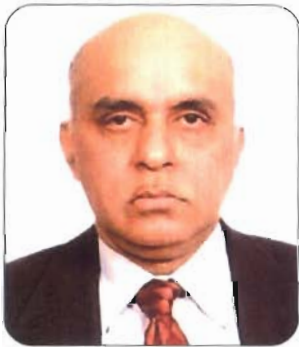




# Monthly Newsletter

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## From The Secretary's Desk

The Advance Estimates of the National Income released by the Central Statistics Office (CSO) put the GDP growth rate for the current fiscal at 6.9 per cent, suggesting a second economic downturn after two years of quick recovery. The fiscal slippages with unsustainable fiscal deficit and revenue deficit numbers, deteriorating Current Account Deficit (CAD), volatile commodity prices, reoccurrence of rupee depreciation, rising crude prices, anticipated deferment in rate cuts by the RBI etc. are expected to put further pressure on country's investment sentiments.

Amidst continued uncertainty in global economic environment and evidence of fragile macro fundamentals on the domestic front, India's corporate sector, as a major engine of growth, has enormous responsibilities. The Ministry of Corporate Affairs on its part has been consistently pursuing its mandate of providing an enabling regulatory framework for corporate growth. The Ministry has taken a number of initiatives in the past few months in the legislative, regulatory, service delivery and capacity building areas.

Organization of "India Corporate and Investor Meets" by the Ministry has been a useful initiative to reach out to the investors and educate them for greater participation in the corporate economy of the country. This Ministry hosted the Annual Conference of the Corporate Registers Forum (CRF) and facilitated knowledge sharing on international best practices in Corporate Governance. Besides, the Ministry has been examining the issues referred in the "Doing Business" reports of the World Bank and suitably addressing them within the scope of the Acts administered by the Ministry.

The Union Budget 2012-13 provides certain important measures for augmenting corporate investment in infrastructure sector. These include easing of ECB norms for key infrastructure sector, doubling of issuance limit for tax free infrastructure bond, permission to raise working capital loan through ECB route by the aviation industry etc. I expect the Indian corporate sector to take full advantage of these provisions and contribute enormously to the infrastructure growth.

I would like to urge upon Indian corporate sector to look into the inclusive business models as portrayed in the Study 'Business

Solutions to Poverty' conducted by UNDP in 'Emerging Europe and Central Asia' (ECA) and play a key role to help achieve Inclusive Growth. As per said Study "Inclusive Business models are not just an opportunity for companies; they are valuable for organizations that work to improve the prospects of people with low incomes. They are financially sustainable, create choices and can empower these people to become included in the business value chain as entrepreneurs, employees or consumers".

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**Companies Bill, 2011:** The Hon'ble Parliamentary Standing Committee on Finance had discussion with officials of the Ministry on 24.01.2012 over the Companies Bill, 2011. The queries raised by the Committee have been replied to the Secretariat on 07.02.2012.

**Role-check functionality for Banks and Financial Institutions MCA21:** In order to ensure security and integrity of the documents filed with the Registry, the Ministry has mandated use of Digital Signatures (DSC) in the MCA21 system for Directors of the companies and the Professionals. Now, role-check functionality has also been introduced in the system to establish the veracity of authorized signatories of Banks and Financial Institutions which is similar to the role-check earlier introduced for Directors of the companies and the Professionals. This is important for charge related services.

**Requirement of 'In-principle approval/NOC' from Regulators for select category of Professionals/ Practitioners for Registration of Companies or LLPs :** The Ministry of Corporate Affairs vide its circular No. 2/2012 has decided that persons desirous of registering under the Companies Act or LLP Act with one of their objectives to carry on the business of Banking, Insurance or to practice the profession of Chartered Accountancy, Cost Accountancy & Company Secretaries, or that of Architecture, have to obtain in-principle approval / NOC from the regulator/professional Institutes concerned. The Registrar of Companies/ LLPs concerned shall incorporate the same only on production of requisite NOC/ in-principle approval.

**Regulatory tool for data received in XBRL mode:** The Ministry has developed a regulatory tool to generate alerts on inconsistency of data, if any, collected in XBRL mode. A deeper analysis of the functioning of regulatory tool is also envisaged. The regulatory tool is operational and will be refined further for enhanced regulatory analysis.

**Investor Awareness Programmes:** Investor Awareness Programmes are being conducted in partnership with the three Professional Institutes, namely, ICSI, ICAI and ICWAI. Till the month of February, 2012, 1542 programmes were conducted through these Institutes.

