

WEEKLY UPDATES ON COMPANY LAW, SEBI, RBI AND IBC

Edition No.270 Week 14 – March 27 2023 to April 02 2023

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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>Competition (Amendment Bill), 2022 passed in Lok Sabha</u></p> <p>The bill provides for the Competition Commission of India (CCI) to impose penalties on entities based on their global turnover instead of the current practice of considering only relevant market turnover.</p>

2

SEBI during the week

Circulars– 6; NSE Circular – 4; BSE Circular – 2

S. No	Date of Issue	Rules/Circular/ Notification/ Order	Contents thereof	Gist thereof
1	29/03/2023	Circular	Cyber Security and Cyber Resilience framework for Portfolio Managers	<ul style="list-style-type: none"> • With rapid technological advancement in the securities market, there is a greater need for maintaining robust cyber security and to have a cyber-resilience framework to protect the integrity of data and guard against breaches of privacy. • Accordingly, all Portfolio Managers with asset under management of INR 3000 crore or more, under discretionary and non-discretionary portfolio management service taken together, as on the last date of the previous calendar month shall comply with the provisions of Cyber Security and Cyber Resilience as detailed out in the Circular.

2	29/03/2023	NSE Circular	<p>Standard Operating Process under SEBI(PIT) Regulations, 2015 for ensuring compliance with Structured Digital Database (“SDD”)</p>	<ul style="list-style-type: none"> • NSE has issued a Circular that, the listed entities are advised to take note that the entities to whom the provisions of Regulation 24A of SEBI(LODR) Regulations, 2015 are not applicable, are required to continue to submit SDD Compliance certificate on quarterly basis within 21 days from end of each quarter on sdd_pit@nse.co.in email id. • As per similar BSE Circular, the requirement of submitting a quarterly Structured Digital Database (“SDD”) compliance Certificate certified either by compliance officer or a Practicing Company Secretary (PCS) in the prescribed format has been replaced by a confirmation in the Annual Secretarial Compliance Report (ASCR) issued by a Secretarial Auditor pursuant to provisions of Regulation 24A of the SEBI (LODR) Regulation, 2015 for the quarter ended at March 31, 2023 onwards. • For the entities to whom ASCR is not applicable will continue the submission of SDD Compliance certificate certified either by Compliance Officer or a PCS within 21 days from close of the quarter.
3	28/03/2023	Circular	<p>Nomination for Mutual Fund Unit Holders – Extension of timelines</p>	<ul style="list-style-type: none"> • SEBI vide this Circular has prescribed that the provision mentioned at para 4 of SEBI circular dated June 15, 2022, shall come into force with effect from September 30, 2023 instead of March 31, 2023.

				<ul style="list-style-type: none"> As per the Circular dated June 15, 2022, the requirement for nomination/ opting out of nomination for all the existing individual unit holder(s) holding mutual fund units either solely or jointly, by March 31, 2023, failing which the folios shall be frozen for debits. Now, the freezing of folios shall be effective from September 30,2023.
4	28/03/2023	Circular	Norms for Scheme of Arrangement by unlisted Stock Exchanges, Clearing Corporations and Depositories	<ul style="list-style-type: none"> SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, listed entities (including listed Market Infrastructure Institutions (MIIs) such as Stock Exchanges, Clearing Corporations and Depositories) desirous of undertaking scheme of arrangement or involved in a scheme of arrangement are required to file the draft scheme with stock exchange(s) for obtaining Observation Letter or No-objection Letter, before filing such scheme with any Court or Tribunal. However, no such specific provision is available for unlisted MIIs. To bring uniformity, SEBI has laid out detailed guidelines pertaining to specific disclosures applicable to unlisted MIIs.
5	28/03/2023	NSE Circular	Aadhar seeding with PAN	<ul style="list-style-type: none"> In order to provide some more time to the taxpayers, the date for linking PAN and Aadhaar has been extended to 30th June 2023, whereby persons can intimate their Aadhaar to the prescribed authority for Aadhaar-PAN linking without facing repercussions

