

WEEKLY CORPORATE UPDATES

Saturday 19th November, 2022

(Curated & compiled by)

Team Indiacorp Law

Headed by:

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SEBI UPDATES

Market regulator Sebi plans to streamline disclosure framework

Dated: 14 November, 2022

The Securities and Exchange Board of India (Sebi) has plans to give a fillip to disclosure requirements to encourage better information symmetry at listed firms.

Under the current regulations, companies need to disclose any event such as acquisition, merger, demerger, restructuring, or sale of any unit which will have an impact on the business.

In its consultation paper dated November 12, Sebi has proposed new thresholds for so-called 'material disclosures'.

Under this, if an event is expected to impact at least 2 per cent of a company's turnover, 2 per cent of net worth, or 5 per cent of the three-year-average profit or loss after tax will be seen as 'material disclosure'.

The need for quantifying a material event has been felt as many entities have purportedly not been disclosing such events on the ground that they are not considered material by them, according to their materiality policy.

The capital markets regulator is also considering halving the time provided to companies for disclosure from 24 hours to 12. Furthermore, in the case of decisions taken in a board meeting, it has been proposed to disclose the information within 30 minutes.

Sebi has also proposed a specific provision to mandate confirmation or denial by the top 250 listed entities on material information reported by the media.

For confidential information, the regulator may later come up with guidance for such disclosures.

Related Link: https://www.business-standard.com/article/economy-policy/market-regulator-sebi-plans-to-give-a-fillip-to-disclosure-requirements-122111401473_1.html

SEBI Introduces New Option for Appointment, Removal of Independent Directors; Entities With Listed NCDs to Obtain NOC From Stock Exchanges Before Filing of Scheme of Arrangement With the NCLT

Dated: 15 November, 2022

Capital markets regulator Securities and Exchange Board of India (SEBI) has introduced a new option for appointment and removal of independent directors from the boards of companies, a move that will provide flexibility to such a process.

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Under this, the appointment and removal of independent directors could be done by way of two parameters—threshold for ordinary resolution and threshold for majority of minority shareholders.

Currently, the appointment, re-appointment or removal of independent directors is made through a special resolution. For a special resolution to be passed, 75% of 'yes' votes are needed from a company's board.

To give these effects, SEBI has amended LODR (Listing Obligations and Disclosure Requirements) rules, according to a notification made public by the regulator on Tuesday.

Under the alternate mechanism, if the special resolution for appointment of an independent director does not get the requisite majority, then two other thresholds—for ordinary resolution and for the majority of minority shareholders—would be tested.

If the resolution crosses the two above-mentioned thresholds in the same voting process, then such a resolution for appointment of the independent director would be deemed to be approved by shareholders.

Related Link: <https://www.moneylife.in/article/sebi-introduces-new-option-for-appointment-removal-of-independent-directors-entities-with-listed-ncds-to-obtain-noc-from-stock-exchanges-before-filing-of-scheme-of-arrangement-with-the-nclt/68909.html#:~:text=Under%20this%2C%20the%20appointment%20and,made%20through%20a%20special%20resolution.>

Sebi plans to bring new complaints system

Dated: 15 November, 2022

Sebi is planning to overhaul the existing investors complaint system SCORES by introducing a newer version of its website and mobile application features.

In this regard, the Securities and Exchange Board of India (Sebi) has invited expressions of interest (EoIs) from interested parties to replace the old system with a new version, according to a notice on Friday.

SCORES (SEBI Complaints Redressal System) is an online platform designed to help investors lodge their complaint pertaining to the securities market, mainly against listed companies and registered intermediaries. It was made operational in June 2011.

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/sebi-plans-to-bring-new-complaints-system/articleshow/95618399.cms>

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New Recognition to Company Secretary under SEBI Circular

Dated: 15 November, 2022

The Institute in furtherance of its Continuous endeavors to provide new opportunities to its members pro actively makes representations and submit its views/suggestions/ comments on various Consultation/Discussion Papers/Reports issued by the SEBI and seeks opportunities for its members in the area of Securities Laws.

