

Corporate Alert

April, 2010

Auditors' certificate for compliance with all the Accounting Standards to be provided to Stock Exchange along with the Scheme of Amalgamation / Arrangement

For the purpose of bringing more accuracy, efficiency and transparency in the governance of listed companies, Securities and Exchange Board of India (“SEBI”), vide its circular no. CIR/CFD/DIL/1/2010 dated April 05, 2010, has, *inter-alia*, brought an amendment under clause 24 of the Equity Listing Agreement with immediate effect.



In terms of new clause 24(i) of the Equity Listing Agreement, every listed company, while submitting scheme of amalgamation / merger / reconstruction, etc. (“Scheme”) to the stock exchange concerned is also required to submit an auditor's certificate to the effect that the accounting treatment contained in such scheme is in compliance with all the Accounting Standards specified by the Central Government in Section 211 (3C) of the Companies Act, 1956.

The said amendment is made applicable to all Schemes that are being filed with the High Courts, having jurisdiction on the matter, on or after April 5, 2010.

An exception to the above mentioned amendment has been carved out with regard to companies where the respective sectoral regulatory authorities have prescribed certain specified norms for the accounting treatment of items in the financial statements contained in scheme, in which case, the requirement of the respective regulatory authorities shall prevail.

It is pertinent to mention that para 42 of Accounting Standard-14 (“AS-14”) - Accounting for Amalgamations provides that in case the scheme of amalgamation sanctioned under a statute prescribes a different treatment for reserves of the transferor company(ies) upon amalgamation, as compared to the requirements of AS-14, then the treatment prescribed in the sanctioned scheme should be followed subject to

the required disclosures for the deviation in accounting treatment being made in the first financial statements post amalgamation. However, it is now clarified through the explanation to the newly inserted clause 24(i) of the Equity Listing Agreement, that mere disclosure of deviation in the accounting treatment, in terms of para 42 of AS-14, shall not be deemed as compliance with the said accounting standard.

Therefore, in the light of the above amendment, listed companies undergoing restructuring exercise would now have to provide justifiable reasons to the stock exchanges for any deviation in the accounting standards for obtaining no objection of the stock exchanges for the proposed Scheme.

For further queries/clarifications, please write to:

Mr. Satwinder Singh (satwinder@vaishlaw.com)



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We may be contacted at:

DELHI Flat Nos. 5-7 10, Hailey Road, New Delhi - 110001, India Phone: +91-11-4249 2525 Fax: +91-11-2332 0484 delhi@vaishlaw.com	903, 9th Floor, Indraprakash Building 21, Barakhamba Road, New Delhi - 110001, India Phone: +91-11-4249 2525 Fax: +91-11-4352 3668 ipitlavs@vaishlaw.com	MUMBAI 106, Peninsula Center, Dr. S. S. Rao Road, Parel, Mumbai - 400012, India Phone: +91-22-4213 4101 Fax: +91-22-4213 4102 mumbai@vaishlaw.com	GURGAON 803, Tower A, Signature Towers South City-I, NH-8, Gurgaon - 122001, India Phone: +91-124-454 1000 Fax: +91-124-454 1010 gurgaon@vaishlaw.com	BANGALORE Royal Arcade No. 6, 80 Ft. Road, Koramangala Industrial Area Bangalore - 560 095, India Phone: +91-80-4228 8501-02 Fax: +91-80-4228 8503 bangalore@vaishlaw.com
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