

Vinod Kothari & Company

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SPARSH.....

Touches

February, 2014

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VKC and VK & Co.**
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Editorial

"People always say motivation does not last. Well, neither does bathing – that is why it's recommended daily"

To win, to desire, to succeed, all these come through motivation. We at VKCPL & VK & Co, not only believe in motivating our associates but also ensure that it's a part of our habit. As, motivation only gets one started, habit is what keeps it going.

With this thought in mind, we come again with **"Sparsh"**

Stay in touch with us through **SPARSH!!**

Editor:

-Vijaya Agarwala

editor@vinodkothari.com



■ **Articles Published**

- ▶ *An Article on 'Ten Monsters in the Companies Act, 2013', by Vinod Kothari was published in India CorpLaw*
- ▶ *An Article on 'Layers of Investment- the new restrictions in Companies Act, 2013 on vertical propagation, by Vinod Kothari and Nivedita Shankar was published on companiesact.in*
- ▶ *An Article on 'Interest rate cap for NBFC-MFIs modified-will it benefit the borrowers?', by Nidhi Bothra was published on Moneylife.*
- ▶ *An Article on Minimum shareholding condition for minority protection -Analysis of Proviso to sec 244 (1) of the Companies Act, 2013 by Aditi Jhunjunwala was published in Chartered Accountant Practice Journal*
- ▶ *An Article on 'Distressed assets: RBI framework leaves everyone stressed', by Nidhi Bothra and Abhirup Ghosh was published on Moneylife.*
- ▶ *An Article on 'NBFCs issuance of secured NCDs in trouble as Companies Act, 2013and draft rules whammy', by Nidhi Bothra was published on Moneylife.*
- ▶ *An Article on 'Is SEBI's Rs. 50 lakhs penalty on HUL promoters' justified?', by Shampita Das was published on Moneylife.*
- ▶ *An Article on 'Ease in SEBI's Debt Listing Regulations-good times for NBFCs ahead?', by Abhirup Ghosh was published on Moneylife.*
- ▶ *An Article on RBI's revised 20:80 gold import scheme and the confusion', by Abhirup Ghosh was published on Moneylife.*

■ ***Our Forthcoming Workshops***

- ▶ *2 days Crash Course on Companies Act, 2013 for senior professionals, Kolkata 19th – 20th March, 14.*
- ▶ *2 days Crash Course on Companies Act, 2013 for senior professionals, Mumbai 22nd – 24th March, 14.*
- ▶ *2 days Crash Course on Companies Act, 2013 for senior professionals, Gurgaon 25th – 26th March, 14.*
- ▶ *2 days workshop on “Cash Flow Modeling for Securitization”, Mumbai 21st -22nd April, 2014*

■ ***What’s happening at VKC and VK & Co.***

▶ ***Sessions taken by Vinod Kothari***

- *Workshop on Companies Act, 2013, "Important Amendments Affecting Private And Unlisted Public Companies" at Bengal Chamber of Commerce, organized by Views Exchange Chartered Accountants Study Circle, EIRC*
- *Discussion on “Loans and Investments by a company and Related Party Transactions” at HHI, Kolkata organized by EIRC, ICSI*
- *Workshop on “Companies Act, 2013” from February 13, 2014 onwards. Conducted 3 successful batches of 12 class each, including an in-house workshop for the management of Price Water house Coppers (PwC).*
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▶ ***Sessions taken by Nidhi Bothra***

- *Seminar on Companies Act, 2013, organized by Cuttack Branch of EIRC of ICAI*
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🌿 ***Our Corner***

- 🌿 *Painting by our colleague, Shambo Dey*

Our Articles Published

Ten Monsters in the Companies Act, 2013

by Vinod Kothari

published on [India Corp Law](#)

The significance of the corporate sector to the economy does not need any emphasis, and the Companies Act is surely the core legislation that affects the corporate sector. It is not that the Companies Act was hastily passed – it has gone through two rounds of Parliamentary committees, besides, of course, being in the public domain for nearly 4 years before it was passed. Yet, it is painful to see that glaring issues have remained in the Act - issues which really have ruinous impact on the corporate sector and capital markets. India is already abysmally low in terms of the ease of doing business, and this enactment will push it down further.

