

WEEKLY CORPORATE UPDATES

Saturday 24th September, 2022

(Curated & compiled by)

Team Indiacorp Law

Headed by:

Adv. (CS) Alok Kumar Kuchhal, M. Com, LL.B., FCS, Insolvency Professional

Disclaimer:

Whilst we endeavour to ensure that the information in the newsletter is correct, we do not warrant or represent its completeness or accuracy.

The information contained in this newsletter is provided by M/s Indiacorp Law, Solicitors and Advocates as a service/promotion to its users, subscribers, customers and possible others. It does not contain (legal) advice. Although we try to provide quality information, we do not guarantee of results obtained from the use of this information, and without warranty of any kind, express or implied, including, but not limited to warranties of performance for a particular purpose.

In no way M/s Indiacorp Law, Solicitors and Advocates is liable to user or any other party for any damages, costs of any character including but not limited to direct or indirect, consequential, incidental or other costs or damages, via the use of the information contained in the newsletters

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

MCA UPDATES

The Companies (Corporate Social Responsibility Policy) Amendment Rules, 2022

Notification No:G.S.R. 715(E)

Dated: 20th September, 2022

The Ministry of Corporate Affairs (MCA) vide its notification dated 20thSeptember, 2022 has notified “the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2022” which has come into force on the date of its publication in the Official Gazette.

According to the amendment, the proviso to rule 3(1) has been inserted stating that, a company having any amount in its Unspent Corporate Social Responsibility Account as per section 135(6) shall constitute a CSR Committee and comply with the provisions contained in sub-sections (2) to (6) of the said section.”

In case of CSR implementation, the Board shall ensure that the CSR activities are undertaken by the company itself or through a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, established by the company, either singly or along with any other company; or a company as mentioned above is having an established track record of at least three years in undertaking similar activities.

Further, a Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed two percent of the total CSR expenditure for that financial year or fifty lakh rupees, whichever is higher; and the format for the annual report on CSR activities to be included in the board’s report for financial year commencing on or after the 1stDay of April, 2020 has been substituted.

Related Link:<https://egazette.nic.in/WriteReadData/2022/238956.pdf>

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

SEBI UPDATES

SEBI issues framework to prevent misuse of clients' securities by brokers

Dated: 19th September, 2022

Capital markets regulator SEBI put in place a new framework which will prevent misuse of clients' securities and funds by their stock brokers. Under the framework, depositories need to validate the transfer instruction for pay-in of securities from client demat accounts to trading member pool accounts against obligations received from the clearing corporations. The framework, applicable from November 25, 2022 is aimed at further mitigating the risk for clients' securities, especially those given towards delivery/settlement obligations.

Related Link: https://www.businessstandard.com/article/markets/sebi-issues-framework-to-prevent-misuse-of-clients-securities-by-brokers122091900909_1.html

SEBI issues circular on Validation of Instructions for Pay-In of Securities from Client demat account to Trading Member (TM) Pool Account against obligations received from the Clearing Corporations

Circular No.: SEBI/HO/MIRSD/DoP/P/CIR/2022/119

Dated: 19th September, 2022

The Securities and Exchange Board of India on 19th September 2022, has notified a new framework on Validation of Instructions for Pay-In of Securities from Client demat account to Trading Member (TM) Pool Account against obligations received from the Clearing Corporations.

Under this framework, the Depositories, prior to executing actual transfer of the securities for Pay-In from client demat account to TM Pool account, shall validate the transfer instruction received through any of the available channels for the purpose of Pay-in, i.e. either initiated by clients themselves or by the Power of Attorney (POA) / Demat Debit and Pledge Instruction (DDPI) holder against the client-wise net delivery obligation received from clearing corporation (CC)

Depositories receive the debit instruction for the purpose of Pay-In, given either by client himself using depository's online system or eDIS mandate or through depository participant based on physical DIS / digitally signed DIS given by client or POA / DDPI holder. Based on the obligation data provided by CCs, Depositories shall validate the depository transfer instruction details with CC obligation details based on UCC, TM ID, CM ID, Exchange ID, ISIN, quantity, settlement details etc.

