Circulars/Notifications

Given below are the important Circulars and Notifications issued by the CBDT, CBEC, MCA, RBI and SEBI during the last month for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/notification. You are requested to please submit your feedback and suggestions on the column at eboard@icai.in

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

A. NOTIFICATIONS

1. Cyprus specified as Notified Jurisdictional Area under Section 94A

Section 94A was introduced in the Income-tax Act, 1961, through the Finance Act, 2011, in respect of transactions with persons located in notified jurisdictional area as an anti-avoidance measure. As per the provisions of Section 94A, the Central Government may, having regard to the lack of effective exchange of information with any country or territory outside India, specify the said country or territory as a notified jurisdictional area in relation to transactions entered into by any assessee. The rules under Section 94A were notified as Income-tax (8th Amendment) Rules, 2013, through S.O. 1856 (E) dated 26th June, 2013, by inserting Rule 21AC and Form 10FC in the Income-tax Rules, 1962.

In exercise of the powers conferred by Section 94A(1) of the Income-tax Act, 1961, the Central Government has, through this notification, notified 'Cyprus' as the 'Notified Jurisdictional Area' for the purposes of the said section.

Further, Press Release dated 1.11.2013 clarifies the implication of the said notification, as under:

- If an assessee enters into a transaction with a person in Cyprus, then all the parties to the transaction shall be treated as associated enterprises and the transaction shall be treated as an international transaction resulting in application of transfer-pricing regulations including maintenance of documentations [Section 94A(2)]
- No deduction in respect of any payment made to any financial institution in Cyrus shall be allowed unless the assessee furnishes an authorisation allowing for seeking relevant information from the said financial institution [Section 94A(3)(a) read with Rule 21AC and Form 10FC]
- No deduction in respect of any other expenditure or allowance arising from the transaction with a person located in Cyprus shall be allowed unless the assessee maintains and furnishes the prescribed information [Section 94A(3)(b) read with Rule 21AC]
- If any sum is received from a person located in Cyprus, then the onus is on the assessee to satisfactorily explain the source of such money in the hands of such person or in the hands of the beneficial owner, and in case of his failure to do so, the amount shall be deemed to be the income of the assessee [Section 94A(4)]
- Any payment made to a person located in Cyprus shall be liable for withholding tax at 30 per cent or a rate prescribed in Act, whichever is higher [Section 94A(5)]

[Notification No. 86/2013, dated 1-11-2013]

The complete text of the above Notification & Press Release can be downloaded from the link below: http://law.incometaxindia.gov.in/DIT/Notifications.aspx

B. PRESS RELEASE

1. Setting up of Tax Administration Reform Commission (TARC)

Pursuant to the announcement made by the Hon'ble Finance Minister in his Budget Speech 2013-14, the Government has set-up a Tax Administration Reform Commission (TARC) under the Chairmanship of Dr. Parthasarathi Shome for reviewing the application of Tax Policies and Tax Laws in India in the context of global best practices and to recommend measures for reforms required in Tax Administration to enhance its effectiveness and efficiency. The Commission is expected to give its first report within six months and thereafter submit periodic reports after every three months. Details regarding composition of Commission, term of the Commission, terms of reference of the Commission etc. are given in this press release.

[Press Release, dated 21.10.2013]

C. INSTRUCTIONS/ ORDER/ LETTERS

1. Set off of Refunds against tax remaining payable where demand/ refund is greater than ₹5000

In pursuance to the decision of the Full Board and minutes of the meeting dated 21.08.2013, the CPC is allowed to issue refunds without adjustment of demand as an interim measure in cases where either the outstanding demand against the assessee was less than ₹5000/- or claim of refund was less than ₹5000/-.

In this regard, a list of CCIT-wise cases where such refund/ demand in excess of ₹5000/- exist, and notices u/s 245 were issued is available on i-Taxnet (http://10.152.2.10) on the following path: *Resources → Downloads → DIT_SYSTEMS → Notices issued under section 245 from CPC for confirmation of demands by AOs*

Through this letter, Assessing officers have been directed to comply with the aforesaid decision, perform necessary verification and correction following the procedure as per section 245 of the Income-tax Act, 1961.

