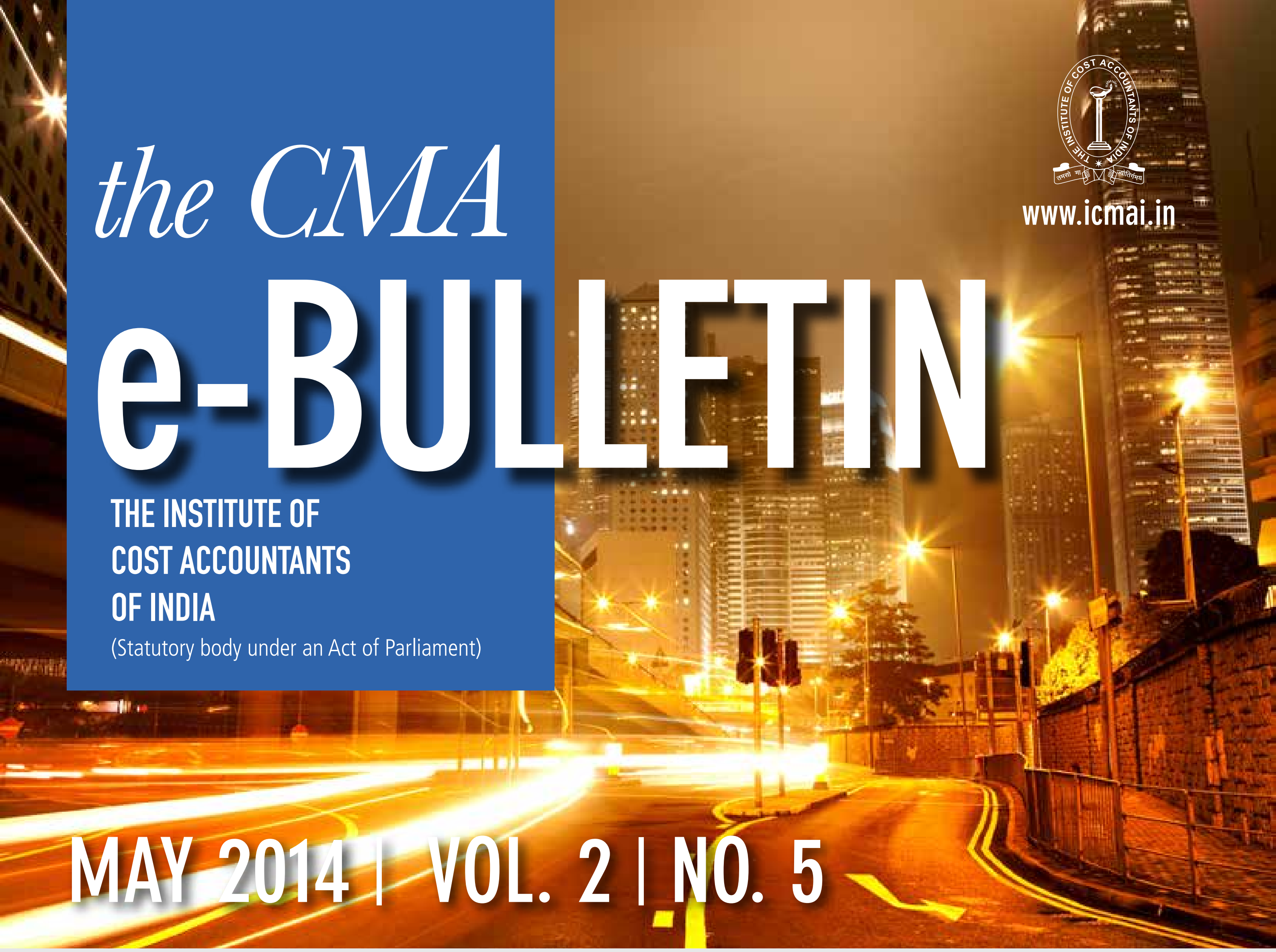

the CMA e-BULLETIN

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
(Statutory body under an Act of Parliament)

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MAY 2014 | VOL. 2 | NO. 5

EDITORIAL

Big loan defaulters to face Reserve Bank of India's audit

The Reserve Bank of India (RBI) has taken upon itself the task of investigating bank frauds after a series of inquiries by banks themselves into high-profile cases such as those involving Deccan Chronicle and Kingfisher Airlines yielded very little.

The Board of Financial Supervision (BFS), chaired by RBI governor Raghuram Rajan, has, in fact, cleared a proposal that the central bank will conduct an independent forensic audit of corporates declared fraudulent by banks. Independent audits, however, will be restricted to corporates that have borrowed more than Rs 1,000 crore.

The central bank will first try to get to the bottom of what went wrong with Deccan Chronicle. The Hyderabad-based Deccan Chronicle borrowed Rs 4,000 crore from a consortium of 18 lenders, who allege the company misused the banking system by borrowing from one set of lenders without keeping others in the loop. Bank officials say the central bank's move reflects poorly on the banks, and reaffirms the fact that banks and some promoters have developed cozy relationships, that has led to thousands of crores of bad loans.

The steep rise in bad loans in the past few years has forced the central bank to come up with strong measures to ensure banks do not sweep bad loans under the carpet. The gross non-performing assets — bad loans prior to making provisions — for the calendar year 2013 stood at Rs 24,3210 crore, up 35% on a y-o-y basis.

Besides, the number of cases referred to the corporate debt restructuring (CDR) cell has also risen sharply in recent months. Independent forensic audit is one of the many steps taken by the RBI to check the rise in stressed assets in the banking system.

