cutting through complexity™

Tackling the economic challenges

Union Budget 2011

Foreword

The Honourable Finance Minister presented the Union Budget 2011 amidst low expectations of any major tax policy reforms given the proposed enactment of the Direct Tax Code (DTC) Bill 2010 from 1 April 2012 and the Goods and Services Tax (GST) which is still on cards despite the lack of congruence between the Central Government and some State Governments.

The Economic Survey 2010-11 had the following key messages:

- GDP growth in 2010-11 is expected at 8.6 percent on account of the positive contribution of the agriculture sector growing at 5.4 percent and with the industrial and services sectors growing at 8.6 and 9.6 percent, respectively.
- GDP growth in 2011-12 to revert to the pre-crisis levels at around 9 percent (+/-0.25 percent) in 2011-12, subject to crude oil shocks due to uncertainty in some oil producing countries, and sufficient rainfall for the agricultural sector.
- Inflation continues to remain a major problem area, persisting in double digit levels, especially qua food articles for more than 18 months.
- The ongoing need to make growth in the economy more inclusive and alleviate poverty.

The Economic Survey also highlighted the reforms undertaken by Indian Government to overcome some of the above challenges, including setting up of an inter-ministerial group to "review trends in overall inflation, with particular reference to primary food articles" under the chairmanship of the Ministry of Finance, and attracting more FDI inflows through new reforms.

The fiscal policy for 2011-12 considers the recommendations of the Thirteenth Finance Commission (FC-XIII) relating to a calibrated exit from the expansionary fiscal stance of 2008-09 and 2009-10 and progressive reduction and elimination of Centre's revenue deficit, followed by the emergence of a revenue surplus by 2014-15.

The Union Budget 2011 addresses hurdles such as tackling corruption through an Inter-Ministerial Group, increasing the allocation for the education sector, and an array of reforms for the agriculture sector including the removal of production and distribution bottlenecks. The Government's reforms in the infrastructure space relate to an increased allocation and a comprehensive policy for PPP projects. In order to enhance the flow of funds, the FII limit for investment in corporate bonds issued in the infrastructure sector is being raised.

Further, the Finance Minister highlighted the Government's strategy to deal with the generation and circulation of black money, including entering into Tax Information Exchange Agreements and boosting the administrative machinery.

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At first glance, the Direct Taxes Proposals are relatively benign, except for the increase in Minimum Alternate Tax (MAT) to 18.5 percent from 18 percent, the imposition of MAT on SEZ Developers/ SEZ units/ Limited Liability Partnerships and levy of Dividend Distribution Tax on SEZ developers. Other proposals include:

- Marginally widening tax slabs for individuals, reducing the qualifying age of senior citizens to 60 years and introducing higher basic slabs for very senior citizens, aged 80 years and above
- Continuing the surcharge on domestic companies at a reduced rate of 5 percent and on foreign companies at 2 percent
- Introducing weighted deduction for contributions to National Laboratories and approved Scientific Research Programmes increased from 175 percent to 200 percent
- Encouraging savings to be channeled into long term infrastructure bonds by continuing the tax deduction at INR 20,000 for one more year
- Dividends from foreign subsidiary companies to be taxed at a reduced rate of 15 percent to boost the repatriation of overseas profits
- Widening the ambit of transfer pricing provisions
- Counter measures to discourage transactions with persons located in a jurisdiction which lacks an effective exchange of information with India
- Extension of the sunset clause for a tax holiday for the power sector.

On the Indirect taxes front, the broad themes relate to balancing inflationary realities, revenue augmentation, widening the tax base, alignment to GST principles and simplifying compliances to reduce litigation. There has been an expansion in the Service Tax net, pruning of certain excise exemptions and an alignment with VAT. The Finance Minister has also indicated that a Negative List of Services exempt from Service Tax, should be introduced for public debate.

The Finance Minister also made announcements relating to the following:

- The introduction of the Companies Bill in the Lok Sabha during the current session.
- Further liberalisation of the FDI policy.
- Financial sector reforms, including amendment in Banking Regulation Act for issuance of additional banking licenses to private sector.

To sum up, the Government's commitment to usher in the DTC by 1 April 2012, bring in the Constitution Amendment Bill in Parliament, and draft the model GST legislation with the establishment of a strong IT infrastructure, is a welcome assurance. If the immediate positive reaction from the stock markets is any indication, the corporate sector and investing community seem to be elated at having been spared an increase in headline direct or indirect tax rates and the return of the Budget towards fiscal rectitude.

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Table of Contents

1 Budget Highlights 1 - 01

2 Budget Proposals 2 - 01

- Policy Proposals 2 - 02
- Tax Rates 2 - 04
- Direct Tax 2 - 09
- Indirect Tax 2 - 14

3 Recent Policy and Legislative Developments 3 - 01

4 Sector Specific Developments 4 - 01

5 Glossary 5 - 01

The summary that follows highlights the salient features of the Finance Bill 2011, in terms of direct and indirect taxes.
Unless otherwise indicated, the proposed amendments relating to direct taxes are to apply from the assessment year 2012-13 and unless otherwise indicated, the changes relating to Central Excise and Customs Duties come into effect immediately. Changes in Service tax are to come into effect on the enactment of the Finance Bill, 2011 from a date to be notified thereafter.

Budget Highlights

Budget Highlights - Direct Tax

The key Direct Tax proposals are as follows:

- Basic exemption limit marginally increased to benefit individual tax payers. Corporate tax rate remains unchanged.
- No change in the corporate tax rate except for a reduction in the surcharge on tax from 7.5 percent to 5 percent in case of domestic companies and from 2.5 percent to 2 percent in case of foreign companies.
- Rate of MAT increased from 18 percent to 18.5 percent.
- Levy of MAT extended to Limited Liability Partnerships, SEZ Developers and Units operating in SEZ.
- Dividend Distribution Tax exemption withdrawn for SEZ Developers.
- Dividends received by Indian companies from their foreign subsidiaries during Financial Year 2011-12 to be taxed at a concessional rate of 15 percent on a gross basis.
- Income of notified Infrastructure Debt Funds to be exempt from tax. Interest received by non-residents from such funds to be taxed at a concessional rate of 5 percent.
- Benefit of investment-linked deduction extended to businesses engaged in the production of fertilisers and affordable housing projects.
- Tax holiday for undertakings engaged in the power sector – commencement date extended to 31 March 2012.
- Tax holiday for undertakings engaged in commercial production of mineral oil – not available for blocks licensed after 31 March 2011.
- Weighted deduction increased from 175 percent to 200 percent for contributions made to specified institutions for approved scientific research programmes.
- The following anti-avoidance measures were introduced for transactions with persons in countries which do not effectively exchange information with India:
    - Applicability of Transfer Pricing provisions
    - Disallowance of the deduction of interest and other expenses incurred if prescribed authorizations / documents not submitted
    - For any sum received from a person in such jurisdictions, the tax payer has to explain the source of money in the hands of such person or beneficial owner. In case of failure to explain, the amount received shall be deemed to be income of the assessee
    - For payment of any sum or income or amount on which tax is deductible - withholding tax at 30 percent.

- Transfer Pricing Provisions:
    - Margin of + / - 5 percent changed to the percentage as notified by the Central Government.
    - Once the case is referred to the TPO for any transaction, the TPO can examine all the transactions noticed by him during the course of proceedings before him.
    - Power of Survey given to the TPO.
- Employer contribution towards pension scheme shall be excluded from the limit of 1 lakh provided under Section 80CCE.
- Specific deduction allowable to the employer on contributions towards the New Pension Scheme upto 10 percent of the salary of the employee.
- Additional deduction of INR 20,000 for investment in long term infrastructure bonds is extended for one more year.
- Due date of filing ROI extended to 30 November for cases involving transfer pricing provisions.
- Collection of information on requests received from tax authorities outside India in terms of Tax Information Exchange Agreements.
- Exemption to a notified class or classes of persons (especially salaried tax payer where entire tax liability is discharged by the employer) from furnishing return of income.
- Annual Reporting of activities by Liaison Offices established in India within 60 days from the end of the financial year.

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Budget Highlights - Indirect Tax

The key Indirect tax proposals are as under:

- Peak rate for excise, customs and service tax retained at the existing levels.
- No new date announced for implementation of GST.
- Constitutional amendment bill for GST would be tabled before the Parliament in the current session.
- Four percent excise duty on a few products has been increased to 5 percent (such as prepared foodstuffs, paper and articles of paper, textile intermediaries and textile goods, medical equipment, medicaments, etc.).
- Duty of 5 percent levied on specified products which were earlier exempt. Option of payment of excise duty at 1 percent on around 130 specified items (without Cenvat credit) has been provided.
- All items attracting basic customs duty of 2 percent and 3 percent will now attract uniform rate of 2.5 percent duty.
- Ambit of service tax enhanced to cover hotel accommodations above INR 1,000 per day, air conditioned restaurants with licenses to serve liquor and some categories of hospitals and diagnostic test centres, with specified abatement.
- Scope of following services amended:
  - Legal services: To include services provided by individuals to entities and vice versa as well as representation and arbitration services provided to business entities.
  - Air travel services: Service tax increased by INR 50 and INR 150 on domestic and international economy travel respectively. In case of domestic travel apart from economy, standard rate of 10 percent shall apply.
  - Life insurance: Scope to be expanded to cover all services including in relation to management of investments.
- Point of Taxation Rules to be introduced from 1 April 2011, to define the point in time when services shall be deemed to have been provided. Accordingly, the point of taxing services is being changed from cash basis to accrual basis. The rules also clarify the taxable event and applicable rates when a new service is introduced or advance payment is received.
- Changes proposed in Export and Import Rules for certain services as well as service tax refund scheme for SEZs.
- Radical changes have been introduced under the CENVAT credit scheme. Definition of 'input services' has been amended to restrict its scope, due to which the credit of service tax paid on services such as construction services, works contract services, rent-a-cab services, outdoor catering, etc. would not be available. Further, the clause allowing full credit on 17 specified services in case of non-taxable operations has been deleted.
- Maximum VAT/ sales tax to be levied on 'declared goods' (coal, cotton, cotton yarn, crude oil, hides and skins, iron and steel, jute, LPG for domestic use and oil seeds, etc.) under the CST Act to be enhanced from 4 percent to 5 percent.
- Several changes proposed on the tax administration front including facility of self assessment introduced for import/ export clearances.
- Rate of interest in case of short/ delayed payment of customs/ excise duty and service tax to be increased from 13 percent to 18 percent.

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Budget Proposals

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Policy Proposals

Some of The Key Reforms / Policy Changes Proposed are as Follows:

- The Direct Taxes Code 2010 (DTC) on course for enactment during 2011-12 and to be effective from 1 April 2012.
- Introduction of the new Companies Bill in the current session of Lok Sabha.
- The Bill to amend the Indian Stamp Act on cards.
- GST negotiation with states and setting up of IT infrastructure is in progress. Implementation is likely to be delayed.
- Continued divestment in PSUs. INR 40,000 crore targeted to be raised through disinvestment in the Financial Year 2011-12.
- Introduction of the Public Debt Management Agency of India Bill in the next financial year.
- Tax free bonds of INR 30,000 crore proposed to be issued by Government undertakings during the financial year 2011-12 to give a boost to infrastructure development in railways, ports, housing and highways development.
- Allocation to education sector increased to INR 52,057 crores.
- India Micro Finance Fund of INR 100 crores to be created with SIDBI.
- Allocation of INR 214,000 crores for the infrastructure sector.
- Amendments proposed to the Banking Regulation Act in the context of additional banking licenses to private sector players.
- Further liberalisation of the FDI policy. The Economic Survey has recommended allowing FDI in multi-product retail.
- SEBI-registered mutual funds permitted to accept direct subscriptions from foreign investors subject to conditions.
- FII limit for investment in corporate bonds issued in the infrastructure sector raised to USD 25 Billion. Further, FIIs permitted to invest in unlisted bonds with a minimum lock-in period of three years.
- Legislative reforms in the financial sector on the anvil with the proposed introduction of The Insurance Laws (Amendment) Bill, 2008, The Life Insurance Corporation (Amendment) Bill, 2009, The revised Pension Fund Regulatory and Development Authority Bill, Banking Laws Amendment Bill, 2011, Bill on Factoring and Assignment of Receivables, The State Bank of India (Subsidiary Banks Laws) Amendment Bill, 2009, Bill to amend Recovery of Debts due to Banks and Financial Institutions Act (RDBFI), 1993 and Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act (SARFAESI), 2002.
- Financial Sector Legislative Reforms Commission set up under the Chairmanship of Justice B. N. Srikrishna to rewrite and streamline financial sector laws, rules and regulations.

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- Five-point legislative and executive strategy to be put into operation to deal with the problem of generation and circulation of black money.

  The government has also joined the Financial Action Task Force (FATF) on Financial Integrity and Economic Development, Eurasian Group (EAG) and Global Forum on Transparency and Exchange of Information for Tax Purposes. Discussions have also been concluded for 11 Tax Information Exchange Agreements (TIEAs) and 13 new Double Taxation Avoidance Agreements (DTAAs) along with the revision of provisions of 10 existing DTAAs.

- To prevent fraud in loan cases involving multiple lending from different banks on the same immovable property, Central Electronic Registry proposed to be set up under the SARFAESI Act, 2002 and made operational by 31 March 2011.

- National Mission for Hybrid and Electric Vehicles to be launched.

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Tax Rates

These rates are subject to the enactment of the Finance Bill 2011. The rates are for the Financial Year 2011-12.

1. Income Tax Rates

1.1 For Individuals, Hindu Undivided Families, Associations of Persons and Body of Individuals

Total Income	Tax Rates (d)(e)
Up to INR 180,000 (a)(b)(c)	NIL
INR 180,001 to INR 500,000	10%
INR 500,001 to INR 800,000	20%
INR 800,001 and above	30%

(a) In the case of a resident woman below the age of 60 years, the basic exemption limit is INR 190,000

(b) In the case of a resident individual of the age of 60 years or above but below 80 years, the basic exemption limit is INR 250,000

(c) In the case of a resident individual of the age of 80 years or above, the basic exemption limit is INR 500,000

(d) Surcharge is not applicable

(e) Education cess is applicable @ 3 percent on income tax

1.2 For Co-operative Societies

Total Income	Tax Rates
Up to INR 10,000	10%
INR 10,001 to INR 20,000	20%
INR 20,001 and above	30%

On the above, surcharge is not applicable. Education cess is applicable @ 3 percent on income tax.

1.3 For Local Authorities

Local Authorities are taxable @ 30 percent. Surcharge is not applicable. Education cess is applicable @ 3 percent on income tax.

1.4 For Firms [including LLP]

- Firms (including LLP) are taxable @ 30 percent.
- Surcharge is not applicable.
- Education cess is applicable @ 3 percent on income tax.

1.5 For Domestic Companies

- Domestic companies are taxable @ 30 percent.
- Special method for computation of the total income of insurance companies. The rate of tax on profits from life insurance business is 12.5 percent.
- Surcharge is applicable @ 5 percent if the total income is in excess of INR 10,000,000. Marginal relief may be available.
- Education cess is applicable @ 3 percent on income tax (inclusive of surcharge, if any)

1.6 For Foreign Companies

- Foreign companies are taxable @ 40 percent.
- Surcharge is applicable @ 2 percent if the total income is in excess of INR 10,000,000. Marginal relief may be available.
- Education cess is applicable @ 3 percent on income tax (inclusive of surcharge, if any).

2. Minimum Alternate Tax

(a) Companies

- Minimum Alternate Tax (MAT) is levied @ 18.5 percent of the adjusted book profits in the case of those companies where income tax payable on the taxable income according to the normal provisions of the Income tax Act, 1961 (the Act), is less than 18.5 percent of the adjusted book profits with effect from the financial year beginning 1 April 2011.
- MAT provisions are also applicable to SEZ Developers and SEZ Units with effect from the financial year beginning 1 April 2011.

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- MAT credit is available for 10 years.
- Surcharge is applicable @ 5 percent in the case of domestic companies if the adjusted book profits are in excess of INR 10,000,000. Marginal relief may be available.
- Education cess is applicable @ 3 percent on income tax (inclusive of surcharge, if any).

(b) LLP

- MAT has been made applicable to LLP with effect from the financial year beginning 1 April 2011.
- MAT is levied @ 18.5 percent of the adjusted total income in the case of those LLPs where income tax payable on the taxable income according to the normal provisions of the Act is less than 18.5 percent of the adjusted total income with effect from the financial year beginning 1 April 2011.
- MAT credit is available for ten years.
- Education cess is applicable @ 3 percent on income tax.

3. Securities Transaction Tax

STT is levied on the value of taxable securities transactions as follows:

Transaction	Rates	Payable By
Purchase/Sale of equity shares, units of equity oriented mutual fund (delivery based)	0.125%	Purchaser / Seller
Sale of equity shares, units of equity oriented mutual fund (non-delivery based)	0.025%	Seller
Sale of an option in securities	0.017%	Seller
Sale of an option in securities, where option is exercised	0.125%	Purchaser
Sale of futures in securities	0.017%	Seller
Sale of unit of an equity oriented fund to the mutual fund	0.25%	Seller

4. Wealth Tax

Wealth tax is imposed @ 1 percent on the value of specified assets held by the taxpayer on the valuation date (31 March) in excess of the basic exemption of INR 3,000,000.

5. Dividends Earned by an Indian Company

With effect from 1 April 2011, dividends earned by an Indian company from its foreign subsidiary company shall be taxable at the rate of 15 percent (plus applicable surcharge and education cess) on the gross amount of such dividends.

6. Dividend Distribution Tax

- A dividend distributed by an Indian company is exempt from income tax in the hands of all shareholders. The Indian Company is liable to pay DDT @ 16.223 percent (i.e. inclusive of surcharge and education cess) on such dividends.
- DDT has been made applicable to SEZ developers with effect from 1 June 2011.
- The amount of dividend declared by the parent company (i.e. holding more than 50 percent of capital) will be reduced by the amount of dividend received from its subsidiary company for the purposes of computing DDT payable by the parent company if:
  - such a dividend is received from its subsidiary
  - the subsidiary has paid DDT on such dividend and
  - the parent company is not a subsidiary of any other company.

Further, dividends paid to any person for and on behalf of a new pension system trust will also be reduced.

- Income received by unit holders from a mutual fund is exempt from income tax. The mutual fund (other than equity-oriented mutual funds) will pay income distribution tax of:
  - 27.038 percent (inclusive of surcharge and education cess) on income distributed to any individual or a Hindu Undivided Family by a money market mutual fund or a liquid fund
  - 32.445 percent (inclusive of surcharge and education cess) on income distributed to any other person by a money market mutual fund or a liquid fund
  - 13.519 percent (inclusive of surcharge and education cess) on income distributed to any individual or a Hindu Undivided Family by a debt fund other than a money market mutual fund or a liquid fund; and
  - 32.445 percent (inclusive of surcharge and education cess) on income distributed to any other person by a debt fund other than a money market mutual fund or a liquid fund.

