

WEEKLY UPDATES ON COMPANY LAW, SEBI, RBI AND IBC

Week 06th –01st February 2021 to 07th February 2021

1

Companies Act 2013 during the week
Rules -3; Circulars -0; Notifications-0; Orders-0; Important Notices -0

S. No	Date of Issue	Rules/Circular/ Notification/Order	Contents thereof	Gist thereof
1	01 st February 2021	Rules	<p>Companies (Incorporation) Second Amendment Rules, 2021</p> <p>http://www.mca.gov.in/Ministry/pdf/SecondAmndtRules_02022021.pdf</p>	<p>The MCA vide notification dated February 01, 2021 has issued the Companies (Incorporation) Second Amendment Rules, 2021 for notifying the Amendments as announced in the Budget 2021, for OPCs. Amendment has been introduced w.r.t. Allowing non-resident Indians to incorporate OPCs in India, Reducing the residency limit for an Indian citizen to set up an OPC from 182 days to 120 days, Thresholds limit of Paid-up share capital exceeding Rs. 50 lakhs and turnover exceeding Rs. 2 crores for compulsory conversion of OPC into Public/Private Company has been removed, Conversion of OPC into any other type of company at any time has been allowed etc.</p>

2	01 st February 2021	Rules	<p>Companies (Specification of Definitions Details) Amendment Rules, 2021.</p> <p>http://www.mca.gov.in/Ministry/pdf/SpecificationAmndtRules_02022021.pdf</p>	<p>The MCA has eased the Compliance requirement of Small companies by revising their definition under Companies Act, 2013 by increasing their thresholds for paid up capital from “not exceeding Rs. 50 Lakhs” to “not exceeding Rs. 2 Crore” and turnover from “not exceeding Rs. 2 Crore” to “not exceeding Rs. 20 Crore”.</p>
3	01 st February 2021	Rules	<p>Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2021</p> <p>http://www.mca.gov.in/Ministry/pdf/AmalgamationsAmndtRules_02022021.pdf</p>	<p>The MCA vide notification dated February 01, 2021 has amended Rule 25 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, allowing scheme of merger or amalgamation under section 233 of the Companies Act, 2013 (fast track mergers through relatively simpler procedure) between any of the following class of companies, namely:-</p> <ul style="list-style-type: none"> (i) two or more start-up companies; or (ii) one or more start-up company with one or more small company.

S.NO	NEWS ON MCA
1.	MCA 21 Version 3.0 to be introduced with additional modules for e-scrutiny, e-adjudication, e-consultation and compliance management.

2

SEBI during the week

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

Master Circulars-0; Circulars – 1; Press Release –0; Others -0;

S. No	Date of Issue	Act/Rules/Circulars	Subject & Link	Gist thereof
1.	02 nd February 2021	Circulars	<p style="text-align: center;">Setting up of Limited Purpose Clearing Corporation (LPCC) by Asset Management Companies (AMCs) of Mutual Funds</p> <p style="text-align: center;">https://www.sebi.gov.in/legal/circulars/feb-2021/setting-up-of-limited-purpose-clearing-</p>	SEBI released guidelines for setting up of Limited Purpose Clearing Corporation (LPCC) by asset management companies, making it obligatory for them to contribute towards the share capital of such entities. The LPCC is an entity established to undertake the activity of clearing and settlement of repo transactions in corporate debt securities. Accordingly, it has been decided that AMCs shall contribute INR

