

CHARTERED SECRETARY

THE JOURNAL FOR GOVERNANCE PROFESSIONALS



INVESTOR



SEBI

REGULATOR

PUBLIC
COMPANY



Initial Public Offer: Opening Doors of Funding and Opportunity



STOCK

EQUITY



APPROVED

TRUST



CROWD
FUNDING



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

www.icsi.edu



WHY LEADING BOARDS ARE EMBRACING DESS DIGITAL MEETINGS?

ONE STOP DIGITAL
MEETINGS SOLUTION

“

Going digital is extremely useful at a time like this. We are able to take advantage of Dess Digital Meetings as they constantly innovate to maximize the value to their clients and are the best vendor to partner with.

”

Mr. Dhaval N. Soni, Company Secretary, Zydus Lifesciences Limited

LET'S CONNECT TO TRANSFORM
YOUR BOARD MEETINGS

+91 97029 28562

| info@dess.digital

| www.dess.digital

President

- CS Manish Gupta

Vice-President

- CS B. Narasimhan

Members

(in alphabetical order)

- CS Ashish Karodia
- Dr. Ashok Kumar Mishra (Govt. Nominee)
- CS Dhananjay Shukla
- CS Dwarakanath C.
- Sh. Inder Deep Singh Dhariwal (Govt. Nominee)
- Sh. MP Shah (Govt. Nominee)
- Sh. Manoj Pandey (Govt. Nominee)
- CS Manoj Kumar Purbey
- Ms. Mithlesh (Govt. Nominee)
- CS Mohankumar A.
- CS NPS Chawla
- CS Pawan G. Chandak
- CS Praveen Soni
- CS Rajesh Chhaganbhai Tarpara
- CS (Ms.) Rupanjana De
- CS Sandip Kumar Kejriwal
- CS Suresh Pandey
- CS Venkataramana R.

Secretary

- CS Asish Mohan

01

Editorial Advisory Board

Chairman

- CS Ashish Karodia

Members

(in alphabetical order)

- CS Bimal Jain
- CS (Dr.) D. K. Jain
- CS Dhananjay Shukla
- CS Manoj Kumar Purbey
- CS Mohan Kumar A.
- CS NPS Chawla
- CS Nitin Somani
- CS P. Sivakumar
- CS Pawan Dubey
- CS Praveen Soni
- CS Punit Handa
- CS (Dr.) R.P. Tulsian
- CS (Prof.) Rabi Narayan Kar
- Dr. Ranjith Krishnan
- CS Rohit Gupta
- CS Sachin Khurana
- CS Sumit Kumar

Editor & Publisher

- CS Asish Mohan

Legal Correspondent

- T. K. A. Padmanabhan



CHARTERED SECRETARY

[Registered under Trade Marks Act, 1999]

Vol. : LIV ■ No.01 ■ Pg 1-170 ■ January - 2024

04 - EDITORIAL

08 - ICSI EVENTS

- GLIMPSES of 23rd ICSI National Awards for Excellence in Corporate Governance, 2023
- GLIMPSES of ICSI YUVOTSAV 2024
- 1st National Convention of Insolvency Professionals and Registered Valuers held on January 13, 2024

30 - FROM THE PRESIDENT

36 - RECENT INITIATIVES TAKEN BY ICSI

47 - INTERVIEW

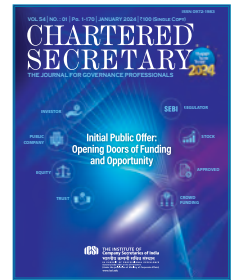
- Hon'ble Mr. Justice T.S. Thakur, Former Chief Justice of India

53 - ARTICLES

- Initial Public Offer: Opening doors of funding and opportunity

126 - LEGAL WORLD

135 - FROM THE GOVERNMENT



153 - NEWS FROM THE INSTITUTE

157 - MISCELLANEOUS CORNER

- GST CORNER
- ETHICS IN PROFESSION
- CG CORNER

163 - BEYOND GOVERNANCE

- Case Study
- Crossword

Printed & Published by

Printed & Published by: Asish Mohan on behalf of: The Institute of Company Secretaries of India, 'ICSI House', 22, Institutional Area Lodi Road, New Delhi - 110 003, **Printed at:** SAP Print Solutions Pvt Ltd at Plot No. 3 and 30, Sector II, The Vasai Taluka Industrial Co-Op. Estate Ltd, Gauripada, Vasai (E), District Palghar-401208, sapprints.com and **Published** from Lodhi Road.

Editor : Asish Mohan

The Institute of Company Secretaries of India

'ICSI House', 22, Institutional Area

Lodi Road, New Delhi - 110 003

Phones : 45341000

Grams : 'COMPSEC'

Fax : 91-11-24626727

E-Mail : journal@icsi.edu

Weblink : <http://support.icsi.edu>

Website : <http://www.icsi.edu>

Mode of Citation: CSJ (2024)(01/--- (Page No.)

QR Code/Weblink of Chartered Secretary Journal

<https://www.icsi.edu/home/cs/>



Printed at

SAP PRINT SOLUTIONS PVT. LTD.

Plot No. 3 & 30, Sector II, The Vasai Taluka Industrial Co-op. Estate Ltd., Gauripada Vasai (E), Dist. Palghar - 401 208
www.sapprints.com

Annual Subscription

'Chartered Secretary' is generally published in the first week of every month. ■ Non-receipt of any issue should be notified within that month. ■ Articles on subjects of interest to company secretaries are welcome. ■ Views expressed by contributors are their own and the Institute does not accept any responsibility. ■ The Institute is not in any way responsible for the result of any action taken on the basis of the advertisements published in the journal. ■ All rights reserved. ■ No part of the journal may be reproduced or copied in any form by any means without the written permission of the Institute. ■ The write ups of this issue are also available on the website of the Institute.

As the Year 2024 dawned, The ICSI also saw a rapturous beginning with the presentation ceremony of the 23rd ICSI National Awards for Excellence in Corporate Governance. The Organisations and their Company Secretaries which were adjudged as Best Governed Companies in various categories were felicitated at a glittering Awards ceremony graced by Shri Om Birla, Hon'ble Speaker, Lok Sabha, as the Chief Guest.

The young students of ICSI upheld its Flag even higher at the 'Yuvotsav 2024' which was also celebrated to mark the 161st Birth Anniversary of Swami Vivekananda. It was enthralling to witness the wholehearted participation of these highly energetic students in the mega confluence of students from all over India. The occasion witnessed a galaxy of dignitaries including Shri Manoj Tiwari, Member of Parliament, Lok Sabha who motivated the students to accomplish great heights in their career and serve the country with full honesty and integrity as CS professionals.

While we greet another year with zest and zeal to go ahead with the new initiatives of the Institute, reflecting back on the year gone by, 2023 has been a year of magnificent Achievements, Development and Growth in all areas including National and International frontiers and leading from the front was none other than CS Manish Gupta, President, The ICSI and CS B. Narasimhan, Vice - President, The ICSI. We thank these luminaries of our profession and the Institute, profusely from the depths of our hearts for their impeccable contribution and immense dedication towards the Institute and the profession.

This Month's issue of the Journal is focusing, on the theme 'Initial Public Offer: Opening Doors of Funding and Opportunity'. The most significant benefit of IPOs is the public's opportunity to buy shares in a company. That can be attractive for many reasons. For one thing, it can offer the chance to get a foot in the door of a profitable business that otherwise would be closed for general public. There is often minuscule cost to buy IPO shares. The Journal endeavours to delve deep into the role of CS which is most important and critical in entire process of IPO. It ardently discusses on the important and robust governance arrangements which are in place there and how are they clearly documented and communicated to the organisation.

The Author through the Article 'IPOs and FPOs: Decoding the Legislative side' offers an insight into the dream and vision of growth and success of a business Initial Public Offer ("IPO") and Further Public Offer or Follow-on Offer ("FPO") path as it has gained much favourability within the corporate world allowing them to fulfil the capital needs and enjoy the enhanced credibility in the eyes of stakeholders.

