



SIRC MYSURU CHAPTER

e-Magazine

April 2023
228th Edition

Vision

"To be a global leader in promoting good corporate governance"

Motto

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CS Phani Datta D N

CHAIRMAN
MYSURU CHAPTER

P

ear Professional Colleagues

॥ शतयूर वज्र देहाया सर्व सम्पत करायचा ॥

Let my body remain strong, like a diamond, for a hundred years; O Lord, give me wealth and prosperity;

Wish you all a Very Happy Yugadi and the New Financial Year 2023. May this **Shobhakrut Samvatsara** bring in a lot of health, prosperity and success to all of you!

Yet again, here is an opportunity for me to share my thoughts for the month with all the readers and I am happy to state that we are well-bounded on the path we defined for ourselves. There is the wave of change in the chapter environment with some infrastructural and personnel changes and we firmly believe, the change is for good. This has also bought in a shift in our thought pattern and this will be surely seen in our upcoming initiatives.

I would like to take an opportunity to thank all the members for their tremendous support for the recent 2 days seminar held by us '**Multi-Facets of Company Secretary**' and as promised we shall thrive to bring in more such unique sessions. I would also like to thank our beloved central council member, **CS Dwarakanath C** for presiding over as the Guest of Honour for the two day program.

March-April have always been the times of celebration for Mysuru Chapter because of its annual student event – Umang. **Umang 2023** has been planned by the students to be held on 15th and 16th of April 2023 with all the enthuse and fervour and I request the support of all the members and students for the event.

I would like to make a humble appeal to all the members those who have not enrolled for **CSBF** to immediately enrol themselves for the benefit of yourselves and your families. You may know more about the same on this link <https://www.icsi.edu/csbf/home/> or contact your chapters for more details and enrolment.

I on behalf of all the Mysuru members and students, would like to place on record our sincere gratitude and appreciations to Mr. Dhanabal N, our outgoing chapter in-charge who was there with Mysuru Chapter for nearly a decade and his contribution have been undoubtedly immense in the development of the chapter. Alongside, we would also like to welcome our new Chapter in-charge Ms. Roby Joseph to Mysuru family.

I would like to conclude with the famous saying, '**Man Proposes, God Disposes**'. There are always the things which are in our control and some which aren't. The journey should and will go on. Always remember, this too shall pass!

Thank you



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Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

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Chapter Activities

Study Circle Meeting - Students

Chapter organized one Study Circle Programs during the month for the students. The detail are as follows.

SI No	Date	Topics	No. of Students
1	11.03.2023	Corporate Social Responsibility	08



One Day Orientation Program

SI No	Date	Topic	Speaker	No of Member Participants
1	23.03.23	One Day Orientation Program for Executive Students	CS Phani Datta D N CS Harsha A CS Abhishek Bharadwaj A B N. Dhanabal	14



CAREER AWARENESS PROGRAM



Sl No	Date	Topics	Speaker	No. of Students
1	10.03.2023	Maharani's Women's Commerce & Management College	CS Phani Datta D N	70

Half Day Programme for Student

On 29th March, 2023 Chapter organized a half day program for the students at Chapter Premises. The first session was handled by CA Kanchana R M, Practicing Chartered Accountant on the topic "Financial Analysis". The second session was on the topic "Importance of Communication" handled by CS Phani Datta D N, Chairman. Around 40 students from the Mysuru Chapter & Maharani's Women's Commerce & Management College were participated in the event.



Two Day Seminar on Multi-Facets of Company

Chapter organized a Two Day Seminar on the theme “Multi-Facets of Company Secretary” on 17th & 18th March, 2023 at Chapter Premises. Smt. Shylaja V R, Registrar-University of Mysore was the Chief Guest & inaugurated the seminar. CS Dwarakanath C, Council Member-The ICSI was the guest of Honour. CS Phani Datta D N, Chairman welcomes the gathering. CS Krishne Gowda C., Secretary proposed the vote of thanks. Around 100 Members & Students from Karnataka and other states of Southern India attended the session.

In the first day CS Dr. Sudheendhra Putty, Company Secretary – Cyient Ltd., handled the session on the topic “Encircle ESG”. The second session was on the topic “Cyber Security & Data Privacy” handled by Adv. Arindrajit Basu, Research Consultant, UNDP.

The day 2 contained 3 sessions. “Social Audit” handled by Ms. Jyotsna Belliappa, Founder & Director – Social Impact Assessment, BlueSky Sustainable Businesses, “Criticalities of FEMA” handled by CS Chandrashekar K, Leader (FEMA & Secretarial), Nishith Desai Associates & the final session on the topic “Nitty Gritty of Governance Communication” handled by Ms. Suma Anil, Business Excellence Manager & Process Consultant.



Toastmasters



ICSI Mysuru RoyalPro Toastmasters Club

How can you be an Effective Communicator and a Leader?

“Developing excellent communication skills is absolutely essential to effective leadership. The leader must be able to share knowledge and ideas to transmit a sense of urgency and enthusiasm to others. If a leader can’t get a message across clearly and motivate others to act on it, then having a message doesn’t even matter.” Said— Gilbert Amelio President and CEO of National Semiconductor Corp
Isn’t that true?

Communication is the key to have success in whatever the role we are doing, be it in career, personal or outside. Communication, Public Speaking and Leadership are in high demand in all industries and our profession is not different. Or maybe we need it more as we have to talk to the shareholders, board, and all the stakeholders. We can be an expert in what we are doing but if we cannot communicate that knowledge effectively to our clients or to target audience that knowledge is not completely useful to us. To disseminate the knowledge we need to be self-confident and one of the ingredient to be self-confident we need to be an effective communicator and a leader. Most people have fear of public speaking and this stops from pursuing lots of opportunities.