Related Link: https://www.sebi.gov.in/legal/circulars/nov-2022/registration-and-regulatory-framework-for-online-bond-platform-providers_65014.html

RBI UPDATES

On evaluation mode. RBI to meet bank chiefs to take stock of sustainability of double-digit credit growth

Dated: 13 November, 2022

The Reserve Bank of India Governor Shaktikanta Das has called for a meeting with the chiefs of public sector banks and select private sector banks on November 16 to take stock of the sustainability of the robust credit growth, and gauge if there are any risks lurking in banks' loan portfolio in the backdrop of rising interest rates.

The RBI will also seek details on slow growth in deposits and asset quality of retail and MSME loans.

This comes even as all scheduled banks have logged a double-digit credit growth of 17.68 per cent year-on-year (yoy) as on October 21, 2022, per RBI data. This meeting assumes significance as it comes in the run-up to the forthcoming meeting of the Monetary Policy Committee (MPC), which is scheduled to meet from December 5 - 7.

Credit demand has been broad-based -- retail, industry, MSME (micro, small and medium enterprise), and agriculture and allied activities, according to bankers.

Related Link: <https://www.thehindubusinessline.com/money-and-banking/rbi-to-meet-bank-chiefs-to-take-stock-of-sustainability-of-double-digit-credit-growth/article66131998.ece>

RBI releases "Handbook of Statistics on Indian States, 2021-22"

Dated: 13 November, 2022

Press Release: 2022-2023/1233

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The Reserve Bank of India released the seventh edition of its statistical publication titled "Handbook of Statistics on Indian States 2021-22". Through this publication, the Reserve Bank has been disseminating wide-ranging data on the regional economies of India.

This publication covers sub-national statistics on socio-demographics, state domestic product, agriculture, price and wages, industry, infrastructure, banking and fiscal indicators across Indian states over various time periods ranging from 1951 to 2021-22. In the current edition of the Handbook, two new sections viz., Health and Environment are introduced.

In addition to the updation of the existing data series, 9 new tables have been included on the following indicators:

- i) **Social and Demographic Indicators**
 - State-wise Maternal Mortality Ratio, 1999-01 to 2017-19; and
 - State-wise Total Fertility Rate, 2003 to 2020.

- ii) **Health**
 - State-wise Children Aged 6-59 Months Who are Anaemic, 2005-06 to 2019-21; and
 - State-wise Pregnant Women Aged 15-49 Years Who are Anaemic, 1998-99 to 2019-21

Related Link: https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=54731

NCLT AND IBBI UPDATES

Tax Authorities as Secured creditors: Liquidation preferred over Resolution

Dated: 14 Nov 2022

The paramount objective of the Insolvency and Bankruptcy Code is to maximize the value of assets of the corporate debtor and ensure its revival.

Related Link

[:https://www.taxmann.com/research/ibc/top-story/10501000000022257/tax-authorities-as-secured-creditors-liquidation-preferred-over-resolution-experts-opinion](https://www.taxmann.com/research/ibc/top-story/10501000000022257/tax-authorities-as-secured-creditors-liquidation-preferred-over-resolution-experts-opinion)

RP can invite 'fresh resolution plans' or 'earlier resolution plans' when resolution plan was rejected/ referred back to CoC

Dated: 14 Nov 2022

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Where NCLT rejected application filed by Resolution Professional (RP) seeking approval of resolution plan and directed matter to be referred back to CoC to consider other resolution plans in accordance with law and words 'other resolution plans' nowhere in any manner imported words either 'fresh resolution plans' or 'earlier resolution plans'.