The Article on 'An Overview of SME Financing Through IPOs with Special Reference to BSE SME Platform' highlights the role of BSE SME platform which was setup by BSE Ltd. in accordance with the rules and regulations as laid down by SEBI and how the platform offers SME entrepreneurs and start-ups to raise equity capital for their growth and expansion in a cost-effective manner.

The Author through the article 'Navigating IPO Success: A Comprehensive Guide anchored by Company Secretaries in the Indian Financial Seas' explores the fact that in the vast expanse of Indian capital markets, the role of Initial Public Offerings (IPOs) stands as a cornerstone for economic growth.

The Author through the article 'Dynamics Regulatory Aspects of Anchor Investors in an IPO' researches the nuanced role of anchor investors in the Indian book building mechanism, with a specific focus on their profound influence on information production, pricing transparency, and overall subscription dynamics in Initial Public Offerings (IPOs).

The Author through the Article 'Initial Public Offer: Opening doors of funding and opportunity' provides an overview on Process of IPO and how Regulations are framed to ensure transparency in the fund raising activities and to prevent misappropriation of funds raised from the general public.

The Article 'Public Offer: Widening the Stakeholder's Base' renders information on how by going public, companies can access a vast reservoir of capital. This infusion of funds can be directed toward a range of strategic initiatives, including business expansion, research and development, debt reduction, and acquisition of assets or other businesses.

The Article on 'IPO Frenzy: The Craze of Going Public' brings forth how the allure of Initial Public Offerings (IPOs) has captured the imagination of investors, entrepreneurs, and the public alike.

The Article on 'From Hype to Action: Understanding the Dynamics of IPO Frenzies' also brings out the context of IPO frenzies and how the role of various professionals involved in the entire process of Initial Public Offerings comes into picture emphasising how the role of professionals like Company Secretary, auditors, merchant bankers, credit rating agencies etc is crucial.

The Author through the article 'Employee Stock Option Plan (ESOP) : The Finer Nuances' portrays how pursuant to clause (b) of sub Section (1) of Section 62 of Companies Act, 2013, the Company can offer shares through employee stock option to their employees if shareholders approve such scheme by way of passing special resolution subject to the conditions specified under Rule 12, of Companies (Share Capital and Debentures) Rules, 2014.

The Article, 'A Study on the Reasons for the Slow Pace Journey of the Existing Corporate Distress Resolution Mechanism in India' provides insightful research and analysis on the corporate distress resolution mechanism in India which has been a topic of significant concern due to its sluggish pace, hindering the efficient resolution of distressed entities and impeding economic growth and how the Insolvency and Bankruptcy Code, 2016 (IBC/ Code) has stepped in to revolutionize the corporate distress resolution process in India and foster a more efficient and timely resolution mechanism.

The Institute is also honoured to publish an interview with Former Chief Justice of India, Hon'ble Mr. Justice Tirath Singh Thakur, who also Chaired the Jury for the 23rd ICSI National Awards for Excellence in Corporate Governance.

The month of January is a month of festivities for many and we wish all the esteemed readers happiness and joy throughout the month.

Happy reading !

CS Asish Mohan
(Editor - Chartered Secretary)



1. CS Manish Gupta, President, The ICSI and CS Sandip Kejriwal, Council Member, The ICSI addressed the NCLT Conclave organised by Guwahati (North Eastern) Chapter of ICSI. Hon'ble Justice Shri Kalyan Rai Surana & Hon'ble Justice Shri Soumitra Saikia, Guwahati High Court graced the Seminar as Chief Guest(s). Shri Vinod Sharma, Regional Director, Ministry of Corporate Affairs, North Eastern Region graced the Seminar as Guest of Honour.
2. CS Manish Gupta, President ICSI, addressed the Joint seminar organised by, Amravati Chapter of SIRC of ICSI and Institute of Cost Accountants, Vijaywada Chapter, at Vijaywada.
3. CS Manish Gupta, President ICSI addressed the Members and Students of Kochi Chapter alongwith CS Dwarkanath Chennur and CS Venkatramana R, Central Council Members of ICSI and CS Asish Mohan, Secretary ICSI.
4. 1st Members' Outreach Programme comprising the members from Northern Region was organised by ICSI on January 5, 2024 at New Delhi.
5. CS Manish Gupta, President, The ICSI, addressed the Interaction Session with Members and Students organised by Vadodara Chapter of WIRC of ICSI.



6. ICSI inks MoU with IFSCA to facilitate Corporate Governance, Compliance Audit in IFSCs & to help develop GIFT-IFSC as a Global Compliance Services Export Hub and promote export of Legal, Compliance and Secretarial Services.
7. ICSI inks MoU with Telangana Mahila Viswavidyalayam (Women's University), Koti, Hyderabad under the ICSI Academic Collaboration initiative.
8. CS Manish Gupta, President, The ICSI addressed One Day Program organised by Noida Chapter of NIRC of ICSI on MSME & Startup.
9. Gurugram Chapter of NIRC of ICSI organized 'Silver Jubilee Foundation Day Celebrations' on December 15, 2023.
10. 15th Residential Corporate Leadership Development Program (CLDP) and 85th MSO conducted from 28th November 2023 to 13th December 2023 at ICSI-CCGRT, Navi-Mumbai.
11. CS Manish Gupta, President, ICSI addressed the Seminar organised by Nagpur Chapter of WIRC of ICSI on 13.01. 2024.



12. CS Manish Gupta, President, The ICSI interacted with the students and members during an Interaction programme organised by Hooghly Chapter of ICSI on 14.01.2024.
13. CS Manish Gupta, President ICSI, and Central Council Members addressed the Seminar organised jointly by Ahmedabad Chapter of WIRC of ICSI with ICSI WIRC on 'Recent Amendments in Companies Act, 2013 on 10.12.2023'.
14. MoU on Academic Collaboration signed between ICSI and Vishwakarma University, Pune on December 15, 2023 in the presence of CS Pawan G. Chandak, Central Council Member, The ICSI and CS Vishal Patil, Chairman, Pune Chapter of WIRC of ICSI.
15. The ICSI joined as Associate Partner in the 'Residential Workshop on Corporate Governance' & 'Workshop on Corporate Social Responsibility (CSR)' held from December 13, 2023 to December 16, 2023 at Port Blair, A&N Islands organized by National Academy of Human Resources Development (NAHRD). CS Suresh Pandey, Council Member, The ICSI represented the Institute as a Guest Speaker on 'Workshop on Corporate Governance'.
16. ICSI joined as Academic Partner in the International Conference on the Changing Landscape of Corporate Governance & Sustainability: Walking the Talk hosted by the Indian Institute of Management Bangalore on January 12-13, 2024. CS Dwarkanath Chennur, Council Member, the ICSI was the Guest Speaker at the Conference.

GLIMPSES OF 23RD ICSI NATIONAL AWARDS FOR EXCELLENCE IN CORPORATE GOVERNANCE, 2023 HELD ON JANUARY 5, 2024 AT NEW DELHI

Chief Guest : Shri Om Birla, Hon'ble Speaker of the Lok Sabha



INTERACTIVE SESSION



23rd ICSI Lifetime Achievement Award

Mr. Venu Srinivasan, Chairman Emeritus, TVS Motor Company



Group Photo



Best Governed Company in Listed Segment (Large Category)

Asian Paints Limited



Best Governed Company in Listed Segment (Medium Category)

Marico Limited



Best Governed Company in Listed Segment (Emerging Category)

Sonata Software Limited



Best Governed Company in Unlisted Segment (Large Category)

Tata Power Delhi Distribution Limited



Best Governed Company in Unlisted Segment (Medium Category)

Tata Consulting Engineers Limited



Best Governed Company in Unlisted Segment (Emerging Category)

ICICI Prudential Pension Funds Management Company Limited



ICSI CSR Excellence Awards: Best Corporate (Large Category)

Dr. Reddy's Laboratories Limited



ICSI CSR Excellence Awards: Best Corporate (Medium Category)

Exide Industries Limited



ICSI CSR Excellence Awards: Best Corporate (Small & Emerging Category)

TP Central Odisha Distribution Limited



2nd ICSI Business Responsibility and Sustainability Awards : Best Corporate (Non- Service Sector)

Infosys Limited



2nd ICSI Business Responsibility and Sustainability Awards : Best Corporate (Service Sector)