Our institute looks at us to be the torchbearer of the corporates. In pursuit of that, our Institute is encouraging all the chapters to start the Toastmasters club. Toastmasters is an international organization having more than 14000 clubs all over the world and its focus is for the members to improve their public speaking and communication skill along with improving leadership skills. In line with our institute’s quest, Mysuru Chapter of ICSI SIRC has started “ICSI Mysuru RoyalPro TM Club” in June 2021. This is exclusively for CS members and students. As meeting happens

Current Executive Committee Members

President – TM Vijaya Rao

Vice President Education – TM Pracheta M

Vice President Membership – TM Parvati

Vice President Public Relations – TM Komal Kumar M

Secretary – TM Anchal Jain

Treasurer – TM Phani Datta D N

Sergeant At Arms – TM Hitesh M Prabhu

online anyone can join the club and get the benefits. To know more about this and to join the meeting please contact club President CS Vijaya Rao at 98454-22855 or Chapter Chairman CS Phani Datta at 98862-14182 (only through whatsapp please). We meet every Friday from 7:00 to 8:30 PM online.

Few Highlights of the most memorable moments:

Installation Ceremony of the Current Club Officers



Navarathri Celebrations with Mysore Toastmasters Club



1st Outdoor Meeting of the club members



1st Area Contest of the club



Level Completions



Toastmasters is a great platform that brings out the hidden talent in us. We Speak and get evaluated to know the pros and cons to work on and grow. Happy to be part of it

Being a Charter Member of our club, it gives me immense pleasure to express my views about the learnings. We are free to choose the pathways as per our goals and we will have definite path to reach it. This journey of learning has systematic process to achieve the goal. TM connects the world and one has to attend the meetings to experience it.



Winners of the Recent Meeting



Social Audit: A Primer

The Perspective

Social Audit is a new paradigm which is emerging as a popular and relevant concept in the realm of corporate Governance. Social audit allows the general public to identify the gap between the desired and actual impact of a public /social project/programme/service through a well structured assessment process. It also allows society to enforce accountability and transparency in delivery of public / social projects.

Objectives of Social audit

A social audit is essentially a process of review of a public / social program or scheme with a view to assessing whether the output / outcome is as per intended deliverable or not.

- It is a process for building transparency and accountability in the social schemes
- A social audit provides measurement and evaluation of the performance of a public / social project.
- The efficacy of a public / social project can be enhanced with the aid of social audits.
- Social Audit promotes good corporate governance and enhances transparency and accountability.

Principles of Social Audit

Following are some of the key principles of social audit:

- **Transparency:** Social audit helps in providing all relevant information about a social project to all the stakeholders
- **Accountability:** Social audit creates a framework for imbibing accountability in social schemes
- **Participation:** Social audit is conducted with the participation of all stakeholders
- **Comprehensive Report:** Social Audit Report provides information regarding all relevant facets of a social project

Recent Developments Relating to Social Audit

The Millennium Development Goals (MDGs) and the Sustainable Development Goals (SDGs) of the UN have ushered in a wave to build a more sustainable, safe and prosperous world. Accordingly there is now greater awareness and commitment amongst the corporates

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Accordingly there is now greater awareness and commitment amongst the corporates and other organization for adopting a variety of measures to ensure that their activities are not causing harm to society or the environment.”

CS Dr S K Gupta
MD, ICMAI Registered Valuer
Organization
Email ID: cbst.skgupta@gmail.com



and other organization for adopting a variety of measures to ensure that their activities are not causing harm to society or the environment.

The Hon'ble Finance Minister as part of the Budget Speech for FY 2019-20 had announced as follows:

“It is time to take our capital markets closer to the masses and meet various social welfare objectives related to inclusive growth and financial inclusion. I propose to initiate steps towards creating an electronic fund raising platform- a social stock exchange-under the regulatory ambit of Securities and Exchange Board of India for listing social enterprises and voluntary organizations working for the realization of a social welfare objective so that they can raise capital as equity, debt or as units like a mutual fund.”

- Accordingly, SEBI constituted a working group on 'Social Stock Exchanges' (SSE) in 2019.
- In September 2021, the SEBI board approved the creation of the Social Stock Exchange.
- On 25 July 2022, SEBI introduced regulations pertaining to the Social Stock Exchange by amending the following regulations, namely:
 - a) The SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations)
 - b) The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations)
 - c) The SEBI (Alternative Investment Funds) Regulations, 2012 (AIF Regulations).

As part of the amendments made to the above regulations, the Security Exchange Board of India introduced certain important concepts and definitions such as – Social Stock Exchange (SSE), social auditor, social audit firm, For-Profit Social Enterprise (FPSE), Social Enterprises (SEs), etc. These amendments have been made to provide Social Enterprises with opportunity to raise funds through the Social Stock Exchange (SSE), which is a novel concept in India. The Regulations provide eligibility criteria of organizations to raise funds through Social Stock Exchange, by entities to be classified as “Not for Profit Organization or “For Profit”; SEBI has introduced the concept of Annual Impact Report by a Social Auditor to strengthen the governance framework in these entities. In order to provide confidence to investors, SEBI has introduced the concept of Annual Impact Report by a Social Auditor. The purpose of this Social Audit is to ascertain the impact made by the Social Enterprise through its activities, intervention, programs or projects implemented during the reporting period. The annual impact report shall be prepared and submitted by a Social Auditor

Conclusions

Social audit is a very interesting and innovative architecture that can help create the much needed transparency and accountability in social projects. Social audit will help the organizations to improve their public delivery system and the intended outcomes. The effectiveness of social audit will depend upon the methods and approaches deployed by the social auditor so as to enable him to look at quantitative and qualitative information pertaining to the social project. After submission of the report by the Social auditor, it is equally important to ensure the follow-up action taken on the Social Audit report. The social auditors should make recommendations for improving its performance based on his assessment and the feedback received from different stakeholders.

