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



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# SPARSH.....

*Touches*

*July, 2014*

## **In this Issue:**

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



# Editorial

**T:** Together  
**E:**  
Everyone  
**A:** Achieves



*"Ignorance is the curse of God;  
knowledge is the wing wherewith we fly  
to heaven."*

*-William Shakespeare*

As rightly said above by the famous writer William Shakespeare, we at VKCPL & VK & Co., believe in providing wings that would help our associates to come out with flying colors, through their knowledge and skills.

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

*Stay in touch with us through SPARSH!!*









*Editor:*  
*-Nikita Snehil*  
[editor@vinodkothari.com](mailto:editor@vinodkothari.com)

## **Articles Published**

- ▶ *An Article on MCA's latest order burdens private limited companies with even more stringent compliance, in case of related party transactions, by Debolina Banerjee, published in Moneylife.*
- ▶ *An Article on Impact Analysis of the Second Amendment to MGT Rules, by Shampita Das, published in MoneyControl.*
- ▶ *An Article on Lawmaker MCA's latest clarification on validity of resolutions passed under the Old Act, by Shampita Das, published in Moneylife.*
- ▶ *An Article on Budget 2014: CSR to Chequebook CSR, by Shampita Das published in Moneylife.*
- ▶ *An Article on SEBI issues further guidelines addressing various aspects to ensure greater compliance by AIFs, by Vinita Nair, published in TaxGuru.*
- ▶ *An Article on Effect of Deposit Rules, 2014 on real estate developers and investors, by Nivedita Shankar, published in Moneylife.*
- ▶ *An Article on MCA Clarifies on e-filing of MGT-14, by Vinita Nair, published in Moneylife.*
- ▶ *An Article on MCA Finalises Cost Audit Rules, by Nivedita Shankar, published in Indiacorp Law.*
- ▶ *An Article on FAQs on Section 184: Disclosure of directors' interest by CS Vinita Nair, published in the e-corporate manager of Ahmedabad Chapter of ICSI for the month of July, 2014.*

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

### ***Our Forthcoming Workshops:***

-  Company Regulatory Law and Environment for NBFCs, by Mr. Vinod Kothari, in Mumbai, on 25th-26th July, 2014.
-  The Securitization Summit, 2014, by Various Speakers, in Mumbai on 22nd August, 2014.
-  Real Estate Investment Trusts, by Mr. Vinod Kothari, in Mumbai on 23rd August, 2014.
-  Treasury Management for NBFCs, by Mr. Praveen Sethia, in Mumbai, in September 2014.
-  Factoring, by Mr. Vinod Kothari, in Kolkata/Mumbai, in September 2014.
-  Basel III, by Mr. Vinod Kothari, in Mumbai, in October 2014.
-  Securitisation and Covered Bonds, by Ms. Nidhi Bothra, in Mumbai, in October 2014.
-  Affordable Housing Finance, by Mr. PrakashHulkopkar and Ms. Nidhi Bothra, in Mumbai, in November 2014.
-  Leasing and Asset Backed Lending, by Ms. Nidhi Bothra, in Mumbai, in November 2014.
-  November 2014 Mumbai Regulations for NBFCs, by Mr. Vinod Kothari, in Mumbai, in November 2014.

*For More Details, click [here](#).*

### ***What's happening at VKC and VK & Co.***


#### ***Session taken by Mr.Vinod Kothari and Associates:***

*On Companies Act, 2013 & Revised Clause 49, hosted by Jaiprakash Group, at Noida.*

### ***Hall of Fame***

*Mr. Vinod Kothari was quoted on The Economic Times in the article "**Companies Act 2013 keeps government in a tizzy**" on July 3, 2014.*

### ***Our Corner***

 *Happy Birthday "Deepesh Sir".*



# Articles Published

## MCA continues to make a bigger mess of 'related party transactions'

By Debolina Banerjee  
Published in Moneylife

MCA's latest order burdens private limited companies with even more stringent compliance, in case of related party transactions. The Ministry of Corporate Affairs (MCA) is leaving no stone unturned to make matters pertaining to related party and transactions clear. But is it succeeding? On 24 July 2014, the MCA, vide its Companies (Removal of Difficulties) Sixth Order, 2014 (Present Order), amended clause (iv) of Section 2(76) of Companies Act, 2013 (Act of 2013).

