

WEEKLY CORPORATE UPDATES

Saturday 14th January, 2023

(Curated & compiled by)

Team Indiacorp Law

Headed by:

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Wish you all a Happy and Prosperous Makar Sakranti

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MCA UPDATES

Release Plan of 45 Company e-Forms in MCA 21 V3

General Circular No.: 01/2023

Dated: 9th January, 2023

The Ministry of Corporate Affairs on 9th January, 2023 has informed the stakeholders that as part of the migration of MCA forms from MCA 21 V2 to MCA 21 V3, 45 statutory forms will not be available on the MCA21 V2 from 7th January, 2023 to 22nd January, 2023 till the migration is completed on 22nd January, 2023. Stakeholders have been given 15 days additional time to file these forms without additional fees if their due date falls during the period from 7th January, 2023 to 22nd January, 2023.

Related

Link: <https://www.mca.gov.in/bin/dms/getdocument?mcs=xHxXexcBmc5%252Bd%252FsJEzXiw%253D%253D&type=open>

Filing of Forms GNL-2 (filing of prospectus related documents) and MGT-14 (filing of Resolutions relating to prospectus related documents) due to migration from V2 to V3 in MCA 21 Portal

General Circular No. 02/2023

Dated: 9th January, 2023

The Ministry of Corporate Affairs (MCA) has issued a Circular notifying the filing of Forms GNL-2 (filing of prospectus related documents) and MGT-14 (filing of Resolutions relating to prospectus related documents) due to migration from V2 to V3 in MCA 21 Portal from 7th January, 2023 to 22nd January, 2023.

The Ministry has decided that the Companies intending to file Forms GNL-2 (filing of prospectus related documents) and MGT-14 (filing of resolutions relating to prospectus related documents) on the MCA-21 Portal between 7th January, 2023 to 22nd January, 2023, may submit such forms in physical form, duly signed by the person concerned as per the requirements of the relevant forms with the concerned Registrar without payment of fee and take acknowledgement.

Such filing will be accompanied by an undertaking from the Company that once the filing of such Form is enabled on the portal, the Company shall file the relevant Form in electronic form on MCA-21 Portal along with fees payable as per Companies (Registration Offices and Fees) Rules, 2014.

Related Link:

<https://www.mca.gov.in/bin/dms/getdocument?mcs=WsznZ2ZG2R%252BWuZ7rNx7pWA%253D%253D&type=open>

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SEBI UPDATES

SEBI permits AMCs to provide advisory services to all FPIs at IFSC

Dated: 06 Jan, 2023

SEBI permitted asset management companies (AMCs) to provide management and advisory services to all Foreign Portfolio Investors (FPIs) operating from International Financial Services Centres (IFSCs). This is subject to certain conditions, including that such FPIs will be allowed to invest in mutual fund schemes other than the schemes in the category of "thematic". For investment in equity and equity derivative securities listed on recognised stock exchanges in India, the FPIs will not be allowed to take contra-position for six months from the date of purchase or sale of such securities. Earlier in December 2019, SEBI had allowed AMCs to provide management and advisory services to appropriately regulated FPIs that include pension funds, insurance companies and banks.

Related Link:https://www.business-standard.com/article/markets/sebi-permits-amcs-to-provide-advisory-services-to-all-fpis-at-ifsc-123010601071_1.html

SEBI proposes standard approach for valuation of AIF investments

Dated: 06 Jan, 2023

SEBI has proposed a standard approach for valuing the investment portfolio of Alternate Investment Funds (AIFs) to bring convenience to investors. In a consultation paper floated on Friday, the capital markets regulator has proposed that AIFs will be mandated to carry out valuation as per International Private Equity and Venture Capital Valuation Guidelines (IPEV guidelines). These guidelines specify that the techniques can determine value on market approach based on financials or market prices, income approach based on discounted cash flows or replacement cost approach based on net asset valuation techniques.

