM) will be designated as Taxpayers' day wherein Heads of all offices in the field will meet the taxpayers without any prior appointment in order to address their grievances expeditiously.

[Instruction F. No. 296/267/2014-CX-9 dated 7th January 2015]

B. CUSTOMS

1. Enhancement of limit to carry Indian Currency from/to India

CBEC vide Circular No. 03/2015-Customs, Dated: January 16, 2015 has directed its officers to adhere with RBI A. P. (DIR series) Circular No. 146 which enhanced the limit, to take/bring Indian currency from/into India, to ₹25000/- per person from earlier

limit of ₹10,000/- per person. This limit does not apply in case of Nepal and Bhutan.

[Circular No.03/2015-Customs, Dated: January 16, 2015]

2. Power of officer has been modified in case of re-export of goods imported under bona-fide mistake

With a view to expedite decision-making in respect of re-export of imported goods destined for elsewhere but which are inadvertently imported at a particular Customs station, CBEC vide Circular No. 04/2015-Customs, Dated: January 20, 2015 has modified the earlier Circular to provide that the permission for re-export may be granted on merit by the Customs Officers concerned in accordance with their powers of adjudication.

Earlier the permission for re-export of goods that are shipped contrary to instruction of the importer was granted only by Commissioner of Customs.

[Circular No. 04/2015-Customs, Dated: January 20, 2015]

3. Duty Drawback - Revised All Industry Rate

The Central Board of Excise and Customs has revised All Industry Rates of Duty Drawback with effect from 13th February 2015 vide Notification Nos. 20/2015-Customs (N.T.) & 21/2015-Cus., (N.T.), both dated: February 10, 2015. The revised schedule, notes & conditions and the other details can be viewed in the Notification.

[Circular No. 6/2015-Customs dated February 11, 2015; Notification Nos. 20/2015-Customs (N. T.) and 21/2015-Cus., (N.T.), Dated: February 10, 2015]

4. Customs Ports/Inland Container Depot (ICD) Notified by CBEC

CBEC has notified the following two ports for the purpose specified against them:

S. No.	Port	Purpose
1.	Panaji (3)-Port	Unloading of imported goods and loading of export goods or any class of such goods
2.	Hindaun City, District Karauli, Rajasthan, ICD	Unloading of imported goods and loading of export goods

[Notification No. 14/2015-Customs (NT), Dated: January 28, 2015 and Notification No. 19/2015-Cus., (N.T.), Dated: February 9, 2015]

5. Amendments made in Preferential Trade Agreements/Comprehensive Economic Cooperation Agreement with various Countries.

CBEC has made amendments in the Notifications describing the Preferential Trade Agreements entered with the following countries effective January 2015:

S. No.	Country	Earlier Notification No.
1.	Singapore	Notification No. 10/2008-Customs, dated the 15 th January, 2008
2.	Korea	Notification No. 152/2009-Customs, dated the 31 st December, 2009
3.	Malaysia	Notification No. 53/2011-Customs, dated the 1 st July, 2011
4.	ASEAN	Notification No. 46/2011-Customs, dated the 1 st June, 2011

S. No.	Country	Earlier Notification No.
5.	Japan	Notification No. 69/2011-Customs dated the 29 th July, 2011

[Notification No. 01/2015-Cus., Dated: January 05, 2015; Notification No. 36/2014-Customs, Dated: December 29, 2014; Notification No. 37/2014-Customs, Dated: December 29, 2014; Notification No. 38/2014-Customs, Dated: December 29, 2014; Notification No. 39/2014-Customs, Dated: December 29, 2014]

C. VALUE ADDED TAX

Rajasthan VAT

1. Submission and Correction of PAN data on rajtax web portal.

Circular No. 19 F.16 (95)Tax/CCT/14-15/1072 Dated 6th February, 2015 provides that dealers are required to submit or correct their PAN details at <http://rajtax.gov.in>. Further, Dealers whose PAN is not available or is not validated by Income Tax data base, shall be requested to submit Form VAT-05 for amendment with regard to PAN. Dealers may refer a hand book on Process for Application of PAN submission/correction provided in user guide under e-services guidelines on rajtax web portal.

