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EDITORIAL

NEW CA EDUCATION SYSTEM – NEED FOR RE-ALIGNMENT AND GEARING UP


CA VINOD JAIN*

The CA education structure has recently been significantly modified by permitting tenth Grade pass students to join the course and to appear for Common Entrance Examination (CPT) immediately after 12th and to join article trainee of 3.1/2 years thereafter. This has reduced the overall time to complete the chartered accountancy course by more than 2 years and now it would be possible for the new entrants to qualify as a Chartered Accountant within 4 years from the date of their passing their 12th examination.

The inflow of new entrants in chartered accountancy has increased very significantly. As compared to about 35,000 students joining CA course every year, now, within last 6 months more than 1,25,000 students have joined the CA course. The following issues have emerged and are to be strategically addressed by the practicing chartered accountants, members of the profession, students and the Institute of Chartered Accountants of India:

1) There is a wide gap between expectations of the Principal (Practicing Chartered Accountant) imparting practical training and the delivery capability of CPT students. Even seniority with which CPT students who undertake practical training is to be increased significantly.
2) A large number of CA firms have so far decided not to entertain undergraduate trainees. Their apprehensions include no prior knowledge of basic audit & taxation principles, non seriousness of CPT students, diversion of attention of CPT students to graduation as well as PCC (CA intermediate) examination as well as devotion of substantial time towards coaching classes.
3) The ability of adequate seats for training article students is currently an issue as most of the mid-size firms have exhausted their entire entitlement already. A proposal is under consideration of the Institute to substantially increase the training entitlement to Chartered Accountants.
4) Apprehension of undergoing dummy training by the students on a large scale, arising out of attraction towards full time graduation course in colleges, has to be addressed effectively.
5) The intensive coaching by private coaching institutions has become prevalent at school level as well as in various entrance examinations. A similar trend has developed in respect of Chartered Accountancy Course wherein for the CPT (entrance examination), PCC (intermediate) as well as for final examination, the students are opting to undertake private coaching intensively. A large number of these coaching institutions, across the country, are providing such coaching even during office hours i.e. the period during which the students are supposed to undergo practical training. There is a direct conflict created between coaching and training. The backbone of our profession has been practical training of the CA students and the practical exposure during such training pave the way for successful career for Chartered Accountants.
6) A number of students are opting to give full preference to examination oriented coaching without giving adequate emphasis on their overall development as Business Managers and as world class professionals. At the same time the practical training is being ignored. It is important for the profession of Chartered Accountants to ensure that such wrong direction is not taken by the students community as a whole and necessary checks and balance has to be developed in the system so that this menace can be checked.

The incoming new generation of CA students is the future of the profession and all of us have to provide them all necessary support psychologically, technically as well as emotionally including a sincere attempt to develop professional ethics,

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NEW CA LOGO FOR MEMBERS

ICAI has come up with a unique artistically designed logo to display the dynamism of the chartered accountancy profession in modern times and enhance the identity of the members.

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1.0 INVESTMENT BY MFs IN OVERSEAS SECURITIES – LIBERALISATION

Presently, Mutual Funds (MFs), registered with Securities and Exchange Board of India (SEBI), are permitted to invest in ADRs/GDRs of Indian companies, rated debt instruments and also in the equity of overseas companies listed on a recognized stock exchange overseas. To enable the MFs to tap a larger investible stock overseas, it has been decided that they may also invest in (i) Overseas MFs that make nominal investments (say to the extent of 10% of net asset value) in unlisted overseas securities; (ii) Overseas exchange traded funds that invest in securities; and (iii) ADRs/GDRs of foreign companies.

(RBI/2006-2007/433 dt: 08/06/07)

2.0 HEDGING OF OVERSEAS DIRECT INVESTMENTS BY RESIDENTS - LIBERALISATION

To provide greater flexibility to residents with overseas direct investments (in equity and loan), it has been decided to allow cancellation of forward/option contracts entered into with Authorised Dealer Category – I banks to hedge the exchange risk arising out of such investments. Further, 50 per cent of the cancelled contracts may be allowed to be rebooked. All other conditions and guidelines contained in A. P. (DIR Series) Circular No. 47 dated December 12, 2003 remain unchanged.