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7. Special Rates for Non-residents

(1) The following incomes in the case of non-residents are taxed at special rates on a gross basis:

Nature of Income	Rates(a)
Dividend(b)	20%
Interest received on loans given in foreign currency to Indian concern or Government of India	20%
Interest received on notified infrastructure debt fund	5%
Income received in respect of units purchased in foreign currency of specified mutual funds / UTI	20%
Royalty or fees for technical services	For agreements entered into: - After 31 May 1997 but before 1 June 2005 – @ 20% - After 1 June 2005 – @ 10%
Interest on FCCB, FCEB / Dividend on GDRs(b)	10%

(a) These rates will further increase by surcharge and education cess

(b) Other than dividends on which DDT has been paid

(c) In the case that the non-resident has a PE in India and the royalty/fees for technical services paid are effectively connected with such PE, this could be taxed @ 40 percent (plus surcharge and education cess) on a net basis

8. Presumptive Taxation

(1) In the case of a non-resident taxpayer

Business	Rate at which income is presumed
Shipping (b)	7.5% of gross receipts
Exploration of mineral oil (b)(c)	10% of gross receipts
Operations of Aircraft (b)	5% of gross receipts
Turnkey power projects (b)(c)	10% of gross receipts

Business	Rate at which income is presumed
(i) Small Business [excluding (ii)] (a)(b)(c)(d)	8% of gross turnover/ receipts
(ii) Plying, leasing or hiring of trucks (person should not have owned over 10 goods carriages at any time during the previous year) (b)(c)	INR 5,000 per month/ part of month for each heavy goods vehicle. INR 4,500 per month/ part of month for each light goods vehicle.

(2) All resident taxpayers

(a) The gross receipts of the taxpayer do not exceed INR 6,000,000.

(b) All deductions/expenses (including depreciation) shall be deemed to have been allowed.

(c) The taxpayer can claim lower profits, if he keeps and maintains specified books of accounts and obtains a tax audit report.

(d) Applicable to Individuals, Hindu Undivided Families and Firm - excludes LLP, tax payer availing deduction under Section 10A, Section 10AA, Section 10B, Section 10BA or Chapter VI-A(C) of the Act.

(3) Special code of tonnage tax on income earned by domestic shipping companies.

9. Capital Gains

Particulars	Short-term capital gains tax rates(a)	Long-term capital gains tax rates(a)
Sale transactions of equity shares / unit of an equity oriented fund which attract STT	15%	Nil
Sale transaction other than those mentioned above:		
Individuals (resident and non-residents)	Progressive slab rates	20% / 10%(b)
Firms including LLP (resident and non-resident)	30%	
Resident companies	30%	
Overseas financial organisations specified in section 115AB	40% (corporate) 30% (non-corporate)	10%
FIIs	30%	10%
Other foreign companies	40%	20% / 10%
Local authority	30%	20% / 10%(b)
Co-operative Society	Progressive slab rates	

(a) These rates will further increase by applicable surcharge and education cess.

(b) 20 percent with indexation and 10 percent without indexation (for units/ zero coupon bonds)

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10. Personal Tax Scenarios

Individual	Income Level		
	500,000	1,000,000	1,500,000
Current Tax	35,020	158,620	313,120
Proposed Tax	32,960	158,620	313,120
Effective Tax Savings	2,060	2,060	2,060
Effective Tax Savings (%)	5.88	1.3	0.66

Resident women	Income Level		
	500,000	1,000,000	1,500,000
Current Tax	31,930	155,530	310,030
Proposed Tax	31,930	155,530	310,030
Effective Tax Savings	0	0	0
Effective Tax Savings (%)	0	0	0

Resident senior citizen (age of 60 years or more but below 80 years)	Income Level		
	500,000	1,000,000	1,500,000
Current Tax	26,780	150,380	304,880
Proposed Tax	25,750	149,350	303,850
Effective Tax Savings	1,030	1,030	1,030
Effective Tax Savings (%)	3.85	0.68	0.34

Resident very senior citizen at the age of 80 years or above	Income Level		
	500,000	1,000,000	1,500,000
Current Tax	26,780	150,380	304,880
Proposed Tax	0	123,600	278,100
Effective Tax Savings	26,780	26,780	26,780
Effective Tax Savings (%)	100	17.81	8.78

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Direct Tax

Corporate Tax

- The Corporate tax rate remains unchanged.
- The surcharge for domestic companies reduced to 5 percent from 7.5 percent and for foreign companies reduced to 2 percent from 2.5 percent.
- The basic rate of MAT increased to 18.5 percent from 18 percent.
- Where the total income of an Indian company includes dividends declared, distributed or paid by a foreign subsidiary company (more than 50 percent in nominal value of equity), such dividend income to be taxed at the reduced rate of 15 percent with no deduction for any expenditure or allowance.
- The contributions made by an employer in a pension scheme on account of an employee are to be allowed as deduction in computing the employer's income to the extent it does not exceed 10 percent of the employee's salary during that year.
- Effective 1 June 2011, the rate of additional income tax on income distributed by mutual funds is to be revised as follows:

Nature of Fund	Nature of Recipient	Existing Rate	Revised Rate
Money market mutual fund or liquid fund	Individual or HUF	25%	25%
	Any other person	25%	30%
Fund other than money market mutual fund or liquid fund	Individual or HUF	12.5%	12.5%
	Any other person	20%	30%

Note: Income distribution by equity-oriented funds will continue to be exempt.

SEZ

- MAT made applicable to developers of SEZ and units operating in SEZ.
- DDT made applicable to developers of SEZ for dividends declared, distributed or paid on or after 1 June 2011. Such dividends continue to be tax exempt for the shareholders.

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Tax Incentives

- Commencement date for tax deduction extended to 31 March 2012 from 31 March 2011 for undertaking which starts generation or distribution of power or undertakes substantial renovation of an existing network of transmission or distribution lines.
- Tax deduction for an undertaking engaged in commercial production of mineral oil not be available for blocks licensed under contracts awarded after 31 March 2011 under NELP or any other law.
- Specified income of a notified body, authority, trust, board or commission set up with the objective of regulating or administering an activity for the benefit of general public is exempt from tax with effect from 1 June 2011 provided it is not engaged in any commercial activity and is notified by the Central Government.
- Income of notified Infrastructure Debt Fund exempt with effect from 1 June 2011 provided the Fund is set up in accordance with prescribed Central Government guidelines.
- The weighted deduction for scientific research and development increased to 200 percent from 175 percent in respect of payments to a National Laboratory, University, Indian Institute of Technology or specified persons.
- Investment-linked incentives providing deduction in respect of specified capital expenditure extended to two new businesses:
    - Developing and building a housing project under a notified scheme for affordable housing on or after 1 April 2011.
    - Production of fertilisers in India on or after 1 April 2011.

  Note: The losses of specified business eligible for investment linked incentives (e.g. eligible hotels / hospitals) can be set off even against profits of any other specified business not eligible for deduction. The relevant provisions to apply from financial year 2010-11.

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Non-resident related provisions

- A 'toolbox' of anti-avoidance measures introduced from 1 June 2011 in respect of transactions with persons in jurisdictions notified by the Central Government which do not effectively exchange information with India. These measures include:
    - Deeming parties in notified jurisdiction as associated enterprise and subjecting the transactions to Indian transfer pricing provisions.
    - Restrictions on payments / expenditure to financial institutions in notified jurisdiction unless an authorization for seeking information is provided to tax authorities and restriction for any other expenditure (including depreciation) unless prescribed documents and information maintained and furnished to tax authorities.
    - Any amount received or credited from persons located in notified jurisdiction deemed as income if the taxpayer fails to offer explanation about source or beneficial owner or provides unsatisfactory explanation in this regard.
    - Payments to persons in notified jurisdiction on which tax is deductible subjected to withholding tax at the higher of the following:

        a. Rates in force; or

        b. Rates provided under the relevant provisions of the Act or

        c. Thirty percent.

  Note: The term person is widely defined to include a permanent establishment of a person who otherwise is not a resident of the notified jurisdiction.
- Effective 1 June 2011, the interest received by non-residents from an infrastructure debt fund notified by the Central Government to be taxed at the rate of 5 percent and withholding tax obligation imposed accordingly.
- Effective 1 June 2011, Non-residents having liaison offices in India with approval from the RBI to submit prescribed annual information statement in respect of their activities to the Tax authorities within 60 days from the end of the financial year.

Transfer Pricing

- The arm's length range of +/- 5 percent of the value of an international transaction to be replaced by such percentage(s) as may be notified by the Central Government.
- Effective 1 June 2011, transfer pricing provisions are also applicable to international transactions other than those specifically referred by the AO which come to the notice of the TPO during the course of the proceedings.
- Effective 1 June 2011, 'Powers of survey' to conduct on-the-spot enquiry and verification have been given to TPO.
- Due to practical difficulties in accessing contemporaneous comparable data, the due date for filing a return of income for companies required to furnish an Accountant's Report in respect of international transactions extended to 30 November from 30 September.

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Provisions Relating to Limited Liability Partnerships

- Levy of Alternate Minimum Tax (AMT) introduced on LLP.
- Where the regular income tax payable by a LLP is less than AMT, then the adjusted total income deemed to be the total income of the LLP, liable to AMT at the rate of 18.5 percent.
  - Adjusted total income to mean total income as increased by deductions under Chapter VI-A and Section 10AA (SEZ units).
- Excess of AMT paid over the regular income tax payable allowed as tax credit for carry forward and set off for 10 succeeding years. Tax credit allowed to be set off to the extent of the excess of regular income tax over AMT.

Personal Tax

- No changes in personal tax rates.
- Basic annual exemption limits have been altered, as follows:

Current Slabs (INR)	Proposed Slabs (INR) *	Rate of Tax
Up to 160,000	Up to 180,000	Nil
160,001 to 500,000	180,001 to 500,000	10%
500,001 to 800,000	500,001 to 800,000	20%
Above 800,000	Above 800,000	30%

(*) Notes:

- Basic exemption limit for resident women below 60 years of age remains unchanged at INR 190,000 per annum.
- Qualifying age for resident senior citizens reduced to 60 years from 65 years and the basic exemption limit increased to INR 250,000 from INR 240,000 per annum.
- A special category of 'Very Senior Citizens' has been introduced for resident individuals of 80 years or more. The basic exemption limit for such individuals has been increased to INR 500,000 per annum.

- Additional deduction of up to INR 20,000 for investments in notified long-term infrastructure bonds for individuals and Hindu Undivided Families to continue for one more year.
- Contributions by the Central Government or the employer to prescribed pension scheme excluded from the current bundled limit of INR 100,000 in computing the deductions from taxable income for employee thereby allowing additional deduction to employees to that extent.
- Time limit for obtaining approval by private provident fund trusts extended to 31 March 2012.

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Other Direct Tax Provisions

- The term 'charitable purpose' is currently defined to exclude activities in the nature of advancement of any object of general public utility if it involves the carrying on of any activity in the nature of trade, commerce or business. However, such an exclusion does not apply if the aggregate value of the receipts from such trade, commerce or business does not exceed INR 1,000,000. This monetary limit is now proposed to be increased to INR 2,500,000.
- Effective 1 June 2011, with respect to the Settlement Commission:
  - The settlement application can be filed by persons related to taxpayers who applied to Settlement Commission as a result of search proceedings, provided search proceedings are initiated in their case and additional income tax payable in their application exceeds INR 1,000,000.
  - The Settlement Commission can rectify its orders, on account of mistakes apparent from the record within six months from the date of the order. The Wealth Tax Act has also been similarly amended.
- Effective 1 June 2011, in order to facilitate prompt collection of information on requests received from Tax Authorities outside India under the tax treaties, the notified income-tax authorities to have powers vested in a Civil Court as well as the power to call for information for the purpose of making an enquiry or investigation in respect of any person or class of persons.
- The Central Government by notification empowered to exempt any class or classes of persons from filing the return of income with regard to the prescribed conditions. This provision is intended to exempt individuals with only salary income from filing their return of income.
- Effective 1 June 2011, while determining the time limit for completion of assessment or reassessment (including search cases), time taken in obtaining / exchanging of information from foreign tax authorities or a period of six months, whichever is less, is to be excluded.

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Indirect Tax

Service Tax

General

- Service tax rate remains unchanged at 10 percent

Introduction of Two New Taxable Services (effective from a date to be notified upon enactment of Finance Bill 2011)

- Services provided by air conditioned restaurants with licenses to serve liquor
- Services provided by hotels, guest houses, etc. with respect to providing accommodation

Amendments (Expansion/ Modification) in the Scope of Existing Services (effective from a date to be notified upon enactment of Finance Bill 2011):

Service Category	Amendments / Clarifications
Authorised Service Station Services	• Definition of service provider has been expanded from the existing "authorised service station" to "any person" • The scope of type of motor vehicles has been substituted from "motor car, light motor vehicle or two wheeled motor vehicle" to "any motor vehicles other than motor vehicles meant for goods carriage or three wheeler scooter auto-rickshaw"
Life Insurance Services	• The scope of this service has been expanded from the existing "risk coverage in life insurance" to all types of services including services in relation to the management of investments
Commercial Training or Coaching Services	• The scope has been expanded to cover all courses that are not recognised by law even if the institute provides any other course recognised by law
Club or Association Services	• The scope has been expanded to cover services provided to non-members as well
Support Services of Business or Commerce	• The scope has been expanded to include "operational or administrative assistance in any manner" as compared to the existing phrase "operational assistance for marketing"
Legal Services	• The scope has now been expanded to cover: • Services provided by business entities to individuals • Representational services before any Court, Tribunal or an authority, to be provided by any person to a business entity • Services provided by arbitrators to business entities

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Service Category	Amendments / Clarifications
Health Services	• Currently, the levy covers health services provided in relation to health check-ups or preventive care to an employee of a business entity or health check-ups or treatment of a person covered by a health insurance scheme under certain specific circumstances. • This has been substituted by the following: - Service provided by hospitals, maternity/ nursing home, dispensary, clinic, etc. with central air-conditioning and more than 25 beds - Diagnostic services with the aid of a laboratory or medical equipment - Services provided by doctors from the premises of such hospitals, maternity/ nursing homes, dispensaries, clinics, etc. who are not employees of such establishments Establishments owned or controlled by the Government or Local Authority have been kept out of the purview of this service.

Exemptions from Service Tax (effective 1 March 2011)

- Services rendered to exhibitors participating in an exhibition outside India have been exempted from service tax
- Works contract services rendered within a port, or other port or airport have been exempted from service tax (earlier the exemption was limited to services provided in relation to the construction of ports)
- An abatement of 25 percent from the taxable value has been provided in respect of services rendered in relation to the "transport of coastal goods" and goods transported through "national waterways" or "inland water" (without claiming Cenvat credit)

Amendments to Existing Exemptions from Service Tax (effective 1 April 2011)

- The limits for the maximum amount/ rate at which service tax can be levied on air travel services have been revised as follows (amounts in INR):

Sr. No.	Type of air travel	Existing	Revised
1	Domestic (economy)	100	150
2	International (economy)	500	750
3	Domestic (other than economy)	100	10 percent

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Amendments

- Introduction of The Point of Taxation Rules *(effective 1 April 2011)*

  The Point of Taxation Rules have been introduced to determine the point in time when the services shall be deemed to be provided (rate effective on the date when these services are provided would be applicable). As a general rule, the time of provision of service will be the earliest of the following dates:

  - Date on which service is provided or to be provided
  - Date of invoice
  - Date of payment.

Consequently, provisions allowing adjustment of tax when the service is not finally provided have also been introduced.

- Amendments in Export and Import Rules to align them with the concept of service tax being a destination-based levy *(effective 1 April 2011)*.
  - Export criteria for more than 10 service categories have been amended.
  - Corresponding changes have been made in import criteria as well.
- Amendments in Service Tax Rules (effective 1 April 2011)
  - A new rule, 5B, has been introduced to provide that the applicable rate of tax shall be the rate prevailing at the time when the services are deemed to have been provided.
  - Limit of self adjustment of service tax has been raised from INR 1,00,000 to INR 2,00,000.
- Changes in compliance mechanism *(effective from a date of enactment of Finance Bill 2011 except where stated otherwise)*
- Maximum penalty for delay in filing of returns has been increased from INR 2,000 to INR 20,000.
- Penalty for failure to pay service tax has been reduced to higher of 1 percent per month or INR 100 per day (up to 50 percent of the tax amount).
- Maximum penalty for contravention of any other provisions has been increased from INR 5000 to INR 10000.
- Penalty for suppressing value of taxable services:
  - where taxpayer has not captured the true and complete information in the specified records – Penalty has been reduced from "an amount up to twice the amount of tax" to "an amount equal to the tax" and
  - where taxpayer has captured the true and complete information in the specified records – Penalty has been prescribed at 50 percent of the tax amount.
- Interest rate for delayed payment of service has been increased from 13 percent to 18 percent per annum *(effective 1 April 2011)*.
- Provision of the first charge on the property of assessee has been inserted in respect of amounts due.
- Provisions relating to the prosecution have been re-introduced for offences like rendition of services without raising invoices, availment of Cenvat credit without receipt of inputs/ input services, etc.

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- Changes relating to SEZ *(effective 1 March 2011)*
- SEZ refund scheme has been revamped with the following key changes:
  - Criteria for the determination of "wholly consumed" services have been specifically prescribed.
  - No service tax is required to be paid if the services are meant to be "wholly consumed" within SEZ.
  - Refund for the remaining services (which are not wholly consumed) would be available on pro rata basis, i.e. ratio of SEZ turnover to total turnover.
- Changes have been made in the Credit Rules to provide that no credit would need to be reversed if the services have been provided to SEZ unit for its authorised operations.
- Amendments in the Credit Rules *(effective 1 April 2011)*
  - Definition of exempt services has been amended to include services that are partially exempt and trading activities (with the condition of no credit availment).
  - Following amendments have been made in the definition of "input services":
    - Certain services meant for personal consumption by employees have been specifically excluded.
    - Expression "activities relating to business" has been deleted from the definition.
    - Certain services used in building construction and laying down foundation for support of capital goods like construction of complex services and works contract services have been specifically excluded except under specific circumstances.
    - Certain services used in relation to motor vehicles like authorised service stations, general insurance services, etc. have been specifically excluded except under specific circumstances.
  - The following amendments have been made in Rule 6 of the Credit Rules:
    - Rule 6(5), which allowed full credit of around 16 specified services, has been deleted.
    - Option to maintain separate accounts only in respect of inputs (and not for input services) has been given and consequential changes in credit reversal formula have been made.
    - The amount payable under ad hoc payment/ reversal scheme in respect of services has been reduced from 6 percent to 5 percent of exempt turnover.
    - For the purpose of applying the formula under rule 6(3A), the value of trading services as well as value of services covered by composition schemes has been specifically included.
    - A banking company or a financial institution would be required to pay an amount equal to 50 percent of the credit availed. In case of services relating to life insurance or management of ULIPs, prescribed percentage is 20. They cannot opt for other methods prescribed under Rule 6.
    - It has now been specifically provided that credit of services on which tax has been paid under Section 66A of the Finance Act would be available.

