

WEEKLY CORPORATE UPDATES

Saturday 14th October, 2023

(Curated & compiled by)

Team Indiacorp Law

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MCA UPDATES

The stakeholders are informed that the processing of application forms for the purpose of name reservation and incorporation at the Central Reservation Centre (CRC) is faceless and randomised.

Dated: 12th October, 2023

The stakeholders are informed that the processing of application forms for the purpose of name reservation and incorporation at the Central Reservation Centre (CRC) is faceless and randomised. The applications if sent for resubmissions are normally not processed by the same official who has processed the application at the first instance. Stakeholders may inform the Ministry in case of any malpractice or irregularity on the part of any official/officer at CRC or any professional with supporting evidences at CVO-MCA@GOV.IN for taking action in accordance with the extent CVC guidelines.

Related Link: <https://www.mca.gov.in/content/mca/global/en/home.html>

Searching for lost, unclaimed shares to get easier on MCA's new integrated portal

Dated: 09th October, 2023

The Close to 117 crore unclaimed shares worth more than Rs. 50,000 crores are lying in the Investor Education Protection Fund (IEPF), managed by the Ministry of Corporate Affairs (MCA). This includes dividends on these shares. However, the MCA is about to make the process of searching and claiming these 'lost' shares easier soon. In less than a month, the integrated IT portal for search and claims of these unclaimed shares will be functional. According to MCA officials, the search facility will be good to go in a month, but the claimed facility might take some more time and will continue to be available on V3 of MCA 21. So, in a month, Indian residents can do a status check of their lost shareholdings or unclaimed dividends of their parents or grandparents online.

The new integrated portal was mentioned by Finance Minister Nirmala Sitharaman in her budget speech this year. With the new portal, shares and dividends stuck in the IEPF are just a click away. Indian citizens can soon do a deep dive into an integrated IT portal to see the status of their or even their parents and grandparents' lost wealth.

Related Link: <https://www.cnbcv18.com/personal-finance/investor-education-protection-fund-iefp-mca-corporate-affairs-ministry-lost-unclaimed-shares-17995331.htm#tbl-em-lnpt477q324895lsifw>

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SEBI UPDATES

SEBI updates guidelines on anti-money laundering norms

Dated: 13th October, 2023

Capital markets regulator SEBI on Friday tweaked guidelines pertaining to anti-money laundering standards, whereby partners holding a 10 per cent stake in a firm will come under the definition of beneficial owners. Earlier, the requirement was 15 per cent.

The development comes after the government amended the Prevention of Money Laundering (Maintenance of Records) Rules or PMLA rules in September.

In case the client is a partnership firm, the beneficial owner would be the one who has "ownership of/ entitlement to more than 10 per cent of capital or profits of the partnership or who exercises control through other means", Sebi said in its updated guidelines on anti-money laundering standards and combating the financing of terrorism obligations of securities market intermediaries.

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/sebi-updates-guidelines-on-anti-money-laundering-norms/articleshow/104414209.cms>

SEBI resolves over 3,700 complaints through SCORES in September

Dated: 11th October, 2023

SEBI has disposed of 3,705 complaints against companies and market intermediaries through its online grievance redressal system SCORES in September, according to the data released by the regulator. As many as 17 complaints were pending for more than three months on SCORES as of September end, involving 12 entities such as Principal Mutual Fund and JM Financial Ltd.

SCORES is a platform that allows investors to lodge their complaints online with SEBI related to the securities market against companies, intermediaries, and market infrastructure institutions.

At the beginning of September, there were 4,707 complaints pending and 4,276 fresh complaints were received, as per the data released by SEBI on Tuesday.

The regulator said that it had 5,259 pending actionable complaints as of September end, excluding 19 complaints that were under regulatory actions or legal proceedings.

Further, SEBI noted that it had received 219 reviews of complaints. A complainant can request a review within 15 days after the disposal of their complaint.

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Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/sebi-resolves-over-3700-complaints-through-scores-in-september/articleshow/104340943.cms>

SEBI notifies disclosure rules; extends timeline for confirmation or denial of market rumors

Dated: 10th October, 2023

To streamline disclosure requirements, SEBI has notified new rules and extended the deadlines for mandatory confirmation or denial of market rumours by listed companies. This came after Securities and Exchange Board of India (SEBI), through a circular in late September, gave more time to listed companies to comply with the deadlines.