Tata Steel Limited



5th ICSI Best Secretarial Audit Report Award

**CS Nitu Poddar
Secretarial Audit Report of Vedanta Limited**



3rd ICSI Best PCS Firm Award

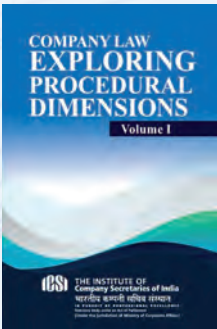
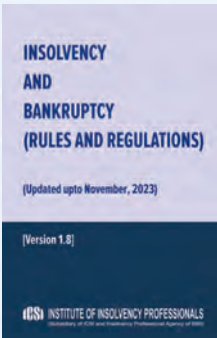
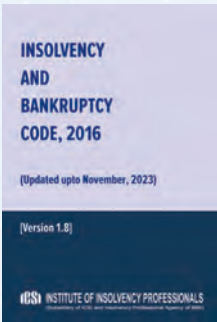
Vinod Kothari & Company

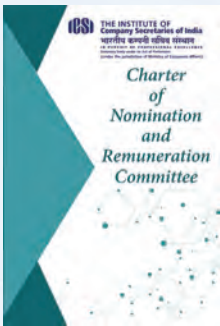
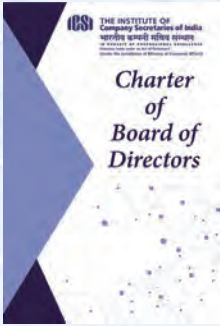


Logo of the Institute of Governance Professionals of India (IGPI) unveiled



Publications Released





GLIMPSES OF ICSI YUVOTSAV 2024 HELD AT NEW DELHI ON 11-12 JANUARY, 2024







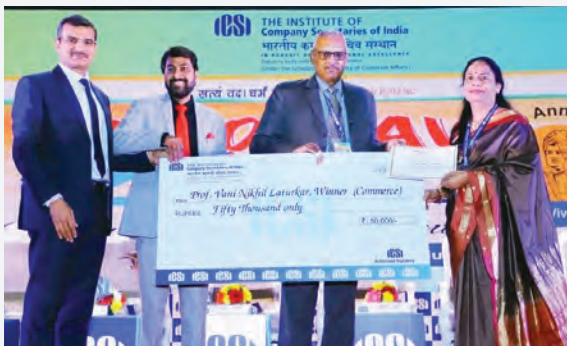
AWARD CEREMONY - 2ND ICSI GURUSHRESTHA AWARDS

ICSI in its endeavour to acknowledge the immense contribution of educators in education conducted 2nd Gurushrestha awards during the year 2023. The purpose of “ICSI Gurushrestha” award is honouring those Teachers and Lecturers/Professors across India who have through their commitment and industry contributed immensely to improve the quality of education and have augmented the lives of their students. Professors/ Lecturers working on full–time regular basis in Commerce/Law /Management Department of the Universities/ Institutes in India were eligible to apply. The nominations received were evaluated through a multi-layered evaluation process through an expert group and eminent jury comprising top academicians of the country. The Jury comprised the following members.

Prof. Nageshwar Rao	Vice Chancellor, IGNOU	Chairman
Prof. Himanshu Rai	Director, IIM, Indore	Member
Prof. R. Nagarajan	Director, IIM, Amritsar	Member
Dr. Bhimaraya Metri	Director, IIM, Nagpur	Member
Prof. (Dr.) G.S. Bajpai	National Law University, Delhi	Member
Prof. Akhilesh Kumar Pandey	Vice-Chancellor, Vikram University, Ujjain	Member
CS Ashish Garg	Past President, ICSI	Member

The Jury meeting of 2nd ICSI GuruShrestha awards -2023 was held on 24th December 2023 and the winners of ICSI Gurushreshtha awards were felicitated on 12th January 2024 during Yuvotsav-2024.

Category - Commerce



Category - Management



ICSI WESTERN REGION CONVOCATION HELD AT AHMEDABAD ON DECEMBER 10, 2023

Guest of Honour: Mr. K Rajaraman, Chairperson IFSCA



ICSI NORTHERN REGION CONVOCATION HELD AT NEW DELHI ON JANUARY 2, 2024



ICSI SOUTHERN REGION CONVOCATION HELD AT COIMBATORE ON JANUARY 10, 2024



ICSI EASTERN REGION CONVOCATION HELD AT KOLKATA ON JANUARY 14, 2024



INFRASTRUCTURAL EXPANSIONS

Coimbatore Chapter

Chief Guest: Dr. Palanivel Thiaga Rajan, Hon'ble Minister of Information Technology and Digital Services, Tamil Nadu



Rajkot Chapter



1ST NATIONAL CONVENTION OF INSOLVENCY PROFESSIONALS AND REGISTERED VALUERS HELD ON JANUARY 13, 2024 AT NEW DELHI

Theme: Insolvency, Bankruptcy and Valuation: Achievements, Challenges and Expectations

Special Guest: Hon'ble Mr. Ashok Kumar Bhardwaj, Member (Judicial), NCLT



INAUGURAL SESSION



Panel Discussion - I
Quandaries Present under IBC



Panel Discussion - II
Fate of Prepacked Insolvency and Insolvency against Guarantors



Panel Discussion - III
Art of Valuation in Insolvency Cases



CORPCON - 2024

NATIONAL CONFERENCE ON DEVELOPMENTS AND TRENDS IN CORPORATE LAWS AND GOVERNANCE, JOINTLY WITH ICSI-CCGRT, HYDERABAD & NALSAR LAW UNIVERSITY, HYDERABAD

Chief Guest: Hon'ble Justice Ramalingam Sudhakar, President, NCLT



FELICITATION CEREMONY OF PRESIDENT, THE ICSI



WEBINAR ON

Dematerialisation of Securities – Recent Amendments held on 13.12.2023



Speaker:
CS Pankaj Virmani
 Company Secretary and Compliance
 Officer, Devyani International Limited



Speaker:
Abhishek Mishra
 Sr. Manager, NSDL



Speaker:
Anand Tirodkar
 Sr. Manager, CDSL



Moderator:
CS Sukhmeet Kaur
 The ICSI

WEBINAR ON

NCLT – Appearance & Court Crafts held on 3.1.2024



Speaker:
CS Nesar Ahmad
 Former President, The ICSI



Moderator:
CS Alex V.
 The ICSI

WEBINAR ON

Statutory Requirement of Valuation of Securities held on 10.1.2024



Speaker:
CA Tarun Mahajan
 Regd. Valuer, CFA(USA), CVA(USA), FCA



Moderator:
Mrinal Madhur
 The ICSI



**THE INSTITUTE OF
Company Secretaries of India**
भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

Vision

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

Motto

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

Mission

"To develop high calibre professionals facilitating good corporate governance"

#IntlGovCon

REGISTRATION OPENS

ICSI 3rd International Conference

Theme: Building Resilient & Sustainable Economies

Singapore | 5-6 April 2024

Co-Host: ICSI Overseas Centre, Singapore



PROGRAMME HIGHLIGHTS

Two days
Capacity
Building
Programme

Engaging
Sessions
spanning
global
aspects

Opportunity
to explore
New
Horizons

Networking
with
Global
Leaders

CS Manish Gupta
President, The ICSI

CS B. Narasimhan
Vice President, The ICSI

CS NPS Chawla
Council Member & Chairman,
International Affairs Committee, The ICSI

CS Asish Mohan
Secretary, The ICSI

CS Nitish Chandan
Chairman, ICSI Overseas
Centre, Singapore



ICSI 3rd International Conference

Delegate Fee (Non – Residential)

Category	Fee in INR*	Fee in Singapore Dollar**
ICSI Member/Member of Partner Organisation	15,000	250
ICSI Student	12,000	200
Others	20,000	325

*Exclusive of GST @18% **Taxes as applicable

Delegates from India register at
<https://tinyurl.com/3intconf>



Delegates from Outside India make payment in the below mentioned Bank Account (Singapore Dollar only) and then register at



<https://tinyurl.com/3intconfSGD>

BANK ACCOUNT DETAILS

Beneficiary Name	The Institute of Company Secretaries of India
Account Number	912010040104826
Swift Code (Outside Country)	AXISINBB055
Bank Name & Branch	Axis Bank Ltd. Swasthya Vihar, New Delhi- 110092

Kindly Note:

Prior Registration for the Conference is mandatory

Delegate fee is payable in advance and is non-refundable. Please note that payments are not accepted through DD, Cheque, Cash etc.

