Minister of Corporate Affairs Sachin Pilot Steers Passage of Companies Bill, 2012 in Lok Sabha

In a major leap forward for the corporate world, reform process and inclusive growth agenda in India, the Minister of Corporate Affairs Shri Sachin Pilot steered the long-awaited passage of the Companies Bill in the Lok Sabha on 18th December 2012, just within seven weeks of assuming independent charge of the Ministry. In a marathon sitting that lasted nearly four hours in the Lok Sabha, a spirited Shri Pilot moved 122 amendments to the original Bill. The amended Bill has 470 clauses. India has been looking to enact a new company law for years. The proposed legislation will replace the existing Companies Act, 1956. The Bill primarily aims at improving corporate governance as also contains provisions to strengthen regulations for corporate as well as auditing firms.

"The aim is to protect the interests of employees and small investors while encouraging firms to undertake social welfare voluntarily instead of imposing that through 'inspector raj' and make India an attractive and safe investment destination," Shri Pilot told the Lok Sabha while moving the Bill.

One of the major highlights of the proposed new legislation is that specified companies will have to necessarily spend 2% of their average net profits made in the immediately preceding three financial years towards Corporate Social Responsibility (CSR). *"Private companies, while maximising their growth, also have responsibility towards society besides equitable and sustainable growth of the country,"* Shri Pilot said while moving the Bill. The CSR spend would be mandatory for companies that have a net worth of ₹500 crore or more, or turnover of ₹1,000 crore or more or a net profit of ₹5 crore or more during a financial year. Where the company fails to spend such amount, the Board shall in its report specify the reasons for not spending the amount. Under the new legislation, companies will be encouraged to create Employees' Welfare Fund. The enactment of Companies Bill, 2012 will make India the only country that has mandated CSR spend through statutory route.

Other highlights of the Bill include 'setting up of Special Courts for speedy trials which will be an assurance to investors that cases would not linger on,' 'limiting the remuneration of a director of a company to up to 5% of the net profit', rotation of auditors, more clarity on liability of auditors, and setting up of National Financial Reporting Authority. There will be National Company Law Tribunal that can take decision to liquidate companies. There are proposals for annual ratification of appointment of auditors for five years and introduction of a new Clause related to offence of falsely inducing banks for obtaining credit. The legislation mandates payment of two years' salary to employees of the companies which wind up. This liability would be overriding. Besides, the changed law allows more statutory powers to the government's investigative arm Serious Fraud Investigation Office (SFIO) to tackle corporate fraud. Independent Directors are now mandatory for certain class of companies but not private companies. There is a provision for one third of Independent Directors for large companies. It is being made mandatory for certain class of companies to have at least one woman director. Besides, the Boards will have an audit committee, a CSR Committee and Remuneration Committee. There is a provision to have a representative as a director of minority shareholders. ■

	Amendments
*	Makes it mandatory for specified companies to spend 2% of average net profit on CSR
*	Mandates payment of two years' salary to employees in companies which wind up operations
*	New clause related to offence of falsely inducing banks for obtaining credit
*	Statutory powers to SFIO to tackle corporate fraud

(Contributed by Journal Section of the ICAI)