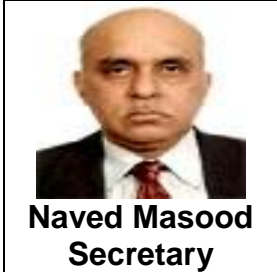


MINISTRY OF CORPORATE AFFAIRS
NEWSLETTER- AUGUST 2012

From Secretary's Desk



**Naved Masood
Secretary**

The recently announced reform measures which include, inter alia, permitting FDI up to 51% in the multi-brand retail sector, relaxing the sourcing requirements for single brand retail with FDI, permitting up to 49% FDI in aviation and up to 74% in broadcasting sector, cutting down diesel subsidies and limiting subsidies on cooking gas etc. have had a galvanising effect on the market. The capital market has become buoyant; Rupee has shored up, rising from the level of ₹57 per \$1 in June, 2012 to ₹54 per \$1 in Mid-September, 2012. With further reforms on the anvil, the economy will gain momentum.

Our economy grew by only 5.5% in the quarter ending 30th June, 2012 as against the 8% growth realised in the corresponding quarter of previous year, but still it is a little higher than the quarterly growth rate of 5.3% achieved during the quarter ending 31st March, 2012. Growth recovery in the remaining quarters would be largely driven by revival of investment in the industry and services sector.

The recent cut in the Cash Reserve Ratio, releasing about ₹17,000 Crores to the market, eases the liquidity deficit to some extent. Government is also renewing its focus on fiscal consolidation for encouraging investments. The market sentiment has started improving, and I hope the impact of global and domestic macroeconomic uncertainties can be overcome in the near future.

I am happy to note that the anti-competitive and anti-fraud mechanisms are now firmly established in the country. With the experience gained over the years, several policy and statutory reforms governing businesses have been proposed by the Ministry. The Companies Bill, 2011 is expected to take concrete shape during the coming months. I hope that a comprehensive

amendment to the Competition law would also be introduced in Parliament soon. Further, the Government has constituted a twenty-member expert Committee on *Reforming the Regulatory Environment for Doing Business in India* with a view to identifying the gaps and suggest policy reforms.

The MCA21 project, an integral part of the Ministry's functioning would be taken to the next level of automation by M/s. Infosys Ltd. The new partner would operate the MCA21 v2 for the period January, 2013 to July, 2021 at an estimated total outlay of Rs. 357.81 crore.

The results of 68th round (2011-12) of the National Sample Survey (NSS) on Household Consumption Expenditure released recently highlight that annual growth rate in consumption during 2009-10 to 2011-12 has been 9.1% for rural India and 8.3% for urban India. Higher consumption growth in rural India that is home to 70% of India's population reinforces our belief in India's intrinsic strength in terms of resilient domestic demand. I hope, with the series of reform measures, the economy will overcome supply side bottlenecks and soon move towards its potential growth path.

The Companies Bill, 2011: The Hon'ble Parliamentary Standing Committee on Finance presented its Report on Companies Bill, 2011 to the Hon'ble Speaker of Lok Sabha on 26.06.2012. The Official Amendments, after considering the Committee's Report were circulated to the concerned Ministries/ Departments on 09.07.2012 for their comments. The Ministry is examining the comments of the Ministries/ Departments and would move a Note for the consideration of the Union Cabinet soon.

Group of Ministers for Competition Law: In the light of experiences gained in the working of the Competition Commission of India (CCI), the Ministry moved a proposal in April, 2012 to amend the Competition Act, 2002. The Union Cabinet set up a Group of Ministers to examine the issues. The Group of Ministers held its meetings on 27.07.2012 and 21.08.2012 and has approved the draft Bill with certain modifications.

Notifications and Circulars on Simplification in Administrative Procedures continues: The Ministry of Corporate Affairs has issued a series of Circulars concerning administration of the Companies Act, 1956 (for further details, visit our website: <http://mca.gov.in>). These Circulars broadly relate to —

I. Notifications

A. General Statutory Rules

- (i) The Company Law Board has amended the Company Law Board Regulations, 1991 regarding supply of advance copies of certain petitions to the opposite parties, dispensing with publication of general notice in newspapers etc., and documents to accompany petitions under Sections 17, 18, 19, 141 and 188 of the Companies Act, 1956 [see GSR No. 630 (E) dated 12.8.2012]
- (ii) In case of delays in filing applications with the Central Government under sub-section (2) of section 233B of the Companies Act, 1956, the Ministry has decided to levy additional fees. The additional fee would be 100% of the normal fee for delays up to thirty

days, 300% of the normal fee for delays more than thirty days and less than sixty days, 500% of the normal fee for delays more than sixty days and less than ninety days and 800% of the normal fee for delays more than ninety days. Necessary amendments have been made to the earlier Notification GSR 501(E) dated 6.7.1999 [see GSR 617(E) dated 07.08.2012].

