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EDITORIAL

GOVERNMENT ALLOWS PUBLIC SECTOR BANK BOARDS TO APPOINT AUDITORS – ADVERSE IMPACT ON BANKING SECTOR

The Finance Ministry has decided to allow Board of Directors of Public Sector Banks to directly appoint their Statutory Central Auditors and Branch Auditors. Under the new system, banks would directly source names of the auditors from the panel of Comptroller & Auditor General of India (CAG) for Statutory Central Auditors (SCA). In respect of Branch Auditors the names would have to be obtained from the Institute of Chartered Accountants of India (ICAI).

As per the currently prevailing system a CAG Panel of Statutory Central Auditors is made available to Reserve Bank of India (RBI) who decide the names of the Auditors for specific banks. RBI out of a Panel prepared by the ICAI specifically for RBI selects the Branch Auditors. RBI appoints specific auditors for specific bank on the basis of a transparent and highly professional system.

The RBI and ICAI together monitor the scope, coverage and reporting requirements for auditors. RBI issues specific directions from time to time to the auditors for coverage and reporting requirements on specific aspects.

The decision of the Government to delegate appointment of auditors, to the Board of Directors will severely impact the independence of auditors, as the bank boards will be free to appoint auditors of their choice out of a large Panel maintained by CAG. The independence of auditors, who are appointed by the Board could be marred severely as the appointment, re-appointment and removal of the auditors will be governed by the Directors including the whole-time directors and top management whose deeds and mis-deeds are to be reviewed and reported by the auditors. We have also been advocating appointment of Independent Auditors in case of listed/large corporates on the similar grounds.

The quality of audit and financial discipline on the banks could be severely impacted. The various norms and guidelines issued by the RBI in respect of Non-Performing Asset, provisions to be made and various prohibitions to undertake various kinds of business are being reviewed by the auditors independently appointed by the banks on the advice of RBI. The current practices actually ensure a highly professional and effective audit mechanism. The financial position of public sector banks has significantly improved, due to tight financial discipline being monitored by the RBI with the help of the auditors appointed by them. Even at the branch level, the branch auditors appointed by RBI, out of the panel provided by ICAI has been very effectively monitoring the working of more than 50,000 branches, every year.

Under the proposed system, the Bank's Board of Directors could be free to appoint any Chartered Accountant Firm, provided it is on the Panel maintained by CAG in case of SCA and ICAI in case of branch auditors. The banks will be able to appoint fewer firms, of their choice for conducting the audit of entire business of the bank spread all across India. The banks will be free to rotate the auditors, as per their choice, whims and fancies. Some firms of Chartered Accountants could be appointed as Statutory Central Auditor for number of banks and/or larger number of branches. All kinds of pulls, pushes and approaches could start operating to ensure appointment of certain specific firms of auditors, which are more closer to the management.

It has been observed during last 5 years that a number of private sector banks and Urban Co-operative Bank have been subjected to serious financial scam led by management of the concerned bank. Even recently in the YES BANK IPO scam RBI has fined several private sector banks. Global Trust Bank, Lakshmi Commercial Bank etc. had to be merged with public sector banks due to poor financial state of affairs arising out of management failure and inadequate reporting by the auditors appointed by the management.

In case of Global Trust Bank (GTB) the auditors gave a true and fair view to the financial statement of March 2002 with a

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Government allows ....

net worth of Rs. 400 crores, whereas the networth was actually negative as per the independent auditors appointed by Reserve Bank of India. Even again in March, 2003 the auditors appointed by the management reflected a positive net worth whereas RBI found that the networth was not only negative but had further been eroded. ICAI had already initiated action against the concerned auditors with the help of RBI. However, a very large number of shareholders of GTB as well as deposit holders and other stakeholders suffered very badly. Oriental Bank of Commerce and its shareholders under the compulsion took the burden of GTB.

In the case of banks and other companies in the financial sector it is very important and necessary that the auditors are appointed in a completely independent manner. In fact the government should consider with open mind to issue necessary instructions that the auditors of all banks including public sector banks, foreign banks (Indian operation), private sector banks and urban co-operative banks are appointed by RBI or any other independent authority.

The appointment of auditors by the banks concerned or even by the Board of Directors, is a highly retrograde step and will severely impact the viability and long term sustainability of the public sector banks. Government shall knowingly be inviting serious fraud, mis-management and encourage and open floodgates of financial in-discipline in the absence of independent audit.