(RBI/2006-2007/439 dt : 19/06/07)

3.0 CURRENCY FUTURES LIKELY TO BE LAUNCHED

The Reserve Bank of India (RBI) has already set up an internal working group for examining issues related to the launch of currency futures in India.

4.0 NZ INTEREST RATE TO 8%

The Reserve bank of New Zealand (NZ) has unexpectedly raised its benchmark interest rate to a record 8 per cent, lifting the Kiwi dollar to a 22-year high.

5.0 PROJECT FINANCE DEFAULTS - RBI WARNING TO BANKS

The Reserve Bank of India (RBI) has raised concerns over the high level of defaults in the project finance portfolio of banks.

The banks usually follow a system where the borrower has to bring in the margin fund upfront after which the bank disburses the line of credit. A promoter has to shell out a margin of around 15 to 50 per cent of the project cost.

The promoter may be required to bring in only a portion of this upfront and thereafter, on a pro-rata basis, with each time the bank releases funds the promoter brings in his portion. In case, the borrower is unable to bring in his portion, the banks may ask the borrower to bring in another promoter or acquire equity in the project. However, as the investment is locked up, the banks are forced to release funds to keep the project going without insisting on the borrower bringing in the margin upfront for select projects.

6.0 JDR A NEW RESOURCE

In a move that will allow Indian firms to raise money in the Japanese market, the finance ministry has not raised any objections against allowing Indian companies to raise funds through Japanese Depository Receipts (JDR). A JDR represents ownership in shares of a foreign company trading on the Japanese trading markets. Indian companies would list their shares in the Japanese market and raise funds through Japanese Depository Receipts to finance projects.

7.0 GOVT. APPROVES 36 SEZs

The Government has granted formal approval to 36 Special Economic Zones (SEZs) spread over 2,005 hectares. Out of these 36 zones, 21 are IT/ITES and electronic hardware SEZs, 5 are for biotechnology and related activities, 2 each for pharma and food processing, one each for aviation, R&D, light engineering, gems and jewellery, textile and apparel, and light engineering.

The SEZ Board of Approval, also granted in-principle approval to 9 zones out of the 52 that were taken up for discussion.

KNOWLEDGE PORTAL

WHAT IS INTEREST RATE SWAP?

An interest rate swap is a contractual agreement, entered into between two counter parties, wherein they agree to exchange interest payments of differing character based on an underlying Notional Principal amount that is never exchanged. Here one stream of future interest payments is exchanged for another based on a specified principal amount.

The most popular interest rate swaps are fixed-for-floating swaps under which cash flows of a fixed rate loan are exchanged for those of a floating rate loan. In its simplest form, the two parties exchange their interest payment obligations (no principal changes hands) on two different kinds of debt instruments, one being a fixed interest rate, the other being a floating rate.

Alternatively, both series of cash flows to be exchanged could be calculated using floating rates of interest but floating rates that are based upon different underlying indices. Examples might be Libor and commercial paper or Treasury bills and Libor and this form of interest rate swap is known as a basis or money market swap.

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NEW CA EDUCATION SYSTEM ...

capability, respect for seniors, devotion to the cause of the profession and development of the economy . It may also be important to develop a keen aggression in the students to learn and deliever during their education and training so that it provide necessary backbone to the practicing CA profession and the requirement.

