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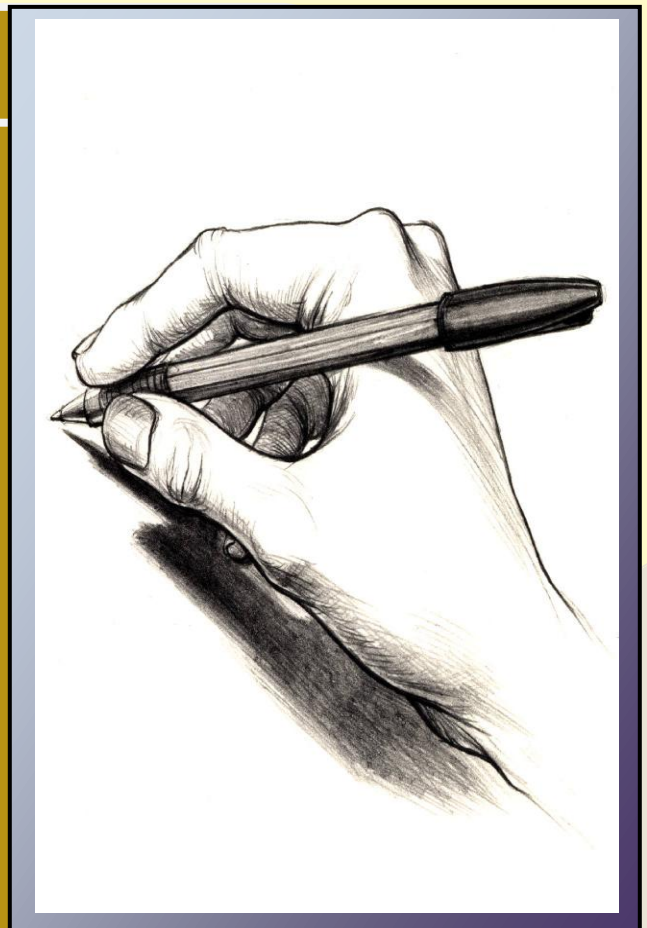
SPARSH.....

Touches

March, 2014

In this Issue:

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-  **Our Articles Published**
-  **What's happening at
VKC and VK & Co.**
-  **Our Corner**
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Editorial

T: Together
E: Everyone
A: Achieves
M: More



“What ‘touches’ our hearts and impresses us deeper is sacrifice and humility when we see someone accept the higher principle of cooperation, putting aside his/her own achievements.” –
Radhanath Swami

Team work and co-ordination is the key to success, especially in today's dynamic corporate environment. We at VKCPL & VK & Co, work together not only for individual goals but also for the overall development of all our associates.

With the objective of growing together in mind, we come again with “**Sparsh**”

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

Editor:
-Shivam Saraogi
& Vijaya Agarwala
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Articles Published

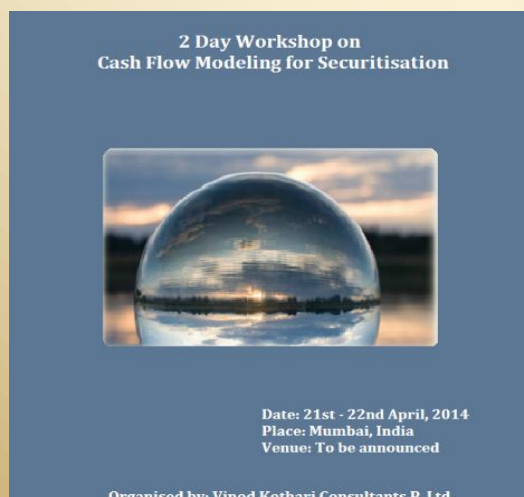
- ▶ An Article on “Independent Directors: Transactions and relationships” by Mr. Vinod Kothari and Ms. Vinita Nair was published in Taxmann’s Corporate Professionals Today, February 16 to 28, 2014 issue.
- ▶ An Article on “Financial Frauds in India: An enquiry into their causes and cures” by Mr. Vinod Kothari was published in Chartered Secretary, March 2014 Edition
- ▶ An Article on “Corporate Social Responsibility- Companies Act, 2013- MCA notifies Section 135” by Ms. Aditi Jhunjhunwala was published in E-Corporate Manager, ICSI, Ahmedabad Chapter.
- ▶ An Article on “Does Section 185 apply to holding-subsidary transactions” by Mr. Vinod Kothari was published on Indiacorplaw on 14th March, 2014.
- ▶ An Article on “Can RBI’s policies alone tackle rising NPAs deftly?” by Abhirup Ghosh was published on Moneylife on 20th March, 2014
- ▶ An Article on “Directorship in a Company: Cap of Thorns” by Ms. Nidhi Bothra and Abhirup Ghosh was published on Indiacorplaw on 25th March, 2014.
- ▶ An Article on “Private placement of NCDs for HFCs and the new Companies Act” by Abhirup Ghosh was published on Moneylife on 28th March, 2014.