Liberalisation and privatisation in the financial sector must be followed by stringent financial discipline and regulation. The manner in which, as per the allegation, the GTB management and various firms or companies owned by their relatives and friends were benefited out of the way, is a clear-cut example of how serious impact, the proposed decision of the Government can have on the working of the entire financial system and more specifically in the public sector banks.

We strongly oppose the decision of the government that has been taken without consulting ICAI and would urge upon the Hon'ble Comptroller and Auditor General of India, RBI as well as Government to not to implement the aforesaid decision. Rather in the present day scenario of rapaid economic growth, it is most appropriate to consider a close review by independent auditors of the entire financial system including all banks, insurance companies mutual funds, venture capital funds and non-banking financial companies accepting public deposits by appointing independent auditors RBI or CAG with detailed transparent reporting.

We hereby call upon the profession of Chartered Accountants, the Journalists, the Thinkers and the Intelligentsia of the society to strongly oppose this move of the Government of India, which has been iniated on the lobbying of some unscrupulous bankers with ulterior motive. Let us join hands together to oppose this move.

Please write your views in respect of this (mis)adventure of the Government to vinodjain@inmacsindia.com or cfoworld@gmail.com or at 9811040004

LATEST IN FINANCE

1.0 RAILWAYS OPEN DOOR TO PRIVATE SHIPPERS

The Government has recently announced a policy that will allow private companies in container transportation by rail, bringing to an end Container Corporation of India's (Concor) long-held monopoly in the business.

All companies, including Concor, will now have to pay a one-time registration fee of Rs. 50 crore to ply on all routes and Rs. 10 crore if they want to run on a specific route. The scheme will be open to all Indian companies or joint ventures with a minimum annual turnover of Rs. 100 crore.

2.0 NORMS ON SECURITISATION OF STANDARD ASSETS

The Reserve Bank of India (RBI) has recently issued guidelines on securitisation of standard assets. It states that any transaction between the bank and the Special Purpose Vehicle (SPV) 'should be on an arm's length basis.' The bank should not have any ownership, proprietary or beneficial interests in the SPV.

Under securitisation, banks or Financial Institutions sell assets to an SPV in return for immediate cash payment. The SPV then repackages and resells the assets to a third party by issuing tradable debt securities.

As per the guidelines, the bank shall not have any economic interest in the assets after its sale and the SPV shall have no recourse to the bank for any expenses or losses except those permitted under the guidelines. The sale should be only on a cash basis and the considerations shall be received not later than at the time of transfer of assets to the SPV.

Banks should not be under any obligation to purchase the securities issued by the SPVs, and should not subscribe to their primary issue. They may, however, purchase at a market price only senior securities issued by the SPV if these are at least of an 'investment grade'. Such purchase, along with securities that may devolve on account of underwriting commitments, should not exceed 10 per cent of the original amount of the issue.

(Source: RBI No. 2005-06/294 dt. 1.2.06)

3.0 PSU GROUP TO PROVIDE POWER SECTOR FUNDING

The Sstate owned Power Finance Corporation (PFC), Life Insurance Corporation (LIC) and a clutch of ten banks, including public sector biggies such as Punjab National Bank and Oriental Bank of Commerce, are joining hands to form a consortium for financing power projects with the aim of streamlining the funding of large-scale projects and to effectively take on competition. Calling themselves the 'power lenders clubs' the consortium promises a one- stop shop for all funding requirements of the power sector including for reform projects across states.

4.0 155 STAR HOTELS COMING UP

The Hotel Industry which is reeling under a shortage of over 1.25 lakh rooms across the country may get some relief soon. Around 155 hotels, which are under active development in various cities in the country, will help to bridge this huge gap. The figure does not include the economy hotels which are also set to grow in large numbers.

5.0 ECB KEEPS INTEREST RATES UNCHANGED

The European Central Bank (ECB) recently left interest rates unchanged as it waits for further evidence that economic growth in the dozen nations sharing the euro is gathering momentum before acting to keep a lid on inflation. Policy makers meeting in Frankfurt kept the benchmark refinancing rate at 2.25%, after raising it for the first time in five years last month.