It is possible to address these issues on the basis of a strategic approach and active participation of all concerned. The Institute of Chartered Accountants of India need to consider -

i) To impart 3 weeks to 6 weeks special class room session to CPT past students to train them and equip them mentally, psychologically as well as academically to undertake practical training with practicing chartered accountant firms.

ii) To address the issue of dummy training by providing a mechanism of detailed reporting requirement by article students in respect of actual practical training undertaken through online mechanism on a periodical basis, to be countersigned by the Principal concerned. The students joining CA course must be required to give a periodic affidavit and undertaking that they are diligently carrying out their training effectively. In case of false declaration, a clear-cut provision of cancellation of the training period may be prescribed.

iii) The CPT examination should be strengthened significantly to ensure that the admission in our course is more tough so that, of the students who are actually admitted, a significant majority i.e. 80% - 90% of them should be able to qualify the intermediate examination (PCC) as well as the final examination of the Institute.

iv) The mandatory coaching for CA intermediate as well as for CA final should be provided by the Institute through its Regional Councils and Branches besides accredited Institutions. A part of this mandatory coaching should be on residential basis to enable development of professional trades and personalities of internationally best level for our profession to march ahead in competition as compared to the best Management Schools in the country and the global market places.

v) Private coaching institutions are to be monitored to ensure that they do not impart coaching to students of PCC (intermediate) as well as CA final during the working hours of their training. It may be appropriate to accredit (register) these private coaching institutions so as to enable the Institute to monitor their quality, infrastructure, fee scales as well as delivery timings to the benefit of the profession of Chartered Accountants. These coaching institutions are providing significant contribution currently to the CA students and the Institute's support will further sharpen their delivery capabilities and will ultimately improve the performance of the CA students.

DELHI MASTER PLAN – A DILEMMA OF CHARTERED ACCOUNTANTS

The Master Plan of Delhi 2021 has permitted professionals to operate from residential areas in Delhi subject to a maximum 50% area of dwelling unit / plot being occupied for residential purpose. The occupants are required to pay only a conversion charge (which is nominal) and a substantial one-time charge for parking charges ranging from Rs. 1.5 lakh to Rs. 4.5 lakh depending on the area of their occupation. The last date for this payment was 30th June 2007.

The NIRC of the Institute of Chartered Accountants of India, at the behest of the Regional Council Members and Central Council Members filed a Writ Petition before the Hon'ble Delhi High Court challenging this levy. The Hon'ble Delhi High Court has granted a stay till 30th July 2007.

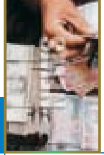
The major issues to be decided in this regard include:

- A clear-cut declaration is required that these charges are not leviable for those who are occupants of the premises for a period before 1962 for commercial / professional purpose.
- The Government is levying hefty parking charges without providing any proper infrastructure for parking. Even a concrete plan is not being promised in this direction.
- Why should there be a last date for payment of such charges? Professional will keep on establishing their profession hereafter also, how can this benefit be denied to those who establish themselves after 30th June, 2007?
- In case a professional pay charges in a locality (A) and later on he shift to locality (B) whether these charges will be again payable.
- In case some other professionals occupy the vacated premises in locality (A) as above, will he be entitled to the benefit of parking charges earlier paid for the same premises by another professional who was occupying the premises earlier.

There are number of grey areas and even it is not fully clear:

- Whether the rest of the building has to be occupied by the Chartered Accountant himself for residential purpose or anybody else could be occupying the same for residential purpose?
- What will happen if a part of the building is vacant.
- Whether there is some special treatment for Basements being used by professionals
- What is the position if more than one professional occupy a building

This matter is to be pursued with Municipal Corporation, urban development Ministry and with the Hon'ble court to get solution and clarity to the aforesaid issues. We congratulate NIRC and Central Council Members for taking an initiative in this regard, which is to be further, strengthened for the benefit of the professionals. We request the ICAI to also actively support the fight against discrimination with CA community in respect of Service Tax levy. We are committed for active support including protest ! Dharana! Satya Grah!



1.0 DEADLINE FOR TAX ON ESOPs EXTENDED

The Centre has extended the deadline for payment of the first installment of Fringe Benefit Tax on Employee Stock Option schemes (ESOPs) by three months to 15th September 2007.

2.0 CBDT ISSUES NORMS FOR STOCK GAINS

The Central Board of Direct Taxes (CBDT) has directed tax officials to assess liability for those transacting in shares on the basis of principles laid down by the Authority of Advance Rulings (AAR). These principles distinguish between shares held as stock-in-trade (trading assets) and those held as investments.