The fee includes literature, tea/coffee, high-tea and 2 lunches

Delegates may arrange flight tickets, visa, stay and local travel on their own

ICSI Members attending the Conference shall be eligible for grant of CPE Credits in terms of ICSI (Continuous Professional Education) Guidelines, 2019.

FOR QUERY / CLARIFICATIONS

Contact: +91 - 11 - 4534 1063/ 1064/ 1065/1087/1088 | Email: overseas@icsi.edu

Connect with ICSI www.icsi.edu | | For Query: overseas@icsi.edu



यतो धर्मस्ततो जयः।

“Where there is Dharma, there will be Victory.”



Dear Professional Colleagues,

They say “A journey of a thousand miles begins with a single step.” As a college student with just a hope and dream of making it big someday, the Company Secretary Course seemed befitting with my thought, approach and then existing skill set. Reminiscing the day, I had filled in the form and stood in a line right in front of this building to deposit. It definitely brings back fond memories. From a student sitting through each of the Examination sessions to receiving my membership number; from being pushed by friends to contest the Regional Council Elections to receiving overwhelming support in both the Central Council terms; from taking to the Office of the President and sharing stage with the Hon’ble President and Vice President of the nation, to representing the Institute on international forums – each day of this journey has been exciting, exhilarating and enthralling.

When I had stepped foot into the CS course, little had I known that the profession and my fellow professionals would accord me the opportunity to hold the office of the President of our own Alma mater. A year ago, when I had sworn in and took charge, little had, I known that each day would fill me with moments of pride, of ecstasy, of fulfilment, and of dreams coming true.

And today, as I said to open my last address from the office for this Journal, little did I know that I would be short of words in expressing my gratitude, my humble thoughts, and the surmounting emotions.

YEAR GONE BY

न ही कश्चित् विजानाति किं कस्य श्रो भविष्यति।

अतः श्वः करणीयानि कुर्यादद्यैव बुद्धिमान्॥

(No one knows what is going to happen tomorrow. So doing all of tomorrow’s task today is a signature of wise.)

It comes from personal experience that for any President, one of the most anticipated messages is the one that the pen down at the beginning of their tenure– all eyes on them, the expectations of members and students hanging on them, and the reliance of the team for steering the ship waiting for direction. As far as the person on this side of the table is concerned – there is definitely a strong urge to put out our dreams and visions, our commitments and work together as a team to achieve them in the best possible manner...

If we began our journey with the Leadership Summit – with all the Heads at the Secretariat and the Regional Directors, Chapter Chairpersons and Executive Officers, the entire year witnessed each one of us both individually and cohesively working in our own ways to achieve the goals. Each time, at a flagship event, wherein dignitaries felicitated the awardees for Best Regional Council and Best Chapters, it was I who felt equivalent or even greater pride for having all of them by my side. Each time I visited a Chapter or attended a Regional Event, the welcome warmed my heart and the strength in our togetherness affirmed my faith in the foundations of this profession. Each event, where I represented the Institute at national or international platform, I represented not myself, but over 72,000 members and 2,00,000 students with my head held high.

ICSI Events – Relishing magnanimity

Each ICSI Event comes with a legacy of its own. Be it the Foundation Day marking the beginning of the profession or the five-decade old National Convention; be it the long running ICSI National Awards for Excellence in Corporate Governance or the Conferences for PCS and Corporate CS – each event has its own relevance and a date earmarked on the ICSI Calendar.

As I demit this office, my line of gratitude would definitely begin with the first citizen of the nation, Smt. Droupadi Murmu, Hon'ble President of India and Shri Jagdeep Dhankar, Hon'ble Vice President of India for gracing, the ICSI occasions and adding Golden leaves into the pages of history of the ICSI. I would also like to thank Smt. Anandiben Patel and Dr. C.V Ananda Bose, Hon'ble Governors of Uttar Pradesh and West Bengal, Shri Om Birla, Hon'ble speaker of Lok Sabha, Smt. Nirmala Sitharaman, Hon'ble Minister of Finance and Corporate Affairs, Shri Rao Inderjit Singh, Minister of State for Corporate Affairs, and Shri Tejasvi Surya, Member of Parliament, Bengaluru South for being with us and adding greater grandeur to ICSI events and celebrations. With them, on behalf of the ICSI I feel equally gratuitous towards every Guest, every dignitary, to whom we extended our invite and who graciously obliged. It is your unstinted support that has added a spring in our step and zeal in our action.

Over and above that, the year gave us plenty of memories and memorable moments to cherish, ones that I am only delighted to share with you through the Annual Progress Report for the year 2023, but I would also want to touch upon a select few that will forever remain close to my heart.

Expanding Global Outreach : Making Presence felt world-wide

It was in May 2023 that we had our 2nd International Conference of ICSI Overseas Centre in London (UK) and what followed was a series of meetings across the world. Another new feather in the ICSI's cap was when we decided to understand global scenarios in their home base. When the United Arab Emirates decided to introduce the Corporate Tax for the first time, we thought it fit to deliberate the matter in fine detail. The ICSI Corporate Tax Conference in Dubai set the tone for ICSI as the global leader in taking on international issues with a heads-on approach and being by the side of the professionals there when they handheld their corporates through this development. Even further, it has been decided by the Council that an Annual Conference will be conducted by the ICSI in the Middle East – strengthening the bonds even further.

Another initiative in furtherance of our vision was the jointly organized Two Day Training Programme

with the Institute of Chartered Secretaries of Bangladesh. With ICSI Central Council members, Past Presidents joining-in in the heart of our neighboring nation, the ICSI set another benchmark for global governance.

Meetings and greetings throughout the year with the Heads and Directors of international Governance Organizations, Indian Ambassadors to various nations and Officials of Business Associations and Councils are the seeds that have been planted to expand the roots of both good governance and ICSI's presence globally – ones that I am sure shall bear fruit in the times to follow.

I feel a deep sense of oneness with our members abroad and all the Managing Committees of the ICSI Overseas Centres along with their Chairpersons who have placed in their best of efforts in taking ICSI vision global. My heartiest gratitude towards all of you.

Building Capacities – enriching knowledge bases – upscaling skillsets

कर्म ज्यायो ह्यकर्मणः

(Action is superior to inaction.)

If the times gone by have taught us anything, one of the biggest lessons would be the fact that fast paced changes around us – expect us to be more – more receptive to knowledge, more-hungry for information, more agile to opportunities, more sensitized as a professional and more farsighted in our approach as a leader. And at the behest of sounding spiritual, I would say that to look beyond the horizon one needs to look within. It is this inward approach that inspired us to strengthen our foundations, find our core capabilities, nurture them and be ready to march ahead and cease the day.

I would call it the good judgment of all the respective Committees, their Chairpersons and members for having conceived the ideas and bringing them to the Council table for deliberation and approval. The year not only saw us mandating the members to undergo PCS Orientation Programme (POP) compulsory prior to making an application for Certificate of Practice but also create a repository and bring all the videos under one umbrella of Knowledge on Demand (KOD) to give the members access to latest development, widen their knowledge base at their convenience online. The Master Knowledge Series – EEE, the ICSI Flagship Webinar Series was an opportunity for the ICSI to touch upon all the significant matters that we deemed fit to be shared with our members on corporate laws, securities laws, PMLA, SBO, and so on.

With ICSI rolling out the ICSI MSME & Startup Catalyst initiative, it was deemed fit that the members are well aware of the finer nuances of the different aspects of

both these forms of enterprises. Not only did we launch webinar series dedicatedly on MSMEs and Startups, we are also looking at Training the MSME Officers in the Government Departments as well – which I believe recognizes perfectly the presence of ICSI in the MSME world. Although developing publications is a regular activity for the Institute, we made sure that we touched upon some of the most contemporary topics and provided ample guidance to the stakeholders. I feel thankful towards all the officials of the Regulatory Authorities, experts from within and outside the profession and all the people who joined hands with us and made our endeavours successful.