6.0 EOIs FOR PHARMA PARKS

The Ministry of chemicals and petro-chemicals has invited "expressions of interest (EoIs)" from private infrastructure development companies for the purpose of assessing the industry response to its proposed pharma parks. A notification from the ministry has laid down a 40:60 cost-sharing formula for the public and private parties, respectively, with a cap of Rs.40 crore on Government contribution for each park.

7.0 JET AIR BUYS SAHARA

Jet Airways recently announced the acquisition of Air Sahara for $500 million (Rs. 2,217 crore) in an all-cash deal. It has valued Air Sahara at $ 500 million and will buy 100 per cent equity in the airline subject to regulatory approvals. Once all the approvals are received, Sahara will be merged with Jet.

8.0 BANKS TO ISSUE PERPETUAL BONDS

ICICI Bank and State Bank of India will be the first off the block to issue perpetual bonds – a hybrid security somewhere between debt and equity, which will be offered to retail investors. Although perpetual bonds are debt instruments, they do not have a maturity date. The investor will receive a stream of interest payments for perpetuity. The bonds are liquid as they can be sold in the secondary market through stock exchanges. The banks are looking at the option of issuing perpetual bonds – one of the new instruments likely to be approved as Tier I capital (i.e., equity and free reserves).

The reason why perpetual bonds may qualify as Tier-I, is that these are permanent and can absorb losses of a bank. In case a bank goes into liquidation, holders of perpetual bonds are paid second last, after all other depositors and creditors but before equity holders. Bank for International Settlements requires securities to be permanent to qualify as Tier I capital. The issues, however, have an option to recall the bonds after 5-10 years. Banks can also hedge against interest rate risk by issuing floating rate bonds.

9.0 BANK HIKES PLR

ICICI Bank has become the first to raise the benchmark prime-lending rate (BPLR) amid heightened pressure on margins.

ICICI Bank benchmark advance rate (I-BAR) has been increased by 25 basis points (bps) to 11.25 per cent with effect from January 3,2006. One basis point is one hundredth of a percentage point.

10.0 REVERSE REPO RATE HIKED

The Reserve Bank of India (RBI) has recently hiked the reverse repo rate (the rate at which the RBI absorbs excess bank funds) by 0.25 percentage points to 5.5 per cent with immediate effect.

This is the third time in the current fiscal that the central bank has hiked the reverse repo rate. The repo rate also been raised by 0.25 percentage points to 6.5 per cent, as it is linked to the reverse repo. The central bank has left unchanged other key rates such as the bank rate at 6 per cent and the cash reserve ratio at 5 per cent.

11.0 MAHARASHTRA WITHDRAWS STAMP DUTY

The Government of Maharashtra has relented to waive the proposed stamp duty on all direct deals and deals through electronic medium (Negotiated Dealing System Order Matching System) in Government securities both retrospectively and prospectively.

12.0 INTEL UNIT MAY GET SEZ STATUS

Global chip manufacturer Intel's proposed testing facility is likely to get the status of a Special Economic Zone (SEZ). The company is seeking benefits in addition to those available to the SEZs on the ground that the high cost of land and power and high wage rate are coming in the way of making its investment viable. The Company has identified around 120-150 acres of land near Chennai for setting up the facility. It is seeking an unsecured loan of Rs. 200 crore from the Government alongwith other concessions such as unlimited access to external commercial borrowings and tax waivers.

13.0 INTEREST RATE IN BOND MARKET RISES

Companies planning to mobilize resources from the bond market have started feeling the pinch. Following the reverse repo rate hike, announced by Reserve Bank of India recently interest rates in the corporate bond market is also showing signs of firming up.

It is believed that ICICI bank reacted to this development immediately and revised its coupon to 8.15% (payable annually) from 7.95% (payable annually) as fixed earlier for its 10-year bonds, ICICI Bank has another option of 15-year bonds, on which the coupon has been raised to 8.25% from 8.05% (both payable annually).

14.0 NCDRC FOR COMPULSORY HALLMARKING OF GOLD

The National Consumer Disputes Redressal Commission (NCDRC) has asked the Central Government to issue directions / notifications to jewellers to emboss their identification mark, which should indicate the fineness of an ornament till hall-marking is made compulsory.

15.0 STAMP DUTY ON LOANS REDUCED

The Maharashtra Government has now relented to scale down the stamp duty on loans to 0.10% from 0.25%. It has also agreed to halve the maximum stamp duty amount on any loan to Rs. 5 lakh.

