

WEEKLY CORPORATE UPDATES

Saturday 01st July, 2023

(Curated & compiled by)

Team Indiacorp Law

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MCA UPDATES

Offline payment process to pay challans directly on Bharatkosh website

Dated: 30th June, 2023

The Ministry of Corporate Affairs has released a toolkit for the offline payment process. Stakeholders can now generate challans on the MCA website and pay them directly on the Bharatkosh website instead of MCA redirecting the payment option to Bharatkosh.

Related Link: mca.gov.in/content/dam/mca/pdf/Help-Kit-Offline-Payment-Process-20230629.pdf

SEBI UPDATES

SEBI to treat finfluencers selling crorepati dream as fraudulent, misleading activity

Dated: 30th June, 2023

Amid growing cases of frauds and misplaced advice given by finfluencers, markets regulator Securities and Exchange Board of India (Sebi) will soon come out with measures to restrict those selling the crorepati dream on social media channels.

Sebi also wants regulated entities like brokers, mutual funds and exchanges to stop dealing with unregistered finfluencers. After a board meeting on Wednesday night, Sebi chairperson Madhabi Puri Buch said a discussion paper to regulate financial influencers will be out in the next couple of months.

"(They say that) if you trade, you will earn in lakhs and crores. You will become crorepati in two years. They already say that you can make lakhs every day. This is inducement. Those who are genuine experts know that nothing of that sort happens in the market. There is no guarantee. Even Warren Buffett makes losses," Buch said. She said the problem is only with inducement and telling people that there is a guaranteed way to make money. "It will be treated as a fraudulent and misleading activity," Buch said, adding that the regulator welcomes those who are genuinely educating people and raising investor awareness.

"Regulated entities like exchanges, brokers and mutual funds won't be able to give advertising or equity or profit sharing or referral fee to unregistered entities. We think that if you are a regulated entity with Sebi, your partners should also be regulated. You won't be able to advertise with unregulated entities. You won't be able to give them referral fees or give your link on their platforms," she said.

In some cases, the money finfluencers earn by selling trading courses and workshops is even higher than their own trading income. Last month, in the first instance of action against a finfluencer, Sebi had fined YouTuber and well-known options trader PR Sundar Rs 6.5 crore and banned him from the market for a year for violating investment adviser norms.

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Sebi's investigation revealed that Sundar was operating the website prsundar.blogspot.com where he offered various packages for providing advisory services. Payments for these services were collected through a payment gateway linked to the bank account of Mansun Consultancy, of which Sundar is a co-promoter.

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/sebi-to-treat-finfluencers-selling-crorepatri-dream-as-fraudulent-misleading-activity/articleshow/101368840.cms>

SEBI fines Vedanta Rs. 30 lakhs for breaching listing and disclosure norms

Dated: 30th June, 2023

MUMBAI - The Securities and Exchange Board of India (Sebi) has imposed a penalty of Rs 30,00,000 on Vedanta Ltd for violation of listing and disclosure norms. Vedanta has to make the payment within 45 days of receipts of this order, the regulator said.

Sebi fined the mining major for incorrect disclosures pertaining to its plan to enter into the semiconductor business. On February 14, 2022, news reports stating that Vedanta has partnered Foxconn to make semiconductors in India started circulating.

Following this, stock exchanges sought a clarification from Vedanta, to which the company replied that the said business was to be conducted by holding company Volcan Investments Ltd.

However, a press release issued by the company later stated "Vedanta signs MoUs with Government of Gujarat to set up semiconductors and display fab units." When enquired by the exchanges, the company came up with a statement that the press release was made inadvertently on its letterhead and the same was immediately replaced.

"The Noticee (Vedanta) has been treating the listed company website as the billboard for the promoter company...it appears that the noticee, being a listed company, is a repeat offender, with total disregard to the investors' interest," Sebi said in the order. The efforts taken by the company to take corrective actions were wanting and the actions was far delayed, it added.

Based on the findings, the regulator concluded that the allegation against the company of violating disclosure norms, stand established. "The act of the noticee, which is a listed company to carry the news not pertaining to its operations on the website leads to providing misleading information to the investors of the public limited company," the regulator said.

On Friday, shares of Vedanta ended nearly 1% down on the National Stock Exchange at Rs 277.95.