The circular implies that tax-assessing officers will henceforth have to look into the holding pattern of the securities bought and sold, the sale-purchase ratio, the time involved, the funding sources and the overall trade volume when determining the tax liability involved among others.

The CBDT has also said tax payers can have two portfolios – an investment one, comprising securities treated as capital assets, and a trading one, comprising stock-in trade, treated as trading assets.

(Circular No. 4/2007, dt: 15/06/07)

3.0 VALUATION OF STOCK

Income tax Act, 1961 – Section 145 – Valuation of stock – Assessee changed the basis of valuing closing stock – Reduction of profits – Assessing officer made additions – Tribunal deleted the additions- High Court upheld the deletion – Whether correct – Held, No.

Commissioner of Income Tax v. Hindustan Zinc Ltd. [{(2007) 161 Taxman 162(sc)]

4.0 I-T DEPT TAPPING PHONES IN EXCEPTIONAL CASES

The Finance Ministry has said it does tap telephones in exceptional cases to unearth tax evasion but denied eavesdropping on routine corporate calls.Phone interception is done only in very exceptional and the rarest of cases after obtaining due authorization from the appropriate authority.

It also said telephone interception was not being used for routinely tapping corporate conversations or keeping a tab on top bracket taxpayers.

The statement was issued following certain media reports, which said the investigation wing of Income Tax (IT) Department was tapping corporate conversations over the past some time.

5.0 PORTAL FOR FILING OF I-T RETURNS

Four alumni of the Indian School of Business have developed Taxyantra.com, a portal that helps people file their Income-Tax (I-T) returns.The portal enables people to file IT returns from anywhere in the world, including people residing in the US and UK.

A registered user who wants to file returns all by himself has to pay Rs. 100 as fee and those who prefer the portal to handle the filing of returns would need to pay Rs. 250/-.

RETURN PREPARATION SOFTWARE

Central Board of Direct Taxes has released Return Preparation Software in PDF Utility for ITR 1 and ITR 2 for Assessment Year 2007-08. These can be downloaded from http://incometaxindiaefiling.gov.in

The software for the other forms is to be released soon.

SERVICE TAX

1.0 DRAFT CIRCULARS ON SERVICE TAX

The Central Board of Excise & Customs (CBEC) has issued two comprehensive and consolidated draft circulars;

- dealing with the procedural issues and
- dealing with the scope of the taxable services.

The draft circular on procedural issues aims to consolidate the service tax procedural issues including those relating to availment and utilization of CENVAT credit in so far as they relate to service tax. This circular supersedes all previous circulars/clarifications/instructions issued by on these subjects. It is however, clarified by CBEC that this circular intends only to clarify the scope of the Act and the rules and therefore in the event of any inadvertent inconsistency or contradiction between this circular and the provisions of the Act or the rules, the latter would prevail.

The draft circular on technical issues intends to cover technical issues relating to scope and classification of taxable services, levy of service tax and valuation of taxable services. This circular supersedes all circulars, clarifications and communications issued from time to time by the CBEC, DG (Service Tax) and various field formations on all technical issues including scope and classification of taxable services, valuation of taxable services, export of services, services received from outside India, scope of exemptions and all other matters on levy of service tax. With the issue of this circular, all the clarifications issued on technical issues relating to service tax stand withdrawn.

The above two draft circulars were hosted on the website of CBEC for comments to reach it latest by 29th June 2007, now extended by 15 days.

CERTIFICATE COURSE

AICAS

36 HOURS
of an intensive professional learning
WORKSHOP ON DIRECT TAX
From concepts to practice……..

CFO WORLD
Where Ideas Converge

DATES:	TIME:	VENUE:
From 18th August, 2007 to 8th September, 2007 (18th, 25th, 31st August, 2007 & 1st,7th, 8th September, 2007)	1.00 p.m. to 8.30 p.m. (Lunch: 1.00 p.m. to 2.00 p.m.) (High Tea: 5.00 p.m. to 5.30 p.m.)	Lecture Hall, India International Centre (IIC), Annexe Building, 40 Max Mueller Marg, New Delhi

THE COMPREHENSIVE REFRESHER COURSE ON DIRECT TAXES

A Comprehensive Refresher Course/ Workshop on Direct Taxes is being conducted spread over 6 days with the active participation of eminent speakers and professionals. The MAIN THRUST is to carry out an indepth study of the basic concepts, critical issues and their practical applications including tax planning of the laws, rules and regulations and recent case laws relating to Direct Taxes.