Related Link:https://www.business-standard.com/article/markets/sebi-proposes-standard-approach-for-valuation-of-aif-investments-123010601087_1.html

Non-promoter shareholders allowed to sell stake via OFS: Sebi

Dated: 10th January, 2023

The Securities and Exchange Board of India (Sebi) has modified the existing framework for conducting an offer for sale (OFS) of securities by companies by allowing non-promoter stakeholders to opt for the same.

Until now, only promoter and promoter group entities were allowed to sell stake through the offer for sale on bourses.

In case a non-promoter shareholder of a company offers scrips through the OFS mechanism, promoter or promoter group entities can participate in the same to purchase shares subject to compliance of certain provisions, the market regulator said in a release.

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The OFS mechanism will now be available to companies with a market capitalisation of Rs 1,000 crore and above. The threshold of the market cap will be computed as the average daily market cap for 6 months' period prior to the month in which the OFS opens.

According to the revised framework, the minimum size of an OFS must be Rs 25 crore. However, the size of the offer can be lesser than Rs 25 crore for promoter and promoter group entities to meet minimum public shareholding norm in a single tranche, the regulator said.

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/non-promoter-shareholders-allowed-to-sell-stake-via-ofs-sebi/articleshow/96885949.cms>

SEBI permits exchanges to unveil multiple contracts in same commodity

Dated: 12th January, 2023

Capital markets regulator SEBI on Thursday allowed stock exchanges to introduce multiple contracts in the same commodity in a bid to encourage broader participation of investors in commodity derivatives market.

This would come into force with immediate effect, the Securities and Exchange Board of India (SEBI) said in a circular. The move came after the stock exchanges expressed their concerns before SEBI that due to the requirement of a single contract on a particular commodity, except for gold, silver and precious metals, the participation of investors, especially in metal contracts, is limited.

Also, the stock exchanges have suggested SEBI to introduce multiple contracts on same commodity to cater to all value-chain participants.

"Accordingly, after due consultations, it has been decided that stock exchanges may be allowed to launch multiple contracts in same commodity," the markets regulator said.

A derivative contract, which has a commodity as its underlying, is known as a 'commodity derivatives' contract. Generally, the commodities traded in commodity derivatives market are classified into two broad categories — agricultural commodities and non-agricultural commodities.

Related Link: <https://www.thehindu.com/business/sebi-permits-exchanges-to-unveil-multiple-contracts-in-same-commodity/article66369963.ece>

SEBI lays down SOP for stock exchange outages

Dated: 12th January, 2023

Sebi came out with a standard operating procedure (SOP) asking stock exchanges to inform about trading disruptions to stakeholders within 15 minutes from such occurrence and extending trading time by one-and-a-half hours in certain outage conditions. The move came amid instances of technical snags impacting the overall trading system.

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"If due to any technical reason or otherwise, continuous trading on stock exchanges is disrupted, it is of paramount importance that not only all market participants including other MIIs are promptly informed about the outage but also the trading hours are extended, if required, so as to provide opportunity for smooth closure of intraday positions," Sebi said in a circular.

Under the SOP, stock exchange that suffered the outage will have to intimate about the outage to various stakeholders such as market participants, trading members and other market infrastructure institutions (MIIs) within 15 minutes from occurrence of an outage through broadcast message and by publishing on its website.

Related Link: <https://legal.economictimes.indiatimes.com/news/industry/sebi-puts-in-place-sop-for-handling-of-stock-exchange-outage-extension-of-trading-hours/96871829#:~:text=Sebi%20on%20Monday%20came%20out,hours%20in%20certain%20outage%20conditions.>

SEBI to extend trading hours in case of outage at stock exchanges

Dated: 09th January, 2023

SEBI has issued guidelines for extension of trading hours in case of an outage at a stock exchange along with standard operating procedures for stock exchanges for handling such an outage. In a circular issued on 9th January, 2023, the capital markets regulator said that an outage would mean stoppage of continuous trading, either suo motu by the exchange or by reasons beyond their control. "If the trading on the affected stock exchange does not resume to normalcy even one hour before the scheduled market closure, trading hours for all stock exchanges would automatically get extended for additional one and half hours for that day," said SEBI. Moreover, if the outage is during the last trading hour and latest before 15 minutes of normal market closure, trading hours of all stock exchanges will be extended. This implies that if there is a failure to start pre-opening by 2:15 pm, then trading hours will be extended till 5 pm for the day.