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

Related Link: https://www.sebi.gov.in/legal/circulars/sep-2022/validation-of-instructions-for-pay-in-of-securities-from-client-demat-account-to-trading-member-tm-pool-account-against-obligations-received-from-the-clearing-corporations_63032.html

SEBI comes out with framework for social stock exchange

Circular No.: SEBI/HO/CFD/PoD-1/P/CIR/2022/120

Dated: 19th September, 2022

Capital markets regulator SEBI came out with a detailed framework for social stock exchange, specifying minimum requirements for a Notfor-Profit Organisation (NPO) for registering with the bourse and disclosure requirements. This came after the SEBI, in July, notified rules for Social Stock Exchange (SSE) to provide social enterprises with an additional avenue to raise funds. SSE is a novel concept in India and such a bourse is meant to serve the private and non-profit sectors by channelling greater capital to them. The idea of SSE was first floated by Finance Minister Nirmala Sitharaman in her Budget speech for the financial year 2019-20.

Related Link: https://www.sebi.gov.in/legal/circulars/sep-2022/framework-on-social-stock-exchange_63053.html

What are web intelligence tools that SEBI wants to use for surveillance

Dated: 20th September, 2022

Market regulator, the Securities and Exchange Board of India (SEBI), has reportedly decided to deploy a 'web intelligence tool' to increase surveillance of social media and other online platforms. The intention is to probe violations of securities laws by individuals, groups, and other entities.

Related Link: https://www.business-standard.com/article/technology/what-are-web-intelligence-toolsthat-sebi-wants-to-use-for-surveillance-122092000415_1.html

Exit barriers for customers not acceptable: SEBI Chief to Fintechs

Dated: 21st September, 2022

Securities and Exchange Board of India's (SEBI) chairperson Madhabi Puri Buch warned fintech companies not to act against the interests of investors by creating hurdles for exiting their products and making lofty claims of returns. She said fintech providers should not have a business model that builds barriers for customers to exit.

"If your business model suggests that once the customer is in, then there is no exit for them. We do not like it," said Buch at the Global Fintech Fest in Mumbai. The regulator does not want 'Abhimanyus' in the market, said Buch.

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/exit-barriers-for-customers-not-acceptable-sebi-chief-to-fintechs/articleshow/94361863.cms>

SEBI takes measures to strengthen firewall between CRAs, non-rating entities

Circular No.: SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2022/ 121

Dated: 21st September, 2022

Markets regulator SEBI asked credit rating agencies (CRAs) to formulate a policy on firewall practices with the non-rating entities and document the same in their internal operational manuals. Such a policy will have to be ratified by the board of directors of the CRAs, the Securities and Exchange Board of India (SEBI) said in a circular. The policy on firewall practices would cover the nature and extent of sharing of infrastructure, employees and resources between the CRA and the non-rating entity, including specification on whether such arrangement is temporary. In order to mitigate any conflict of interest, the policy needs to have guidance to employees on sharing of information and resources between the CRA and the non-rating entity.

Related Link: https://www.sebi.gov.in/legal/circulars/sep-2022/firewall-between-credit-rating-agencies-and-their-affiliates_63205.html

Issue and listing of Commercial Paper by listed REITs/InvITs

Circular No.: SEBI/HO/DDHS/DDHS_Div3/P/CIR/2022/ 122&

SEBI/HO/DDHS/DDHS_Div3/P/CIR/2022/ 123

Dated: 22nd September, 2022

SEBI vide its two separate circulars has provided that, REITs/InvITs may issue listed commercial papers subject to that REITs/InvITs shall abide by the guidelines prescribed by Reserve Bank of India for issuances of commercial papers and shall abide by the conditions of listing norms prescribed by SEBI under SEBI (Issue and Listing of NonConvertible Securities) Regulations, 2021 and circulars issued thereunder. Further provided that, the issuance of listed CPs shall be within the overall debt limit permitted under SEBI (Real Estate Investment Trusts) Regulations, 2014 and SEBI (Infrastructure Investment Trusts) Regulations, 2014.

