

Department's guidelines for deciding cases for availability of names*

Superseding all previous Circulars and Instructions (Circular Letter No. 10(1)-RS/60, dated 01-04-1960 and Circular Letter No. 10 / (19)-RS/61, dated 15-03-1962) the Department of Company Affairs has laid down the following principles for deciding cases for availability of names:

Guiding instructions for availability of names

The procedure for scrutinizing the availability of names of new companies has recently been re-examined carefully in this Department, having taken into account the difficulties experienced by some Registrars in the following the instruction given to them vide Department's Letter No 10/(19)-RS/61, dated 15-03-1962. This letter together with the enclosed set of instructions as revised, consolidates, and is in supersession of all the previous instruction issued from time to time by this Department. An illustrative list of names considered to be undesirable within the meaning of Section 20 of the Companies Act, has also been given herewith. The guiding instructions for deciding cases of making a name available for registration are given in Appendix A to this letter. In addition to these, the Registrars of Companies are requested to note the following general instructions also.

1. As the Registrars have hitherto been doing, they should refer only doubtful and hard cases where they might find it difficult to take a decision, to the Research and Statistics Division at the Headquarters.
2. Where consultation with the Regional Director on the spot is possible, Registrars of Companies would take advice before referring doubtful and hard cases to the Headquarters.
3. The Registrars of Companies may ask the promoters to suggest a panel of three to five names quite distinct from each other for consideration.
4. The Registrars should adopt a polite attitude and persuade the Company promoters to suggest names consistent with the guiding principles. They should explain the difficulties of the Administration in approving names likely to create confusion in the minds of the public and harm the interest of the promoters.
5. In case any of the names proposed by the promoters is not agreed to by the Registrars as available, it should be open to them to follow up the matter by subsequent letters or application for the same fee within a reasonable period which may normally be construed to mean three months from the date of rejection of the name/names proposed.
6. The Registrars may permit the promoters to use the name of the firm in brackets after the duly approved names as incorporating or successor to (name of the firm) in order to fulfill the desire of the promoters to retain the goodwill of their business in cases where the names of firms seeking registration under the Companies Act is considered as undesirable within the meaning of Section 20 of the Companies Act.

7. Registrars should ascertain from the promoters if the proposed name/names were applied for to any other Registrar of Companies and if so, with what result. In case there is some difference of opinion between the two Registrars in making the name available, then the case may be referred to the Board for advice.
8. The following guidelines were substituted vide amended Rule 4A of the Companies (Central Governments) General Rules & Forms 1956) Notification G.S.R 720(E) dated 16th November 2007.
 - 8a. The Registrar shall cause to examine the application as to whether the changed name or the name with which the proposed company is to be registered, as the case may be, is undesirable within the meaning of section 20. In case the name is undesirable, he may reject the same or ask for resubmission of the application with new names or calls for further information, ordinarily within three days of receipt of the application.
 - 8b. The applicants shall be given only upto two opportunities for re-submission of their proposal against the fee paid in the first instance for name availability after the original application is filed. In the event the registrar does not find the proposals so submitted and resubmitted as fit for approval, he shall reject the application after the second re-submission. However, the applicant will be at liberty to file fresh application along with prescribed fee.
 - 8c. The Registrar of Companies informs the company or the promoters of the company that the changed name or the name with which the proposed company is to be registered, as the case may be, is not undesirable, such name shall be available for adoption by the said company or by the said promoters of the company for a period of sixty days from the date the name is allowed.
 - 8d. If the name so allowed is not adopted on or before the expiry of the period of sixty days from the date it is allowed, the applicant may apply for extension for retention of such name for a further period of thirty days on payment of fifty per cent of the fee prescribed for the application at the initial stage. No further extension will be granted after expiry of ninety days from the date the name is allowed in the first instance. The name allowed shall lapse after expiry of sixty or ninety days, as the case may be, from the date it is allowed first.
 - 8e. The name allowed by the Registrar before the date of this notification comes into force, if not adopted, shall lapse after the expiry of a period of six months from the date on which the name was initially allowed or renewed. However, in case the name has not been renewed earlier, the applicant on or before the date of expiry, may apply for one time extension of such name for a further period of

thirty days on payment of fifty per cent of the fee prescribed for the application at the initial stage.