Related Link:

https://www.business-standard.com/article/markets/sebi-to-extend-trading-hours-in-case-of-outage-at-stock-exchanges-123010901209_1.html

SEBI Clarifies on Mode of Payment, For Settlement of Trades on RFQ Platform

Dated: 09th January, 2023

Capital markets regulator Sebi on Monday said payment mechanisms provided by banks and payment aggregators can be used for settlement of trades in the debt securities executed on the request for quote (RFQ) platform of stock exchanges.

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This is in addition to the existing payment mechanism of Real-Time Gross Settlement (RTGS) provided by banks, the Securities and Exchange Board of India (Sebi) said in a circular.

As a matter of practice, presently, stock exchanges are using RTGS channel as a mode of settlement for trades executed on the RFQ platform with respect to listed corporate bonds, commercial paper, and securitised debt instruments.

The clarification came after stock exchanges and market participants sought clarification as to whether payment mechanisms other than RTGS provided by banks or payment aggregators can be permitted for settlement of trades executed on the RFQ platform.

"It is clarified that in addition to the existing payment mechanisms, payment mechanisms provided by banks/ payment aggregators authorised by Reserve Bank of India, from time to time, may be used for settlement of trades executed on the RFQ platform," Sebi said.

Related Link: https://www.business-standard.com/article/markets/sebi-clarifies-on-mode-of-payment-for-settlement-of-trades-on-rfq-platform-123010901206_1.html

Sebi allows virtual meetings for REITs, InvITs unitholders via video call

Dated: 11th January, 2023

Capital markets regulator Sebi on Friday allowed investment managers of investment vehicles -- REITs and InvITs-- to conduct meetings of unitholders through video conferencing and other audio-visual means.

The move would allow maximum participation of unitholders in the decision-making process and help in better governance.

Under the rules, an annual meeting of all unitholders of real estate investment trusts (REITs) and infrastructure investment trusts (InvITs) need to be held within 120 days from the end of a financial year and the time between two meetings should not exceed 15 months.

Further, managers of such investment instruments are also required to hold meetings of unitholders for certain matters.

In two separate circulars, Sebi said it has decided to allow investment managers of REITs and InvITs to conduct meetings of unitholders through video conferencing (VC) and other audio-visual means (OAVM).

For conducting such meetings, they need to comply with the procedure prescribed by the regulator. Among other requirements, recorded transcripts of the meetings held through VC or OAVM should be maintained in the safe custody of the investment managers of InvITs or managers of REITs.

Also, InvITs and REITs are required to upload the transcripts on their respective websites as soon as possible after the conclusion of the meetings.

Related Link: https://www.business-standard.com/article/economy-policy/sebi-allows-virtual-meetings-for-reits-invits-unitholders-via-video-call-123011300877_1.html

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RBI UPDATES

Issuance Calendar for Marketable Sovereign Green Bonds: FY 2022-23

Dated: 06th January, 2023

As announced in the Union Budget 2022-23, Government of India, as part of its overall market borrowings, will be issuing Sovereign Green Bonds (SGrBs), for mobilising resources for green infrastructure. The proceeds will be deployed in public sector projects which help in reducing the carbon intensity of the economy. Accordingly, it was notified in the Half-yearly issuance calendar for marketable dated securities for the second half of the fiscal year 2022-23 on September 29, 2022 that SGrBs for an aggregate amount of ₹16,000 crore would be issued. Government of India has since issued the Sovereign Green Bond Framework on November 09, 2022. The Reserve Bank of India, in consultation with the Government of India, has decided to notify the indicative calendar for issuance of SGrBs for the fiscal year 2022-23.

