

WEEKLY UPDATES ON COMPANY LAW, SEBI, RBI AND IBC

Edition No.255 Week 51- December 11 2022 to December 17 2022

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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>RD Adjudication Order in the matter of M/S. Madras fertilizers limited:</u></p> <ul style="list-style-type: none"> As per Sec. 118(10) of the Companies Act, 2013, every company shall observe secretarial standards with respect to general and Board meetings specified by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980 (56 of 1980), and approved as such by the Central Government. As per Clause 14 of Secretarial Standard - 'Distribution of Gifts' - No gifts, gift coupons, or cash in lieu of gifts shall be distributed to the Members at or in connection with the meeting.

	<ul style="list-style-type: none"> • Whereas it is observed that the subject company had given SBI card to all 53 minority shareholders based on their requests. Hence, it is affirmed that the subject company has violated the provisions of Sec. 118(10) of the Companies Act, 2013 read with SS-2 in Clause 14 of Secretarial Standard. • The Order pronounced that It is the duty of the Company Secretary to take utmost care that the Company complies with all the Secretarial Standards whereas in the instant case, the Company has violated Clause 14 of SS-2 read with Section 118 (10) of the Companies Act, 2013. • As such, the Company Secretary alone will be held responsible for the mistake committed. • Hence the penalty levied on Company, Managing Director and Whole-time Director was set aside and ROC was directed to initiate necessary action against the Company Secretary alone as sub-section (2) of Section 205 specifically states that the provisions contained in Section 205 shall not affect the duties and functions of the Board of Directors, Chairperson of the Company, Managing Director or Whole-time Director under this Act or any other law for the time being in force
2.	<p><u>RD Adjudication Order in the matter of M/S. Thanjavur Spinning Mill Limited:</u></p> <ul style="list-style-type: none"> • The ROC had levied a penalty on M/S. Thanjavur Spinning Mill Limited for non compliance on appointing a Company Secretary in violation of Section 203(1) of the Companies Act, 2013 read with Rule 8A of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014; for a default period of 845 days. • The ROC had levied a penalty of Rs 5,00,000 each on the Company, Directors and Chief Financial Officer. • Based on the appeal filed by the Company, the RD had revised the penalty to Rs 50,000 for the Company, Rs 25,000 to the Directors and Chief Financial Officer

3. Revised combination assessment timelines under competition law soon: MCA

The revised timelines proposed in the competition law will help in making the assessment of combinations swift and time-bound as well as provide certainty to businesses, according to the Ministry of Corporate Affairs (MCA). A bill to amend the Competition Act is now being examined by the Parliamentary Standing Committee on Finance. One of the amendments proposed is to reduce the time limit for approval of combinations to 150 days from the current 210 days and another is that the Competition Commission of India (CCI) has to form a prima facie opinion within 20 days for expeditious approval of combinations.

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SEBI during the week

Act -0; Report -0; Circulars-2; Master Circular-0; Notification -0; Regulation- 1

S. No	Date of Issue	Rules/Circular/ Notification/ Order	Contents thereof	Gist thereof
1	12/12/2022	Regulations	<p>Securities And Exchange Board Of India (Sebi) (Procedure For Board Meetings) (Amendment) Regulations, 2022</p> <p>https://www.sebi.gov.in/legal/regulations/jun-2001/sebi-procedure-for-board-meetings-regulations-2001_17777.html</p>	<p>In SEBI (Procedure for Board Meetings) Regulations 2001, a proviso has been inserted under Regulation - 4 as follows</p> <ul style="list-style-type: none"> • A member who intends to participate in a meeting through video conferencing or other audio-visual means, shall communicate the same, in advance to the Chairman or Secretary of the Board as per the procedure specified in Schedule I of the Regulations. • The procedure as per Schedule I is <ol style="list-style-type: none"> a) A member may participate in a meeting through video conferencing by intimating the Chairman or Secretary in advance. b) The Board shall make necessary arrangements for the same.