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- Other Changes
  - Changes have been made in the Valuation Rules to provide that in case of telecommunication services, wherein it has been clarified that the taxable value of service would be the amount paid by end customers for availing this service and not the amount received by the service provider from the distributors (effective 1 March 2011).
  - A new sub-rule has been added in rule 3 in the Works Contract Composition Scheme in terms of which availment of Cenvat credit has been restricted to a limit of 40 percent of the tax paid on services relating to erection, commissioning and installation; commercial or industrial construction; and construction of residential complexes, if tax has been paid without availing exemption notification 1/2006-ST dated 1 March 2006 (effective 1 March 2011).
  - Composition rate for services provided in relation to sale or purchase of foreign currency has been reduced from 0.25 percent to 0.1 percent. Further, the option to pay service tax on billed amount (instead of paying service tax at composition rate) has been withdrawn (effective 1 April 2011).
  - The Finance Minister has proposed to introduce a scheme for the refund of tax paid on services used for export of goods on the lines of drawback of duties which would be simplified and processed in an expeditious manner
  - Assessees with a turnover of up to INR 60,00,000 have been given various concessions such as:
    - In respect of individuals and propriety firms, they shall not be subjected to audit.
    - Interest rate for delayed payment of service tax would be 15 percent instead of 18 percent.

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Excise

- General
  - No change in general excise duty rate of 10 percent for non-petroleum products.
  - With effect from 1 March 2011
- Four percent excise duty on few products has been increased to 5 percent (such as prepared foodstuffs, paper and articles of paper, textile intermediaries and textile goods, medical equipment, medicaments, etc.)
- Duty of 5 percent levied on specified products which were earlier exempt.

  Out of these, the option of payment of excise duty at 1 percent on around 130 specified items (without Cenvat credit) has been provided (like ready-to-eat packaged food, medicaments, intravenous fluids, mobiles handsets, wireless data cards, CDs, DVDs, recorded smart cards, etc.)
- Amendments *(effective 1 March 2011)*
  - Reference to Standards of Weights & Measurements Act, 1976 under Section 4A of Central Excise Act, 1944 to identify products under MRP based levy has been replaced by the Legal Metrology Act, 2009.
  - Liability to pay Excise duty under Chapters 61 to 63 (which include articles of apparel and clothing accessories) shall devolve upon the principal manufacturer where such principal manufacturer engages job workers for manufacture of such goods.

    Alternatively, the principal manufacturer may authorise the job workers to obtain registration and comply with other formalities including the payment of duty on their behalf.
  - Credit reversal on writing off inputs and capital goods extended to cases where value of such inputs and capital goods is partially written off in the books of accounts
- Amendments *(effective 1 April 2011)*
  - Definition of "input" changed and shall include the following:
    - goods used in the factory of manufacturer of final product
    - accessories and goods used for providing free warranty for final products, the value of which is included in the value of final product
    - goods used for generation of electricity/ steam for captive consumption.
  - The same shall exclude the following:
    - goods used for construction of building or civil structure
    - goods used for laying of foundation or making structure for support of capital goods
    - capital goods other than those used as parts or components in the manufacture of the final product
    - goods which are used primarily for personal use or consumption by employees
    - goods with no relationship with the manufacture of final product.

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- Definition of “capital goods” amended to include capital goods used outside the factory for generation of electricity for captive consumption.
- Denial of Cenvat credit on inputs and input services used in relation to manufacture of exempted goods extended to inputs and input services which are used in relation to such exempted goods after clearance up to their place of removal.
- Interest rate on non- payment, short payment, delayed payment, etc. increased from 13 percent to 18 percent.

• Amendments *(effective from the date of enactment of Finance Bill, 2011)*

- Penal provisions rationalised to include new category of cases for levy of penalty at 50 percent of duty (with limitation period of five years) where during an audit investigation or verification, it is noticed that duty has not been levied, short-levied, not paid, short-paid or erroneously refunded, but the relevant transactions are duly entered in the specified records.
- Where the person liable to pay excise duty (for an extended period) pays such duty in full or part along with interest before issue of show cause notice, the applicable penalty shall stand reduced to 1 percent per month (not exceeding 25 percent of the duty).
- Provision introduced for creation of first charge in favour of Excise on the property of the defaulter subject to certain conditions.
- Sugar and textile items omitted from schedule of Additional Duties of Excise (Goods of Special Importance), Act, 1957 (to enable State Governments to levy VAT on these products).

• Rate Changes *(effective 1 March 2011)*

- Duty on parts of optical disc drives, CD drives, DVD drives, writers and combo drives, and parts of inkjet and laser jet printers reduced to 5 percent.
- Duty of 5 percent levied on specified IT products like microprocessor for computer (other than motherboards), floppy disc drives, hard disc drives, CD ROM drive, DVD drive, DVD writer, flash memory, combo drive, etc.
- Exemption granted on colour unexposed cinematic film in jumbo rolls of 400 feet and 1000 feet.
- Duty rate increased from 4 percent to 5 percent on various items like sugar confectionary, specified food preparations, aviation gas, LED lights and fixtures, electric operated vehicles and parts, refrigerated motor vehicles, etc.
- Refund of 20 percent of excise duty paid on vehicles (other than three wheeled motor vehicles) carrying up to 13 persons (including the driver) registered as a taxi allowed.
- Concessional duty rate of 5 percent extended to specified parts of hybrid motor vehicles till 31 March 2013 like battery packs and battery chargers.
- Concessional duty rate of 10 percent extended to hydrogen vehicles based upon fuel cell technology.
- Exemption expanded to cover equipments required for setting up ultra mega power projects.
- It has been clarified that facilities like ash disposal, water intake and coal transportation systems of ultra mega or mega power projects also would qualify for exemption.

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- Exemption extended to specified goods supplied for expansion of existing mega power projects subject to certain conditions.
- Exemption from excise duty on software (other than those where no retail sale price is declared) allowed on the portion representing transfer of right to use provided the registration under service tax is taken.

- Following specified processes in relation to certain goods deemed to be manufacture by way of insertion of Chapter Notes in respective headings (effective 1 March 2011).

Sr. No.	Specified Processes	Goods
1	Repacking from bulk to retail packs, labelling or re-labelling of containers or adoption of any other process to render the product marketable	Beverages, spirits and vinegar
2	Conversion of ores into concentrates	Ores, slag and ash
3	Galvanisation process	Iron and steel
4	Refining of gold ore bars	Precious metals/ metals clad with precious metals
5	Affixing a brand name on the product, labelling or re-labelling of containers or re-packing from bulk packs to retail packs or adoption of any other treatment to render the product marketable	Textile articles, worn clothes and worn textile articles etc.

- Others
  - The First Schedule to the Central Excise Tariff Act is being amended to incorporate the editorial changes in the Harmonised System (to be effective from 1 January 2012) of Nomenclature.
- Standards of Weights & Measurements Act, 1976
  - The Act is being repealed with effect from 1 March 2011 and replaced by Legal Metrology Act, 2009.
- Medicinal & Toilet Preparation Act (M&TP)
  - Schedule to the M&TP Act amended to substitute reference to Standards of Weights & Measurements Act, 1976 with Legal Metrology Act, 2009.

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Customs

- General
  - Customs duty rates remain unchanged. However, the effective rate may vary depending upon change in excise (CVD) and ADC rate.
  - BCD rates of 2 percent, 2.5 percent and 3 percent aligned to a median rate of 2.5 percent.
- Amendments *(effective 1 March 2011)*
  - All clearances from SEZ into DTA exempted from ADC if not exempted from State Value Added tax (included traded goods). Earlier goods produced or manufactured were only exempted from ADC.
  - Full exemption from customs duty for tunnel boring machines and related parts for construction of roads.
  - Full exemption from customs duty for water pumping station and water storage facility (reservoir).
  - Concessional rate of 5 percent BCD and CVD and nil ADC for parts and components for manufacture of specified high voltage transmission equipments.
  - Concessional rate of 5 percent CVD and nil ADC for LEDs used for manufacture of LED lights and fixtures.
  - Concessional rate of 5 percent BCD and nil ADC on solar lanterns or lamps.
  - Full exemption from BCD for toughened glass and silver paste for manufacture of solar cells or solar modules.
  - Exemption from CVD and ADC (up to 31 March 2012) to parts and components for manufacture of PC connectivity cables and sub parts for manufacture of parts and components of battery chargers, hands free headphones and PC connectivity cables. Existing ADC exemption on parts and components for manufacture of mobile phones and its sub parts and components extended upto 31 March 2012.
  - Exemption from ADC extended to patent and proprietary medicines, parts of inkjets and laser jet printers, parts of DVD drives or writers, combo drives, CD-ROM drives, polypropylene stainless steel strips and capillary tubes required for manufacture of syringes and needles.
  - BCD of 2.5 percent imposed on import of aircrafts for non-scheduled operations.
  - Exemption from Education and Secondary and Higher Education cess withdrawn on import of aircrafts.
  - Exemption from CVD on import of software (other than those where no retail sale price is declared) on the portion representing transfer of right to use provided registration under service tax is taken.
  - BCD on petroleum coke reduced from 5 percent to 2.5 percent.
  - Increase in export duty on some products (e.g. for iron ore from 5 percent to 20 percent, for de-oiled rice bran oil cakes from nil to 10 percent, etc.).

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- Other Amendments (effective 1 March 2011)
  - Retrospective amendment made to allow exports under Served from India scheme, Focus Market scheme etc. to be simultaneously counted for fulfillment of export obligation under Export Promotion Capital Goods scheme.
  - "Completely Knocked Down unit" has been defined to exclude kit containing a pre- assembled engine, gearbox, transmission mechanism, chassis or body assembly of vehicle on which any of the components or sub assembly is installed.
- Other Amendments (effective 1 April 2011)
  - Interest rate on non- payment, short payment, delayed payment etc. increased from 13 percent to 18 percent.

Amendments *(Effective from the Date of enactment of Finance Bill, 2011)*

Customs Act, 1962

- Facility of self assessment introduced for import/ export clearances with consequent changes in the assessment mechanism.
- Irrespective of category of importers (like Government, individual for personal use), period for filing refund claim proposed as one year.
- Drawback provision to be amended to provide for instances where drawback will not be recovered on non-realisation of export proceeds.
- Provision introduced for creation of first charge in favour of Customs on the property of the defaulter subject to certain conditions.
- In line with National Litigation Policy, Central Board of Excise and Customs empowered to issue instruction for non filing of appeal in certain cases retrospectively with effect from 20 October 2010.

Customs Tariff Act, 1975

- Reference to Standards of Weight and Measurement Act, 1976 changed to Legal Metrology Act, 2009 with effect from 1 March 2011.

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Central Sales Tax

- Maximum rate to be levied on declared goods (coal, cotton, cotton yarn, crude oil, hides and skins, iron and steel, jute, LPG for domestic use and oil seeds, etc.) will be enhanced from 4 percent to 5 percent from the date of enactment of Finance Bill 2011. Based on this, the States would be empowered to increase the VAT rate of declared goods.

Goods and Service Tax

- No date for implementation of GST announced.
- Constitutional Amendment Bill for introduction of GST to be tabled in the current session of Parliament.
- Status of other initiatives:
  - Drafting of model legislation for Central GST and State GST underway.
  - Significant progress on establishment of IT infrastructure for GST [i.e. GST Network (GSTN)] with key business processes of registration, returns and payments being finalised.
  - National Securities Depository Limited (NSDL) has been selected as technology partner for establishing and operating the IT infrastructure for GST.
  - NSDL to set up a pilot portal in collaboration with 11 States prior to rollout across the country.

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Recent Policy and Legislative Developments

Foreign Direct Investment (FDI)

1. Changes in the Foreign Direct Investment policy

The DIPP issued the revised FDI policy applicable from 1 October 2010, and clarified the following issues:

- The earlier FDI policy prohibited issue of warrants and partly-paid shares to person(s) resident outside India. The revised policy permits the issue of these instruments to person(s) resident outside India, subject to approval under the Government Approval Route.
- Foreign owned or controlled Indian companies have been permitted to undertake downstream investments through internal accruals, subject to compliance with other conditions. Earlier there was ambiguity as to whether 'internal accruals' can be utilised for undertaking downstream investments.
- The term 'original investment', in the context of FDI in construction and development projects, would mean the entire amount brought in as FDI. Further, the lock-in period of three years would be applicable from the date of receipt of each tranche of FDI or from the date of completion of minimum capitalisation, whichever is later.
- Wholesale cash and carry trading between group companies can now be carried out for external use.
- The ambit of the term 'controlled conditions' for FDI in Agricultural and Animal Husbandry, etc. was not explicitly defined under the erstwhile policy which has now been clarified.
- FDI for separation of titanium bearing minerals and ores was hitherto subject to setting up of value-addition facilities in India to ensure the utilisation of minerals and availability of internationally available technology for setting up of such industries in India. The policy now provides that if the technology transfer from a foreign collaborator meets the above objective, there would be no requirement for setting up value-addition facilities in India.
- It has been clarified that FDI through swap of shares would require prior approval from the FIPB. For this purpose, the valuation of shares would need to be undertaken by a Category-I Merchant Banker registered with SEBI or overseas Investment Banker registered with the appropriate regulatory authority.
- In the case of fresh issue of shares, minimum capitalisation (applicable to non-banking finance companies and construction & development projects) would also include amounts received towards share premiums along with the face value of shares, when received by the company upon issue of the shares to the non-resident investors.
- The manufacturing of 'cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes', in which FDI was prohibited earlier, has now been formally included in the list of sectors/activities in which FDI is prohibited.
- It has now been clarified that 100 percent foreign owned NBFCs, with a minimum capitalisation of USD 50 million, can set up subsidiaries for the specific NBFC activities, without bringing additional capital.

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2. Discussion Papers on Foreign Direct Investment

With the objective of increasing public participation in the process of FDI policy formulation, the DIPP issued a series of discussion papers to seek public comments. Some of the key features/ issues noted in these discussion papers are summarised below:

- **FDI in the Defence Sector**

  The Government released a discussion paper on FDI in the defence sector seeking public comments. The paper suggests liberalisation of the FDI cap in the sector from the existing 26 percent to 74 percent under the Government Approval Route. The paper also outlines current policy, rationale and benefits arising out of the proposed liberalisation.

- **FDI in Multi-Brand Retail Trading**
  - The Government released a discussion paper on FDI in Multi-Brand Retail Trading seeking public comments. FDI in Multi-Brand Retailing is currently prohibited in India; however, FDI in Single Brand Retailing is permitted to the extent of 51 percent under the Government Approval Route. FDI in wholesale cash and carry trading is permitted, to the extent of 100 percent under the Automatic Route.
  - The paper outlines a few concerns with regard to the opening of the retail sector to FDI. For example, the retail sector in India is the second largest employer after agriculture and unfair competition would ultimately result in large-scale exit of domestic retailers. In addition, the Indian retail sector is currently under-developed and at a nascent stage, so the domestic sector should grow before opening this sector to foreign investors. The paper also outlines international FDI norms in Retail Trading in other countries like China, Thailand, Russia, etc. and lists some key issues for resolution.

- **Approval of Foreign/Technical Collaborations in Case of Existing Ventures in India**
  - The Government released a discussion paper on Approval of Foreign/Technical collaborations in the case of existing ventures/tie-ups in India, seeking public comments. The discussion paper suggests relaxation of the existing requirements to obtain a prior Government approval where the foreign investor has an existing joint venture or technology transfer/trademark agreement in the 'same field' which has been in existence as on or prior to 12 January 2005. The discussionpaper suggests that as more than five years have elapsed, the issue of 'jeopardy' is no longer relevant, as the Indian partners could have recovered their investments substantially during this period of time.
  - The paper also raises a valid issue as to whether Government policy should intervene in the commercial sphere and override contractual terms agreed between the parties, given the need to promote healthy competition and ensure sustained long-term economic growth.

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- **Issue of Shares for Consideration Other than Cash**
  - The Government released a discussion paper that suggests liberalisation of the current policy of issue of shares to non-residents only against receipt of funds through normal banking channels.
  - The paper enumerated various categories for issue of shares for non–cash considerations, e.g. import of goods and services, pre-operative/ pre-incorporation expenses, share swaps, acquisition of intangible assets (including franchisee rights) and one-time extraordinary payments (including arbitration awards).

- **FDI in a Limited Liability Partnership**
  - The Government released the discussion paper keeping in view that the LLP Act was notified on 1 April 2009. The LLP is a hybrid entity, incorporating the features of both a body corporate and a traditional partnership.
  - The paper suggests that allowing FDI in LLP would encourage small entrepreneurs in India to explore business ventures with foreign investment/ collaboration. The paper has identified key issues relating to FDI in LLP such as the ownership structure, valuation of capital, determination of control, treatment of downstream investment and treatment of non-cash consideration.

Foreign Exchange Management Act

1. Overseas investments Liberalisation

The scope of overseas investments permitted under the Automatic Route for Outbound Investments has been liberalised to allow Indian companies to participate in a consortium with other international operators to construct and maintain submarine cable systems on a co-ownership basis. The guidelines and compliance framework laid down in this regard need to be complied with.

2. Revised Pricing Guidelines for Transfer of Shares

- The RBI revised the pricing guidelines applicable for transfer of equity shares / equity convertible instrument in an Indian company between residents and non-residents. As per the revised guidelines for transfer of shares by way of sale from a resident to a non-resident, the price shall not be less than:
    - In the case of shares listed on a recognised stock exchange in India – Price at which a preferential allotment of shares can be made under the SEBI Guidelines as stipulated.
    - In the case of shares not listed on a recognised stock exchange in India – Fair value determined by a SEBI registered Category-I Merchant Banker or a Chartered Accountant as per the discounted free cash flow method.
- In cases of transfer of shares from a non-resident to a resident by way of sale, the price shall not be more than the price stated above.

3. Liberalisation of Payments under Technical Collaboration Agreements

The Government had earlier liberalised the Foreign Technology Agreement Policy and done away with the ceilings for lump-sum and recurring royalty payments to Foreign Collaborators. Pending amendment to the FEMA Current Account Rules, the RBI has now clarified the permissibility of such payments without any need for Government approval.

4. Updated Procedure for Compounding of Contravention(s) under the Foreign Exchange Management Act

Based on the experience gained during the compounding process, the RBI has updated the procedure for compounding of contravention(s) under the FEMA, superseding its earlier directions issued. The objectives were to rationalise and streamline the process and procedure, enhance transparency and smooth implementation of the process of compounding. The key features of updated procedures are Pre-requisites, Application, Scope and Manner, Issue of Compounding Order and Payment of the amount for which contravention is compounded.

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5. Extension of Liberalisation of Realisation and Repatriation of Export Proceeds

The RBI, vide its earlier circular liberalised the period up to which the export proceeds of goods or software could be realised and repatriated to India, from six months to 12 months from the date of exports. This extension was subject to review after one year. The RBI in consultation with the Government of India extended the sunset date of this relaxation to 31 March 2011.

6. RBI's Directions for Refinancing of Domestic Rupee Loans in the Infrastructure Sector with External Commercial Borrowings

As per the extant norms, refinancing of domestic Rupee loans with ECB is not permitted. Keeping in view the special funding needs of the infrastructure sector, RBI has now permitted the take-out financing arrangement through ECB, under the approval route. This facility for refinancing of Rupee loans availed of from the domestic banks is available to eligible borrowers operating in the areas of sea ports and airports, roads including bridges and power sectors and is subject to fulfilment of certain conditions. All other aspects of existing ECB policy including the reporting arrangements remain unchanged.

7. Exports of Goods and Services- Relaxation towards Surrender of Export Incentives in Case of Unrealised Export Bills Being Written off

In line with the FTP 2009-14, the RBI has advised the AD Category-I banks not to insist that the Exporters surrender any proportionate export incentives availed except those under the Duty Drawback scheme. This relaxation is applicable for exports made with effect from 27 August 2009.