Related Link: https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=55004

Government gets multiple preliminary bids for buying 61% stake in IDBI Bank

Dated: 08th January, 2023

The Centre on January 07, 2023 received multiple Expressions of Interests (EoIs) from domestic and foreign investors for the 60.72% stake in IDBI Bank, which will go to the successful bidder along with management control. On October 7 last year, the Centre invited EoIs for IDBI Bank and offered to sell a total of 60.72% stake worth over Rs. 38,550 crore at current market prices, comprising 30.48% from the government and 30.24% from LIC, along with the transfer of management control.

Related Link: <https://indianexpress.com/article/business/banking-and-finance/govt-gets-multiple-preliminarybids-for-buying-61-stake-in-idbi-bank-8368014/>

Cabinet clears Rs. 2,600 cr scheme to promote RuPay debit card: Officials

Dated: 11th January, 2023

The Cabinet on January 11, 2023 approved a Rs. 2,600 crore scheme for promoting RuPay debit cards and low-value BHIM-UPI transactions. Under the scheme, banks would be provided financial incentives for promoting Point of Sale (PoS) and e-commerce transactions using RuPay and UPI in the current financial year.

Related Link: https://www.business-standard.com/article/finance/cabinet-clears-rs-2-600-cr-scheme-topromote-rupay-debit-card-officials-123011100842_1.html

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RBI Working Paper No. 01/2023: Measuring Contagion Effects of Crude Oil Prices on Sectoral Stock Price Indices in India

Dated: 12th January, 2023

The Reserve Bank of India placed on its website a Working Paper titled, “Measuring Contagion Effects of Crude Oil Prices on Sectoral Stock Price Indices in India” under the Reserve Bank of India Working Paper Series. The paper uses

the Generalized Pareto Distribution (GPD) for estimating excess returns or exceedances, defined as deviations – above and below, thresholds. The Multinomial Logit Model (MNL) framework is then used for determining the probability of contemporaneous exceedances or co-exceedances, occurring the same day for 10 sectoral Indian stocks and global crude oil returns during the period from January 2007 to December 2020. The literature defines this probability of co-exceedances as contagion effect.

Related Link: https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=55037

RBI Working Paper No. 02/2023: Tail Risks of Inflation in India

Dated: 12th January, 2023

The Reserve Bank of India placed on its website a Working Paper titled, “Tail Risks of Inflation in India” under the Reserve Bank of India Working Paper Series. This paper estimates the tail risks, i.e., the upside and downside risks to Consumer Price Index (CPI) inflation in India using a quantile regression framework. The paper examines the impact of various domestic and global macroeconomic factors, besides the role of the Flexible Inflation Targeting (FIT) regime in influencing inflation tail risks.

Related Link: https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=55036

IBC & NCLT UPDATES

NCLT Delhi Dismisses Insolvency Plea Against Hindustan Times; “Not a Dispute Redressal Forum”

Dated: 08th January, 2023

M/s JHS Svendgaard Ltd. (“Operational Creditor”) entered into an Advertising Agreement with the HT Media Ltd. (“Corporate Debtor”) 25th January, 2017 and in furtherance Operational Creditor made a security deposit of Rs 80 Crores. The aim of the security deposit is to use it as a supply of advertisement services by the Corporate Debtor. Then on 25th January, 2022 Corporate Debtor terminated the agreement. Operational Creditor asserted that unused funds from the security deposit total at Rs. 5,39,39,475 and had to be repaid. After this Operational Creditor has issued a demand notice under Section 8 of IBC, 2016 demanding the unused fund but Corporate Debtor didn’t respond

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to the notice. After that Operational Creditor filed a petition under Section 9 of IBC, 2016 for commencement of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor for the default. NCLT Delhi bench dismissed the petition stating that the NCLT is not a dispute redressal forum, and a petition was sought for a disputed debt.