				<p>c) The member participating through video conferencing mode shall be counted for the purpose of quorum.</p> <p>d) Attendance shall be recorded as “ Participated through Video Conferencing”</p> <p>e) Minutes shall disclose the details of members participating through Video Conferencing.</p> <p>f) Members must ensure that due care is taken to safeguard the integrity of the meeting, to ensure that no person other than the member is present & to ensure that they are able to hear and see the participants clearly during the course of meeting.</p>
2	15/12/2022	Circular	<p>Filing of Equity announcements and Financial results to be made available on the NEAPS (NSE Electronic Application Processing System) platform</p> <p>NSE/CML/2022/58 Date: December 15, 2022</p>	<ul style="list-style-type: none"> The companies listed on Stock exchange will have to file their disclosures for the Equity Announcements subjects and Financial Results in the same manner as it was available on the NEAPS platform during February 2022 <p>The following guidelines was provided by NSE with regard to submission in NEAPS.</p> <ul style="list-style-type: none"> The outcome of the Board meeting with only financial results as agenda item as Quarterly/Half yearly / Annual Financial results will have to be filed only on NEAPS

				<ul style="list-style-type: none"> • For outcome of board meeting with multiple agenda item along with financial results will have to filed under both announcement and quick result module on NEAPS • The XBRL submission for financial results will have to be filed under Full Results module on NEAPS.
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S.No	NEWS ON SEBI
1	<p><u>Sebi may prescribe global Private Equity and Venture Capital-like valuation norms for AIFs</u></p> <p>The Securities and Exchange Board of India (Sebi) may prescribe standard valuation norms for alternative investment funds (AIFs) along the lines of International Private Equity and Venture Capital Valuation Guidelines (IPEV), which are followed by funds globally. The regulator may also prescribe a list of valuers, which may include global consultancy firms and independent valuers, said people in the know.</p>
2	<p><u>Sebi issues Rs 14-cr demand notice to Jindal Cotex in GDR manipulation case</u></p> <p>Sebi on sent a notice to Jindal Cotex Ltd NSE 4.17 % and asked the firm to pay over Rs 14 crore in a matter related to manipulation in issuance of global depository receipts (GDR). The regulator directed Jindal Cotex Ltd (JCL) to pay over Rs 14 crore, which includes interest and recovery costs, within 15 days. In the event of non-payment, it will recover the amount by attaching and selling the movable and immovable properties of the firm. The firm will also face attachment of assets and bank accounts and further arrest of its directors, Sebi said.</p>

3	<p><u>Sebi planning 'micro' REITs to boost nascent market: Source</u></p> <p>India's market regulator is planning to allow "micro" real estate investment trusts (REITs), according to a senior official, to bring a wider set of property companies to the nascent market as India emerges from a pandemic-induced lull. The Securities and Exchange Board of India (SEBI) is considering reducing the size of REITs, allowing them to hold just a single asset or a diversified portfolio, to increase supply and flexibility for investors, said the official.</p>
4	<p><u>MCA Secretary Manoj Govil nominated as SEBI Board Member</u></p> <p>The Centre has nominated Mr. Manoj Govil, Secretary, Ministry of Corporate Affairs, to the Board of Securities and Exchange Board of India (SEBI) in the place of erstwhile MCA Secretary Rajesh Verma, who was appointed as part-time Member of the Board on March 8.</p>

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RBI during the week

Notifications - 1; Master Directions –2; Master Circulars –0; Press Release -0;

S. No	Date of Issue	Notifications/Master Directors/Master Circulars	Subject & Link	Gist thereof
1	13/12/2022	Notification	<p>Data Format for Furnishing of Credit Information to Credit Information Companies and other Regulatory Measures</p> <p>https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12425&Mode=0</p>	<p>RBI had released a Notification dated June 27th 2014 on Data Format for Furnishing of Credit Information to Credit Information Companies and other Regulatory Measures inter alia setting out a Uniform Credit Reporting Format for reporting credit information to the Credit Information Companies (CICs). The RBI vide this Notification had clarified that cases admitted with National Company Law Tribunal (NCLT)/National Company Law Appellate Tribunal (NCLAT) under the Insolvency and Bankruptcy Code, 2016 are also required to be reported under the suit-filed cases in reporting to the CICs. The implementation of the Circular by Credit institutions is by February 28, 2023</p>