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Consumer Protection Act, 2019

Consumer Protection Act, 2019 is a legislation created by the Indian Parliament to protect the interests of the consumers. This act is an important piece of legislation to take care of innumerable pending consumer complaints in consumer courts across the country. It facilitates ways and means to solve the consumer grievances speedily.

Objective

The basic aim of the Consumer Protection Act, 2019 is to protect the rights of the consumers by the designated authorities for prompt and focussed administration and settlement of consumers' disputes.

A consumer is a person who avails the services and buys any good for self-use. If a person buys any good and/or avail any service for trading, he will not be treated as consumer. This definition covers all types of transaction involving online and offline.

Keeping this in mind the consequences of digital age and to address the new set of challenges faced by consumers, the Government of India, on 6 August 2019, got the landmark Consumer Protection Bill, 2019 passed in the Parliament. The President of India gave the assent to The Consumer Protection Act, 2019 and it was notified in the official gazette on 9th August 2019.

The Consumer Protection Act, 2019 has replaced the good old Consumer Protection Act, 1986.

In contrast to the 1986 Act, the definition of "goods" was amended to include "food" as defined in the Food Safety and Standards Act, 2006. This would also bring the food delivery platforms within the fold of the 2019 Act.

In order to cover the telecom service providers, the term "telecom" was added to the definition of "services" under the 2019 Act.

The new Act has the following measures and tightens the existing rules to further safeguard consumer rights:

Rights of consumers

The act provides the following rights to the consumers:

1. To have information in respect of the quantity, quality, purity, potency, price, and standard of goods or services;

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-The New Act fixes

liability on endorsers considering that there have been numerous instances in the recent past where consumers have fallen prey to unfair trade practices under the influence of celebrities acting as brand ambassadors.”

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2. To be protected from hazardous goods and services;
3. To be protected from unfair or restrictive trade practices;
4. To have a variety of goods or services at competitive prices

Jurisdiction of Consumer Courts

The Act has increased the pecuniary jurisdiction, which means ability of courts to take up cases depending on the value of the case, of the consumer courts. “Since access to district courts is better compared to state and national commissions, the increase in limit to Rs 1 crore of district courts will be a convenience point.

Revised pecuniary limits have been fixed under the New Act. The act has defined the criteria of Consumer Disputes Redressal Commission (CDRCs). The National CDRC will hear complaints worth more than Rs. 10 crores. The State CDRC will hear complaints when the value is more than Rs 1 crore but less than Rs 10 crores. While the District CDRC will entertain complaints when the value of goods or service is up to Rs. 1 crore.

The CDRCs will entertain complaints related to;

1. Overcharging or deceptive charging;
2. Unfair or restrictive trade practices;
3. Sale of hazardous goods and services which may be hazardous to life;
4. Sale of defective goods or services

Another crucial change says that now the money spent on buying the product till that time will determine the value of the case as opposed to the previous parameter of total value of the purchased goods/service.

In another move, the Act allows consumers to file their complaint with the court from anywhere. This is unlike the current practice of filing it at the place of purchase or where the seller has its registered office address. This is a fitting move considering the rise in e-commerce purchases, where the seller could be located anywhere. The New Act also contains enabling provisions for consumers to file complaints electronically and for hearing and/or examining parties through video-conferencing. This is aimed to provide procedural ease and reduce inconvenience and harassment for the consumers.

Notably, the admissibility of complaints made to Consumer Commissions are to be decided within twenty-one days. Though such provision was part of the 1986 Act as well, an addition to the 2019 Act is that if the issue of admissibility of the complaint is not decided within such time, the complaint shall be deemed to have been admitted. One can't overstate what a remarkable addition this is, as it does away with the languishing of complaints at the pre-admission stage, as it had become a current practice, especially at the National Commission. Regrettably, corresponding procedural amendments have not been introduced, which raise some doubts about the practical efficacy of the changes.

The 2019 Act introduces the power of judicial review, which would allow Consumer Commissions to review their orders, thereby reducing the burden faced on account of appeals being preferred to rectify errors apparent on the face of the record. In stark contrast to the 1986 Act, appeals from the State Commission to the National Commission may now only be made where they involve substantial questions of law. Appeals from the National Commission to the Supreme Court can only be made against complaints which originated in the National Commission. The period prescribed for preferring appeals has now also been made more stringent, with a view to tightening the noose regarding timely filing of appeals.

Product liability

The Act has provisions for product liability under which a manufacturer or a service provider has to compensate a consumer if their good/service cause injury or loss to the consumer due to manufacturing defect or poor service.

The term 'product seller' is defined to include a person who is involved in placing the product for a commercial purpose and as such would include e-commerce platforms as well. The defence that e-commerce platforms merely act as 'platforms' or 'aggregators' will not be accepted. There are increased liability risks for manufacturers as compared to product service providers and product sellers, considering that under the New Act, manufacturers will be liable in product liability action even where he proves that he was not negligent or fraudulent in making the express warranty of a product. Certain exceptions have been provided under the New Act from liability claims, such as, that the product seller will not be liable where the product has been misused, altered or modified.

E-commerce under the radar

E-commerce will now be governed by all the laws that apply to direct selling. The guidelines propose that platforms like Amazon, Flipkart, Snapdeal etc will have to disclose sellers' details, such as their address, website, email, etc. and other conditions related to refund, exchange, terms of contract and warranty on their website to increase transparency.