For instance, the RBI decided to incentivise lenders who take quick action to resolve such cases and penalise those who sit on them. Bankers say the findings from forensic audit will enable RBI to devise policies that will help it keep a close watch on the creditor-borrower relationship, and quickly step in when there's a misuse in the system.

We are pleased to release this issue of the CMA e-Bulletin for our readers. Hope you enjoy reading the e-bulletin. We look forward to your valuable suggestions and comments which will help us improve this publication.

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INDIAN ECONOMY

News

➲ India's growth prospects dim regardless of election outcome: Reuters poll

Prospects for a strong economic rebound in India are dim as industry remains weak, and although a business-friendly opposition party looks likely to form a new government, its ability to pass sweeping reforms is in doubt, a Reuter's poll showed.

Source: Reuters, 25 Apr 2014

➲ Asian economic growth to languish this year, China the worry - Reuters Poll

Growth in emerging Asian countries will be lackluster this year and contribute less to the global economy, despite signs of recovery in the region's major trading partners in the West. Much will depend on how China - the world's second-largest economy - performs. After clocking double-digit growth rates on average over the last three decades, China's economy has slowed as the government repositions it to rely more on domestic demand. The consensus from over 200 economists polled April 15-24 was for growth in economies from China to India, Indonesia, Singapore and Thailand to be steady and near last year's largely lacklustre levels. This suggests contributions to the world economy from Asia - which for many years drove global growth - may diminish and the road back to strength could be long and slow.

Source: Reuters, 25 Apr 2014

➲ RBI may set new pricing norms for state debt in phases-sources

India's central bank is discussing ways to ensure an orderly roll-out of its unpopular proposal to price state government debt at market-based valuations to minimize potential losses for banks holding this debt, three officials familiar with the discussions told Reuters.

Source: Reuters, 22 Apr 2014

➲ S&P: India ratings to depend on next govt's policies

Standard and Poor's may upgrade India's outlook if the government that is elected next month addresses some of the country's fiscal and economic challenges through steps such as passing a goods and services tax.

Source: Reuters, 17 Apr 2014

➲ A star abroad, RBI boss riles bond traders at home

Since taking the helm of the Reserve Bank of India, Raghuram Rajan's agenda to reform markets has put the noses of Mumbai bond traders firmly out of joint by upending practices that provided them with a relatively secure rate of return.

Source: Reuters, 17 Apr 2014

➲ Bonds rally; RBI raises $3.3 billion in record auction

Government bonds jumped on Thursday, recovering from two sessions of falls, after the RBI fully sold the 200 billion rupees ($3.31 billion) worth of debt on offer, accomplishing the country's biggest-ever auction.

Source: Reuters, 17 Apr 2014

➲ Food prices push inflation up, limit RBI's room to act

Rising food prices drove inflation in India up more than expected in March, reversing a slowdown and leaving the RBI with less room to support the economy amid fresh signs of slowing growth.

Source: Reuters, 15 Apr 2014

➲ March core inflation seen at around 7.9 percent: analysts

India's core consumer prices were estimated to have risen around 7.9 percent in March from a year earlier, unchanged from a 7.9 percent rise in February, according to a Reuters snap survey of three dealers and economists.

Source: Reuters, 15 Apr 2014

➲ March consumer price inflation quickens to 8.31 percent

India's annual consumer price inflation in March quickened to 8.31 percent, driven by higher food prices.

Source: Reuters, 15 Apr 2014

➲ Domestic fund managers start to bet on own economy - Reuters poll

India-based fund managers are growing more confident in the domestic economy and plan to raise allocations to auto makers and private sector lenders, betting that no change to interest rates will underpin an economic recovery, a Reuters poll showed.

Source: Reuters, 15 Apr 2014

➲ March WPI inflation hits three-month high of 5.70 pct

India's wholesale prices-based inflation accelerated to a three-month high of 5.70 percent in March, driven up by increases in food and fuel costs.

Source: Reuters, 15 Apr 2014

➲ Shock fall in industry output, exports deepen economic gloom

India's economic gloom deepened on Friday with a surprise contraction in industrial output, a fall in exports and a jump in the trade deficit, underscoring the enormity of challenges awaiting a new government that takes over in May.

Source: Reuters, 11 Apr 2014

➲ Consumer inflation rate forecast to edge up in March

India's consumer inflation rate is forecast to have edged up slightly in March due to higher food prices, and factory output in February is expected to have risen at its fastest annual pace in five months, a Reuters poll shows.
Source: Reuters, 10 Apr 2014

➲ Forex reserves post highest weekly rise in four months

India's foreign exchange reserves surged $5.04 billion in the week ending March 28, its biggest weekly rise in four months, as the Reserve Bank of India (RBI) started to buy dollars regularly in an effort to build up its defences against any potential global turmoil.
Source: Reuters, 04 Apr 2014

➲ Post-election showdown looms for Raghuram Rajan

India's high-profile RBI governor is likely to come under political pressure to retreat from his hawkish stance on inflation if opposition leader Narendra Modi wins power in the general election.
Source: Reuters, 04 Apr 2014

➲ Rupee at 55/dollar would be too strong - Rajan

Reserve Bank of India Governor Raghuram Rajan said the rupee at 55 to the dollar would be too strong.
Source: Reuters, 03 Apr 2014

➲ Factory expansion eased in March - poll

REUTERS - Indian manufacturing activity grew at a slower pace in March as weaker domestic demand dragged on output growth, a business survey showed on Tuesday.
Source: Reuters, 01 Apr 2014

