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Info Capsule

THE CENTRAL GOVERNMENT NOTIFIES THE COMPANIES (AMENDMENT) ACT, 2017¹

The Central Government notified the Companies (Amendment) Act, 2017 (Amendment Act) on 3rd January, 2018. The provisions of this Amendment Act shall come into force on the date or dates as the Central Government may appoint by notification(s) in the Official Gazette. A few provisions in the Amendment Act have important bearing on the working of the Insolvency and Bankruptcy Code, 2016 (Code).

Section 53 of the Companies Act, 2013 prohibited issuance of shares at a discount. The Amendment Act now allows companies to issue shares at a discount to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan such as resolution plan under the Code or debt restructuring scheme.

Section 197 of the Companies Act, 2013 required approval of the company in a general meeting for payment of managerial remuneration in excess of 11 percent of the net profits. The Amendment Act now requires that where a company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, for such payment of managerial remuneration shall be obtained by the company before obtaining the approval in the general meeting.

Section 247 of the Companies Act, 2013 prohibited a registered valuer from undertaking valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during or after the valuation of assets. The Amendment Act now prohibits a registered valuer from undertaking valuation of any asset in which he has direct or indirect interest or becomes so interested at any time during three years prior to his appointment as valuer or three years after valuation of assets was conducted by him.

The Companies (Amendment) Act, 2017 is available www.ibbi.gov.in and www.mca.gov.in.

REPORT ON TREND AND PROGRESS OF BANKING IN INDIA 2016-17²

The Reserve Bank of India released the statutory Report on Trend and Progress of Banking in India 2016-17. This Report presents the performance and salient policy measures relating to the banking sector during 2016-17. The Report also provides an analysis of the co-operative banks and non-banking financial institutions. The highlights of the Report are set out below:

- The financial performance of banks, especially public sector banks (PSBs), was weighed down by high provisioning on account of non-performing assets. As a result, PSBs reported

¹ Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1515878>

² Available at: https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=42643

net losses for the second year in a row. Private sector banks posted a muted increase in profits during the year.

- These challenges notwithstanding, the Reserve Bank fine-tuned its regulatory and supervisory policies to ensure a sound, resilient and inclusive banking system. The provisions of the revised prompt corrective action (PCA) framework were implemented with effect from April 1, 2017.
- A watershed development in India in 2016-17 has been the enactment of the Insolvency and Bankruptcy Code (IBC) in May 2016. Subsequent to the enactment of the IBC, the Banking Regulation Act, 1949 was amended to empower the Reserve Bank to issue directions to any banking company or banking companies to initiate insolvency resolution in respect of a default under the provisions of the IBC.
- Moreover, the Government also announced a large-scale bank recapitalisation plan in October 2017 to reinvigorate PSBs struggling with high levels of stressed advances.
- Several policy measures were initiated in the payment and settlement systems to ensure robust and customer friendly payment systems. Master Directions on Pre-paid Payment Instruments (PPIs) were issued.
- The operationalisation of small finance banks and payments banks is expected to provide further impetus to the financial inclusion agenda.
- Co-operative institutions, which have often been plagued by fragile financial health, portrayed a sanguine picture. Following on-going consolidation efforts, urban co-operative banks (UCBs) exhibited expansion in balance sheet size and recorded improved profitability in 2016-17. There was a turnaround in the performance of the apex-level long-term rural credit co-operatives, while the short-term rural credit co-operatives comprising state co-operative banks (StCBs) and district central co-operative banks (DCCBs) have exhibited improved performance over time. Primary agricultural credit societies (PACS), the grass-root level tier of the short-term co-operative credit structure continued to incur losses.
- The consolidated balance sheet of non-banking financial companies (NBFCs) expanded during 2016-17 on the back of healthy growth of loans and advances. However, their profitability declined along with deterioration in asset quality. The consolidated balance sheet of all-India financial institutions (AIFIs) increased in 2016-17 due to loans and advances, and their operating profit ratio improved with a moderation in the growth of interest outgo.
- During the first half of 2017-18, a modest pick-up in bank credit has occurred alongside the improvement in transmission that was observed post-demonetisation. Stressed assets have stabilised at an elevated level, while profitability as reflected in return on assets also remained stable.
- The Report flags the main challenges that will likely shape the outlook for the financial sector in India, which include:
 - Resolution of stressed assets under ongoing refinement of the Insolvency and Bankruptcy Code, 2016;
 - Strengthening of bank balance sheets for reinvigorating credit growth;
 - Developing robust accounting standards for banks with the aim of closing gaps in accounting practices;
 - Promoting differentiated banking and exploring scope for its expansion to wholesale and long-term financing;
 - Promoting digitisation and managing technology-enabled financial services; and

- Managing cyber-security risks with the aim of strengthening resilience of the financial system.

The Report is available in detail at <https://rbi.org.in/Scripts/AnnualPublications.aspx?head=Trend%20and%20Progress%20of%20Banking%20in%20India>

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