6	27/03/2023	BSE Circular	Settlement of Running Account of Client's Funds lying with Trading Member (TM)	<ul style="list-style-type: none"> Members are required to carry out the settlement of running account of clients' funds on the first Friday of the Month/Quarter as per the preference opted by the client and if first Friday is a trading holiday, then such settlement shall happen on the previous trading day. In this regard, Members are requested to note that first Friday of the Quarter April – June 2023 (i.e. April 7, 2023) being a trading holiday, the settlement of running account of client's funds in accordance with aforesaid notices shall be carried out by members on the previous trading day i.e. April 6, 2023 (Thursday).
7	27/03/2023	Circular	Streamlining the onboarding process of Foreign Portfolio Investors(FPIs)	<ul style="list-style-type: none"> SEBI vide this Circular, has provided detailed process mechanism to ease the onboarding process of FPIs and reduce the time taken for granting registration and opening of Demat, trading and bank accounts of FPIs
8	01/04/2023	BSE Circular	Annual Listing Fees	<ul style="list-style-type: none"> The Bombay Stock Exchange (BSE) has revised its Annual Listing Fees to be paid by listed entities for listing of its securities on the Exchange. The revision in the Annual Listing Fees is in line with other nationwide stock exchange and shall be effective from April 1, 2023.

9	31/03/2023	Circular	Comprehensive FAQs on SEBI (PIT) Regulations, 2015	<ul style="list-style-type: none"> • With a view to provide more clarity and ease of reference, SEBI has released a detailed FAQs on SEBI (PIT) Regulations, 2015. • This FAQ is a consolidation of all the previously issued FAQs and Guidance Notes issued earlier.
10	31/03/2023	Circular	Extension of compliance period – Fund raising by large corporates through issuance of Debt Securities	<ul style="list-style-type: none"> • Chapter XII of NCS Operational Circular 1 on ‘Fund raising by issuance of Debt Securities by Large Corporates’ (LCs Chapter), inter-alia, mandates large corporates to raise minimum 25% of their incremental borrowings in a financial year through issuance of debt securities which has to be met over a contiguous block of two years from Financial Year (FY) 2021-22 onwards. • Based on various representations from the market participants and on a review of the matter, it has been decided that the contiguous block of two years over which large corporates need to meet the mandatory requirement of raising minimum 25% of their incremental borrowings in a financial year through issuance of debt securities will be extended to a contiguous block of three years (from the present requirement of two years) reckoned from FY 2021-22 onwards.
11	31/03/2023	NSE Circular	Filing of equity announcements in XBRL format on NSE Electronic	The filings under SEBI (LODR)Regulation 2015, shall be available in XBRL Format from 1 st April 2023, for the following disclosure under Regulation 30 of the SEBI LODR:

			<p>Application Processing System (NEAPS) platform.</p>	<ul style="list-style-type: none"> • Issuance or forfeiture of securities, split or consolidation of shares, buyback of securities, any restriction on transferability of securities or alteration in terms or structure of existing securities including forfeiture, reissue of forfeited securities, alteration of calls, redemption of securities etc. • Agreements (viz. shareholder agreement(s), joint venture agreement(s), family settlement agreement(s) (to the extent that it impacts management and control of the listed entity), agreement(s)/treaty(ies)/contract(s) with media companies) which are binding and not in normal course of business, revision(s) or amendment(s) and termination(s) thereof. • Fraud/defaults by promoter or key managerial personnel or by listed entity or arrest of key managerial personnel or promoter. • One time settlement with a bank • Resolution plan/ Restructuring in relation to loans/borrowings from banks/financial institutions (Inter-Creditors Agreement). • Corporate Debt Restructuring. • Notices of Shareholders Meeting
12	31/03/2023	NSE Circular	<p>Introduction of Issue Summary Document (ISD) – Further Issues</p>	<p>In relation to Introduction of Issue Summary Document (ISD) and dissemination of issue advertisements shall be in XBRL format, for the following effective from April 3, 2023:</p>