➲ EC allows RBI to announce new bank licences

The Election Commission on Tuesday allowed the Reserve Bank of India (RBI) to announce new bank licences even ahead of general elections set to conclude next month, according to a notice in the commission's website.
Source: Reuters, 01 Apr 2014

BANKING

Notifications/Circulars

➲ Advance Remittance for Import of Rough Diamonds

As per *Circular No.116 - RBI/2013-14/548 dated: April 01, 2014* Gems and Jewellery Export Promotion Council (GJEPC) notified the names five mining companies (since increased to nine over a period of time) to whom an importer (other than a Public Sector Company (PSC) or a Department / Undertaking of the Government of India / State Government) was allowed to make advance remittance without any limit and without bank guarantee or stand by letter of credit for import of rough diamonds into India.

➲ Term Repo under Liquidity Adjustment Facility

As per First Bi-monthly Monetary Policy Statement 2014-15, it has been decided to increase the quantum of liquidity provided under 7-day and 14-day term repos from 0.5 per cent of net demand and time liabilities (NDTL) of the banking system to 0.75 per cent with immediate effect vide *Circular RBI/2013-2014/550(FMD.MOAG. No.101/01.01.009/2013-14) dated: April 01, 2014.*

➲ Liquidity Adjustment Facility

As per First Bi-monthly Monetary Policy Statement 2014-15, it has been decided to decrease the quantum of liquidity provided under overnight repos under the Liquidity Adjustment Facility (LAF) from 0.5 per cent of bank-wise NDTL to 0.25 per cent with immediate effect vide *Circular RBI/2013-2014/549 (FMD. MOAG. No. 100/01.01.001/2013-14) dated: April 01, 2014.*

➲ Gold (Metal) Loans (GMLs)

As per *Circular No. RBI/2013-14/551 (DBOD.No.IBD. BC.104/23.67.001/2013-14) dated: April 02, 2014* banks are advised to ensure the end use of gold loans and also to lay down appropriate risk management and lending policy to obviate the possibility of frauds in this area.

➲ Investment through Alternative Investment Funds – Clarification on Calculation of NOF of an NBFC

In terms of section 45 IA of the RBI Act, 1934, net owned funds (NOF) of an NBFC means-
(a) the aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance-sheet of the company after deducting there from–
(i) accumulated balance of loss;
(ii) deferred revenue expenditure; and
(iii) other intangible assets; and
(b) further reduced by the amounts representing
(1) investments of such company in shares of–
(i) its subsidiaries;
(ii) companies in the same group;
(iii) all other non-banking financial companies; and
(2) the book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with,–
(i) subsidiaries of such company; and
(ii) companies in the same group,
to the extent such amount exceeds ten per cent of (a) above.
2. It has been observed in certain cases that an NBFC while ar-

riving at the NOF figure did not reckon its investment in group companies on the ground that investments in the group companies were made by the Venture Capital Fund (VCF) sponsored by the NBFC, although, in term, the contribution to the funds held by the VCF had come primarily from the NBFC itself.

3. VCF or any such Alternative Investment Fund (AIF)1 means a pool of capital by investors and the investment made by such an AIF is done on behalf of the investors. Accordingly, it is clarified that while arriving at the NOF figure, investment made by an NBFC in entities of the same group concerns shall be treated alike, whether the investment is made directly or through an AIF / VCF, and when the funds in the VCF have come from the NBFC to the extent of 50% or more; or where the beneficial owner, in the case of Trusts is the NBFC, if 50% of the funds in the Trusts are from the concerned NBFC. For this purpose, "beneficial ownership" would mean holding the power to make or influence decisions in the Trust and being the recipient of benefits arising out of the activities of the Trust.

Source: Circular No. RBI/2013-14/554[DNBS (PD) CC.No.373/03.10.001/2013-14] dated: April 07, 2014

➲ Reporting of Cross Border Wire Transfer Report on FINnet Gateway - Primary (Urban) Co-operative Banks (UCBs)

With the amendments to Prevention of Money Laundering (PML) Rules, notified by the Government of India vide Notification No. 12 of 2013 dated August 27, 2013 and in terms of amended Rule 3, every reporting entity is required to maintain a record of all transactions including the record of all cross border wire transfers of more than Rs. 5 lakhs or its equivalent in foreign currency, where the place of either origin or destination of the fund is in India. As per *Circular No. RBI/2013-14/555 [UBD.BPD (PCB) Cir.No. 54/14.01.062/2013-14] dated: Apr 07, 2014* it is advised that the 'Transaction Based Reporting Format' (TRF) already developed by FIU-IND and being used for reporting Cash Transaction Reports (CTRs), Suspicious Transaction Reports (STRs) and Non-Profit Organizations Transaction Reports (NTRs) may be used for reporting the Cross Border Wire Transfers.

➲ Foreign investment in India in Government Securities

Based on Circular No. 118 (RBI/2013-14/556) dated: Apr 07, 2014 it has been decided that foreign investment by all eligible investors including RFPIs shall henceforth be permitted only in Government dated securities having residual maturity of one year and above and existing investments in T-bills and Government dated securities of less than one year residual maturity shall be allowed to taper off on maturity/ sale.