9. It is necessary that the “keyword” of proposed name/names are checked separately with the names of the existing companies beginning with those “keywords” so as to avoid any possibility of allowing a name with a little rearrangement of the same words of the existing company which may be said to be closely resembling each other.

It may be further added that although it is not possible to lay down hard and fast rules for determining whether a particular name or any two names too nearly resemble each other, each case, however, will be decided on its merits. As already emphasized in the earlier circular letter of this Department on the subject dated 15th March 1962 that the various criteria set out in the guiding principles at Appendix “A” are not exhaustive but only illustrative of what is considered to be undesirable names under Section 20 of the Companies Act and that, by the very nature of the subject all possible cases could not be covered. It is therefore, suggested that where the Registrars find that certain proposed names could not be referred to the Research and Statistics Division at the Headquarters after availing of the help of the Regional Director if available on the spot.

Guiding instructions for deciding cases of making a name available for registration

Departments’ guiding principles

The Department has evolved the following guiding principles for deciding availability of names:

A name which falls within the categories mentioned below will not generally be made available:

1. If it is not in consonance with the principal objects of the company as set out in its memorandum of association. This does not necessarily mean that every name should be indicative of its objects. Bu when there is some indication of business in the name then it should be in conformity with its objects.
2. If the Company / Companies main business is finance unless the name is indicative of that particular financial activities. Viz. Chit Funds / Investments / Loan, etc.
3. If it includes any word or words which are offensive to any section of the people.
4. If the proposed name is the exact Hindi translation of the name of an existing company in English especially an existing company with a reputation.

5. If the proposed name has a close phonetic resemblance to the name of the company in existence for example, J.K Industries Ltd., Jay Kay Industries Limited.
6. If the name is only a general one like Cotton Textile Mills Ltd., or Silk Manufacturing Ltd., and not specific like Calcutta Cotton Textiles Mills Limited or Lakshmi Silk Manufacturing Company Limited.
7. If it includes, the word “Co-operative”, Sahakari or the equivalent of word “Co-operative” in the regional languages of the country.
8. If it attracts the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950 as amended from time to time, i.e. use of improper names prohibited under this Act.

Department of Company Affairs Circulars

General Circular No: 24 of 2001, dated 21-11-2001

Instruction No. 8 of the Guiding instructions circulated, vide this Department’s Letter No. 10(1)-RS/65, dated 27th November 1965 provides that a name in the category mentioned below will not generally be made available:

1. “If it attracts the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950 as amended from time to time. i.e. use of improper names, prohibited under this Act.”
 2. It is observed from a communication received from the Department of Consumer Affairs that the above said instructions are not being followed scrupulously.
 3. The ROCs are advised to take into account the provisions of the above said Emblems and Names Act while making names available to companies under the Companies Act, 1956. All the ROCs are requested to adhere to the above instructions for strict compliance.
-
9. If it connotes Government’s participation or patronage unless circumstances justify it. E.g., a name may be deemed undesirable in certain context if it includes any of the words such as National, Union, Central, Federal, Republic, President, Rashtrapathi, Small-Scale Industries, Cottage Industries and Financial Corporation etc.
 10. If the proposed name contains the words “British India”
 11. If the proposed name implies association or connection with Embassy or Consulate which suggests connection with local authorities such as Municipal, Panchayat, Delhi Development Authority or any other body connected with the Union or the State Government.

12. If the proposed name is vague like D.J.M.O Limited or T.N.V.R Private Limited or S.S.R.P Limited.
13. If a proposed name implies association or connection with or patronage of a national hero or any person held in high esteem or important personages who are occupying important positions in Government so long as they continue to hold such positions.
14. If it resembles closely the popular or abbreviated descriptions of important companies like TISCO (Tata Iron and Steel Company Limited), HMT (Hindustan Machine Tools), ICI (Imperial Chemical Industries), TEXMACO (Textile Machinery Corporation), WIMCO (Western India Match Company) etc. In some cases, the first word or first few words may be the key words and care should be taken that they are not exploited. Such words should not be allowed even though they have not been registered as trademarks.
 - a. Where the existing companies are stated and found to be well known in their respective fields by their abbreviated names, these companies may be allowed to change their names, by way of abbreviation with the prior approval of the Regional Director concerned.