16.0 IDBI ENTERS EQUITY/ VENTURE FUNDING

IDBI Ltd. is planning to enter private equity and venture capital funding opportunities, through its subsidiary, IDBI Capital.

17.0 NEW SEZ ACT

The Union Government is not likely to allow hire and fire system under the new Special Economic Zone (SEZ) Act, but may allow seasonal labour for specific industries like textiles. Meanwhile, the Government has already cleared proposals for 65 SEZs throughout the country, some of which are sector and industry specific.

18.0 RIL'S NEW SEZ REFINERY MAY 'EXPORT' INTO INDIA

The new refinery being set up by Reliance Industries in the Jamnagar Special Economic Zone (SEZ) could end up 'exporting' bulk of its output in India (domestic tariff area), once it turns a positive net foreign exchange earner.

19.0 REGISTRATION OF HOSPITALS MUST SOON

Registration of all hospitals in the country will soon become a norm. The registration will be done at the Central, State and Local levels to establish proper monitoring of hospitals in the country. The Govt. is also considering introduction of Continuing Medical Education (CME). Doctors will have to do 60 hours of mandatory CME and apply for registration after five years. For degree purpose, medical graduates will have to spend a mandatory year in rural postings.

20.0 BANK DROP MOVE TO FIX FLOORS LENDING RATES

With the heat on against what was being perceived as attempts at 'cartelisation', public sector banks seem to have abandoned their efforts to arrive at an industry – wide consensus on floor level lending rates. Top bankers said there was no possibility of reaching such an arrangement at present.

21.0 STANCHART GETS PERMISSION FOR ARC

Standard Chartered bank is in talk with several public sector banks for setting up an Asset Reconstruction Company (ARC). The Asset Reconstruction Company, likely to be named as " Special Asset Reconstruction Company Private Ltd." (Spark) will have 51% Indian shareholding that may be taken up by on or more public sector banks.

According to the bank's plan, StanChart, through its Indian subsidiary, Standard Chartered Investments and Loans (India) Ltd. (SCILL), will hold 49 per cent equity in the company amounting to Rs.49 crore. SCILL has got permission from the Finance Ministry to go ahead with its plan.

22.0 IDBI TO SELL SASF

IDBI Ltd. is open to selling off the Stressed Asset Stabilisation Fund (SASF) for the right price, and if it is in all cash deal. SASF is the Special Purpose Vehicle launched by the Government to take over the Rs. 9000 crore worth distressed assets of the erstwhile IDBI.

The bank is entering into a joint venture with it as 100% - owned subsidiary, IDBI Capital Market Ltd. for setting up an Asset Management Company (AMC), in which the bank will hold 65%, while IDBI caps will have 35%. IDBI has already obtained the necessary clearances from its board to launch the AMC, and is in the process of obtaining the regulatory approvals from RBI and sebi in this regard.

The bank was in the final stages of signing a Memorandum of Understanding (MoU) for the life insurance venture with other partners, including a foreign partner. The bank is in the process of putting in place all the necessary clearances from the RBI and the Insurance Regulatory Development Authority (IRDA).

23.0 INDIA RANKS EIGHTH

India ranks eighth among countries investing in the United Kingdom (UK), being at par with China and ahead of Italy and Netherlands.

24.0 SPECIAL ECONOMIC ZONES RULES, 2006

The Government has recently notified the Special Economic Zones (SEZ) Rules, 2006. The highlights of the same are as follows:

- Simplification of procedures for development, operation and maintenance of SEZ and for setting up and conducting business in SEZ's.
- Single window clearance for setting up a SEZ and a unit in SEZ and on matters relating to Central as well as State Governments.
- Documentation for various activities of the units cut to the barest minimum with a stress on self-certification.
- No requirements for providing bank guarantees in a bid to reduce transaction cost.
- Contract manufacturing for foreign principals allowed. Option to obtain sub-contracting permission at the initial stage.
- Import – Export of all items through personal baggage allowed.
- Multi product SEZs to have minimum area of 1000 hectares and service sector SEZ to have minimum area of 100 hectares.
- Investment worth Rs. 1,00,000 cr., creation of 5 lakhs jobs likely in next 3 years.
- Units to get full income tax exemption for five years, Developers to get tax exemption for ten years.