B. Statutory Orders

- (i) The Central Government has listed 267 Product Groups for the purpose of Cost Audit Report and Compliance Report to be filed with the Central Government. Notifications issued on 03.06.2011 and 07.12.2011 in this regard would be applicable to these product groups. [see S.O. 1747(E) dated 07.08.2012].

II. Circulars

- (i) In pursuance of the Investor Education and protection Fund (uploading of information regarding unpaid and unclaimed amount lying with companies) Rules, 2012 notified vide GSR 352 (E) dated 10.05.2012, guidelines have been issued for filing of Form No. 5INV by companies, and time for filing the information has been extended up to 31.08.2012 [see General Circular No. 20/2012 dated 01.08.2012]. It may be mentioned that up to 31.08.2012, the last date for filing such information for financial year 2010-11, 2800 companies have uploaded their data.
- (ii) The current year filing of Balance Sheet and Profit and Loss Account by companies in Non-XBRL for accounting year commencing on or after 01.04.2011 based on revised schedule VI as per revised forms 23AC and 23ACA (to be notified shortly on the MCA website) has been extended up to 15.10.2012 or one month from the holding of the Annual General Meeting, whichever is later.

- (iii) Fees on Form 23B (Information by statutory auditor to the Registrar) was further deferred for one week and became applicable from 12.08.2012. [see General Circular No. 22/2012 dated 03.08.2012].
- (iv) The Indian Companies registered in the state of Jammu & Kashmir and foreign companies having their principal place of business in the state of Jammu & Kashmir, which are 'Defaulting', 'Dormant' or 'Active in Progress' have been provided an opportunity to make their default good by filing belated documents and to become a regular compliant in future under the "Company Law Settlement Scheme (Jammu & Kashmir), 2012". The Scheme is effective from 15.08.2012 to 14.12.2012 [see General Circular No. 23/2012 dated 06.08.2012].
- (v) The Non-Whole Time Directors of the Company are presently not covered under the exempted list and as such, the sitting fee commission payable to them by the company is liable to Service Tax, as per the provisions of Finance Act, 2012. It has been decided that if remuneration of Non-Whole Time Director (s) of a company breaches the limits of 1% or 3% of the profit u/s 309(4) of the company, as the case may be, solely on account of Service Tax, then no approval of Central Government under section 309 and 310 of the Companies Act would be necessary in the financial year 2012-13 (General Circular No. 24/2012 dated 09.08.2012).
- (vi) Considering the representations from industry associations that Para 6 of Accounting Standard-11 and Para 4 (e) of AS-16 are incongruent with proper implementation of Para 46A of notification 914(E) dated 29.12.2011 relating to "The effects of Changes in Foreign Exchange Rates, it has been clarified by the Ministry that Para 6 of Accounting Standard-11 and Para 4 (e) of the Accounting Standard-16 shall not apply to a company which is applying clause 46-A of Accounting Standard-11. [see General Circular No. 25/2012 dated 09.08.2012].
- (vii) Clarification of Gazette notification GSR 534 (E) dated 14.7.2011 : Employees of companies who have been allotted shares under

Employees' Stock Option Plan or by way of qualification shares and holding shares of the company up to 0.5% of paid up share capital are also covered under GSR 534(E) dated 14.7.2011. They would also be treated as managerial personnel not having any interest in the capital of the company and not related to the directors or promoters thereof. Such companies are exempted from obtaining the approval of the Central Government for payment of remuneration exceeding the limits imposed by the Companies Act, 1956 for such managerial personnel (F. No. 14/11/2012-CL.VII dated 16.08.2012).

