

WEEKLY UPDATES ON COMPANY LAW, SEBI, RBI AND IBC

Week 16 - April 12, 2021 to April 18, 2021

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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><b>MCA eyes revamp of Compliance Regime.</b></p> <p>A mobile app for corporate filings, pre-filed forms and fewer compliances — after an exercise to cut down on the number of criminal offences under company laws, the Ministry of Corporate Affairs is proposing a complete revamp of the compliance system for corporates to ease doing business for them. Financial ratios of companies such as debt to turnover, inventory to turnover, or loan to assets will soon come under closer government scrutiny through an automated system under the soon-to-be-launched portal MCA21 Version 3.0.</p>
2.	<p>Standard Operating Procedure (SOP) for Grievance Redressal Mechanism for Complaints related to CRC.</p> <p>Stakeholder/professionals can raise a complaint on the link provided in the MCA website. A complaint number (ticket number) would be issued to the complainant and it would be resolved within 3 working days. If the grievance is unresolved, further email can be sent to <a href="mailto:grm.crc@mca.gov.in">grm.crc@mca.gov.in</a></p>

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**SEBI during the week**

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

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

S. No	Date of Issue	Act/rules/circulars	Subject & Link	Gist thereof
NIL				

S. No	NEWS ON SEBI
1.	<p><b>SEBI cautions investors against impersonation</b></p> <p>The SEBI has cautioned investors against impersonations and further advises that Beware of emails / any other communication impersonating employees of SEBI and refrain from responding to such emails / communication. The only official and genuine website of SEBI, where an investor can file his/her complaint is <a href="https://scores.gov.in">https://scores.gov.in</a></p>
2.	<p><b>Informal Guidance dated 09-04-2021 to Paytm Money Limited under SEBI (Investments Advisors) Regulations,2013</b></p> <p><b>Query 1</b> :SEBI permits non-individual investment advisor (IA) to offer execution services for its advisory client without getting any commission. Can IA get reimbursement fee for the out of pocket expenses incurred in this process from Asset Management Companies. Whether the receiving of Reimbursement fee is violation of the IA Regulations?</p> <p><b>Response</b> : Regulation 22A (3) of SEBI (Investment Advisors) Regulations, 2013 restricts charging of any implementation fees from its clients. Further the Investment Advisors cannot receive any consideration directly or indirectly by whatever name. Therefore the company cannot</p>

receive any reimbursements from its clients.

**Query 2 :** As per regulation 19(1) (d) of the SEBI (Investment Advisors) Regulations, 2013 there has to be mandatory agreement between the Investment advisor and the Customer. The company seeks clarification from SEBI if the company can seek electronic consent of the clients and share the same with the clients on their registered email ID to save cost and expedite the entire process.

**Response :** It is mandated under regulation 19(1) (d) of SEBI (Investment Advisors) Regulations, 2013 that the Investment Advisors are required to enter into an agreement with the clients with the mandatory terms and conditions. As per SEBI circular dated September 23, 2020 IA shall ensure that neither any investment advice is rendered nor any fee is charged until the client has signed the aforesaid agreement and provided copy of signed agreement to the client. It is envisaged that a Registered IA shall not render Investment Advise until consent is received from its client on the terms and conditions. Therefore consent received in electronic means cannot be considered as sufficient compliance.

**Query 3 :** Clarification sought on what would be considered An equivalent management body who is responsible for overall function of the Business and Operations. Whether A Committee appointed by the Board of the Company to oversees the advisory functions and operations can be considered as management body and a member of the said committee be appointed as a Principal Officer (PO). Whether the Department Head in charge of advisory business who is a member of the management advisory committee appointed by the Board be appointed as the Principal Officer (PO)?

**Responses:** As per IA regulations, only a person who is a Managing Director / Designated Director/ Managing partner /Executive Chairman of an Equivalent Management Body can be appointed as PO. In the context of use of term Equivalent Management Body, the same is understood to be in respect of Non Individual IAs other than a Company. In view of this, the persons mentioned in the queries cannot be the Principal Officer unless he/she is a Managing Director / Designated Director/ Managing partner /Executive Chairman of an Equivalent Management Body.

3. Capital markets watchdog SEBI came out with fresh guidelines on reporting formats for mutual funds. The formats for the reports to be submitted by asset management companies (AMCs) to trustees, by AMCs to SEBI and by trustees to the regulator have been revised on the basis of consultation from the industry.

In a circular, SEBI said the compliance certificate to be submitted by an AMC to the trustees on a bi-monthly basis and half-yearly basis would be discontinued.

The contents of both these reports have been incorporated in the quarterly report by AMC to trustees, it added.

With regard to quarterly report on activities of mutual funds(MFs), Sebi said such report must contain details of number of live schemes as on last day of the quarter-end, schemes launched during the period including schemes which were launched but could not be constituted for any reason, details of existing schemes matured or wound up as well schemes merged during the quarter.