[Circular No. 19 F.16 (95)Tax/CCT/14-15/1072 Dated 6th February, 2015]

2. E-facility to apply online for closure of business by Dealer

A facility to apply online for closure of business in Form VAT-06A has been provided at: <http://rajtax.gov.in>. The dealer shall have to enter mandatory details in the form after mentioning date and reason for closure of business and details of closing stock etc.

[Circular No. 20 F.16 (95)Tax/CCT/14-15/1081 Dated 6th February, 2015]

3. Introduction of Amnesty Scheme

Notification No. F. 12 (16) FD/TAX/2009-188-Dated 9th February, 2015 has notified Amnesty scheme-2015 for waiver of interest and penalty to some extent. The salient features of the scheme are as follows:

- The Scheme shall remain up to 31st March, 2015.

- It applies to dealer or person against whom total outstanding demand of sales tax/vat is up to rupees five Crore.
- The demand must be created on or before 31st March, 2011 or is under dispute on or before 31st December, 2013.
- The scheme benefits in regards to waiver/reduction of interest and penalty have been divided into 3 categories such as demand related to evasion of tax, interest and others.

For more information about terms & conditions and procedures in Form AS-1 and Form AS-2 in regards to amnesty scheme the notification can be viewed.

[Notification No. F. 12 (16) FD/TAX/2009-188-Dated 9th February, 2015]

Himachal Pradesh

4. Time limit for filing of VAT return amended

Notification No. EXN-F(10)-7/2011-Vol.I Dated 30th January, 2015 has amended Rule 40(1) of Himachal Pradesh Value Added Rule, 2005.

Now every registered dealer shall furnish self-assessed return in Form VAT-XV in the following manner:-

Sr. No.	Gross Turnover	Time for filing return
1	Up to ₹1 Crore	Within 40 days from the end of each quarter
2	Exceeding ₹1Crore but not exceeding ₹5 Crore	Within 45 days from the end of each quarter
3	Exceeding ₹5 crore	shall furnish return monthly within forty five days from the expiry of each month of a financial year;

Further, in case of dealer for whom the return period has been fixed by the assessing authority under Rule 40(3), are required to submit the return within 45 days from the closure of each month.

[Notification No. EXN-F(10)-7/2011-Vol.I Dated 30th January, 2015]

Delhi VAT

5. Date of Filing of reconciliation return in form 9 extended to 31st March, 2015

Circular No. 26 of 2014-15 No.F.7(420)/VAT/Policy/2011/PF/761-767 Dated 16th February, 2015 extends the date of filing of online return in form 9, containing details of interstate sale at concessional rates against statutory forms C/F/H, to 31/03/2015.

[Circular No. 26 of 2014-15 No.F.7(420)/VAT/Policy/2011/PF/761-767 Dated 16th February, 2015]

Assam VAT

6. E- filing of details in transportation of goods

Notification No. LGL.6/2003/108-Dated 6th February, 2015 has inserted a new sub-Section (3A) in Section 75 which provides that the owner of any goods or the transporter of such goods or the person in-charge of the goods vehicle carrying such goods shall also furnish relevant information in the electronic format online as may be prescribed.

Further a new clause (aa) has inserted in Section 77 (2) which provides that where any taxable goods are consigned by railway, river, air or post from a place outside the state for delivery to a dealer inside the state, the importer shall not obtain or cause to be obtained delivery thereof unless he files details of vehicle, consignment and statutory form online in advance before the goods carrying vehicle reaches delivery point.

[Notification No. LGL.6/2003/108 - Dated 6th February, 2015]

Andhra Pradesh VAT

7. Guidelines issued regarding conducting of Audit and Assessments in Rule 59 of APVAT Rules, 2005.

Circular CCT's Ref. No. Enft/E3/716/2014 Dated: 11th February, 2015 provides guidelines in respect of VAT Audits and Assessments for allocation/selection of the cases for audit by the officer in charge.

