

WEEKLY UPDATES ON COMPANY LAW, SEBI, RBI AND IBC

Edition No.267 Week 11 – March 06 2023 to March 12 2023

1

Companies Act 2013 during the week

Rules -0; Circulars - 0; Notifications-0; Orders-0; Important Notices -0

S. No	Date of Issue	Rules/Circular/ Notification/Order	Contents thereof	Gist thereof
Nil				

S. No	NEWS ON MCA
1	<p><u>Version 3 portal for corporate filings faces technical glitches</u></p> <p>Companies continue to face technical challenges in using the ministry of corporate affairs' (MCA) upgraded Version 3 portal for corporate filings, despite the government's efforts to address such problems. Industry associations may seek physical filings of more forms until the portal is fully functional. As of now, such a special dispensation for filing in physical mode has been given for eight forms. And the improvement on the portal has been very slow and most issues remain unresolved, even though a high-level panel is understood to be reviewing the issue.</p>

2	<p><u>ESG: An opportunity for companies to drive positive change</u></p> <p>The business landscape is evolving, and the traditional notion of corporate success is undergoing a significant shift. Investors, regulators, and stakeholders have started emphasizing the importance of non-financial metrics to assess a company’s long-term sustainability and growth potential. In this context, Environmental, Social, and Governance (ESG) parameters have gained traction, with companies increasingly recognising the need to incorporate these factors in their decision-making processes.</p>
3	<p><u>Crowdfunding by startups draws regulator’s ire.</u></p> <p>The office of the Registrar of Companies (RoC) in Delhi and Haryana has started taking action against firms that raise equity investment through platforms that make online pitches to investors in violation of company law. The RoC issued an order imposing a penalty of Rs 2 lakhs on a small Delhi-based company and ₹1 lakh each on two of its directors for allegedly violating a provision in the Companies Act by raising capital through a technology platform run by a Mumbai-based company.</p>

2

SEBI during the week

**Act -0; Reports -0; Circulars– 2; Master Circular- 0; Notification –0; Regulation- 0;
Reports – 0; NSE Circular – 0; BSE Circular – 0; Press Release -1**

S. No	Date of Issue	Rules/Circular/ Notification/ Order	Contents thereof	Gist thereof
1	06/03/2023	Circular	Framework for Adoption of Cloud Services by SEBI Regulated Entities (REs)	<p>SEBI has released a detailed framework to highlight the key risks, and mandatory control measures which REs need to put in place before adopting cloud computing. The document also sets out the regulatory and legal compliances by REs if they adopt such solutions.</p> <p>REs which are currently availing cloud services (as on date of issuance of this framework) shall ensure that, wherever applicable, all such arrangements are revised and they (RE) shall be in compliance with this framework not later than 12 (twelve) months from the date of issuance of the framework.</p>

2	08/03/2023	Circular	Operational Guidance - Amendment to Securities and Exchange Board of India (Buy-back of Securities) Regulations, 2018 ("Buy-back Regulations")	SEBI has released a Circular on Operational Guidance pertaining to the Amendment brought to the Buyback regulations. The amendment regulations shall be made effective for all buy-back offers where the Board of Directors of the company approve resolution with respect to Buy-back on or after 30 th day of the date of notification of this amendment in the official gazette (i.e. March 09, 2023).
3	08/03/2023	Press Release	Linking of PAN with Aadhaar to be done by March 31, 2023	Since PAN is the key identification number and part of KYC requirements for all transactions in the securities market, all SEBI registered entities and Market Infrastructure Institutions (MIIs) are required to ensure valid KYC for all participants. All existing investors are required to ensure linking of their PAN with Aadhaar number prior to March 31, 2023,

S.No	NEWS ON SEBI
1.	<p>Securities and Exchange Board of India (Grant of Reward to Informant under Recovery Proceedings) Guidelines, 2023 –</p> <p>These Guidelines shall regulate the grant and payment of reward to an informant who provides Original Information about the asset of a defaulter and such information results in the collection of outstanding dues which could not be recovered despite all possible efforts and such dues were certified as 'Difficult to Recover'. While the interim reward amount will not exceed two and a half per-cent of the reserve price of the asset regarding which tips was provided or Rs 5 lakh, whichever is less and the final reward amount will not exceed 10 per cent of the dues recovered or Rs 20 lakh, whichever is less.</p>

<p>2.</p>	<p><u>SEBI mulls PCVs to offer long funding</u></p> <p>Amid allegations of fierce valuation games that drive startups to dress up numbers and venture capitalists to spin stories to investors, the idea of permanent capital vehicles (PCVs) to offer long, patient funding to unlisted outfits of Indian entrepreneurs is being explored. Unlike regular private equity (PE) and venture capital (VC) funds which have fixed lives, a PCV can last in perpetuity, and its best examples are famous investment houses like Berkshire Hathaway and Fairfax</p>
<p>3.</p>	<p><u>SEBI curbs on buybacks via stock exchange mechanism</u></p> <p>Capital markets regulator Sebi imposed restrictions on the placement of bids, price and volume for the companies undertaking share buybacks through the stock exchange route. Under the restrictions, a company will not be able to purchase more than 25% of the average daily trading volume (in value) of its shares in the 10 trading days preceding the day in which such purchases are made. Among others, the company will not place bids in the pre-open market, first 30 minutes and the last 30 minutes of the regular trading session and the firm's purchase order price should be within the range of 1% on either side from the last traded price.</p>
<p>4.</p>	<p><u>SEBI extends timeline until March 15 for public comments on proposed ESG rating norms</u></p> <p>Capital markets regulator Sebi extended the timeline until March 15 for submission of public comments on the proposed regulatory framework on ESG rating providers. Earlier, the deadline for submission of the comments was March 8th. The regulator had placed a consultation paper for Regulatory Framework for ESG Rating Providers (ERPs) in the securities market on its website on February 22nd and sought comments on the same.</p>
<p>5.</p>	<p><u>SEBI moots promoter tag for founders holding 10%</u></p> <p>The Securities and Exchange Board of India (Sebi) is nudging founders with a stake of 10% or more in their companies to classify themselves as promoters at the time of filing the draft prospectus for public share sales. The move could impact companies wanting to go public, especially startups where the founder holding is low and put the brakes on the growing number of professionally managed companies in India. The promoter tag will also put higher regulatory obligations on the founders.</p>

