

WEEKLY UPDATES ON COMPANY LAW, SEBI, RBI AND IBC

Week 32 – 5<sup>th</sup> August 2019 to 11<sup>th</sup> August, 2019

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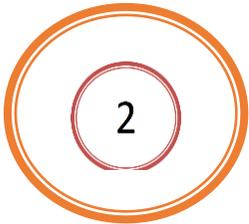
**Companies Act 2013 during the week**

**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 MINISTRY OF CORPORATE AFFAIRS
1.	Form AGILE is likely to be revised on MCA21 Company Forms Download page with effect from 10th August, 2019. Stakeholders are advised to check the latest version before filing.
2	Form SCP, AOC-4 CFS and AOC-4 XBRL is likely to be revised on MCA21 Company Forms Download page with effect from 11th August, 2019. Stakeholders are advised to check the latest version before filing.
3	<p><b>MCA plans to make geotagging of CSR projects mandatory</b></p> <p>Companies may soon have to geotag and furnish pictures of projects undertaken under their corporate social responsibility (CSR) programmes to the government.</p> <p>The Ministry of Corporate Affairs is considering such a move after the government introduced penal provisions to deal with companies failing to meet their CSR obligations. Parliament last week approved amendments to the Companies Act, adding</p>

	provisions that make companies criminally liable for CSR violations.
4	<p>The government is seeking feedback on draft guidelines that seek to protect consumers who shop online. The Ministry of Consumer Affairs introduced the draft ecommerce guidelines for consumer protection.</p> <p>The proposed rules are aimed at curbing the sale of counterfeit goods, streamlining returns and refunds, and delineating the liabilities of sellers and online marketplaces.</p>
5	<p>The government has absolutely no intention to criminalise any default in Corporate Social Responsibility spending under the companies law. Amid concerns over penal provisions for non-compliance with CSR requirements in the amended Companies Act, 2013, businesses should not fear and that the government greatly appreciates contributions made by them so far.</p> <p>As far as the penal provision is concerned, Section 134 of the Companies Act, 2013 already contains an identical penal provision, which was invoked against defaulting companies since inception. There is nothing new which has been added here in substance that is not already there. It is more of a drafting issue and not imposition of an additional penal provision.</p>



### SEBI during the week

**Act -0; Rules -0; Regulations-0; General Orders – 0; Guidelines- 0;**

**Master Circulars-0; Circulars – 3; Press Release –0; Others -0;**

S. No	Date of Issue	Act/rules/circulars....	Subject & Link	Gist thereof
1	07.08.2019	Circular	Product Advisory Committee (PAC)	<p>PAC shall be consulted for the following:</p> <ol style="list-style-type: none"> <li>1. Contract design on new commodities and review of design of existing contracts, to ensure that contract specifications represent the industry’s needs: <ul style="list-style-type: none"> <li>• alignment of quality/quantity specifications of the product with the physical market</li> <li>• choice of basis and additional delivery centers</li> <li>• appropriate premium/discount for additional deliverable quality/delivery at additional delivery center, etc.</li> </ul> </li> <li>2. Discussion on the “State of the Markets for</li> </ol>

				<p>the commodity” at every meeting.</p> <ol style="list-style-type: none"> <li>3. Review of the delivery centres as well as recommendations with respect to modifications of delivery centres.</li> <li>4. Review of suggestions/ feedback/ complaints received by the exchange regarding the commodity/contract and action taken thereon.</li> <li>5. Performance review of the existing contracts on various parameters.</li> <li>6. Any other related matter thereof</li> </ol>
2	07.08.2019	Circular	Disclosure of reasons for encumbrance by promoter of listed companies	<p>In order to bring greater transparency regarding reasons for encumbrance, particularly when significant shareholding by promoter along with persons acting in concert (PACs)with him is encumbered, it has been decided to prescribe additional disclosure requirements under Regulation 31(1) read with Regulation 28(3) of Takeover Regulations, as follows, -</p> <ol style="list-style-type: none"> <li>i. The promoter of every listed company shall specifically disclose detailed reasons for encumbrance if the combined encumbrance by the promoter along with PACs with him equals or exceeds: <ol style="list-style-type: none"> <li>a) 50% of their shareholding in the</li> </ol> </li> </ol>

				<p>company; or</p> <p>b) 20% of the total share capital of the company, in the format provided at Annexure –II of this circular, within two working days from the creation of such encumbrance. Such disclosures will be warranted on every occasion, when the extent of encumbrance (having already breached the above threshold limits) increases further from the prevailing levels.</p> <p>ii. The disclosure in Annexure –II shall be in addition to the disclosure of Annexure -I provided vide circular dated August 05, 2015</p> <p>iii. If the existing combined encumbrance by the promoter along with PACs with him is either 50% or more of their shareholding in the company or 20% or more of the total share capital of the company as on September 30, 2019, he shall specifically make first disclosure on detailed reasons for encumbrance in the format provided at Annexure -II, by October 04, 2019;</p> <p>iv. The disclosure on reasons for encumbrance</p>
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				<p>in the format provided at Annexure-A shall be made to, -</p> <ul style="list-style-type: none"> <li>a) every stock exchange where the shares of the company are listed; and</li> <li>b) the listed company;</li> </ul> <p>v. The recognised stock exchanges shall maintain and separately disseminate the list of such companies along with details of encumbrance and reasons for encumbrance, on their websites promptly; and</p> <p>vi. The listed companies shall disclose the contents of Annexure –II on their websites within two working days of receipt of such disclosure.</p> <p>The provisions of this circular shall come into effect from October01, 2019.</p>
3	09.08.2019	Circular	Circular on investments by AIFs incorporated in IFSC	<p>It has been decided to harmonize the provisions governing investments by AIFs incorporated in IFSC with those provisions regarding investments applicable for domestic AIFs. Accordingly, AIFs incorporated in IFSC shall be permitted to make investments as per the provisions of the SEBI (Alternative Investment Fund) Regulations, 2012, and the guidelines and circulars issued thereunder,</p>