I feel equally humbled to thank Shri Ramalingam Sudhakar, Hon'ble President, NCLT along with all the members of NCLT & NCLAT presiding over Benches nation-wide who extended their presence and cooperation when we conceived the idea of conducting the ICSI NCLT Conclave in all the locations where NCLT Benches are present. I am happy to share that a total of 10 such events were conducted across the nation and were highly appreciated by the fraternity and the authorities alike.

Facilitating members – Standardizing Practices

If I am to reminisce the Council Meetings of the past year, each decision of the ICSI Council has been driven by the thought of bringing about greater clarity, greater uniformity and even further, greater ease for our members. It is with this intent that some of the very first council decisions included revamping the Delivery Mechanism of the Chartered Secretary Journal giving the members an option to opt out from the receipt of printed copy. I am happy to share that the resolution bore instant fruits and more than 30000 members opted for the scheme, giving us a chance to move at a much faster pace towards ensuring sustainability.

Coming to the last leg of the meetings, one of the recent decisions has been to provide our members an opportunity to pay consolidated Annual Membership Fee for 3/5 years reducing the hassle of yearly payment as well as default on account of non-payment – in my view a true win-win...!

Student Initiatives – The youngest chips on the block

They say the youngest in the family are the ones that receive the most love. As the President, while affirmation to the same might put me in a tough spot, but I cannot disagree either. Each Council meeting, each deliberation with the Directorates concerned, has been aimed at smoothening the pathways for the professionals in making, but at the same time not compromising on their knowledge and skill enrichment.

It is with this thought that the first order of business was the release of New Study Material at the Leadership

Summit. If we altered the pattern of Examination, the idea was to give our students an opportunity to rake their brains and think out of the box, with a solution-oriented approach and we cushioned the same with additional time for reading question papers. Free Online coaching was according to me one of the major decisions of this Council. Various new developments took place on the training front as well including mandating uniform stipend. And we made sure that the queries were resolved – not only through weekly Samadhan Diwas but webinars and webcasts wherein even I got the opportunity to communicate with our students once in a while.

All in all, the focus was on watering the roots and solidifying foundations all at the right time...

Meetings with Dignitaries – Gratuitously delighted

Continuing the vote of thanks, I must add that meetings with various Heads of ministries, including Shri Rajnath Singh, Minister of Defence, Shri Arjun Ram Meghwal, Hon'ble Minister of State (I/C) for Law & Justice, Parliamentary Affairs and Culture, have been equally satisfying. The opportunity of meetings accorded by Ministers of States during our visits therein, the fruitful deliberations with Chairpersons and officials of Regulatory Authorities of SEBI, IFSCA, NSE, BSE, NSDL, CDSL, NCLT, RBI, IBBI, IRDAI, CCI, IEPFA, etc. and various other Commissions has given us not only a peep into their expectations but a way forward to march ahead with greater dedication. I on behalf of the Institute and the entire profession extend our heartfelt thanks to Dr. Manoj Govil, Secretary, Ministry of Corporate Affairs for his continuous support and passionate guidance and more importantly hands on approach. His presence at all ICSI events made the bonds with the Ministry even stronger.

MONTH GONE BY

Coming the past 30 days or so – since the last message, a lot has happened and a lot needs to be shared. Each month, as I have sat down with the list of activities of the day, is gone by, the urge to share each of them as they have unfolded it before my eyes has been paramount, and with that the excitement to share as to what to expect in the times ahead.

This month, as I said to take up this on a one last time, the heart is filled with much greater satisfaction than ever.

Infrastructure Expansions – Breaking New Grounds

The days gone by were privy to some of the most significant developments for the ICSI in terms of strengthening its infrastructural foundations. A few months ago, it was the commencement of ICSI CCGRT at Manesar; and it is only last month that I had shared with you through

the pages of this journal the inauguration of the ICSI CCGRT at Kolkata. And this month has brought with it developments in the form of new premises for two of the ICSI chapters – one in WIRC and one in SIRC. I feel extremely privileged to have had the honour of inaugurating the chapter premises at Coimbatore. In the presence of Dr. Palanivel Thiaga Rajan, Hon'ble Minister of Information Technology and Digital Services, Tamil Nadu. I am equally delighted to have inaugurated the new premises at Rajkot for the Rajkot Chapter of WIRC.

Both these new infrastructure facilities combined along with work being underway at Kochi and new initiations at Lucknow and Kanpur shall open brighter avenues of opportunity to develop faster and stronger ties with our stakeholders in these cities. I am sure that the times ahead will find us strengthening our capabilities far more than ever and leading the way for good governance.

23rd National Awards for Excellence in Corporate Governance – The wait ends

Finally !!! That's how I along with the entire Team at the Secretariat, and all the corporates & professionals breathed a sigh of relief. The wait for the 23rd edition of the ICSI Awards was no less than an elongated examination for the India Inc. which they aced with flying shades and hues. I am humbled to have amongst us the presence of Shri Om Birla, Hon'ble Speaker of Lok Sabha for acceding to our request and joining us in felicitating the winning corporates. His emphasis on the role of professionals in the law making and policy formulation processes has accorded us as much recognition as the Awards would for the corporate good governance practices.

My heartiest congratulations to Mr. Venu Srinivasan, Chairman Emeritus, TVS Motor Company on receiving the 23rd ICSI Lifetime Achievement Award for recognizing leadership in instituting good corporate governance into reality and to all the winners in all the categories and segments. May your work motivate and inspire the rest to do their best...!

Yuvotsav – Cherishing Vivekananda's teachings

"Every work has got to pass through hundreds of difficulties before succeeding. Those that persevere will see the light, sooner or later."

- Swami Vivekananda

I say this with a broad smile on my face, that more than the students – it is us at the Council and Secretariat who await the Yuvotsav the entire year. The biggest congregation of students from all corners of the nation, showcasing their talent, giving us a peep into their hidden selves – to me there can be no better way of celebrating the birth anniversary of Swami Vivekananda

and honouring our dear friend and Former Council Member CS Deepak Khaitan, the man behind this unique endeavor.

This year as we celebrated the 161st Birth Anniversary of the Youth icon, Swami Vivekananda Ji, in the equally iconic Jawahar Lal Nehru Stadium (a place I might add has witnessed some of the biggest sport events); we were joined by Shri Manoj Tiwari, Hon'ble Member of Parliament, Lok Sabha – another youth favorite. I am glad to have had the presence of Former Presidents of ICSI, CS Ranjeet Pandey and CS Ashish Garg along with Mr. Suneel Keswani, Corporate Trainer and CS (Dr.) Pawan Agrawal, International Motivational Speaker for guiding and mentoring the students of today and professionals of tomorrow.

I extend my heartiest congratulations to the recipients of the 2nd ICSI Guru Shreshtha Awards in the categories of Commerce and Management. A relatively new initiative of the ICSI, the Awards intend to extend our appreciations towards those who while staying behind the scenes, create leaders of tomorrow. A big salute to all of them.

ICSI Convocations – Touching all directions

From West to North to South to East – From Ahmedabad to Delhi to Coimbatore to Kolkata, the next leg of bi-annual Convocations for the year 2023 were held successfully with cheery faces and gleam in eyes. The power of the youth, the potential of the young generation is one filled with immense energy. Standing with each one of them as they took the oath of professionalism, I am sure beyond measure that the future of the profession is in safe hands.

Travelling down south, I had the honour of sharing stage with Shri Ramalingam Sudhakar, Hon'ble President, NCLT and Prof. Shrikrishna Deva Rao, VC, Nalsar Law University, Hyderabad at the CorpCon2024 – a research conference jointly organized by ICSI-CCGRT Hyderabad NALSAR University of Law.

1st National Convention of Insolvency Professionals and Registered Valuers – the beginning of history

2016 was the year when the Insolvency and Bankruptcy Code had been enacted and enforced. Since then, the ICSI through its Section 8 company – ICSI Institute of Insolvency Professionals has been actively endeavouring to provide training and knowledge enrichment opportunities to its members. On similar lines the ICSI Registered Valuers Organisation is conducting Trainings, workshops, webinars and seminars for its brigade of Valuers. Bringing both segments under one roof, the ICSI in collaboration with both the entities organized the 1st National Convention of Insolvency Professionals and Registered Valuers on the theme Insolvency,

Bankruptcy and Valuation: Achievements, Challenges and Expectations in the presence of some of the most renowned names of advocacy and benign presence of Members of NCLT, Judges of Supreme Court and other Regulatory Authorities.