The New Act has widened the definition of 'consumer'. The definition now includes any person who buys any goods, whether through offline or online transactions, electronic means, teleshopping, direct selling or multi-level marketing. The earlier Act did not specifically include e-commerce transactions, and this lacuna has been addressed by the New Act.

The onus of ensuring that no counterfeit products are sold on these platforms will also most likely lie with the companies. If any such product is reported or recognised, the company could be penalised. This move is fitting since cases of fake products sold through e-commerce platforms are rampant.

Separate regulator

The Act has establishment of a central regulator, Central Consumer Protection Authority (CCPA), to address issues related to consumer rights, unfair trade practices, misleading advertisements and impose penalties for selling faulty and fake products. Broadly, regulatory moves of CCPA will be directed towards the manufacturers, sellers and service providers and will not address customers' grievances and disputes directly. Nevertheless, the overall purpose of CCPA is to strengthen the existing consumer rights. The CCPA will have an investigation wing, headed by a Director-General, which may conduct inquiry or investigation into consumer law violations. Additionally, the Authority can also file complaints and intervene in matters before the Consumer Commissions.

The CCPA has been granted wide powers to take suo-moto actions, recall products, order reimbursement of the price of goods/services, cancel licenses and file class action suits, if a consumer complaint affects more than 1 (one) individual.

While a laudable initiative, it is unclear on how the Authority will practically function, especially since existing District Collectors have been tasked to undertake certain functions pertaining to inquiries and investigations. There is also considerable overlap between the investigative wing and the search and seizure functions of the District Collector, which are likely to lead to a potential conflict of interest.

Interestingly, the Authority is empowered to order for recall of goods, reimburse price paid for goods and services, as well as issue directions and penalize manufacturers and endorsers for misleading advertisements. Appeals against such orders can only be preferred before the National Commission.

At this point, one is also unclear on whether matters currently pending before the Consumer Commissions will continue or if they are likely to get transferred on account of the change in pecuniary jurisdiction. This ambiguity will further add to delays.

Unfair Trade Practices:

The New Act introduces a specific broad definition of Unfair Trade Practices, which also includes sharing of personal information given by the consumer in confidence, unless such disclosure is made in accordance with the provisions of any other law.

The definition of “unfair trade practices” has been enlarged to include electronic advertising which is misleading, as well as refusing to take back or withdraw defective goods, or to withdraw or discontinue deficient services, and to refund the consideration within the period stipulated or in the absence of such stipulation, within a period of thirty days. It is now also an offence if any personal information, given in confidence and gathered in the course of a transaction, gets disclosed.

All these changes signify an attempt to create more transparency in the marketplace, through legislative protection, with a view to ensure that consumer interests are above all else.

Penalties for Misleading Advertisement

The CCPA may impose a penalty of up to INR 1,000,000 (Indian Rupees One Million) on a manufacturer or an endorser, for a false or misleading advertisement. The CCPA may also sentence them to imprisonment for up to 2 (two) years for the same. In case of a subsequent offence, the fine may extend to INR 5,000,000 (Indian Rupees Five Million) and imprisonment of up to 5 (five) years. The CCPA can also prohibit the endorser of a misleading advertisement from endorsing that particular product or service for a period of up to 1 (one) year. For every subsequent offence, the period of prohibition may extend to 3 (three) years.

The New Act fixes liability on endorsers considering that there have been numerous instances in the recent past where consumers have fallen prey to unfair trade practices under the influence of celebrities acting as brand ambassadors. In such cases, it becomes important for the endorser to take the onus and exercise due diligence to verify the veracity of the claims made in the advertisement to refute liability claims.

Provision for Alternate Dispute Resolution

The New Act provides for mediation as an Alternate Dispute Resolution mechanism, making the process of dispute adjudication simpler and quicker. This will help with the speedier resolution of disputes and reduce pressure on consumer courts, which already have numerous cases pending before them.

Conclusion:

A consumer is now the one who assumes to be treated like a King. Hence, it is important for consumer driven businesses (such as, retail, e-commerce) to be mindful of the changes in the legal landscape and have robust policies dealing with consumer redressal in place. Consumer driven businesses must also strive to take extra precautions against unfair trade practices and unethical business practices.

Commercial Courts Act, 2015: An Overview

The Commercial Courts Act, 2015 provides for commercial courts and commercial divisions of high courts to adjudicate commercial disputes with a value of at least One crore rupees. The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Bill, 2018 (The Ordinance) reduces this limit to Rs. 3 lakh (Rs. 3,00,000/-).

The Central Government may, by notification, make rules for carrying out the provisions of this Act. The manner and procedure of pre-institution mediation under section 12A(1) of this Act.

- Applicability Effective Date:

It shall be deemed to have come into force on the 23rd day of October, 2015

- Purpose of this act:

The Commercial Courts Act, 2015 provides for commercial courts and commercial divisions of high courts to adjudicate commercial disputes with a value of at least Three Lakh rupees.

- Important Definitions:

Section 2 (b) “Commercial Court” means the Commercial Court constituted under sub-section (1) of section 3;

Section 2 (c) "commercial dispute" means a dispute arising out of-

- ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;
- export or import of merchandise or services;
- issues relating to admiralty and maritime law;
- transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;
- carriage of goods;
- construction and infrastructure contracts, including tenders;
- agreements relating to immovable property used exclusively in trade or commerce;
- franchising agreements; distribution and licensing agreements;
- management and consultancy agreements;
- joint venture agreements;
- shareholders agreements;

“

-The Commercial

Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction..”