[Letter {F.No. DIT(S)-III/CPC/2013-14/Refund Adjustment}, dated 22.10.2013]

2. Return of Income deemed as defective return where unpaid self assessment tax exists on the date of filing of return

A number of e-Returns have been submitted for A.Y. 2013-14 where unpaid self-assessment-tax existed on the date of submission of e-returns. In this regard, PAN-wise data for A.Y. 2013-14 for assessees who have not paid self-assessment-tax (₹100/- or more) on the day of filing of their e-returns is placed on i-Taxnet (http://10.152.2.10/) in the following path: *Resources → Downloads → DIT_SYSTEMS → Unpaid Self-Assessment-Taxes in e-Returns of AY 2013-14*

As per law, these e-Returns are deemed defective returns for AY 2013-14 and CPC, Bangalore has already issued notices to such assessees. Through this letter, Assessing Officers in respective regions were directed to issue notices and follow-up these cases to ensure that unpaid-self-assessment tax is deposited by the assessee at the earliest.

[Letter {F.No. DIT(S)-III/CPC/2013-14/Unpaid Self-Assessment Tax}, dated 22.10.2013]

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

A. SERVICE TAX

1. Amendment to Mega Exemption Notification - Food or Beverages Services provided by a Canteen exempt from Service Tax

CBEC vide Notification No. 14/2013 - ST., Dated: October 22, 2013 has exempt the food or beverages services provided by a canteen by inserting entry no. 19A in the Mega Exemption List. The entry provides as under:

"19A. Services provided in relation to serving of food or beverages by a canteen maintained in a factory covered under the Factories Act, 1948 (63 of 1948), having the facility of air-conditioning or central air-heating at any time during the year."

[Notification No. 14/2013 ST dated 22.10.2013]

The text of the above notifications/circular is available at www.cbec.gov.in

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

A. Overseas Foreign Currency Borrowings by Authorised Dealer Banks

A.P. (DIR Series) Circular No. 61 dated October 10, 2013 and Notification No.FEMA.288/2013-RB dated September 26, 2013

As per the extant regulations, AD Category - I banks are allowed to borrow funds from their Head Office, overseas branches and correspondents and avail overdraft in the nostro accounts up to a limit of 100% of their unimpaired Tier I capital as at the close of the previous quarter or USD 10 million (or its equivalent), whichever is higher (excluding borrowings for financing of export credit in foreign currency and capital instruments).

With a view to providing greater flexibility to AD Category - I banks in seeking access to overseas funds, RBI has amended Regulation (4)(2)(i) of Notification No. FEMA 3/RB-2000 dated May 3, 2000 vide Notification No. FEMA 288/2013-RB dated September 26, 2013 to allow authorised dealers to borrow funds from any other entity as permitted by RBI up to 100% of its unimpaired Tier I capital or USD 10 million, whichever is higher, subject to such conditions as RBI may direct. Accordingly, permission is granted to AD Category - I banks to borrow funds from international/multilateral financial institutions for a limited period up to November 30, 2013. However, Such borrowings should be for the purpose of general banking business and not for capital augmentation and shall be subject to the conditions stipulated in the A.P. (DIR Series) Circulars No. 40, 2013 dated September 10, 2013. Further, such borrowings shall be eligible for the concessional swap facility of RBI as per A.P. (DIR Series) Circulars No. 40, 2013 dated September 10, 2013 and 54 dated September 25, 2013.

B. Closing of Old Outstanding Bills: Export - Follow-up – XOS Statements

A.P. (DIR Series) Circular No. 62 dated October 14, 2013

Presently, AD Category – I banks are required to furnish to the Regional Office concerned of the RBI, a consolidated statement in Form XOS giving details of all export bills outstanding beyond 6 months from the date of export on a half yearly basis as at the end of June and December every year.

RBI has decided that an old export bill may be closed by AD banks as a one time measure, provided that (i) the case is not subject matter of any pending civil suit/criminal suit; (i) the exporter has not come to the adverse notice of the Directorate of Enforcement (DoE)/Central Bureau of Investigation (CBI)/Directorate of Revenue Intelligence (DRI)/any such other law enforcement agency; (iii) the exporter has no externalisation problems with the export recipient countries and the export bill falls under following categories:

(a) With ceiling of USD 1,00,000 and outstanding beyond 15 years as on December 31, 2012

(b) With ceiling of USD 50,000 and outstanding for more than 5 years as on December 31, 2012, where customers not traceable subject to proof of non traceability from competent authority and under bank's internal boards approved policy.