Related Link: <https://www.livelaw.in/news-updates/nclt-delhi-dismisses-insolvency-plea-against-hindustan-times-not-a-dispute-redressal-forum-218373>

'Moratorium U/S 14(1) IBC Applies Only To Corporate Debtor; Non-Corporate Debtors U/S 141 NI Act Continue To Be Statutorily Liable': Kerala HC

Dated: 11th January, 2023

The Kerala High Court on Thursday held that the moratorium provision enshrined in Section 14 (1) of the Insolvency and Bankruptcy Code would only apply to corporate debtors, and the non-corporate debtors under Section 141 of the Negotiable Instruments Act would continue to be statutorily liable under Chapter XVII of the Act.

As regards the application of the principles of vicarious liability under criminal law as has been provided under Section 141 of the NI Act is concerned, the Single Judge bench of Justice A. Badharudeen observed that, the same could not be fastened due to civil liability.

Related Link: <https://www.livelaw.in/news-updates/moratorium-us-141-ibc-applies-only-corporate-debtor-non-corporate-debtors-us-141-ni-act-continue-statutorily-liable-kerala-hc-218668>

NCLAT gives approval for merger of multiplex operators PVR and Inox

Dated: 12th January, 2023

The National Company Law Tribunal (NCLAT) on Thursday approved the merger of multiplex operators PVR and Inox, the two chains said in separate filings to the stock exchanges.

Related Link: <https://brandequity.economicstimes.indiatimes.com/news/business-of-brands/nclat-refuses-interim-relief-to-google-on-ccis-rs-936-cr-penalty-in-play-store-policies-matter/96931722#:~:text=In%20a%20setback%20to%20Google,to%20its%20Play%20Store%20policies>

NCLAT refuses interim Relief to Google on CCI's Rs 936-Cr penalty in play store policies matter

Dated: 12th January, 2023

In a setback to Google, the National Company Law Appellate Tribunal (NCLAT) on Wednesday declined to grant interim relief to the tech Giant seeking a stay on competition watchdog CCI's Rs 934.44-crore penalty on it for abuse

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of dominant position with respect to its Play store polices. The appellate tribunal has directed Google to deposit 10 percent of the fine before its registry in the next four weeks.

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Link:

<https://brandequity.economictimes.indiatimes.com/news/business-of-brands/nclat-refuses-interim-relief-to-google-on-ccis-rs-936-cr-penalty-in-play-store-policies-matter/96931722>

NCLT allows Jalan-Kalrock Consortium to take control of Jet Airways

Dated: 13th January, 2023

The National Company Law Tribunal (NCLT) on Friday allowed an Application by the Kalrock-Jalan Consortium to implement its resolution plan for Jet Airways and infuse funds to revive the grounded airline.

The Tribunal Gave the Corsortium 180 days beyond November 16 to make payments to Creditors and Employees.

The Consortium can now take over the airlines, but it could face a legal challenge as lenders may appeal against the tribunal's order, according to industry sources.

Related

Link: https://www.business-standard.com/article/companies/nclt-allows-jalan-kalrock-consortium-to-take-control-of-jet-airways-123011300655_1.html

Reliance Communications undersea cable landing station sealed by Thiruvananthapuram Municipal Corporation

Dated: 09th January, 2023

The cable landing point for Reliance Communications in that area has been blocked by the Thiruvananthapuram Municipal Corporation. Legal officials revealed that Reliance Communications cable landing assets in Thiruvananthapuram were confiscated due to non-payment of dues during the National Company Law Tribunal proceedings held on Monday. Reliance Communications has yet to sell its cable landing stations, despite having just recently sold its tower and optical fibre assets to Reliance Jio as part of the process to allow lenders to collect their debt. The full effects of the order by the Thiruvananthapuram Municipal Corporation are yet unknown due to the company's protracted financial difficulties.