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/sebi-fines-vedanta-rs-30-lakh-for-breaching-disclosure-norms/articleshow/101400059.cms>

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SEBI to strengthen investor grievance handling mechanism

Dated: 29th June, 2023

Mumbai: Markets watchdog Sebi on Wednesday decided to revamp its complaint redressal system as part of efforts to strengthen the investor grievance handling mechanism. At its meeting here, the Sebi board cleared various measures to boost the investor grievance handling mechanism and linking SCORES (Sebi Complaint Redress System) with the Online Dispute Resolution Mechanism.

It would also look at reducing timelines, introducing auto-routing of the complaint to concerned regulated entities, and auto-escalation of complaints in case of non-adherence to the prescribed timelines by the regulated entity.

Among others, Sebi, in a release after the board meeting, said it would also provide two levels of review. The first review would be by the designated body if the investor is dissatisfied with the resolution provided by the regulated entity concerned.

Linking SCORES with Online Dispute Resolution (ODR) platform would provide an additional option for investors of all regulated entities. The revised norms will come into effect from January 1, 2024.

The board has cleared amendments to Sebi (Listing Obligations and Disclosure Requirements) Regulations, 2015 requiring listed entities having outstanding listed NCDs (as on December 31, 2023) to list their subsequent issuances of NCDs at the stock exchanges.

Certain issuances, including capital gains tax debt securities, will be exempted from the revised framework. "Non-convertible securities issued pursuant to an agreement entered into between the listed entity of such securities and multilateral institutions, subject to the condition that such non-convertible debt securities shall be locked-in and held till maturity and accordingly shall be unencumbered," the release said.

According to Sebi, if an entity with listed debt securities has outstanding unlisted NCDs as on December 31, 2023, the entity will have the option to list them, but it would not be mandatory to do so.

"Accordingly, the board has approved the proposal to additionally facilitate participation by entities desiring direct participation (not through a clearing member) in repo transactions in corporate bonds of the LPCC," the release said.

The launch of LPCC is expected to facilitate active trading, especially by market makers, by enabling them to finance their inventory of bond holdings through an active repo market. This in turn is expected to improve liquidity in the corporate bond market, it added. Meanwhile, the board also approved Sebi's annual report for 2022-23.

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/sebi-to-strengthen-investor-grievance-handling-mechanism/articleshow/101348133.cms>

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SEBI introduces ASBA-like facility for secondary market trading

Dated: 27th June, 2023

With an aim to safeguard investors' money from misuse and default by stock brokers, Sebi on Monday introduced a supplementary process for trading in the secondary market based on blocked funds in an investor's bank account, instead of transferring them upfront to the trading member. This is similar to Application Supported by Blocked Amount (ASBA)-like facility already available for the primary market which ensures that money from an investor gets moved only when an allotment happens.

The new facility will become live by January 1, 2024, the Securities and Exchange Board of India (Sebi) said in a circular. While a UPI block upon creation would be considered towards collateral, the same would also be available for settlement purposes. For the clients who prefer to block lump sum amounts, their block can be debited multiple times, subject to available balance, for settlement obligations across days.

The facility will be provided by integrating Reserve Bank of India (RBI)-approved Unified Payments Interface (UPI) mandate service of single-block-and-multiple-debits with the secondary market trading and settlement process called 'UPI block facility'. To begin with, the facility will be made available in the equity cash segment. The CCs may extend the facility to additional segments subsequently.

Explaining the features of the new framework, Sebi said that the facility would be optional for investors as well as stock brokers. Since an investor is allowed to have trading accounts across multiple stock brokers, an investor can choose to avail UPI block facility under some broker and non-UPI based trading under others.

Moreover, there would not be any adverse impact on client pay-out even in case of member or fellow client default.

Further, detailed operational guidelines, including mode of brokerage collection, would be issued by CCs in consultation with relevant stakeholders such as stock exchanges and depositories, among others.

This comes after the board of Sebi approved a proposal in this regard in March this year. Before that, the regulator had issued a consultation paper on the subject.

Related Link: <https://bfsi.economictimes.indiatimes.com/news/financial-services/sebi-introduces-asba-like-facility-for-secondary-market-trading/101295251>

RBI UPDATES

Overnight rates shoot past RBI repo corridor on low liquidity

Dated: 29th June, 2023

The overnight call money rates skyrocketed 135 basis points above the Reserve Bank of India's (RBI) repo rate on Wednesday before easing, but they still settled well above the upper band of the central bank's interest rate corridor, indicating shortage of funds among banks.