Report of closed cases should be submitted to concerned ROs of RBI by AD banks in the prescribed format.

After closing of cases, there will be no further follow up by ADs and these outstanding bills will not be reported in future Export Outstanding Statements (XOS).

C. Amendments to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 [Notification No. FEMA 20/2000-RB dated May 3, 2000]

1. Notification No. FEMA. 289/2013-RB dated October 4, 2013 - Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Thirteenth Amendment) Regulations, 2013 – Amendment to Schedule 5 and A.P. (DIR Series) Circular No. 74 dated November 11, 2013

RBI has amended Schedule 5 of Notification No. FEMA 20/2000–RB to allow following categories of investors to purchase on repatriation basis, credit enhanced bonds up to a limit of USD 5 billion within the overall limit of USD 51 billion earmarked for

corporate debt subject to other conditions as specified in the Schedule 5 -

(i) Foreign Institutional Investor (FII);
(ii) Qualified Foreign Investor;
(iii) Long-term investors registered with SEBI like Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds and Pension Funds and Foreign Central Banks.

2. Notification No. FEMA. 290/2013-RB dated October 4, 2013 - Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Fourteenth Amendment) Regulations, 2013 – Amendment to Regulation 10A(b)(v) and A.P. (DIR Series) Circular No. 72 dated November 11, 2013

In case of transfer of shares of the investee company in the financial services sector from Residents to Non-Residents No Objection Certificate (NoC) is required to be obtained from the respective financial sector regulator/regulators of the investee company as well as transferor and transferee entities.

RBI has now waived off the requirement of obtaining such NoC(s) from the perspective of Foreign Exchange Management Act, 1999 and no such NoC(s) need to be filed along with form FC-TRS. However, any 'fit and proper/ due diligence' requirement as regards the non-resident investor as stipulated by the respective financial sector regulator shall have to be complied with.

Accordingly, the Regulation 10A(b)(v) of Notification No. FEMA 20/2000–RB requiring No Objection Certificates (NOCs) from the respective financial sector regulators/ regulators of the Investee company as well as transferor and transferee entities in case of transfer of shares has been deleted.

3. Notification No. FEMA. 292/2013-RB dated October 4, 2013 – Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Sixteenth Amendment) Regulations, 2013 – Amendment to Regulation 2 and A.P. (DIR Series) Circular No. 68 dated November 01, 2013

The Department of Industrial Policy and Promotion has, vide Press Note No. 2 (2013 Series) dated June 03, 2013 incorporated the following definition of 'Group Company' in the FDI policy, effective from 05-04-2013 in paragraph 2.1 of the Consolidated FDI Policy as contained in Circular 1 of 2013:

'Group Company' means two or more enterprises which, directly or indirectly, are in a position to:

(i) exercise twenty-six per cent, or more of voting rights in other enterprise; or
(ii) appoint more than fifty per cent, of members of board of directors in the other enterprise.

Consequently, RBI has amended the Regulation 2 of Notification No. FEMA 20/2000–RB by inserting aforesaid definition of 'Group Company' in clause (iva) vide Notification No. FEMA. 292/2013-RB dated October 4, 2013 and A.P. (DIR Series) Circular No.68 dated November 01, 2013.

D. Amendment to the Issue of Foreign Currency Convertible Bonds and Ordinary shares (Through Depository Receipt Mechanism) Scheme, 1993

A.P. (DIR Series) Circular No. 69 dated November 8, 2013

RBI has allowed unlisted companies incorporated in India to raise capital abroad, without the requirement of prior or subsequent listing in India, initially for a period of two years, subject to conditions specified in the circular.

This scheme will be implemented from the date of the Government Notification of the scheme, subject to review after a period of two years.

For detailed conditions, please refer circular available on RBI website at: http://rbidocs.rbi.org.in/rdocs/notification/PDFs/69APDIR081113.pdf

E. Third party payments for export/import transactions

A.P. (DIR Series) Circular No. 70 dated November 8, 2013

Normally payment for exports has to be received from the overseas buyer named in the Export Declaration Form (EDF) by the exporter and the payment shall be received in a currency appropriate to the place of final destination as mentioned in the EDF irrespective of the country of residence of the buyer. Similarly, the payments for the import should be made to the original overseas seller of the goods and the AD should ensure that the importer furnishes evidence of import, such as, Exchange Control copy of the Bill of Entry to satisfy itself that goods equivalent to the value of remittance have been imported.

