

WEEKLY UPDATES ON COMPANY LAW, SEBI, RBI AND IBC

Week 43 - October 28 to November 03, 2019

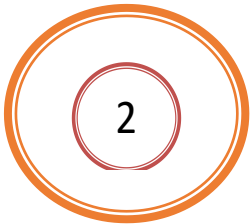


**Companies Act 2013 during the week**

**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	Forms NDH-1, NDH-2 and NDH-3 notified vide the Nidhi Rules 2014 shall be available for filing as eForms w.e.f 1st November 2019. Please note that these forms were hitherto filed as attachments to forms GNL-2 and RD-1. However, with the introduction of the eForms, these forms shall now be filed independently. Stakeholders may please take note and plan accordingly.
2	Registrars of Companies (ROCS) are in process of identification and flagging of directors disqualified under section 164(2)(a) of Companies Act, 2013 for their default of non-filing of financial statement or annual return for continuous period of three financial year i.e. 2015-16, 2016-17 and 2017-18. In this regard all the defaulting directors have been cautioned to find the pending statutory returns and do necessary compliance as per provisions of law, otherwise action will be initiated Under Section 164 of the Companies Act, 2013 and Rules made thereunder. It has been also stated that the DINs of such directors are not allowed to be used for filing any e-forms on MCA21 portal.
3	MCA has notified that the due date for filing of financial statements and annual return in e-forms AOC 4, AOC (CFS) and AOC-4 XBRL upto 30 Nov. 2019 and e-form MGT 7 upto 31 Dec. 2019 by companies without levy of additional fee.



## 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	31.10.2019	Circular	Disclosure of divergence in the asset classification and provisioning by banks	<p>It has been decided that the listed banks shall make disclosures of divergences and provisioning beyond specified threshold, as soon as reasonably possible and not later than 24 hours upon receipt of the Reserve Bank's Final Risk Assessment Report ('RAR'), rather than waiting to publish them as part of annual financial statements. The disclosures are to be made in either or both of the following cases:</p> <p>A. the additional provisioning for NPAs assessed by RBI exceeds 10 per cent of the reported profit before provisions and contingencies for the reference period, and</p> <p>B. The additional gross NPAs identified by RBI exceed 15 per cent of the published</p>

				<p>incremental Gross NPAs for the reference period.</p> <p>The format in which such disclosures are to be made has also been prescribed by RBI (Annex A to the circular).</p>
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**RBI during the week**

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

**Press Release – 1;**

S. No	Date of Issue	Notifications/Master Directors/Master Circulars	Subject & Link	Gist thereof
1	01.11.2019	Notification	Issue of additional instruments for augmenting regulatory capital for Regional Rural Banks(RRBs)	With a view to providing Regional Rural Banks additional options for augmenting regulatory capital funds, so as to maintain the minimum prescribed CRAR, besides meeting the increasing business requirements, it has been decided to allow RRBs to issue Perpetual Debt Instruments (PDIs) eligible for inclusion as Tier 1 capital.
2	01.11.2019	Press release	Reserve Bank of India Reorganises its Regulation and Supervision Departments	It has been decided to integrate the supervision function into a unified Department of Supervision and regulatory functions into a unified Department of Regulation with effect from November 01, 2019.  The above restructuring will:

				<ul style="list-style-type: none"> <li>a. make supervisory and regulatory process more activity based rather than being segmented purely based on the organizational structure of regulated entities;</li> <li>b. bestow graded supervisory approach to all the RBI supervised entities linked to their size and complexity;</li> <li>c. facilitate more effective consolidated supervision of financial conglomerates among the RBI supervised entities;</li> <li>d. result in more efficient allocation of human resources attending to regulation and supervision of financial sector entities under the Bank's purview; and</li> <li>e. help build an experienced and skilled human resources in the area of regulation and supervision of financial sector entities.</li> </ul>
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### IBC during the week