I am thankful to Mr. Ashok Kumar Bhardwaj, Hon'ble NCLT Judicial Member and with him, each and every speaker and all the participants for rendering the initiative worthwhile with their presence and for setting the creation of history in motion for the times ahead.

TONS OF GRATITUDE – A JOURNEY SATISFYING

Expressing gratitude at this juncture is an overwhelming emotion as well as a tight rope walk. A journey like this can never find accomplishment alone. It is equally impossible that if good moments were relished not a single challenge is encountered testing your patience and moreover your professionalism. But I believe what truly sets you apart is how you behave in the face of that adversity. I am glad to have been blessed with the opportunity of serving such amazing Council Colleagues by my side, many of them having their first stints and with little idea of the real-time functioning but a fire in them to serve the profession.

I am equally thankful to the Government nominees on the Council - Shri Manoj Pandey and Shri Inder Deep Singh Dhariwal, Joint Secretaries to the Ministry of Corporate Affairs, Dr. Ashok Kumar Mishra, Ex-Technical Member, NCLAT, Ms. Mithlesh, Advisor (Cost), MCA and Shri M.P. Shah, Director General of Corporate Affairs, MCA for their active role playing and genuine interest in the functioning of the Institute.

With them I am humbled to serve with the teams of ICSI-CCGRTs, our five ICSI-Section 8 Companies – ICSI Institute of Insolvency Professionals, ICSI-Registered Valuers Organisation, ICSI-International ADR Centre, ICSI-Institute of Social Auditors & Institute of Governance Professionals of India, our four Regional Councils and 72 Chapter Managing Committees. If we found success in our smallest of initiatives and biggest of events, it was because of your wholehearted support. And I hope that you all would continue to extend the same support and same dedication in the times ahead.

Divide and conquer was the mantra that helped us scale greater heights than expected. I extend my sincere appreciation towards the members of the Appellate Authority, Disciplinary Committee, Board of Discipline, Auditing Standards Board, Secretarial Standards Board, Peer Review Board (PRB), Quality Review Board (QRB), the newly formed Governance and

Compliance Standards Board, ESG and Sustainability Board, MSME and Startup Board, Ethical Standard Board and all other Committees, sub-committees, Task Forces, Core Groups and Expert Groups, who have played their designated roles and amazed us with their achievements.

I feel truly humbled to have received the guidance of Past Presidents, Secretaries and senior members and the love & affection from the younger ones – both members and students. I might not have as many pictures with each one of you as you might, but that gives me the comfort of being a part of your memories individually.

If the Council room was the place where decisions were made, it was at the hands of the entire Team-ICSI where they were executed diligently. I feel both amazed and blessed to have worked with such a dedicated workforce who have made even the most far-fetched dreams into beautiful realities. My gratitude towards all the employees, the Heads of Directorates and the Team Lead by CS Asish Mohan, Secretary, ICSI for making my entire year fruitful.

If the show must go on, it must go on with greater dreams, greater aspirations and greater dedications. ICSI is not the institution alone but what we make of it – as a student, as a member, as a close stakeholder. And I believe even if we might have had some of the really good moments, the best is yet to come.

As I demit the office, I will still be a Council member, but more importantly, I will always be a Company Secretary, a member of the ICSI; and it goes without saying that my doors will forever be open to your concerns, issues and suggestions too.

With the hope of making ICSI the global governance leader, I extend my heartiest wishes of the new year to all of you.

**सूर्य संवेदना पुष्पेः, दीप्ति कारुण्यगंधने ।
लब्ध्वा शुभम् नववर्षेऽस्मिन् कुर्यात्सर्वस्य मंगलम् ॥**

(As the sun gives light, the sensation gives birth to compassion, and the flowers always spread their fragrance. The same way, may our new year be a pleasant one for us every day, every moment.)

Jai Hind ! Jai ICSI !

Yours Sincerely



CS Manish Gupta
President, ICSI

OBITUARY

**ICSI CONDOLES THE SAD DEMISE OF CS (Dr.) P.V.S. JAGAN MOHAN RAO,
FORMER PRESIDENT, THE ICSI**



CS (Dr.) P.V.S. JAGAN MOHAN RAO, FORMER PRESIDENT, THE ICSI
(1st July, 1955 -- 4th January, 2024)

The Institute of Company Secretaries of India (ICSI) is deeply saddened to inform that CS (Dr.) P.V.S. Jagan Mohan Rao, Former President, The ICSI (2001) has left for heavenly abode on Thursday, the 4th January, 2024.

CS (Dr.) Jagan Mohan Rao's contributions for the development of the profession of Company Secretaries have been invaluable and we are indebted to stalwarts like him for their tireless efforts for positioning ICSI as a premier national level organization.

ICSI conveys its condolences to the bereaved family members of respected CS (Dr.) P.V.S. Jagan Mohan Rao.

May the departed soul rest in peace.

Team ICSI



INITIATIVES UNDERTAKEN DURING THE MONTH OF DECEMBER, 2023

23RD ICSI NATIONAL AWARDS FOR EXCELLENCE IN CORPORATE GOVERNANCE

Date	January 05, 2023	
Venue	Hotel Taj Palace, New Delhi	
Chief Guest	Shri Om Birla, Hon'ble Speaker, Lok Sabha, as the Chief Guest	
Awardees	23 rd ICSI National Awards for Excellence in Corporate Governance	
	Listed Companies:	Unlisted Companies
	<ul style="list-style-type: none"> Asian Paints Limited (Large) Marico Limited (Medium) Sonata Software Limited (Emerging) 	<ul style="list-style-type: none"> Tata Power Delhi Distribution Limited (Large) Tata Consulting Engineers Limited (Medium) ICICI Prudential Pension Funds Management Company Limited (Emerging)
	23 rd ICSI Lifetime Achievement Award for recognizing leadership in instituting good corporate governance into reality Mr. Venu Srinivasan, Chairman Emeritus, TVS Motor Company	
	8 th ICSI CSR Excellence Awards Dr. Reddy's Laboratories Limited (Large) Exide Industries Limited (Medium) TP Central Odisha Distribution Limited (Emerging)	2 nd ICSI Business Responsibility and Sustainability Award 1) Infosys Limited (Service Sector) 2) Tata Steel Limited (Non-Service Sector)
	5 th ICSI Best Secretarial Audit Report Award CS Nitu Poddar for the Secretarial Audit Report of Vedanta Limited	3 rd ICSI Best PCS Firm Award M/s Vinod Kothari & Company
YouTube Link	https://www.youtube.com/watch?v=ui18BwGaDH0	

ICSI CONVOCATIONS

The first Eastern Region Convocation for FY 2023-2024 was held on December 06, 2023, at ICSI CCGRT, Kolkata. Membership certificates were awarded to 07 Fellow members and 43 Associate members. One meritorious student and 3 PMQ awardees were also felicitated on the occasion. Dr. C. V. Ananda Bose, Hon'ble Governor of West Bengal was the Chief Guest on the occasion.

The second Western Region Convocation for FY 2023-24 was held on December 10, 2023, at Sardar Vallabhbhai Patel National Memorial, Ahmedabad. Membership certificates were awarded to 30 Fellow members and 408 Associate members. 2 PMQ awardees were also felicitated on the occasion. Shri K Rajaraman, Chairperson, International Financial Services Centres Authority (IFSCA) was the Guest of Honour on the occasion.