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The weighted average call rate (WACR), the rate that the RBI targets through its monetary policy, closed at 6.87% on Wednesday, above the Marginal Standing Facility (MSF) rate of 6.75% and much higher than the prevailing repo rate of 6.50%.

The surge in money market rates comes amid a decline in surplus liquidity in the banking system to a seven-week low following recent outflows on account of advance taxes and goods and services tax.

The rate for tri-party repo transactions, which witness the highest volumes among money market segments, closed at 6.76%, while the Mumbai Interbank Outright Rate (MIBOR) rose to around 6.90% levels, traders said.

The hardening rates led to cost of funds turning dearer in the banking system and therefore in the broader economy. "The move that we have seen, a majority of that is coming in from advance tax outflows. That's why we are seeing the sort of reaction that we have seen for some days on the call money and overnight markets such as TREPS (tri-party repos)," said Sakshi Gupta, principal economist at HDFC Bank.

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/overnight-rates-shoot-past-rbi-repo-corridor-on-low-liquidity/articleshow/101353352.cms>

Rate-setting panel member asks RBI to talk clearly for greater good

Dated: 24th June, 2023

An outspoken member in India's rate-setting body has criticized the central bank for being non-transparent about its policy intent and confusing the public with technicalities. "The monetary policy committee should not be content with communicating to an 'inside' audience of regulated entities in a coded language, but should endeavor to communicate with the general public in as transparent a language as possible," Jayanth Rama Varma, an external member in the Reserve Bank of India's six-member panel, said in an interview via email.

The central bank left the key rate unchanged for a second straight meeting on June 8 and maintained its 'withdrawal of accommodation' stance as it tries to ensure the recent moderation in inflation continues. It wants to keep a close vigil on risks to inflation from uneven rains and geopolitical tensions, minutes of the MPC meeting showed Thursday.

The RBI started withdrawing from its pandemic period accommodation in April last year. Some market watchers were expecting a switch to neutral stance in this month's policy as inflation came closer to the target, while growth slowed amid a tighter policy and weakening global economy.

He defended the RBI's growth projection of 6.5% for the current fiscal year, which differs considerably from the professional forecaster's 6% view. "If all goes well, we may well hit or even surpass the forecast growth rate"

He expects inflation to be controlled by the lagged effect of the rate hikes, and supply side measures by the government, and also due to lagged effect of declining wholesale prices. Varma said a monsoon being 5%-10% below normal won't be a challenge. "Also, a poor monsoon is as much of a growth shock (arising out of drop in rural demand) as it is an inflation shock"

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India's monetary policy is not dependent on the outcome of US Federal Reserve's review, he said... "The inflation situation in India is far more benign than in the US. So there is a great deal of monetary autonomy for India"

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/rate-setting-panel-member-asks-rbi-to-talk-clearly-for-greater-good/articleshow/101233715.cms>

NCLT AND M & A UPDATES

Resolution Professional Empowered to Keep Claims in Abeyance: NCLAT Chennai

Date: 26th June, 2023

In 2015, Anheuser Busch Inbev India Limited ("Appellant") and East Godavari Breweries Pvt. Ltd. ("Corporate Debtor") entered into a Brewing Agreement, wherein the Corporate Debtor allegedly failed to fulfil its obligations. The Appellant referred the matter to arbitration for recovery of the amount due from the Corporate Debtor. The Corporate Debtor had also filed a Counter Claim against the Appellant which is pending determination.

In the meanwhile, on 17.11.2021 the NCLT admitted the Corporate Debtor into Corporate Insolvency Resolution Process ("CIRP"). On 01.12.2021, the Appellant submitted its claim of Rs. 33,98,16,438.35/- to the Resolution Professional in the capacity of a Financial Creditor, for the sum which is subject matter of pending arbitral proceedings. The Resolution Professional did not accept the Appellant's claim and rather kept the claim in abeyance. The reason being, the final admissible claim amount would depend on the outcome of the Arbitration Proceedings and the determination of Corporate Debtor's Counter Claim.

The Appellant filed an appeal before the NCLAT against the Order dated 02.12.2022. The Resolution Professional opposed the appeal while contending that the outcome of arbitration proceedings would determine if the claim has to be accepted, partially accepted or rejected.

