

Disclosure requirements of the Companies Act, 1994

Are they really all necessary?

Sohel Kasem, a chartered accountant, points out that framers of this piece of legislation had not done their home work

The promulgation of the Companies Act, 1994 brought good news and bad news for companies incorporated under this Act. The good news was that the age old Companies Act, 1913 had finally been repealed but the bad news was that the new Act failed to bring about positive changes and instead introduced many hardship clauses. It was generally expected that the new Act would simplify the processes of company formation, submission of returns and presentation of annual accounts, but this was hardly the case.

The new Act is based heavily on the Indian Companies Act, 1956, amended in part by The Companies (Amendment) Act, 1988. Instead of looking forward and adopting progressive laws and regulations, our legislators have instead gone back to an archaic law and a highly stringent legal and regulatory environment. Indians are, to paraphrase a statement by the Chief Executive of a major American multinational pharmaceutical company, world champions in excessive disclosure requirements. He went on to say, "we want our balance sheet to look like a balance sheet, not a phone book".

In the present context of liberalisation and deregulation, when government intervention is being drastically reduced in our country and all formalities are being simplified to attract foreign and local investment, the new Act has instead imposed far more additional, and at times unreasonable, conditions than before. This is sure to have a considerable demotivating and demoralising effect on all existing and proposed companies.

Secondly, the previous Act recognised the limitations of small and private limited companies, which in our country are essentially corporatised partnerships, and provided exemptions for private limited companies from the full range of disclosures. This exemption is also recognised in most countries of the world today, but strangely not in our new Companies Act which makes such requirements mandatory for both public and private limited companies.

While there are many areas to be discussed, this article focuses on one very important area — that of disclosure requirements of companies, both public and private.

Disclosure requirements

For listed companies, who generally have to bear the brunt of it all, these latest measures come on top of already very exhaustive requirements in force. The following statutes/rules are applicable in the case of listed companies:

- Companies Act, 1994
- Securities and Exchange Commission Rules, 1987
- Stock Exchange (DSE/CSE) Listing Rules
- International Accounting Standards, as adopted by ICAB and now mandated by SEC.

This article looks only at the disclosure requirements of the Companies Act, 1994.

Requirements laid down by the Companies Act, 1994

Parts I and II of Schedule XI of the Act list the disclosure requirements relating to the Balance Sheet and the Profit and Loss Account. With regard to the Balance Sheet, the requirements are as follows:

1. Turnover and volumes by class of goods
2. Commissions and discounts paid
3. Raw material costs and volumes by item
4. Opening and Closing Stocks
5. Work in progress
6. Depreciation
7. Taxes
8. Provisions
9. Consumption of spares and stores
10. Power & Fuel
11. Rent
12. Salaries, Wages & bonuses (and other details)
13. Repairs to buildings and machinery (Separately)
15. Contribution to Provident and other funds.
15. Staff Welfare expenses
16. Insurance
17. Property rates and taxes
18. Income from investments
19. Profit or Loss on disposal of investments
20. Detailed remuneration of Directors and Managers.
21. Dividends paid, payable and unclaimed
22. Auditors remuneration split by service
23. Installed capacity and actual production
24. Value of imports by category
25. Proportion of local raw materials, spares, etc. to total
26. Foreign exchange spent on raw material and spares imported.
27. Foreign exchange spent on royalties, professional fees, etc.
28. Number of non resident shareholders, their shareholdings and foreign exchange spent on dividends to them.

6. Disclosure of material post balance sheet events
7. Brief description of the business

In general terms, the above disclosure requirements appear to be fair and do not impose much hardship on the companies. In most cases, they were there in the earlier Act as well. The new items such as vertical form of presentation, use of previous year's corresponding figures, disclosure of material post balance sheet events are already being used by many companies in keeping with international accounting standards and reporting practices and it is generally felt that most companies should not have too much difficulty in complying with these requirements.

Profit and loss account

However, the problems start surfacing when we look at the profit and loss account. Companies are now facing tremendous difficulties in coping with such disclosure requirements — both in terms of the number as well as the nature of such requirements.