2	13/12/2022	Master Directions	<p>Updations to the Reserve Bank of India (Financial Statements – Presentation and Disclosures) Directions, 2021 – Disclosure of material item</p> <p>https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12426&Mode=0</p>	<p>As per the Reserve Bank of India (Financial Statements – Presentation and Disclosures) Directions, 2021 – the banks shall also disclose the particulars of all such items in the notes to accounts wherever any item under the Schedule 5(IV)-Other Liabilities and Provisions-“Others (including provisions)” or Schedule 11(VI)-Other Assets-“Others” exceeds one per cent of the total assets. The Payments Banks shall also disclose particulars of all such items in the notes to accounts, wherever any item under the Schedule 14(I)-Other Income-“Commission, Exchange and Brokerage” exceeds one per cent of the total income.</p> <p>These instructions are applicable to all commercial banks. These instructions shall come into effect for disclosures in the notes to the annual financial statements for the year ending March 31, 2023 and onwards.</p>
3	13/12/2022	Master Directions	<p>Master Direction – Foreign Exchange Management (Hedging of Commodity Price Risk and Freight Risk in Overseas Markets) Directions, 2022</p> <p>https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12427&Mode=0</p>	<ul style="list-style-type: none"> • Under Section 11 of the Foreign Exchange Management Act, 1999 (Act 42 of 1999), RBI had issued directions to Authorised Persons to lay down the modalities for the AD Cat-I banks for facilitating hedging of commodity price risk and freight risk in overseas markets by their customers / constituents. • As per the Master Directions on Hedging, Permitted products refer to the following: <ul style="list-style-type: none"> (i) Generic Products (a) Futures and forwards (b) Vanilla options (call option and put option) (c) Swaps (ii) Structured Products (a)

				<p>Products which are combination of either cash instrument and one or more generic products (b) Products which are combination of two or more generic products</p> <ul style="list-style-type: none"> • The eligible entities having exposure to commodity price risk for any eligible commodity may hedge such exposure in overseas markets using any of the permitted products and eligible entities having exposure to price risk of gold may hedge such exposure only on exchanges in the International Financial Services Centre (IFSC) recognized by the International Financial Services Centres Authority (IFSCA) • The Directions have detailed out operational guidelines to be followed by Banks which includes, eligible entity to have risk management policies in place, including understanding of the likely risks associated with the products proposed to be used for hedging. • Realization and repatriation of foreign exchange due or accruing to an eligible entity resulting from permitted transactions under this direction shall be guided by the provisions of the Foreign Exchange Management (Realization, repatriation and surrender of foreign exchange) Regulations, 2015. • Banks shall obtain an annual certificate from the statutory auditors of the entity confirming that the hedge transactions and the margin
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				remittances are in line with the exposure of the entity. The statutory auditor shall also comment on the risk management policy of the entity for hedging exposure to commodity price risk and freight risk and the appropriateness of the methodology to arrive at the quantum of these exposures
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S. No	NEWS ON RBI
1	<p>RBI allows lenders to sell loans before 'default' tag</p> <p>The RBI has allowed banks and finance companies to sell stressed loans, which are in default in their books, to asset reconstruction companies (ARCs). The central bank amended norms for sale of loans last week. Earlier, lenders had to wait until the loans were in default for more than 60 days or classified as non-performing assets (NPAs) for them to be transferred to ARCs. This relaxation will help banks keep their balance sheets clean by selling loans at the first sign of trouble, even before they classify them as default.</p>
2	<p>Digital lending apps: The Reserve Bank of India (RBI) has received about 13,000 complaints against banks and non-banking finance companies (NBFCs) about their digital lending applications and harassment by recovery agents. The grievances were filed under the banking regulator's integrated ombudsman scheme of 2021 during the past 19 months (April 2021-November 2022), said Bhagwat Karad, Minister of State, Ministry of Finance, in a written response to Parliament.</p>