Department's Circular, dated 31-03-1993

The abbreviated name will be considered only in the case of change of name under section 21 of the Companies Act, 1956, with the prior approval of the Regional Director concerned and should not be allowed for adoption by new companies. [Circular No. 4/93: F. No. 3/14/93-CL V, dated 31-03-1993]

Press Note, dated 05-05-1993

As per existing guidelines, the companies well known in their respective field by abbreviated names are allowed to change their names by way of abbreviation (e.g. ABC Limited) with the approval of Department of Company Affairs after following the requirement of Section 21 of the Companies Act, 1956. It has now been decided that any such change of name will require only the prior approval of Regional Director concerned. The company will, however, continue to make applications in Form 1A for availability changed names to the concerned Registrar of Companies. It may be noted that the abbreviated name will not be allowed for adoption by a new company proposed to be incorporated under the Act [No 3/14/93-CL V: Press Note No. 1/93, dated 05-05-1993]. The power of Central Government is now vested with the Registrar.

Department's Circular, dated 16-02-1995

Presently, there is a restriction on use of abbreviated names (like ITC Limited) in case of existing companies requiring approval of the Regional Director concerned. No such approval of Regional Director will now be necessary and ROCs may take a final decision on such applications in the light of existing guidelines. (Para iii) [Circular No. 1/95 F. No. 14/6/94-CL V, dated 16-02-1995]

15. If it is different from the name/names of the existing company/companies only to the extent of having the name of a place within brackets before the word limited; for example, Indian Press Limited. To this rule, however, frequent exceptions are made in the case of the subsidiary and in the case of a company carrying on local business and in other cases on their merits. As for an example, "Corner Garage (Delhi) Private Limited" may be allowed notwithstanding that there is an existing company "Corner Garage Private Limited" at Calcutta. So would be "Regent Cinema Limited" at Madras, if there is a company by the name Regent Cinema (Delhi) Limited. These names may also be allowed if they are in the same group of management.
16. If the proposed name includes common words like "Popular, General, Janta", if they are in the same State doing the same business. But in case of companies in different business in the same State and in all cases when the registered office of the company is in different States, the name might be allowed. For instance, if there is "Popular Drug House Private Limited" existing, another company by the name of "Popular Plastics Private Limited" should not be objected to.
17. If it includes a name of registered trade-mark unless the consent of the owner of the trade-mark has been produced by the promoters. It may not be possible in all cases to check up the proposed name with the trade mark. However, if the Registrars are in the knowledge or some interested party / parties bring to their notice a trade mark which is included in the proposed name then it should not be allowed unless a no-objection certificate is obtained from the party who has registered the trade mark in its own name.
[Note: Section 20(2)/(3) has been amended by the Trade Marks Act, 1999. The amended section now provides statutory protection of trade marks in the matter of availability of name]
18. If a name is identical with or too nearly resembles, the name of which a company in existence has been previously registered. A few illustrations of closely resembling names are given below for guidance. The names as proposed in column 1 should not (normally) be made available in view of the companies in existence as shown in column 2. However, if a proposed company is to be under the same management or in the same group and like to have a closely resembling name to the existing companies under the same

management or group with a view to have advantage of the goodwill attached to the management or group name such a name may be allowed.

Even in the case of unregistered companies or firms who have built up a reputation over a considerable period, the principle (that if a name is identical with or too closely resembles the name by which a company has been previously registered and is in existence, it should not be allowed) should be observed as far as practicable. In view of the difficulty in checking up whether a proposed name is identical with or too nearly resembles the name of an unregistered company or a firm of repute, it should at least be ensured that a proposed name is not allowed if it is identical with or too nearly resembles the name of a firm within the knowledge of the Registrar. The cases of foreign companies of repute should also be similarly treated even if there are no branches of such companies in India.