Disclosure Requirements

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*29. Details of foreign exchange earnings
What can our legislators honestly expect to achieve from imposing such a huge list of disclosures? In particular, one can seriously question the purpose and validity of some of the above items, as detailed below, although a detailed study will reveal many more items which pose problems for companies:

(a) Sl. No. 3: Raw materials costs and volumes by item

The Act requires manufacturing companies to disclose the value of the raw materials consumed, giving item-wise breakup and indicating the quantities thereof. All important basic raw materials shall be shown as separate items. The intermediates or components produced from other manufacturers are to be grouped under suitable headings and all those items which in value individually account for 100 per cent or more of the total value of the raw materials consumed shall be shown as separate and distinct items with quantities thereof in the breakup.

It is hard to determine why such extraordinary detail is required. Many companies will not have detailed records to generate the type of data required, and even if they do, this would clearly be indicative of the raw material mix and thereby infringing on the confidentiality and secrecy of a company's production processes.

(b) Sl. No 12: Salaries, Wages & Bonuses (and other details)

The Act requires disclosure of all employees earning Tk 3,000 per month or more and also of those employees earning Tk 36,000 or more in a year. This is a straight copy of the Indian companies Act, 1956, at which time obviously Rs 3,000 per month was a very handsome remuneration in India.

But if the intention of the legislators is to force companies to provide disclosure of highly paid employees, then they should look again at this section. Nowadays, peons and drivers earn more than Tk 3,000 per month and in fact even a monthly remuneration of Tk 36,000 would hardly raise an eyebrow in many established companies, let alone publicly listed companies. So what is the purpose of this disclosure requirement?

(c) Sl. No 24-25: Value of imports by category

The profit and loss account is required to show (i) Value of imports calculated on CIF basis by the company during financial year in respect of:

- (i) raw materials;
 - (ii) components and spare parts;
 - (iii) capital goods;
 - (iv) value of all imported raw materials, spare parts and components consumed during the financial year and the value of all indigenous raw materials, spare parts and components similarly consumed and the percentage of each to the total consumption;
- Such inordinate detail is unproductive and unnecessary.

Russia to cut oil output by 1 pc

MOSCOW, June 18: Russia is to back efforts by other major oil producing nations to shore up sliding prices by cutting its oil output by 63,000 barrels per day, or one per cent of volume, Deputy Prime Minister Boris Nemtsov announced yesterday according to the Interfax news agency, reports AFP.

"We may possibly be ready to continue this path (of reducing output) if the oil-exporting countries take a unified and similar decision," he said.

Washington, Tokyo sell 4b dollars to buy yen
Asian markets rebound

HONG KONG, Jun 18: Across East Asia, traders enjoyed something on Thursday they hadn't seen for months: Japan's yen pulling out of its tailspin with the US dollar, and the region's battered stock and currency markets recording some big gains.

Even China and Hong Kong, two critics of Japan's anemic economy and the responses of its government, praised Tokyo for intervening with Washington on behalf of the yen on Wednesday.

"This is exactly the type of thing that should happen," Jean-Michel Severino, a senior World Bank official, said, as the US dollar traded sharply lower against the yen to Tokyo on Thursday, one day after the United States and Japan jumped into global currency markets to halt its slide, according to AP.

But others were less optimistic. "This is definitely not a turning point in the crisis," said Carlton Poon, head of research for Worldsec International Ltd. in Hong Kong. The fundamentals in Asia continue to deteriorate, and the markets cannot sustain the gains, he said.

A stronger yen could reduce the risk of more East Asian economies slipping into recession as the one-year anniversary of the region's financial crisis nears, Severino said.

Currency traders estimate that Washington sold two billion dollars to buy yen and that Tokyo sold a similar amount of dollars.

In Tokyo, the dollar bought 136.38 yen in mid-afternoon, down 5.62 yen from 142.00 yen late Wednesday in Tokyo but marginally higher than its late New York rate of 136.37 yen overnight.