With a view to further liberalising the procedure relating to payments for exports/imports and taking into account evolving international trade practices, RBI has decided as under:

(1) In case of Export Transactions-

AD banks may allow payments for export of

goods/software to be received from a third party (a party other than the buyer) subject to conditions as under:

(a) Firm irrevocable order backed by a tripartite agreement should be in place;
(b) Third party payment should come from a Financial Action Task Force (FATF) compliant country and through the banking channel only;
(c) The exporter should declare the third party remittance in the Export Declaration Form;
(d) It would be responsibility of the Exporter to realise and repatriate the export proceeds from such third party named in the EDF;
(e) Reporting of outstandings, if any, in the XOS would continue to be shown against the name of the exporter. However, instead of the name of the overseas buyer from where the proceeds have to be realised, the name of the declared third party should appear in the XOS; and
(f) In case of shipments being made to a country in Group II of Restricted Cover Countries, (e.g. Sudan, Somalia, etc.), payments for the same may be received from an Open Cover Country.

Note: Restricted cover Group II country is country which experiences chronic political and economic problems as well as balance of payment difficulties.

(2) In case of Import Transactions-

AD banks are allowed to make payments to a third party for import of goods, subject to conditions as under:

(a) Firm irrevocable purchase order/tripartite agreement should be in place;
(b) Third party payment should be made to a FATF compliant country and through the banking channel only;
(c) The Invoice should contain a narration that the related payment has to be made to the (named) third party;
(d) Bill of Entry should mention the name of the shipper as also the narration that the related payment has to be made to the (named) third party;
(e) Importer should comply with the related extant instructions relating to imports including those on advance payment being made for import of goods; and
(f) The amount of an import transaction eligible for third party payment should not exceed USD 100,000. This limit will be revised as and when considered expedient.

F. Advance Remittance for Import of Rough Diamonds

A P. (DIR Series) Circular No. 71 dated November 8, 2013

AD Category – I banks are permitted to make advance remittance without any limit and without Bank Guarantee or Standby Letter of Credit, by an importer (other than Public Sector Company or Department/Undertaking of the Government of India /State Governments), for import of rough diamonds into India from nine mining companies, subject to certain conditions.

Based on the recommendations of the Gems and Jewellery Export Promotion Council (GJEPC), the names of the two mining companies listed above have been changed as indicated below:

(i) De Beers UK Ltd. to De Beers Global Sightholder Sales Proprietary Ltd.

(ii) BHP Billiton, Belgium to Dominion Diamond Marketing.

All the instructions issued in respect of advance remittance for import of rough diamonds, vide A.P. (DIR Series) Circular No.21 dated December 29, 2009 and Import of rough, cut and polished diamonds, vide A.P.(DIR Series) Circular No. 59 dated May 6, 2011, shall remain unchanged.

G. Clarifications on Import of Gold by Nominated Banks/Agencies/Entities

A. P. (DIR Series) Circular No. 73 dated November 11, 2013

Considering the representations received relating to Advance Authorisation (AA)/Duty Free Import Authorisation (DFIA), and in consultation with the GOI, RBI has clarified that any authorisation such as AA/DFIA is to be utilised for import of gold meant for export purposes only and no diversion for domestic use shall be permitted. For any AA/DFIA issued prior to 14th August 2013 the condition of sequencing the imports prior to exports shall not be insisted upon.

Notwithstanding any of the foregoing directions, entities/units in the SEZ and EoUs, Premier and Star Trading Houses (irrespective of whether they are nominated agencies or not) are permitted to import gold exclusively for the purpose of exports only. Similarly, exports towards fulfillment of obligation under AA/DFIA scheme shall not qualify as export for the purpose of the scheme of 20:80.

SEBI (www.sebi.gov.in)

1. Centralised Database for Corporate Bonds/Debentures

"High Level Expert Committee on Corporate Bonds and Securitisation" ("Dr. R.H. Patil Committee") had recommended creation of "Centralised Database of information regarding Bonds". The committee report has recognised that historical database on all corporate bonds issued is very important for an investor to take a valued decision.