CS Lalit Rajput
Practising Company Secretary
Email ID: lalitrajput537



- xii. subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;
- xiii. mercantile agency and mercantile usage; partnership agreements;
- xiv. technology development agreements;
- xv. intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;
- xvi. agreements for sale of goods or provision of services;
- xvii. exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;
- xviii. insurance and re-insurance;
- xix. contracts of agency relating to any of the above; and
- xx. Such other commercial disputes as may be notified by the Central Government.

(i) “Specified Value”, in relation to a commercial dispute, shall mean the value of the subject-matter in respect of a suit as determined in accordance with section 12 1 [which shall not be less than three lakh rupees] or such higher value, as may be notified by the Central Government.

- **Section 6: Jurisdiction of Commercial Court**

The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.

- **Section 7: Jurisdiction of Commercial Divisions of High Courts**

All suits and applications relating to commercial disputes of a Specified Value filed in a High Court having ordinary original civil jurisdiction shall be heard and disposed of by the Commercial Division of that High Court:

Provided that all suits and applications relating to commercial disputes, stipulated by an Act to lie in a court not inferior to a District Court, and filed or pending on the original side of the High Court, shall be heard and disposed of by the Commercial Division of the High Court:

Provided further that all suits and applications transferred to the High Court by virtue of sub-section (4) of section 22 of the Designs Act, 2000 (16 of 2000) or section 104 of the Patents Act, 1970 (39 of 1970) shall be heard and disposed of by the Commercial Division of the High Court in all the areas over which the High Court exercises ordinary original civil jurisdiction.

- **Section 10: Jurisdiction in respect of arbitration matters.—**

Where the subject-matter of an arbitration is a commercial dispute of a Specified Value and-

If such arbitration is an international commercial arbitration	If such arbitration is other than an international commercial arbitration	If such arbitration is other than an international commercial arbitration
all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that have been filed in a High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court	all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that have been filed on the original side of the High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.	all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be filed in, and heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.

- **Section 12 A: Pre-Institution Mediation and Settlement.-**

A party to a commercial dispute may make an application to the Authority as per Form-1 specified in Schedule-I, either online or by post or by hand, for initiation of mediation process under the Act along with a fee of one thousand rupees payable to the Authority either by way of demand draft or through online;

- **Timeline of this process:**

Mediation process has to be completed within a period of three months from the date of receipt of application for pre-institution mediation unless the period is extended for further two months with the consent of the applicant and the opposite party. (Total Period = 5 months including extension).

Kindly note that:

The period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963.

- **Mediation Fee. –**

Before the commencement of the mediation, the parties to the commercial dispute shall pay to the Authority a one-time mediation fee, to be shared equally, as per the quantum of claim as specified in Schedule-II.

Mediation Fee

[See Rule 11]

S.No	Quantum of Claim	Mediation Fee Payable To Authority (in Indian rupees).
1.	From Rs. 3,00,000 to Rs.10,00,000.	Rs. 15,000/-
2.	From Rs. 10,00,000. to Rs. 50,00,000.	Rs. 30,000/-
3.	From Rs. 50,00,000. to Rs. 1,00,00,000.	Rs. 40,000/-
4.	From Rs.1,00,00,000. to Rs.3,00,00,000.	Rs. 50,000/-
5.	Above Rs. 3,00,00,000.	Rs. 75000/-

- **Section 13: Appeals from decrees of Commercial Courts and Commercial Divisions.—**

Any person aggrieved by the :	Appeal Timeline
Judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court.	within a period of 60 days from the date of judgment or order
Judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court.	within a period of 60 days from the date of the judgment or order

Disclaimer: Every effort has been made to avoid errors or omissions in this material. In spite of this, errors may creep in. Any mistake, error or discrepancy noted may be brought to our notice which shall be taken care of in the next edition. In no event the author shall be liable for any direct, indirect, special or incidental damage resulting from or arising out of or in connection with the use of this information.

Nuances in Nidhi

Formation

Nidhi Companies, administered, and controlled by Section 406 of the “Companies Act, 2013”, the Companies (Nidhi Companies) Rules of 2014, and the Chapter XXVI of the Companies Rules, 2014

Rule

‘Nidhi’ is defined under rule 3 (da) of the Nidhi Rules, 2014 which means a company incorporated as Nidhi with the object of

- Cultivating habit of thrift and savings amongst the members,
- Receiving deposits from and lending to the members for their mutual benefit, and
- Duly complying with the rules formed by the Central Government.

Name

- The name must have Nidhi Limited
- It is a Public Company

Directors

- A minimum of three directors are needed to establish a Nidhi Company
- The maximum number cannot exceed fifteen.
- The person to be appointed as a Director shall comply with the requirements of sub-section (4) of Section 152 of the Act and shall not have been disqualified from appointment as provided under section 164 of the Act.
- The Director shall not hold office for a term up to ten consecutive years.
- Shall be eligible for re-appointment only after the expiry of two years from the date of expiry of ten years period.

Capital

- The minimum approved capital to start a Nidhi company is Rs. 10,00,000
- This can be increased to any amount (no upper limit).
- Company cannot issue preference shares, debt instruments.
- No service charge shall be levied for issue of shares.
- Every Nidhi shall allot to each deposit holder at least a minimum of 10 equity shares of Rs 10/-or shares equivalent to Rs.100/-.

“

-The acceptance of deposits is one of the major features for a Nidhi Company and, therefore, one must adhere to the Nidhi rules.”

V Maheshwari , B.Com(CS)
Company Secretary
Email ID: csvmahesh6@gmail.com



- A savings account holder and a recurring deposit account holder shall hold at least 10 equity shares of Rs.10/- or shares equivalent to Rs.100/-.