For More Articles, Click [here](#).

Our Forthcoming Workshops


- ▶ 2 days workshop on “Cash Flow Modeling for Securitization”, Mumbai 21st -22nd April, 2014.
- ▶ 2 days Crash Course on Companies Act, 2013 for senior professionals, Bangalore 24th – 25th April, 14.
- ▶ 1 day workshop on “Corporate Debt Restructuring & SARFESI proceedings on NPAs” at Mumbai on 29th April, 2014
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For More Details, click [here](#).




What's happening at VKC and VK & Co.



Sessions taken by Mr. Vinod Kothari

-  *Workshop on "CSR-Rules" at R. Singhi Hall, organized by ICAI, EIRC*

Sessions taken by Ms. Nidhi Bothra

-  *Seminar on "Recent Developments: NBFC Regulations and relevant changes in Companies Act, 2013", organized by EIRC of ICAI at R. Singhi Hall on 13th March, 2014.*





Sessions taken by Ms. Aditi Jhunjunwala

-  *EDP Session at EIRC of ICSI on "Personality Development-Advanced Concepts"*
-  *SIP Session at EIRC of ICSI on "Communication Skills and Writing Ability"*

Hall of Fame

Mr. Vinod Kothari was quoted on The Economic Times in the article "Corporate affairs ministry releases another set of rules governing new Companies law"

Our Corner

-  *It's Holi time...!!!*
-  *Happy Birthday Ms. Nidhi Bothra*
-  *Happy Birthday Ms. Aditi Jhunjunwala*
-  *Happy Birthday Ms. Nivedita Shankar*

Articles Published

Independent Directors: Transactions and relationships

By Mr. Vinod Kothari and Ms. Vinita Nair
Published in Taxmann's Corporate Professionals
Today, February 16 to 28, 2014 issue

The Companies Act, 2013 (Act, 2013) mandates certain class of companies to appoint Independent Directors in the prescribed manner. Section 149 of the 2013 Act, relating to Company to have Board of Directors, explains the meaning of an Independent Director. The requirement of having no pecuniary relationship with the company has given rise to several debates as to whether even a single transaction will disqualify a person from being appointed as an Independent Director?

This article intends to explore whether the definition should be considered as stringent one as is being widely debated or whether one should adopt a more practical approach in interpreting the requirement?

To view the entire article click [here](#).
This article was published in Taxmann's Corporate Professionals Today, February 16 to 28, 2014 issue (Page 349 Onwards)



Financial Frauds in India: An enquiry into causes and cures

By Mr. Vinod Kothari

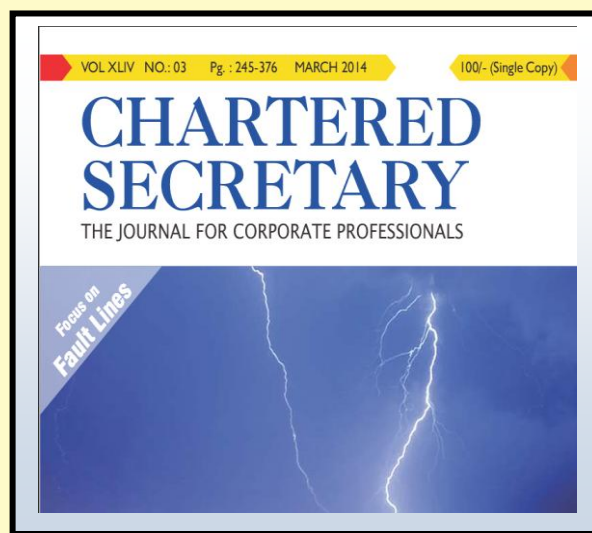
Published in Chartered Secretary, March 2014 Edition
([Page 263 Onwards](#))

Financial sector regulatory laws in India are an edifice built on a landscape of frauds every major fraud would lead to a new law. In all cases of financial frauds, fraudsters have taken advantage of human fallibilities and lack of awareness and cheated hapless depositors into putting their money into get-rich-easy schemes. All this would have actually been carried in broad daylight, while regulators either pretended to be unaware, or were just caught in jurisdictional squabbles. Mostly the fraud machine would have collapsed under its own weight – which is quite natural for such schemes. And then, regulators would have jumped into action and passed a new law, quite often curbing enterprise itself merely because of an aberration in their suddenly discovered over-enthusiasm.