				<ul style="list-style-type: none"> • Preferential Issue • Qualified Institutions Platform (QIP) • Rights Issue • Issue of American Depository Receipt (ADR) • Issue of Global Depository Receipt (GDR) • Issue of Foreign Currency Convertible Bonds (FCCBs)
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S.No	NEWS ON SEBI
1.	<p>Nomination for Eligible Trading and Demat Accounts – Extension of timelines for existing account holders</p> <p>SEBI vide its Circular dated 27th March 2023, has extended the choice of Nomination for existing trading and Demat accounts to September 30, 2023 instead of March 31, 2023.</p>
2.	<p>SEBI strengthens corporate governance norms, ends practice of permanent board seats at listed cos</p> <p>SEBI Chairperson Madhabi Puri Buch had announced steps to strengthen corporate governance norms, ending the practice of individuals having permanent seats at Boards of listed companies. The SEBI Board approved amendments to the LODR Regulations to strengthen corporate governance at listed entities by enhancing disclosure and empowering shareholders through various mechanisms.</p>
3.	<p>SEBI discontinues payment through demand draft mode for intermediaries</p> <p>Capital markets regulator SEBI discontinued the option of payment through demand draft for intermediaries and asked them to pay fees and penalties only through digital mode.</p>

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RBI during the week

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

S.No	Date of Issue	Rules/Circular/ Notification/ Order/Press release	Subject	Gist thereof
NIL				

S.No	NEWS ON RBI
1	<p>Mr. Piyush Goyal unveils Foreign Trade Policy 2023; new policy to encourage trade in Rupee.</p> <p>Commerce Minister Mr.Piyush Goyal announced the new Foreign Trade Policy 2023, which is expected to boost exports amid slowing global trade. The new foreign trade policy has highlighted the vision to take India's goods and services exports to \$2 trillion by 2030. The new FTP comes into effect from April 1, 2023.</p> <p>Top highlights are as follows:</p> <ul style="list-style-type: none"> • The government reiterated sector-specific targets to achieve the goal of \$1 trillion merchandise exports and \$1 trillion services exports by 2030. • Under the new policy, Faridabad, Moradabad, Mirzapur and Varanasi have been declared as towns of export excellence for apparels, handicrafts, handmade carpet and dari, and handloom and handicraft categories, respectively. • Foreign Trade Policy 2023-28 has introduced an amnesty scheme for one-time settlement of default in export obligation. • Under the new policy, the dairy sector has been exempted from maintaining average export obligation.

- A special advance authorisation scheme has been extended to apparel, and clothing.
- Under the new policy, the value limit for exports through courier services increased to Rs 10 lakh from Rs 5 lakh per consignment.
- FTP 2023 will encourage e-commerce exports, which is expected to grow to \$200-300 billion by 2023.
- FTP 2023 is also aimed at streamlining the SCOMET policy, which covers special chemicals, organisms, materials, equipment and technologies.

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IBC during the week
Notification -0; Master Direction – 0; Circulars – 0; Press Release -0

S.No	Date of Issue	Rules/Circular/ Notification / Order/Press release	Subject	Gist thereof
NIL				

S.No	NEWS ON IBC
1	<p><u>'Documentary Evidence' Not Pre-Condition To Avail Remedy U/S 17 SARFAESI Act Against Secured Creditor's Action U/S 13(4): MP High Court</u></p> <p>The Madhya Pradesh High Court has made it clear that 'documentary evidence' is not a pre-condition to avail remedy under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) against secured creditor’s alleged action under Section 13(4) of the Act. Section 17 provides remedy of appeal before DRT to any person, including the borrower, aggrieved by measures taken by the secured creditor under Section 13(4) of the Act for recovery of his secured debt</p>
2	<p><u>Section 14 Of IBC would not bar a proceeding under PMLA: NCLT Ahmedabad Reiterates</u></p> <p>The National Company Law Tribunal, while adjudicating an application under Section 60(5) of Insolvency and Bankruptcy Code, 2016 (“IBC”) in Bank of India vs M/s Mayfair Leisures Ltd has held that Section 14 of IBC would not bar a proceeding under the Prevention of Money Laundering Act, 2002 (“PMLA, 2002”)</p>