8. Extension of Prescribed Time Limit for Filing of the Annual Activity Certificate

As per , RBI's earlier circular the ACC by the auditor as at the end of 31 March was to be submitted by BO/LO, on or before 30 April every year, to the designated AD Category – I bank with a copy to the Directorate General of Income Tax (International Taxation), New Delhi. In view of the difficulties expressed by some BOs/LOs, RBI has permitted submission of AACs from the auditors as at 31 March, along with the audited Balance Sheet on or before 30 September of that year. Further, in the case that the books of account of the BO/LO for the year are closed on a date other than 31 March, the AAC along with the audited Balance Sheet would need to be submitted within six months from that date.

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9. Buyback/Prepayment of Foreign Currency Convertible Bonds

The sunset date for Indian companies to buy back their FCCBs under the Government approval route of ECB / Foreign Exchange Guidelines has been extended from 30 June 2010 to 30 June 2011 subject to the Issuers complying with all the terms and conditions of buyback/prepayment of FCCBs.

10. External Commercial Borrowings Policy for Hotels, Hospitals and Software Sectors Liberalised

Currently, corporates in the eligible service sectors, viz., Hotels, Hospitals and Software, are allowed to avail ECB up to USD 100 million per financial year under the Automatic Route for foreign currency and/or Rupee capital expenditure for permissible end-uses. From 12 August 2010, subject to compliance with ECB Guidelines, applications from the corporates in these service sectors to avail ECB beyond USD 100 million would be considered by the RBI under the Government Approval route.

11. Reporting under the Foreign Direct Investment Scheme

RBI has advised Authorised Dealers to sensitise and impress upon their clients the importance of strict adherence to the FDI reporting requirements to the RBI regarding the prescribed format and details of (a) intimation of receipt of equity / equity convertible instrument application money with the KYC Report within 30 days from receipt of funds; (b) issue of shares / convertible instruments within 180 days of receipt of application money; and (c) related reporting for issue of shares / convertible instruments in the prescribed format within 30 days.

12. Comprehensive Guidelines on Over the Counter Foreign Exchange Derivatives and Overseas Hedging of Commodity Price and Freight Risks

In light of developments in the domestic and international financial markets, RBI has issued a revised set of guidelines for OTC Foreign Exchange derivatives, overseas hedging of commodity price and freight risks. These revised guidelines are effective from 1 February 2011. The RBI Comprehensive Guidelines on Derivatives issued in April 2007 would also apply mutatis mutandis to foreign exchange derivatives.

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Direct Tax

1. Tax Information Exchange Agreements

For the first time, India has entered into tax information exchange agreements with the following countries in accordance with Section 90 of the Act:

- Isle of Man
- Bermuda
- British Virgin Islands
- Bahamas

These agreements are expected to facilitate smooth exchange of information on tax matters.

2. Multilateral Agreements

India was part of a multilateral agreement signed among the member nations of the South Asian Association for Regional Cooperation for avoidance of double taxation and mutual assistance in tax matters.

3. Filing of Income Tax Return

The CBDT issued a notification amending rule 12(3) of the Income Tax Rules 1962, revising the modes for certain classes of taxpayers to file their returns of income. The notification, which came into effect from 9 July 2010, required all companies (including foreign companies) to file their tax returns from financial year 2009-10 onwards electronically using digital signatures. Further, Individuals and Hindu Undivided Families were required to file their returns electronically with or without digital signatures.

4. Tax Deduction and Collection at Source

The CBDT amended the Income Tax Rules, 1962 relating to TDS/TCS and other compliance requirements. Amendments were made inter alia with regard to due dates of deposit of TDS, TCS, electronic remittance of TDS/TCS, due dates for filing quarterly TDS/TCS returns and issue of TDS/TCS certificates.

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5. Valuation Rules for Specified Assets

The CBDT issued a notification which prescribed rules for determining the fair market value of certain specified assets received by a taxpayer without consideration or for inadequate consideration, i.e. a consideration which is less than the Fair Market Value by an amount exceeding INR 50,000. These rules prescribe different methods for valuation of specified assets, viz. archaeological collections, drawings, paintings, sculptures or any other works of art, jewellery and shares and securities. The rules were made applicable from 1 October 2009.

6. Direct Taxes Code

- **Tax rates**

Categories	Tax Rate
Normal Tax Rate	30 percent
Tax on Book Profits	20 percent
Branch Profit Tax	15 percent
Dividend Distribution Tax	15 percent
Foreign Companies	30 percent

  - Education Cess and Surcharge have been removed
  - Branch profit tax of 15 percent (on post tax income)has been introduced for PE of Foreign Company in India
  - MAT has been made applicable to SEZ Developers and units
  - DDT has been made applicable to SEZ Developers
  - Security Transaction Tax continues.

- **General Anti-avoidance Rules**
  - Tax authorities have been provided with wider powers to scrutinise domestic as well as international transactions.
  - Powers to declare any arrangement an 'impermissible avoidance arrangement' if it provides any tax benefit to the taxpayer including increase in losses.
  - Onus on the taxpayer to prove genuineness of transactions.
  - Remedy for invocation of GAAR provisions available with the DRP.

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- **International Taxation & Transfer Pricing**
  - Foreign Companies to be treated as residents if the Place of Effective Management is in India at any time during the year.
  - Benefit of treaty/DTC not available to the taxpayer when provisions of GAAR/ Branch Profit Tax/CFCs are invoked.
  - Transfer of assets situated in India to be taxed in India irrespective of the place of transfer.
  - DTC includes One Day Service PE, Equipment PE and Insurance Agent PE.
  - Income in the nature of Interest, Royalty, FTS and transportation charges earned by a non-resident to be taxed in India irrespective of place of payment / service.
  - Royalty, FTS, Interest to be taxed in the hands of non-residents on a net basis.
  - Transfer of securities by FIIs will attract Capital Gains.
  - Head Office Expenditure allowed to Non-residents reduced to 0.5 percent of gross sales/ turnover.
  - Method for computing credit for foreign taxes paid to be prescribed by CBDT.
  - Concept of APA has been introduced and every such APA shall be valid for five years unless there is a change in the law or facts.
  - APAs shall be binding on the taxpayer and tax authorities ranking equal to or below the CIT.
  - Scope of Associated Enterprises remains in line with provisions of the Act.
  - Certified Report on International Transactions to be lodged directly with the TPO.
- **Controlled Foreign Companies**
  Income of Indian companies to include income attributable to a CFC which:
  - Is located in a territory with low tax incidence compared to DTC.
  - Is an unlisted company in that territory.
  - Is controlled by person(s) resident in India.
  - Is not engaged in active trade or business.
  - Earns specified income in excess of INR 2,500,000.
- **Change in Tax Incentives**
  DTC indicates a shift from profit linked incentives to investment based incentives for various businesses like Generation of Power, developers of infrastructure facilities, SEZ developers/units, etc.

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- **Capital Gains**
  Capital Assets are renamed Investment Assets with the following changes:

Inclusions	Exclusions
Securities held by FII	Self Generated Asset, Right to Manufacture
Undertaking/Division of Business	Capital Asset Connected to Business

  - DTC provides for additional deduction over and above acquisition/ improvement costs.
  - DTC proposes to shift the cut-off date for Fair Market Valuation to 1 April 2000.
  - Capital Gains Savings Scheme prescribed by the Act has been removed by DTC.
  - Lock-in period for maintaining 100 percent subsidiary relationship has been prescribed as eight years.
  - If cost of acquisition is unascertainable, DTC prescribes this to be considered as nil.

- **Mergers & Acquisitions**
  - Definition of amalgamation widened to include amalgamation of Firm/AOP/ BOI into a company.
  - Amalgamation of foreign companies to be exempt from Capital Gains only when 75 percent of shareholding remains unchanged.
  - DTC makes reference to Companies Act, 1956 for certain definitions.
  - Liability of successor organisation widened to include all proceedings taken against predecessors.

- **Wealth Tax**
  - Basic Exemption limit raised to INR 10,000,000 in DTC from existing INR 3,000,000 as per the Wealth Tax Act, 1957.
  - Definition of Assets widened to include few more items like watches, bank deposits outside India and equity/preference shares held by residents in CFCs.

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Indirect Tax

1. Excise Duty

- **Exemption from Education Cess and Higher Education Cess**
  All goods specified in the Tenth Schedule to the Finance Act, 2010 (such as coal, briquettes, lignite, peat, etc.) have been granted exemption from Education Cess and Higher Education Cess.

- **Simultaneous Prevalence of Two Exemption Notifications**
  In view of the specific bar under Section 5A (1A) of the Central Excise Act, 1944, which provides for payment of excise duty where an exemption has been granted absolutely, the manufacturer cannot opt to pay the duty under a notification prescribing a concessional rate of duty with the benefit of Cenvat credit if there is another exemption notification granting complete exemption unconditionally.

- **Scope of Exemption from Excise Duty for Industrial Units in the States of Uttarakhand and Himachal Pradesh**
  The benefit of area based excise duty exemption available for units located in Himachal Pradesh and Uttaranchal is available even in the case of any addition/ modification in the plant or machinery or on the production of new products by an eligible unit after the cut-off date, i.e. 31 March 2010. However, the exemption period of ten years from the date of commencement of commercial production would not be extended under such circumstances.

- **Cenvat Credit Cannot Be Availed on the Excise Duty Paid on Unconditionally Exempted Goods**
  In the case that the taxpayer pays excise duty in respect of excisable goods which are unconditionally and fully exempted from payment of excise duty, the duty of excise paid by the taxpayer cannot be allowed as Cenvat credit to the downstream units on the ground that the amounts paid by the taxpayer cannot be termed 'duty of excise' under the Cenvat credit provisions.

- **Deduction towards Quantity Discounts, Bonuses, etc. Not Available under Maximum Retail Price Based Valuation**
  The deduction towards quantity discounts, bonuses, etc. are applicable only if the goods are assessed based on their transaction value and not under the MRP based valuation.

- **Cenv at Credit in Relation to Capital Goods**
  In light of the recent judicial rulings issued in the context of admissibility of credit on capital goods and inputs, the CBEC has clarified as follows:

  - Credit on capital goods is available only on items that are excisable goods and used in the factory of the manufacturer.

  - Credit is available on inputs used in the manufacture of capital goods, except on items like cement, angles, channels, etc. used for the construction of factory sheds, etc.

  - Credit is not available on inputs/welding electrodes used for repair and maintenance of capital goods.

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2. Service Tax

- **General Insurance Service Provided under specified schemes Exempted from Service Tax**
  General insurance services provided under the Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, as approved by the Government of India and implemented by the Ministry of Agriculture, are wholly exempted from service tax.

- **Availment of Input Service Tax Credit When Payment is Made through Entries in Books of Account**
  As books adjustments are considered deemed payments, if the payment for the service is made by way of book entry, then Cenvat credit of the input service tax should be allowed to the service recipient, provided the service provider has paid the service tax to the Government.

- **Clarification in Relation to Works Contract Services**
  - Long-term works contracts classified into service categories other than 'works contract service' prior to 1 June 2007 would be classified under the category of 'works contract services'.
  - Further, where any payment of service tax under these contracts was made prior to 1 June 2007 under respective service categories, the option for the Composition Scheme under the works contract service category cannot be availed.

- **Donation Received by a Charitable Foundation**
  A donation or grant-in-aid received by a charitable foundation imparting free livelihood training to poor and marginalised youth would not be liable to service tax as the donation is not specifically meant for a person receiving such training or specific activity, but is in general meant for the charitable cause championed by the registered foundation.

- **Advance Payments Received for New/Expanded Service Categories Exempt from Service Tax**
  In respect of new/expanded services, the Government has exempted from service tax any payment received prior to 1 July 2010. However, this exemption shall not apply to retrospective amendments made under the existing service categories of 'renting of immovable property services' and 'commercial coaching or training services'.

- **Conditional Exemption on Air Transport of Passengers**
  With effect from 1 July 2010, conditional exemption is granted in respect of air transport of passengers:
  - For international journeys in economy class from service tax in excess of 10 percent of the gross value of the ticket or INR 500 per journey, whichever is lower.
  - For domestic journeys in any class from service tax in excess of 10 percent of the gross value of the ticket or INR 100 per journey, whichever is lower.

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3. Customs Duty

- **Enhanced Concessions in Trade with Singapore and Korea**
  With effect from 1 January 2011, benefit of concessional BCD further increased for specified items imported from Singapore under CECA and Korea under CEPA.

- **Simplified Process for Claiming Refund of Special Additional Duty**
  A circular has been issued to simplify the refund process and enable expeditious processing of refund claims. Relaxation has been given by allowing submission of sale invoices in an electronic form instead of a physical copy, providing for pre-audit scrutiny in respect of accredited clients only at the post-audit stage, etc.

- **Manufacturers Cannot Claim 4 Percent Special Counter Veiling Duty Exemption by Way of Refund**
  The exemption from payment of 4 percent of additional duty of customs under Section 3(5) of the Customs Tariff Act, 1975 (in the form of refund) cannot be extended to manufacturers, as the goods are consumed for the manufacturing of other goods and not sold 'as such'. It is also clarified that the exemption is not available even to the textile manufacturers who have opted out of the Cenvat Credit Scheme and who are accordingly not in a position to utilise the credit of 4 percent Special CVD.

- **New Countries Added in the Notification Providing Customs Duty Exemption for Import from ASEAN Countries**
  During the year, a number of ASEAN countries, viz. Vietnam, Myanmar, Indonesia, State of Brunei Darussalam and the Lao People's Democratic Republic, have been added in the notification granting benefits under the ASEAN agreement.

- **Central Board of Excise and Customs Announces Scheme to Revolutionise International Trade**
  - CBEC issued a draft circular dated 1 December 2010 in which it is considering introduction of an AEO scheme for stakeholders in international trade in order to facilitate global trade. This scheme is a World Customs Organization initiative whereby a party engaged in international movement of goods is approved by Customs as compliant with the supply chain security standards and consequently given benefits such as simplified clearance procedure and reduced customs intervention in relation to clearances of goods.
  - CBEC has sought feedback from the industry and on that basis a final scheme will be introduced shortly.

4. Foreign Trade Policy

- **Key Services Deprived of Export Benefits under Served from India Scheme**
  The list of services eligible for duty credits under SFIS has been pruned, so that services such as IT & ITES, telecommunication, airline services and banking services will not be eligible for the SFIS benefits on foreign exchange earned from 1 January 2011.

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Companies Act

1. Easy Exit Scheme

- Certain companies have been registered under the Companies Act, 1956; however, some of them have remained inoperative since incorporation or have become inoperative later on. Such companies are not filing their documents with the Registrar of Companies on time. These companies may be defunct and desirous of getting their names struck off from the Register of Companies. In order to give the defunct companies an opportunity to get their names struck off from the Register of Companies, the Ministry decided to introduce a scheme, namely Easy Exit Scheme, 2010, under Section 560 of the Companies Act, 1956. The Scheme was operative from 30 May 2010 to 31 August 2010.
- Considering the response of the corporate sector, the Ministry decided to re-launch the scheme as Easy Exit Scheme, 2011. This scheme was operative from 1 January 2011 to 31 January 2011. The date has been further extended and the scheme will remain operative till 30 April 2011.

2. Accounts of the Subsidiaries

- Section 212 of the Companies Act requires that all the companies attach the Balance Sheet, profit and loss account and other documents of its subsidiaries with its annual report. It has been decided to grant a general exemption to companies, subject to fulfilment of certain conditions, from attaching such documents of the subsidiaries. One of the major conditions is that the company should attach consolidated accounts.

3. Disclosure under Schedule VI

- Note 1 to Part I of Schedule VI requires a company to provide certain details about investments. It has now been decided to allow a general exemption to public financial institutions from disclosing such details subject to compliance with specified conditions.
- Part II of Schedule VI requires disclosure of turnover, quantitative details, etc. It has now been decided to allow general exemption to companies specified in the press note from disclosure of these details in their annual report.

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4. Managerial Remuneration

- Existing provisions of the Companies Act require public companies with no profit / inadequate profit to obtain prior approval of the Central Government for payment of managerial remuneration. It has now been decided that unlisted public companies fulfilling the conditions specified in Schedule XIII and certain other conditions will not require Central Government approval. Consequently, Schedule XIII of the Companies Act is amended to provide that unlisted public companies (which are not subsidiaries of listed companies) without profits/ with adequate profits shall not require Government approval for payment of managerial remuneration.

5. Convergence of Accounting Standards

- On 4 May 2010, the Ministry of Corporate Affairs clarified certain issues like option of earlier adoption, date for verifying applicability criteria, etc.
- On 4 November 2010, the Ministry of Corporate Affairs reiterated that application of the standard will proceed as scheduled.

SEBI Regulations

1. SEBI Revises Equity Listing Agreement for Increased Transparency and Better Governance

- Listed companies entering into a scheme of arrangement/ merger/ restructuring, etc. are required to obtain approval of a stock exchange. Now it is provided that such companies need to submit an auditor's certificate stating that that the accounting treatment mentioned in the scheme is in compliance with all the applicable accounting standards. The certificate needs to be submitted along with the application for seeking stock exchange approval. It is further clarified that a mere disclosure of deviations from the accounting treatments (as provided in para 42 of AS-14) shall not be considered compliance with the requirement.
- Other amendments include: a) revision of timelines for submission of financial results, b) voluntary adoption of IFRS for presenting consolidated financial results, c) additional disclosures in the form of half-yearly statements of assets and liabilities, d) approval of CFO's appointment by the Audit Committee and e) insistence on peer review of auditors.

2. Amendment to the SEBI (Issue of Capital and Disclosure Requirement) Regulations, 2010

- Previous regulations provided that the lock-in requirements would be applicable to amalgamation / demerger, etc. Now, according to the amended provisions lock-in requirements will be applicable to preferential issue of shares made according to a scheme of rehabilitation of a sick company only.
- Chapter XA is inserted for listing down the procedure for issue of specified securities by small and medium and enterprises.

3. Amendment to the SEBI (Substantial Issue of Shares and Takeovers) Regulations

It is amended to provide exemption to Merchant banker or nominated investor acquiring shares, in the process of market making or through subscription to the unsubscribed portion of the issue, from making an open offer to public. However, such exemption will not be available if such an acquisition results into change in control.

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4. Report of the Takeover Regulations Advisory Committee

The Takeover Regulations Advisory Committee constituted under the Chairmanship of Shri. C. Achuthan submitted its report on 19 July 2010. Salient features of the Proposed Takeover Code and a brief comparison with the provisions contained in the existing Takeover Code are outlined below:

- **Initial Limit**
  An acquirer will be eligible to make an open offer only on acquiring 25 percent of the voting capital of the target company. The existing code provides for open offer on acquisition of 15 percent.

- **Creeping Acquisition**
  An acquirer under the Proposed Takeover Code can acquire up to 75 percent of the voting capital of the listed company compared to up to 55 percent under the existing Takeover Code.

- **Indirect Acquisitions**
  In the case of indirect acquisition of shares, voting rights in, or control over a target company, the ability to indirectly exercise voting rights beyond the trigger threshold limits or exercise control over a target company would attract the obligation to make an open offer.

- **Voluntary Open Offer**
  Acquirers holding more than 25 percent can make a voluntary open offer for acquiring > 10 percent of voting rights.

- **Offer Size**
  Under the Proposed Takeover Code, in the case of a compulsory open offer, the offer has to be for all the remaining shares, unlike the minimum of 20 percent under the existing regulations.