Proposed Name	Existing Company too nearly resembling name
Hindustan Motor and General Finance Company	Hindustan Motor Limited
The National Steel Mfg. Co. Private Limited	National Steel Works
Trade Corporation of India Limited	State Trading Corporation of India Limited
Viswakaram Engineering Works Private Limited	Viswakaram Engineer (India) Private Limited
General Industrial Financing & Trading Co. Ltd.	General Financial & Trading Corporation
India Land & Finance Limited	Northern India Land & Finance Limited
United News of India Limited	United Newspaper Limited
Hindustan Chemicals and Fertilizer Limited	Hindustan Fertilizers Limited

19. If it is identical with or too nearly resembles the name of a company in liquidation, since the name of a company in liquidation is borne on the register till it is finally dissolved. A name which is identical with or too closely resembles the name of a company dissolved as a result of liquidation proceeding should also not be allowed for a period of 2 years from the date of such dissolution since the dissolution of the company could be declared void within the period aforesaid by an order of the Court under section 559 of the Act.

Further, as a company which is dissolved in pursuance of action under section 560 of the Act can be revived by an order of the court before the expiry of 20 years from the publication in the Official Gazette of the company being so stuck off, it is considered desirable to stop or conditionally allow the registration of a proposed name which is identical with or too nearly resembles the name of such dissolved company for a period indicated below. Since the period of 20 years as prescribed under the law is considered an unduly long period, the registration of a proposed name which is identical with or too nearly resembles the name of the company dissolved in pursuance of section 560 should not be allowed for a period of first five years only. During the next five years such a proposed name may

be allowed subject to the condition that in the event of the dissolved company being restored to life by an order of the Court the new company would have to change its name. After a lapse of ten years, name identical with or too nearly resembling those of the dissolved companies may be allowed without any such condition.

20. If it is different from the name of an existing company merely by the addition of words like New Modern, Nay etc. Names such as New Bata Shoe Company, New Bharat Electronic etc should not be allowed. Different combination of the same words also requires careful consideration. If there is a company in existence by the name of "Builders and Contractors Limited" the name "Contractors and Builders Limited" should not ordinarily be allowed.
21. If it includes words like "Bank", "Banking", "Investment", "Insurance" and "Trust". These words may, however, be allowed in cases where the circumstance justify it. In cases of banking companies the Reserve Bank of India should be consulted and its advice should be taken before a name is allowed for registration. The purpose of such consultation is to prevent small banking companies from misleading the general public by adopting the names of some well established and leading banks functioning elsewhere than in India. In case of differences of opinion with the Reserve Bank of India the matter should be referred to the Board for advice.
22. If the name includes the word "Industries" or "Business" unless the name is indicative of the business of the proposed company for otherwise it serves as a lever for the company to diversify its activities.
23. If it includes proper name which is not a name or surname of a director - such names should not be allowed except for valid reasons. For example, for sentimental reasons, sometimes, the name of the relatives such as wife, son or daughter of the director may have to be allowed provided one other word suggested makes the name quite distinguishable.
24. If it is intended or likely to produce a misleading impression regarding the scope or scale of its activities which would be beyond the resources at its disposal. For example, names like Water Development Corporation of India (Private) Limited, Telefilm of India (Private) Limited, All India Sales Organization Limited, Inter Continental Import and Export Company Limited, etc. should not be allowed. When the authorized capital is to be only a few lakh and the area of operation limited to a State, words like "International", "Hindustan", "India", "Bharat", "New India" etc., included in the proposed name need not stand the same test as Hindustan, India etc. (as they do not give the same sense). Similarly the words, Bharat, India etc. If stated in the bracket before the words limited or private limited need not stand the same test as the words India, etc., put at the beginning of the name. Also the word "India" or "Bharat" in brackets before the words

limited or private limited does not necessarily mean that the company is an Indian Branch of some foreign company, such as “Marsdon Electricals (India) Private Limited”.