**India Corporate and Investor Meets:** During February, 2012 five "India Corporate and Investor Meets" were organized by the Ministry to reach out to the

investors and educate them for greater participation in the corporate growth of the country. This was a pan-India event spread over five cities, where one of the industry chambers was the lead organizer as per details given below:

S.No.	Venue	Date	Lead organizer
1.	Kolkata	06.02.2012	FICCI
2.	Chennai	07.02.2012	ICAI
3.	Bangalore	10.02.2012	CII
4.	Delhi	10.02.2012	PHDCCI
5.	Mumbai	22.02.2012	IMC

The meets aimed at bringing into focus the role and contribution of the Corporate Sector in the Indian social and economic development. Each meet had three technical sessions on Investor related issues, Corporate Governance and CSR. Eminent personalities active in the areas were invited for an effective discussion on the subjects. These events were well attended by the Corporates and the investors. Dr. M. Veerappa Moily, Hon'ble Minister for Corporate Affairs participated in these day-long events and guided the discussion.

A comprehensive "Investors' Handbook" in English and two booklets - "First Steps to Investing – A Beginner's Guide" and "Primer for First-Time and Existing Investors", which were published in English, Hindi and major regional languages, were distributed during the India Corporate and Investor Meets.

**Annual Conference of the Corporate Registers Forum (CRF):** The Ministry of Corporate Affairs with 'The Institute of Company Secretaries of India' (ICSI) as the Knowledge Partner hosted 8th Annual Conference of the Corporate Registers Forum (CRF) during February 13-16, 2012 at New Delhi. The CRF is an International body of Registrars of Companies. The Conference was attended by 130 delegates from 40 member countries besides a host of other invitees. Dr. M. Veerappa Moily, Hon'ble Minister for Corporate Affairs inaugurated the Conference and also chaired the closing session. In his valedictory address the Hon'ble Minister emphasized on setting of norms and standards which attract the international firms and help to improve corporate governance. He further observed that the present legal environment calls for unified regulatory prescription, as the corporates are operating across borders.

The theme of the Conference "Control to Self Regulation – Sharing Knowledge – Sharing Best Practices" was deliberated upon in nine technical



sessions as under:

- Reforming Legislative Environment – A global perspective
- Global Business scenario and Impact on Corporate
- Corporate Actions and Regulatory Mechanism
- Emerging Challenges for MNCs operating in various jurisdictions
- Corporate Governance and CSR
- Social networks; use and impact on Registrars' functions
- Transforming data into knowledge: Leveraging XBRL Tools
- Crystallizing global best practices in Corporate Regulation
- Corporate Financial Actions and Money Laundering

During the Conference, Ministry of Corporate Affairs showcased its growth and development story, especially the MCA-21 e-governance initiatives taken by the Ministry.

#### **Meeting of India-Netherlands Joint Working Group:**

A India-Netherlands Joint Working Group (JWG) has been constituted as per the provisions of the Letter of Intent signed on 07.06.2011 by the Ministry of Corporate Affairs (MCA), Government of India and Ministry of Economic Affairs, Agriculture and Innovation of Netherlands. The first meeting of the Joint Working Group on 'Corporate Governance and Corporate Social Responsibility' was held on February 21-22, 2012 at New Delhi, co-chaired by Shri Sudhir Mital, Additional Secretary, MCA from the Indian side and Mr. Roel Nieuwenkamp, Chair of OECD-CSR Recommendation & Director, Trade & Globalization, Ministry of Economic Affairs from the Netherlands side. The meeting was attended by senior level government officials, professionals, researchers, policy advisors, and industry CSR experts from both sides.

In this meeting, India's experience on Corporate Governance and Corporate Social Responsibility and MCA's initiatives in this regard were highlighted. Shri Mittal briefly touched upon the provisions in the Companies Bill, 2011, the Corporate Governance Voluntary Guidelines, 2009, Corporate Social Responsibility Voluntary Guidelines, 2009, implementation of IFRS, implementation of XBRL etc. Prof. Roel Nieuwenkamp deliberated on the various aspects of corporate governance and informed that there is a strong ongoing debate in

the Netherlands on the role of non-executive directors, innovation and use of technology. It was noted during the deliberations that India had already started XBRL and was in fact even ahead of Netherlands in this area.

After two days of deliberations and discussions, the following broad areas of collaboration emerged. It was decided to continue further with the discussion on these areas in the next meeting of Joint Working Group to be held in the Netherlands:

- XBRL
- Disclosure and Sustainability
- Supply Chain Management and Due Diligence
- Networking and engaging with Indian Institute of Corporate Affairs and ICS/ICWA/ICAI on integrated reporting
- Partnership between MVO Netherland and IICA

#### **Clarification on filing of conflicting returns with regard to appointment of Directors or change of Director/ Directors:**

The Ministry of Corporate Affairs vide General Circular No. 1/2012 dated 10.02.2012, has issued a clarification to its earlier circulars No. 19 and 20 of 2011 issued on 02.05.2011 which had laid down certain procedure to regulate cases of filing of conflicting returns with regard to appointment of Directors or change of Director/ Directors.