The revised position in respect of the investment limit in Government dated securities is given below:

Instrument/s	Limit	Eligible Investors	Remarks
Government dated securities – Securities having residual maturity of one year and above.	USD 30 billion	RFPIs (including existing FIIs and QFIs) and Long term investors registered with SEBI – SWFs, Multilateral Agencies, Pension/ Insurance / Endowment Funds and foreign Central Banks.	Existing investment in T-bills and Government dated securities of less than one year residual maturity shall be allowed to taper off on maturity/ sale. No fresh investment in T-bills and Government dated securities of less than one year residual maturity allowed.

➲ Risk Management & Inter-Bank Dealings: Booking of Forward Contracts - Liberalization

Based on Circular No. 119(RBI/2013-14/557) dated: April 07, 2014 it has now been decided to allow all resident individuals, firms and companies, who have actual or anticipated foreign exchange exposures to book foreign exchange forward contracts up to US$ 250,000 on the basis of a simple declaration without any requirement of further documentation. The existing facilities in terms of the aforementioned circular for Small and Medium Enterprises (SMEs) having direct and/ or indirect exposures to foreign exchange risk permitting them to book/ cancel/ roll over forward contracts without production of underlying documents to manage their exposures effectively subject to conditions specified therein shall remain unchanged.

➲ Registration of Non-Operative Financial Holding Companies (NOFHCs)

Based on the the 'Guidelines for Licensing of New Banks in the Private Sector' dated February 22, 2013 issued by Department of Banking Operations and Development (DBOD), vide RBI Press Release 2012-2013/1421 the promoter / promoter groups will be permitted to set up a new bank only through a wholly-owned Non-Operative Financial Holding Company (NOFHC)1 which will hold the bank as well as all other financial services companies regulated by RBI or other financial sector regulators, to the extent permissible under the applicable regulatory prescriptions. While the NOFHC will be registered as a non-deposit taking non-banking financial company (NBFC) with the Department of Non-Banking Supervision (DNBS) of the Reserve Bank, the regulatory and supervisory framework of NOFHC including prudential norms and submission of returns will be governed by the instructions issued by DBOD from time to time. Now based on Circular RBI/2013-14/558 (DNBS (PD).CC.No. 374/03.10.001/2013-14) dated: April 07, 2014 it has been decided to create a separate category of NBFCs, viz., Non-Operative Financial Holding Company (NOFHC). A company seeking registration as an NOFHC shall first have received an in-principle approval for setting up a commercial bank from the Reserve Bank. The application for registration of NOFHC shall be made with the requisite information and documents to Reserve Bank of India, DBOD, Central Office, 12th Floor, Shahid Bhagat Singh Road, Mumbai. The Certificate of registration for the NOFHC will be issued by DNBS, Reserve Bank of India.

➲ Rupee Drawing Arrangement – 'Direct to Account' Facility

In order to facilitate receipt of foreign inward remittances directly into bank accounts of the beneficiaries, it has been decided to allow foreign inward remittances received under Rupee Drawing Arrangement (RDA) to be transferred to the KYC compliant beneficiary bank accounts through electronic mode, such as, NEFT, IMPS, etc. vide Circular No. 120 (RBI/2013-14/559) dated: April 10, 2014.

➲ External Commercial Borrowing (ECB) Policy – Review of all-in-cost ceiling

Authorized Dealer Category - I (AD Category - I) banks is invited to A.P. (DIR Series) Circular no. 58 dated September 30, 2013 relating to the all-in-cost ceiling for ECB. On a review, it has been decided that the all-in-cost ceiling as specified under paragraph 2 of A.P. (DIR Series) Circular No. 99 dated March 30, 2012 will continue to be applicable till June 30, 2014 vide Circular 121(RBI/2013-14/560) dated: Apr 10, 2014.

➲ Trade Credits for Imports into India – Review of all-in-cost ceiling

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to the A.P. (DIR Series) Circular No. 56 dated September 30, 2013 relating to all-in-cost ceiling of Trade Credits for imports into India. On a review it has been decided that the all-in-cost ceiling as specified under paragraph 4 of A.P. (DIR Series) Circular No.28 dated September 11, 2012 will continue to be applicable till June 30, 2014 and is subject to review thereafter vide Circular No. 122 (RBI/2013-14/561) dated: April 10, 2014.

➲ Differential Rate of Interest for Micro and Small Enterprises (MSEs)

It is advise that while pricing their loans to MSE borrowers, banks should take into account the incentives available to them in the form of the credit guarantee cover of the Credit Guarantee Fund Trust for Micro and Small Enterprises (CGTMSE) and the zero risk weight for capital adequacy purpose for the portion of the loan guaranteed by the CGTMSE and provide differential interest rate for such MSE borrowers, than the other borrowers. However, banks should note that such differential rate of interest is not below the Base Rate of the bank. Further, banks are advised to undertake a review of their loan policy governing extension of credit facilities to the MSE sector, with a view to using Board approved credit scoring models in their evaluation of the loan proposals of MSE borrowers.
Source: Circular RBI/2013-14/564 (DBOD.Dir. BC.No.106/13.03.00/2013-14), dated: April 15, 2014

➲ Foreign Direct Investment (FDI) in Limited Liability Partnership (LLP)

As per Circular No. 123 (RBI/2013-14/566) dated: April 16, 2014 it has been decided that Limited Liability Partnership (LLP) formed and registered under the Limited Liability Partnership Act, 2008 shall be eligible to accept Foreign Direct Investment (FDI) subject to the conditions given in Annex I. The instructions issued in this circular shall be effective from May 20, 2011. However, reporting requirement of FDI in LLP shall come into force from the date of issue of instructions by the Reserve Bank in this regard. The LLP which have received foreign investment in terms of FIPB approval between May 20, 2011 to the date of this circular shall comply with the reporting requirement in respect of FDI within 30 or 60 days, as applicable, from the date of this circular.