<p>3</p>	<p><u>Replacement of RP as per Section 27 is complete when the Resolution is passed with 66% voting share: NCLT Allahabad</u></p> <p>The National Company Law Tribunal, while adjudicating an application under Section 27 read with Section 60(5) of Insolvency and Bankruptcy Code, 2016 (“IBC”) in M/s Mahajagdamba Tubes Pvt. Ltd. vs M/s Quality Steels Product Limited has held that replacement of a Resolution Professional is complete as per the scheme of section 27 of IBC when the resolution is passed with the requisite 66% voting share.</p>
<p>4</p>	<p><u>NCLT shall not act as a Recovery Forum: NCLT Mumbai</u></p> <p>The National Company Law Tribunal has rejected the Application under Section 9 of IBC filed against Indian Oil Corporation Limited (‘IOCL’) by Satec Envir Engineering (India) Private Limited (‘SATEC’) on the ground that the tribunal cannot go into adjudication of dispute, whatsoever it may be, under IBC. NCLT made it clear that the Adjudicating Authority defined under IBC would not be an Adjudicator of disputed claims.</p>
<p>5</p>	<p><u>Unsuccessful Resolution Applicant Has No Locus Standi To Challenge The Approved Resolution Plan: NCLAT Chennai</u></p> <p>The National Company Law Appellate Tribunal (“NCLAT”), while adjudicating an appeal filed in M.K. Rajagopalan v S. Rajendran & Anr., has held that an Unsuccessful Resolution Applicant has no locus standi to assail a Resolution Plan or its implementation since it is not a stakeholder as per Section 31(1) of IBC. Vasan Health Care Pvt. Ltd. (“Corporate Debtor”) was admitted into Corporate Insolvency Resolution Process (“CIRP”). ASG Hospital Private Ltd. (“Successful Resolution Applicant/SRA”) submitted a Resolution Plan for the Corporate Debtor which was approved by the Committee of Creditors (“CoC”). Subsequently, the Resolution Plan was approved by the Adjudicating Authority on 03.02.2023 and the plan was implemented by the SRA.</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>Implementation guide on Reporting under 11(g) of Companies (Audit and Auditors) Rules, 2014</u></p> <p>Institute of Chartered Accountants of India has released the “Implementation Guide on Reporting under 11(g) of Companies (Audit and Auditors) Rules, 2014”. Section 11(g) of the Companies Act, 2013 specifies that – “ <i>Whether the company, in respect of financial years commencing on or after the 1st April, 2022, has used such accounting software for maintaining its books of account which has a feature of recording audit trail (edit log) facility and the same has been operated throughout the year for all transactions recorded in the software and the audit trail feature has not been tampered with and the audit trail has been preserved by the company as per the statutory requirements for record retention.</i>”</p>

<p>2</p>	<p><u>Extension of Date for mandatory electronic filing of Non-Preferential Certificate of Origin (CoO) through the Common Digital Platform to 31st December 2023</u></p> <p>Accordingly, the exporters and Non-Preferential CoO Issuing Agencies as notified under Appendix-2E of the Foreign Trade Policy would have the option to use the online system. However, the online application process shall not be mandatory till 31st December 2023. In this interim period, the existing systems of processing non-preferential CoO applications in manual/paper mode is permitted.</p>
<p>3</p>	<p><u>Empanelment of eligible Social Auditors with ICSI - ISA</u></p> <p>ICSI-ISA invites expression of interest for initial empanelment of Social Auditors, in prescribed format, from experienced Social Auditors for conducting Social Audit of the Social Enterprises as prescribed by SEBI.</p>
<p>4</p>	<p><u>Lok Sabha approves to setting up of GST Appellate Tribunal for the resolution of disputes under GST</u></p> <p>As per the amendments proposed in the Finance Bill 2023, which was passed by Lok Sabha, benches of the GST Appellate Tribunal would be set up in every state while there will be a principal bench in Delhi which will hear appeals related to place of supply'. Even after more than five years of implementation of the Goods and Services Tax (GST), the appellate tribunal has not been set up. As a result, unresolved legal matters under GST have accumulated</p>

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Update on Regulated Sector

S.No	Sector	Update
NIL		



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