25. If the proposed name includes the word “State” along with the name of the State such as Kerala State Company Limited should not be allowed as it would give an impression of the Kerala State Government participating in the share capital of the proposed company. However, if the name of a State only is included without the addition of the word “State” in the proposed name then it may be allowed as it is not likely to give the impression that the company has the State Government’s interest in it.
26. If the proposed name includes the word “Corporation” unless the company could be recorded as a big sized company. However, the word “Corporation” and “Company” may be regarded as closely resembling for purposes of allowing a new name. For example, a company by the name of Rajasthan Finance Company should be regarded as undesirable within the meaning of section 20 of the Act as another company by name “Rajasthan Finance Corporation” already exists.
27. If the proposed name includes words like French, British, German, etc., unless the promoters satisfy that there is some form of collaboration and connection with the foreigners of that particular company or place the name of which is incorporated in the name. Thus, the name “German Tool Manufacturing Company Limited” should not be allowed unless the company has some connection with Germany.
28. Even where except for the first word all the other words of the proposed name are similar to those of an existing company, the first word should be considered to be sufficient to distinguish it from the name of the existing company. For example, “Oriental... Limited”. [Circular Letter No. 10(1)-RS/65, dated 27-11-2965. See also Circular No. 10(19)-RS/61, dated 05-05-1962]

The word “Hindustan” should be kept reserved only for public sector companies. It may, however, be allowed to be used in the names of the private sector companies in a large way of business. Similarly the word “Corporation” may be allowed in the name of the company in case the authorized capital is more than Rs. 5 crores. [Circular No. 16/74 - F.No. 27/9/74-CL-III dated 27.08.1974]

Further Guidelines for availability of names

Departmental Circular dated 13-05-1999

As ROCs are aware this Department has issued exhaustive guidelines on avoiding undesirable names for companies as mentioned in section 20 of the

Companies Act, 1956 through Circular No. 10(19)-RS/61 dated 05-05-1962. Further guidelines were also issued through Circular No. 2/90 (No 1/1/90-CL-V-27/1/89-CL-III) dated 05-01-1990.

2. In recent times this Department had received a few references which needed further clarification. The following guidelines / clarifications are accordingly issued.

3. Names starting with small letters / having small letters / alphabets

3.1 In the past the name search for allowing names for companies used to be a manual search based on list of names already in existence on a particular date, names made available by different ROCs (which used to be circulated periodically) etc. The name search is no longer manual. It has become a computerized operation in all RoC offices. In view of this some of the old constraints (like alphabetical listing) which could be a restrictive factor in manual system do not exist under the present computerized system.

3.2 ROCs may therefore now allow names starting with small alphabets (like i2 Technologies Ltd., etc) as such names are being increasingly used by many companies in other countries. It should however be ensured that the name starting with small alphabets does not have phonetic or visual resemblance to the name of a company in existence.

4. Change of name by companies on Computer Software Business

4.1 In recent times it appears that quite a few companies whose principal object was not computer software and who had actually involved in financing activities have changed their names to indicate as if they were in the business of computer software. For this purpose they have included words like - “Infosys; Software; Systems; Infosystem; Computers; Cyber; Cyberspace etc” in their names.

4.2 In order that investors are not misled by the strategy adopted by a few companies ROCs are hereby advised that in future they should allow change of name to companies to reflect the business of software only if a substantial portion of their income (as reflected from their audited accounts or accounts certified by a Chartered Accountant) is derived from software business. If this is not proved then such change of name should not be allowed.

5. Companies in Insurance Sector

5.1 It may be recalled that in Guideline No. 21 (printed above) you have been advised not to allow the word “Bank”, “Banking”, “Investment”, “Insurance” and “Trust” unless circumstances justify it. The activities of the Insurance Sector are being regulated by the Insurance Regulatory Authority.

5.2 In view of this, in partial modification of the above mentioned Guideline, it is hereby clarified that ROCs may allow companies to be registered by them with the word “Insurance” or “Risk Corporation” as part of the name only after consulting the Reserve Bank of India and Insurance Regulatory and Development Authority.