The deadline to confirm, deny, or clarify any market rumors reported in the mainstream media has been extended to February 1, 2024 for top 100 listed companies by market capitalisation, as per the circular.

Earlier, it was scheduled to come into force from October 1, this year.

Similarly, for top 250 listed entities, the rule will kick in on August 1, 2024, instead of April 1, 2024.

To give this effect, the regulator has amended the Listing Obligations and Disclosure Requirements (LODR) rules, according to a gazette notification issued on Monday.

The rule is aimed at strengthening the corporate governance of listed entities, it said.

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/sebi-notifies-disclosure-rules-extends-timeline-for-confirmation-or-denial-of-market-rumours/articleshow/104313642.cms>

SEBI probing ties between Adani Group and Gulf Asia Fund

Dated: 11th October, 2023

India's market regulator is investigating the relationship between the Adani Group and a fund incorporated in the British Virgin Islands to see if there has been a violation of share ownership rules, two sources with direct knowledge of the matter said.

The fund is called Gulf Asia Trade & Investment, the sources said. It is owned by Dubai businessman Nasser Ali Shaban Ahli, according to checks of its website last month although the site has since been pulled down.

The fund has invested in several listed Adani firms, according to the Organised Crime and Corruption Reporting Project (OCCRP) and data that the investigative journalist group has provided to Reuters.

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The probe is part of the Securities and Exchange Board of India's (SEBI) investigation into the Indian conglomerate which follows a January report by short-seller Hindenburg Research that said offshore shell companies "surreptitiously" owned stock in Adani listed firms.

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/sebi-probing-ties-between-adani-group-and-gulf-asia-fund/articleshow/104338049.cms>

RBI UPDATES

Currency market interventions are not always 'black and white', says RBI governor

Dated: 13th October, 2023

MARRAKECH, Morocco - Currency market interventions by emerging market economies should not be viewed "as a black and white story", the Reserve Bank of India governor told Reuters on Friday.

Shaktikanta Das was referring to the US Treasury Department's regular foreign exchange report and similar research by the International Monetary Fund (IMF).

Das called on the United States and other countries and organizations to review their use of "labelling like watch lists," underscoring that these comments were not directed solely at the Treasury.

"Emerging market economies will have to build reserves and central banks in emerging markets are required to intervene in the currency market from time to time to prevent excessive volatility," Das said on the sidelines of the IMF and World Bank annual meeting in Marrakech.

"So therefore any labelling, any kind of labelling of currency interventions should not be a black and white story and you need to look at the nuances of it."

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/currency-markets-interventions-are-not-always-black-and-white-says-rbi-governor/articleshow/104406232.cms>

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RBI directs Bank of Baroda to stop onboarding new customers through BoB World app

Dated: 13th October, 2023

Bank of Baroda: The Reserve Bank of India has directed Bank of Baroda to suspend, with immediate effect, any further onboarding of their customers onto the 'bob World' mobile application. This action is based on certain material supervisory concerns observed in the manner of onboarding their customers onto this mobile application. Any further onboarding of customers of the bank on the 'bob World' application will be subject to rectification of the deficiencies observed and strengthening of the related processes by the bank to the satisfaction of RBI. The bank has been further directed to ensure that already onboarded 'bob World' customers do not face any disruption on account of this suspension.

The Reserve Bank of India (RBI), on October 10 directed state lender Bank of Baroda to stop onboarding new customers through BoB World, the lender's digital banking application.

"Bank of Baroda to suspend, with immediate effect, any further onboarding of their customers onto the 'bob World' mobile application. This action is based on certain material supervisory concerns observed in the manner of onboarding of their customers onto this mobile application," the central bank said in a press release.

Following the RBI direction, the Bank of Baroda released a clarification stating it has already carried out corrective measures to address the concerns highlighted by the RBI and is taking further steps to plug any remaining gaps. The statement read: "While the Bank has already carried out corrective measures to address the concerns of the RBI, we have initiated further steps to plug any remaining gaps identified and we will work closely with the RBI to address their concerns at the earliest to their satisfaction."

RBI also said that any further onboarding of customers of the bank on the application will be subject to rectification of the deficiencies observed and strengthening of the related processes by the bank to the satisfaction of RBI.