Related

Link: <https://www.thehindubusinessline.com/info-tech/rcoms-undersea-cable-landing-station-sealed-by-thiruvananthapuram-municipal-corporation/article66357586.ece>

NCLT Mumbai Approves Adani Goodhome's Resolution Plan for Radius Estates & Developers

Dated: 11th January, 2023

D B Realty said that National Company Law Tribunal (NCLT) gave approval to Adani Goodhomes' resolution plan for Radius Estates, a JV partner of MIG (Bandra) Realtors & Builders, a subsidiary of the company. MIG (Bandra) Realtors

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& Builders, a wholly owned subsidiary of D B Realty is holding development rights of Project Ten BKC (X BKC), Kalanagar, Bandra East, and Mumbai.

The project was being developed in joint venture with Radius Estates, which underwent corporate insolvency under the insolvency and bankruptcy code (IBC). Adani Good homes submitted a resolution plan in the course of the IBC process and MIG provided its consent to the resolution plan.

In the meanwhile, as part of the arrangement, construction of the project re-commenced in January 2022 and the civil work of the slabs of 12 wings is 100% completed and the balance of 3 wings is 95% completed. All RCC work is expected to be completed by end of next month.

The project is on track and the entire project is expected to be completed by June 2024, with a few month's buffer. MIG (Bandra) Realtors & Builders has collected an amount of approximately Rs 100 crore from existing home owners and new sales in the last quarter. MIG has 3,72,572 square feet of unsold saleable area in the project. DB Realty is engaged primarily in the business of real estate construction, development, and other related activities.

Related Link: <https://www.rprealtyplus.com/news-views/nclt-approval-to-adani-goodhomes-resolution-plan-for-radius-estates-109118.html>

M&A UPDATES

USA's VIAS3D acquires CADmarC Software, its first acquisition in India

Dated: 10th January, 2023

USA-headquartered VIAS3D, a specialised provider of digital engineering solutions and its subsidiary in India, have announced the acquisition of India-based CADmarC Software, which marks its first acquisition in India.

The Houston, Texas-based organisation says it has made successful acquisitions in the USA and Mexico in the past, as a part of its growth strategy which will significantly augment its reach in both traditional and emerging markets.

CADmarC Software is a specialist engineering company engaged in providing customized design-based solutions to industries, enabling them to expand their solutions and services to multiple industries and regions in India.

With rapid economic growth in India, VIAS3D plans to mark its presence in the geography and double its combined install base in the next 3 years. It aims to double its revenue by 2025, growing at 30 to 50% CAGR per year by supporting Industries such as electric vehicles, high tech, manufacturing and aerospace defense and space in their product development.

Related Link: <https://www.financialexpress.com/express-mobility/usas-vias3d-acquires-cadmarc-software-its-first-acquisition-in-india/2942267/>

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OTHER UPDATES

Central Consumer Protection Authority issues notices to e-commerce entities for selling toys that violate compulsory BIS Standards

Dated: 12th January, 2023

The Central Consumer Protection Authority (CCPA) issued notices to e-commerce entities, Amazon, Flipkart and Snapdeal for sale of toys in violation to standards directed for compulsory use by the Central Government. CCPA has sought response from the e-commerce entities within 7 days from issuance of notice, failing which necessary action may be initiated against them under the provisions of the Consumer Protection Act, 2019. CCPA has also written to

Director General, Bureau of Indian Standards (BIS) to take immediate cognizance of the matter and take necessary action. CCPA has expanded the country-wide campaign to prevent sale of spurious and counterfeit goods that violate Quality Control Orders (QCOs) published by the Central Government to include consumer durables such as electric immersion water heaters, electric iron, domestic gas stove, microwave oven, sewing machines etc. In this regard, CCPA has written to District Collectors across India to investigate unfair trade practices and violation of consumer rights concerning manufacture or sale of such goods and submit Action Taken Report to CCPA. Under Section 2(10) the Consumer Protection Act, 2019, "defect" means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods or product and the expression "defective" shall be construed accordingly.

Related Link: <https://pib.gov.in/PressReleasePage.aspx?PRID=1890737>

Thanking You,

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