The National Company Law Appellate Tribunal ("NCLAT"), Chennai Bench, while adjudicating an appeal has held that it is within the power of the Resolution Professional to keep the claim(s) submitted by the creditors in abeyance, for plurality of reasons. The Bench has permitted the Resolution Professional to keep a claim in abeyance, in respect of which arbitration proceedings were ongoing and the Corporate Debtor's counter claim was pending determination before the Arbitral Tribunal.

Related Link: <https://www.livelaw.in/ibc-cases/nclat-chennai-anheuser-busch-inbev-v-pradeep-kumar-creditor-claims-abeyance-resolution-professional-231292>

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Avoidance Application(S) Can Continue Post Completion of CIRP: NCLAT Delhi

Date: 26th June, 2023

The Reserve Bank of India (“RBI”) had superseded the Board of Directors of Dewan Housing Finance Corporation Limited (“DHFL/Corporate Debtor”) and appointed an Administrator for the same. Thereafter, the RBI filed a petition before the NCLT, seeking initiation of Corporate Insolvency Resolution Process (“CIRP”) against DHFL under the Insolvency and Bankruptcy Code, 2016 (“IBC”) and Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019.

The NCLT admitted the petition and initiated CIRP against DHFL. The Resolution Plan contained a Clause which stated that the SRA will pursue avoidance applications filed by the Administrator. Accordingly, the SRA filed applications seeking its impleadment/substitution in place of the erstwhile Administrator, in the pending avoidance applications. On 09.02.2023, the NCLT substituted the name of SRA in place of erstwhile Administrator in the avoidance applications.

Mr. Kapil Wadhawan (“Appellant”), being the Ex-Promoter of the Corporate Debtor, filed an appeal before the NCLAT challenging the order dated 09.02.2023. The National Company Law Appellate Tribunal (“NCLAT”), New Delhi Bench while adjudicating an appeal has held that avoidance application(s) can continue even after completion of CIRP. The Bench placed reliance on Section 26 of IBC to interpret that proceedings of avoidance application are a different stream and do not affect the CIRP. Similarly, Section 36(3)(f) of IBC indicates that post completion of CIRP, the statute envisages recoveries through proceedings for avoidance transactions. Further, Regulation 38(2)(d) of CIRP Regulations shows the legislative intent that Resolution Plan must provide for the manner in which avoidance transactions would be pursued after approval of Plan.

Related Link: <https://www.livelaw.in/ibc-cases/nclat-new-delhi-avoidance-applications-cirp-ibc-piramal-kapil-wadhawan-231291>

Signia Pearl homebuyers move NCLT for recovery of society dues

Date: 27th June, 2023

They have filed an insolvency petition as financial creditors under the Insolvency and Bankruptcy Code (IBC), seeking the recovery of the money from Starlight Systems (I) Pvt Ltd, an arm of Sunteck Realty group, and appointment of an insolvency resolution professional (IRP).

Stating that the developer had signed an agreement for sale in 2015 and as per the agreement terms, the flat purchasers had paid a sum of ₹30 lakh each to the developer towards corpus fund and maintenance. The petition further states that under Clause 8 of the agreement, the developer was under obligation to transfer the unutilised amounts out of the ₹30 lakh to the registered cooperative housing society— Signia Pearl Co-operative Housing Society. The society was registered on September 4, 2020, but the money has not been deposited by the developer thereby committing a default, the petition claimed. The dispute between the flat purchasers and the developer dates back to 2020 when a suit was filed in the Bombay high court. The buyers had sought conveyance of the land and

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corpus fund paid by all buyers in the project among other prayers. The developer had challenged the legal validity of the Society.

Related Link: <https://www.hindustantimes.com/cities/mumbai-news/signia-pearl-homebuyers-move-nclt-for-recovery-of-society-dues-101687806033904.html>

IBBI forms panel of 400 insolvency professionals to expedite process

Date: 28th June, 2023

For the first time, the Insolvency and Bankruptcy Board of India (IBBI) has prepared a common panel of 400 insolvency professionals (IPs) from those registered with it, according to a report in The Economic Times.

An official said the insolvency regulator will share the list with the arbitrating authority to choose from to oversee cases of resolution from July 1. 17 insolvency professional entities (IPEs) have also been separately registered with the IBBI to supervise resolution, according to the list put out by the regulator on Tuesday.