Related Link: <https://www.moneycontrol.com/news/business/rbi-directs-bank-of-baroda-to-stop-onboarding-new-customers-through-mobile-platform-11509511.html>

RBI data points to growth in lending to retail, infra, mining; experts flag challenges

Dated: 10th October, 2023

The Reserve Bank of India's (RBI's) recent quarterly forward looking survey showed that demand for loans in the mining, infrastructure and personal/retail sectors in Q3 and Q4 of financial year (FY) 2023-24 and Q1 of FY 2024-25 is expected to grow. But analysts and bankers highlight challenges to the growth.

The central bank, in its 'Bank Lending Survey' for the July-September 2023 quarter showed that the infrastructure sector grew 29.3 percent and the retail sectors by 47.8 percent, while mining recorded no growth.

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For Q3, the data showed that bank lending to mining, infrastructure and personal/retail sectors is expected to grow by 13 percent, 39.7 percent and 54.3 percent respectively. In Q4, lending to these sectors is expected to grow by 14.3 percent, 39.7 percent and 44.6 percent, respectively. Whereas for Q1 of FY25, the data showed that lending to the sectors will grow by 10.7 percent, 34.5 percent and 39.3 percent respectively.

Related Link: <https://www.moneycontrol.com/news/business/rbi-data-points-to-growth-in-lending-to-retail-experts-flag-challenges-11508001.html>

RBI is on active liquidity management mode

Dated: 09th October, 2023

The focus of the monetary policy continues to be on using liquidity conditions to keep overnight rates closer to the marginal standing facility (MSF) rate of 6.75 percent, rather than the repo rate of 6.50 percent.

This was first achieved by the incremental cash reserve ratio (I-CRR), which temporarily removed Rs 1.1 lakh crore of liquidity in August. The subsequent phased removal of I-CRR spread over September and the first week of October ensured that liquidity conditions remained tight.

Indeed, since the advance tax payment due date (September 15), the liquidity deficit in the second half of September has averaged Rs 1 lakh crore a day, resulting in overnight rates rising to the MSF rate, which is 25 basis points (bps) higher than the repo rate.

In the October policy, the Reserve Bank of India indicated that it was considering sales via open market operations (OMO) as a liquidity-absorbing tool. Though the RBI didn't specify an amount, the quantum will depend on prevailing liquidity conditions.

Related Link: <https://www.moneycontrol.com/news/business/rbi-is-on-active-liquidity-management-mode-11502521.html>

RBI allows SBI Mutual Fund to acquire up to 9.99% of paid-up share capital in IndusInd bank

Dated: 11th October, 2023

The Reserve Bank of India (RBI) on October 11 gave approval to the SBI Mutual Fund (SBIMF) to acquire up to 9.99 per cent of paid-up share capital or voting rights in the IndusInd Bank.

"The approval has been granted with the reference to the application made by SBIMF to RBI," a release from the central bank said.

It added that the aforesaid approval granted by RBI is subject to the conditions mentioned therein including compliance with the relevant provisions of the Banking Regulation Act, 1949, RBI's Master Direction and Guidelines on Acquisition and Holding of Shares or Voting Rights in Banking Companies dated January 16, 2023 (as amended from

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time to time), provisions of the Foreign Exchange Management Act, 1999, regulations issued by Securities and Exchange Board of India, and any other statutes, regulations and guidelines, as applicable.

SBIMF has been advised by RBI to acquire the aforesaid major shareholding in the Bank within a period of one year i.e., by October 10, 2024.

Related Link: <https://www.moneycontrol.com/news/business/banks/rbi-allows-sbi-mutual-fund-to-acquire-up-to-99-of-paid-up-share-capital-in-indusInd-bank-11516911.html>

Retail inflation drops to 5.02% in September, lowest in 3 months

Dated: 12th October, 2023

India's headline retail inflation rate fell to 5.02 percent in September, according to data released by the Ministry of Statistics and Programme Implementation on October 12, thanks to a huge drop in vegetable prices. At 5.02 percent, the Consumer Price Index (CPI) inflation print for September is 181 basis points lower than August's 6.83 percent.

One basis point is one-hundredth of a percentage point.

At 5.02 percent, the latest CPI inflation figure is well below expectations, with economists having predicted prices likely rose 5.4 percent year-on-year in September.

Meanwhile, the Reserve Bank of India's (RBI) latest forecasts, released on October 6, had implied an inflation reading of 4.8-5 percent for last month. Speaking at the annual meeting of the World Bank Group and International Monetary Fund (IMF) minutes after the release of the CPI data, RBI Governor Shaktikanta Das said the latest inflation print is exactly in line with the central bank's projections.