**Notifications - 1; 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
1	31.10.2019	Notification	IBBI (Insolvency Professionals) (Second Amendment) Regulations, 2019	<p>One of the additional conditions for an applicant’s recognition as an Insolvency Professional is as under:</p> <p><i>The Insolvency Professional is to submit to the Board, by 15th day of October every year, a compliance certificate in Form H, for the preceding financial year;</i></p> <p><i>Provided that an insolvency professional entity recognised as on 31st March, 2019 shall submit to the Board, by 31st December 2019, a compliance certificate in Form H for the financial year 2018-19.</i></p>

				Also, Forms A, C, F and G have been replaced in the said regulations.
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S. No	NEWS ON INSOLVENCY AND BANKRUPTCY CODE
1	<p>The average time taken for completion of 156 CIRPs that have yielded resolution plans has overshoot the government's revised deadline of 330 days for completion of the process.</p> <p>According to the Insolvency and Bankruptcy Board of India (IBBI) data, till September 2019, 156 CIRPs have yielded resolutions and the average time taken for resolution, including the time excluded by the adjudicating authority (AA) is 374 days; if the time excluded by the AA is considered then the average time taken would stand at 347 days. Either way, the time taken for resolution is more than the government's revised deadline of 330 days.</p>
2	<p>In over three years of the Insolvency and Bankruptcy Code, the number of bankrupt companies liquidated under the regime has far exceeded the number of corporate resolutions, by nearly four times, somewhat defying the actual purpose of the new system.</p> <p>While 156 of the cases admitted under the Corporate Insolvency Resolution Process (CIRP) have been resolved till September 2019, the liquidation process has started in as many as 587 cases, according to the data released by the Insolvency and Bankruptcy Board of India. Thus, IBC has liquidated many more companies than it has resolved, against its primary purpose of resolving insolvency and bankruptcy cases to bring sick companies bank to revival.</p>
3	<p>The National Company Law Appellate Tribunal (NCLAT) has reserved its judgment on whether a secured financial creditor can sell the assets of a corporate debtor back to the promoter if there are no resolution plans and the firm has to be liquidated.</p> <p>The judgment is likely to have a big impact on the insolvency process and will decide if errant promoters have one last shot at regaining control of their company and its assets.</p>

S. No	GENERAL NEWS
1	<p>In line with Prime Minister Narendra Modi's assurance that honest taxpayers would not be harassed and wealth creators would be respected, the indirect tax body - Central Board of Indirect Taxes and Customs (CBIC) has directed to appoint a nodal officer in each CGST and Customs Commissionerate to sort out taxpayer grievances.</p>

	Industry and tax experts have hailed the decision saying that the move would ensure an escalation point for taxpayers in case their grievances are not addressed at designated level.
2	A bonanza is in the offing for the stock markets as the Prime Minister's Office (PMO) and the Finance Ministry are working on measures which may include dividend distribution tax (DDT) to be scrapped and a review of existing slabs and holding period of long term capital gains (LTCG), short term capital gains (STCG) and securities transaction tax (STT). Officials of Department of Economic Affairs (DEA) and Revenue Department in the Finance Ministry have held meetings in this regard with the Prime Minister's Office (PMO).
3	A Mumbai-based brokerage firm said there is "no perceivable inconsistency" in key data points shared by Infosys as alleged by anonymous whistleblowers in a recent letter. This report comes at a time when the USSEC has initiated an investigation. A group calling themselves 'ethical employees' had filed a whistleblower statement with the Infosys board and the US Securities and Exchange Commission, stating the company is taking 'unethical' steps to boost short-term revenue and profits to boost its stock.
4	The Competition Commission of India (CCI) has ordered an investigation on a complaint that accused hospitality company OYO and online travel agency Go-MMT of destroying competitive pricing in the market by abusing their dominant positions.



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

[mail@akshayamcorporate.com](mailto:mail@akshayamcorporate.com)

[www.akshayamcorporate.com](http://www.akshayamcorporate.com); Land Line: 044-43533080



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