Related Link: https://www.sebi.gov.in/legal/circulars/sep-2022/issue-and-listing-of-commercial-paper-by-listed-reits_63264.html

https://www.sebi.gov.in/legal/circulars/sep-2022/issue-and-listing-of-commercial-paper-by-listed-invits_63263.html

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

SEBI may step up disclosure requirements for IPOs of new-age companies

Dated: 23rd September, 2022

The Securities and Exchange Board of India (SEBI) is planning to step up disclosure requirements for initial public offerings (IPOs) of new-age companies. The SEBI may also bring transactions in mutual fund (MF) units under the purview of insider trading regulations, the report noted, adding that the decisions could be taken at SEBI's board meeting scheduled for September 30, 2022. SEBI is likely to mandate companies to provide a relatively detailed explanation of how they price their IPOs, compare pricing to pre-IPO share sales, and disclose all the presentations made to pre-IPO investors. The regulator may also ask companies to provide key performance indicators (KPIs) in their offer documents.

Related Link: <https://www.moneycontrol.com/news/business/ipo/sebi-may-beef-up-disclosurerequirements-for-ipo-of-new-age-companies-9218961.html>

RBI UPDATES

Compliance Function and Role of Chief Compliance Officer (CCO)- Urban Cooperative Banks

Notification No.: RBI/2022-2023/118

Dated: 19th September, 2022

As part of the overall structure for Corporate Governance, the Compliance Function serves a critical role. Therefore, it has been decided to introduce certain principles, standards and procedures for Compliance Function in UCBs, keeping in view the principles of proportionality. Accordingly, captioned circular shall be applicable to all UCBs under Tier 3 and Tier 4 categories except UCBs under All Inclusive Directions (AID). UCBs under Tier 1 and Tier 2 categories shall continue to be governed under the existing guidelines. The UCBs under Tier 4 category shall put in place a Board-approved policy and a Compliance Function, including the appointment of a Chief Compliance Officer (CCO), based on specified framework. The UCBs under Tier 3 category shall implement the same latest by October 1, 2023.

RelatedLink: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12389&Mode=0>

RBI Working Paper No. 12/2022: Predicting Exchange Rate in India: A Nonparametric Causality-in-Quantiles Approach

Press Release No.: 2022-2023/892

Dated: 19th September, 2022

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

The Reserve Bank of India on September 19, 2022 placed on its website a Working Paper titled “Predicting Exchange Rate in India: A Non-parametric Causality-in-Quantiles Approach” under the Reserve Bank of India Working Paper Series. Using the nonparametric causality-in-quantiles approach, the paper examines the relationship between the INR/USD exchange rate, and the crude oil and gold prices, domestic and global stock prices, volatility index (VIX) and net foreign portfolio investments under various foreign exchange market conditions. This investigation is carried out for the different quantiles of the conditional distribution of the exchange rate. The empirical analysis indicates that most of the selected variables exhibit causality with the exchange rate of the INR for all quantiles excluding the two extreme ends of the conditional distribution.

Related Link: https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=54390

RBI Working Paper No. 13/2022: Is Implied Volatility Index (VIX) a Forward Looking Indicator of Stock Market Movements in India?

Press Release No.: 2022-2023/893

Dated: 19th September, 2022

The Reserve Bank of India on September 19, 2022 placed on its website a Working Paper titled “Is Implied Volatility Index (VIX) A Forward-Looking Indicator of Stock Market Movements in India?” under the Reserve Bank of India Working Paper Series. The paper examines the relationship between the implied volatility index (VIX) and stock market movements in India over the last decade. It finds that negative returns in the stock index generate larger changes in implied volatility as compared to positive returns. The size of the return also influences the relative change in the implied volatility index.

Related Link: https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=54391

RBI Working Paper No. 14/2022: Monetary Policy Independence under a Flexible Exchange Rate Regime – The Indian Case

Press Release No.: 2022-2023/903

Dated: 21st September, 2022

The Reserve Bank of India on September 21, 2022 placed on its website a Working Paper titled “Monetary Policy Independence under a Flexible Exchange Rate Regime – The Indian Case” under the Reserve Bank of India Working Paper Series. The major findings of the paper are: There is a high degree of sterilisation of the increase in money supply that results from forex market interventions in India & Forex market interventions during surges in capital flows to contain the INR volatility lead to an increase in M3, which however is found to be neither inflationary nor elicits a policy rate response by the RBI; this points to RBI’s monetary policy independence not facing much constraints from its exchange rate policy and financial openness.