➲ Foreign Direct Investment in Pharmaceuticals sector – clarification

In terms of Schedule 1 to the Notification ibid, Foreign Direct Investment (FDI) up to 100 per cent is permitted under automatic route for greenfield investments and FDI up to 100 per cent is permitted under Government approval route for brownfield investments (i.e. investments in existing companies) in pharmaceuticals sector. The extant FDI policy for pharmaceutical sector has since been reviewed and it has now been decided with immediate effect that the existing policy would continue with the condition that 'non-compete' clause would not be allowed except in special circumstances with the approval of the Foreign Investment Promotion Board (FIPB) of the Govern-

ment of India.
Source: Circular No.124 (RBI/2013-14/567) dated: Apr 21, 2014

➲ Reporting of information / data relating to Cash and Suspicious Transactions to the Director, Financial Intelligence Unit-India (FIU-IND)

As per Circular No. RBI/2013-14/569 [DNBS(PD).CC. No.375 /03.10.42 /2013-14] dated: Apr 22, 2014, NBFCs are required to report information / data relating to Cash and Suspicious Transactions to the Director, Financial Intelligence Unit-India (FIU-IND) on the FINnet Gateway in Test Mode to test their ability to upload the reports electronically till the time NBFCs are informed about 'go-live' of the project. The project has since gone 'live' and henceforth NBFCs may discontinue submission of reports in CD, using only FINnet gateway for uploading of reports in the new XML reporting format. Any report in CD will not be treated as a valid submission by FIU-IND.

➲ Scaling up of the Business Correspondent (BC) Model – Issues in Cash Management

In reference to Para 26 (Part B) of Governor's bi-monthly policy statement dated April 1, 2014 on the above subject it is advises that, after opening of large number of banking outlets in the last three years in hitherto unbanked areas of the country through the BC-ICT model, the time has come to monitor the usage in terms of transactions per BC so as to ensure sustainability of the BC model. One of the critical issues identified in this regard has been of Cash Management of BCs. The insistence by banks on BCs to fully prefund their accounts even after considerably long business relationship has become a major impediment in scaling up operations of BCs. Similarly, low/delayed payment of remuneration of BCs and passing on the responsibility of insuring cash to BCs have also been proving to be irritants in increasing the usage in large number of bank accounts opened. It is, therefore, important for banks to recognize that cash handled by BCs, while doing banking business on behalf of the Bank, is Bank's Cash.
Source: RBI/2013-14/570 (RPCD.FID.BC.No. 96/12.01.011/ 20013-14), dated: Apr 22, 2014

➲ Uniform Accounting Standards at ARCs

Pursuant to the recommendations of the Key Advisory Group (KAG) constituted by the Government of India on the Asset Reconstruction Companies (ARCs), Reserve Bank of India advises the guidelines on uniform accounting standard for ARCs as under:

a. Acquisition cost (Pre and post acquisition)
b. Revenue Recognition
c. Valuation of Security Receipts (SRs)
d. Applicability of 'Operating Cycle Concept' under Schedule VI

Source: Circular No. RBI/2013-14/571 (DNBS (PD) CC. No. 38/ SCRC/26.03.001/2013-14) dated: April 23, 2014

➲ Reserve Bank of India's executive director G. Gopalakrishna takes VRS joins as CAFRAL director:

G Gopalakrishna, Reserve Bank of India's executive director, who was superseded for deputy governor's post, has voluntarily retired from his post. He has taken charge as the director of the Centre for Advanced Financial Research and Learning (CAFRAL), a fledgling research body, from April 21, according to a statement from the central bank. His term was to end in a few months.

For more details please visit: http://economictimes.indiatimes.com/articleshow/34047026.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst
Source: ET Bureau Apr 22, 2014

INCOME TAX

Notifications/Circulars

➲ Mandatory e-filing for firms, political parties and trusts giving notice of accumulation of income –

Income-Tax (Fourth Amendment) Rules, 2014 - Amendment in Rule 12 & Substitution of Forms SAHAJ (ITR-1), ITR-2, SUGAM (ITR-4S) and ITR-V vide Notification No.24/2014[F. *NO.142/2/2014-TPL] /SO 997(E), dated: 1-4-2014.*
For details please visit: http://incometaxindia.gov.in > Notification No.24/2014, dated: 1-4-2014.

➲ Clarification regarding treatment of expenditure incurred for development of roads/ highways in BOT agreements under Income – tax Act, 1961

CBDT u/s 119 of Income – tax Act, 1961 hereby clarifies that the cost of construction on development of infrastructure facility of roads/highways under BOT projects may be amortized and claimed as allowable business expenditure under the Act. The amortization allowable may be computed at the rate which ensures that the whole of the cost incurred in creation of infrastructural facility or road/highway is amortized evenly over the period of concessionaire agreement after excluding the time taken for creation of such facility. In the case where an assessee has claimed any deduction out of initial cost of development of infrastructure facility of roads/ highways under BOT projects in earlier years, the total deduction so claimed for the Assessment years prior to the Assessment year under consideration may be deducted from the initial cost of infrastructure facility of roads/ highways and the cost's so reduced shall be amortized equally over the remaining period of toll concessionaire agreement.
Source: Circular No. 09/2014, dated: 23rd April, 2014

Case Laws

➲ ITAT: Subsequent commercial-use cannot disentitle Sec 54F exemption if building constructed for residential-purpose