[Circular CCT's Ref. No. Enft/E3/716/2014 Dated: 11th February, 2015]

8. Purchase/sale details are required to be provided along with Return.

Notification No. GOMS. No. 26 Dated: 05th February, 2015 Provides that details of purchases from registered VAT dealers in Annexure-I and sales to

registered VAT dealers in Annexure-II has to be submitted along with the Tax return. The details procedure in this regard can be viewed in the Notification.

[Notification No. GOMS. No. 26 Dated: 05th February, 2015]



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

A. Overseas Direct Investments by proprietorship concern/unregistered partnership firm in India

Notification No. FEMA.325/RB-2014 dated November 12, 2014 and A. P. (DIR Series) Circular No.59 dated January 22, 2015

Keeping in view the changes in the definition/classification of the exporters as per the Foreign Trade Policy of the Ministry of Commerce and Industry it is decided to review the policy framework for Overseas Direct Investments (ODI) by a proprietorship concern/unregistered partnership firm in India. Accordingly following revised terms and conditions are required to be complied with for considering the proposal of ODI, by a proprietorship concern/unregistered partnership firm in India, by the Reserve bank under approval route:

- The proprietorship concern/unregistered partnership firm in India is classified as 'Status Holder' as per the Foreign Trade Policy issued by the Ministry of Commerce and Industry, Government of India from time to time.
- The proprietorship concern/unregistered partnership firm in India has a proven track record i.e. export outstanding does not exceed 10% of the average export realisation of the preceding three years and a consistent high export performance.
- The Authorised Dealer is satisfied that proprietorship concern/unregistered firm is a KYC (Know Your Customer) compliant, engaged in the business and has turnover as indicated.
- The entity has not come under adverse notice of any government agency and does not appear in exporter's caution list of the Reserve Bank or in defaulters list of the banking system in India, and
- The amount of proposed investment outside India does not exceed 10 percent of the average

of last three years export realisation or 200 percent of the net owned funds of the entity, whichever is lower.

Necessary amendments to the Notification No. 120 have been issued vide Notification No. 325/RB-2014 dated November 12, 2014.

B. Foreign Direct Investment–Review of FDI Policy (Sector Specific–Construction Development)

Notification No. FEMA.329/RB-2014 dated December 8, 2014 and A.P. (DIR Series) Circular No. 60 dated January 22, 2015

The extant FDI Policy for Construction Development sector has been reviewed and accordingly, effective from 3rd December 2014 100% FDI under automatic route shall be permitted in Construction Development sector subject to conditions specified in Press note No 10 (Series 2014) dated December 3, 2014 issued by DIPP.

Reserve Bank has since amended the Principal Regulations through Foreign Exchange Management (Transfer or Issue of Security by a Person Resident

outside India) (Sixteenth Amendment) Regulations, 2014 notified vide Notification No. FEMA.329/2014-RB dated December 8, 2014.

For detailed amendments, please refer the said notifications on RBI website available at: <http://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT329FEM140115FN.pdf>

C. Depository Receipts Scheme

Notification No. FEMA.330/RB-2014 dated December 15, 2014 and A.P. (DIR Series) Circular No. 61 dated January 22, 2014

A new scheme called 'Depository Receipts Scheme, 2014' (DR Scheme, 2014) for investments under ADR/GDR have been notified by the Central Government effective from December 15, 2014 which provides for repeal of extant guidelines for Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 except to the extent relating to foreign currency convertible bonds.