3	<u>Credit Card Payment Rule:</u> RBI Allows Three Days Post Deadline To Clear Dues If you have multiple credit cards, it's common to forget when a payment is due. Keeping track of due dates for numerous credit card payments, each month, can be challenging. If you have forgotten to make a credit card payment on time, don't freak out. The Reserve Bank of India (RBI) has instructed banks and credit card issuers that they may only impose late penalties three days after a payment is missed.
4	<u>FCRA licence of 6,677 NGOs cancelled in 5 years:</u> The FCRA registration of 6,677 NGOs was cancelled by the government between 2017 and 2021. Union Minister of State for Home Nityanand Rai said the registration of these NGOs under the Foreign Contribution (Regulation) Act, 2010, was cancelled for violation of various provisions of the law. NGOs will not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of registration.

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IBC during the week

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

S. No	Date of Issue	Notifications/ Master Directors/Mast er Circulars	Subject & Link	Gist thereof
1	13/12/2022	Guidelines	Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) (Second) Guidelines, 2022 https://ibbi.gov.in/uploads/legalframwork/15fd41484696472007c3bf90e8f76e45.pdf	<ul style="list-style-type: none"> IBBI has come out with the second guidelines to prepare a panel of Insolvency professionals for the purpose of section 16(4), 34(6), 97(4), 98(3), 125(4), 146(3) and 147(3) of the IBC. Accordingly, the Board will prepare a common Panel of IPs for appointment as IRP, Liquidator, RP and BT and share the same with the AA (Hon'ble NCLT and Hon'ble DRT) in accordance with these Guidelines. The Panel will have Zone wise list of IPs based on the registered office (address as

				<p>registered with the Board) of the IP and The Panel will have validity of six months and a new Panel will replace the earlier Panel every six months.</p> <ul style="list-style-type: none"> • The NCLT may pick up any name from the Panel for appointment of IRP, Liquidator, RP or BT, for a CIRP, Liquidation Process, Insolvency Resolution or Bankruptcy Process relating to a corporate debtors and personal guarantors to corporate debtors, as the case may be. • The DRT may pick up any name from the Panel for appointment as RP or BT, for an Insolvency Resolution or Bankruptcy Process for personal guarantors to corporate debtors, as the case may be. • An IP will be eligible to be in the Panel of IPs, if - (a) there is no disciplinary proceeding, whether initiated by the Board or the IPA of which he is a member, pending against him; (b) he has not been convicted at any time in the last three years by a court of competent jurisdiction; (c) he expresses his interest to be included in the Panel for the relevant period; (d) he undertakes to discharge the responsibility as IRP, Liquidator, RP or BT, as he may be appointed by the AA; (e) he holds an Authorisation for Assignment (AFA), which is
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				valid till the validity of Panel. For example, the IP included in the Panel for appointments during January – June 30, 2023 should have AFA valid up to June 30, 2023.
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S. No	NEWS ON IBC
1	<p><u>Public Notice on Open Conference to address grievances / suggestion on issues related to Intellectual Property Rights</u></p> <p>The Office the Patents, Designs and Trade Marks (CGPDTM) has taken up initiative to conduct Open house for seamless and direct communications of various IP related matters. The open house discussion shall be conducted on every working Fridays during 4 PM to 5: 30 PM</p>
2	<p><u>25 Member Vacancies In NCLTs, 12.8K Cases Pending, Average Resolution Time Almost Tripled In 5 Yrs</u></p> <p>The Minister of State in the Ministry of Corporate Affairs, Rao Inderjit Singh, while tabling written answers to two unstarred questions tendered in the Lok Sabha, informed that the Central Government was not considering to amend the Insolvency and Bankruptcy Code, 2016 in order to tackle the issue of pendency of cases.</p>
3	<p><u>Section 66 Of IBC Does Not Provide For Any Look Back Period For Fraudulent Transactions: NCLAT Chennai</u></p> <p>The National Company Law Appellate Tribunal ("NCLAT"), while adjudicating an appeal filed in Mr. Thomas George v K. Easwara Pillai & Ors., has held that the Section 66 of IBC does not provide for any lookback period as far as fraudulent transactions are concerned.</p>