ITAT rules that Sec 54F exemption cannot be denied if construction is made for residential purpose even if subsequently used as school / for commercial purpose; Relevant factor to judge is whether construction is made for residential house or commercial purpose, merely because building used as a school cannot change nature and character of building from residential to commercial; Also holds that law is settled that 'a residential house' does not mean a single residential house; Sec 54F exemption entitled even where assessee constructs or receives a number of flats adjacent to each other or in different floor of same building; Relies on jurisdictional HC ruling in Syed Ali Adil : Hyderabad ITAT

Case Law: N. Revathi [TS-181-ITAT-2014(HYD)]

➲ Mutual fund, a special category investment; Redemption income taxable as capital gain

HC quashes ITAT's order holding profit from sale of mutual funds as business income and not capital gains; Concurs with CIT(A)'s view that IT Act itself recognizes mutual funds as a special category of "investments" thus, placing them in an entirely separate class; In addition to widely used test of "volume frequency, continuity and regularity", other indicia such as maintenance of separate portfolios in same set of books for "investments" and use of borrowed capital also important to determine nature of income; Fact that amounts kept separately in investment account, borrowed funds were not used and mutual funds were held for 2 years, holds profits from sale of mutual funds as capital gains.

Case Name: Yama Finance Ltd. vs. ACIT

➲ Upholds disallowance on cross cheque payment; Account payee cheque mandated u/s 40A(3)

HC held that there is a difference between "crossed cheque" and "account payee cheque". Payment by crossed cheque attracts s. 40A (3) disallowance.

Case Name: Rajmoti Industries Vs ACIT

➲ Rental income from industrial park letting, "Business Income

HC upholds ITAT order directing taxation of income from letting out of building by Toyota Techno Park India (assessee) to tenants as "Business Income" and not "Income from House Property"; Follows co-ordinate bench ruling in Velankani Information Systems, wherein HC had held that if renting of building and provision of facilities are inseparable and intention is to carry on business of letting out commercial property, then rental income falls under head "Business Income"; Assessee engaged in business of developing, operating, maintaining industrial park and providing infrastructure facilities to different companies as its business, therefore, rental income to be taxed under head "Business Income.

Case Law:CIT & ACIT vs Toyota Techno Park India (P) Ltd

➲ SC: Lays down law on 'turnover'; Total turnover not to include scrap sales u/s 80HHC

SC upholds Delhi HC ruling that proceeds generated from scrap sales should not be included in 'total turnover' for Sec 80HHC deduction purpose; "Turnover" would ordinarily mean only amount of sale proceeds received in respect of goods in which assessee is dealing in, scrap proceeds cannot be included in 'turnover'; Relies on ICAI Guidance Note on Tax Audit, no reason to reject meaning of "turnover" given by statutorily recognized accountant body which contemplates non-inclusion of scrap sales; Intention behind Sec 80HHC enactment was to encourage export and earn more foreign exchange; Once Govt. decides to give benefit, Revenue should also make all possible efforts to encourage such traders / manufacturers by giving such businesses more benefits as contemplated under law : SC

Case Law: Punjab Stainless Steel Industries [TS-256-SC-2014]

CUSTOMS

Notifications/Circulars

➲ Tariff Value in respect of some of the imported goods

As per Notification 36/2014-Cus (NT), dated: 30-04-2014 CBEC amends principal notification no. 36/2001-Customs (N.T.), dated: 3rd August, 2001 (last amendment vide Notification No. 31/2014-Customs (N.T.), dated the 15th April, 2014) and fixes the tariff values specified in column (4) of the Table below, in respect of the im¬ported goods of the description specified in the corresponding entry in column (3) of the said Table and falling under Chapter or heading or sub-heading No. of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

TABLE-1

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value US $ (Per Metric Tonne)
1	1511 10 00	Crude Palm Oil	920
2	1511 90 10	RBD Palm Oil	943
3	1511 90 90	Others – Palm Oil	932
4	1511 10 00	Crude Palmolein	961
5	1511 90 20	RBD Palmolein	964
6	1511 90 90	Others – Palmolein	963
7	1507 10 00	Crude Soyabean Oil	980
8	7404 00 22	Brass Scrap (all grades)	3871
9	1207 91 00	Poppy seeds	3255

TABLE-2			
Sl. No	**Chapter/ heading/ sub-heading/ tariff item**	**Description of goods**	**Tariff value US $**
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	422 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	632 per kilogram

TABLE-3			
Sl. No	**Chapter/ heading/ sub-heading/ tariff item**	**Description of goods**	**Tariff value US $ (Per Metric Tonne)**
1	080280	Areca nuts	1908

➲ Anti Dumping duty

Levy of provisional anti-dumping duty on imports of cast aluminium alloy wheels or alloy road wheels used in motor vehicles when imported into India from People's Republic of China, Korea RP and Thailand for a period of 6 months vide Notification 15/2014-Cus (ADD), dated: 11-04-2014.

➲ Manual filing and processing of Bills of Entry / Shipping Bills stringent checks required to prevent misuse

The Board hereby directs that the facility of manual filing and processing of import/export documents shall be permitted by the Commissioner of Customs strictly in accordance with the legal provisions, read with Board's instructions on the subject. It shall be the responsibility of the supervisory officers to ensure without fail that these instructions are adhered to by all concerned.