The salient features of the new scheme are:

- a. The securities in which a person resident outside India is allowed to invest under Schedule 1, 2, 2A, 3, 5 and 8 of Notification No. FEMA. 20/2000-RB dated 3rd May 2000 shall be eligible securities for issue of Depository Receipts in terms of DR Scheme 2014;
- b. A person will be eligible to issue or transfer eligible securities to a foreign depository for the purpose of issuance of depository receipts as provided in DR Scheme 2014.
- c. The aggregate of eligible securities which may be issued or transferred to foreign depositories, along with eligible securities already held by persons resident outside India, shall not exceed the limit on foreign holding of such eligible securities under the extant FEMA regulations, as amended from time to time.
- d. The eligible securities shall not be issued to a foreign depository for the purpose of issuing depository receipts at a price less than the price applicable to a corresponding mode of issue of such securities to domestic investors under FEMA, 1999.
- e. It is to be noted that if the issuance of the depository receipts adds to the capital of a company, the issue of shares and utilisation of the proceeds shall have to comply with the relevant conditions laid down in the Regulations framed and Directions issued under FEMA, 1999.
- f. The domestic custodian shall report the issue/transfer of sponsored/unsponsored depository receipts as per DR Scheme 2014 in 'Form DRR' as given in Annex within 30 days of close of the issue/program.

Reserve Bank has since amended the Principal Regulations through the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Seventeenth Amendment) Regulations, 2014 notified *vide* Notification No. FEMA.330/2014-RB dated December 15, 2014.

For more details refer the said notification on RBI website available at: <http://rbidocs.rbi.org.in/rdocs/notification/PDFs/FEMA330NT120115F.pdf>

D. Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2000—Remittance of Salary

Notification No. FEMA. 328/2014-RB dated December 3,

2014 and A.P. (DIR Series) Circular No. 62 dated January 22, 2014

Reserve Bank has been receiving queries whether remittance of salary outside India can be affected for employees on deputation to a group company in India and for employees of Limited Liability Partnership. The extant instructions have been reviewed and it is decided that the facility available to employee of a company under Regulation 7(8) of Notification No. FEMA 10 shall also be available to an employee who is deputed to a group company in India. Further, the term 'company' will henceforth also include 'Limited Liability Partnership' as defined in the LLP Act, 2008. The same has been amended by RBI *vide* Notification No. FEMA 328/2014-RB dated 3rd December 2014.

For more details refer the said notification on RBI website available at: <http://rbidocs.rbi.org.in/rdocs/notification/PDFs/328FEMA120115.pdf>

E. Export and Import of Indian Currency

Notification No. FEMA.331/RB-2014 dated December 16, 2014 and A.P. (DIR Series) Circular No. 63 dated January 22, 2014

With a view to mitigate hardships of individuals visiting from India to Nepal or Bhutan, it has been decided that an individual may carry currency notes of Reserve Bank of India of denominations above ₹100/- i.e. currency notes of ₹500/- and/or ₹1,000/- denominations, subject to limit of ₹25,000/-. Necessary amendments to FEMA Notification No. 6 have been made by Reserve Bank *vide* Notification No. FEMA.331/RB-2014 dated December 16, 2014.

F. External Commercial Borrowings-Simplification of Procedure

A. P. (DIR Series) Circular No. 64 dated January 23, 2014

As a measure of simplification to existing procedure for rescheduling/restructuring of ECBs and in supersession to provisions relating to powers being delegated to Authorised dealers to deal with cases related to change in draw-down and repayment of schedules of ECBs, it has been decided to delegate to AD banks some more powers to allow:

- a. Changes or modification in draw down and repayment schedules of the ECB whether associated with change in the average maturity period or not and/or with changes (increase/decrease) in the all in cost.

- b. Reduction in the amount of ECB along with any changes in draw down and repayment schedules, average maturity period and all in cost.
- c. Increase in all in cost, irrespective of number of occasions.

If the lender is an overseas branch/subsidiary of an India bank the changes shall be subject to the applicable prudential norms.