Pursuant to consultation with various stakeholders, it has been decided to create a centralised database regarding corporate bonds which are available in demat form for public dissemination. Both the depositories viz. NSDL and CDSL, jointly, shall be the repository of information pertaining to the corporate bonds/debentures.

The SEBI vide Circular No. IMD/DF/17/2013, dated 22-10-2013 has given various aspects in relation to the development of the centralised database.

Depositories shall also provide the information available with respect to the Redeemable Preference Shares and Securitised Debt Instruments, in a separate section within the database, in the form as available with them, after sharing the same with the other depository for synchronising and updating the database.

Issuers/Depositories/Stock Exchanges/Credit Rating Agencies/Debenture Trustees are directed to:

a. Comply with the conditions laid down in this circular.

b. Put in place necessary systems and infrastructure for implementation of this circular and complete the list of activities as specified in Annexure-II within the stipulated time.

All Recognised Stock Exchanges shall ensure compliance with this circular and mandate the Issuers whose bonds/debentures are listed to promptly provide the information, and any subsequent changes thereof, to the depositories. Companies, which have issued bonds/debentures, which are not listed but available in demat form, may provide the information on a voluntary basis.

2. Listing of Specified Securities of Small and Medium Enterprises on The Institutional Trading Platform in a SME Exchange Without Making an Initial Public Offer

In order to facilitate capital raising by small and

medium enterprises including start-up companies which are in their early stages of growth and to provide for easier exit options for informed investors like angel investors, VCFs and PEs etc., from such companies, the SEBI vide Circular No. MRD/DSA/33/2013, dated 24-10-2013 has decided to permit listing without an Initial Public Offer and trading of specified securities of small and medium enterprises (SMEs) including start-up companies on Institutional Trading Platform (ITP) in SME Exchanges.

The legal framework for such listing and trading of the specified securities on the ITP was laid down vide SEBI (Listing of Specified Securities on Institutional Trading Platform) Regulations, 2013(ITP Regulations) vide Gazette notification No. LAD-NRO/GN/2013-14/27/6720 dated October 08, 2013. In this regard, through said ITP Regulations, necessary amendments have been made in the SEBI (Issue of Capital and Disclosure Requirements) Regulations 2009 (ICDR Regulations) by inserting a "Chapter XC" on "Listing and Issue of Capital by Small and Medium Enterprises on Institutional Trading Platform without initial public offering". Further, vide said ITP Regulations, consequential amendments have also been made to SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and SEBI (Delisting of Equity Shares) Regulations, 2009. The full text of the Regulations is available at www.sebi.gov.in.

3. Standardisation and Simplification of Procedures for Transmission of Securities

With a view to make the transmission process of securities more efficient and investor friendly the Share Transfer Agents (STAs)/ issuer companies and the depositories shall adhere to the SEBI vide Circular No. MIRSD/10/2013, dated 28-10-2013 issued following guidelines, as applicable to them:

I. In case of transmission of securities in dematerialised mode, where the securities are held in a single name without a nominee, the existing threshold limit of ₹1,00,000 per beneficiary owner account has now been revised to ₹5,00,000 for the purpose of simplified documentation.

II. In case of transmission of securities held in physical mode:

   a. where the securities are held in single name with a nominee, STAs/issuer companies shall follow the standardised documentary requirement.

b. where the securities are held in single name without a nominee, the STAs/issuer companies shall follow, in the normal course, the simplified documentation for a threshold limit of ₹2,00,000 per issuer company. However, the Issuer companies, at their discretion, may enhance the value of such securities.

III. The timeline for processing the transmission requests for securities held in dematerialised mode and physical mode shall be 7 days and 21 days respectively, after receipt of the prescribed documents.

To improve the awareness of nomination facility, all Registrars to an Issue and Share Transfer Agents shall publicise nomination as an additional right available to investors, while sending communications to the investors.

The circular is issued to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets and shall be complied with at the earliest and not later than 45 days from the date of issue of the circular.

4. Issues Pertaining to Primary Issuance of Debt Securities

For development of Corporate Bond Market SEBI vide Circular No. IMD/DF/18/2013, dated 29-10-2013 has issued to implement the following measures:

I. Disclosure of Cash Flows: SEBI specified that day count convention for calculation of interest payments for listed corporate debt securities (for all new issues of corporate bonds) shall be Actual/Actual.