The problems with drafting ineptitude is that once it is done, those responsible for the legislation start defending what is quite apparently a drafting error. Errors are, after all, human, and it is a shared error since the Act has been in public domain for quite a long time.

To view the entire article click [here](#).

This Article was also published in [IndiaCorp Law](#)



Layers of investment: the new restrictions in Companies Act, 2013 on vertical propagation

by Vinod Kothari and Nivedita Shankar

published on companiesact.in

The Companies Act, 2013 ("Act, 2013") was beckoned by all to change the way Indian companies function. As it nears complete enforcement, a closer look makes it clear that the enforcement of Act, 2013 is probably not really welcome. Be it section 188 restricting voting by non-public shareholders or reduction in the scope of cost accountants, the Act, 2013 is set to bring serious impediments in the way India Inc. is accustomed to function.

In several parts of India, elderly people are honoured with sone ki seedhi (gold staircase – stairs to the heaven) if they see the wedding of their grandson, and have unlimited joy if they see the great grandson. However, the Act, 2013 by laying down limits for layers of subsidiaries has ensured no such joy for corporates in India. Section 186(1) of Act, 2013 (yet to be enforced) is a veiled threat to doing business in India as the section sets to put a limit on vertical propagation by companies.

To view the entire article click [here](http://companiesact.in).

This Article was also published in companiesact.in

Article



Layers of investment: the new restrictions in Companies Act, 2013 on vertical propagation



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Minimum shareholding condition for minority protection -Analysis of Proviso to sec 244 (1) of the Companies Act, 2013

by Aditi Jhunjhunwala

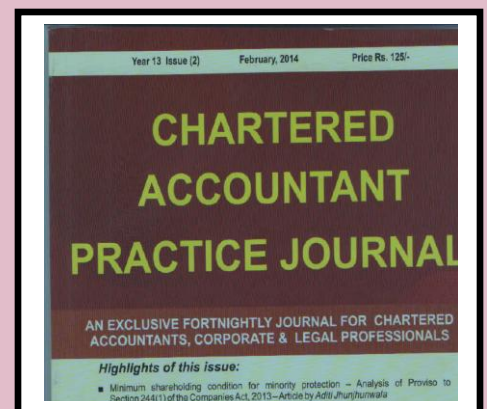
***was published on Chartered Accountant Practice Journal-
Manupatra***

Companies Act, 2013 (Act 2013) has given array of powers to shareholders to exercise their rights where their interest is affected. New concepts such as class action, freeze action alongwith the oppression and mismanagement proceedings have been introduced. In this article we analyse whether the powers given are for protection of rights and interests or can also lead to abuse of powers if not exercised with caution and are only motivated. As rightly quoted by James Madison that "Liberty may be endangered by the abuse of liberty, but also by the abuse of power."

Act 2013 seems to now do away with the concept of mismanagement altogether as the same seems to be submerged under oppression from the plain reading of section 241 of the Act 2013. The provisions seeks to prevent and/or provide relief in cases of oppression and mismanagement, confers power on the National Company Law Tribunal (NCLT) to decide such cases, also introduces class action suits and procedure thereof.

To view the entire article click [here](#).

This Article was also published in Chartered Accountant Practice Journal.

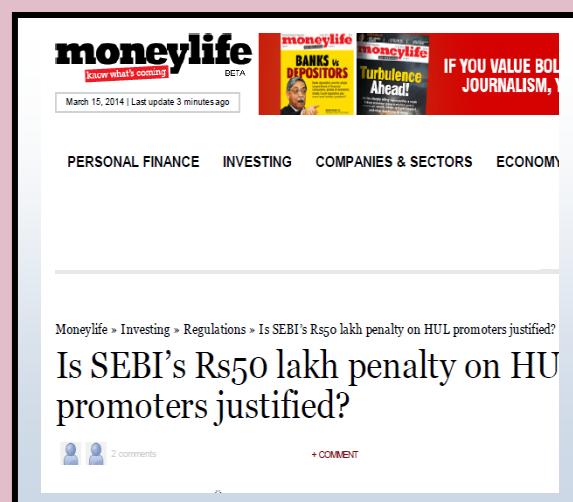


Is SEBI's Rs. 50 lakh penalty on HUL promoters justified?