Shareholders

- There shall be minimum 7 shareholders required to form a Nidhi Company.
- Maximize its strength to 200 members in one year from the date of incorporation.

Regulators

Ministry of Corporate Affairs (MCA)

FORMS	PURPOSE
Form NDH 1	This form contains all the details regarding members, deposits, loans, reserves etc. for the full financial year. E-Form GNL-2 for submission of the documents with the Registrar.
FORM NDH 2	Application for Extension of Time. This form is filled in case: <ul style="list-style-type: none"> • The company fails to add at least 200 members within one year of incorporation. • Failure to maintain the Net owned Fund to deposit ratio of 1:20
Form NDH 3	As per Rule 21 Half-yearly return to be filed with the ROC
Form AOC 4	For filing financial documents and other supporting documents to the Registrar of Companies.
Form MGT 7	Annual Return
ITR-6	Income Tax Return
Form NDH 4	Application for declaration as Nidhi Company and for updation of status by Nidhi

NDH 4

- Company desirous to be declared as a Nidhi shall apply, in Form NDH-4, within a period of one hundred twenty days of its incorporation for declaration as Nidhi, if it fulfils the following conditions, namely: -
 - ❖ it has two hundred members or more; and
 - ❖ it has Net Owned Funds of twenty lakh rupees or more.
- The declaration of fit and proper person criteria by all the promoters and directors of the company shall be attached along with Form NDH-4.
- Fit and Proper
 - a) Integrity, honesty, ethical behavior, reputation, fairness and character of the person; and
 - b) the person not incurring any of the following disqualifications, namely: -
 - Criminal complaint or information under section 154 of the Code of Criminal Procedure, 1973 (2 of 1974) has been filed by a person authorized by the Central Government against such person and which is pending.
 - Charge sheet has been filed against such person by any enforcement agency in matters concerning economic offences which is pending.

- An order of restraint, prohibition or debarment has been passed against such person by any regulatory authority or enforcement agency in any matter concerning company law, securities laws or financial markets which is in force.
- An order of conviction has been passed against such person by a court for any offence involving moral turpitude.
- Such person has been declared insolvent and not been discharged.
- Such person has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force.
- Such person has been categorized as a willful defaulter.
- Such person has been declared a fugitive economic offender.
- Such person is a director in five or more companies incorporated or declared as Nidhi or is a promoter of three or more companies incorporated or declared as Nidhi.

NDH 4 Approval

- The Central Government, shall examine the application filed in Form NDH-4 and convey its decision within a period of forty-five days to the company.
- In case a decision on an application filed in form NDH-4 is not taken by the Central Government within the aforesaid period of receipt of such application, the same shall be deemed as approved.

Crucial - Rule 3A

The Company shall not raise any deposit from its members or provide any loan to its members if

- It has not complied with the requirements of this rule, or
- failed to comply with such requirement on or after the commencement of the Nidhi (Amendment) Rules, 2022 or
- The application submitted by the company in Form NDH-4 is or has been rejected by the Central Government.

Do's – within one year from the commencement

After a company is incorporated, within a period of one year from the commencement, the Nidhi Company must meet the following criteria:

- It must not have less than two hundred members (Shareholders)
- Must have Net Owned Funds (NOF) of twenty lakh rupees or more.
- Must have unencumbered term deposits of not less than ten per cent of the outstanding deposits.
- Must have a ratio of Net Owned Funds to deposits of not more than 1:20

Don'ts

Rule: 6 provides general restrictions.

- 1) No Nidhi shall carry on the business of
 - Chit Fund
 - Hire Purchase Finance,
 - Leasing Finance
- 2) No Nidhi shall Issue
 - Preference Shares,

- Debentures or
 - Any other debt instrument by any name or in any form whatsoever.
- 3) Open any Current Account with its members
 - 4) Acquire or purchase securities of any other company or control the composition of the Board of Directors of any other company in any manner whatsoever or enter into any arrangement for the change of its management”.
 - 5) Enter into any arrangement for the change of its management, unless it has passed a special resolution in its general meeting and also obtained the previous approval of the Regional Director having jurisdiction over Nidhi.
 - 6) Carry on any business other than the business of borrowing or lending in its own name.
 - 7) Accept deposits from or lend to any person, other than its members.
 - 8) Must not pledge any of the assets that have been lodged by its members as security.
 - 9) Take Deposits from or lend money to any body corporate.
 - 10) Enter into any Partnership Arrangement as its borrowing or lending activities.
 - 11) Issue or cause to be issued any advertisement in any form for soliciting deposit.
 - 12) Pay any brokerage or incentive for mobilizing deposits from members or for deployment of funds or the granting loans.

Acceptance of Deposits under Nidhi Company

The acceptance of deposits is one of the major features for a Nidhi Company and, therefore, one must adhere to the Nidhi rules. Here are some important points:

- A fixed deposits can be accepted for a minimum of 6 months and a maximum of 60 months.
- A recurring deposit can be accepted for a minimum of 12 months and a maximum of 60 months.
- A maximum balance on which the interest is given under the savings account cannot exceed Rs. 100,000.
- No deposit is to be repaid within 3 months.
- If the deposits are repaid before maturity, then the interest provided will be reduced by 2 percent.

Interest rates on deposits

1. Fixed deposits (FD): The maximum rate should not exceed the rate provided by the NBFC.
2. Recurring deposit (RD): The maximum rate should not exceed the rate provided by the NBFC.

Interest rate on Savings Account:

The maximum balance in a savings deposit account at any given time qualifying for interest shall not exceed one lakh rupees at any point of time and the rate of interest shall not exceed two per cent above the rate of interest payable on savings bank account by nationalized banks.