It has also been decided to delegate powers to the designated AD Category I banks to permit changes in the name of the lender of ECB after satisfying themselves with the bonafides of the transactions and ensuring that the ECB continues to be in compliance with applicable guidelines. Further, the AD Category-I banks may also allow the cases requiring transfer of the ECB from one company to another on account of re-organisation at the borrower's level in the form of merger/demerger/amalgamation/acquisition duly as per the applicable laws/rules after satisfying themselves that the company acquiring the ECB is an eligible borrower and ECB continues to be in compliance with applicable guidelines

For more details refer the said circular on RBI website at: <http://rbidocs.rbi.org.in/rdocs/Notification/PDFs/64APDIRECB01015.pdf>

G. Foreign Direct Investment–Pharmaceuticals Sector Notification No. FEMA334/2015-RB dated January 9, 2015 and A.P. (DIR Series) Circular No. 70 dated February 02, 2015

The extant FDI Policy for Pharmaceutical sector has been reviewed and it has now been decided with immediate effect that there would be a special carve out for medical devices which was earlier given the same treatment as pharmaceutical sector. Reserve Bank has amended the regulations *vide* Notification No. FEMA.334/2015-RB dated January 09, 2015.

H. Foreign Investment in India by Foreign Portfolio Investors

A. P. (DIR Series) Circular No. 71 dated February 03, 2015

As per A.P. (DIR Series) Circular No. 13 dated July 23, 2014 all future investment in government securities by registered Foreign Portfolio Investors (FPIs) was required to be made in government

bonds with a minimum residual maturity of three years. Further Reserve Bank in its Sixth Bi-Monthly Monetary Policy Statement 2014-15, issued on February 03, 2015 had announced that henceforth all future investments by FPIs in debt market in India will be required to be made with minimum residual maturity of three years.

Accordingly, all future investments by an FPI within the limit for investment in corporate bonds shall be required to be made in corporate bonds with a minimum residual maturity of three years. Further, all future investments against the limits vacated when the current investment runs off either through sale or redemption, shall be required to be made in corporate bonds with a minimum residual maturity of three years.

FPIs shall not be allowed to make any further investment in liquid and money market mutual fund schemes. There will, however, be no lock-in-period and FPIs shall be set free to sell the securities (including those that are presently held with less than three years residual maturity) to domestic investors.

I. Foreign Investment in India by Foreign Portfolio Investors

A. P. (DIR Series) Circular No. 72 dated February 05, 2015

Registered Foreign Portfolio Investors (FPIs) were allowed to purchase on repatriation basis Government Securities and non-convertible debentures (NCDs)/bonds issued by an Indian company subject to terms and conditions as mentioned therein and limits prescribed by Reserve Bank. Further Reserve Bank in its Sixth Bi-Monthly Monetary Policy Statement 2014-15, issued on February 03, 2015 announced that reinvestment of coupons in government securities will be enabled even when the existing limits are fully utilised.

Accordingly, FPIs shall be permitted to invest in government securities, the coupons received on their existing investments in government securities. These investments shall be kept outside the applicable limit (currently USD 30 billion) for investments by FPIs in government securities.

J. Foreign Investment in India by Foreign Portfolio Investors

A. P. (DIR Series) Circular No. 73 dated February 06, 2015

In context to announcement made by Reserve Bank in its Sixth Bi-Monthly Monetary Policy Statement 2014-15 issued in February 03, 2015 for all future investments by registered Foreign Portfolio Investors (FPIs) in debt market in India will

be required to be made with a minimum residual maturity of three years. In this context Reserve Bank has been receiving queries about the applicability of the aforesaid provisions. The queries and clarifications given by Reserve Bank are as under:

- a. Query: The applicability of the directions to investment by FPIs in Commercial Papers (CPs)
Clarification: In terms of the aforesaid directions, any fresh investments shall be permitted in any type of debt instrument in India with a minimum residual maturity of three years. Accordingly, FPIs shall not be allowed to make any further investment in CPs.
- b. Query: The applicability of these guidelines on debt instruments having maturity of three years and over but with optionality clause of less than three years.
Clarification: FPIs shall not be allowed to make any further investments in debt instruments having minimum initial/residual maturity of three years with optionality clause exercisable within three years.
- c. Query: The applicability of these guidelines on amortised debt instruments having average maturity of three years and above.

Clarification: FPIs shall be permitted to invest in amortised debt instruments provided the duration of the instrument is three years and above.