4	<p><u>IBC changes on agenda to speed up resolution; bill likely to be introduced in Budget Session</u></p> <p>The government is considering changes to the Insolvency and Bankruptcy Code (IBC) to speed up the resolution process, said a senior government official. These would address inter-creditor disputes, identified as the leading cause of delays. An amendment bill is likely to be introduced in the budget session after stakeholder consultations. The Insolvency Law Committee will meet next week to finalise the proposals, post which the formal consultation process will begin the official said.</p>
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Others during the week

NSE-0; BSE-0; DIPP-0; Finance Ministry-0; Others -2;

S. No	Date of Issue	Rules/Circular/ Notification/Order	Contents thereof	Gist thereof
1	15/12/2022	Implementation guide – SA 230 - ICAI	Implementation Guide to Standard on Auditing (SA) 230 Audit Documentation https://resource.cdn.icai.org/72414aasb58321.pdf	<ul style="list-style-type: none"> Standard on Auditing (SA) 230, “Audit Documentation” prescribes the basic principles of audit documentation. These principles need to be followed by auditors while complying with requirements of SA 230 and specific documentation requirements of other Standards on Auditing. In 2013, the Auditing and Assurance Standards Board (AASB) of ICAI issued the “Implementation Guide to SA 230, Audit Documentation” to provide practical implementation guidance to auditors on this Standard. The Implementation Guide was revised in 2018. The revised edition of the Implementation Guide contains Summary of the Standard, Introduction, FAQs on SA 230,

				<p>Checklist and Illustrative Working Paper Format. Chapter 3: FAQs on SA 230 of revised edition of the Implementation Guide contains detailed guidance on principles of SA 230 in a Question-Answer format.</p> <ul style="list-style-type: none"> The revised edition of the Implementation Guide will enable auditors to comply with requirements of SA 230 effectively as it brings out additional clarity on various aspects of SA 230.
2	12/12/2022	Feedback on Form 8 LLP	ICSI had invited feedback on Form 8 LLP Modules in MCA21- V3 Portal	<ul style="list-style-type: none"> The Institute of Company Secretaries of India had invited feedback on Form 8 (Statement of Accounts and Solvency) required to be filed for LLPs in V3 Portal

GENERAL NEWS	
1	<p><u>ZED scheme: This many MSMEs are 'gold' standard for sustainability in India</u></p> <p>The MSME Sustainable (ZED) Certification scheme launched by the government in April this year — to encourage MSMEs to improve their manufacturing processes and systems to enhance quality and move towards sustainability — has registered more than 22,000 enterprises so far. According to the data shared by the minister of state for MSMEs Bhanu Pratap Singh Verma in a written reply to a question in the Lok Sabha, out of total registrations, 734 MSMEs were awarded bronze certification while 32 MSMEs won silver certification and 25 were awarded gold certification</p>

2	<p><u>CBDT Exempts NRIs Without PAN From E-filing Form 10F Upto March 2023</u></p> <p>The Central Board of Direct Taxes (CBDT) has exempted non-resident Indians (NRIs) without permanent account numbers (PANs) from e-filing Form 10F up to March 2023. The notification No. 03/2022, dated July 16, 2022, issued by the Directorate of Income Tax (Systems), New Delhi, mandated the furnishing of Form 10F electronically.</p>
3	<p><u>ED freezes funds worth over Rs 51 cr in mobile apps money laundering case</u></p> <p>The Enforcement Directorate said it has frozen funds worth Rs 51.11 crore under the anti-money laundering law after raiding premises linked to a mobile app company that allegedly duped investors on the pretext of providing "very high" returns. The searches were carried out on December 9 at locations in Noida, Pune and Bengaluru in the case of "misuse" of the Matrix Partners Fund (MPF) app and some other apps related to it.</p>

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Update on Regulated Sector

S.No	Sector	Update
NIL		



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