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RBI during the week

Notifications - 0; Master Directions –0;Master Circulars –0;Press Release:1

S.No	Date of Issue	Rules/Circular/ Notification/ Order/Press release	Subject	Gist thereof
1	06/03/2023	Press Release	Digital Payments Awareness Week 2023 – Launch of Mission “Har Payment Digital”	The Governor, Reserve Bank of India (RBI) launched the Mission ‘Har Payment Digital’ on the occasion of the Digital Payments Awareness Week (DPAW) 2023 . This is part of RBI’s endeavour to make every person in India a user of digital payments. DPAW 2023 will be observed from March 6 to 12, 2023. The campaign theme is “ Digital Payment Apnao, Auro ko bhi Sikhao ” (Adopt digital payments and also teach others).

S.No	NEWS ON RBI
	NIL

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IBC during the week

Notification -0; Master Direction – 0; Circulars – 1; Press Release -0

S.No	Date of Issue	Rules/Circular/ Notification/ Order/Press release	Subject	Gist thereof
1	04/03/2023	Circular	Serving of copy of applications to the Board, as mandated under Rules 4, 6 and 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.	<p>Recently, IBBI has, vide Circular No. IBBI/IU/51/2022 dated 15th June 2022 decided to forward all the applications received for initiating insolvency to the Information Utility (IU) and, the IU is required to (a) inform other creditors of the CD by sharing the application; (b) issue notice to the applicant, requiring it to file ‘information of default’ as per IU Regulations; and (c) process the ‘information of default’ for the purpose of issuing ROD as per the IU.</p> <p>Accordingly, to ensure filing of authentic information with the Board and further enable Board to share information relating to the application for initiation of CIRP with the IU efficiently, the format has been revised. The revised format is given as Annexure A to the Circular</p>

S.No	NEWS ON IBC
1	<p><u>No Bar on Sale of Corporate Debtor as a Going Concern after first auction, permission of AA not required: NCLT Delhi</u></p> <p>The National Company Law Tribunal (“NCLT”), while adjudicating a petition filed in Mr. Surinder Manchanda v Nolsar International Limited, has held that there is no bar on the sale of Corporate Debtor as a going concern even after the first auction has taken place and the Liquidator is not obliged to seek permission of Adjudicating Authority for conducting such sale.</p>
2	<p><u>Shareholders have no Locus to challenge the initiation of CIRP against Corporate Debtor: NCLAT Chennai</u></p> <p>The National Company Law Appellate Tribunal (“NCLAT”), while adjudicating an appeal filed in Nirej Vadakkedathu Paul v Sunstar Hotels and Estates Private Limited, has held that shareholders of Corporate Debtor have no locus to challenge the initiation of CIRP against the Corporate Debtor. The Bench has upheld the initiation of CIRP against M/s McDowell Holdings Limited.</p>

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Others during the week
NSE-0; BSE-0; DIPP-0; Finance Ministry-0; Others -0;

S. No	Date	Rules/Circular/ Notification/Order/ Press Release	Contents thereof	Gist thereof
NIL				

S NO	GENERAL NEWS
1	<p><u>Skewed composition. Google ‘dominates’ digital competition law panel, stakeholders seek level-playing field</u></p> <p>The Centre-appointed expert panel to draft Digital Competition Law for regulating Big Tech has further invited the ire of the stakeholders. In the last meeting of the panel, Centre had invited two more representatives from the law firms which are currently representing Google before NCLAT in the ongoing matter. These representatives reportedly attended the panel’s meeting where news publishers and start-ups made presentations.</p>

2

Central Government Notifies Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2023

The Ministry of Finance, Department of Revenue, Government of India notified the 2023 Amendment to the Prevention of Money-laundering (Maintenance of Records) Rules, 2005. The rules have been made in exercise of power vested in the Central Government under Section 73 of the Prevention of Money-Laundering Act, 2002. By inserting Clause (cba), 'Group' has been defined to have the same meaning as in Section 286(9)(e) of the Income Tax Act, 1961, which reads as under- e) "group" includes a parent entity and all the entities in respect of which, for the reason of ownership or control, a consolidated financial statement for financial reporting purposes,—

(i) is required to be prepared under any law for the time being in force or the accounting standards of the country or territory of which the parent entity is resident; or

(ii) would have been required to be prepared had the equity shares of any of the enterprises were listed on a stock exchange in the country or territory of which the parent entity is resident;"

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Update on Regulated Sector

S.No	Sector	Update
NIL		



Flat No.7, Door No.10 Madhans,
South Canal Bank Road,
Mandavelipakkam, Chennai 600028.

bhuvana.r@akshayamcorporate.com | jayanth.v@akshayamcorporate.com

www.akshayamcorporate.com ;

Mobile: 9789982805 | 9962156708

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