				<p>including the operating guidelines for AIFs in IFSC.</p> <p>All other conditions specified in the aforesaid SEBI circular dated May 23, 2017 remain unchanged.</p>
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S. No	NEWS ON SECURITIES EXCHANGE BOARD OF INDIA
1.	<p>The new framework proposed by market regulator Security and Exchange Board of India (SEBI) to tackle the issue of auditor resignations from listed companies by seeking more mandatory disclosures is seen as corralling chartered accountants at the expense of companies.</p> <p>Institute of Chartered Accountants of India (ICAI) is readying a submission for SEBI in next two days asking the proposed norms about auditor resignations be reconsidered.</p>
2	<p>With an aim to safeguard mutual fund investors from high-risk assets, regulator SEBI wants fund houses to shift all their investments to listed or to-be-listed equity and debt securities in a phased manner and reduce their exposure to unrated debt instruments from 25 per cent to only 5 per cent.</p> <p>Exposure to risky debt securities has emerged as a major risk for the capital market investors, including those coming through the mutual fund space, and the regulator has been making efforts to enhance its regulatory safety net against such risks.</p>
3	<p>The Department of Financial Services (DFS) will issue the norms for the one-time partial credit guarantee scheme for public sector banks (PSBs) to purchase high-rated pooled assets of financially sound non-banking finance companies (NBFCs).</p>
4	<p>During a review on the performance of state-run banks, Finance and Banking Secretary Rajeev Kumar said that the guidelines were ready and that it will be issued shortly.</p>

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**RBI during the week**

**Notifications - 0; Master Directions – 0; Master Circulars – 0; Circular - 0;**

**Press Release – 0;**

S. No	Date of Issue	Notifications/Master Directors/Master Circulars	Subject & Link	Gist thereof
NIL				

S. No	NEWS ON RESERVE BANK OF INDIA
1	RBI launches Survey on International Trade in Banking Services (ITBS): 2018-19.
2	The Reserve Bank of India (RBI) has by an order dated July 31 imposed monetary penalty on eleven banks for non-compliance with certain provisions frauds classification and reporting by commercial banks and select financial institutions. The banks on which penalties are imposed are Bank of Baroda, Corporation Bank, Federal Bank, Indian Overseas Bank, Jammu & Kashmir Bank, Oriental Bank of Commerce, Punjab & Sind Bank, Punjab National Bank , State Bank of India, UCO Bank and United Bank of India.
3	Even as the central bank keeps its stand that it would not create a bespoke bailout package for the embattled NBFC sector, governor Shaktikanta Das said that the regulator would not allow any big non-bank lender to collapse.

	<p>“We are monitoring 50-odd large NBFCs, including HFCs,” said RBI governor Shaktikanta Das. “It is our endeavour to ensure that there is no collapse of any large, systemically important NBFC.”</p>
4	<p>To further ease the resolution of stressed assets, the Reserve Bank is in discussions with its counterparts SEBI and IRDAI to allow asset management companies and insurers to become part of the inter-creditor agreement (ICA), something that is mandatory for resolving stressed assets.</p> <p>In the revised circular on the framework for resolution of stressed assets, issued on June 7, the RBI made signing of an inter-creditor agreement by all lenders mandatory, to arrive at a majority decision-making criteria for resolving stressed assets.</p>

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**IBC during the week**

**Notifications -; Master Directions –; Master Circulars – ; Circular – ;**

**Press Release – ;**

S. No	Date of Issue	Notifications/Master Directors/Master Circulars	Subject & Link	Gist thereof
NIL				

S. No	NEWS ON INSOLVENCY AND BANKRUPTCY CODE
1	<p>Following acts have been amended:</p> <ul style="list-style-type: none"> <li>a. The Insolvency and Bankruptcy Code (Amendment) Act, 2019</li> <li>b. Insolvency and Bankruptcy Board of India (Continuing Professional Education for Insolvency Professionals) Guidelines, 2019</li> </ul>
2	<p>A builder cannot “impose” upon a buyer to take possession of a ready house if it is delayed, and the customer is justified in seeking a refund, the Supreme Court has ordered.</p> <p>Upholding an order of the National Consumer Disputes Redressal Commission to a Pune-based builder, an SC bench comprising Justices U U Lalit and Vineet Saran said, “Even assuming that the villa is now ready for occupation (as asserted by the appellants), the delay of almost five years is a crucial factor and the bargain cannot now be imposed upon the respondents. The respondents</p>

	were, therefore, justified in seeking refund of the amounts that they had deposited with reasonable interest on said deposited amount. The findings rendered by the commission cannot, therefore, be said to be incorrect or unreasonable on any count.”
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S. No	GENERAL NEWS
1	After the abrogation of Article 370, banker Uday Kotak Monday called upon the government to bring in more legislative changes to lower state ownership in public sector banks below 50 per cent and also re-introduction of the FRDI Bill. He proposed changes to public sector banking, including reducing the number of state-run lenders to five, getting government stakes down in some of them to under-50 per cent, or merging a few of them or even public private partnerships in banking.
2	With a view to boosting investor confidence on Dalal Street, the Finance Ministry is working on a package for capital markets, which may include withdrawal or some tweaking of the long-term capital gains tax (LTCG). The report said the government is studying the possible impact of withdrawing LTCG after a three-year holding period. This means if you are investing in equities and holding them for three years, there will be no tax on the gains.



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