Instruction - F. No. 401/81/2011-Cus.III, dated: 7th April, 2014

SEBI

Notifications/Circulars

➲ Infrastructure facilities and submission of periodic reports

Pursuant to the implementation of Foreign Portfolio Investor ("FPI") regime, SEBI approved Designated Depository Participants ("DDPs") would grant registration to FPIs on behalf of SEBI and also carry out other allied activities in compliance with Regulations and other guidelines & circulars.

In order to ensure proper functioning of the FPI regime, it is imperative that DDPs should have adequate infrastructure facilities and appropriate systems and controls in place. Accordingly, it has been decided as follows:

Segregation of activities: Every DDP shall maintain arms length distance from other businesses carried out by it such that:

a) the activities relating to its business as DDP is segregated from all other activities and is not influenced by its other activities;

b) its officers and employees engaged in carrying out functions of DDPs shall not be engaged in any other activity carried on by it and shall directly report to its chief compliance officer

Manual: Every DDP shall have a complete manual, setting out the systems and procedures to be followed for the effective and efficient discharge of its functions as DDPs.

Monitoring of systems and controls: Every DDP shall have adequate mechanisms for the purposes of reviewing, monitoring and evaluating its controls, systems, procedures and safeguards. Further the DDPs shall carry out internal audits of their systems

Submission of periodic reports to SEBI: Every DDP shall submit periodic reports as enclosed in the Annexure A to SEBI and such other reports as may be required by SEBI.

Source: Circular - CIR/IMD/FIIC/ 09/ 2014, dated: April 28, 2014

➲ Revision of guidelines for Liquidity Enhancement Scheme in the Equity Cash and Equity Derivatives Segments

It has been decided to revise the framework for providing liquidity enhancement schemes vide Circular CIR/MRD/DP/14/2014 dated: April 23, 2014:

Introduction of liquidity enhancement schemes - The stock exchange may introduce liquidity enhancement schemes in equity cash and equity derivatives segments subject to the following:

The scheme shall have the prior approval of the Stock Exchange's

Board and its implementation and outcome shall be monitored by the Board at quarterly intervals. The scheme shall specify the incentives available to the market makers / liquidity providers and such incentives may include discount in fees, adjustment in fees in other segments, cash payment or issue of shares, including options and warrants.

The effectiveness of the scheme shall be reviewed by the stock exchange every six months and the stock exchange shall submit half-yearly reports to SEBI.

Securities eligible for liquidity enhancement schemes - The stock exchanges shall introduce liquidity enhancement schemes on any security for a maximum period of three years. Once the scheme is discontinued, the scheme can be re-introduced on the same security provided it is less than the three year period since the introduction of scheme on that security. The incentives under liquidity enhancement schemes shall be transparent and measurable, and may take either of the following two forms:

- Discount in fees, adjustment in fees in other segments or cash payment - The incentives during a financial year shall not exceed 25% of the net profits or 25% of the free reserves of the stock exchange, whichever is higher, as per the audited financial statements of the preceding financial year.
- Shares, including options and warrants, of the stock exchange - The shares that may accrue on exercise of warrants or options, given as incentives under all liquidity enhancement scheme, during a financial year, shall not exceed 25% of the issued and outstanding shares of the stock exchange as on the last day of the preceding financial year. Further, the stock exchange shall ensure that this is in compliance with the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 at all times.

Market maker / liquidity enhancer –

The exchange shall prescribe and monitor the obligations of liquidity enhancers (liquidity provider, market-maker, maker-taker or by whatever name called). All market maker / liquidity enhancer orders / trades should be identifiable by the stock exchange.

➲ Corporate Governance in listed entities

Amendments to Clauses 35 B and 49 of the Equity Listing Agreement vide Circular - CIR/MRD/DP/14/2014, dated: April 23, 2014.

Applicability

- The revised Clause 49 would be applicable to all listed companies with effect from October 01, 2014. However, the provisions of Clause 49(VI)(C) as given in Part-B shall be applicable to top 100 listed companies by market capitalization as at the end of the immediate previous financial year.
- The provisions of Clause 49(VII) as given in Part-B shall be applicable to all prospective transactions. All existing material related party contracts or arrangements as on the date of this circular which are likely to continue beyond March 31, 2015 shall be placed for approval of the shareholders in the first General Meeting subsequent to October 01, 2014. However, a company may choose to get such contracts approved by the shareholders even before October 01, 2014.
- For other listed entities which are not companies, but body corporate or are subject to regulations under other statutes (e.g. banks, financial institutions, insurance companies etc.), the Clause 49 will apply to the extent that it does not violate their respective statutes and guidelines or directives issued by the relevant regulatory authorities. The Clause 49 is not applicable to Mutual Funds.
- The revised Clause 35B would be applicable to all listed companies and the modalities would be governed by the provisions of Companies (Management and Administration) Rules, 2014. Circular No. CIR/CFD/DIL/6/2012 dated July 13, 2012 stands amended to that extent.

➲Establishment of Connectivity with both depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement -

The stock exchanges may consider shifting the trading in these securities to normal Rolling Settlement subject to conditions that at least 50% of other than promoter holdings as per clause 35 of Listing Agreement are in dematerialized mode before shifting the trading in the securities of the company from TFTS to normal Rolling Settlement. For this purpose, the listed companies shall obtain a certificate from its Registrar and Transfer Agent (RTA) and submit the same to the stock exchange/s. However, if an issuer-company does not have a separate RTA, it may obtain a certificate in this regard from a practicing company Secretary/Chartered Accountant and submit the same to the stock exchange/s. There are no other grounds/reasons for continuation of the trading in TFTS.