25.0 MULTI-STATE CO-OPERATIVE SOCIETIES CAN RAISE ECBs

The Reserve Bank of India (RBI) has decided to allow multi-state co-operative societies engaged in manufacturing activities to raise External Commercial Borrowings (ECBs) under the approval route provided:

1. The society is financially solvent.
2. The society submits its up-to-date audited balance sheet, and
3. The proposal should also comply with all other parameters of ECB guidelines such as recognized lender, permitted end-use, average maturity period, all-in-cost ceiling etc.

(Source: RBI/2005-06/281 dt. 23.1.06)

ICAI NEWS

1.0 ICAI FINDS FLAWS IN ACCOUNTS OF COs

The Institute of Chartered Accountants of India (ICAI) has picked holes in the balance sheets of some top Indian companies. Financial Reporting Review Board (FRRB) of ICAI has reviewed the financial reports of 60-70 companies. It found irregularities in 10-15 cases.

FRRB has started doing this for last one year. It is choosing few companies through random sampling method, but is reviewing only those companies where public interest is involved. It may be a financial institution or banks or even big corporate house with large public holding. However, before taking any action against any companies or the auditor, they would get a chance to present their case.

2.0 E-LEARNING FACILITY FOR ICAI MEMBERS

The Institute of Chartered Accountants of India (ICAI), which has taken initiatives to promote e-learning among CA students, is planning to extend the facility to its members soon.

E-learning facility has been made available to students through Reliance Webworlds. The facility will soon be extended to the members of ICAI. Students can download the course material from ICAI's Web site and appear for virtual classes through Reliance Webworlds.

3.0 ICAI OFFERS SERVICE IN IPO ISSUES

The Institute of Chartered Accountants of India (ICAI), worried at the latest incidents of wrongful allotments of Initial Public Offerings (IPO), has proposed to offer Chartered Accountants services in vetting the allotment process followed by companies.

TAXATION

1.0 TRANSFER PRICING AUDITS - SECRET COMPARABLES

The Finance Ministry is unlikely to do away with the practice of resorting to "secret comparables" in the process of transfer pricing audits. Secret comparables are basically benchmarks on information transactions obtained by the tax authorities from another taxpayers or source to be used during the transfer-pricing audit of a particular taxpayers.

For instance, if a multinational company were to submit a particular rate as its arm's length price for complying with transfer pricing regulations, the Revenue Department could compare this price with those of competitors or other sources to ascertain the fairness of the claim. The practice of secret comparables is not prevalent in all countries.

The ministry has turned down the demand of tax practitioners to drop this procedure and has clarified that the system of secret comparables is working well with fair degree of transparency and there is no reason to disturb it.

2.0 1% VAT ON GOLD

Bullion traders in Delhi can finally heave a sigh of relief as non-VAT states, including Rajasthan, UP and Gujarat, have agreed to a uniform floor rate of 1% on the yellow metal.

Gold in Delhi attracts a VAT rate of 1% as compared to 0.25% sales-tax in Rajasthan and Gujarat. UP, on the other hand, levies 0.1% on bullion trade.

3.0 FINANCIAL SECTOR M&As SET FOR TAX SOPS

The formal proposal has been made to the Central Board of Direct Taxes (CBDT) to allow tax incentives under Section 72A of the Income Tax Act to Banks and Financial Institutions (FIs). The tax break is in the form of a set-off of the carry-forward losses of the amalgamating company with the profits of the amalgamated company. If the Government approves this move, it could imply that if a bank acquires a troubled financial institution like IFCI or IIBI, it will be allowed to set off carry-forward losses of the FIs against its own profits.

4.0 BIG RELIEF FOR NRIs FROM EMIRATES

Firms owned by NRIs in the UAE don't have to pay tax in India, thanks to a landmark decision by the Income Tax Appellate Tribunal (ITAT), Mumbai.

The ITAT order has cleared the confusion created by the Authority for Advance Ruling, AAR, in the case of Abdul Razaq Menon, had ruled in May last year that income of NRIs based in the UAE is taxable in India.

ITAT gave the ruling recently in favour of the assessee, Green Emirate Shipping & Travels, a Company based in the UAE,. The assessing officer contended that since the UAE does not have a regime, the shipping company is liable to pay tax in India. The Provisions of Double Taxation Avoidance Agreement (DTAA) do not apply here, the assessing officer had held. The ITAT bench held that when the right to tax UAE residents vests with the UAE Government, that right, whether exercised at present or not, continued to remain the exclusive right of the UAE Government. The exemption from tax is independent of whether the UAE at present levies the tax or not, ITAT observed.