*by Shampita Das
published in [MoneyLife](#).*

Timely disclosure of shareholding is an important aspect of takeover regulation and non-compliance. However, penalty levied by SEBI on HUL promoters is a bit harsh given that there was neither reportable change in promoter shareholding during the defaulting years nor the duration of such delay enormous. Market regulator Securities and Exchange Board of India (SEBI), on 31 January 2014, imposed a penalty of Rs50 lakh on seven promoter entities (Promoters) of Hindustan Unilever Ltd (HUL). The penalty was imposed for delay in filing of disclosure requirements under Regulation 8 (1) and 8 (2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (SAST Regulations, 1997) and Regulation 30 (1) read with Regulation 30 (2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (SAST Regulations, 2011).

To view the entire article click [here](#).
This Article was also published in [MoneyLife](#)



Ease in SEBI debt listing regulations- good times for NBFCs ahead?

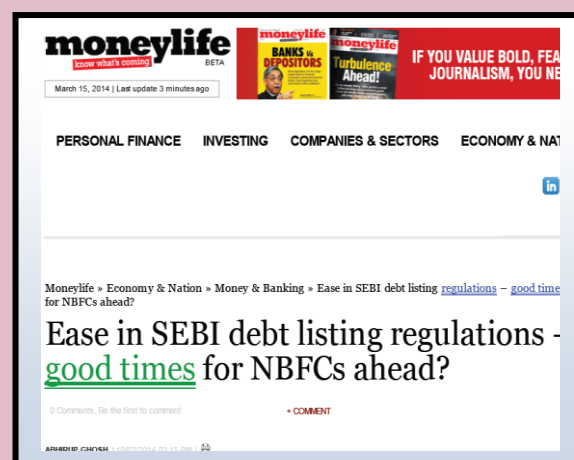
by Abhirup Ghosh

Published in [Moneylife](#)

Qualified entities will be able to raise money through debt securities for four times via a single shelf prospectus within a year. Only question is, does the capital market have sufficient appetite to invite new players for raising funds?

The Securities & Exchange Board of India (SEBI) came out with a notification on 31 January 2014, making insertions in the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 to meet the requirements as per the Companies Act, 2013. The amendments will be effective from the date on which it gets published in the official gazette of India and will be known as SEBI (Issue and Listing of Debt Securities) (Amendment) Regulations, 2014.

To view the entire article click [here](#).
This Article was also published in [Moneylife](#)



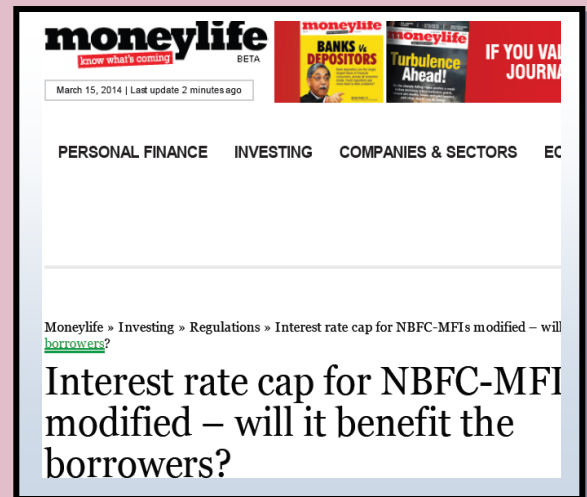
Interest rate cap for NBFC-MFIs modified- will it benefit the borrowers?

by Nidhi Bothra

published on [Moneylife](#)

While the NBFC-MFIs may have to review interest rates and borrowing costs on a quarterly basis, practically it may not be possible for them to review interest rates charged and revise instalments. Also in the tug of war of maintaining interest rates, the repayment history, credit worthiness of the borrower will become secondary considerations. The Reserve Bank of India (RBI) vide a notification on 7 February 2014 has made modification to the non-banking finance companies (NBFCs)- micro finance institutions (MFIs) directions with regard to pricing of credit whereby the earlier interest rate cap (As per the Malegam Committee recommendations, the interest rate cap on loans given by MFIs has been fixed at 26%) imposed on NBFC-MFIs was reviewed and modified.