			<u>corporation-lpcc-by-asset-management-companies-amcs-of-mutual-funds 48982.html</u>	150 crore towards share capital of LPCC in proportion to the Asset Under Management (AUM) of open ended debt oriented mutual fund schemes (excluding overnight, gilt fund and gilt fund with 10 year constant duration but including conservative hybrid schemes) managed by them.
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S. No	NEWS ON SEBI
1.	The provisions of SEBI Act, 1992, Depositories Act, 1996, Securities Contracts (Regulation) Act, 1956 and Government Securities Act, 2007 will be consolidated into a rationalized single Securities Markets Code.
2.	To establish a system of regulated gold exchanges in the country, SEBI will be notified as the Regulator and Warehousing Development and Regulatory Authority will be strengthened to set up a commodity market eco system arrangement including vaulting, assaying, logistics etc. in addition to warehousing.
3.	The Securities and Exchange Board of India (SEBI) has filed an affidavit before the Supreme Court objecting to promoters Prannoy Roy and wife Radhika Roy's offer to pledge shares of NDTV before Security Appellate Tribunal as deposit to challenge the fine imposed by SEBI for allegedly manipulating the stock market, according to media reports. The value of the shares is said to be Rs 8.6 crore.
4.	<p><u>Informal Guidance:</u></p> <p>Query:1 whether no separate registration is required under IA regulations to render investment advice to general investors also we are the fund manager of AIF apart from being registered as a portfolio Manager, is Correct? whether we are required to comply with general obligations and responsibilities under Chapter III of the SEBI(Investment Advisers) Regulations,2013 (IA Regulations)?</p> <p>Response 1: A port folio manger registered under the PMS Regulations is also exempted from seeking registration as an investment Adviser when it provides any incidental advice to its client. However, the portfolio manager required to comply with general obligations and responsibilities under Chapter III of the IA Regulations, where it renders advisory services to client in terms of the portfolio management agreement.</p> <p><u>Query: 2 Definition includes the term 'Advices', is there any minimum investment amount per client of INR 50 Lakhs as per SEBI (Portfolio Managers)Regulations, 2020?</u></p> <p><u>Response 2: The minimum investment per client of INR 50 lakhs is applicable for advisory services as per sub- regulations(2) of regulations 23 of the PMS regulations</u></p> <p><u>Query:3 Proposed structure is there any concerns</u></p>

<p><u>Response 2: Application need to give for the proposed structure under the provisions of SDI Regulations</u></p> <p><u>Query:4 Proposed structure required compliance under SDI Regulations? Any other specific guidelines outside the SDI guidelines need to adhere?</u></p> <p><u>Response 4: Any other specific guidelines outside the SDI guidelines need not be adhere. The company can take due diligence as per law.</u></p>
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3

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 RBI
1	With the likely scenario of India's government banning private cryptocurrencies, the Reserve Bank of India (RBI) is planning to introduce an official digital currency for the country. The government is all set to introduce a Cryptocurrency and Regulation of Official Digital Currency Bill that will create a ban on the private cryptocurrencies in India. In light of that, RBI has been planning to develop a framework towards launching a digital currency.
2	The Reserve Bank is likely to maintain a status quo on benchmark interest rate in its next monetary policy meet outcome to be announced on February 5, four days after the presentation of the Union Budget 2021-22. Experts are of the view that the RBI will refrain from tinkering with the interest rates and keep the monetary stance accommodative at the policy review though it will take guidance from the budget to be unveiled by Finance Minister Nirmala Sitharaman in the Lok Sabha on February 1.
3	The Reserve Bank of India (RBI) has appointed an external firm to conduct a special audit of the entire IT infrastructure of the bank. HDFC Bank was ordered to halt its digital banking initiatives and freeze credit card issuances until it addresses the lapses that led to a series of glitches. The lender's e-banking service faced three outages since 2018, inconveniencing customers. Days after the order, RBI governor Shaktikanta Das hinted that it does not take customer inconvenience lightly and urged financial institutions to spend more on information technology (IT) infrastructure.
4	The Reserve Bank of India (RBI) on February 3 issued a circular on risk-based internal audit for Non-banking finance companies (NBFCs) and Urban Cooperative Banks (UCBs) on risk-based internal audit. The circular is applicable to NBFCs with asset size of Rs 5,000 crore and above and all Primary Urban Cooperative Banks (UCBs) with asset size of Rs 500 crore and above, RBI said. "The circular intends, inter alia, to provide the essential requirements for a robust internal audit function, which include sufficient authority, stature, independence, resources and professional competence, so as to align these requirements in larger NBFCs/UCBs with those stipulated for Scheduled Commercial Banks".