5.0 CHANGE IN BANKS' REPORTING DETAILS

The Central Board of Direct Taxes (CBDT) is considering doing away with requirement to report to the revenue department all deposits on which interest has been paid without deduction of tax at source. This move would come as major relief for banks.

6.0 VERIFICATION OF EVERY INCOME TAX RETURN

The Institute of Chartered Accountants of India (ICAI) wants the tax department to verify every income-tax return saying that 98 percent returns are never examined. The work, it says can be outsourced without compromising the confidentiality of data.

ICAI has suggested that the technical study of every return should verify computation and cross-check he information available in the Tax Information Network to check if a case should be taken up for scrutiny. The institute also said businesses, which were required to pay the VAT, should be asked to file return irrespective of income.

FEMA

1.0 FIPB NOD NEEDED IN SPECIAL CASES ONLY

The Government recently clarified that foreign investors eligible through the automatic approval route should seek prior approval only in case of specific reasons. The investors are advised to access the automatic route where the policy so permits. Whenever prior approval is sought for activities or royalty payments eligible for automatic route, the investors would need to indicate the specific reason for seeking it.

FDI up to 100% is permitted under the automatic route in most sectors or activities. It is also allowed for foreign technology collaboration where the payments are within 5% for domestic sales and 8% for exports. Cases not covered under the automatic route need approval of the Government through the Foreign Investment Promotion Board (FIPB) or Project Approval Board (PAB) for FDI or foreign technology collaboration.

2.0 PIO INVESTMENT IN AVIATION

The Union Cabinet is expected to take up the issue of permitting Persons of Indian Origin (PIO) to invest in the domestic aviation sector. The important question is whether to extend the definition of NRIs to PIOs who want to bring fresh investments in aviation. NRIs are allowed up to 100% foreign investment in aviation.

FDI FLOWS TO INDIA

Country	2005 (Jan - Sept)	2004 (Jan - Sept)
Mauritius	4819	3294
USA	1826	2478
Singapore	1109	263
UK	936	565
Japan	448	400
Netherlands	377	2165
Germany	269	547

(Rs. Crore)

3.0 CLARIFICATION REGARDING FDI

The Government has clarified that permission for 100% Foreign Direct Investment (FDI) in townships will not apply to projects located within Special Economic Zones (SEZs). It has clarified that special economic zones are separately regulated under the SEZ Act, 2005.

The Department of Industrial Policy and Promotion (DIPP) also clarified that the provisions of Press Note 2 (2005 Series) would not be applicable for the hotel, tourism and hospitality sectors as 100 per cent FDI under the automatic route is already permitted in these sectors.

5.0 51% FDI IN RETAIL

The Government has decided to allow 51% Foreign Direct Investment (FDI) in retail outlets meant exclusively for 'single brands'. This will allow multinational giants to invest in Indian outlets ment for premium brands like Chanel, Nike, Louis Vuitton, Gucci or Reebok.

The Cabinet also decided to allow 100% FDI through the automatic route in power trading, greenfield airports, petroleum marketing infrastructure, warehouse for coffee and rubber, industrial explosives, diamond mining, hazardous chemicals and coal mining for captive use. The decision also includes a move to allow 100% foreign investment through the automatic route in wholesale trading.

CORPORATE LAWS

1.0 CLAUSE 49 OF THE LISTING AGREEMENT

The Securities and Exchange Board of India has recently made the following changes to certain provisions of the revised clause 49:

- The maximum time gap between two Board meetings has been increased from three months to four months.
- Sitting fees paid to non-executive directors as authorized by the Companies Act, 1956 would not require the previous approval of shareholders.
- Certification of internal controls and internal control systems by CEO/CFO would be for the purpose for financial reporting.

(Source: SEBI/CFD/DIL/CG/1 dt. 13.1.06)

2.0 INSOLVENCY PROFESSIONALS SETS TO BE LIQUIDATORS

The new company law will provide for professionals to be appointed as liquidators. They will also become administrators overseeing restructuring of Companies. At present, these functions are performed solely in the domain of the government. The law in the making would allow professionals to be operating agencies for assessing viability of corporate debt/ asset restructuring proposals. Currently, banks and financial institutions, which also act as creditors of the company concerned, do this job. The plan is to create a pool of professionals with specialized knowledge and expertise in insolvency related matters. The proposed National Company Law Tribunal would be responsible for creation of this pool.