- **Delisting**
  If the intention to delist was disclosed in the open offer and if the holding of the acquirer exceeds 90 percent, the company can be delisted. However, if such disclosure was not made or the holding does not pass 90 percent, the acquirer will have to bring down his/her holding in prescribed manner.

- **Mode of payment**
  The Proposed Takeover Code provides the option for payment of an open offer price either in cash or through issue of prescribed eligible securities.

- **Completion of Transaction Triggering Open Offer**
  Under the Proposed Takeover Code the agreement triggering the open offer can be completed before completion of the open offer, which is not possible under the existing regulations.

- **Timelines for Open Offer**
  Timelines for various activities in the Proposed Takeover Code have been compressed.

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- **Exemptions from the open offer**
  Under the Proposed Takeover Code exemptions have been reduced. Major changes are as follows:
  - **Inter se Qualifying Parties Transfers**
    The definition of qualifying parties and relatives is compressed.
  - **Schemes of Arrangement**
    Indirect acquisition of shares in a listed company according to a scheme of arrangement not involving the listed company is exempt only if the following conditions are met:
    - Acquisition is according to an order of court;
    - The cash or cash equivalent portion of the consideration is less than 25 percent of the total consideration; and
    - Shareholders of the transferor/ transferee company holding shares of the listed company should hold at least 33 percent of the total voting rights in the acquiring company.

5. Discontinuation of Electronic Data Information Filing and Retrieval System of Filing

- SEBI has discontinued the Electronic Data Information Filing and Retrieval System with effect from 1 April 2010 and introduced the new website www.corpfiling.co.in.
- Consequent amendments are carried out in clauses 32 and 51 of the Equity Listing Agreements.

6. Reduction in Time between the Issue Closure and Listing

- SEBI has reduced the time between issue closure and listing from 22 days to 12 working days.

7. Amendment to the SEBI (Issue of Capital and Disclosure Requirement) Regulations, 2010

- If any promoter / person belonging to the promoter group has previously subscribed to warrants of a listed company but not exercised them, such person shall not be eligible for subscribing to the specified securities of that company on a preferential basis for a period of one year from date of expiry / cancellation of warrants.

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- If any promoter / person belonging to the promoter group has sold equity shares held in the company, he/she shall not be eligible for subscribing to specified securities of that company on a preferential basis for a period of six months from date of such sale.
- Retail Investor's investment limit raised from INR 1 lakh to INR 2 lakhs.

8. Amendment to the Listing Agreement

- In the case of shares held by custodians, the company should provide disclosure of such shares held by the promoter/ promoter group and non-promoter.
- The company making the initial public offer should file its shareholding pattern with the stock exchange at least one day prior to the commencement of trading in its shares.
- In the case of a change in capital structure exceeding 2 percent of the paid-up capital, the company must file an updated shareholding pattern.
- Companies should comply with Rules 19(2) and 19A of the Securities Contract (Regulations) Rule.
- Uniform procedures are laid down in relation to shares issued in physical form which remain unclaimed and holding such shares in dematerialised form in suspense accounts.
- Companies should fix and disclose the date of payment of dividends / credit of bonus shares in the respective intimation sent to the stock exchange.
- Companies should immediately disseminate information about any agreement with media companies on their website and to the stock exchange.
- Companies should maintain a website providing updated data about the company from and after 1 April 2011.

9. SEBI Decisions

In the SEBI Board meeting held on 7 February 2011 following decisions have been taken:

- ASBA facility will be mandatory for all non-retail investors from 1 May 2011.
- Intermediaries will be registered initially for five years. On assessment of performance, permanent registration will be granted thereafter.
- SEBI will provide recommendation to the Ministry of Corporate affairs for not allowing interested shareholders to vote on resolutions relating to related party transactions by suitably amending Clause 166 of the Companies Bill, 2009. This will protect small and diversified shareholders in listed companies from abusive related party transactions. This view was taken based on the learning from the investigation in the matter of Satyam Computer Services Limited.

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Visa Regulations

1. Employment Visa

- The Government of India has removed the cap on the number of employment visas that may be granted to foreign nationals. Earlier the number of employment visas that could be granted was restricted to 1 percent of the total workforce subject to a maximum of 20 and a minimum of five.
- The Government of India has mandated that an employment visa may be granted to a foreign national only if his/her salary is in excess of USD 25,000 per annum. However, the threshold salary limit is not applicable to ethnic cooks, language (other than English) teachers/translators, and staff working for a high commission/consulate in India.

2. Business Visa

In 2009, the Government of India directed all foreign nationals in India holding a business visa and working on a project/contract based assignment to return to their home countries. The Government of India also clarified in detail the purpose, duration and various scenarios under which business visas may be granted. The following additional clarifications have been issued by the Government of India regarding business visas:

- A business visa with a multiple entry facility can be granted for a maximum period of five years and the in case of nationals from the USA, for a maximum period of 10 years.
- MHA, State Governments, Union Territories, Foreigner Registration Offices, etc., can grant extension of business visas on a year-to-year basis up to a total period of five years from the date of issue of the initial visa. However, the first extension of the business visa will only be granted by the MHA.

3. Entry (X) Visa

Generally the spouse/dependents of a foreign national are granted an entry (X) visa if they intend to accompany the foreign national to India. The following additional clarifications have been issued by the Government of India on entry (X) visas:

- An entry (X) visa may be granted to the spouse/dependents of foreign national who is coming to India/already in India on any other type of visa, i.e. business, employment, etc.
- An entry (X) visa may be granted to a foreign national of Indian origin and his/her spouse/dependents who wish to come to India for visiting relatives, holidays, sightseeing, etc.
- The validity of the entry (X) visa shall be concurrent with the visa of the principal visa holder or a shorter duration but limited to five years from the date of initial issue.
- Foreign nationals holding an entry (X) visa cannot accept any employment in India or undertake/ indulge in any business/economic activity in India.

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4. Project Visa

The Government of India, within the employment visa regime, introduced a new visa regime known as project visa which would be initially applicable to the foreign nationals employed in the power and steel sector. The key features of the project visa are as follows:

- **Grant**
  - A project visa may be granted on submission of relevant documents and on clearly establishing that the project or contract has been assigned to the foreign company by the concerned Indian company or organisation.
  - Project visas would be only issued to skilled/ highly skilled foreign nationals and not to semi-skilled and unskilled foreign nationals. However, project visas may be granted to two chefs and two interpreters per project.
- **Duration and Extension**
  - A project visa would allow multiple entries into India and may be granted for the actual duration of the project or for a period of one year, whichever is less.
  - A project visa can be extended only with the prior approval of MHA.
- **Restrictions**
  - A project visa would be project specific and would be restricted to the location of the project.
  - A foreign national coming on a project visa is disqualified from taking up employment in the same Indian company for a period of two years from the date of commissioning of the project. However, the foreign national may be granted a non-extendable business visa to attend any emergent maintenance/commissioning issues in the Indian company.
  - The number of project visas that may be granted per power and steel project is subject to a ceiling.

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5. Conference Visa

The Indian immigration laws provide for grant of a special type of visa known as conference visa to foreign nationals who intend to visit India to attend a conference, seminar or workshop ('event'). The following additional clarifications have been issued by the Government of India on the conference visa:

- **Eligibility**
  The foreign national who intends to visit India with the sole objective of attending such event must be of assured financial standing.

- **Procedure**

  - Along with the visa application the foreign national should submit an invitation letter from the event organiser.

  - Specified foreign nationals and foreign nationals who are required to visit 'restricted' or 'protected' areas or any areas affected by terrorism, militancy, etc. should obtain a prior security clearance from the MHA.

  - If the organiser of the event is a ministry/department of the Central or State Government, the request for security clearance needs to be submitted by the organiser at least 30 days prior to the commencement of the event. In other cases, where the organiser is a Non-Governmental Organisation or private institution, the request for security clearance needs to be submitted at least 60 days in advance.

- **Duration**
  - The 'conference visa' would be issued for the duration of the event and the necessary travelling time. However, if the foreign national wishes to combine tourism with attending the event, the participant may be granted a maximum six-month visa and the visa would be subject to such conditions as applicable to a 'tourist visa'.

  - If security clearance is required from the MHA, the visa would not be granted for a duration longer than that specified by the Ministry of External Affairs/ MHA or the minimum period required.

6. Tourist Visa

A tourist visa is generally granted to a foreign national whose primary objective of visiting India is sightseeing, recreation, casual visit, etc. and does not involve any economic or business activity. Key developments on the tourist visa front are as follows:

- The 'visa-on-arrival' has been extended to citizens of six more countries, namely Cambodia, Laos, Vietnam, Philippines, Myanmar and Indonesia. This facility could earlier be availed by citizens of five countries, namely Japan, Singapore, Finland, Luxembourg and New Zealand.

- The Government of India has mandated that a foreign national holding a tourist visa, and who intends to visit India within two months of his/her last departure, needs to obtain a specific permission from the Indian consulate in his/her home country. On grant of permission, if the foreign national visits India, it shall be necessary for him/her to register with the Foreigner Registration Office within 14 days of arrival in India.

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Social Security Regulations

1. Provident Fund Withdrawal Restricted for International Workers

The Ministry of Labour and Employment, Government of India, in 2008 introduced special provisions in the Indian social security scheme (i.e. Employees' Provident Funds Scheme and Employees' Pension Scheme) to include a new category of workers called IWs. IWs include expatriates working in India and the Indian employees working overseas in countries with which India has a Social Security Agreement. Consequently, all IWs are required to become members of the Indian social security system unless they fall under the category of excluded employees.

The Indian Government has by way of a notification further amended the Indian social security schemes vis-à-vis the IWs. Some of the key features of the amendments are as follows:

- IWs can withdraw the social security accumulations only on retirement after attaining 58 years of age or in certain exceptional circumstances like retirement on account of permanent and total incapacity, under the situations specified in the relevant Social Security Agreement, etc.

- IWs deputed from a country with which India does not have a Social Security Agreement will not be eligible for any pension benefits.

2. Interest on Social Security Accounts

The money accumulated in the Indian social security account earns interest at the specified rate set by the Indian Government on a yearly basis. The Government of India has mandated that with effect from 1 April 2011, the social security balance in an inoperative account shall not earn any interest. An account shall be considered inoperative on the lapse of 36 months from the date on which the social security balance becomes payable.

3. Social Security Agreements Entered into by India

As a direct consequence of the applicability of the social security scheme to IWs, various countries have initiated the process of entering into Social Security Agreements with India. India has entered into Social Security Agreements with 11 countries, namely Belgium, the Czech Republic, Denmark, France, Germany, Hungary, Luxembourg, the Netherlands, Norway, the Republic of Korea and Switzerland. The Social Security Agreements with Belgium and Germany have recently come into effect.

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Sector Specific Developments

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Financial Services

Banking

1. External Commercial Borrowings Policy – New Definition of the 'Infrastructure Sector'

The definition of 'infrastructure sector', to avail ECB, has been expanded to include power, telecommunication, railways, roads including bridges, seaports and airports, industrial parks, urban infrastructure (water supply, sanitation and sewage projects), mining, exploration and refining and cold storage or cold room facilities, including for farm level pre-cooling, preservation or storage of agricultural and allied produce, marine products and meat.

2. Investment in Non-Convertible Debentures of One Year Maturity Permitted for Financial Institution, Foreign Institutional Investors and Banks

- RBI permitted, with effect from 6 December 2010, the investment in NCDs of maturity up to one year by FIs and FIIs subject to extant provisions of FEMA and applicable SEBI guidelines.
- RBI permitted NBFCs including Primary Dealers that do not maintain a working capital limit to issue NCDs of maturity up to one year.
- From 31 December 2010 banks can invest in NCDs with original or initial maturity of up to one year issued by corporates (including NBFCs).

3. The Central Board of Direct Taxes Issued Instructions on the Allowability of Losses on Account of Forex Derivatives

The CBDT on 23 March 2010 issued instructions on the matter of whether losses on account of foreign exchange derivative transactions can be allowed against the taxable income of an assessee under the Act. The CBDT instructions issued lay down directions that the Assessing Officers may follow.

4. Service Tax on Commission Received by Primary Dealers Dealing in Government Securities

Commissions received by Primary Dealers dealing in Government Securities would not be subject to Service Tax, since Government securities are sovereign securities and not securities of a body corporate.

5. Guidelines on Stripping/Reconstitution of Government Securities

STRIPS in Government Securities were introduced as part of the efforts to develop the Government securities market. Detailed guidelines outlining the process of stripping/ reconstitution and other operational procedures regarding transactions in STRIPS were issued.

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6. Reserve Bank of India Issues Final Guidelines on Base Rate - Ushers in a New Lending Rate Regime

SCBs were directed to switch over to the new system of base rate in place of the earlier BPLR system from 1 July 2010.

7. Guidelines for Issue of Non-Convertible Debentures with a Maturity of Less than a Year, Effective 2 August 2010, Released

The RBI issued directions to agencies dealing in securities and money market instruments, on the issue of NCDs of original or initial maturity up to one year.

8. Guidelines on Trading of Currency Options on Recognised/ New Stock Exchanges – Trading Allowed for Residents

- RBI and SEBI permitted trading of currency options on the spot USD-INR rate in the currency derivatives segment of recognised stock exchanges by issuing 'Exchange Traded Currency Options (RBI) Directions, 2010' and the circular on 'Options on USD-INR Spot Rate' respectively, effective from 30 July 2010.
- RBI and SEBI would jointly regulate these products. While RBI approves the products, SEBI decides on the trading platforms.

9. Rupee Export Credit Interest Rates Extended for Additional Sectors

The coverage of the interest subvention scheme of 2 percent on Rupee export credit for the period 1 April 2010 to 31 March 2011 was extended to certain additional sectors. The sectors (earlier and additional ones) now falling under the interest subvention scheme are: (i) handicrafts; (ii) carpets; (iii) handlooms; (iv) small and medium enterprises; (v) leather and leather manufactures; (vi) jute manufacturing including floor covering; (vii) engineering goods; and (viii) textiles.

10. Reserve Bank of India Restricts Banks from Extending Loans for Financing Promoters' Contribution

RBI extended the current restriction on granting of bank advances for financing promoters' contribution towards equity capital to activities related to such acquisitions as payment of non-compete fee by banks themselves and overseas branches/ subsidiaries of Indian banks.

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11. Prudential Guidelines on Restructuring of Advances by Banks – Promoter Sacrifice Norms Relaxed

Banks and select all-India financial institutions advised that the promoter's sacrifice and additional funds required to be brought in by the promoters should be brought in upfront. If, however, they are convinced that the promoters face genuine difficulty in bringing their share of the sacrifice immediately and need some extension of time to fulfil their commitments, the promoters are to be allowed to bring in 50 percent of their sacrifice, i.e. 50 percent of 15 percent, upfront and the balance within a period of one year.

12. Exposure Norms for Standalone Primary Dealers

Standalone PDs need to adhere to prescribed exposure limits vide Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (RBI) Directions, 2007. To facilitate market making activities available to them in corporate bonds, RBI decided to increase the exposure limits.

13. Housing Loans by Commercial Banks – Loan to Value Ratio, Risk Weight and Provisioning

- Banks advised that the LTV ratio in respect of housing loans should not exceed 80 percent. For small value housing loans, i.e. housing loans up to INR 2 million (which get categorised as priority sector advances), the LTV ratio should not exceed 90 percent.
- The risk weight for residential housing loans of INR 7.5 million and above, irrespective of the LTV ratio, is to be 125 percent.
- In view of the higher risk associated with housing loans sanctioned at teaser rates, the standard asset provisioning on the outstanding amount, in respect of such loans, was increased from 0.40 percent to 2 percent. The provisioning on these assets is to revert to 0.40 percent after one year from the date on which the rates are reset at higher rates if the accounts remain 'standard'.

14. Discussion Paper on Entry of New Banks

RBI released a discussion paper on entry of new banks on 11 August 2010. The underlying theme of the discussion paper is that the RBI intends to provide only a limited number of new licences on a selective basis, with the objectives of: (1) greater depth and scale in the banking system, (2) financial stability, and (3) financial inclusion in un-banked areas.

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15. Update on Reserve Bank of India Discussion Paper on the Entry of New Banks

RBI released the essence of the comments received from all stakeholders—Banks, NBFCs, Industrial Houses, Industry Associations — on the Discussion Paper on 'Entry of New Banks in the Private Sector'. The key comments were:

- **Minimum capital requirement** - lowest initial capital should be INR 10 billion raised to INR15-20 billion over a period of time.

- **Promoters' shareholdings in new banks** - limit between 30 to 100 percent.

- **Foreign shareholdings in new banks** - could range from shareholding ceiling of 50 percent to no limits.

16. Discussion Paper on Presence of Foreign Banks in India

- RBI released the discussion paper on the presence of foreign banks in India.

The verdict of the much-awaited discussion paper on the presence of foreign banks in India favors the 'subsidiary model' as it gives: (i) potentially better regulatory control over such banks, (ii) separation of ownership and management, (iii) clearer and simpler resolution in the event of bankruptcy and (iv) ring fencing of the capital within the country.

The paper in all its earnestness has dealt with a range of issues in this context namely:

- Should a 'differentiated licence' be given to foreign banks?

- Should the subsidiary form of presence be mandated for all new entrants at the entry level itself, or on prudential grounds should it be selectively applied based on meeting certain conditions/parameters?

- Should subsidiaries be given full national treatment by virtue of their local incorporation? If not, what should be the extent and limits in matters like branch-expansion, market access (i.e., raising non-equity capital), priority sector lending, etc.?

- What approach should be adopted towards the existing Indian branches of foreign banks that meet certain conditions/parameters or become systemically important by virtue of their Balance Sheet size – should incentives be given to them to convert into subsidiaries?

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Non-Banking Financial Companies

1. Reserve Bank of India Brings Core Investment Companies under Regulation

- RBI directed CICs to register themselves with RBI in case their asset size is at least INR 100 crore. CICs are NBFCs which invest in shares for the purpose of owning a stake in a company, rather than for trading. They also do not carry out any other financial activities.
- In order to qualify as a CIC, an NBFC has to hold at least 90 percent of its assets in the form of investments in equity shares, preference shares, debt or loans in group companies.

2. Reserve Bank of India Eases Norms for Core Sector Non-Banking Financial Companies Accessing External Commercial Borrowing

IFCs are permitted to avail of ECBs, including the outstanding ECBs, up to 50 percent of their owned funds under the Automatic Route, subject to their complying with the prudential guidelines already in place. ECBs by IFCs above 50 percent of their owned funds to require the approval of the RBI and would, therefore, be considered under the Government Approval Route.

3. Overseas Investment by Non-Banking Financial Companies Needs No Objection Certificate from the Department of Non-Banking Supervision

NBFCs desirous of making any overseas investment advised to obtain the RBI's NOC before making such investment. Applications in this regard should clearly state the activities intended to be undertaken by the overseas entity.

4. Disclosures Prescribed for Promotional Materials Issued by Real Estate Developers

RBI directed that while granting finance to housing / development projects, NBFCs should stipulate as part of the terms and conditions that: (i) the builder / developer / owner / company should disclose in the pamphlets / brochures / advertisements etc., the name(s) of the entity to which the property is mortgaged; and (ii) the builder / developer / owner / company should indicate in the pamphlets/brochures, that they would provide a no objection certificate / permission of the mortgagee entity for sale of flats / property, if required.