Department’s Clarification, dated 30-06-2000

Attention is invited to this Department’s Circular No. 6 of 1999 (5/35/98-CL-V) dated 13th May 1999, in regard to allow ability of names for entrepreneurs seeking to promote companies for providing insurance services, in terms of the above circular, such names were being given only after consulting the Insurance Regulatory Development Authority Act, 1999, with effect from 19th April 2000 the Department has received a reference from the Insurance Regulatory Authority advising that the embargo on registration of names by new companies could be lifted. In view of this all ROCs are advised that they may allow names with the word insurance / assurance or Risk Corporation as part of the name without any need to consult the Insurance Regulatory Authority. It is hereby clarified that such names can be allowed only to new companies and not for change of name as existing companies are not allowed to carry on any insurance activity. [Circular No. 5, Dated 30-06-2000]

Department’s circular dated 25-04-2003

In partial modification of General Circular No. 5/2000 dated 30th June 2000 it is hereby further clarified that since the Insurance Regulatory and Development Authority has been notified (Insurance Regulations, 2002 permitting private sector companies to carry on the insurance business, the Registrar of Companies may permit change of name of existing companies on their changing the objects to undertake the business of insurance brokers also. [Circular No. 19/2003, dated 25-04-2003, F. No. 5/6/2003-CL-V]

6. Use of Generic Names

- 6.1 Guideline No. 5 relates to inadvisability of allowing companies to have only generic names without any other proper noun preceding / succeeding it. Under this category would come the word “Y2K” (i.e. Year 2000)
- 6.2 It may kindly be noted that this is a generic one and cannot be allowed for any company as a “Stand Alone” name [Issued by DCA, vide No. 5/35/98-CL-V: General Circular No. 6/99, dated 13-05-1999]

Use of Name of “Chamber of Commerce” in UK - In England the Company and Business Names (Chamber of Commerce, etc) Act 1999 restricts the use of the name chamber of commerce by companies.

Guidelines as to use of Key words

“With a view to maintain uniformity, the following guidelines may be followed in the use of keywords, as part of name, while making available the proposed names under section 20 and 21 of the Companies Act, 1956

#	Key Words	Required Authorized Capital
1	Corporation	Rs. 5 Crore
2	International, Globe, Universal, Continental, Inter Continental, Asiatic, Asia being the first word of the name	Rs. 1 Crore
3	If any of the words at (2) above is used within the name (with or without brackets)	Rs. 50 Lakh
4	Hindustan, India, Bharat being first word of the name	Rs. 50 Lakh
5	If any of the words at (4) above is used within the name (with or without brackets)	Rs. 5 Lakh
6	Industries / Udyog	Rs. 1 Crore
7	Enterprises, Products, Business, Manufacturing	Rs. 10 Lakh

2. These names with key words at Serial Nos. (6) And (7) may be considered when the company proposes to deal in various business activities or the company is already carrying on various business activities (in the case of change of name). F. No. 27/1/87-CL-III dated 13-03-1989: (1989) 65 com cases 536 (St.)

No objection from applicants who do not sign memorandum & articles

I. Department’s Circular

“As per Application Form for availability of names (Form No. 1A) prescribed under rule 4A of the Companies (Central Governments) General Rules and Forms, 1956, the promoters are, inter alia, required to give the names and addresses of the prospective directors or promoter, as also the name and address of the person(s) applying for availability of name. You are requested to advise your constituents to ensure that the application form is filled up in all respects and application is made by one or more amongst the promoters.

The Registrars of Companies have been advised to ensure at the time of registration of a new company that the subscribers to the memorandum and the articles of association tally with the list of promoters / first director stated in the application for availability of name and in case, one or more of the promoters are not interested to participate in the promotion of a new company at a later state. “No objection letter” from such promoter(s) is made available to the Registrar, while submitting the documents for registration. The Registrars of Companies are also being advised to dispose of applications for availability of name ordinarily within 14 days of the receipt of application and to correspond with the applicant promoter(s), in this behalf” No. 27/1/89-CL-III dated 17-02-1989: (1989) 65 Com Cases 575 (St.)