The cash flows emanating from the debt securities shall be mentioned in the Prospectus/ Disclosure Document, by way of an illustration. If the coupon payment dates of the debt securities falls on a Sunday or a holiday the coupon payment shall be made on the next working day. If the maturity date of the debt securities, falls on a Sunday or a holiday, the redemption proceeds shall be paid on the previous working day.

II. Withdrawal of requirement to upload bids on date-time priority: In public issues of debt securities, where the issuer has signed agreement with multiple stock exchanges, the registrar shall ensure that allotment is done on date-time priority basis.

The allotment in the public issue of debt securities should be made on the basis of date of upload of each application into the electronic book of the stock exchange. However, on the date of oversubscription, the allotments should be made to the applicants on proportionate basis.

III. Disclosure of unaudited financials with limited review report: SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 enables listed issuers to disclose unaudited financials for stub period with limited review report in the offer document, in case of further public issues or rights issue of equities, where audited accounts as at such date are not available. To avoid hardships to frequent debt issuers, the listed issuers who are in compliance with the listing agreement, may disclose unaudited financials with limited review report in the offer document, as filed with the stock exchanges in accordance with the listing agreement, instead of audited financials, for the stub period, subject to making necessary disclosures in this regard in offer document including risk factors.

IV. Disclosure of contact details of Debenture Trustees in Annual Report: The Listing Agreement for Debt Securities is amended by inserting a clause stating that the companies, which have listed their debt securities, shall disclose the name of the debenture trustees with contact details in their annual report and as ongoing basis, on their website, to enable the investors to forward their grievances to the debenture trustees.

The provisions in Para I of this circular shall be applicable for the debt securities issued, in accordance with SEBI (Issue and Listing of Debt Securities) Regulations, 2008, on or after December 1, 2013. The provisions in Paras II and III of this circular shall be applicable for the draft offer document for issuance of debt securities filed with the designated stock exchange on or after November 1, 2013. The provisions in Para IV shall be applicable from December 1, 2013.

5. Annual System Audit of Stock Brokers/Trading Members

Technological advancements and various market events have necessitated reviewing the existing system audit framework for Stock Brokers/Trading Members. Accordingly SEBI vide Circular No. MRD/DMS/34/2013, dated 6-11-2013 revised the system audit guidelines which includes System Audit Process, Auditor Selection Norms and Terms of Reference (TOR).

The stock exchanges should ensure the said audit is conducted in accordance with the prescribed guidelines. Stock Exchanges are advised to keep track of findings of system audits and inspection of brokers. Exchanges should report all major non-compliances/ observations on a quarterly basis to SEBI.

Stock Exchanges are directed to; a) take necessary steps and put in place necessary systems for implementation of the above; b) make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision, wherever applicable; and c) bring the provisions of this circular to the notice of the stock brokers/trading members of the stock exchange and also disseminate the same on their website.

Securities Laws

1. Securities Contracts (Regulation) Second Amendment Rules, 2013

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act, 1956, (42 of 1956), the Central Government vide Notification No. GSR 705(E) [F.NO.1/17/ SM/2011], dated 24-10-2013 hereby amended the Securities Contracts (Regulation) Rules, 1957. In rule 8, after the sub-rule (5), the sub-rule (6) shall be inserted providing that a limited liability partnership shall also be eligible to be elected as a member of a stock exchange if,:—

(i) such 'limited liability partnership' undertakes to comply with such financial requirements and norms as may be provided by the SEBI for registration.

(ii) the designated partners of the 'limited liability partnership' are not disqualified from being members of a stock exchange and the designated partners of the 'limited liability partnership' had not held the offices of Directors in any company or body corporate or partner in any firm or 'limited liability partnership', which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and

(iii) not less than two designated partners of the 'limited liability partnership' are persons who possess a minimum experience of two years (a) in dealing in securities; or (b) as portfolio managers; or (c) as investment consultants.

RBI (www.rbi.gov.in)

1. Due Diligence in Correspondent Banking Relationship

It has been observed that some commercial banks have arrangements with co-operative banks wherein the latter open current accounts with the commercial banks and use the cheque book facility to issue 'at par' cheques to their constituents and walk-in- customers for facilitating their remittances and payments. Since the 'at par' facility offered by commercial banks to co-operative banks is in the nature of correspondent banking arrangements, banks should monitor and review such arrangements to assess the risks including credit risk and reputational risk arising therefrom. The RBI vide Circular DBOD.AML.BC.NO.63/14.01.001/2013-14, dated 29-10-2013 issued that the banks should retain the right to verify the records maintained by the client cooperative banks/societies for compliance with the

extant instructions on KYC and AML under such arrangements.