Loan

1. The maximum loan to one person will not exceed Rs. 2,00,000 if the deposit is less than 2 crores.
2. The maximum loan to one person will not exceed Rs. 7,50,000 if the deposit is greater than 2 crore and less than 20 crores.
3. The maximum loan to one person will not exceed Rs. 12,00,000 if the deposit is greater than 20 crore and less than 50 crores.
4. The maximum loan to one person will not exceed Rs. 15,00,000 if the deposit is greater than 50 crores.
5. A Nidhi Company cannot give any unsecured loan or a micro finance loan.


6. The maximum period of a gold loan is 1 year.
7. Repayment period for a loan against property cannot exceed 7 years.
8. Maximum gold/silver loan can be 80% of the value of the jewellery.
9. Maximum loan against a property cannot exceed 50% of the value of the property.
10. A Nidhi Company cannot provide vehicle loans.
11. Gold/Silver loan: Maximum rate should be 7.5% plus the max rate given on deposits.
12. Loan against property: Maximum rate should be 7.5% plus the maximum rate given on deposits.
13. Other Loans (includes against FD): Maximum rate should be 7.5% plus the max rate given on deposits.

Branches

- i. A Nidhi may open branches only if it has earned net profits after tax continuously during the preceding three financial years.
- ii. The company may open up to 3 branches only within the district.
- iii. If it proposes to open more than 3 branches within the district or any branch outside the district, it shall obtain prior permission of the Regional Director and intimation is to be given to the Registrar about opening of every branch within 30 days of such opening.
- iv. No Nidhi shall open branches or collection centers or offices or deposit centers, or by whatever name called outside the State where its registered office is situated.
- v. Further branches or collection centers or offices or deposit centers shall be opened unless financial statement and annual return are filed with the Registrar.

A Nidhi shall not close any branch unless

- i. the proposal to close the branch along with the plan as to how the existing deposits have been or shall be paid off and how the existing loan shall be recovered is duly approved by the Board at its meeting; and
- ii. it has obtained the prior approval of the Regional Director by applying in Form NDH-2 along with fee as specified in the Companies (the Registration Offices and Fees) Rules, 2014 at least sixty days prior to such closure. The Regional director shall consider such application and pass orders within a period of thirty days of receipt of such application.



**Failing to plan
is planning to fail**

– Alan Lakein



Help Yourself

Food for Thought

Master Your Emotions

- Thibaut Meurisse

Disclaimer: This article does not endorse any book and is not sponsored by any author or publication. Content shared here is for knowledge and learning purposes only.

'Jitendriya' which in Sanskrit means 'one who is a master of his emotions.' This is no new word or concept for the Indian culture- many stories, puranas and teachings preach time and again that one who is a master of one's emotions is victorious, lives peacefully and such mastery is an important trait of the great, wise and respected.

Until this issue, the articles under this column have discussed our mind, behaviours, actions, habits and so on, from various self-help books, one book at a time. This is the first book under this column that dedicatedly talks about emotions. I felt the need to pick up this book because essentially, achieving what we want needs more than just making up our mind- it needs the right approach to endure the emotional roller-coaster we embark on each day!


If you are here for the first time, this column intends to impart bite sized knowledge from self-help books, biographies, autobiographies and other related genres, relevant specifically to corporate professionals and aspiring professionals. Not every learning that a book enshrines can be fit in here, so writing a summary or a book review is not the aim of this column. The intent is to give you a touch of acquaintance to a book, in every issue of this e-magazine, hoping that it will make you want to grab it and read for yourself. So, help yourself with food for thought!

This book we're exploring briefly here talks about how our brain is wired for survival and how emotions help in ensuring it by continuously highlighting threats or the negative signs to us, so that we focus on our safety. This was completely relevant and of absolute necessity in primitive scenarios, back when humans lived as a tribe in jungles amidst constant threats to life. However, with today's level of safety, high life-expectancy, comfort and luxury, this trait or tendency of our brain to notice negative more than the positive appears to work against us. This is still necessary for survival even today but by learning the reasons for such behaviours of our brain puts us in a better position to deal with our emotions and thereby ourselves.

Taking a step out of our shoes and observing how our emotions play with us and our mind is far more insightful than we expect. We are usually consumed by our emotional state far more than we realize. This book is a great start if you wish to be conscious of your emotions and turn it to your strength often, if not all the time. The book talks about different scientific studies about how emotions work and also different social experiments done to back these studies, all of which give you a good perspective about yourself and more importantly to get rid of recurring negative thoughts or opinions in your mind about yourself.

As always, I wouldn't give away too much of the book but only a glimpse of it hoping it urges you to pick up the book and read it by yourself. So, how often do you observe your emotions and take control of them? How often do you let them impact your decisions, big or small? Have you assessed yourself on these lines? Help yourself with some food for thought by picking up this book now! Happy reading!

Columnist:



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REGULATIONS

Regulatory Updates

SEBI Act, 1992

Updates on Circulars

Formulation of price bands for the first day of trading pursuant to Initial Public Offering (IPO), re-listing etc. in normal trading session

As per SEBI vide circular no. CIR/MRD/DP/02/2012 dated January 20, 2012 Call Auction sessions are conducted on multiple stock exchanges, the discovered price / equilibrium price pursuant to such Call Auction sessions could be different on each exchange. If the difference in these discovered prices is significant, there could be a situation wherein price bands on individual exchanges are far apart from each other, giving an incorrect picture of price band to investors.