5. Ready Forward Contracts in Corporate Debt Securities for Non-Banking Financial Companies

RBI allowed non-deposit taking NBFCs with an asset size of INR one billion and above to participate in repo transactions in corporate debt securities.

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6. Participation in Currency Options by Non-Banking Financial Companies, as Clients, Allowed

RBI allowed NBFCs to participate in designated currency futures exchanges recognised by SEBI as clients, subject to RBI (Foreign Exchange Department) Guidelines, for the limited purpose of hedging their underlying forex exposure. They should make appropriate disclosures of these transactions in their Balance Sheet.

7. Basis points Provisioning on Standard Assets for Non-Banking Financial Companies Required

In a move that would align NBFCs with banks in the matter of provisioning RBI introduced provisioning of 0.25 percent of the outstanding standard assets for NBFCs.

Private Equity

1. Consolidated Foreign Direct Investment Policy

- SEBI registered FVCIs are allowed to invest in domestic venture capital funds (being a trust) registered under VCF Regulations under the Government Approval Route.
- FVCIs are now allowed to make an investment in Indian companies under the FDI route subject to compliance with RBI Regulations and FDI Policy. In addition, FVCIs are specifically permitted to set up a domestic Asset Management Company to manage a fund.

2. Furnishing of Additional Documents/Information for Obtaining Foreign Venture Capital Investors Registrations

SEBI has directed that while filing an application for obtaining FVCI registration, an applicant is required to furnish firm commitment letter(s) from the investors for contribution of an amount aggregating to at least USD 1 million. In addition, copies of financial statements of such investors and the applicant as well as contact details of such investors and the directors of the applicant are required to be furnished along with the application.

3. Investment in Securities listed on SME Exchange by Venture Capital Funds

SEBI has permitted registered VCFs to enter into an agreement with merchant bankers to subscribe to the unsubscribed portion of the issue or to receive or deliver securities in the process of market making on SME exchanges. Further, various investment conditions and restrictions mentioned in Regulation 12 of the VCF Regulations shall not apply in the case of acquisition or sale of securities under such subscription or market making.

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4. Online Process for Fresh Registrations and Updating of Information of Foreign Venture Capital Investors Registrations and Venture Capital Funds

In addition to filing the physical application form for fresh registrations and updating information for FVCIs and VCFs, SEBI has now made online filing process mandatory for obtaining fresh registrations and updating of information

Asset Reconstruction Companies

1. Reserve Bank of India Allows Asset Reconstruction Companies to Take over Management of Defaulting Companies – Issues Final Guidelines

To provide for proper management of borrowers' business and enable the Securitisation Company or Reconstruction Company to realise its dues, the RBI issued 'The Change in or Take Over of the Management of the business of the borrower by Securitisation Companies and Reconstruction Companies (RBI) Guidelines, 2010' with effect from 21 April 2010.

Portfolio Investors

1. Limits of Foreign Institutional Investors Investments in Government Securities and Corporate Debt Revised

The Government of India increased the overall FII investment cap by USD 5 billion in government securities and corporate debt.

2. Clarification Regarding the Inclusion of Various Charges Collected by Brokers from Their Clients, for the Purposes of Levying Service Tax

The stamp duty and Security Transaction Tax, which are collected by the brokers of the securities, would not be included in the taxable amount for the purposes of levying Service Tax since such charges are the liability of the buyer/ seller of securities and the broker pays this acting as a 'pure agent' of the client.

Meanwhile, other charges (viz. turnover charges, NSE/BSE/NSDL/CSDL transaction charges, DEMAT charges and SEBI fees) recovered by the brokers from their clients would be included in the taxable value for the purposes of payment of Service Tax.

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3. SEBI Seeks Details on Foreign Institutional Investors' Structure – Moves to Curb Round-tripping of Funds

SEBI directed FIIs to provide additional information and undertakings pertaining to their structure. Existing FIIs to provide the details of their constituents at the latest by 30 September 2010. From 7 April 2010 all fresh FII applicants are required to make declarations and undertakings with respect to their structure.

4. SEBI Caps Foreign Institutional Investment in Corporate Bonds

SEBI cut the maximum investment limit to one-fifth for a single FII at INR 20 billion from the existing ceiling of INR 100 billion.

5. Change in the Reporting Frequency for Foreign Institutional Investment

SEBI modified the frequency of submission of information pertaining to securities lent by FIIs to entities abroad, from daily to weekly to be submitted every Friday starting 9 July 2010.

6. Foreign Institutional Investment without Broad-based Structures Barred from Taking New Positions

SEBI clarified that from 1 October 2010, the FIIs and sub-accounts that have not complied with the requirements of submitting declarations and undertakings relating to a Protected Cell Company, Segregated Portfolio Company or Multi Class Share Vehicle by 30 September 2010 would not be permitted to take fresh positions in cash and derivatives markets but only be permitted to retain their current positions or sell off/ unwind.

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Mutual Funds

1. Mutual Funds Now Required to Disclose Details of Investor Complaints

SEBI directed that MFs should disclose, on their websites, on the AMFI website, and in their Annual Reports, details of investor complaints received by them from all sources in the format prescribed.

2. Date of Applicability of Valuation Methodology of Debt and Money Market Instruments Extended

SEBI extended the applicability date of the valuation methodology of debt and money market instruments for MFs from 1 July to 1 August 2010. However, MFs can voluntarily apply the valuation methodologies before this date.

3. Payment through Applications Supported by Blocked Amount in Mutual Funds

SEBI extended the date of compulsory provision of an ASBA facility for New Fund Offerings by MFs/Asset Management Companies from 1 July 2010 to 1 October 2010.

4. MF Regulations Amended to Reduce Procedural Periods

To safeguard investors from market volatility, SEBI reduced the timeframe for applying for and seeking refunds for MF schemes from 87 days to 20 days by amending SEBI (Mutual Funds) Regulations, 1996.

5. Amendments to SEBI (Mutual Funds) Regulations, 1996

SEBI directed existing and new ‘fund of funds’ mutual fund schemes to choose their total expense structures.

6. SEBI Relaxes Merger Norms for Mutual Fund Schemes

SEBI clarified that in cases of merger or consolidation of schemes MFs can forego giving an exit option to surviving scheme unit-holders if they can show that there is no change in the fundamental attributes (investment objectives, policies, and terms) of the surviving scheme; the circumstances merit the merger of the scheme; and that unit-holders’ interests are not adversely affected.

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Life Insurance

1. Amendments to Guidelines on Unit Linked Products Released

The IRDA made norms tighter and increased the risk cover offered for ULIPs by issuing clarifications/changes, to be effective 1 July 2010.

2. Quarterly Submission of Financial Statements No Longer Required

Since the insurers are obliged to publish their Balance Sheet, P&L Account, Revenue Account and Key Analytical Ratios in newspapers and on their websites, the IRDA dispensed with the filing of Quarterly Financial Statements with effect from the Financial Year 2010-11.

3. Exposure Draft on Standardisation of Terms and Conditions of Unit-Linked Insurance Products and Measures for Policyholders' Protection Regulations Issued

IRDA issued a draft proposal on standardisation of terms and conditions of ULIP products and treatment of lapsed policies.

4. Exposure Draft on Guidelines on Distance Marketing and Sale Process Verification of Insurance Products

IRDA proposed Guidelines on Distance Marketing and Sale of Insurance Products to streamline the manner of sale of insurance products and protect policy-holders' interests when buying insurance products over distance modes.

5. Exposure Draft Regarding Proposed Amendment to IRDA Regulations for Protection of Policyholders' Interests, 2002 - Issue of Key Feature Documents for Insurance Products

- The regulation proposes that a KFD should:
    - Be developed in a clear format which is easily understandable to policy-holders in at least 14 size font and in simple language that avoids jargon.
    - Have illustrations relating to cover/benefits offered and clearly bring out the risks involved for the policyholder and his/her obligations or commitments.
    - Be available in local languages depending on the region where the policyholder resides.

6. Insurers Asked to Report Payments above INR 100,000 per Annum

IRDA directed insurers to report all commissions or any other payments made in excess of INR 100,000 per annum in the prescribed format.

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7. Details of Equity Holding Pattern of Insurance Companies

IRDA revised the prescribed format for the submission of the shareholding pattern to show information about the pledge or any other encumbrance, if any, created on the shares. Insurance companies should report as per the revised formats from the quarter ending 30 June 2010.

8. New Unit Linked Insurance Products Norms Issued

IRDA released the guidelines applicable to all ULIPs offered for sale from 1 September 2010.

9. IRDA (Insurance Advertisements and Disclosures) Amendment Regulations 2010

IRDA directed all insurance companies to at once terminate all existing arrangements that they have according to the provisions of Regulations 2(c) and 10(1)(vi) of the IRDA (Insurance Advertisements and Disclosures) Regulations 2000 relating to insurance intermediaries.

10. Advertisements - Life Insurance Products

To improve the content and presentation of life insurance product advertisements and make them compliant with the relevant regulation and guidelines IRDA stipulated conditions for release of advertisements.

11. Treatment of Unclaimed Amount of Policyholders

IRDA informed all insurers that the unclaimed amount of policyholders / insured must be disclosed as a **separate line item** in Schedule 13 (Current Liabilities) of their Balance Sheets. The insurers should also disclose, in the prescribed format, the age-wise analysis of such amounts.

12. Interpretation of 'First Ten Years of Business' under Section 40A of the Insurance Act, 1938

Section 40A lays down the permissible limits for payment of commission or remuneration by an insurer to an insurance agent. The proviso to the section permits life insurers, in the first ten years of business, to pay 40 percent of the first year's premium payable on the policy, towards commission.

The IRDA clarified that counting of the first ten years should **start from the date of grant of the registration certificate**.

13. Norms Issued for Variable Insurance Products

IRDA released guidelines on VIP. VIP is a non-linked life insurance product that provides death benefit equal to the guaranteed sum assured plus the balance in the policy document and maturity benefit equal to the balance in the policy account together with a terminal bonus as applicable.

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14. Recognition Treatment of Unclaimed Amount of Policyholders

IRDA clarified that the surplus arising in non-participating funds may be recognised as profit in the P & L Account on a quarterly basis subject to applicable conditions.

15. Clarification on Guidelines on Group Insurance Policies

IRDA, effective 1 April 2011, prohibited any organisation / entity in its capacity as Group Organiser / Group Manager, with whatsoever nomenclature, from collecting any amount other than the insurance premium payable to the insurers with regard to the underlying Group Insurance.

16. Applicability of Service Tax on Administrative Expenses Charged by Insurance Companies to Re-insurance Companies

Administrative expenses deducted by insurance companies from payments made to re-insurance companies are not liable to Service Tax since the expenses are jointly incurred and are not towards any service provided by the insurance companies to reinsurance companies.

Non-life Insurance

1. Financial Condition Report for Non-Life Insurance Companies

The IRDA released the format of the FCR for Non-life Insurance Companies to be given annually starting March 2010.

2. Circular on Medical Insurance Policies and Cashless Facilities

When insurers' Preferred Provider Network of hospitals lists are changed, the IRDA directed that all policyholders should be informed of the nearest possible alternative hospitals for availing cashless facilities and the conditions.

3. Selling of Credit Insurance Covers by General Insurers to Banks Stopped

IRDA directed all general insurers to stop selling credit insurance covers to banks offering credit facilities to debtors, till the release of detailed guidelines in this regard.

4. Guidelines on Trade Credit Insurance Issued

To ensure orderly growth and regulate the trade credit insurance sector, IRDA issued the guidelines on Trade Credit Insurance.

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Insurance Intermediaries

1. Referral Business Guidelines

- On 18 May 2010, the IRDA issued draft regulations to regulate referral business for insurance companies.
- On 1 July 2010, IRDA notified the Insurance Regulatory and Development Authority (sharing of database for distribution of insurance products) Regulation, 2010. The Database Regulations govern the arrangements between insurance companies and third parties for access of third party databases by the insurance companies.

2. IRDA Tightens Norms for Appointment of Corporate Agents

The IRDA directed that the decision to appoint a person holding a valid licence as a corporate agent, on transfer from another insurer, will be taken only in the corporate office by the CEO, CFO or Chief Marketing/Sales Officer, among others, designated for the purpose by the Board of Directors.

IRDA directed insurers to carry out regular on-site inspection of their corporate agents. The process of inspection of corporate agents should be completed by 30 September of every year, starting in 2010.

3. Disclosure of Agency Details on Policy Documents

IRDA directed all insurers to display the agency code, agency name and mobile number (or landline number if the mobile number is not available) and other contact details prominently on the first page of the policy document in Times New Roman, font size 14 and bold letters.

General

1. External Commercial Borrowings Policy – Liberalisation

The RBI is to consider applications from corporates in the hotel, hospital and software sectors to avail of ECB beyond USD 100 million under the Government Approval route, for foreign currency and/or Rupee capital expenditure for permissible end-uses. The proceeds of the ECB, however, are not to be used for acquisition of land.

2. Restrictions on Current Account Transactions for Technical Collaboration Agreements Removed

AD Category-I banks allowed to permit withdrawal of foreign exchange by persons for payment of royalty and lump-sum payment under technical collaboration agreements without the approval of the Ministry of Commerce and Industry, Government of India.

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Telecom

1. Auction of 3G spectrum

The much awaited auction of 3G spectrum was concluded in May 2010. The auction of 22 circles across the country contributed an unprecedented and a phenomenal amount of INR 67,718.95 crores to the Government kitty. It is expected that the 3G technology will bring in a wave of VAS applications and choices for consumers.

2. Auction of Broadband Wireless Access spectrum

An auction of country-wide BWA was conducted in June 2010. The pan-India auction ensured a revenue of INR 38,323.71 crores. BWA, which can make the internet work much faster than the present speed, is expected to bring in an internet revolution.

3. Introduction of Mobile Number Portability

Regulations on MNP have been introduced for regulating the switching of mobile network providers. MNP was introduced on a pilot basis in Haryana on 25 November 2010 and was later rolled out pan-India from 20 January 2011 onwards.

4. Introduction of Regulations on 'Commercial Communications Customer Preference'

These regulations have been introduced to regulate the commercial telemarketing calls made by telemarketers with the help of different networks.

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Media and Entertainment

1. Exemption on Motion Pictures Clarified

The term 'motion pictures' for the purpose of customs duty exemption under Notification No. 27/ 2010-Cus dated 27 February 2010 has been clarified to include audio visual content of all kinds like feature films, advertising films, documentaries, television content, news films, etc. and not be restricted to feature films only.

2. The Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010

- As the cable and satellite television sector is largely analogue and non-addressable, the MIB and TRAI have been making efforts to promote digital addressable systems, i.e. DTH, HITS, IPTV and digital addressable cable television, in order to improve quality of services to subscribers.
- CAS was introduced as a move to make Cable Operators and MSO digitise their signals, curb revenue leakage and enable a pay channel system. However, CAS was implemented sparingly in a few cities.
- In line with its efforts to promote digital addressable systems, TRAI issued a new tariff order applicable from 1 September 2010 to all digital addressable systems.
- Key provisions of this order are as under:
  - Every broadcaster/distributor shall offer pay channels on an a-la-carte basis and as packages (if they so desire) at specified rates. In addition, it shall be open for distributors to specify a minimum subscription period not exceeding three months.
  - The wholesale rate of pay TV channels on an a-la-carte basis and package basis for all addressable systems has been capped at 35 percent of the corresponding rates for cable operators / MSOs in the non-addressable market. However, distributors will be free to specify retail tariffs. They have also been empowered to specify a minimum monthly subscription rate per subscriber. However, such minimum rate specified should not exceed INR 150 per month per subscriber.
  - Broadcasters shall be free to specify tariffs for High Definition and 3D TV channels.
- The provision to cap wholesale rate for pay channels at 35 percent of the rate charged to cable operators in non-addressable market was challenged by many broadcasters in TDSAT. The TDSAT has set aside this provision and has instructed TRAI to conduct a detailed study and fix afresh the tariffs that the broadcasters can charge distributors using digital addressable systems.

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3. The Telecommunication (Broadcasting and Cable Services) Interconnection (Sixth Amendment) Regulations, 2010

- HITS system is a variant of CAS, where all the pay channels are downlinked and then aggregated by an infrastructure provider. These pay channels are multiplexed and uplinked in a single transmission to a satellite which acts as the HITS. At the cable headend, these channels are downlinked using a single receiver, resulting in a significant reduction in investment.

- In November, 2009 the MIB issued guidelines for providing HITS services in India which permit HITS operators to serve subscribers directly by way of distributing TV channels on their own network and also to act as passive infrastructure facility providers to MSOs / cable operators.

- To make the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 in line with the HITS guidelines, TRAI through its amendment order has enlarged the scope of HITS, permitting HITS operators to serve subscribers directly as mentioned above. Further, the amendment order has also extended the operations of HITS operator to the Ku band (in addition to the existing C band).

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Pharmaceuticals

1. Guidelines Regarding Inspection of Clinical Trials Being Conducted in India under the Clinical Trial Inspection Programme

- The aim of the programme is to assure GCP compliance in clinical trials, and verify the safety and wellbeing of the subjects involved in clinical trial along with the credibility and accuracy of clinical trial data generated. The program also strives to ensure compliance with various regulatory provisions as per the Drugs & Cosmetics Rules.
- The program provides guidance on the inspectors or CDSCO officers who conduct inspection of the clinical trial site, sponsor / CRO facilities and their scope, power and responsibilities.

2. Government Explores the Option of Capping Foreign Direct Investment in Pharma

- The Government is exploring a proposal to reduce the limit on foreign direct investment allowed in the pharmaceutical industry through the Automatic Route to 49 percent from 100 percent.
- The Government is also considering making it mandatory to get clearance from the Department of Industrial Policy and Promotion / Foreign Investment Promotion Board , as opposed to the present Automatic Route in cases of change in ownership from Indian to foreign investors.
- The context for such a proposal is the belief in some quarters that the increasing number of acquisitions by MNCs of domestic pharma companies is likely to affect the availability of low cost medicines to the Indian population.
- There seems to be a divergence of views on this issue amongst different Government ministries. DIPP, which is responsible for framing the policy related to foreign investments, is currently examining this issue.

3. Regulations Related to Medical Devices (Their Nature and Use)

- The Ministry of Health and Family Welfare in August 2010, approved certain procedures to be adopted in regard to the licensing, import and manufacture of the list of the 14 regulated medical devices in the country
- Guideline documents issued by the DCGI related to the following heads have been uploaded on the CDSCO website:

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- Application for grant of licence in Form 28 for manufacture of medical devices in India under the CLAA Scheme.
- Common submission format for registration of medical devices in India.
- Common submission format in Form 10 for import licence of medical devices in India.
- Requirements for conducting clinical trial(s) of medical devices in India.

The Government has received the comments and inputs but final guidelines have not been issued.