To view the entire article click [here](#).
This Article was also published in [Moneylife](#)



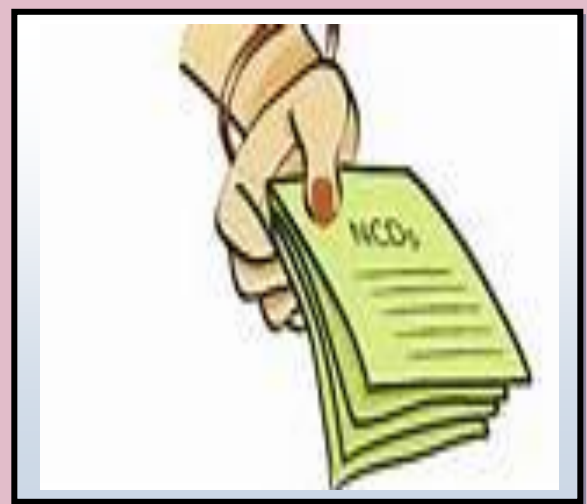
NBFCs issuance of secured NCDs in trouble as Companies Act, 2013 and draft rules whammy

by Nidhi Bothra

published on [Moneylife](#)

The optionality clause in equity shares/ compulsory convertible debentures/ preference shares has been a gray area from the regulatory perspective in India for years. These instruments did not find their eligibility under the FDI norms or Securities Contract (Regulations) Act, 1956 (SCRA) provisions and did not have the nod from SEBI and RBI either. The position for such instruments remained ambiguous till SEBI's notification on enforceability of pre-emption right and call and put options in securities of Indian companies and the recent RBI notification that followed thereafter which expressly granted eligibility to such instruments under the FDI regulations. This post elucidates on the latest developments in this segment and its impact thereof.

To view the entire article click [here](#).
This Article was also published in [Moneylife](#)



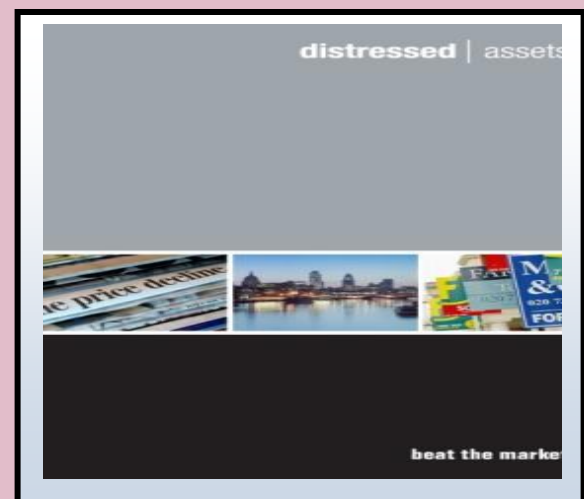
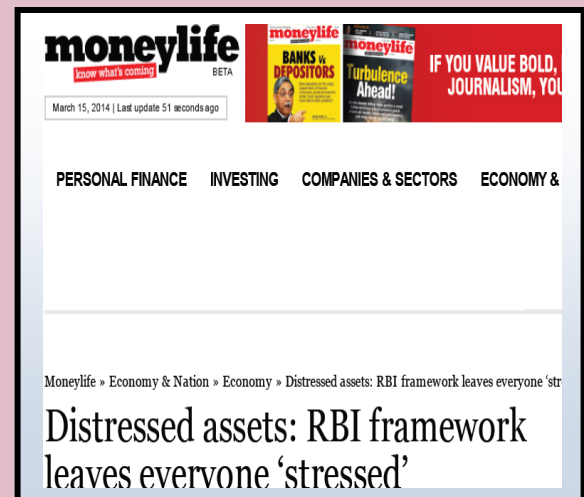
Distressed Assets: RBI's framework leaves everyone 'stressed'

by Nidhi Bothra & Abhirup Ghosh

published on [Moneylife](#)