DAY 1 - 18/08/2007 (SATURDAY)

Session I: Basic frame work/Overview of Income Tax Law including chapters and schedule, Basis of charge income Chargeable in India/Income chargeable outside India, Scope of Total Income, Residential Statues

Session II: Interpretation of statues, Principles Of Natural Justice

Session III: Incomes of Charitable Trusts, NGOs, Societies, Section 25 Cos, Mutual benefit Societies, Not for profit Organisations and similar Institutions covering:- Selection of entity and its formation, Procedure for Registration & availing exemptions, Accounts & Audit including Form 10B, Taxation of Charitable Entities, Cancellation of Registration, Circumstances of loosing exemptions under Sec. 11 and 10 (23C)

Session IV: Taxation of family /private Trusts, Family Trusts as a tool of tax planning

DAY 2 - 25/08/2007 (SATURDAY)

Session V: Salaries of residents, their allowances & perquisites, Salaries of Expatriates, Salaries of employees posted outside India, Tax Planning for Salaried Persons, Exempted allowances and retirement benefits

Session VI: Concept of 'Transfer' under General and Tax Laws, Capital gains related to house property including collaborations, Capital gains related to securities, Capital gains on depreciable assets and other assets, Deemed capital gains under section 50C, Capital gains on compulsory acquisition of assets, Options to plan capital gain tax

Session VII: Income from House Property, Income from other sources

Session VIII: Profits and gains of business or profession (Indian Business), Presumptive Incomes u/s 44AD, 44AE & 44AF, Section 28, 30, 32, 35D, 40, 40A & 43B, Section 37 & precaution to be taken for disallowances by A.O. (including disallowance under Section 14A)

DAY 3 - 31/08/2007 (FRIDAY)

Session IX: Important Exempt Income under section 10 : Dividend, Capital Gain, Agriculture Income, Agriculture asset transaction, Income of Minor, Income from Mutual Fund, Sec.10 (10D) – LIC Maturities, Keyman Insurance etc., Tax exempted bonds & securities-Section 10(15), Other important exempt incomes

Session X: Deductions and Exemptions exemption under: Section 10A, 10AA, 10B, 10BA,10BB

Session XI: Deductions under Chapter VI A: Section 80C and 80 CCC – Savings, Investments and Pension, Section 80D, 80DD, 80DDB – Medical Expenses, Section 80E – Interest on Education Loans, Section 80G, Section 80GG – Rent Payment, Other Important deduction (Section 80JJAA, 80U), Section 80HHC, 80IA, 80IB, 80IC and special deductions

Session XII: Tax deducted at source (TDS), Tax Collection at service (TCS)

DAY 4 - 1/09/2007 (SATURDAY)

Session XIII: Overview of Tax Treaties: OECD Model, UN Model, Other Models, Important aspects including concept of " Permanent Establishment "

Session XIV: Analysis of Indo-US DTAA and similar treaties and their impact on taxability of transactions and planning issues

Session XV: Analysis of Indo-UK DTAA and similar treaties and their impact on taxability of transactions and planning issues

Session XVI: Withholding Tax on international payments: Section 4,5 and 9, Section 195, Impact of DTAA

Session XVII: Fundamental issues relating to " Transfer Pricing": Determination of appropriate method, Practical issues related to " Transfer Pricing", Preparation of TP study including sources of information and documentation, Case laws on Transfer Pricing - Indian & International, Approach of the Department, Approach of the Assessee

Session XVIII: Special provisions relating to taxation of Non Residents: Section 44AD, 44BB and 44BBB, Section 115A onwards

DAY 5 - 7/09/2007 (FRIDAY)