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

Related Link: https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=54401

IBA forms key working group of banks on sustainability

Dated: 23rd September, 2022

In a first, the Indian Banks' Association (IBA) has set up a large working group, comprising representatives of about a dozen-and-a-half key banks, solely for handling issues covering the entire spectrum of sustainability and green financing, in light of the growing importance of this segment in the financial sector. This working group will play an important role in firming up recommendations on sustainability finance and could be a useful tool for authorities ahead of India's G20 presidency in December, where Environmental, Social And Governance (ESG) issues will be a major talking point among participating countries.

Related Link: <https://www.financialexpress.com/industry/bankingfinance/iba-forms-key-working-group-of-banks-onsustainability/2687854/>

Rupee hits new low vs USD on hawkish Fed; poll shows currency at 81 by December

Dated: 23rd September, 2022

The rupee on September 22, 2022 hurtled to a new low against the dollar, weakening 1.1 per cent, as the Federal Reserve (Fed) on September 21, 2022 not only raised interest rates but signalled a longer monetary tightening cycle than was expected earlier. After suffering its steepest single-day fall since the Ukraine war broke out, the rupee settled at 80.87 as against 79.98 at the previous close. The domestic currency has depreciated 8 per cent so far in 2022.

Related Link: https://www.businessstandard.com/article/finance/rupee-sinks-to-new-lowsuffers-worst-single-day-fall-since-ukraine-war122092201032_1.html

United Nations Security Council Resolutions (UNSCR) 1718 Sanctions Committee on Democratic People's Republic of Korea (DPRK) amends 02 existing entries on its Sanctions List

Notification No.: RBI/2022-2023/119

Dated: 19th September, 2022

Circular DoR.AML.REC.03/14.06.001/2021-22 dated April 08, 2021 advising Regulated Entities (REs) to adhere to the 'Implementation of Security Council Resolution on Democratic People's Republic of Korea Order, 2017' as amended from time to time by the Central Government and also verify every day, the 'UNSCR 1718 Sanctions List of Designated Individuals and Entities', as hyperlinked in 'Implementation of

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

UNSC Sanctions (DPRK)' webpage of the Ministry of External Affairs (MEA) website at <https://www.mea.gov.in/Implementation-of-UNSC-Sanctions-DPRK.htm>, to take note of the modifications to the list in terms of additions, deletions or other changes.

2. In this connection, Ministry of External Affairs (MEA) has informed that on September 14, 2022, the Committee established pursuant to UNSC Resolution has enacted the amendments to two (2) entries on its Sanction List of individuals and entities. The changes have been made only in the existing entries of this Sanction List and pertains to IMO number of individuals / entities. The updated consolidated Sanctions List of individuals and entities is enclosed.

3. REs are advised to take note of the aforementioned instructions regarding Security Council Resolution on DPRK and ensure meticulous compliance.

Related Link: https://www.businessstandard.com/article/finance/rupee-sinks-to-new-lowsuffers-worst-single-day-fall-since-ukraine-war122092201032_1.html

IBBI UPDATES

IBBI amends the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 – Press Release

Dated: 20th September, 2022

The Insolvency and Bankruptcy Board of India notified the Insolvency and Bankruptcy Board of India (Liquidation Process) (Second Amendment) Regulations, 2022 ('Amendment Liquidation Regulations') and Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) (Second Amendment) Regulations, 2022 ('Amendment Voluntary Liquidation Regulations') on 16th September, 2022.