Related Link:

<https://www.taxmann.com/research/ibc/top-story/10101000000326625/rp-can-invite-fresh-resolution-plans-or-earlier-resolution-plans-when-resolution-plan-was-rejected-referred-back-to-coc-caselaws>

Govt asks state-owned firms to consider insolvency court to shut loss-making units

Dated: Nov 15, 2022

India has asked state-owned firms to consider moving the country's insolvency court to shut loss-making units, hoping for speedier resolutions as the government looks to slim down its public sector holdings.

Public sector companies will have to file an insolvency application under the Insolvency and Bankruptcy Code (IBC) for the resolution of a loss-making unit within three months of approval from a committee comprising top cabinet ministers, according to guidelines released by the government on Monday.

The government is looking to close loss-making units in nearly nine months from the day a firm seeks approval to do so.

Related Link:

<https://economictimes.indiatimes.com/news/economy/policy/govt-asks-state-owned-firms-to-consider-insolvency-court-to-shut-loss-making-units/articleshow/95530779.cms>

File for insolvency after 90-day default: IBBI Chief tells lenders

Dated: Nov 16, 2022

Lenders should file for insolvency proceeding against a company as soon as a 90-day default occurs to prevent erosion in the value of the assets, Insolvency and Bankruptcy Board of India (IBBI) chairman Ravi Mittal has said.

There is a concern that the Insolvency and Bankruptcy Code (IBC) is losing its sheen due to excessive delays and loss of value in the resolution process, he pointed out in the board's quarterly report released this week.

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"It is noticed that more than a year is being taken by financial creditors in filing corporate insolvency and resolution process applications post occurrence of default," Mittal said. "This delay leads to erosion in the value of assets. Thus, the creditors need to change their behaviour and submit the CIRP application early as soon as default has occurred."

Related Link:

<https://economictimes.indiatimes.com/news/economy/policy/file-for-insolvency-after-90-day-default-ibbi-chief-tells-lenders/articleshow/95541121.cms>

Moratorium u/s 14 of IBC isn't an embargo on attachment of tainted property of Corporate Debtor u/s 5 & 8 of PMLA: HC

Dated: 17 Nov 2022

Moratorium u/s 14 of IBC is not an embargo on attachment of tainted property of CD under sections 5 & 8 of PMLA.

Related Link:

<https://www.taxmann.com/research/ibc/top-story/101010000000327304/moratorium-us-14-of-ibc-isnt-an-embargo-on-attachment-of-tainted-property-of-corporate-debtor-us-5-8-of-pmla-hc-caselaws>

Supreme Court to decide if PMLA overrides IBC

Dated: Nov 17, 2022,

The Supreme Court is expected to soon decide on whether the Prevention of Money Laundering Act (PMLA) overrides the Insolvency and Bankruptcy Code (IBC). The apex court will also provide its views on whether moratorium also applies to action initiated by the Enforcement Directorate (ED).

Related Link:

<https://economictimes.indiatimes.com/news/india/supreme-court-to-decide-if-pmla-overrides-ibc/articleshow/95565891.cms>

Reasonable opportunity of being heard isn't required to be given by CoC in case of replacement of a RP : NCLAT

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Dated: 19 Nov 2022

In terms of section 27, CoC is empowered to change RP with a majority of 66 per cent votes and no opportunity of hearing is to required be given to RP by NCLT before approving resolution of CoC for replacement of RP,

Related Link:

<https://www.taxmann.com/research/ibc/top-story/101010000000325838/reasonable-opportunity-of-being-heard-isnt-required-to-be-given-by-coc-in-case-of-replacement-of-a-rp-nclat-caselaws>

SC declines to allow GUVNL to terminate PPA with CD in liquidation which was willing and able to supply power

Dated: 19 Nov 2022

SC declines to allow power buyer to terminate PPA with CD in liquidation as CD has not suspended power supply & is willing and able to supply power.

Related Link

<https://www.taxmann.com/research/ibc/top-story/101010000000327370/sc-declines-to-allow-guvnl-to-terminate-ppa-with-cd-in-liquidation-which-was-willing-and-able-to-supply-power-caselaws>

Thanking You,

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