The official said that the creation of the panel will help prevent administrative delays in the appointment of IPs and speed up the resolution process. The IBBI had asked IPs to submit their expression of interest by June 25 for being a part of the panel earlier this month.

The professionals featured in the list will be eligible to be appointed as interim resolution professionals (IRPs), resolution professionals (RPs), liquidators, and bankruptcy trustees under various sections of the Insolvency and Bankruptcy Code (IBC). According to the IBBI, the list will be renewed periodically and the IPs will be appointed between July 1 and December 31. Previously, the insolvency regulator was required to recommend the name of an IP only after receiving a reference from the National Company Law Tribunal (NCLT) in a corporate insolvency resolution process (CIRP).

Due to a strong insolvency ecosystem, Delhi had the highest number of selected professionals, with 85, followed by Maharashtra with 64, West Bengal with 36, and Gujarat and Tamil Nadu with 35 each. The list mentions the names of the IPs along with the areas in which they have handled cases. The list will also be given to the Debt Recovery Tribunal.

Related Link: https://www.business-standard.com/amp/industry/news/ibbi-forms-panel-of-400-insolvency-professionals-to-expedite-process-123062800282_1.html

Is Resolution Professional A 'Public Servant' Under prevention of Corruption Act? Supreme Court to Examine

Date: 29th June, 2023

The Supreme Court issued notice in a plea challenging the ruling of the Jharkhand High Court that a Resolution Professional (RP) will be considered a 'public servant' under Section 2(c)(v) and Section 2(c)(viii) of the Prevention of Corruption Act, 1988 (PC Act). The High Court had opined that the RP performs 'public duty' within the meaning of Section 2(b) of the PC Act and hence is a 'public servant' liable to be prosecuted under the PC Act. The impugned judgment was passed by the High Court while rejecting the petition praying for quashing of the entire criminal proceeding instituted against an Insolvency Professional, as well as the FIR registered for the offence under Section 7 (public servant taking gratification other than legal remuneration in respect of an official act) of the PC Act. The Single

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Judge had made it clear that the meaning of 'public servant' under Section 2(c) of the PC Act is not limited to those serving under the Government or its instrumentalities and drawing salary from the public exchequer. He emphasised that the nature of assignment and duty to be performed would determine if one is to be considered as a 'public servant' or not. In case of Resolution Professional, the Single Judge opined that, they perform functions akin to 'public duty'. He also noted that though the Insolvency and Bankruptcy Code, 2016 (IBC) is a self-contained code, if a Resolution Professional takes bribes in order to favour a party the PC Act would be applicable.

The SLP filed through Advocate on Record, Vaibhav Niti, argues that the RP neither performs 'public duty' nor holds an office by virtue of which he is authorised or required to perform 'public duty'. It submits that the nature of duty of the RP is voluntary and contractual. It further avers that the Corporate Insolvency Resolution Process (CIRP) initiated by the RP is an 'assignment', a professional service, for which a 'profession fee' is paid to the RP. The petition submits that the present issue is pending adjudication before various High Courts and seeks the Apex Court's indulgence as the interpretation of the status of the RP appointed by the Committee of Creditors under Section 22(3)(a) the IBC would have far reaching consequences.

Related Link: <https://www.liveweb.in/top-stories/is-resolution-professional-a-public-servant-under-prevention-of-corruption-act-supreme-court-to-examine-231507?infinite-scroll=1>

OTHERS

Due Date for Filing TDS/TCS Statements extended by CBDT

Dated: 28th June, 2023

The Central Board of Direct Taxes (CBDT) vide CBDT Circular No. 9/2023 in F.No. 370149/109/2023-TPL dated 28.06.2023. Has extended the due date for filing Form 26Q and Form 27Q, the statement of deduction of tax for the first quarter of the financial year 2023-24. The Date for filing the same was on or before 31st July, 2023 under Rule 31 A of the Income-tax Rules, 1962. The same may now be furnished on or before 30th September 2023.

The Date for filing the statement of collection of tax (Form 27EQ) for the first quarter of the financial year 2023-24, has also been extended to 30th September 2023 from 15th July 2023.

Related Link: <https://studycare.in/due-date-for-filing-tds-tcs-statements-extended-by-cbd-t-know-the-details-233528.html>

Thanking You,

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