(viii) In the context of the report of the World Bank and the International Finance Corporation, entitled "Doing Business 2012: Doing business in a very Transparent World", a need was felt for extensive examination of regulations in different areas of root functioning such as financial reforms, governance reforms, liberalized policy framework, process reforms etc. Thus, an in-depth study into the entire gamut of regulatory framework with a view to lay down a detailed roadmap for improving the climate of business in India in a time bound manner has been considered necessary so as to bring about a situation where India has an almost zero-hassle environment for Doing Business. A Committee on '*Reforming the Regulatory Environment for Doing Business in India*' has been constituted under the chairmanship of Shri M. Damaodaran for conducting such a study and to submit a detailed report within a period of six months. The Committee may hold wide consultations (either directly or in writing by issuing questionnaires) with all the stakeholders in the corporate sector, academics and members of public and elicit opinions about the policy action and changes in the law required (see Circular No. 26/2012 dated 23.08.2012).

Multi-state Societies Registration Law : The Ministry has constituted an Expert Group to study the regulatory gaps and oversight mechanism governing the functioning of societies registered under the Societies

Registration Act, with a view to formulate a Model Law on the subject. The Expert Group has submitted its report to the Ministry on 05.07.2012 proposing a legislation titled as '*Multi-state Societies Registration Bill, 2012*'. The Report and the proposed Bill have been uploaded on the website of the Ministry of Corporate Affairs (www.mca.gov.in) inviting comments, views and suggestions thereon from various Individuals/ Experts/ Institutions/ Organizations up to 15.09.2012.

Brainstorming Sessions in Serious Fraud Investigation Office : The SFIO has held several in-house brainstorming sessions. The emphasis was on unfolding fraud, including Corporate Criminal Liability – Company Directors' and Officers' liability for offences and the Principle of Attribution, Multi-level Marketing and Special Rights of Institutional Investors.

MCA21 Version 2 (January, 2013 to July, 2021) : The term of the e-governance Project for MCA services under the MCA21 System expires on 16.01.2013. The MCA21 project has become an integral part of the functioning of the Ministry, as it covers the entire services of Registrar of companies, Regional Directorates and MCA headquarters on e-Governance mode. The MCA21 Project is an important vehicle for corporate regulation, governance and compliance in accordance with the provisions of the Companies Act and the Limited Liability Partnership Act. In order to continue with the programme further and take it to the next level of automation and to provide technical support beyond January 2013, a Request for Proposal (RFP) was floated for selection of a new operator for Phase-2 (MCA21 v2). Under the open competitive bidding process using QCBS methodology, M/s. Infosys Ltd has been selected as the best value bidder for operation of the next cycle of MCA21 (MCA21 v2). The Committee on Non-Plan Expenditure considered the proposal for the requisite mandatory approvals on 22.08.2012. The project has been cleared by the CNE as a non-plan scheme with a total outlay of Rs. 357.81 crore for the period January, 2013 to July, 2021. The Cabinet Committee on Economic Affairs will now be approached for the final approval of the Union Cabinet.

Progress on XBRL Taxonomy, Business Rules and Tools : During the month of August, the Taxonomy for XBRL filing of Financial Statements and related Business Rules were finalized and hosted on the Ministry's website. Meetings were held with software vendors and webcasts were also organized with Chartered Accountants and Company Secretaries to explain the salient features. The Validation Tool to enable XBRL filing on MCA21 portal is under development and filings based on this are expected to commence by the 1st week of October, 2012.

Investor Education and Protection : 69 Investor Awareness Programmes were conducted in the month of August 2012 through Professional Institutes in different parts of the country.

Events at Competition Commission of India :

- (I) Four Officers of the Competition Commission of India (CCI) participated in the US Federal Trade Commission sponsored training on Advanced Economics from August 27-31, 2012 in FTC, Washington DC, USA.
- (II) Shri Sandeep Jain, Additional Director General, CCI visited BHU Law School to deliver a lecture on "Competition Law and Policy".
- (III) The Commission had organised a National Level Essay Competition on 'Benefits of Fair Competition in Market', 'Role of CCI in promoting and sustaining competition', 'Competition : A potent tool for Economic Development and Socio-Economic Welfare' and 'Competition Promotes Economic Efficiency : Comment' across various categories of students. About 400 students participated in the Competition.
- (IV) Seven newly appointed officers of CCI underwent Induction Training during August 6-8, 2012.