3.0 LIMITED LIABILITY PARTNERSHIP

The Government will soon refer the concept paper on the proposed limited liability partnership (LLP) law to the recently constituted Advisory Committee chaired by industrialist, Mr.Kumaramangalam Birla. The ministry has already come up with a concept paper on LLP law. The consultations with all stakeholders are in progress. Once the consultation process is over, it will refer the concept paper and the comments received from various quarters to the advisory committee.

4.0 E-FILING FACILITY FOR COs

The Ministry of Company Affairs will roll out its pilot e-governance initiative MCA-21 on February 18 at Coimbatore followed by Jaipur on 27. It is the first flagship project of the Government to provide a comprehensive set of services to the stakeholders through an e-governance mode.

5.0 DIRECTORS NEED ONLINE IDs

Directors of nearly 700,000 companies, including all listed, unlisted and private firms, will have to obtain a Director Identification Number (DIN). This is required for the Ministry of Company Affairs' e-governance project that will be implemented across the country in April.

If directors do not have a DIN, they will not be recognized and their companies will not be able to file documents online.

CAPITAL MARKET

1.0 EMPLOYEE QUOTA ENCROACHED IN IPOs

The benami demat scam has taken another turn. The coterie of investors acting in this scam had hitherto encroached into the retail category of the initial public offers (IPOs). Now, it is learnt they have also encroached into the employee quota of some of the IPOs. It may be noted that shares alloted to employees are freely transferable and do not carry lock-in period.

2.0 MODES OF REFUND OF IPO MONEY

SEBI has recently directed merchant bankers to make the refund money of Initial Public Offer (IPO) applications through the electronic clearing services only for applicants residing in 15 centres where clearing houses are managed by the Reserve Bank of India. The refunds can be made through direct credit and real time gross settlement (RTGS), if the applicant is eligible to get refunds through these processes.

(Source: SEBI/CFD/DIL/DIP/01 dt. 20.1.06)

3.0 STANDARDS FOR IMPOSING FINES BY SEC

In a move to calm internal debate over a key law enforcement issue, the US Securities and Exchange Commission (SEC) has issued standards for slapping corporations with big fines. The standards do not mark a sharp break from past practice.

4.0 CRISIL, ICRA TO OFFER IPO GRADING SERVICES

Leading rating agencies Crisil Ltd. and ICRA Ltd. are set to launch the grading of Initial Public Offerings (IPOs) in the domestic market, after market regulator SEBI decided to allow grading of IPOs to provide investors with additional information and investment guidance tool.

5.0 POLICY TO CHECK MONEY LAUNDERING

The Securities and Exchange Board of India has directed all intermediaries registered with it to put in place a policy framework to prevent money laundering and also appoint a 'Principal Officer' responsible for ensuring compliance of the provisions of the prevention of Money Laundering Act, 2002. It has advised intermediaries to comply with the direction within one month from the date of the issue of relevant circular.

(Source: ISD/CIR/RR/AML/1 dt. 18.1.06)

COMMODITY MARKET

1.0 NCDEX LAUNCHES SMS ALERT SERVICE

The National Commodity and Derivatives Exchange (NCDEX) has recently launched SMS alert service, which will be useful for members, traders, investors and farmers to monitor market prices of commodities.

The service would help subscribers avail of product prices and major market developments in configured alerts form through SMS to their cell-phones.

2.0 FMC GETS TOUGH WITH NCDEX

The Forward Market Commission (FMC) has directed National Commodity & Derivatives Exchange (NCDEX) Ltd to relieve the "senior most person directly responsible" for the violation of the FMC directive of not making any change in the terms of any running contract without prior approval.

3.0 NSE WARNS BROKERS AGAINST UNUSUAL TRADING

The National Stock Exchange (NSE) as part of its market surveillance, has detected abnormal trading in its derivatives segment and has warned such players of stern action where options have been traded at massive discount or at abnormal prices.

4.0 NCDEX LAUNCHES SPONGE IRON FUTURES

National Commodity & Derivatives Exchange Ltd. (NCDEX) has recently commenced trading in sponge iron futures contract.