2. Relaxations in Branch Authorisation Policy

The RBI vide Circular No. DBOD.BAPD.BC. 60/22.01.001/2013-14, dated 21-10-2013 stated that the domestic scheduled commercial banks (other than RRBs) are permitted to open branches in Tier 1 to Tier 6 centres without having the need to take permission from Reserve Bank of India in each case, subject to reporting. Detailed Guidelines in this regard including reporting requirements are enumerated.

3. Framework for Setting up of Wholly Owned Subsidiaries by Foreign Banks in India

RBI vide Press Release 2013-14/936, dated 6-11-2013 has released the framework for setting up of Wholly Owned Subsidiaries (WOS) by foreign banks in India. The policy is released in pursuance of the announcement made in the Second Quarter Review of Monetary Policy 2013-14 (Para 26).

The policy is guided by the two cardinal principles of (i) reciprocity and (ii) single mode of presence. As a locally incorporated bank, the WOSs will be given near national treatment which will enable them to open branches anywhere in the country at par with Indian banks (except in certain sensitive areas where the Reserve Bank's prior approval would be required). They would also be able to participate fully in the development of the Indian financial sector. The policy incentivises the existing foreign bank branches which operate within the framework of India's commitment to the World Trade organisation (WTO) to convert into WOS due to the attractiveness of near national treatment. Such conversion is also desirable from the financial stability perspective. To provide safeguards against the possibility of the Indian banking system being dominated by foreign banks, the framework has certain measures to contain their expansion if the share of foreign banks exceeds a critical size. Certain measures from corporate governance perspective have also been built in so as to ensure that the public interest is safeguarded.

IRDA (www.irda.gov.in)

1. Categorisation and Upgradation of Surveyors

In terms of the powers vested under Regulation 14 A(2) of the extant Insurance Surveyors and Loss Assessors (Licensing Professional Requirements and Code of Conduct Regulations, 2000, for the efficient conduct of the affairs of the Institute, the Authority vide Circular No. IRDA/SUR/AREG/CIR/087/10/13, dated 17-10-2013 outlines the procedure to be followed for submission of Applications by Surveyors and Loss Assessors for Categorisation of Surveyors under the new Regulations.

2. E-KYC Services of UIDAI

The Unique Identification Authority of India (UIDAI) has operationalised e-KYC services recently. The acceptability of these services for KYC purposes under the Prevention of Money-laundering (Maintenance of Records) Rules, 2005, was discussed with the Department of Revenue, Ministry of Finance and operational issues were taken up with the insurers.

Now, following confirmation from the Ministry that e-KYC services may be accepted as a valid process for KYC verification under the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005, the Authority vide Circular No. IRDA/SDD/CIR/AML/207/10/2013, dated 21-10-2013 issued that e-KYC services of UIDAI is acceptable for KYC verification subject to specific and express consent of the customer to access his/her data through UIDAI system.

It may further be noted that in cases where e-KYC services are availed for KYC verification, certification requirements under clause 3.1.1 (iv) of the Master Circular (2010) AML/CFT guidelines shall be deemed to be complied with.

3. Clarifications Matters Related to Investment Regulations

The Fifth amendment to the IRDA (Investment) Regulations, 2000 was gazetted vide notification dated 16th February, 2013 and subsequently a Circular No. IRDA/F&I/CIR/INV/067/04/2013 Dated 1st April, 2013 was issued regarding key changes in the said amendments. Post issuances of amended regulations and said circular, there have been a number of representations from the Insurers on different issues seeking clarification and exemptions from the applicability of the provisions. Further, feedback has also been received from Insurers and the Life Council on miscellaneous issues on policy matters. After careful examination of these representations, IRDA vide Circular No. IRDA/F&I/INV/CIR/213/10/2013, dated 30-10-2013 issued Clarifications on IRDA (Investment) Regulations, 2000, Circulars & Guidelines and Misc. Matters related to Investment Regulations. ■