MASTER KNOWLEDGE SERIES: EEE

The ICSI, with the intent of reviving, refreshing and sharpening the knowledge of its members on the Companies Act, 2013 and SEBI Regulations has launched a Master Knowledge Series: EEE: Enable, Evaluate, Excel. The capacity building initiative is an attempt to keep members abreast of the various amendments in these laws and to enable them to brush up their knowledge on the subjects. During the month, following webinars were conducted:

Topic	Faculty	Date	Links
SS-1 & SS-2 : Standardizing Compliances	CS Nagendra D. Rao, Chairman, SSB & Former President, ICSI CS Sudhakar Saraswatula Chief Consultant, Mehta & Mehta (Corporate Legal Firm)	December 06, 2023	https://www.youtube.com/watch?v=zpo-edsIMmM

Dematerialisation of Securities - Recent Amendments	CS Pankaj Virmani CS and Compliance Officer Devyani International Limited Mr. Abhishek Mishra Sr. Manager, NSDL Mr. Anand Tirodkar Sr. Manager, CDSL	December 13, 2023	https://www.youtube.com/watch?v=EkoYJ0cQYbI&t=450s
---	--	-------------------	---

VIEWS/REPRESENTATIONS/SUGGESTIONS SUBMITTED

Date	Purpose	Authority
December 14, 2023	Consultation Paper on "Review of provisions relating to 'Trading Plans' under the SEBI (Prohibition of Insider Trading) Regulations, 2015" to provide flexibility to perpetual insiders	SEBI

WEBINAR SERIES FOR HAND HOLDING OF COMPANY SECRETARIES IN PRACTICE

The Institute organised Webinar Series on Hand Holding of Company Secretaries in Practice during the month of December, 2023. The learned faculties deliberated and discussed on various topics intending to guide members in establishing successful Practice. The faculties also took up various queries posed by the members. The webinars were held on the following topics:

Setting up of Practice and strategizing for growth	CS Ranjeet Pandey, Former President, ICSI	December 18, 2023
Overview of major areas of Practice & New opportunities for Practicing Company Secretaries	CS Mahesh Athavale, Former President, ICSI	December 20, 2023
Guidelines for Company Secretary in Practice	CS Nagendra D. Rao, Former President, ICSI	December 22, 2023
Essentials for CS in Practice	CS Devendra V. Deshpande, Former President, ICSI	December 26, 2023

JOINT WEBINARS

JOINT PROGRAMME WITH NATIONAL ACADEMY OF HUMAN RESOURCES DEVELOPMENT (NAHRD)		
Topic	ICSI's Role	Date
Residential Workshop on Corporate Governance & Workshop on Corporate Social Responsibility (CSR) at Port Blair, A&N Islands	Associate Partner	December 13-16, 2023

JOINT PROGRAMME WITH INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (IFSCA)

InInfinity Forum 2.0 at GIFT City, Gandhinagar. President, ICSI was invited as Guest for the event.	Domestic Partner	December 9, 2023
---	------------------	------------------

JOINT PROGRAMME WITH ASSOCHAM (SOUTHERN REGION)

IBC Conclave 2023	Supporting Partner	December 16, 2023
-------------------	--------------------	-------------------

INFRASTRUCTURAL EXPANSIONS

• RAJKOT CHAPTER: INAUGURATION OF NEW PREMISES

CS Manish Gupta, President, ICSI inaugurated the new premises of Rajkot Chapter on 4th January, 2024.

• COIMBATORE CHAPTER: INAUGURATION OF NEW PREMISES

Dr. Palanivel Thiaga Rajan, Hon'ble Minister of IT & Digital Services, Government of Tamil Nadu along with Shri. B. Ramesh Babu, MD & CEO, Karur Vyasa Bank Ltd. inaugurated the new premises of Coimbatore Chapter on 10th January 2024.

• KANPUR CHAPTER: ALLOTMENT OF LAND FOR NEW PREMISES

- Allotment Letters of two (2) plots at Shatabdi Nagar, Kanpur were received by the Institute from Kanpur Development Authority (KDA) after successfully winning the e-Auction of KDA.

- Execution of Sale Deeds of both the plots have been completed on 5th December 2023 and 30th December 2023. Construction work to commence after amalgamation of the plots.

• LUCKNOW CHAPTER: ALLOTMENT OF LAND FOR NEW PREMISES

- Allotment Letter of one (1) plot at Gomti Nagar, Lucknow was received by the Institute from Lucknow Development Authority (LDA) after successfully winning the e-Auction of LDA. Full payment towards cost of land has been made by the Institute on 11th January, 2024.

- Possession of the allotted land to be handed over by the LDA and thereafter, execution of sale deed to be done.

RENEWAL OF ICSI STUDY CIRCLE

The ICSI has been promoting the Formation/Renewal of Study Circles for creating knowledge upgradation avenues through professional discussion and deliberation. Rewari Study Circle of ICSI (NIRC) was renewed in December, 2023 for the Financial Year 2023-24.

2ND ICSI GURUSHRESTHA AWARDS 2023

ICSI in its endeavour to acknowledge the immense contribution of educators in education conducted 2nd Gurushrestha awards during the year 2023. The purpose of "ICSI Gurushrestha" award is honouring those Teachers and Lecturers/Professors across India who have through their commitment and industry contributed immensely to improve the quality of Commerce/Finance Education at School as well as College /University level and have augmented the lives of their students. The awards will be conferred upon to the faculties of universities. Professors/Lecturers working on full-time regular basis in Commerce/Law /Management Department of these Universities. The nominations received were evaluated through a multi-layered evaluation process through an expert group and eminent jury comprising top academicians of the country. The jury meeting of ICSI GuruShrestha awards -2023 comprising the following members was held on 24th December 2023:

Prof. Nageshwar Rao	Vice Chancellor, IGNOU	Chairman
Prof. Himanshu Rai	Director, IIM, Indore	Member
Prof. R. Nagarajan	Director, IIM, Amritsar	Member
Dr. Bhimaraya Metri	Director, IIM, Nagpur	Member
Prof. (Dr.) G.S. Bajpai	National Law University, Delhi	Member
Prof. Akhilesh Kumar Pandey	Vice-Chancellor, Vikram University, Ujjain	Member
CS Ashish Garg	Former President, ICSI	Member
CS Manish Gupta	President, ICSI	Ex Officio
CS B. Narasimhan	Vice President, ICSI	Ex Officio
CS Asish Mohan	Secretary, ICSI	Ex Officio

KNOWLEDGE ON DEMAND - TOPICS UPDATION

Knowledge on Demand initiative of the Institute, launched in May, 2023, is an endeavour to provide access to the repository of videos available with the Institute to facilitate the members in keeping them abreast of latest developments, widening their knowledge base at their convenience online 24x7 on the LMS Platform of the Institute. 1 CPE Credit (Unstructured) per session is awarded to the members. 28 topics covering 237 sessions have been uploaded under the Knowledge on Demand so far. Several new topics viz. PMLA & AML, FEMA, Arbitration, ESG Analysis, IPR, Commercial Contract Management, Forensic Audit, Corporate Reporting, Internal Audit, Lending Transactions and opportunities for CS in Banking, etc. have been updated in the recent past. Members may benefit from the programme by accessing the same at <https://www.icsi.edu/home/knowledge-demand/>

MoU WITH THE INSTITUTE OF MANAGEMENT ACCOUNTANTS

The ICSI has signed an MoU with The Institute of Management Accountants (IMA) on December 01, 2023. IMA is one of the largest and most respected associations focused exclusively on advancing the management accounting profession. IMA has a global network of about 1,40,000 members in 150 countries and more than 350 professional and student chapters. Headquartered in Montvale, N.J., USA, IMA provides localized services through its four global regions: The Americas, Asia/Pacific, Europe, Middle East and India.

The MoU focusses on collaborating for research in certain projects, seminars, conferences, and workshops towards the integration of management accounting and corporate secretarial practices and activities for the benefit of Members. The MoU shall also facilitate knowledge sharing and exchange of best practices in the areas of financial management, corporate reporting, and governance.

JOINT WEBINARS

JOINT PROGRAMMES WITH PHD CHAMBER OF COMMERCE & INDUSTRY		
Topic	ICSI's Role	Date
PHDCCI Conference on ESG: A Holistic View towards Sustainable Future	Associate Partner	January 10, 2024.
JOINT PROGRAMME WITH NATIONAL ACADEMY OF HUMAN RESOURCES DEVELOPMENT (NAHRD)		
Residential Workshop on Corporate Governance & Workshop on Corporate Social Responsibility (CSR) at Port Blair, A&N Islands	Associate Partner	December 13-16, 2023
JOINT PROGRAMME WITH INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (IFSCA)		
InInfinity Forum 2.0 at GIFT City, Gandhinagar. President, ICSI was invited as Guest for the event.	Domestic Partner	December 9, 2023
JOINT PROGRAMME WITH ASSOCHAM (SOUTHERN REGION)		
IBC Conclave 2023	Supporting Partner	December 16, 2023

PMQ EXAMINATION

The online proctored MCQ based examination of three PMQ Courses on Corporate Governance, Internal Audit and Arbitration for December'2023 attempt was held on Saturday, 16th December 2023.