Following the lead of the Dow Jones Industrial Average, which posted a 164.17 point gain on Wednesday, the Tokyo Stock Exchange's Nikkei Stock Average jumped by 646.16 points, 4.39 per cent, to close the day's trading at 15,361.54 points.

Shares also were soaring in early trading in Hong Kong, Taiwan, the Philippines, New Zealand and Australia.

In Thailand, South Korea and Indonesia, East Asia's most troubled economies, the key stock indexes were trading higher by 10.7 per cent, 7.1 per cent and 3.7 per cent, respectively.

Across Southeast Asia, currencies opened sharply higher on Thursday as well, following the example of the rallying yen. But the dollar was recovering slightly as trading progressed.

For months, Japan's yen had been sliding against the US dollar, leading some economists to believe that the East Asian financial crisis could enter a far more dangerous phase that would hurt the United States and the rest of the world.

On Saturday, Group of Seven finance deputies, including US Deputy Treasury Secretary Lawrence Summers, will meet in Tokyo to discuss the economic problems of Japan and many of its neighbours.

In a telephone conversation on Wednesday, Prime Minister Ryutaro Hashimoto of Japan told US President Bill Clinton that his government would speed efforts to pull Japan out of a deepening recession. But Japan has many other problems, including mountains of bad loans, rising unemployment, falling consumer spending.

The weak yen has made Japanese goods abroad cheaper, undercutting products from other nations and provoking criticism that Japan was trying to export its way out of trouble. The government has unveiled a \$117 billion economic stimulus plan, but analysts question how impact it will have.

Poon, the official in Hong Kong, said market participants in Asia are still waiting to see what Japan does beyond the temporary relief of the currency intervention by Tokyo and Washington.

"Let's hope they can contain the damage in Japan before it gets to innocent third parties and leads to a global recession," Poon said in an interview.

The officials said PAL will soon file a petition before Manila's Securities and Exchange Commission to allow the suspension and prevent creditors from hauling away the airlines' assets.

Zapanta said PAL will also cut its operations to match the number of available pilots, resulting in the cancellation of most regular international and domestic flights.

The strike cost the company more than two billion pesos (\$ 50 million) in lost revenue, PAL said.

PAL announced on Monday it will lay off 5,000 workers — nearly 40 per cent of its 13,000-member work force — in an effort to survive.

The airline was already in serious financial shape before the strike due to an ambitious four billion dollar modernization programme launched shortly before Asia's currency crisis, which reduced passenger numbers and inflated operating and loan repayment costs.

Officials said the rehabilitation programme includes a suspension of payments on the airline's estimated two billion dollars in debt owed to foreign and local creditors and aircraft lessors.

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Vincet Palazzolo, a yen trader with The Sumitomo Bank Ltd, works at a computer terminal on Wednesday in New York. In the latest sign of the seriousness of the Asian crisis, the United States intervened in currency markets to prop up the flagging Japanese currency.

Thai trade fair to begin in city next month

"Thai Trade Fair 1998" is expected to be opened here next month during the visit of Thailand's Deputy Foreign Minister Sukhumbhand Paribatra, reports BSS.

Paribatra is expected to arrive here on 8th July at the invitation of State Minister for Foreign Affairs Abul Hasan Chowdhury.

Commerce and Industries Minister Tofael Ahmed is scheduled to open the week-long fair soon after the arrival of Paribatra, the tentative programme said.

Bilateral talks between the two countries will be held on July 9. It will be followed by exchange of notes on convention on avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income between Bangladesh and Thailand.

The two countries already have a number of agreements and they are maintaining good relations, a source at the ministry of foreign affairs said. The source said a good number of Thai businessmen are active in Bangladesh.

Paribatra is expected to attend a symposium on "trade and investment opportunities in Bangladesh for Thai businessmen."

He will also have interactions with leaders of the private sector.

Bangladesh Shilpa Bank
Head Office: Dhaka
Law Department
Sale Notice

Mortgaged Assets of M/s Rupsha Poultry Farm (Pvt) Ltd, Kaiabazar, Khulna

Annual capacity: (1) 16,32,000 ps. eggs, (2) 4,000 ps. old chickens, (3) 17.3 M ton natural fertiliser.