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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 Directions/Master Circulars	Subject & Link	Gist thereof
NIL				

S. No	NEWS ON RBI
1.	<p><b>RBI sets up RRA 2.0 to review regulatory functions, ease compliance burden.</b></p> <p>The Reserve Bank of India (RBI) said it has decided to set up a new Regulations Review Authority (RRA2.0) for a period of one year to review the regulatory prescriptions internally. The authority will also seek suggestions from the RBI regulated entities and other stakeholders on their simplifications and ease of implementations.</p>

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**IBC during the week**

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

**Press Release –0; Others –0**

S.No	Date of Issue	Notifications/Master Directors/Master Circulars	Subject & Link	Gist thereof
1.	13.04.2021	<b>Notification</b>	<b>Insolvency and Bankruptcy Board of India (Information Utilities) (Amendment) Regulations, 2021</b> <a href="https://ibbi.gov.in/uploads/legalframework/874c1870a61be056ec690a5ecb928ef0.pdf">https://ibbi.gov.in/uploads/legalframework/874c1870a61be056ec690a5ecb928ef0.pdf</a>	<p>The IBBI vide this notification has amended the IBBI (Information Utility) Regulations, 2017 and included clauses on the following,</p> <ol style="list-style-type: none"> <li>1. Minimum service quality standards, including timelines for registration of users, issuance of record of default, and issuance of an annual statement to registered users, adoption of quality standards and quality standards certifications.</li> <li>2. Inclusion of Form C for enabling the users to submit information to the Information Utility.</li> <li>3. Publication of Statistical Data relating to the debt related information consisting distribution of</li> </ol>

				<p>debt in terms of currency, size, tenor, type, geography, sector, lending arrangement and incidence of default.</p> <p>This amendment shall come into force from 13-04-2021</p>
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S. No	NEWS ON IBC
1.	<p><b>Court Sets Aside NCLAT Full Bench Ruling</b></p> <p>The Supreme Court has held that entries in balance sheets can amount to an acknowledgment of debt for the purpose of extending limitation under Section 18 of the Limitation Act. A bench headed by Justice RF Nariman set aside a judgment of Full Bench of National Company Law Appellate Tribunal in the case V Padmakumar v Stressed Assets Stabilization Fund which held otherwise.</p>
2.	<p><b>IBC to hold precedence over other law like PMLA.</b></p> <p>The National Company Law Appellate Tribunal (NCLAT) has reiterated that rules and actions under the Insolvency and Bankruptcy Code (IBC) would hold precedence over other laws and actions such as attachment of property by the Enforcement Directorate (ED) under the Prevention of Money Laundering Act (PMLA).</p>
3.	<p><b>All claims not part of resolution plan get extinguished on approval of resolution plan by Adjudicating Authority under S. 31 IBC: Supreme Court</b></p> <p>The Supreme Court held that once a resolution plan is approved by the Adjudicating Authority under Section 31(1) of the Insolvency and Bankruptcy Code, 2016 all claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan (Ghanshyam Mishra and Sons Private</p>

	Ltd v. Edelweiss Asset Reconstruction Company).
4.	<p><b>Insolvency and Bankruptcy Board of India sets up online platforms amid Covid curbs.</b></p> <p>The Insolvency and Bankruptcy Board of India (IBBI) is setting up two online platforms for selling distressed assets under Insolvency and Bankruptcy Code, opening markets for soured debt involving resolution plans, interim finance and liquidation assets. The move will likely unlock big opportunities amid lockdown restrictions. This will likely make life easy for both investors and lenders dealing in thousands of crores of rupees.</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				

S. No	GENERAL NEWS
	<p><b>Limited Liability Partnership (LLP) Can Form A Partnership Firm With An Individual Or Other Persons: Kerala High Court</b></p> <p>The Kerala High Court held that a Limited Liability Partnership can form a partnership with an individual or other persons. In this case, a partnership deed was executed between an individual and an LLP. Registrar of Firms refused registration of the partnership firm on the ground that a LLP cannot be a partner of a firm. This was challenged before the High Court contending that the LLP is liable to be treated as a person and there cannot be any objection for registering a partnership with an LLP which is a person. The court observed in this case that Section 4 of the Partnership Act permits Constitution of a firm or partnership between one or more persons.</p>



Flat No.7, Door No.10 Madhans,  
South Canal Bank Road,  
Mandavelipakkam, Chennai 600028.

[bhuvana.r@akshayamcorporate.com](mailto:bhuvana.r@akshayamcorporate.com) | [jayanth.v@akshayamcorporate.com](mailto:jayanth.v@akshayamcorporate.com)

[www.akshayamcorporate.com](http://www.akshayamcorporate.com) ;

Mobile: 9789982805 | 9962156708

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