Related Link: <https://www.moneycontrol.com/news/business/economy/retail-inflation-drops-to-5-02-in-september-lowest-in-3-months-11519751.html>

RBI imposes Rs 5.39 cr penalty on Paytm Payments Bank for KYC norms violation

Dated: 12th October, 2023

The Reserve Bank of India (RBI) imposed a monetary penalty of Rs 5.39 crore on Paytm Payments Bank for violating KYC norms.

In a press release issued on October 12, the central bank said that the action was taken by the regulator for non-compliance with certain provisions of the 'Reserve Bank of India (Know Your Customer (KYC)) Directions, 2016', 'RBI Guidelines for Licensing of Payments Banks' read with 'Enhancement of maximum balance at end of the day', 'Cyber security framework in banks' read with 'Guidelines on reporting of unusual cyber security incidents' and 'Securing mobile banking applications including UPI ecosystem'.

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"This penalty has been imposed in exercise of powers vested in RBI conferred under the provisions of Section 47A(1)(c) read with Section 46(4)(i) of the Banking Regulation Act, 1949," the RBI said in its statement.

RBI added that this action is based on deficiencies in regulatory compliance and is not intended to pronounce upon the validity of any transaction or agreement entered into by the bank with its customers.

Related Link: <https://www.moneycontrol.com/news/business/rbi-imposes-rs-5-39-cr-penalty-on-paytm-payments-bank-for-kyc-norms-violation-11522081.html>

Indian banks assess carbon risk of loan book amid investor, RBI push

Dated: 12th October, 2023

India's largest banks have begun to audit their own and borrowers' carbon footprint as they try to mitigate financial risks amid growing pressure from regulators and investors to better align their ESG reporting with global norms, a dozen sources told Reuters.

The South Asian nation is the world's third-highest greenhouse gas polluter and has set a goal of reaching net zero emissions by 2070.

India's financial sector lags other major economies in its reporting on Scope 3 emissions, or lending-related emissions - the biggest contributor to the financial sector's carbon footprint.

About 25%-35% of Indian bank loans are directly exposed to carbon-intensive sectors, including coal mining and diesel intensive transportation, according to rating agency Moody's.

Related Link: <https://www.moneycontrol.com/news/business/economy/indian-banks-assess-carbon-risk-of-loan-book-amid-investor-rbi-push-11520121.html>

NCLT UPDATES

Zee-Sony merger: NCLAT defers hearing on ZEEL case to October 31

Dated: 13th October, 2023

On October 12, ZEEL's lawyers Mukul Rohatgi and Arun Kathpalia urged the tribunal not to pass any orders in the case as Axis Finance does not have the locus to file such a plea

The National Company Law Appellate Tribunal (NCLAT) on October 13 refused to issue a notice in the appeals filed by Axis Finance and IDBI Bank challenging the National Company Law Tribunal (NCLT) order approving the Zee-Sony merger.

The NCLAT has adjourned the case to October 31 and said ZEEL can file a response if needed.

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On October 12, ZEEL's lawyers Mukul Rohatgi and Arun Kathpalia urged the tribunal not to pass any orders in the case as Axis Finance does not have the locus to file such a plea. Furthermore, they objected to the adjournment as IDBI's case arise out of different set of facts.

However, the appellate tribunal deferred the hearing of the case without issuing notice.

The National Company Law Tribunal (NCLT) had on August 10 approved the merger of Zee Entertainment and Sony Pictures Networks India (SPNI), paving the way for the creation of a \$10-billion media giant in the country.

Related Link: <https://www.moneycontrol.com/news/trends/legal/zee-sony-merger-nclat-refuses-to-issue-notice-adjourns-zeel-case-to-october-31-11526921.html>

Power ministry outfit under NCLT glare on bankruptcy plea by vendor

Dated: 12th October, 2023

The National Company Law Tribunal (NCLT) on October 12 issued a notice to Energy Efficiency Services Limited (EESL), a public sector unit, following a insolvency resolution plea filed by a concern called NEEV Energy LLP, demanding Rs 3.23-crore dues.

NEEV claimed that it was awarded a tender in 2017 by EESL to install and maintain LED street lights in Uttar Pradesh and Bihar for seven years. NEEV's lawyer Zorawar Singh argued that the company started defaulting in making payments to them during 2019 to 2023.