Any arrangement that negates any of the above shall not be in conformity with the provisions of the A.P. (DIR Series) Circular No. 71 dated February 03, 2015.

K. Export of Goods and Services—Delay in utilization of advance received for Exports

A. P. (DIR Series) Circular No. 74 dated February 09, 2015

In terms of Notification No. FEMA.23/RB-2000 dated May 3, 2000 as amended from time to time and other circulars, an exporter receiving an advance payment for exports from a buyer outside India shall be under an obligation to ensure that the shipment of goods is made within stipulated period from the date of receipt of advance payment.

As it is observed that there is substantial increase in number and amount of advances received against exports remaining outstanding beyond stipulated period on account of non-performance of such exports, AD Banks are advised to efficiently follow up with the concerned exporters to ensure that export performance (shipments in case of export of goods) are completed within stipulated period of time.

Further AD category-I banks should exercise proper due diligence and ensure compliance with KYC and AML guidelines so that only bonafide export advances flow into India. Doubtful cases as also instances of chronic defaulters may be referred to Directorate of Enforcement (DoE) for further investigation. A quarterly statement indicating details of such cases (as per Annex) may be forwarded to the concerned Regional Offices of RBI within 21 days from the end of each quarter.

L. Liberalised Remittance Scheme (LRS) – Enhancement of limits

Sixth Bi-Monthly Monetary Policy Statement 2014-15 dated February 03, 2015

The limit of LRS was enhanced to USD 125,000 in June 2014 by Reserve Bank without end use restrictions, except for prohibited foreign exchange transactions such as margin trading, lotteries etc.

On a review of the external sector outlook and as a further exercise in macro-prudential management, it has been decided to enhance the said limit under the LRS to USD 250,000 per person per year. Furthermore, in order to ensure ease of

transactions, it has also been decided in consultation with the Government that all the facilities for release of exchange/remittances for current account transactions available to resident individuals under Schedule III to Foreign Exchange Management (Current Account Transactions) Rules 2000, as amended from time to time, shall also be subsumed under this limit.

M. Import of Goods in India

A. P. (DIR Series) Circular No. 76 dated February 12, 2015

In terms of A.P. (DIR Series) Circular No. 82 dated February 2012, application by persons, firms and companies for making payments, exceeding USD 5000 or its equivalent towards imports in India is required to be made in Form A-1.

With a view to liberalise and simplify the procedure, it has been decided to dispense with the requirement of submitting request in Form A-1 to AD Banks for making payments towards imports into India. However, AD Banks may need to obtain all the requisite details from the importers and satisfy itself about the bonafides of the transaction before effecting the remittance.

N. Foreign Direct Investment–Reporting under FDI Scheme on the e-biz platform

A. P. (DIR Series) Circular No. 77 dated February 12, 2015

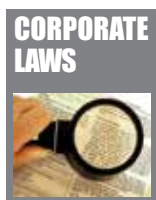
With a view to promote the ease of reporting of transactions under foreign direct investment (FDI), the Reserve Bank of India, under the aegis of the e-Biz project of Government of India has enabled the filing of following returns with the reserve Bank of India viz.

- Advance Remittance Form (ARF)—used by companies to report the inflow of FDI to RBI; and
- Form FC-GPR—which a company submits to RBI for reporting the issue of eligible instruments to the overseas investor against the above mentioned FDI inflow.

The design of the reporting platform enables the customer to login into the e-Biz portal, download the reporting forms (ARF and FCGPR), complete and then upload the same onto the portal using their digitally signed certificates. The Authorised Dealer Banks (ADs) will be required to download the completed Forms, verify the contents from the available documents, if necessary by calling for additional information from the customer and then upload the same for RBI to process and allot the Unique Identification Number (UIN). It has been decided that the ARF and FCGPR services of RBI will be operational on the e-Biz platform from February 19, 2015. The user manual for the two services is given in the Circular.

It may be noted for the present, the online reporting is an additional facility to the Indian companies to undertake their ARF and FC-GPR reporting and the manual system as prescribed in terms if A.P. (DIR Series) Circular No. 102 dated February 11, 2014 would continue till further notice.