The Present Order is most likely to create outcry from companies. It seems that the Ministry is determined to issue weekly clarifications regarding related parties. MCA first issued Companies (Removal of Difficulties) Fifth Order, 2014, dated 9 July 2014, amending clause (v) of Section 2(76) of the Act of 2013 by replacing 'and' with 'or'. This was followed with clarifications on matters relating to related party transactions vide general circular no. 30/2014 dated 17 July 2014.

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



# Impact Analysis of the Second Amendment to MGT Rules

By Shampita Das  
Published in MoneyControl

The Ministry of Corporate Affairs (MCA) came out with its latest Notification dated 24th July, 2014, being the second amendment to the Companies (Management and Administration) Rules, 2014 ('MGT Rule').

Below we present in a tabular format the details of the change alongwith its impact and our analysis on the same:

Rule 9 requires every person whose name is registered in the register of members as a holder of those shares but who does not hold the beneficial interest in such shares to disclose to the company to this effect. The declaration requirement was also applicable to every beneficial holder of shares whose names are not on the company's register of members.

The amendment seeks to exempt trusts which are created to set up Mutual Funds or Venture Capital Funds from the requirement of such declaration. This means that if such trusts are either registered but not beneficial holder or beneficial but not registered holder from the requirement of this Rule.

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



# Lawmaker MCA's latest clarification on validity of resolutions passed under the Old Act

By Shampita Das  
Published in Moneylife

MCA's latest circular on 'transitional period for resolutions passed Under the Companies Act, 1956' adds to a long list of such clarifications that seem to be standing in for lawmaking

The Ministry of Corporate Affairs' (MCA) new avatar as the lawmaker seems to be gaining ground by the day, as is their trend of bringing out more 'clarification' circulars. These circulars seem to rewrite the law of the land rather than just clarify it. The subject of the latest 'clarification' circular of the MCA, dated 23 July 2014, is 'Clarification on transitional period for resolutions passed Under the Companies Act, 1956'.

This new Circular seeks to protect the validity of the resolutions passed under the erstwhile Companies Act, 1956 ('Act of 1956') which was under various stages of implementation at the time of commencement of the new Companies Act, 2013.

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





# Budget 2014: CSR to Chequebook CSR

By CS Shampita Das  
Published in Moneylife

The Government's move to keep CSR activities out of the business expenses periphery, would lead private sector making lump sum donations or contributions to eligible trusts and institutions instead of taking an initiative for actually making a difference to the society.

The Finance Bill 2014 has proposed many changes under both, direct and indirect taxes. One such proposal, which is expected to have a major impact on the corporate sector is the exclusion money spent on corporate social responsibility (CSR) by companies, from the classification of business expenditure, resulting in a notional increase in the taxation burden on companies.

## Requirement of CSR:

Section 135 of the Companies Act, 2013 requires companies with a net worth of Rs500 crore or more / turnover of Rs1,000 crore or more / net profit of Rs5 crore or more, during any of the three preceding financial years, to contribute at least 2% of the average net profits of the company during the three immediately preceding financial years towards CSR activities as listed out in Schedule VII to the Act, 2013.

The draft CSR rules had provided that the tax treatment of CSR spent would be in accordance with the income Tax (I-T) Act as may be notified by Central Board of Direct Taxes (CBDT).

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

This Article was published in Moneylife.



# MCA's Clarifications are making changes to legislation without Parliamentary oversight

By CS Shampita Das  
Published in MoneyLife

MCA's latest circular on 'transitional period for resolutions passed Under the Companies Act, 1956' adds to a long list of such clarifications that seem to be standing in for lawmaking.

The Ministry of Corporate Affairs' (MCA) new avatar as the lawmaker seems to be gaining ground by the day, as is their trend of bringing out more 'clarification' circulars. These circulars seem to rewrite the law of the land rather than just clarify it. The subject of the latest 'clarification' circular of the MCA, dated 23 July 2014, is 'Clarification on transitional period for resolutions passed Under the Companies Act, 1956'.