II. Department’s Circular

“I am directed to refer to this Department’s Circular No. 27/1/89-CL-III dated 17th February 1989 [Printed above] on the above subject, wherein you were requested to advise your constituents to ensure that the application form is signed by one or more amongst the promoters and in case one or more of the promoters are thereafter no more interested in participating in the promotion of the new company, a no objection letter from such promoter is made available to the Registrar of Companies at the time of registration of the new company. Instances came to the notice of the Department that some promoters are pre-empting the names, which is not a healthy practice. It has, accordingly, been decided that, in future, Registrars of Companies should register the company only in cases where the promoters, as per availability of name and application, are also the subscribers to the memorandum and articles of association of the proposed company at the time of its registration. In case of any change in the name(s) amongst the subscribers the changed subscribers are advised to make fresh application for the availability of name. The Registrar may, as per existing procedure, allow the same name, if otherwise available, after three months from the date when the name was allowed to the original promoter(s)”. Circular No. 1 of 1990 dated 5th January 1990; (1990) 67 Com Cases 230 (St.)

III. Department’s Circular dated 16-02-1995

The Department vide Circular No. 27/1/89/CL-III dated 17-02-1989 [Printed above] advised the ROCs to ensure that at the time of registration of a new company, the subscribers to the Memorandum of Association should tally with the list of promoters / first directors stated in the application for availability of name and in case one or more of the promoters are not interested in participation in the promotion of a new company at a later stage, a “no objection” letter from such promoter(s) is made available to RoC. This circular was amended on 05-01-1990 (No. 1/90) [Printed above] to the effect that ROCs should register the company only in case where the

promoters as per the availability of name application are also subscribers to the Memorandum. On reconsideration it has now been decided, in partial modification of the above circular, that so long as there is at least one promoter common both in name availability application and the subscription clause of Memorandum & Articles of Association, and others have no objection, the company may be registered. (Para ii) [Circular No. 1/95, F. No. 14/6/94-CL-V dated 16-02-1995].

Incorporation of Stock Exchanges, advance approval of name by SEBI

I am directed to draw your attention to this Department's Circulars No. 27/22/85-CL-III dated 13-01-1986 and 23-03-1993 on the above subject and to enclose a copy of letter, dated 18-03-1996 [Printed below] received from the Chairman, SEBI in this regard. You are requested to ensure that under no circumstance a company is registered with the words "Stock Exchange" as part of its name without obtaining in principle approval / no objection of Securities and Exchange Board of India. It may kindly be noted that non-compliance with these instruction will be viewed very seriously.

Copy of SEBI's letter, dated 18-03-1996

It has come to our notice that certain companies calling themselves Stock Exchanges are enrolling members and collecting substantial deposits from them. The companies who have not obtained permission to operate as a stock exchange under section 19 of Securities Contracts (Regulation) Act, 1956 or have not been granted recognition by Central Government / SEBI under section 4 of the above Act are collecting such deposits in violation of the provisions of the said Act. Section 19(1) of Securities Contracts (Regulation) Act, 1956 prohibits organizing or assisting in organizing any stock exchange without the permission of the Central Government / SEBI.

In this regard, we request you not to allow such names to new companies which have the words "Stock Exchange" in them unless they have been given in principle approval of "No objection" from SEBI. This would ensure that the investors are not misled by such names into dealing with members of unrecognized stock exchanges [Circular No. 3/96, vide No. 3/4/96-CL-V dated 12-04-1996]

Incorporation of Venture Capital Companies

Department's Circular

As per guidelines issued by the Ministry of Finance, Department of Economic Affairs vide press release No: S 11(86)-CCI/11/87, dated 25-11-1988, only such venture capital companies which abide by these guidelines shall take advantage of tax benefits. As per guidelines, approval would be given for establishment of venture capital companies / funds by the Department of Economic Affairs or such authority as may be nominated by the Government. It is possible that some promoters may float a company and call it a Venture Capital Company but may not avail of the tax benefits available to such companies and in such a situation, a common investor would not be able to distinguish between approved venture companies which are within the discipline of the guidelines and eligible for tax benefits from those who call themselves Venture Capital Companies, but prefer to remain outside the guidelines and forego tax benefits. To avoid such eventuality, it has been decided that the words "Venture Capital / Venture Capital Company / Venture Capital Finance Company" or such similar name as part of the proposed name of a company be only allowed when the company or the promoters have obtained approval from the Department of Economics Affairs or such authority as may be nominated by the Government on this behalf". Circular No. 13/90 dated 27-08-1990.