Various amendments have been made in the Liquidation Regulations to enable better participation of stakeholders and reduce delays in Liquidation process to realize better value. Some of these are:

- The CoC constituted during to the CIRP shall continue to functions as Shareholders Consultation Committee (SCC) in the first 60 days and thereafter, after adjudication of claims, SCC shall be reconstituted.
- It is mandatory for the Liquidator to conduct SCC meetings in a structured and time bound manner.
- If any claim is not filed during the liquidation process, then the liquidator shall verify the claims collated during CIRP.
- In case the CoC decides to explore compromise or arrangement during the liquidation process, the liquidator shall file application for considering the proposal of compromise or arrangement to the Tribunal within 30 days of liquidation order.

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

RelatedLink:<https://ibbi.gov.in/uploads/press/03d27e5e5dc4803aeda40f44e0050152.pdf>

IBBI amends the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2016

Dated: 20th September, 2022

The Insolvency and Bankruptcy Board of India (IBBI/Board) notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons)(Fourth Amendment) Regulations, 2016 (CIRP Regulations) on 16th September, 2022.

The amendment brings forth the following major modifications in the CIRP process for Corporate Persons:

- In order to maximize the value in resolution, the amendment enables the RP and CoC to issue the request for resolution plan for the second time also in case no resolution has been received for the corporate debtor.
- It enables marketing of the assets of the Corporate Debtor in order to disseminate information about the assets to a larger potential applicant. It has further increased the time limit for expression of interest to 60 days from insolvency commencement date (ICD).
- It provides certain changes in the timelines to improve information availability to stakeholders
- It enables the CoC to explore the option of compromise or arrangement before passing of the liquidation order by the AA.

Related Link:<https://ibbi.gov.in/uploads/press/5789c46394f1eb1211858f1dadcdb362.pdf>

SC Holds that Approval of a Resolution Plan in respect of one Borrower cannot certainly discharge a Co-Borrower

Dated: 22nd September, 2022

While adjudicating an application filed in the matter Maitreya Doshi Vs. Anand Rathi Global Finance Ltd. and Anr, (2022) ibclaw.in 114 SC, the Hon'ble Supreme Court held that on a parity of reasoning that the approval of a resolution plan in relation to a Corporate Debtor does not discharge the guarantor of the Corporate Debtor, the approval of a resolution in respect of one borrower cannot certainly discharge a co-borrower.

If there are two borrowers or if two corporate bodies fall within the ambit of corporate debtors, there is no reason why proceedings under Section 7 of the IBC cannot be initiated against both the Corporate Debtors. Needless to mention, the same amount cannot be realised from both the Corporate Debtors. If the

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

dues are realised in part from one Corporate Debtor, the balance may be realised from the other Corporate Debtor being the co-borrower. However, once the claim of the Financial Creditor is discharged, there can be no question of recovery of the claim twice over.

Related Link:<https://ibclaw.in/maitreya-doshi-vs-anand-rathi-global-finance-ltd-and-anr-supreme-court/>

SC rules that before the CoC is constituted, there is no bar to withdrawal by the applicant of an application admitted under Section 7 of the IBC

Dated:23rd September, 2022

The Hon'ble Supreme Court in the case of **Ashok G. Rajani Vs. Beacon Trusteeship Ltd. &Ors(2022) ibclaw.in 115 SChas** held that in order to allow a section 12A withdrawal application, the question of approval of 90% voting shares of CoC can arise only after the CoC is constituted. Before the constitution of CoC, there is no bar of getting the approval of the requisite percentage of votes to withdraw the section 7 or section 9 or section 10 application.

It further held that any financial creditor would not be prevented from taking recourse to a proceeding under IBC in case of withdrawal of an application for CIRP by the applicant. The urgency to abide by the timelines for completion of the resolution process is not a reason to stifle the settlement.

Related

Link:<https://cdn.ibclaw.online/insolvency/sc/2022/Ashok+G.+Rajani+Vs.+Beacon+Trusteeship+Ltd.+%26+Ors.+22.09.2022-+Supreme+Court.pdf>

Thanking You,

Team Indiacorp

0120 - 421 4372, 8826016751, 9810894275

indiacorp@live.com, info@indiacorplaw.com

www.indiacorplaw.com

Disclaimer:

This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither India Corp Law nor any other member of the India Corp Law organization can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)