For detailed instructions please refer the said circular available on RBI website at: <http://rbidocs.rbi.org.in/rdocs/Notification/PDFs/APDIRFDI0215.pdf>



(Matter on Corporate Laws has been contributed by CA. Rahul Joglekar)

MCA (www.mca.gov.in)
1. Amendment to Companies (Accounts) Rules 2014

MCA has amended the Companies (Accounts)

Rules, 2014. New sub-rule has been inserted to provide for Form AOC-5 pursuant to Sec.128(1) of the Companies Act 2013 dealing with place of maintenance of books of accounts. Certain relaxations have also been provided in respect of consolidation of financial statements for the year commencing on 01.04.2014 only. For a complete text of this notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Amendment_Rules_2015_19012015.pdf

[Notification No. GSR(E) Dated 16th January 2015]

2. Amendment to Companies (Appointment and Qualification of Directors) Amendment Rules-2014.

MCA has amended the Companies (Appointment and Qualification of Directors) Amendment Rules, 2014. A new Provision has been inserted providing that any company that has filed form DIR-12 with the Registrar under Rule 15, a Foreign Director of such company resigning from his office may authorise in writing a practising Chartered Accountant or cost Accountant in practice or Company Secretary in practice or any Resident Director of the company to sign Form DIR-11 and file the same on his behalf to the Registrar intimating the reasons for resignation. For a complete text of this notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Amendment_Rules_2015_20012015_1.pdf

[Notifications No. GSR(E) Dated 19th January 2015]

3. Amendment to Companies (Corporate Social Responsibility Policy) Amendment Rules, 2014

MCA has amended the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2014. As per the notification, the Ministry has widened the list of entities through which companies can undertake CSR activities by substituting the words "established by the company or its holding or subsidiary or associate company under Section 8 of the Act or otherwise" with "established under Section 8 of the Act by the Company, either singly or along with its holding or subsidiary company or associate company, or along with any other company or holding or subsidiary or associate of such other company, or otherwise". For a complete text of this notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Amendment_Rules_2015_20012015.pdf

[Notification No. GSR(E) Dated 19th January 2015]

SEBI (www.sebi.gov.in)

1. SEBI (Prohibition of Insider Trading) Regulations, 2015

SEBI has notified the regulations related to prohibition of insider trading in companies. These regulations contain various aspects like definition of connected person, insider, unpublished price sensitive information *etc.* It also provides for aspects like communication or procurement of unpublished price sensitive information, Trading Plans by an insider, disclosures by certain persons, Code of Fair Disclosure *etc.* For a complete text of the notification please refer the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1421319519608.pdf

[Notification No. LAD-NRO/GN/2014-15/21/85 dated 15th January 2015]

RBI (www.rbi.gov.in)

1. Interest Subvention Scheme 2014-2015

As per the budget announcement for FY 2014-2015, the interest subvention scheme has been formulated by RBI. This scheme deals with providing interest cost subsidy to farmers from the loans availed

by them from Public Sector and Private Sector Scheduled Commercial Banks. Various conditions have been prescribed for the Banks to claim the interest subvention from RBI. Detailed terms are available in the circular at the link <http://rbi.org.in/scripts/NotificationUser.aspx?Id=9502&Mode=0>

[Circular No. FSD.BC.48/05.04.02/2014-15 dated 21st January 2015]

2. Interest rate on advances

Based on the recommendations of the Working Group on pricing of Credit constituted by RBI, certain additional guidelines on Base Rate have been prescribed and Banks are advised to adhere to these guidelines. The guidelines deal mainly with computation of base rate, quarterly review of base rate and its methodology, calculation of spread *etc.* For a complete text of the circular, please refer the link: <http://rbi.org.in/scripts/NotificationUser.aspx?Id=9499&Mode=0>

[Circular DBR.Dir.BC.No.63/13.03.00/2014-15 dated 19th January 2015] ■