RBI's framework for revitalising distressed assets leaves everyone in stress. Banks, NBFCs, India Inc, CAs and advocates, no one is spared. The slacking Indian economy is sitting with huge pile of bad loans (estimated to be about Rs2.9 lakh crore) in the Rs82 lakh crore banking system and surely is the cause of concern to the health of the economy. The continuing rise in number of the nonperforming assets (NPAs) and restructured cases in the banking system made the Reserve Bank of India (RBI) come out with a "*Framework for revitalising distressed assets in the economy*" on 30 January 2014 to recognise early signs of distress, catalyse the restructuring process, quicker distress resolution planning, leveraged buyouts, take-out financing and more. The framework will be effective from 1 April 2014 and the banks and the non-bank lenders will be required to put in place the necessary infrastructure to implement the Framework.

To view the entire report click [here](#). The article was also published on [Moneylife](#).



RBI's revised 20:80 gold import scheme and the confusion

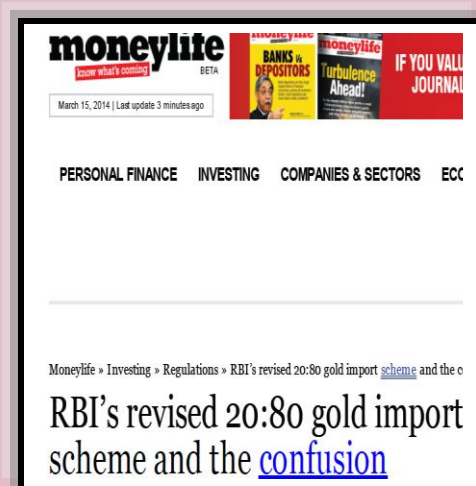
by Abhirup Ghosh

published on [Moneylife](#)

The significance of lease transactions stands on the understanding that capital is precious – a business would rather save precious capital for more important needs if it can avoid investing into assets. The motivations for which lessees are prepared to take assets on lease differ – in some cases, it is off-balance sheet funding and consequent advantages, in some cases, ease of employees acquiring cars, in some cases tax benefits, and so on. It is clear that off-balance sheet remains a strong differentiator between leasing and borrowing in India.

In India, leasing has been in existence since the 1970s and has had its own peak and trough. Despite the long existence, leasing has not been very impactful over the decades and had a low penetration rate. It is only in the last couple of years that leasing has regained popularity and despite the stressed times for the economy, leasing has been growing at a steady pace.

To view the entire report click [here](#).
The article was also published on [Moneylife](#)



Upcoming Events

2 days Crash Course on Companies Act, 2013 for senior professionals, Kolkata 19th – 20th March, 14, for details click [here](#)

2 days Crash Course on Companies Act, 2013 for senior professionals, Mumbai 22nd – 24th March, 14, for details click [here](#)

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2 days workshop on “Cash Flow Modeling for Securitization”, Mumbai 21st -22nd April, 2014, for details click [here](#)

The Calendar of our Forthcoming Courses can be viewed [here](#)

What's happening at VKC and VK & Co



Workshop on "Companies Act, 2013" from February 13, 2014 onwards. Conducted 3 successful batches of 12 class each in Kolkata, including an in-house workshop for the management of Price Water house Coppers (PwC).

