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Companies Act 2013 during the week

Rules -0; Circulars -0; Notifications-1; Orders-0; Important Notices -0

S. No	Date of Issue	Rules/Circular/ Notification/Order	Contents thereof	Gist thereof
1	18/08/2022	Notification	<p>Companies (Incorporation) Third Amendment Rules 2022</p> <p>https://www.mca.gov.in/bin/dms/getdocument?mds=wIHQjtXEQJK%252F7i1M2jM5wQ%253D%253D&type=open</p>	<ul style="list-style-type: none"> • Companies (Incorporation) Rules, 2014, Rule 25B relating to Physical verification of the Registered Office of the company has been inserted. <p>The Rule provides that the Registrar, may cause the physical verification of the said registered office in presence of two independent witness of the locality in which the said registered office is situated if the ROC has reasonable cause to believe that the company is not carrying on any business or operations</p> <ul style="list-style-type: none"> • The Registrar shall carry the documents as filed on MCA 21 in support of the address of the registered office of the company for the

				<p>purposes of physical verification and to check the authenticity of the same by cross verification with the copies of supporting documents of such address collected during the said physical verification, duly authenticated from the occupant of the property whereat the said registered office is situated.</p> <ul style="list-style-type: none">• The amendment also provides the format in which the report of the physical verification shall be prepared• These shall come into force from the date of publication in the official gazette• When the registered office of the company is found to be incapable of receiving any official communications and acknowledging the same, a notice will be sent to the company and related officials for striking off the name of the company form the register.
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S. No	NEWS ON MCA
1	<p>Centre to amend Companies Act, tighten audit regime soon : MCA will soon introduce a set of tough measures to tighten the framework of statutory auditors aimed at ensuring their independence. The measures are aimed to check the recurrence of situations such as the 2018 failure of Infrastructure Leasing and Financial Services Ltd. (IL&FS) group firms. The ministry has completed a consultation on a report on audit reforms submitted to finance and corporate affairs minister in March by an expert committee. The drafting of a bill to amend the Companies Act will start now, said a person familiar with the discussions in the government, indicating the government's resolve to raise the bar on statutory audit. Audit reforms will now become a priority for the ministry as reforms in other areas have reached an advanced stage—a bill on amendments to the Competition Act has already been introduced in Parliament and work is at an advanced stage on bankruptcy reforms.</p>

2

SEBI during the week

Act -0; Report -0; Circulars-3; Press Release-0; Notification -0; Regulation- 0

S. No	Date of Issue	Rules/Circular/ Notification/ Order	Contents thereof	Gist thereof
1	17/08/2022	Circular	<p>Guidelines for overseas investment by Alternative Investment Funds (AIFs) / Venture Capital Funds (VCFs)</p> <p>https://www.sebi.gov.in/legal/circulars/au-g-2022/guidelines-for-overseas-investment-by-alternative-investment-funds-aifs-venture-capital-funds-vcfs-62020.html</p>	<p>AIFs/VCFs may invest in securities of companies incorporated outside India subject to such conditions or guidelines that may be stipulated or issued by the Reserve Bank of India and SEBI from time to time. SEBI vide this circular has issued Guidelines for overseas investment by AIFs /VCFs.</p> <p>AIFs/VCFs shall file an application to SEBI for allocation of overseas investment limit in the format specified at Annexure A to this circular of the link provided.</p> <p>AIFs/VCFs shall not invest in an overseas investee company, which is incorporated in a country identified in the public statement of FinancialAction Task Force(FATF)</p>

				<p>AIFs/VCFs shall transfer/sell the investment in overseas investee company only to the entities eligible to make overseas investments, as per the extant guidelines issued under the Foreign Exchange Management Act, 1999.</p> <p>AIFs/VCFs shall furnish the sale/divestment details of the overseas investments to SEBI in the format given at Annexure B within 3 working days of the divestment, by emailing to aifreporting@sebi.gov.in ,for updating the overall limit available for overseas investment by AIFs/VCFs.</p>
2	18/08/2022	Circular	<p>Block Mechanism in demat account of clients undertaking sale transactions</p> <p>https://www.sebi.gov.in/legal/circulars/au-g-2022/block-mechanism-in-demat-account-of-clients-undertaking-sale-transactions-62131.html</p>	<p>The facility of block mechanism shall be mandatory for all Early Pay-In transactions.</p> <p>This circular shall be applicable with effect from November 14, 2022.</p> <p>Stock Exchanges and Depositories are directed to:</p> <ol style="list-style-type: none"> bring the provisions of this circular to the notice of their members / participants and also disseminate the same on their websites Make necessary amendments to the relevant Bye-laws, Rules and Regulations for the implementation of the above decision. Communicate to SEBI, the status of the implementation of the provisions of this circular on November 15, 2022