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



# SEBI issues further guidelines addressing various aspects to ensure greater compliance by AIFs

By CS Vinita Nair and Debolina Banerjee

Published in TaxGuru

It was 1st August, 2011 which marked the introduction of Alternative Investment Funds (AIF) Regulations when Securities and Exchange Board of India (SEBI) issued a concept paper and draft regulations for AIF for public comments. The thought process after taking due consideration of the various stakeholders was notified on 21st May, 2012 by the enforcement of SEBI (Alternative Investment Funds) Regulations, 2012 [1][AIF Regulations]. A rapid growth of private fund industry and to note their importance for the stability of the financial market, SEBI notified the AIF Regulations, 2012 which attempted to extend the periphery of regulation to govern unregulated funds with a view to invest such funds in accordance with a defined investment policy for the benefit of the investors, encouraging formation of new capital and also investor protection to the optimum. Behind this backdrop, SEBI defined AIF to mean any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which is a privately pooled investment vehicle which collects funds from investors (Indian/Foreign) for investing such funds in accordance with a defined investment policy for benefit of the investors and the manager of such fund, irrespective of their legal domicile.

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





# Effect of Deposit Rules, 2014 on real estate developers and investors

By CS Nivedita Shankar  
Published in Moneylife

Property developers suffer from a perennial cash crunch and launch alluring schemes everyday. The Deposit Rules 2014 will help investors in this regard.

The recent hype regarding the termination of jewellery instalment schemes and the newspaper advertisements put out in this regard, have made people realise that the concept of 'deposit' which was not taken seriously under Companies Act, 1956, can no longer be applied loosely. This is particularly for companies which offer instalment schemes and in turn promise 'returns' whether in cash or kind at a later date.

Companies offering jewellery instalment schemes usually accepted instalments in cash from individuals and promised returns in the form of contribution towards the last instalment. It is in fact this promise of paying the last instalment of the scheme that spelt doom for jewellery instalment schemes.

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





# MCA Clarifies on e-filing of MGT-14

By CS Vinita Nair  
Published in MoneyLife

Subsequent to this clarification, Corporate can proceed with any school of thought and stay assured of the form MGT-14 getting approved.

The Ministry of Corporate Affairs (MCA) recently issued clarifications on compliance filings regarding resolutions and agreements for companies. There had been many confusions stemming from the new Companies Act which was passed in 2013. Since the new government took over, the MCA has been issuing various Circulars, notifications and removal of difficulty orders to the 2013 law. The latest one being the decision to approve e-Form MGT-14 through Straight Through Process (STP) mode, except in case of certain matters, in order to ensure timely disposal of e-Forms.

MCA vide General Circular No 28/2014 dated 9 July 2014 issued a clarification that MGT-14 filed for purposes specified under Section 117 of the Companies Act, 2013 (Act, 2013) will be processed and taken on record using the STP mode with effect from 21 July 2014. However, MGT-14 filed for matters viz. Change of Name, Change of Object, Resolution for further issue of capital and Conversion of companies will be taken on record post the same is approved by concerned Registrar of Companies (RoC) official.

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



# MCA Finalises Cost Audit Rules

By CS Nivedita Shankar  
Published in IndiaCorp Law

Putting all speculation to rest, the Ministry of Corporate Affairs (MCA) on JUNE 30, 2014 finally came out with the final rules relating to cost audit and cost records. Although, the rules are yet to be gazetted, yet the finalized rules have surely given an indication of the road ahead for cost audit and maintenance of cost records. It however, remains to be seen if the delay in finalizing the rules will actually uphold the age old saying '*better late than never*'.

The reigning confusion till June 30, 2014.

The rules come at a time when confusion reigned about the procedure regarding appointment of cost auditor. With section 148 of COMPANIES ACT, 2013 being enforced with effect from APRIL 1, 2014 and the allied rules remaining to be enforced, confusion prevailed regarding filing of e-forms for appointment of cost auditors. This confusion was further fuelled by the provisions of rule 14 of Companies (Audit and Auditors) Rules, 2014, which required ratification of remuneration of cost auditors by shareholders. Thus, when the requirement to appoint a cost auditor was itself not clear, the very reason to comply with rule 14 also got defeated.

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

This Article was published in IndiaCorp Law.



# FAQs on Section 184: Disclosure of directors' interest

By CS Vinita Nair

Published in the e-corporate manager of Ahmedabad Chapter of ICSI for the month of July, 2014



Ahmedabad Chapter

E-Corporate Manager  
17<sup>th</sup> Issue  
July, 2014

## FAQs on Section 184 : Disclosure of directors' interest\*

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Practising Company Secretaries)

\*Reproduced with permission from the author's site at <https://india-financing.com>

### 1. What is the inherent philosophy of section 184?

The inherent philosophy is to ensure that the Directors never compromise on the fiduciary position that they occupy in relation to a Company and accordingly exclude themselves from the decision making in the matter of such contracts or arrangements wherein there is a personal interest involved.