Incorporation of Asset Management Companies (AMCs) other intermediaries

Guidelines for registration of AMCs

Department's Circular I

The following guidelines are issued in respect of registration of Asset Management Companies (AMCs) in consultation with the Securities and Exchange Board of India:

- (a) **Approval of AMC by SEBI**: As per guidelines, AMC shall be authorised for business by SEBI on the basis of certain criteria and the memorandum and articles of association of the AMC would have to be approved by SEBI. Accordingly, you are advised not to register any company under the Companies Act 1956, without the memorandum and articles of association being approved by SEBI.
 - (b) **Authorized Capital of AMC**: The primary objective of setting up of an AMC is to manage the assets of the mutual funds and other activities which it can carry out, such as, financial services consultancy which do not conflict with the fund management activity and are only secondary and incidental. That being so, it may not be practical to expect a company to be set up with a paid-up capital of Rs. 5 crores to carry on only incidental activities, without any assurance of its receiving an approval from SEBI to act also as an Asset Management Company for a mutual fund. You should, therefore, not have any objection in registering an AMC if the authorized capital of such a company is approved by SEBI.
3. A copy of these guidelines may also be placed on the notice board of your office for general information. (Department's Circular No. 4/92; F. No. 3/14/92-CL-V dated 02-09-1992, addressed to Registrar of Companies)

Department's Circular II

“Some Registrars are insisting upon the promoters proposing to carry on the activity as merchant bankers, registrars to an issue, investment advisers, portfolio managers, etc to obtain prior approval of SEBI before making available the proposed name or incorporation of a company. In this connection, it may be pointed out that under section 12 of the SEBI Act, 1992 the intermediaries associated with securities market are required to seek registration by making an application to SEBI, as per regulation made there under, which inter alia require the applicant to state the date and place of registration, details of directors, as also to furnish Memorandum and Articles of Association, if the applicant is a company. However in terms of Regulation 18(2) of the SEBI (Mutual Fund) Regulations, 1993, Asset Management Companies (AMCs) are required to submit to SEBI their respective Memoranda and Articles of Association for approval.

Therefore, unlike the Memoranda and Articles of Association of other intermediaries, it would be in the interest of concerned AMC's to get their Memoranda and Articles of Association cleared by SEBI before the same are presented to the concerned Registrar of Companies for registration. In view of the above, you are requested not to insist upon seeking prior approval of SEBI for registration of intermediaries like merchant bankers, Registrar to an issue, investment adviser, portfolio manager etc. However, this Department's Circular No. 4/92 (No. 3/14/92-CL-V) dated 02-09-1992 will continue to be in force and you may register an AMC only after its draft Memorandum and Articles of Association is cleared by SEBI" (Department's Circular No. 5/94; f. No. 3/14/92-CL-V dated 15-04-1994, addressed to Registrars of Companies)

User of the words "NIDHIS" or "Mutual Funds" as part name

The Registrars of Companies (ROCs) have been directed by the Department of Company Affairs (DCA) not to allow registration of names with words "mutual funds" forming part of some Non-Banking Financial Companies (NBFCs / NIDHIS under Section 20 of the Companies Act, 1956) unless such companies are going to be incorporated actually as mutual funds. ROCs have been informed that companies declared as NIDHIS and mutual benefits societies under section 620A of the Companies Act are not mutual funds. Therefore, names with words "mutual funds" forming part thereof shall also not be allowed to companies proposed to be incorporated as "NIDHI" or "mutual benefit societies". It has come to the notice of the DCA that some NBFCs or NIDHIS have been registered with words "mutual funds" forming part of their names, although they are not actually mutual funds. This is likely to create confusion in the minds of investors. In case where NBFCs or NIDHIS have already been asked to get their names changed under section 21 of the Companies Act, 1956 within a reasonable time of six months failing which report would be sent to the DCA for initiating action for withdrawal of notification issued in their favour under section 620A of the companies Act. [PIB Press Release New Delhi dated 14th February 2000]