Session XIX: Clubbing of Incomes, Certain Deemed Incomes, Aggregate of Incomes, Set off and Carry forward of losses

Session XX: Taxation issues related to Merger and Demerger

Session XXI: Critical issues related to Fringe Benefit Tax

Session XXII: Hindu Undivided Family: Formation / Creation, Taxation, Assessment, Partition

Session XXIII: Partnership Taxation-special and critical issue

Session XXIV: Corporate Taxation special and critical issues including: MAT, Section 35D, Deemed Dividend, Dividend Distribution Tax and its claim ability in investing country

DAY 6 - 8/09/2007 (SATURDAY)

Session XXV: Survey, search and seizure covering, Relevant Law, Practical aspects during search & survey, Investigations/inquiries arising out of Annual Information Report (AIR), complaints & data mining by government current trend and strategies

Session XXVI: Assessments and Reassessments: Practical aspects of presentation before A.O., How to respond to notices u/s 131, 133, etc., Penalties including penalty u/s 269SS & 269T, Offences and Prosecutions, CBDT – Powers and Authority – waiver of interest etc. (Sections 119 and 230), Powers of waiver of penalty by Commissioner of Income tax -Section 273A (4), Power of tax recovery officers

Session XXVII: Appeal to the Commissioner of Appeals, Appeal to the income tax Appellate Tribunal, Revision by the commissioner of Income Tax, Judicial Precedents

Session XXVIII: Wealth Tax

SPEAKERS

Experts invited to address the participants at the workshop are:

- CA Ved Jain, ICAI
- Sh. Ravi Gupta, Advocate
- Dr. Girish Ahuja, Lecturer
- CA Pradeep Dinodia, S. R. Dinodia & Co.
- Sh. Subhash Lakhotia
- CA Ajay Vohra, Vaish Associates
- CA S. K. Khurana, FCA
- Dr. Rakesh Gupta, Rakesh Raj & Co.
- CA Sanjiv Chaudhary
- CA Ajay Jain, Institute of Systematic Studies
- Sh. M. S. Syali, Advocate
- CA Anil Chopra
- Sh. K Sampat, K. Sampat & Co.
- CA Ajay Wadhwa, Ajay Wadhwa & Associates

Some speakers are being confirmed

PARTICIPATION FEES

- **NON CAs/CORPORATE** — **Rs. 5000/-** *per person*
- **CAs/ CA FIRM** — **Rs. 4500/-** *per person*
- **AICAS MEMBERS** — **Rs. 4000/-** *per person*
- **CFO WORLD MEMBERS** — **Rs. 4000/-** *per person*

RESTRICTED TO ONLY 100 PARTICIPANTS ON FIRST COME FIRST SERVE BASIS

NOTE:

- Participation fees covers high tea, lunch and background material to the participants
- A voluntary Appraisal Questionnaire to judge the understanding of the workshop is proposed
- A Certificate of satisfactory completion of workshop will be issued
- Paritcipants are expected to share their own practical experience and raised queries during interactive session
- Alternative nominee for specific session(s) or day(s) could be permitted

FOR FURTHER DETAILS PLEASE CONTACT:

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Joint Convenor:

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- **CA Ajay Matta (9811277782)**
- **CA D C Garg (9811039211)**
- **CA Baldevraj (9312235173)**

Programme Director:

- **CA Vinod Jain (9811040004)**

2.0 SERVICE TAX ON TRANSPORTATION CHARGES BEYOND THE POINT OF REMOVAL – NOT AN INPUT SERVICE

The Delhi Bench of CESTAT in the case of Gujarat Ambuja Cements Ltd. V. Commissioner of Central Excise has held that service tax paid on transportation of goods beyond the place of removal is not an input service. In the present case, the appellant company was in the business of manufacture of cement. It claimed cenvat credit of service tax paid on the transportation charges from the place of removal till the place of customer, which did not find favour with the Tribunal. CESTAT held that the post sale transport of manufactured goods is not an input for the manufacturer/consignor. Service used in relation to the clearance from the place of removal and service used for outward transportation are to be treated as input service.