4. Examining the Option of Introducing 'Compulsory Licensing' under the Patents Acts

- On 25 August 2010, DIPP released a discussion paper on options for a Compulsory Licence under the Patents Act, 1970 as amended in 2005.
- The objective of circulating this paper was:
  - To develop a predictable environment for the use of compulsory licensing.
  - Also to examine the situation if / when the demand for a critical drug is not met – if a compulsory licence can be issued promptly to a qualified company to produce this drug.
  - Through such an intervention, Governments intend to balance the rights of the patent holders with their obligations to ensure effectiveness of patents, availability of products at reasonable prices, promotion and dissemination of technological inventions and protection of public health and nutrition.
- The paper states three options:
  - Invoking the Competition Act, 2002 to scrutinise whether the price / availability of a drug is a consequence of an anti-competitive agreement or has an adverse effect on competition or abuse by a company. This is a short term option.
  - To review the policy on foreign investment for pharmaceutical companies. Investments in the pharmaceutical sector are under the Automatic Route and could be shifted to the Approval Route so that proposal for M&As could be scrutinised by FIPB.
  - To expand the ambit of the National Pharmaceutical Pricing Authority and vest it with the power to regulate the prices of a larger number of drugs
- Meanwhile, representatives of pharma MNCs urge the Government to build judicial capacities to protect intellectual property rights in the country.

5. Government Measures to Deal with Spurious Drugs

- The Government of India recently amended the Drugs & Cosmetics Act, 1940 by the Drugs & Cosmetics (Amendment) Act for providing more stringent and stricter penalties to the offenders who trade in spurious drugs.
- The Government has recently launched a scheme under which officers who report such crimes will be rewarded monetarily. This reward scheme will be applicable to both the informers as well as the officers of CDSCO.

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Mining

1. Foreign Direct Investment Policy

- The Department of Industrial Policy and Promotion of Ministry of Commerce and Industry have issued clarification on the Consolidated FDI Policy dated 30 September 2010 in relation to the mining sector.
- At present, FDI for separation of titanium bearing minerals and ores is subject to the setting up of value-addition facilities in India along with transfer of technology. It has been clarified that:
  - For titanium bearing ores such as ilmenite, leucoxene and rutile, manufacture of titanium dioxide pigments and titanium sponges constitutes value addition. Ilmenite can be processed to produce synthetic rutile or titanium slag as an intermediate value added product.
  - The objective of the policy is to ensure that raw material available in the country is utilised for setting up downstream industries and the technology available internationally is available for setting up such industries within the country. Thus, if with the technology transfer, the objective of the FDI policy can be achieved, the conditions stipulated in regard of setting up value addition facilities shall be deemed to be fulfilled.

2. The Mines and Mineral (Development and Regulation) Amendment Act, 2010 has been Passed to Further Amend the Mines and Minerals (Development and Regulation) Act, 1957

It establishes the procedures, terms and conditions for selection of the company, by way of auction by competitive bidding, for the purpose of granting reconnaissance permits, prospecting licences or mining leases in respect of an area containing coal or lignite.

3. The Mines and Mineral (Development and Regulation) Bill, 2010

- The draft MMDR Bill, 2010 is intended to replace the existing MMDR Act, 1957.
- Reform of the concession grant system: Removing excessive discretion, prescribing time limits, independent tribunal to check appropriateness of decisions and delays.
- Conservation of resources and effective utilisation of minerals through incentives.
- Investments for high-technology exploration: Provision of seamless data transfer and concession rights to mining companies along with right of a prospector to (seamlessly) get a mining lease.
- Dynamic royalty estimation mechanisms.

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- Local Area Development: A portion of the royalty is being sequestered as a cess to be kept in a mineral fund and used for local area development and development of mining-related infrastructure.

- Social and Environmental Sustainability.

- Mining plans to be formulated and enforced by technical regulators and closure plan publicly disclosed. Provisions of the Fifth and Sixth Schedule of the Constitution (administration of scheduled areas and tribes) will be taken into account while granting concessions.

- Regulatory, deterrent and punitive mechanisms under the Act are being given more bite: Indian Bureau of Mines adequately equipped and empowered as a technical regulator. Provision for special courts; punishments too are being made stringent.

- The MMDR Bill, 2010 obliges the holder of a mining lease to pay 26 percent of net profit (after deduction of taxes) from mining-related operations.

4. Press Release by the Ministry of Environment and Forest and the Ministry of Coal – Dated 8 July 2010

The Ministry of Environment & Forests and the Ministry of Coal have initiated an exercise to identify, prima facie, 'go' and 'no-go' areas for diversion of forest land for coal mining purposes.

5. Direction by Ministry of Mines under the Mineral Concession Rules, 1960

- The Ministry of Mines issued a direction to the State Government as on 23 December 2010.

- The Indian Bureau of Mines had issued detailed guidelines on reporting resources and reserves in the UNFC system in the year 2003. The Government, after reviewing the progress, has found out that several mining leases granted prior to year 2003 have yet to assess the resources and reserves in their mines in terms of UNFC guidelines.

- Accordingly, the Government has issued directions to the State Government to impose conditions on all the existing and future leases for major minerals (excluding coal minerals) in relation to the prospecting work.

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Oil and Gas

1. Foreign Exchange Management Act

Payment for import of oil or gas is now permitted to be settled in any permitted currency outside the Asian Clearing Union Mechanism.

2. Extension of the Scope of Definition of 'Capital Goods' as Defined under the Credit Rules

The definition of 'Capital Goods' in Rule 2 of the Cenvat Credit Rules, 2004 has been extended to specifically include 'dumpers and tippers' registered in the name of aservice provider providing 'Site Formation and Clearance Services' and 'Mining of Mineral, Oil or Gas Services'.

Further, components, spares and accessories of motor vehicles, dumpers or tippers have also been included in such definition.

3. New Exploration Licensing Policy

- The Government has announced ninth round of the NELP IX on 15 October 2010. A total of 34 exploration blocks in ten sedimentary basins are beings offered in NELP IX. These blocks are divided into four categories:

Deepwater	8 blocks
Shallow water	7 blocks
Onland Type S (area < 200 square meters)	8 blocks
Other Onland (area > 200 square meters)	11 blocks

- The due date for bid submission is 18 March 2011.
- The declared features of NELP-IX are the following:
  - The will be only one exploration phase of seven years for Onland and Shallow Water blocks and eight years for Deepwater blocks and Frontier Area Blocks.
  - There will be no compulsory relinquishment after the initial exploration period (when the mandatory and committed programmes are to be completed) and operators will have the option to relinquish the entire area after completion of the minimum work programme or retain the block by committing to carrying out drilling of one well per year in the case of Onland and Shallow Water blocks or one well in three years in the case of Deepwater blocks. In any case, the entire area (leaving aside the Discovery Area and the Development Area) would be require to be relinquished at the end of seven or eight years of exploration, as the case may be.
  - Upto 100 percent participation by foreign companies is allowed.
  - No signature, discovery or production bonus.

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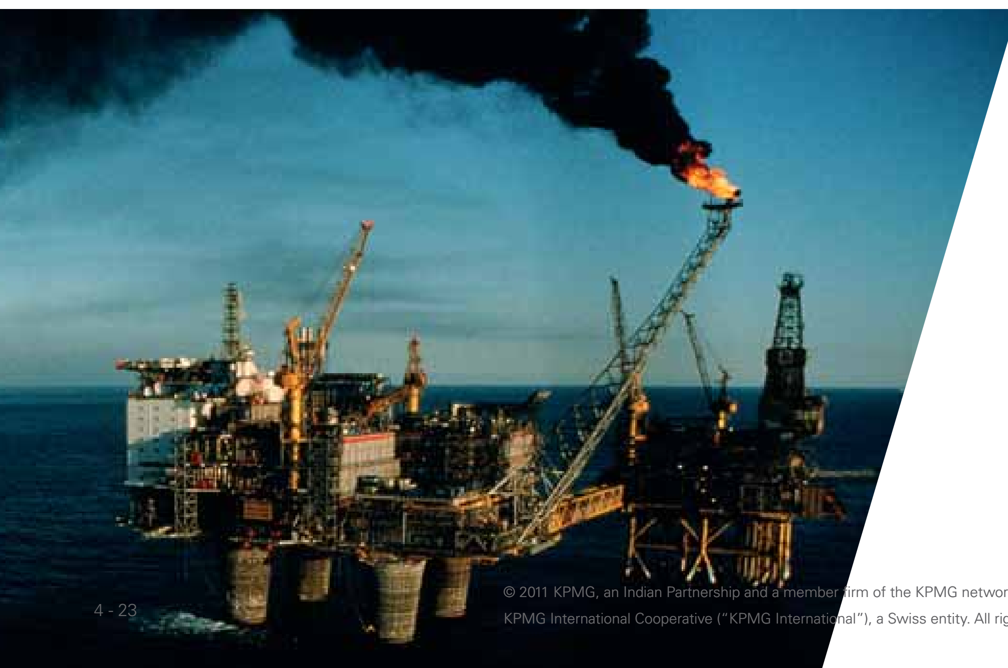
- No mandatory State participation.
- No carried interest by the NOCs.
- No customs duty on imports required for petroleum operations.
- Income tax holiday granted for seven years from start of commercial production of mineral oil.
- Biddable cost recovery limit: Up to 100 percent.
- Option to amortise exploration and drilling expenditures over a period of ten years from the date of first commercial production is allowed.
- Sharing of profit petroleum with the Government to be based on the pre-tax investment multiple achieved by the contractor and this is biddable.
- Royalty for Onland areas was payable at the rate of 12.5 percent for crude oil and 10 percent for natural gas. For Shallow Water offshore areas, royalty was payable at the rate of 10 percent for both crude oil and natural gas, whereas for Deepwater areas (beyond 400m iso-bath) royalty is payable for both crude oil and natural gas at the rate of 5 percent for the first 7 years of commercial production and thereafter at the rate of 10 percent.
- Fiscal stability provision provided for in the contract.
- Liberal provisions for assignment.
- Arbitration and Conciliation Act, 1996, based on UNCITRAL model is applicable.
- To facilitate investors, a PTG compiled in 1999 has been provided.
- Predetermined LDs have been specified for an unfinished Minimum Work Programme.
- A one-time Bank Guarantee needs to be provided at a lower rate for the total committed work programme.
- A nominal bid bond at specified rate to encourage serious bidders.



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4. Deregulation of Petrol Price

The Government has decided that the pricing of petrol and diesel both at the refinery gate and retail level will be market determined. This will help oil marketing companies to reduce their under recoveries.

5. Shale Gas

- The Government has initiated action to develop and put in place a policy environment for exploitation of shale gas. It has also announced its plans to launch the first round of shale gas block by the end of 2011.
- The MOU on shale gas Resources between India and the USA has already been signed during the visit of the President of America, Mr Barack Obama, to New Delhi. The objective of the MOU is to provide cooperation in the field of shale gas assessment, technical studies and training to Indian personnel in the area of shale gas.
- The US Geological Survey will carry out studies on shale gas resources and will provide areport to India.

6. Rajiv Gandhi Gramin Liquified Petroleum Gas Vitrak Yojana

Rajiv Gandhi Gramin LPG Vitrak Yojna has been launched to provide clean cooking fuel to rural areas. It is envisaged that overall LPG population coverage would increase to 15 crores from the present 11.5 crores by year 2015.

7. Petroleum and Natural Gas Regulatory Board

- The notification of section 16 of PNGRB Act (notified with effect from 15 July 2010) has authorised PNGRB to grant licenses for CGD. This is likely to quicken the pace of rollout of CGD services.
- In 2010, PNGRB invited bids for CGD networks in 16 new geographical areas across eight different states in the third and fourth rounds of bidding.
- The Chairman of PNGRB in one of its public addresses has set the target of covering more than 300 cities across the country for providing city-based gas distribution networks in the next three years.

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Power

1. External Commercial Borrowings

RBI has issued a circular which permits take-out financing arrangements through ECB, under the Government Approval route, for refinancing of Rupee loans availed from the domestic banks by eligible borrowers in seaports and airports, roads including bridges and power sectors for the development of new projects provided the prescribed conditions are satisfied.

2. Maximum Retail Price Based Levy Introduced for Specific Products

Parts, components and assemblies of certain equipments like Fork-lift trucks, Self-propelled bulldozers, Excavators, Road rollers, Pile drivers and extractors etc., have been brought under the MRP levy and an abatement of 30 percent on retail sale price has been prescribed.

3. Levy of clean energy cess

With effect from 1 July 2010, Clean Energy Cess, a new levy on production of coal, has been imposed. Post-levy, the Government has issued various notifications/ circulars, which include the following:

- Applicability of various sections of Central Excise Act, 1944 in regard to of the cess.
- Effective rate of cess leviable on coal.
- Exemption in respect of specified coal.
- Introduction of Clean Energy Cess Rules, 2010.

4. Pre-condition Waived for Specified State Boards/ Corporations for Availing Excise Duty and Customs Duty Exemptions in Relation to Goods Supplied to Non-conventional Power Projects

For the purpose of availing excise duty and customs duty exemption on goods required for initial setting up of a project for the generation of power using non-conventional material, the pre-condition of having a valid power purchase agreement for a period of not less than ten years has been waived for the following entities:

- State electricity boards.
- Corporations which are notified by the respective State Governments as the State Transmission Utility and Licensee.

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5. Exemption from Additional Duty of Customs - on Equipment, etc. Required for Initial Setting up of Solar Power Generation Project or Facility

The notification provides exemption on additional duty of customs payable under Section 3 of the Customs Tariff Act, 1975 on all items of machinery required for initial setting up of a solar power generation project or facility.

6. Service Tax on Laying Cables under or alongside Roads and Similar Activities

Shifting of overhead cables / wires for reasons such as widening /renovation of roads, laying of cables under or alongside roads, laying of electric cables between grids/ sub stations/transformer stations en route and laying of electric cables up to the distribution point of residential or commercial localities/complexes is not liable to Service Tax.

However, installation of transformer/ sub-stations undertaken independently, laying of electric cables beyond the distribution point of residential or commercial localities/ complexes, installation of street lights, traffic lights flood lights, or other electrical and electronic appliances/devices or providing electric connections to them would be liable to Service Tax.

7. Service Tax on Electric Meter Installed in Customer Premises

Supply of electricity meters for hire to the customers is an essential activity and has a direct and close connection with the transmission and distribution of electricity. Therefore it would be covered under the exemption benefit available for transmission and distribution of electricity and not be liable to Service Tax.

8. Services of Distribution of Electricity Exempted from Service Tax

Services for distribution of electricity provided by a distribution licensee, a distribution franchisee, or any other person authorised to distribute power under the Electricity Act, 2003 are exempted from Service Tax.

9. Non-recovery of Service Tax on Services Relating to Transmission and Distribution of Electricity during Specified Period

No Service Tax is required to be paid on all taxable services relating to transmission of electricity provided during the period up to 26 February 2010 and distribution of electricity provided during the period up to 21 June 2010.

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10. The Civil Liability for Nuclear Damage Bill, 2010

- The Lok Sabha passed the Nuclear Damage Bill, 2010 on 25 August 2010 and the Rajya Sabha passed the Nuclear Damage Bill, 2010 on 30 August 2010.
- The Nuclear Damage Bill, 2010 fixes liability for nuclear damage and specifies procedures for compensating victims. The main features of the bill cover the following aspects:
  - Extent to which private operators are permitted to produce nuclear damage;
  - Time limit for claiming compensation for suffering nuclear damage;
  - Liability of the private operator and liability of the Central Government;
  - Recourse against the supplier of the equipment, etc.

11. The Energy Conservation (Amendment) Bill, 2010

- The Lok Sabha passed the EC Bill, 2010 on 4 May 2010 and the Rajya Sabha passed the EC Bill, 2010 on 17 August 2010.
- The EC Bill, 2010 amends the Energy Conservation Act, 2001.
- The Bill expands the scope of energy conservation norms for buildings and tightens the applicability of energy efficiency norms for appliances and equipment.
- It provides a framework within which savings on energy use can be traded between those industries who are energy efficient and those whose consumption of energy is more than the maximum set by the government.

12. Other updates

Jawaharlal Nehru National Solar Mission has developed Guidelines for Selection of New Grid Connected Solar Power Projects.

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Shipping and Logistic

1. Guidelines for Development of Major Port Projects

The Government has framed model documents for awarding contracts for projects on a PPP basis for major ports, which include a Request for Qualification, Request for Proposal and Model Concession Agreement..

2. Declaration of National Waterways

- The Union Government through IWAI develops inland water terminals/ports only on those waterways which are declared National Waterways. The following five inland waterways have been declared National Waterways:
  - National Waterway 1: Allahabad-Haldia stretch of the Ganga–Bhagirathi-Hooghly river (total length-1620 km) in the States of Uttar Pradesh, Bihar, Jharkhand and West Bengal.
  - National Waterway 2: Sadiya-Dhubri stretch of the Brahmaputra river (total length-891 km) in the State of Assam.
  - National Waterway 3: Kollam-Kottapuram stretch of the West Coast canal and Champakara and Udyogmandal canals (total length-205 km) in the State of Kerala.
  - National Waterway 4: Kakinada-Pudducherry stretch of canals comprising the Kakinada canal, Eluru canal, Commamur canal, Buckingham canal and the Kaluvelly tank, Bhadrachalam-Rajahmundry stretch of the river Godavari and Wazirabad-Vijaywada stretch of the river Krishna (total length-1027 km) in the States of Andhra Pradesh and Tamil Nadu and the Union Territory of Puducherry.
  - National Waterway 5: Talcher-Dhamra stretch of the Brahmani-Kharsua-Dhamra rivers, Geonkhali-Charbatia stretch of the East Coast canal, Charbatia-Dhamra stretch of the Matai river and Mahanadi Delta rivers between Mangalgadi and Paradip (total length- 588 km) in the States of West Bengal and Orissa.

3. The Land Ports Authority of India Bill, 2010

The Land Ports Authority of India Bill, 2010 received the assent of both the houses. This Bill provides for the establishment of the Land Ports Authority of India, which will help with security imperatives, development, management of facilities for cross-border movement of passengers and goods.

4. National Maritime Development Programme

The Ministry of Shipping formulated a National Maritime Development Programme to implement 276 specific programmes/schemes covering the entire gamut of activities in the ports. The objective is to upgrade and modernise the port infrastructure in India to enable it to benchmark its performance against global standards.

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5. Land Policy for Major Ports, 2010

The Ministry of Shipping has approved Land Policy for Major Ports 2010 for implementation by all major ports and Ennore Port Ltd., superseding the erstwhile Land Policy for Major Ports-2004. The new Land Policy provides the regulations to be followed by the port trusts for alotment of port land on a license or lease basis

6. Port Blair Declared Major Port

Under the Indian Ports Act, 1908, the Government has declared Port Blair, with its territorial jurisdiction over all ports of Andaman & Nicobar Islands, a major port w.e.f. 1 June, 2010. All major provisions of the Major Port Trusts Act, 1963 have become applicable to the major port of Port Blair from 1 June 2010. With this Port Blair becomes the 13th major port of the country.

7. Indian Tonnage Crossed the 10 million Gross Tonnage Mark

The Indian tonnage, in the shipping sector, for the first time has crossed the 10 million GT mark. As on 1 September 2010, a total of 1029 ships with 10.10 million GT are registered under the Indian flag. Out of this, 693 ships of about 1 million GT are engaged in coastal trade and the remaining 336 vessels are plying overseas trade.

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Special Economic Zone

Provisions relating to Power and Energy

1. The Rules, Amended by Issue of Special Economic Zones (Amendment) Rules, 2010

Rule 5(5c) of the Rules has been amended to empower the State Governments to allow generation, transmission and distribution of power within a SEZ (earlier, though the SEZs were allowed to do so, they were governed by the provisions of the Electricity Act, 2003).