4

IBC during the week

Notifications -0; Master Directions –0; Master Circulars –0; Circular –1;

Press Release –0; Others – 0

S.No	Date of Issue	Notifications/Master Directors/Master Circulars	Subject & Link	Gist thereof
1.	02 nd February 2021	Circular	<p>Providing copy of application to the Board, as mandated under Rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019.</p> <p>https://www.ibbi.gov.in/uploads/legalframework/8d38ca4dc37264636b22daa2a3c637ba.pdf</p>	<p>Rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 mandates an applicant to provide a copy of the application filed under sub-section (1) of section 94 or sub-section (1) of section 95 of the Insolvency and Bankruptcy Code, 2016 (Code) for initiation for insolvency resolution process of a personal guarantor to a corporate debtor, inter alia, to the Insolvency and Bankruptcy Board of India for its record.</p>

S.NO	NEWS ON INSOLVENCY AND BANKRUPTCY CODE
1.	Retail investors, hoping for a turnaround in listed companies mired in bankruptcy proceedings, hold significant stakes in these entities, reveals a Business Standard analysis. A study of 115 companies undergoing proceedings under the Insolvency and Bankruptcy Code (IBC) shows that retail investors hold stakes in a majority of them. There are nearly 7,500 individual shareholders per company on a median basis, holding a nominal share capital of up to Rs 1 lakh for the full sample.
2	The Supreme Court has held that collusive or sham transactions with a corporate debtor will not amount to "financial debt" within the meaning of the Insolvency and Bankruptcy Code 2016(IBC). "The IBC recognizes that for the success of an insolvency regime, the real nature of the transactions has to be unearthed in order to prevent any person from taking undue benefit of its provisions to the detriment of the rights of legitimate creditors", observed a bench headed by Justice DY Chandrachud in the case Phoenix Arc Private Limited v Spade Financial Services Ltd and others.

5

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				

S. No	GENERAL NEWS
1	<p><u>Highlights of Budget 2021-2022</u></p> <p>1. Relief given to the senior citizen, having only pension and interest income from filing Income Tax Return. However the paying banks will still require to deduct TDS (if applicable).</p> <p>2. Income Tax Reassessment Limit has been decreased from 6 years to 3 years. But in the case of Serious tax evasion, where evidence is available for concealment of income of `50 lakh or more, then reopening can be done within 10 years with approval of Principal Chief Commissioner.</p> <p>3. The budget 2021 proposes to constitute a faceless Dispute Resolution Committee for small tax payers to ensure efficiency, transparency and accountability. Small Taxpayers with a taxable income upto `50 lacs and disputed income upto `10 Lacs shall be eligible to approach the committee.</p>

	<p>4. The Advance tax liability in case of dividend income will arise only after the declaration/payment of dividend.</p> <p>5. In order to incentivize Startups in the country, the eligibility for claiming tax holiday for startups is proposed to be extended by 1 more year, i.e., till March 31st, 2022. Further the Capital Gain exemptions for investment in start-up has also been extended till March 31st, 2022</p> <p>6. The IPO of the LIC will be carried out in FY 2021-22. Also, for the disinvestment strategy, two public sector banks and 1 general insurance company will be taken up with requisite legislative amendments.</p> <p>7. It is proposed to set up a separate Administrative Structure to further streamline the 'Ease of Doing Business' for Cooperatives, this will give a boost to development of MultiState Cooperatives.</p> <p>8. It is proposed to amend the Insurance Act, 1938 to increase the permissible FDI limit from 49% to 74% in Insurance Companies and allow foreign ownership and control with safeguards.</p>
<p>2</p>	<p>Honb'le Finance Minister Nirmala Sitharaman while presenting Union Budget for 2021-22 said that "to ensure faster resolution of cases, NCLT framework will be strengthened, e-courts system shall be implemented and alternate methods of debt resolution and special framework for MSMEs shall be introduced".</p>
<p>3</p>	<p>Delhi high court freezes Rs 25,000 crore Future-RIL deal: In a relief to Amazon, the Delhi high court on Tuesday said it is of the "clear view" that the emergency award (EA) by the Singapore International Arbitration Centre (SIAC) is enforceable in India. It has asked Future Group to not proceed with the Rs 24,731 crore deal with Reliance Industries (RIL) till it pronounces a final order. The court said it is "satisfied that immediate orders are necessary to protect the rights of the petitioner (Amazon)."</p>
<p>4</p>	<p>New Bill set to amend the Electricity Act, end license raj in power supply: The Centre is ready with a Bill to amend the Electricity Act, 2003 to set the ball rolling on abolition of power "distribution licence" and allow any company to supply electricity to an area, after necessary regulatory approval. The move will also end the monopoly of existing power distribution companies (discoms), which are mostly state-owned entities. It also implies that all areas will be thrown open to private discoms. The amended terms as part of the Electricity Bill, 2021, will be tabled in the ongoing session of Parliament.</p>



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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