CORPORATE LAWS

1.0 MERGER OBJECTION REJECTED

Companies Act, 1956 – Section 394 – Merger of NBFC with other company – Regional Director raised three objections relating to procedural/technical formalities and compliances including increase in the authorised share capital of the transferee company and modification of the main objects of the transferee company to include the business of the transferor company– Whether objections are tenable – Held, No.

Fetchus Finsec Ltd.,In re. [(2007) 76 SCL 123 (DEL)]

2.0 COMPETITION AMENDMENT BILL, 2007

The Ministry of Corporate Affairs is proposing a penalty for mega corporations failing to inform the competition regulator about their consolidated plans may have to pay hefty price. The penalty would be equal to 1% of the turnover or assets of the combined entity, whichever is higher. Companies, however, would get more time to inform the Competition Commission of India of their board's decision regarding merger or an acquisition that has been signed. As per the Competition Amendment Bill, 2007, corporate would get 30 days for this, compared to seven days prescribed in the existing law.

The ministry also wants to bring about certainty on how much time Commission could take to clear deal. This would build confidence among corporate entities to go ahead with Merger & Acquisitions.

CAPITAL MARKET

1.0 SEBI EXTENDS PAN DEADLINE FOR MF BUYS

The Securities and Exchange Board of India (SEBI) has extended the deadline for the mandatory Permanent Account Number (PAN) requirement for all new investments in Mutual Funds (MFs) by six months up to 31st December 2007. SEBI has insisted that investors making new investments in MFs should produce proof that they have applied for PANs.SEBI, has however, exempted investors participating in micro-pension schemes from the PAN requirement.

(SEBI/IMD/CIR No.5 /96576/2007 dt: 25/06/07)

2.0 SEBI BOARD SET UP IPF

The Securities and Exchange Board of India (SEBI) has decided to set up an Investor Protection Fund (IPF).The IPF will be started with an initial contribution of Rs. 10 crore by SEBI. SEBI plans starting a nation-wide investors' education campaign. The Board decided not to wait for an amendment to the Securities Contracts Regulation Act (SCRA) for the IPF.

3.0 SRO FOR INVESTMENT ADVISORS

The Securities and Exchange Board of India has decided to frame regulations for investment advisors. The registration of advisors and the implementation of the norms will be the responsibility of a Self-Regulatory Organisation (SRO), which is yet to be formed.

4.0 DELISTING OF GUIDELINES MODIFIED

The Securities and Exchange Board of India (SEBI) has cleared the delisting guidelines with some modifications in its draft. The new guidelines will provide fair opportunities to companies opting for a delisting option even as they take care of investor interests.

5.0 PAN-THE SOLE ID NO.

The Securities and Exchange Board of India (SEBI) vide circular No. MRD/DoP/Cir- 05/2007 dated April 27, 2007 has made Permanent Account Number (PAN) the sole Identification Number (ID No.) for all participants in the securities market, irrespective of the amount of transaction. In light of the above, it has been decided to discontinue with the requirement of Unique Identification Number (UIN) under the SEBI (Central Database of market Participants Regulations), 2005 (MAPIN regulations)/circulars.

(MRD/DoP/Cir- 08/2007 dt: 25/06/07)

6.0 SEBI ANNOUNCE CONSENT ORDER PENAL MECHANISM

SEBI has approved the consent order scheme. The scheme provides for settlement of cases of violations by paying a penalty. The scheme will result in swift solutions to many cases of violations that have piled up.

7.0 EXTENSION OF TIME FOR UPLOADING OF NAVs

In view of the practical difficulties being faced by the Mutual Funds in uploading the Net Asset Value (NAV) of Fund of Fund Schemes on AMFI's website and their own website it has been decided that the time limit for uploading of NAV for fund of fund Schemes shall be extended to 10:00 am the following business day.