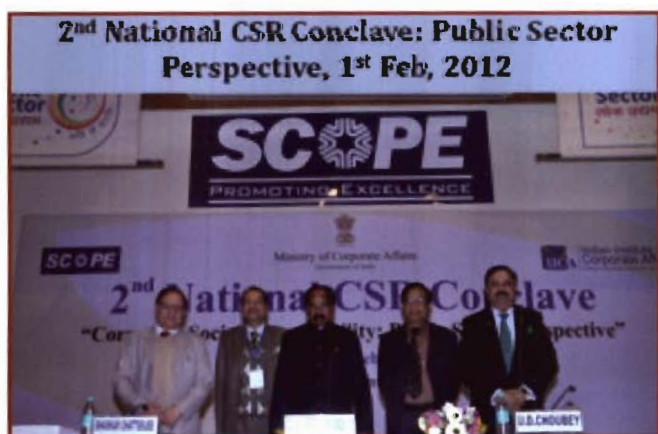
It has now been decided that in cases of management dispute, the company is required to mandatorily file the attachment relating to cause of cessation alongwith Form 32 with the ROC concerned irrespective of the ground of cessation, viz (a) retirement; (b) disqualification; (c) death; (d) resignation; (e) vacation of office u/s 283 or 313 or 260; (f) removal u/s 284; (g) withdrawal of nomination by appointing authority or (h) absence of re-appointment.

Further, in case, any Director is aggrieved with his cessation in the company, he may file complaint in the Investor Complaint Form. On receipt of complaint, the ROC concerned will examine the complaint and mark the company as having 'management dispute'. Also, the ROC will issue a letter to the company and the parties to settle the matter amicably or get an order/interim order from a Court or Tribunal of competent jurisdiction. Till such dispute is settled, the documents filed by the company and by the contesting groups of Directors

will not be approved/registered/recorded and will thus not be available in the registry for public viewing.

**Training on 'XBRL and its usage':** A training programme on 'XBRL and its usage' for ICLs Probationers and other officers was organised during February 21-23, 2012 at IICA Campus, Manesar.

**2<sup>nd</sup> National CSR Conclave: on 'Corporate Social Responsibility – Public Sector Perspective':** The Indian Institute of Corporate Affairs (IICA), an autonomous body under the Ministry of Corporate Affairs organised the 2nd National CSR Conclave: 'Corporate Social Responsibility – Public Sector Perspective' on 01.02.2012 at the SCOPE Convention Centre, New Delhi. Dr. M. Veerappa Moily, Hon'ble Minister for Corporate Affairs, was the Chief Guest of the function. While addressing the Conclave Dr. Moily stressed the need for a corporate culture attuned to the values of Good Governance- Accountability, Transparency, Responsibility and Responsiveness to Stake holders.



The main objective of the 2nd National CSR Conclave was to share the perspective of the public sector on CSR with the select gathering of CMDs and participants from Maharatnas, Navratnas and Miniratnas and also to learn about some of the good practices being undertaken by the PSEs.

#### **Developments at Competition Commission of India:**

1. Amendments to the Combination Regulations: The Competition Commission of India, has amended the 'Combination Regulations, 2011' (in the cases which are unlikely to raise adverse competition concerns) to reduce compliance requirements, to make filings simpler and to move towards certainty in the application of the Act and the Regulations.

2. Shri Ashok Chawla, Chairperson, CCI participated in the "11th Global Forum on Competition" at Paris, France, during February 16-17, 2012 organised by the Organisation for Economic Cooperation and Development (OECD). Dr. Geeta Gouri, Member, CCI delivered a lecture on "Regulating Competition" at National Institute of Public Finance and Policy at New Delhi on 16.02.2012.
3. Dr Geeta Gouri, Member, CCI delivered a lecture on "Regulating Competition" at National Institute of Public Finance and Policy at New Delhi on 16.02.2012.
4. A workshop on "Interface between Intellectual Property and Competition Policy" was organised by the CCI in collaboration with World Intellectual Property & Competition Policy Division, WIPO at New Delhi during February 23-24, 2012. 35 senior officers, including representatives from Controller General of Patents Designs and Trade Marks attended the Workshop.
5. A Writ Petition filed by Indian Railways against the Order dated 03.05.2011 passed by the Competition Commission of India (CCI) was rejected by Hon'ble Delhi High Court. Indian Railways in its Writ Petition had challenged the jurisdiction of the Commission along with its objection to the maintainability of proceedings before the Commission, whereas an Arbitration Agreement is already in existence and all matters are to be referred to Arbitration under Section 8 of Arbitration & Conciliation Act, 1996. Hon'ble High Court held that the functions of the Indian Railways are not akin to sovereign function and mere existence of arbitration clause in the concession agreement will not, in any manner, affect the proceeding pending before the Commission.

**ICAI's Vision 2030 Document:** Dr. M. Veerappa Moily, Hon'ble Minister of Corporate Affairs released ICAI Vision 2030 Document during the 62nd Annual Function held on 11.02.2012. The document sets out ICAI's Vision, Mission, Strategic Priorities and Action Plan for the coming three years. By 2030, the ICAI aims at harnessing the opportunities and addressing the challenges presented by the rapidly changing environment to become world's leading accounting body, a regulator and developer of trusted and independent professionals with world class competencies in accounting, assurance, taxation, finance and business advisory services.