3	19/08/2022	Circular	<p>Participation as Financial Information Providers in Account Aggregator framework</p> <p>https://www.sebi.gov.in/legal/circulars/au-g-2022/participation-as-financial-information-providers-in-account-aggregator-framework-62157.html</p>	<ul style="list-style-type: none"> • Information transferred by the AAs will be encrypted and will not be stored by them. • Information shared by the AAs will only be for the use of customers and FIUs and with the consent of the customer. • The Asset Management Companies through their Registrar and Transfer Agents (RTA) and the Depositors will be considered as FIPs in the market. • Financial Information Providers (FIPs) will only provide the financial information to Financial Information User (FIUs) when the customer digitally gives the valid consent through any of the Account Aggregators registered under RBI. • Further the FIPs will enter into a contract with AAs, in which it shall mention the rights and obligations of each party and any modification if required for the resolution of dispute. • FIPs will share the financial information through AAs after receiving the receipt of the valid consent artefact. • FIPs need to check the validity of consent, specified date and authenticity of the AAs before sharing any financial information. • After the verification of the consent, FIPs need to digitally sign the financial information before handing it over to the AA.
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				<ul style="list-style-type: none"> • FIPs are required to establish means for the verification of consent. • Technical usage of the FIPs should be updated on a regular basis to maintain the authenticity and unobstructed flow of data. There should be measures to recover data if required by the RBI in future. • Information present under FIPs should be protected from unauthorized access, destruction, disclosure of any kind of data.
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S.No	NEWS ON SEBI
1	<p>NSE tracks insider trading rules compliance (August 15, 2022) National Stock Exchange (NSE) shared a compliance certificate format with many companies which have to give specific declaration on whether they have control over who can access unpublished price sensitive information (UPSI), if information shared are time-stamped to keep a track on who is receiving it and when, and whether there is chance of anyone tampering with the records. A move is on to scrutinise whether large and actively traded companies are falling in line with the rules to curb insider trading, one of the scourges of the Indian stock market.</p>

3

RBI during the week

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

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

S. No	NEWS ON RBI
NIL	

4

IBC during the week

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

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

S. No	NEWS ON IBC
1	<p>Rajasthan High Court Dismisses Plea Challenging Constitutional Validity Of Section 7 Of Insolvency & Bankruptcy Code, 2016 : The Rajasthan High Court has dismissed a plea seeking to declare Section 7 of the Insolvency & Bankruptcy Code, 2016 as unconstitutional to the extent it facilitates a joint application by multiple financial creditors, to prove minimum default of one crore rupees. The petitioner has also approached the court on being aggrieved by the order passed by the National Company Law Tribunal, Jaipur Bench. "Having considered the entirety of the facts and circumstances as available on record and after appreciating the arguments advanced at bar, we are of the firm view that the statute i.e., Section 7 of the IBC as amended vide Gazette Notification dated 05.06.2020, admits no other interpretation except that a group of financial creditors can converge and join hands to touch the financial limit of Rs.1 crore stipulated under Section 7 so as to initiate a CIRP under the IBC."</p>

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| 2. | <p>Insolvency resolution plans should go beyond recast of liabilities: IBBI NEW DELHI: Insolvency resolution plans of companies stitched collectively by a committee of collectors should improve the worth of the corporate over time in a sustained approach which wants methods going beyond the mere restructuring of liabilities, Insolvency and Bankruptcy Board of India (IBBI) has mentioned. In a message on its website, the chapter rule maker mentioned a resolution plan requires the committee of collectors to show nice business knowledge. “Such worth maximization with sustained resolution requires methods a lot beyond the restructuring of liabilities. This requires super business dexterity and acumen on the half of members of the CoC,” IBBI said.</p> <p>The regulator also said that with responsibility comes accountability and since the decisions of the committee of creditors impact the life of a firm and consequently its stakeholders, it needs to be fair and transparent in its decisions.</p> |
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Others during the week

NSE-0; BSE-0; DIPP-0; Finance Ministry-0; Others -0;

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

GENERAL NEWS	
1	<p>CBIC has clarified that arrest in respect of an offence, should be effected only in exceptional situations which may include:</p> <p>a) Cases involving unauthorised importation in baggage/ cases under Transfer of Residence Rules, where the market value of the goods involved is Rs. 50,00,000/- or more;</p> <p>b) Cases of outright smuggling of high value goods such as precious metal, restricted items or prohibited items or goods notified under section 123 of the Customs Act, 1962 or offence involving foreign currency where the value of offending goods is Rs. 50,00,000/- or more</p>
2	<p>CBIC has raised the monetary thresholds for prosecution and arrest for customs offences. There will be no prosecution against foreign nationals and NRIs (normally visiting India for travel/business trips etc.) on detection of non-declaration of foreign currency, if it is legally acquired. The threshold for prosecution involving baggage has been increased to Rs. 50,00,000/-.</p>

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Update on Regulated Sector

S.No	Sector	Update
1.		NIL



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