EXIM / FEMA

1.0 RBI BANS HYBRID BOND ISSUED ABROAD

The Ministry of Finance (MoF) had introduced revised guidelines on issue of Prefrence Shares vide a press release dated April 30, 2007 pursuant to which foreign investment in the form of fully convertible preference shares would be treated as part of share capital, while other types of preference shares, optionally convertible preference shares, shall be required to conform to ECB guidelines/ECB caps. The MoF has now issued another press release whereby an exemption could be available from the purview of the revised guidelines to those institutions/corporates which have taken "verifiable and effective steps" prior to April 30, 2007. 'Verifiable steps" would be actions that have footprints in public domain, and hence, verifiable with reference to these foot prints. "Effective steps" would be actions that go beyond simple intention to act and should be such that they bind the parties conclusively.

Parties claiming benefit under the above exemption are required to complete the process of issuing the shares and receipt of money in lieu of such shares by 31.03.2007.

Now, RBI has barred companies from raising funds overseas through issue of optionally and partially convertible bonds under foreign direct investment (FDI) regulations. Companies will now be allowed to only sell bonds that compulsorily convert into equity within a specified time frame. The clarification comes after the RBI found that Indian companies were raising funds overseas by selling hybrid instruments, which were essentially debt.

Routing of debt flows through the FDI route circumvents the framework in place for regulating debt flows into the country, whether through overseas foreign currency borrowings or through foreign investment in rupee denominated debt.

The bank, however, allowed all existing investments in instruments, which are not fully convertible into equity to continue till maturity.

(RBI/2006-2007/435 dt : 08/06/07)

2.0 HOTELS, ADVT., FRANCHISEE MAY NOT NEED NOC

The Government is planning to further liberalise the Foreign direct Investment (FDI) regime by exempting several sectors from the mandatory requirements under Press Note 1 (PN 1). Advertising, hospitality, franchisee operations and several other services could be kept out of the purview of PN 1, which bars multinationals in existing joint ventures (JV) from setting up another venture in a similar line of business without a non-objection from the Indian JV partner. The move is expected to remove a major irritant in sectors such as advertising, hotel, agro processing and franchising.

The department of industrial policy and promotion has circulated a note on this as a part of an overall review of FDI regulations. At present, mining and IT are exempted from PN 1.

ICAI NEWS

1.0 QUALITY REVIEW BOARD FOR CAs

The Government has constituted a Quality Review Board (QRB) under the chartered accountants law to review the quality of services including audit services rendered by the members of the Institute of Chartered Accountants of India.

2.0 PROHIBITION TO UNDERGO CFA

Constitution of India read with the Chartered Accountants Act, 1949 – Prohibition to undergo Chartered Financial Analyst (CFA) programme offered by Institute of Chartered Financial Analysts of India (ICFAI) – whether reasonable restriction – Held, No.

The Institute of Chartered Accountants of India (ICAI) had prohibited its members from acquiring the qualification of CFA offered by the ICFAI. The Gauhati High court upheld the prohibition imposed by ICAI against which ICFAI appealed to the Supreme Court. Appeal Allowed

The notification dated 3-8-1989 issued by ICAI prohibited all CAs from joining a CFA course. SC held that the notification amounted to excessive restriction, and it is well settled that excessive restriction which is not required in the public interest is not reasonable and, hence, not saved by article 19(6).

ICFAI vs ICAI [(2007) 161 TAXMAN 142 (SC)]

PROFESSIONAL OPPORTUNITIES

CA-NET PORTEL

The Professional Development Committee has developed CA Net portal facilitating networking among members & firms. The URL of the site is www.canet.co.in. CA Net could be used in following three manners:

- Referencing
- Consolidation
- Networking

EMPANELMENT AS A PEER REVIEWER

Peer Review mechanism put in place by the ICAI, as per the statement on Peer review, has commenced and gained momentum. The reviews are to be carried out by reviewers empanelled with the Peer Review Board. The criteria for empanelment as a reviewer is that a person should :

Be a member, possess at least ten year's experience of audit and be currently active in the practice of accounting and auditing.

BANK EMPANELMENT FORM (BEF) FOR THE YEAR 2007-08

The bank empanelment form for the year 2007-08 has been hosted on www.meficai.org and will be available for submission by members till the last date specified on the site.

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