Similar Workshop on "Companies Act, 2013" was conducted in Mumbai on 10th - 11th February, 2014

The response and participation was overwhelming this motivated us for more such classes: Details can be viewed [here](#)

► ***Sessions taken by Vinod Kothari***

- 📌 ***Workshop on Companies Act, 2013, "Important Amendments Affecting Private And Unlisted Public Companies" at Bengal Chamber of Commerce, organized by Views Exchange Chartered Accountants Study Circle, EIRC on 8th February, 2014.***
- 📌 ***Discussion on "Loans and Investments by a company and Related Party Transactions" at HHI, Kolkata on February 22, 2014, organized by EIRC, ICSI.***
- 📌 ***Session on 'Securitization' at the 84th MSOP, at EIRC, ICSI on February 26, 2014***



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- 🌿 Session on - "Overview of Regulatory Framework of NBFCs " on 2nd February, 2014 at Hooghly Chapter of EIRC, ICSI.
- 🌿 Session on 'Legal Aspects of Bitcoins' at MCC Chamber of Commerce and Industry on February 5, 2014
- 🌿 PDP Seminar on 'Overview of Regulatory Framework of NBFCs' organized by Hooghly Chapter of EIRC of ICSI on 16th February, 2014
- 🌿 Seminar on Companies Act, 2013, organized by Cuttack Branch of EIRC of ICAI on 22nd February, 2014.

► **Sessions taken by Aditi Jhunjhunwala**

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Our Corner!!!!

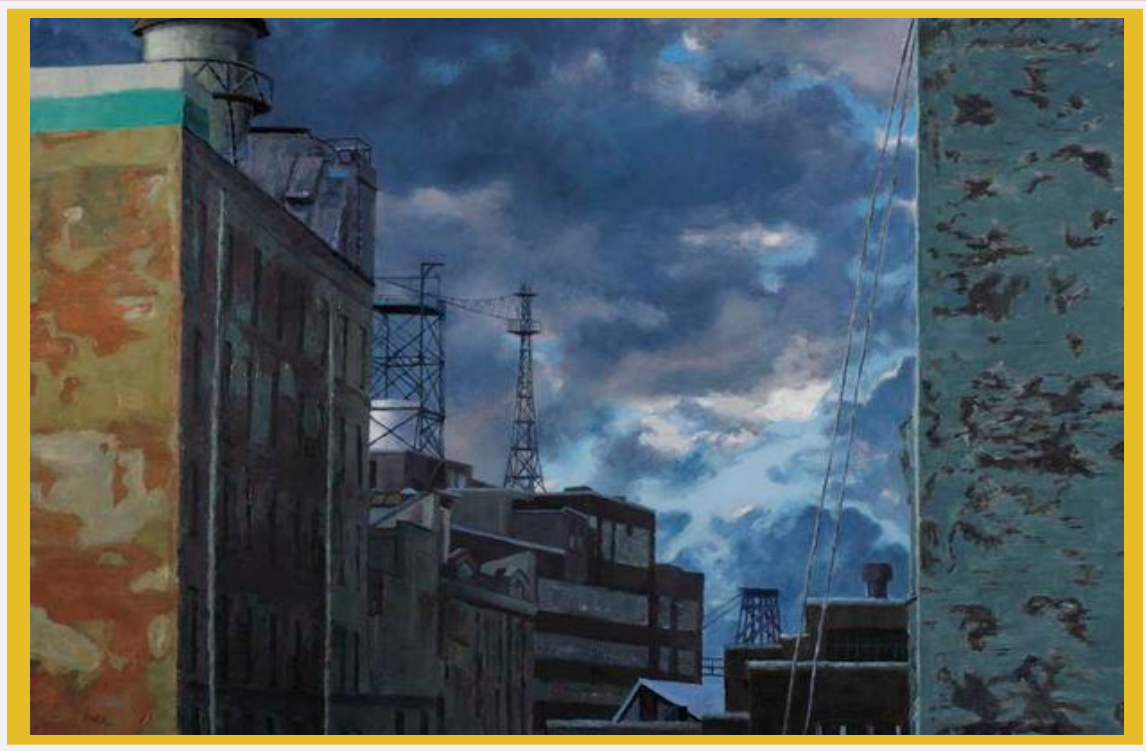
Don't just dream your paintings.....

Paint your dreams

At VK & Co. we not only motivate to be a good professional but also encourage what we are good at..... 😊 😊

Such an effort has unleashed the artists amongst us to create master pieces.

Below is one such illustration by Shambo Dey



Contact us



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