### 2. There are two separate disclosure requirements in sec 184 – sec 184 (1) and sec 184 (2). What is the respective scheme of these two?

**Disclosure u/s 184 (1)** is a general notice of disclosure given by every director about his concern or interest in any company (ies), bodies corporate, firms or other association of individuals, along with shareholding. This is required to be given on 3 occasions mentioned under answer to **Query 4**:

**Disclosure u/s 184 (2)** is a specific disclosure given by the director at the meeting of the Board in which a contract or arrangement is discussed and entered into/proposed to be entered into with any entity in which such director has interest in the manner/ to the extent specified therein.

### 3. Who all are covered by the disclosure requirements?

All directors of a Company are covered under the disclosure requirement given u/s 184(1).

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





# Upcoming Events

*The Securitization Summit, 2014, by Various Speakers, in Mumbai on 22nd August, 2014.*

*Workshop on Real Estate Investment Trusts, by Mr. Vinod Kothari, in Mumbai on 23rd August, 2014.*

*Workshop on Treasury Management for NBFCs, by Mr. Praveen Sethia, in Mumbai, in September 2014.*

*Workshop on Factoring, by Mr. Vinod Kothari, in Kolkata/Mumbai, in September 2014.*

*Workshop on Basel III, by Mr. Vinod Kothari, in Mumbai, in October 2014.*





# Hall of Fame

Mr. Vinod Kothari was quoted on The Economic Times in the article [\*"Companies Act 2013 keeps government in a tizzy"\*](#)

Spate of notifications, clarifications and orders relating to the Companies Act, 2013, from the Ministry of Corporate Affairs (MCA) over the last few weeks has brought cheer to India Inc. and, finance & accounting professionals. At the same time, it has also raised questions whether the new Act was well thought out and whether practicality of implementation was considered while framing the Rules.

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



**Mr. Vinod Kothari's Session on Good Governance pays, Organised by CII, was covered by The Economic Times on July 2, 2014.**



### Good Governance Pays

L-R: Vinod Kothari, director, Vinod Kothari Consultants P Ltd; Chitra Agarwal, chairperson, ICAI and V R Narasimhan, chief – Regulations, National Stock Exchange

segment. In the short term, the market will be volatile with the Budget round the corner.

Do not expect a euphoric bull run to bring in laurels immediately, cautioned Premium Investment's S P Tulsian. The movement for a positive will have to be adequately supported by corporate fundamentals. The government will have to balance growth and inflation and challenges such as poor productivity in the mining sector. MD, Institutional Equity Research Axis Capital Ltd, Nandan Chakraborty, felt that it is the beginning of a long bull cycle and growth of Indian capital market will find support in global markets rising. Unless there is improvement in the overall sentiment, long-term investment returns will not be commensurate. Further, the PE of corporate India is still low and will have a breakout with better days to come. "If you focus on the short term, you will lose the long-term growth perspective."

What could derail the advent of good days ahead? The concern is rising crude prices that could drain foreign reserves, the dollar above 62 would send shivers down the spine while double digit food inflation could be the party spoiler. According to the three analysts, pharmaceu-

rying is the lack of retail investors who take long positions. There is still a lack of confidence.

According to senior investment officer, IFC, Anup Agarwal, there is a debt supply gap with lack of investment finance for the MSME sector. Ninety per cent of India's industrial units are MSMEs. Of an estimated 30 million MSMEs, only 1.8 million are registered. Chief manager, NSE, Khyati Shah, spoke of Emerge, a trading platform for SMEs, while group CFO, Veto Switch Gears and Cables, an SME, P V Sharma, recounted his experience to get enlisted. The session was moderated by chairman, CII, ER, governance taskforce, Subir Chaki.

### SESSION 4 Good Governance Pays

Corporate governance, responsibilities of board directors have a direct bearing on the capital market, particularly in trading platforms. Good governance and responsible directors – even independent directors – do better and are sought after by investors.

Vinod Kothari highlighted the various aspects of the Companies Act. Talking of the bond market in India, he pointed out that a host of regula-



## Our Corner!!!

We at VKCPL, we not only endeavour to satisfy our Clients by providing good services but also try to make the precious moments of our colleague lives memorable.....

**Wishing a very happy birthday to Deepesh...**



# Contact Us



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