India is not an exception in reactive law-making. The mammoth US law, Frank Dodd Act, was admittedly enacted following the Sub-prime crisis of 2007-08. However, the Damodaran Committee specifically and significantly has made recommendations that laws should be based on policy and principles rather than as a reaction to isolated happenings.

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

This Article was published in Chartered Secretary, March 2014 ([Page 263 Onwards](#))



Corporate Social Responsibility- Companies Act, 2013- MCA notifies Section 135

By Ms. Aditi Jhunjunwala

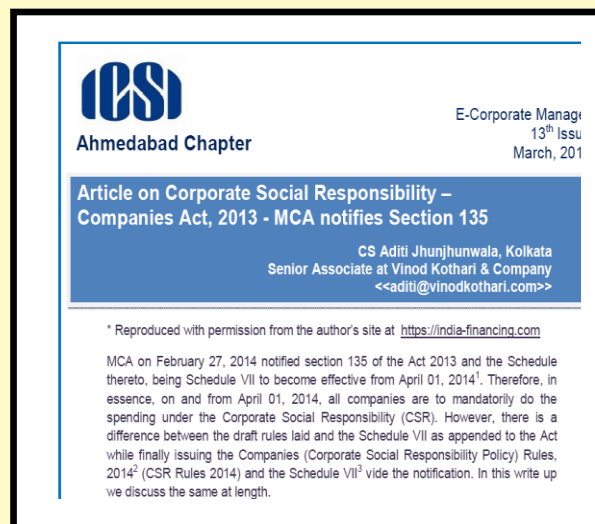
Published in E-Corporate Manager, ICSI, Ahmedabad Chapter.

MCA on February 27, 2014 notified section 135 of the Act 2013 and the Schedule thereto, being Schedule VII to become effective from April 01, 2014. Therefore, in essence, on and from April 01, 2014, all companies are to mandatorily do the spending under the Corporate Social Responsibility (CSR). However, there is a difference between the draft rules laid and the Schedule VII as appended to the Act while finally issuing the Companies (Corporate Social Responsibility Policy) Rules, 2014 (CSR Rules 2014) and the Schedule VII vide the notification. In this write up we discuss the same at length.

Though the CSR activities and projects that can be undertaken by a company have been prescribed by Schedule VII, still the Rule 2 (c) goes on to say that “CSR Rules means and includes but is not limited to..” and thereafter it prescribes that activities under Schedule VII and activities prescribed by board covering subjects under Schedule VII will fall within the provisions of law. Does this mean that the companies can undertake any other activities as well though not prescribed under Schedule VII?

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

This Article was published in E-Corporate Manager, ICSI, Ahmedabad Chapter.



Does Section 185 apply to holding-subsidary transactions

By Mr. Vinod Kothari

Published in [Indiacorplaw](#)

This question is evidently one of the most significant questions facing the corporate sector right at this time, as most banks are renewing their loan sanctions. The banks have gone conveniently by the advice of their legal advisers; some banks have circulated a draft apparently suggested by a leading law firm whereby companies should alter the objects clause of their memorandum to include the business of guarantees or provision of securities. Banks have apparently been advised that if the borrower companies made such an amendment, then giving of guarantees will become an “ordinary business activity” of the client company, and thereby, client company will be eligible for the exemption given in proviso (b) to sec 185 (1). One may scoff at the suggestion that the mere alteration of the objects clause would lead to creation of an “ordinary business”, whereas company law practitioners will certainly understand that (a) objects clause is a statement of what the company *can* do, rather than what the company *does*; (b) no amount of object clause insertion can result into a business being ordinary, if the company has been doing nothing except giving guarantees for its subsidiaries, and more so, where the company is charging no consideration for the guarantee.

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

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



Can RBI's policies alone tackle rising NPAs deftly?

By Abhirup Ghosh
Published in [Moneylife](#)

RBI's initiatives to curb NPAs are good and would help minimise the stress. However, given the past record on a number of failed reforms, one question arises – can the regulator alone be able to tackle rising NPAs deftly?

Good health of banks is critical to the health of the economy and is a pre-requisite for the overall economic development and financial stability of a nation. An ailing banking sector indicates distress in economy as well and over the last couple of years, the banking sector is weighed down by the ever increasing non-performing assets (NPAs).