2. Change in Duty Rate on Removal of Electrical Energy from SEZ

The customs duty payable on removal of electrical energy from SEZ to DTA or to a non-processing area of SEZ previously was levied at an ad valorem rate of 16 percent. This duty has now been made variable based on various factors such as capacity of power project and type of fuel used. The duty rates have been amended with effect from 6 September 2010, as follows:

Capacity of the Power Project	Fuel used	Amount of duty
Power projects of 1000 MW and above	Imported coal	INR 100 per 1000 kWh
	Domestic coal	Nil
	Domestic gas	INR 110 per 1000 kWh
Power projects of less than 1000 MW	Imported coal	INR 40 per 1000 kWh
	Domestic coal	Nil
	Domestic gas	INR 60 per 1000 kWh

3. Energy Conservation in SEZs

General guidelines have been laid out with regard to energy conservation in SEZs covering areas such as optimization of use of energy, power utilization, water efficiency, waste management, plantation, site preservation and restoration, local internal transportation, indoor air quality in individual buildings, IT infrastructure, etc.

4. Clarification on transfer of power from SEZ

The Rules provides that surplus power generated in a SEZ developer's power plant in the SEZ or unit's captive power plant or diesel generating set may be transferred to DTA on payment of duty on consumables and raw materials used for generation of power subject to certain prescribed conditions. Operation of the Rules was kept in abeyance with effect from 6 September 2010 vide and subsequently amended to permit transfer of power to export oriented units, electronic technology park units, STPI units, bio-technology park units and to units in the same SEZ or other SEZs without payment of duty.

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Provisions relating to Free Trade Warehousing Zone

1. Holding of goods by units in Free Trade Warehousing Zone

It has been clarified that units in FTWZ can hold goods on behalf of foreign suppliers and buyers as well as DTA suppliers and buyers, subject to provisions made in Rule 18 (5) of the Rules.

2. Area Requirements for Setting up a Free Trade Warehousing Zone in Sector Specific SEZs

Where a FTWZ is set up in an SEZ of less than 1000 hectares in area (sector specific SEZs), the FTWZ shall not exceed 20 percent of the processing area.

3. Clarification on Free Trade Warehousing Zone in a sector specific SEZ

As per Instruction 49, dated 12 March 2010, there was no limitation on units set up in FTWZs and located in sector specific SEZs carrying out trading and warehousing activities in respect of any product. This has been amended to the extent that FTWZ in a sector specific SEZ can store goods only required for development of the zone/ setting up of units/ manufacture and export/ DTA sale of goods and services of the units in that particular sector specific zone.

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Provisions relating to IT/ ITES sector

1. Broadbanding in IT/ITES Sector SEZs

No approval of BOA is required for developers in the IT/ ITES sector for broadbanding to include electronic hardware.

2. Authorised employees of IT/ITES units in SEZ allowed to work from home/outside SEZ

In terms of Instruction 55, dated 5 May 2010, employees of SEZ who are temporarily de-capacitated/ travelling may be permitted to work from home/ outside the SEZ provided they are employees of SEZ carrying out work related to a project of the SEZ and the resultant exports take place from the SEZ premises. Instruction 58, dated 21 May 2010, partially amended the above to permit even off-site employees of SEZ to work from home/ outside the SEZ subject to the same conditions prescribed above.

3. Transfer of Used Capital Goods from STPI units to SEZ units

There are no provisions in the SEZ Act/ Rules preventing transfer of used capital goods from a unit in STPI to a SEZ unit. The only deterrent for effecting such transfer is not getting the exemption under the Income Tax Act, 1961 when the value of the used goods exceeds 20 percent of the total capital goods installed by the unit in a year. The jurisdictional DC has been directed to follow the instructions stipulated in this regard vide earlier instructions, and in case of any doubts to refer the cases to the Department of Commerce without taking unilateral decisions. This was in the context of unilateral cancellation of some SEZ unit licences by the DCs in the case of transfer of capital goods from DTA to SEZ.

4. Clarification on Various Policy and Operational Issues relating to IT SEZs

- No limitation has been prescribed on transfer of manpower from STPI to SEZ units. However, there should be individual and distinct sub-contracts in respect of the SEZ units and investment for infrastructure development in the SEZ has to be new.
- DTA sales by IT SEZ units are permissible, subject to achievement of positive NFE earnings within five years of the commencement of the commercial operations.

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Provisions relating to Approval and Operations of SEZ Developers/Units

1. Consolidated List of Default Authorised Operations Which Can Be Undertaken by the Developer/Approved Co-developer

Instruction 50, dated 15 March 2010 expanded the list of default authorised operations which can be undertaken by the developer/ approved co-developer from the date of notification. The present instruction modifies this to specify that construction of buildings in processing area and warehouses would be considered default authorised operations, subject to them being approved by the UAC.

2. Removal of Goods from SEZ to Bonded Warehouse

This instruction lays down the procedure for removal of goods to a bonded warehouse under Rule 46(13) of the Rules. It specifies that the SEZ unit should file YBE and other related documents with SEZ customs. The fifth copy of the YBE containing the SEZ customs report is to be retained by the customs officer in charge of the bonded warehouse for issue of a re-warehousing certificate for the received goods. The re-warehousing certificate is to be submitted to SEZ customs within 45 days of clearance of goods from the SEZ. Failure to submit re-warehousing certificate within 45 days from the date of clearance from the SEZ would attract duty and interest.

3. BOA Empowered to Extend the Validity of Letter of Approval Granted to a SEZ unit

A proviso has been inserted under Rule 19 (4) of the Rules, to provide that the validity of the approval in Form G granted to a SEZ unit (which is valid for one year and extendable by the DC up to four years under certain conditions) may be extended by the BOA for a further period of one year, on being satisfied that it is necessary and expedient to do so.

4. Execution of Bond-cum-Legal Undertaking by the SEZ Developer/ Unit

It has been clarified that in respect of BLU executed by the SEZ developer or unit in terms of Rule 22(1)(iv) of the Rules, the amount mentioned shall be monitored quarterly or yearly based on the quarterly performance report/ annual performance report filed by the developer or unit and a fresh/additional BLU shall be executed in the case of any shortfall. While the BLU has to be executed covering requirements for three months, it may now be executed for one year orfive5 years so that the amount does not have to be monitored on a quarterly or yearly basis.

5. Validity Period of the Approval for Providing Infrastructure Facilities in a SEZ

Item (viii) of SI.No.3 in Form C of the Rules has been amended to bring the validity period of approval for providing infrastructure facilities (earlier three years) on par with the validity of the letter of approval issued to the developer.

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General Policy and Procedural Matters

1. Mechanism to Ensure Smooth Operations All through the Week

The jurisdictional DCs have been directed to make arrangements for availability of officials to address issues of SEZ units/ developers all through the week, including on holidays, to facilitate export and import activities and for temporary removal of goods to the DTA.

2. SEZ Rules, 2006, Amended by Issue of Special Economic Zones (Amendment) Rules, 2010

- In terms of Rule 3, proposals for setting up a SEZ were required to be submitted to the State Government, which in turn were to be forwarded to BOA within 45 days with its recommendations. This has been amended and also a new rule 3A inserted to provide that the proposals for setting up a SEZ and for setting up infrastructure facilities in a SEZ are now to be made to the concerned DC in Form A and Form A1, respectively. The DC would forward these to the BOA within a period of 15 days with his/her inspection report and state Government recommendations.
- Rule 5(7) has been inserted to prescribe that the developer/ co-developer is required to construct the minimum built-up area required within a period of ten years from the date of notification, of which at least 50 percent of such area is to be constructed in a period of five years from the date of notification.
- Rule 6(2a) has been amended to provide that the Letter of Approval of a developer would be valid for a period of three years within which time at least one unit has commenced production and the SEZ becomes operational from the date of commencement of such production (earlier, the developer was required to take steps to implement the proposal). The validity may be extended by the BOA for an unrestricted period, for reasons recorded in writing (earlier it was extendable by two years).
- By insertion of Rule 6(2aa), where the SEZ becomes operational, the letter of approval so granted would be valid during the period of validity of the notification of such SEZ.
- In principle the Letter of Approval of a developer is valid for a period of one year, within which time the developer would have to submit a suitable proposal in Form A. The BOA was previously empowered to extend the validity period by another two years. Rule 6(2b) has been amended to remove this time frame of two years.
- Rules 6A and 8 have been inserted to empower the Central Government to review the Letter of Approval in certain circumstances and to modify, withdraw or rescind the notification of a SEZ, respectively.
- By the amendment in Rule 11, the DC, being the authority for demarcating SEZ area, would now issue the demarcation order (earlier such orders were not issued) specifying the survey numbers and boundaries of SEZ.
- Rule 12 has been amended to extend the exemption from duty, taxes and cess to services required for authorised operations. Such exemption was earlier available only in respect of goods required for authorised operations.

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3. Transfer of Units from One SEZ to Another SEZ

In principle there is no objection for shifting of units from one SEZ to another SEZ. However, proposals for such shifting of units would be considered by the BOA on a case-by-case basis.

4. Relaxed Norms for Setting up SEZs in Small Towns

The requirement for minimum built up area for the SEZs developed in B1 and B2 category cities (B1 and B2 category cities specified in the notification) has been reduced. The minimum built up area for SEZs developed in the B1 category cities is 50 percent of the area specified in Rule 5 (2) of the Rules and for SEZs in B2 category cities, the minimum built up area is 25 percent of the area specified in Rule 5 (2) of the Rules.

5. Prior Approval of BOA Required for Import/Export of Prohibited Goods

The provisions of Rules 27 and 45 of the Rules have been amended to permit export and import of prohibited items by an SEZ unit or developer, with the prior approval of the BOA, provided such imported items cannot be procured from the DTA.

6. Guidelines for Development of SEZs

General guidelines with regard to development of SEZs have been laid out covering site identification, land acquisition, resettlement and rehabilitation policy as framed by the Ministry of Rural Development, development plan to be made by the SEZ developer, role of the State Government, physical infrastructure, etc.

7. Creation of Single Window Mechanism for Granting Various Statutory Approvals by the Ministry of Environment and Forests

The SPCBs are to follow an integrated system of clearances for processing consent to operate under water and air related laws and under various other rules and give a consolidated clearance. Also, the UAC is to include one representative of SPCBs. Further, the Ministry of Commerce would facilitate carrying out surprise inspections of the SEZ units by SPCB officials to ensure compliance with statutory approvals.

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Real Estate

1. Clarifications on Conditions Contained in Press Note 2 of 2005 - Foreign Direct Investment in Real Estate Sector

- **Original Investment and Lock-in Period**

  Press Note 2 of 2005 permits 100 percent FDI under the Automatic Route in construction-development projects, inter alia, subject to compliance with minimum capitalisation and a lock-in period of three years for original investment.

  The term original investment was not defined and hence was a subject matter of debate. The circular clarifies that original investment would mean entire amounts brought in as FDI. Furthermore, it has also been clarified that the lock-in period of three years will be applied from the date of receipt of each tranche of FDI or from the date of completion of minimum capitalisation, whichever is later.

- **Minimum Capitalisation Norms**

  As mentioned above, FDI is permitted subject to compliance with the minimum capitalisation requirement. There was ambiguity as to whether share premiums received from non-resident investors would be counted towards satisfaction of the minimum capitalisation condition. It has now been specifically clarified that in the case of a fresh issue of shares, minimum capitalisation would include share premiums actually received by the company.

2. Slum Rehabilitation Scheme of Maharashtra - Eligible for Deduction under Section 80-IB of the Act

The CBDT has notified the Slum Rehabilitation Scheme (subject to certain exclusions) contained in **Regulation 33(10) of the Development Control regulation for Greater Mumbai 1991** read with the provisions of notification No. TPB-4391/4080/UD-11(RDP) dated 3 June 1992 as an approved scheme for the purpose of deduction under Section 80-IB(10) of the Act. This is subject to the condition that any amendment to the scheme shall be required to be re-notified by CBDT.

Further, CBDT has also subsequently clarified that since the deduction under Section 80-IB(10) of the Act applies only to those projects approved before 31 March 2008, Notification No. 67 of 2010 would apply to the projects approved by a local authority on or after 1 April 2004 but before 31 March 2008.

3. Slum Redevelopment Scheme of Maharashtra - Eligible for Deduction under Section 80-IB of the Act

CBDT has notified the Scheme of Slum Redevelopment prepared by the Maharashtra Government under Sub-section 37 of the Maharashtra Regional Town Planning Act, 1966 as an approved scheme for the purposes of tax deduction under Section 80IB(10) of the Act. This is subject to the condition that any amendment to the scheme shall be required to be re-notified by CBDT. The notification is deemed to apply to projects approved by a local authority under the scheme on or after 1 April 2004 and before 31 March 2008.

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4. Conditional Abatement on Construction Related Services

With effect from 1 July 2010, abatement of 75 percent granted to commercial or industrial construction services and construction of complex services where the cost of land is not separately recovered by the builder or his/her representative and the gross amount charged includes value of goods and materials supplied or provided or used by the service provider.

5. Relaxations with Respect to Coastal Regulation Zone

Recently, the Ministry of Environment and Forest has issued CRZ Notification 2011 (repealing the erstwhile CRZ Notification of 1991) providing a revised regulatory framework for sustainable development of CRZs.

Key features of this notification are as under:

- Classifies CRZs into different categories based on ecological sensitiveness, closeness to shoreline, falling within municipal limits, rural or urban area, etc.
- Construction of roads allowed on stilts in CRZ I of Greater Mumbai provided there is no impact on the free flow of tidal water.
- Slum rehabilitation permitted in CRZ II of Greater Mumbai, if State Government is holding not less than 51 per cent in the developer entity.
- Development of Special Economic Zones prohibited in CRZ.
- Free Space Index or Floor Area Ratio as per the town and country planning regulations prevailing on the date of slum rehabilitation and redevelopment scheme project approval.
- Redevelopment projects subject to Right to Information Act, 2005 and inspection by auditors appointed by competent authorities to provide increased transparency.
- No Development Zone defined. Navi Mumbai Airport excluded from the No Development Zone.
- Timelines for clearing projects prescribed.
- Construction of hotels or beach resorts for tourists and visitors in CRZ III permitted, subject to conditions and approval from the Ministry of Environment and Forests.

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Real Estate

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Glossary

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AAC	Annual Activity Certificate	CGD	City Gas Distribution
AD	Authorized Dealers	CIC	Core Investment Companies
AEO	Authorized Economic Operator	CRR	Cash Reserve Ratio
AMFI	Association of Mutual Funds in India	CRZ	Coastal Regulation Zone
AOP	Association of Persons	CVD	Counter Veiling Duty
APA	Advance Pricing Agreement	DC	Deputy Commissioners
AS	Accounting Standard	DDT	Dividend Distribution Tax
ASBA	Applications Supported by Blocked Amount	DIPP	Department of Industrial Policy and Promotion
ASEAN	Association of Southeast Asian Nations	DNBS	Department of Non-Banking Supervision
BCD	Basic Customs duty	DRP	Dispute Resolution Panel
BLU	Bond-cum-Legal Undertaking	DTC	Direct Taxes Code
BO	Branch Office	EC Bill, 2010	The Energy Conservation (Amendment) Bill 2010
BOA	Board of Approval	ECB	External Commercial Borrowings
BOI	Body of Individuals	FCCB	Foreign Currency Convertible Bonds
BPLR	Benchmark Prime Lending Rate	FCR	Financial Condition Report
BWA	Broadband Wireless Access	FDI	Foreign Direct Investment
CAS	Conditional Access System	FEMA	Foreign Exchange Management Act, 1999
CBDT	Central Board of Direct Taxes	FII	Foreign Institutional Investors
CBEC	Central Board of Excise and Customs	FIs	Financial Institutions
CECA	Comprehensive Economic Co-operation Agreement	FIPB	Foreign Investment Promotion Board
CEPA	Comprehensive Economic Partnership Agreement	FTP	Foreign Trade Policy
CDSCO	Central Drug Standard Control Organisation	FTS	Fees for Technical Services
CFC	Controlled Foreign Companies	FTWZ	Free Trade Warehousing Zone
CFO	Chief Financial Officer	FVCI	Foreign Venture Capital Investors
CIT	Commissioner of Income tax	GAAR	General Anti Avoidance Rules

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GT	Gross Tonnage	MNC	Multi National Companies
HITS	Headend In The Sky	MNP	Mobile Number Portability
IFC	Infrastructure Finance Companies	MOU	Memorandum of Understanding
IFRS	International Financial Reporting Standards	MRP	Maximum Retail Price
IPTV	Internet Protocol Television	MSO	Multi System Operators
IRDA	Insurance Regulatory Authority of India	NBFC	Non banking finance companies
IT/ITES	Information Technology/ Information Technology Enabled Services	NCDs	Non-Convertible Debentures
IW	International Workers	NELP IX	Ninth round of New Exploration Licensing Policy
IWAI	Inland Waterways Authority of India	NFE	Net Foreign Exchange
KFDs	Key Feature Documents	NOC	No Objection Certificate
KYC	Know Your Client	NOCs	National Oil Companies
LD	Liquidated Damages	Nuclear Damage Bill, 2010	Civil Liability for Nuclear Damage Bill, 2010
LLP	Limited Liability Partnerships	OPGSPs	Online Payment Gateway Service Providers
LPG	Liquified Petroleum Gas	OTC	Over the Counter
LO	Liaison Office	Order	The Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010
LTV	Loan to Value	PDs	Primary Dealers
MAT	Minimum Alternate Tax	PE	Permanent Establishment
M&A	Mergers & Acquisitions	PNGRB	Petroleum and Natural Gas Regulatory Board
MFs	Mutual Funds	PPP	Public Private Partnership
MHA	Ministry of Home Affairs	PTG	Petroleum Tax Guide
MIB	Ministry of Information and Broadcasting	P&L	Profit & Loss Account
MMDR Amendment Act, 2010	Mines and Minerals (Development and Regulation) Amendment Act, 2010	RBI	Reserve Bank of India
MMDR Bill, 2010	Mines and Minerals (Development and Regulation) Bill, 2010	SEBI	Securities and Exchange Board of India

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SEZ	Special Economic Zone	Tribunal	Income-tax Appellate Tribunal
SFIS	Served from India Scheme	UAC	Unit Approval Committee
SLR	Statutory Liquidity Ratio	ULIPs	Unit-linked Insurance and Pension plans
SPCBs	State Pollution Control Boards	UNCITRAL	United Nations Commission on International Trade Law
STPI	Software Technology Park of India	UNFC	United Nations Framework Classification
STRIPS	Separate Trading of Registered Interest and Principal of Securities	USA	United States of America
TCS	Tax Collection at Source	VAS	Value Added Service
TDS	Tax Deduction at Source	VCF	Venture Capital Funds
TDSAT	Telecom Disputes Settlement and Appellate Tribunal	VCF Regulations	SEBI (Venture Capital Fund) Regulations, 1996
TPO	Transfer Pricing Officer	VIP	Variable Insurance Products
TRAI	Telecom Regulatory Authority of India	YBE	Yellow Bill of Entry
The Act	The Income-tax Act, 1961	Amendment order	The Telecommunication (Broadcasting and Cable Services) Interconnection (Sixth Amendment) Regulations, 2010
The Rules	SEZ Rules, 2006		

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