INSURANCE

1.0 REVISION OF CAPITAL FLOOR FOR NON-LIFE INSURERS

The non-life insurance market could see some mergers and acquisitions soon, as the government may hike the minimum paid up capital for the sector to Rs. 250 crore from the present Rs. 100 crore.

2.0 INSURANCE COs TO CLARIFY ON MEDICLAIM

The Insurance Regulatory and Development Authority (IRDA) has asked state-owned non-life insurance companies to explain reasons for recent restrictions in the mediclaim policy.

The changes brought in by insurance companies include an increase in the minimum sum insured to Rs. 1,00,000, insisting on family cover coupled with a requirement that family policies have a uniform sum insured for all members. Insurance companies also want to extend the system of having pre-acceptance health check for younger proposers as well.

3.0 BRANCHES MUST BE OPENED WITHIN YEAR OF APPROVAL

Insurers will now have to open new branch offices within a year of receipt of approval from the Insurance Regulatory & Development Authority (IRDA). Failing this, they will have to apply afresh.

At present, the in – principle approval of IRDA to insurers in respect of opening of new places of business do not prescribe any time limit for the actual opening of branches.

4.0 IRDA BARS KEYMAN POLICY SALE VIA ULIPs

The insurance regulator, Insurance Regulatory & Development Authority (IRDA) has categorically barred selling the keyman policy through endowment or unit-linked plans. It has said the keyman insurance cover can be sold only through terms assurance, which combines life, accident and disability insurance policies to protect business of a company from the death or disablement of a key employee.

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3RD ANNUAL 6 DAY WORKSHOP ON DIRECT TAXES – GLIMPSES

Held on 16th - 31st January, 2006

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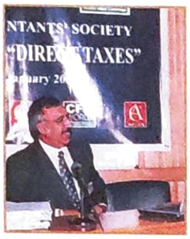


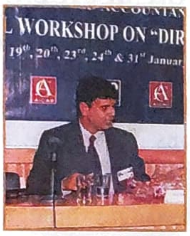
Sh. Sanjiv Chaudhary, FCA, RSM & Co.

Sh. Girish Ahuja, FCA, Lecturer, SRCC

Sh Ved Jain, FCA, Member, Central Council, ICAI

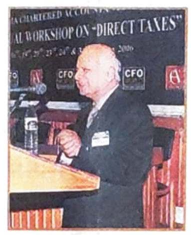
VALEDICTORY SESSION of "3rd Annual Workshop on Direct Taxes"
(L-R) Sh. Hardyal Singh, Chief Commissioner of Income Tax, Delhi-II, Sh. B.P. Sah, Chief Commissioner of Income Tax, Delhi-III; Sh. Pramod Jain, Chairman, Direct Taxes Committee; Sh. Vinod Jain, President, AICAS

Sh. Krishan Malhotra, FCA, RSM & Co.



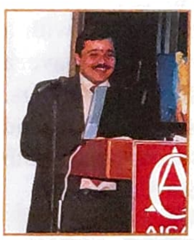
Sh. Navin Tewari, FCA, ICICI Prudential Mutual Fund

Sh. Vinod Jain, FCA, INMACS Mgmt. Services Ltd.

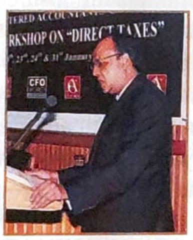


Sh. Ravi Gupta, Advocate Lecturer, SRCC

INAUGURAL SESSION of "3rd Annual Workshop on Direct Taxes"
(L-R) Sh. D.C. Garg, Member Secretary, Direct Taxes Committee; Sh. Manoj Pahwa, Vice Chairman, Direct Taxes Committee; Sh. Vinod Jain, President AICAS; Sh. Yatinder Khemka, Vice Chairman, Direct Taxes Committee; Sh. Pramod Jain, Chairman, Direct Taxes Committee



Sh. Amitabh Singh, Earnst & Young Pvt. Ltd.



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Sh. Rakesh Gupta, Advocate, Former Member ITAT

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Sh. Manish Kapur, FCA, RSM & Co.

Sh. Rupesh Jain, FCA, Vaish Associates

Sh. Pramod Jain, FCA Lunawat & Co.

Sh. Sanjay Agarwal, FCA

Sh. Rohit Jain, FCA, Vaish Associates

Sh. Ajay Vohra, FCA, Vaish Associates

Sh Amit Bansal, FCA Deloitte Haskins & Sells

Cross section of participants attending the workshop

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