Accordingly, after discussion with stock exchanges and SMAC, the following has been decided for trading on first day pursuant to IPO or re-listing (including re-listing on account of scheme of arrangement but excluding scrips for which derivative contracts are available):

- a. Call Auction session would continue to be conducted separately on individual exchanges and orders would be matched by respective exchanges after computation of equilibrium price.
- b. If difference in the equilibrium price between exchanges in percentage terms (i.e. Absolute difference/minimum of equilibrium prices, expressed as %) is more than the applicable price band for the scrip, a Common Equilibrium Price (CEP) would be computed by exchanges. The CEP shall be volume weighted average of equilibrium prices on individual exchanges as determined by the Call Auction.
- c. The exchanges shall set the aforesaid CEP in their trading systems and apply uniform price bands based on the CEP, as applicable.
- d. Only unexecuted pending orders from Call Auction session within the aforesaid price band shall be carried forward to the normal market segment.

SEBI/HO/MRD-TPD1/CIR/P/2023/55

Contribution by eligible Issuers of debt securities to the Settlement Guarantee Fund of the Limited Purpose Clearing Corporation for repo transactions in debt securities

The SEBI Board in its meeting held on September 29, 2020 permitted the setting up a Limited Purpose Clearing Corporation (LPCC) for clearing and settling repo transactions in debt securities.

The Board, inter alia, also decided that an amount of 0.5 basis points of the issuance value of debt securities per annum be collected upfront prior to the listing of such securities in order to build the Settlement Guarantee Fund of the LPCC.

In this regard, AMC Repo Clearing Limited (ARCL) has been granted recognition as LPCC by SEBI. The Reserve Bank of India also accorded necessary approvals to ARCL to function as a Clearing Corporation with a limited purpose and to offer central counter party services for repo transactions in debt securities.

SEBI has also provided a framework for upfront collection of amounts as charges from eligible issuers at the time of issue of debt securities.

SEBI/HO/DDHS/DDHS - RACPOD1/CIR/P/2023/56

Direct plan for schemes of Alternative Investment Funds (AIFs) and trail model for distribution commission in AIFs

SEBI Circular No. SEBI/HO/IMD/DF6/CIR/P/2020/24 dated February 05, 2020 Introduced template(s) for Private Placement Memorandum (PPM) for AIFs, in order to ascertain that certain minimum level of information in a simple and comparable format is disclosed to investors

Following is specified by SEBI to provide flexibility to investors for investing in AIFs, bring transparency in expenses and curb mis-selling, following is specified

A. Direct Plan for schemes of AIFs

I. Schemes of AIFs shall have an option of 'Direct Plan' for investors. Such Direct Plan shall not entail any distribution fee/placement fee.

II. AIFs shall ensure that investors who approach the AIF through a SEBI registered intermediary which is separately charging the investor any fee (such as advisory fee or portfolio management fee), are on-boarded via Direct Plan only

B. Trail model for distribution commission in AIFs

I. AIFs shall disclose distribution fee/placement fee, if any, to the investors of AIF/scheme of AIF at the time of on-boarding

II. Category III AIFs shall charge distribution fee/placement fee, if any, to investors only on equal trail basis i.e. no upfront distribution fee/ placement fee shall be charged by Category III AIFs directly or indirectly to their investors. Further, any distribution fee/ placement fee paid shall be only from the management fee received by the managers of such Category III AIFs.

III. Category I AIFs and Category II AIFs may pay up to one-third of the total distribution fee/placement fee to the distributors on upfront basis, and the remaining distribution fee/ placement fee shall be paid to the distributors on equal trail basis over the tenure of the fund.

The aforesaid provisions shall be complied with for investors on-boarded in AIFs/schemes of AIFs from May 01, 2023 onwards

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75 Azadi Ka Amrit Mahotsav

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Motto
सत्यं वद। धर्मं चर। *Speak the truth; abide by the law.*

Mission
"To develop high calibre professionals facilitating good corporate governance"

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Last date for registration is **12th April, 2023**
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Venue: ICSI Mysuru Chapter Premises
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Scan for more details of the event and Registration

On 15th & 16th April, 2023
For more details contact:
Hitesh: 80501 91425
Prajwal: 63608 96389
ICSI Mysuru Chapter: 77952 96969
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CSBF

**COMPANY SECRETARIES
BENEVOLENT FUND**

Safeguarding and
caring for your well being



COMPANY SECRETARIES BENEVOLENT FUND

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What exactly is CSBF?

The Company Secretaries Benevolent Fund (CSBF) is a Society registered under the Societies Registration Act, 1860 and is recognized under Section 12A of the Income Tax Act, 1961.

The CSBF was established in the year 1976 by the ICSI, for creating a security umbrella for the Company Secretaries and/or their dependent family members in distress.

The amount of ₹ 7,50,000 (in the case of death of a member under the age of 60 years) has been increased to ₹ 10,00,000

The subscription amount is being increased from ₹ 10,000 to ₹ 12,500 soon

Is it the right time to enrol in CSBF?

CSBF is the protection you and your family need to survive the many ups and downs in life, be it a serious illness or a road accident which derails your plans for the future.

Is it a requirement?

Yes, as your dependents need the protection. Your dependents be it your parents, your spouse, or your children will have to bear the brunt of paying off your home/education personal loans and even for managing day-to-day expenses without your contribution.

If you do not want to leave behind such a situation in your absence, enrol in CSBF today.

Advantages of enrolling into CSBF

1

To ensure that your immediate family has some financial support in the event of your unfortunate demise

2

To finance your children's education and other needs

3

To ensure that you have extra resource during serious illness or accident

4

Subscription/Contribution to CSBF qualifies for deduction under Section 80G of the Income Tax Act, 1961

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