Singh further claimed that as per the terms of the tender, EESL was supposed to make payments to them 30 days after they raise an invoice, however, they refused to make payments to them, citing poor performance.

Singh argued that NEEV had sent EESL a notice under the Insolvency and Bankruptcy Code, 2016, warning them of filing the plea if they do not explain why they have not made the payment. Since EESL's response was not satisfactory, NEEV had to file the insolvency plea.

The NCLT thus issued notice to EESL and listed the case for further consideration on November 8. Singh was assisted by lawyers Hitesh Mankar and Shubham.

Related Link: <https://www.moneycontrol.com/news/trends/legal/power-ministry-outfit-under-nclt-glare-on-bankruptcy-plea-by-vendor-11520281.html>

Go First case transferred to new NCLT bench for third time since filing insolvency

Dated: 09th October, 2023

Go First's insolvency plea and the applications filed in the plea by the lessors have been transferred to a bench comprising judicial member Mahendra Khandelwal and technical member Sanjeev Ranjan.

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With this change, the case will now be heard by a third different bench since its filing in May 2023. The case was initially before the chairperson of NCLT Justice (retd) Ramalingam Sudharkar, which was thereafter transferred to a bench comprising technical member Rahul Prasad Bhatnagar in June. It is now before a different combination, although the Mahendra Khandewal continues to be the judicial member.

On October 4, the earlier bench had requested the chairperson for the case to be placed before the president since Khandewal and Bhatnagar are no longer sitting together owing to a reshuffle in the bench combinations. They opined that since they had heard the applications by lessors substantially, it would be appropriate for them to complete the hearing and pass orders, lawyers appearing for Go First and the lessors agreed with them.

Related Link: <https://www.moneycontrol.com/news/trends/legal/go-first-case-transferred-to-new-nclt-bench-for-third-time-since-filing-insolvency-11501251.html>

Resolution Professional is well within its powers to issue lay-off notices to workers/employees of the Corporate Debtor during CIRP, Section 238 of Insolvency and Bankruptcy Code overrides the provisions of the Industrial Dispute Act, 1947 - NCLT New Delhi Bench Court-VI

Publication Dated: 12th October, 2023

Judgment Date 06th October, 2023

In the matter of Unitech Machines Karmchari Sang Vs. Mr. Vivek Raheja RP of Unitech Machines Ltd., the Hon'ble NCLT of New Delhi held that the Resolution Professional has the authority to take actions to safeguard the Corporate Debtor's assets and ensure the business continues to operate. This power is explicitly granted under Section 25 of the IBC, 2016. The Resolution Professional has a responsibility to protect the Corporate Debtor's interests, making it a duty they must fulfill.

Related Link:

https://nclt.gov.in/gen_pdf.php?filepath=/Efile_Document/ncltdoc/casedoc/0710002014862018/04/Order-Challenge/04_order-Challenge_004_16968476637067682086523d72f7259e.pdf

An agreement to resell products on e-commerce platform/Amazon where Applicant paid some amount with some assured profit margins would not confer the status of a Financial Debt – NCLT Allahabad Bench

Publication Dated: 11th October, 2023

Judgment Date – 06th October, 2023

In the matter of Rajesh Alfred Vs. Ketsaal Retails LLP, the main question has raised that whether the amount invested by the applicant falls under the category of "Financial Debt" according to Section 5(8) of the Code, 2016 and whether

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the applicant is Financial Creditor within the meaning of Section 5(7) of the Code, 2016. The NCLT of Allahabad held that, since the amount paid to the Corporate Debtor was for future goods supply, with returns in the form of profit margins and not interest on the deposited amount, it doesn't meet the Section 5(8) definition of the Code, 2016. The agreement defined roles on Amazon, where the applicant earned profit margins without considering the time value of money, aligning with a similar NCLAT judgment. In summary, these transactions don't classify the applicant as a 'Financial Creditor' because the 'Assured Returns' are related to profit margins, not the time value of money as required by the Code. Therefore, the amount owed to the applicant is not considered a 'financial debt' due to the absence of the time value of money, a crucial requirement for this definition.

Related Link:

https://nclt.gov.in/gen_pdf.php?filepath=/Efile_Document/ncltdoc/casedoc/0902109007052023/04/Order-Challenge/04_order-Challenge_004_169711369419523666766527e65e1068d.pdf

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