One can justify this rise in the level of NPAs through a number of reasons like, a) impulsive implementation of law by regulators b) policy changes happening dynamically c) infrastructure sector being in a deadlock, d) overseas investors becoming skeptic about making investments in India due to the sluggish economic condition prevailing in the country e) political uncertainty prevailing in the country f) now that the US economy is reviving from the economic slowdown, the money is flowing back there from India.

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



Directorship in a Company: Cap of Thorns

By Ms. Nidhi Bothra & Abhirup Ghosh

Published in [India Corp Law](#)

The Companies Act, 2013 (CA, 2013) brings about a sea change in the way the charter guiding corporate India will look like. The existing Act of 1956 has been the guiding force for nearly 60 years now but the overhaul was felt necessary with the changing times. In the urge to update the laws with the changing times the new Act brings a lot of responsibility on the directors to act with greater wisdom and prudence and to ensure that they act in the best interest of the companies than merely being status heads sitting on the board. For instance, independent directors now need to be aware of the decisions taken by the company in the meetings in which they attend and those which they do not attend as well.

With this greater responsibility instilled on the directors comes greater accountability and liability as well. CA, 2013 is filled with such stringent penal provisions which did not feature in the earlier Act. While from the view of protecting the interest of the stakeholders tighter vigilance is welcomed but from the provisions of CA, 2013 it seems it shall be more of a burden for directors to hold office. The article weighs the onus of holding office and the far reaching implications on the directors.

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

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



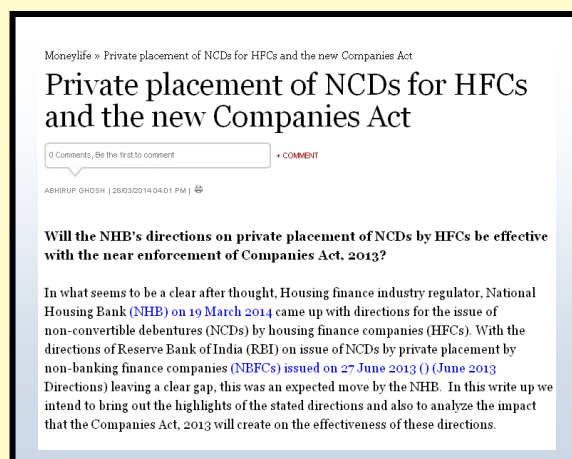
Private Placement of NCDs for HFCs and the new Companies Act

By Abhirup Ghosh
Published in [Moneylife](#)

In what seems to be a clear after thought, Housing finance industry regulator, National Housing Bank (NHB) on 19 March 2014 came up with directions for the issue of non-convertible debentures (NCDs) by housing finance companies (HFCs). With the directions of Reserve Bank of India (RBI) on issue of NCDs by private placement by non-banking finance companies (NBFCs) issued on 27 June 2013 (June 2013 Directions) leaving a clear gap, this was an expected move by the NHB. In this write up we intend to bring out the highlights of the stated directions and also to analyze the impact that the Companies Act, 2013 will create on the effectiveness of these directions.

The RBI's guidelines are applicable to NBFCs as defined in Section 45 I (f) read with Section 45 I (c) of the RBI Act, 1934. Therefore, the guidelines are applicable only to the NBFCs registered with the RBI and not to HFCs, though being NBFCs they have to be registered with NHB. Hence, there was a need to come up with specific set of directions for issue of NCDs by HFCs. The gap, earlier created, has now been bridged by NHB through the directions issued on March 19 2014 ("March, 2014 Directions").

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



Upcoming Events

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

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“MCA has overstepped the powers of Parliament. There are instances of law making by the MCA in the so-called rules. For example, the definition of subsidiary company as well as related parties has been modified in the new rules, which amounts to law making.”

Corporate affairs ministry releases another set of rules governing new Companies law

The corporate affairs ministry on Thursday released another set of rules governing the new Companies law that will be operational from April 1, 2014.

Companies will get a grace period of two weeks to comply with all the rules and sections of the Act that have been notified in the current fiscal.

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

Red, green, yellow and blue

*The colours remind us of the time spent with all of
you... .. :)*

Wish you all a very Happy Holi !!!!



We at VKCPL, we not only celebrate the festival of colours but also add colour to life....

The month of March brought with it several moments of revelry...

Wishing a very happy birthday to Ms. Nidhi Bothra, Ms. Aditi Jhunjunwala and Ms. Nivedita Shankar



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