Mortgaged land, building and machinery of M/s. Rupsha Poultry Farm (Pvt.) Ltd, Khulna will be sold by the Bangladesh Shilpa Bank (BSB) on cash payment and on "as-is-where-is basis" for realising BSB's arrear loan and dues of Tk. 14.18 lac as on 30-06-97 plus additional interest and other expenses until realisation of this amount from the above company and its directors as per Article 34 of BSB Order, 1972 (PO No. 129/72) read with BSB (Direct Sale of Mortgaged Property) Rules, 1980.

2. Bangladesh Shilpa Bank will not assume any legal obligation whatsoever on behalf of the company and/or its directors in respect of any dues/claims of government and/or autonomous bodies such as WASA, local municipality, electric and gas supply authority, land revenue and other creditors.

3. The following persons are the directors of the company:
(1) Mr. Quazi Abdul Maleque, S/o. Alhaj Quazi Toffazzel Hossain, Vill. Jarda, P.O. & Ps. Bera, Dist. Pabna, (2) Mr. Quazi Sherful Alam, S/o. Quazi Alamgir Hossain, Mitha Pukurpur, Bagerhat, (3) Mrs. Makshura Yasmin, W/o Quazi Abdul Maleque, (4) Mrs. Mahpara Chowdhury, W/o Quazi Sherful Alam.

4. Schedule of property:
All that piece & parcel of land measuring an area of land 46 decimal bearing Khatian No. 164(CS)105 (SA) in the Plot No. 185 under Razbad Mouza JL. No. 2, Ps. Batiaghata, Dist. Khulna together with all superstructures made or to be made thereon and the right of use of any gas, water, electric main & drain sewers whereby the said premises are drained, all the plant, machinery & electrical equipment installed or to be installed thereon.

5. Tender schedule containing the details of the assets and properties (along with the list of machinery) may be obtained from the Law Department, BSB, Head Office, Dhaka on cash payment of Tk. 250/- (Taka two hundred & fifty) only (Non-refundable).

6. Intending tenderers/buyers may drop their tenders/offers in sealed cover along with earnest money (refundable) @5% of the quoted value in Bank Draft/Pay Order in favour of Bangladesh Shilpa Bank in the tender box kept at the abovementioned department on 7-7-98 at 12.00 Noon.

7. On acceptance of offer, the successful bidders/tenderers shall have to deposit 50% of the bid or tendered money within 7 (seven) days and the balance within 30 (thirty) days from the date of acceptance of tender. In case of failure in making payment of the bid amount within stipulated time, the earnest money or the tender money (as the case may be) shall be forfeited and the mortgaged property may be resold. The project assets will be handed over to the successful bidder(s) by the bank on fulfilment of the conditions.

8. Tenders will be opened on 7-7-98 at 12-30 PM at the aforesaid department in presence of the tenderers (if any). For further information, if any, the undersigned may be contacted. Bidders may purchase the abovementioned movable and immovable property in a lot or separately.

9. The BSB reserves the right to accept or reject any or all tender/offer without showing any reason.

Deputy General Manager
GD-483 Phone: 9556682

PAL to decide on its fate in 3 months

By Jim Gomez, AP writer

MANILA, June 18: Philippine Airlines will decide in three months whether it will continue in business or shut down because of crippling financial troubles worsened by a pilots' strike, an official said on Thursday.

PAL's decision will depend on the results of a rehabilitation plan launched to cope with the impact of the strike by more than 600 pilots. Senior Vice President Avelino Zapanta said.

"By that time, we'll have a clear idea of where we are headed," Zapanta said.

PAL fired all the striking pilots after they ignored a government back-to-work order and now has only 25 management pilots left.

The pilots' union went on strike June 5 to protest an airline plan to retire certain pilots who have reached 20 years of service or flown 20,000 hours, regardless of age. The plan puts 225 pilots in danger of forced retirement, the union says.

The labour department, however, has upheld PAL's power to retire the pilots, which is included in a collective bargaining agreement signed by the union and management.