Source: Circular - CIR/MRD/DP/ 13 /2014 April 15, 2014

➲Change in investment conditions / restrictions for FII/QFI investments in government debt securities

FIIs/QFIs shall henceforth be permitted to invest only in dated government securities having residual maturity of one year or above. Existing FII/QFI investments in T-Bills shall be allowed to taper off on maturity/sale. No further purchases in T-Bills shall be permitted. The investment limits vacated at the shorter end shall be available at longer maturities. The overall Government Debt investment limit for FIIs/QFIs shall remain unchanged at US$ 30 billion.

Accordingly the FII/QFI debt investment limits are as follows:

Type of Instrument	Cap (USD bn)	Cap (INR Crore)	Remarks
Government Debt	20	99,546	Available on demand. Eligible investors may invest only in dated securities of residual maturity of one year and above, and existing investment in Treasury Bills will be allowed to taper off on maturity/ sale
Government Debt	10	54,023	Available on demand for FIIs registered with SEBI as Sovereign Wealth Funds, Multilateral Agencies, Endowment funds, Insurance Funds, Pension Funds and Foreign Central Banks. Eligible investors may invest only in dated securities of residual maturity of one year and above.
Corporate Debt	51	244,323	Available on demand. Eligible investors may invest in Commercial Papers only up to US$ 2 billion within the limit of US$ 51 billion
Total	**81**	**397,892**	

Source: Circular - CIR/IMD/FIIC/8/2014 dated: April 07, 2014

➲ Disclosures pertaining to Assets under Management

SEBI Circular No. CIR/IMD/DF/05/2014 dated March 24, 2014 captioned 'Enhancing disclosures, investor education & awareness campaign, developing alternative distribution channels for Mutual Fund products, etc.'. It has been decided that the term 'Asset under Management (AUM)' shall be read as 'Monthly Average Asset under Management (Monthly AAUM) vide Circular - CIR/IMD/DF/07/2014, dated: April 2, 2014.

➲ Margins for USD-INR contracts

Vide circular CIR/MRD/DP/22/2013 dated July 08, 2013, SEBI in consultation with RBI had increased the initial margins and extreme loss margins by 100% for USD-INR contracts in the currency derivatives segment. In partial modification to the aforementioned circular, it has now been decided to restore the margins for USD-INR contracts to pre July 08, 2013 rates vide CIR/MRD/DP/12/2014 dated: April 07, 2014.

➲ Master Circular for Depositories -

In order to enable the users to have an access to all the applicable circulars/directions at one place, Master Circular for Depositories has been prepared. This Master Circular is a compilation of the circulars/communications issued by SEBI up to March 31, 2014 and shall come into force from the date of its issue. This Master Circular shall supersede previous Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013.

Source: Master Circular - CIR/MRD/DP/11 /2014, dated: April 07, 2014

FOREIGN TRADE

Notifications/Circulars

➲Based on Notification No. 79 (RE 2013)/ 2009-2014 dated: 30th April 2014, re-export of food, medicine and medical equipments to Iran will not be subject to any value addition requirement. Goods imported against freely convertible currencies and re-exported to Iran against rupee payment shall not be eligible for any export incentive.

➲Export of edible oils in branded consumer packs of upto 5 Kgs is permitted with a Minimum Export Price of USD 1100 per MT vide Notification No 80 (RE – 2013)/2009-2014 dated: 30 April, 2014. Earlier it was USD 1400 per MT.

VALUE ADDED TAX

Notifications/Circulars

➲ Extension of period for filing of online return for 4th quarter of 2013-14

Last date of online filing of fourth quarter return for the year 2013-14, in Form DVAT-16 , DVAT-17 and DVAT-48 along with required annexures, and submission of hard copy has been extended to 09/05/2014 vide *Circular No. 3 of 2014-15 dated: 28/04/2014.*

➲ Digital signature for online filing of applications/returns etc

The Government of National Capital Territory of Delhi in exercise of the powers conferred by section 100A of the Delhi Value Added Tax Act, 2004 (Delhi Act 3 of 2005), has issued a notification vide No.F.3(21)/Fin(Rev-l)/2013-14/dsvi/347 dated 26/03/2014 for use of digital signature for online filing of applications/returns etc. Therefore, all registered dealers can avail of the facility by obtain-

ing digital signatures from any of the certifying authorities. The dealers filing the returns online by using digital signature need not" to file Return verification Form in Form DVAT-56.
Source: Circular No. 02 of 2014-15 dated: 23/04/2014

COMPANY LAW

Notifications/Circulars

➲ Corporate Identification Number (CIN) to be mandatorily mentioned on letterheads etc. from 1st April, 2014

As per Section 12 of the Companies Act 2013 every company is mandatorily required to mention its Corporate Identification Number (CIN) along with the name and address of registered office on letterheads, invoices, notices and on all official correspondence and publications. Additionally, contact details, email and website address, if any, must be incorporated in such documents mentioned from April 1, 2014. In case of any failure to quote the CIN number, penalty of Rs 1,000 per day shall be imposed on the defaulting company and on every officer in default for every day during which the default continues. However, maximum penalty imposable shall not exceed Rs 100,000.

➲ Availability of E-Form/Non-E-Form under the Companies Act, 2013

As per General Circular No. 09/2014 (MCA 2I/28/2014-E-Gov) dated: 25th April, 2014, MCA notified that 46 e-forms including 3 general e-forms will be available for filing by the stakeholders w.e.f. 28th April 2014. The 3 General e-Forms will be used for filing 17 forms which are not available as e-forms as on date. For details refer to *www.mca.gov.in*.

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