Government of the People's Republic of Bangladesh
Office of the Executive Engineer (R&H)
Narayanganj Road Division
Shimrail, Narayanganj

R&H Tender Invitation Notice

1. Tender Notice No : 377/Narayanganj Road Division, year 1997-98.
2. Name of work : Work of sealcoat including repair at the 45th KM (part) of Narsingdi-Madanganj road under Narayanganj Road Division during 1997-98 fiscal year.
3. Estimated cost : Tk 86,331/-
4. Earnest money : Tk 1,727/- in favour of the undersigned in the form of Bank Draft/Treasury Chalan/Defence Savings Certificate/5-year Bangladesh Sanchayaptra/Bonus Sanchayaptra.
5. Time allowed for work : 15 (fifteen) days.
6. Eligibility of contractors : From 'A' to 'E' general categories enlisted contractors.
7. Offices where tender will be available : Executive Engineer (R&H), Road Division, Dhaka/Manikganj/Munshiganj/Cazipur/Narsingdi/Narayanganj and Sub-Divisional Engineer. (R&H), Bitikandi/ Narayanganj Road Sub-Division.
8. Offices where tender will be received at : Superintending Engineer (R&H), Dhaka Road Circle, Dhaka and Executive Engineer (R&H), Narayanganj Road Division, Shimrail, Narayanganj.
9. Last date and time of selling tender : 28-6-98 (Till office hours).
10. Date and time of receiving tender : 29-6-98 at 12-30 PM.
11. Date and time of opening tender : 30-6-98 at 1:00 PM, Executive Engineer (R&H), Narayanganj Road Division.
12. Date and time of lottery : 1-7-98 at 1:00 PM.
13. Expenditure head : 266-Development.
14. Official to approve : Superintending Engineer (R&H), Dhaka Road Circle, Dhaka.
15. Cost of tender : Tk 250/- per set (non-refundable).

Sahabuddin
Executive Engineer (R&H)
Narayanganj Road Division.

DFP 1361-15/6/98
G-1445

Short Auction Tender Notice (2nd Call)

1. Auction Tender : 6-ECT (Raj) (1997-98).
Notice No
2. Name of work : Sale of 95 different types of trees and firewood in auction at different KM of Chuadanga-Jibannagar-Kaliganj Road (as per tender schedule) under Executive Conservator of Trees, R&H during 1997-98 fiscal year.
3. Approved prices : As per group list.
4. Earnest money : As per survey report
5. Time of felling and removal of trees : 10% (ten per cent) of the quoted price as the earnest money in the form of Treasury Chalan, Pay Order, BD, CD (Which are changeable in any scheduled bank in Rajshahi City) will have to be submitted in favour Executive Conservator of Trees, R&H, Rajshahi (As mentioned in tender) along with tender.
6. Eligibility of participants in tender : All classes of contractors of Directorate of R&H/timber trader/firm and any interested financially solvent person.
7. Name of offices where auction tender to be sold from : Executive Engineer, R&H, Planning (Road & Bridge), Sarak Bhaban, Ramna, Dhaka, Executive Engineer, R&H, Road Division, Kushtia, Executive Engineer, R&H, Road Division, Jessore, Road Sub-Division, Chuadanga and office of the undersigned on any day during office hours on payment of usual fees.
8. Name of offices where tender auction to be received at : Chief Conservator of Trees, R&H, Paikpara Mirpur, Dhaka, Superintending Engineer, R&H, Road Circle, Jessore, Executive Engineer, R&H, Road Division, Kushtia and office of the undersigned.
9. Last date of selling tender : 28/06/98 (Till office hours).
10. Last date of receiving auction tender : 29/06/98 (Till 12-00 Noon).
11. Date and time of opening of auction tender : Auction tender will be opened after collecting them in sealed cover from other offices.
12. All descriptions in details can be had at the office of the undersigned during office hours and the interested buyers can see the trees in the road mentioned and as per tender and can remain present in the office of the undersigned on the day of opening the tender.

Md Abdul Hamid
Executive Conservator of Trees, R&H, Rajshahi

DFP-1361-15/6/98
G-1444