RESULTS DECLARED

Results were declared for the following Certificate courses and their Course completion Certificates were given to eligible participants:

- Certificate Course on IPR : Batch 5
- Certificate Course on Independent Directors : Batch 6
- Certificate Course on POSH : Batch 6
- Certificate Course on Valuation of Securities : Batch 3
- Certificate Course on CCM : Batch 6
- Crash Course on Interpretation of Statutes : Batch 1

MoU WITH INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (IFSCA)

The ICSI has signed an MoU with International Financial Services Centres Authority (IFSCA) on December 10, 2023. IFSCA, a unified regulator, has been established with a mandate to develop and regulate the financial products, financial services, and financial institutions in the International Financial Services Centres (IFSCs), by such measures as it may deem fit. The MoU focuses on collaborating and working together for the development of GIFT-IFSC as a Global Compliance Services export Hub and to facilitate development of advanced corporate governance practices, Compliance audit in IFSCs and promote the export of Legal, Compliance and Secretarial Services.

ICSI (MANAGEMENT AND DEVELOPMENT OF COMPANY SECRETARIES IN PRACTICE) GUIDELINES, 2023

The Institute with an aim to guide and regulate the conduct of Company Secretaries in Practice and with a view to enhance and ensure highest quality and standards of service delivery, has released ICSI (Management and Development of Company Secretaries in Practice) Guidelines, 2023 effective from 15th December, 2023. The Guidelines consolidate all the relevant and updated Guidelines applicable to Company Secretary in Practice along with the processes involved therein in a coherent manner that ensures ease of reference and enhanced comprehension. The Guidelines are available on the website of the Institute at link https://www.icsi.edu/media/webmodules/ICSI_Guidelines_15122023.pdf

1ST MEMBERS' OUTREACH PROGRAMME

The Institute has launched 'Members' Outreach Programmes', an initiative to connect with the eminent Members from across the country to seek their views about the industry/stakeholder's perception towards the profession of Company Secretaries, emerging avenues for the profession, new ideas for the growth of the profession and measures for the capacity building of the Members amongst other things. 1st Members' Outreach Programme comprising the members from Northern Region was organised on January 5, 2024 at Taj Palace, New Delhi. The members present appreciated this unique initiative of the ICSI to seek their ideas and views for the growth of the profession. The ICSI propose to organise more such members' outreach programmes in other Regions in near future.

ICSI-ACADEMIC COLLABORATIONS

The ICSI signed MoUs with the following academic institutions during the month:

Chhatrapati Shahu ji Maharaj University	Kanpur	01.12.2023
O P Jindal University	Raipur	03.12.2023
Vishwakarma University	Pune	15.12.2023

PLACEMENT OPPORTUNITIES FOR COMPANY SECRETARIES

The ICSI stands committed to help all the associated companies and availing the services extended by the cell to conduct their recruitment drives for the position of Company Secretary/ CS Trainee in a time bound, hassle-free and mutually beneficial manner, and to help the members and students in getting the right placement offer. The Institute receives requests from various offices of the Government/ PSUs/ Banks/ Corporates regarding the positions of Company Secretary/ CS Trainee from time to time and resumes of eligible Members and Students are sent to them.

During the month, following placement opportunities were posted on the Placement Portal:

S. NO.	ORGANIZATION	LOCATION	DESIGNATION
1	Brahmaputra Valley Fertilizer Corporation Limited	Dibrugarh	Assistant Manager (CS)
2	FCI Aravali Gypsum and Minerals India Limited	Jodhpur	Company Secretary
3	Ferro Scrap Nigam Limited	Bhilai	CS (FT)
4	Madras Fertilizers Limited	Chennai	CS (Manager)
5	Ministry Of Corporate Affairs	New Delhi, Kolkata	Young Professionals
6	National Pension Trust	New Delhi	Assistant Manager
7	ONGC Start Up Fund	Across India	Advisor
8	Solar Energy Corporation of India Limited	New Delhi	Secretarial Officer
9	THDC India Limited	Across India	ET -Company Secretary

10	Aanchal Ispat Limited	Kolkata	CS & Compliance Officer
11	Alok Industries Limited	Mumbai	Manager - Secretarial
12	Aryaman Financial Services Limited	Mumbai	Company Secretary
13	AU Small Finance Bank Limited	Jaipur	AVP/DVP
14	Balasore Alloys Limited	Kolkata	Deputy CS
15	Bharat Bhushan Finance Limited	New Delhi	Company Secretary
16	Chemtech Industrial Valves Limited	Mumbai	Company Secretary
17	DANS Energy Private Limited	Gurgaon	Company Secretary
18	Dhoot Developers Private Limited	Kolkata	Company Secretary
19	DMG Group	Gurgaon	Asst. CS
20	Electronics Mart India Limited	Hyderabad	Asst. CS
21	Fatakpay Digital Private Limited	Mumbai	Company Secretary
22	Finquest Financial	Mumbai	Company Secretary
23	Firestorm Electronics Corporation Private Limited	Mumbai	Company Secretary
24	FMI Automotive Components Private Limited	Manesar, Gurgaon	Company Secretary
25	Focal Corporate Services Private Limited	Ahmedabad	Assistant Manager
26	Galactico Corporate Services Limited	Nashik	CS & Compliance Officer
27	Gawar Construction Limited	Hisar	Company Secretary
28	GMR Group	New Delhi	Associate Manager - Secretarial
29	Gokul Refoils and Solvent Limited	Ahmedabad	Company Secretary
30	Greatwall Vanijya Limited	Kolkata	Company Secretary
31	Haileyburia Tea Estates Limited	Kochi	CS & Compliance Officer
32	Hindustan Power Exchange Limited	Noida	Asst. CS
33	Integris Health Private Limited	New Delhi	Asst. CS
34	Kalyani Techpark Private Limited	Bangalore	Company Secretary
35	KCL Infra Projects Limited	Indore	Company Secretary
36	Khemani Distributors and Marketing Limited	Surat	CS & Compliance Officer
37	Kosamattam Finance Limited	Kottayam	Company Secretary
38	Link Intime India Private Limited	Mumbai	Senior Associate
39	Mayfair Hotels and Resorts Limited	Bhubaneswar	Assistant CS
40	Mega Flex Plastics Limited	Kolkata	CS & Compliance Officer
41	Modern India Limited	Mumbai	Company Secretary
42	Mukka Proteins Limited	Mangaluru	Asst. CS
43	Muthalagu Finance Private Limited	Madurai	Company Secretary
44	NAM Securities Limited	New Delhi	Company Secretary
45	Niraamaya Retreats Private Limited	Bengaluru	Company Secretary
46	Oswal Pumps Limited	Karnal	Company Secretary
47	Pentagon Rugged Systems India Private Limited	Hyderabad	Company Secretary
48	Privi Speciality Chemicals Limited	Navi Mumbai	Company Secretary
49	Rachana Construction Limited	Pune	Company Secretary
50	RAR Fincare Limited	Chennai	Company Secretary
51	Rashi Peripherals Private Limited	Mumbai	Company Secretary
52	Rashmi Group	Kolkata	Company Secretary
53	Real Growth Securities Private Limited	New Delhi	Company Secretary

54	Resourceful Automobile Limited	Delhi	Company Secretary
55	Rochem Separation Systems (I) Private Limited	Mumbai	Company Secretary
56	Rolta India Limited	Mumbai	Company Secretary
57	Sarvagram Fincare Private Limited	Mumbai, Pune	Company Secretary
58	Sayuj Financial Advisors Private Limited	New Delhi	Company Secretary
59	Scanpoint Geomatics Limited	Ahmedabad	Company Secretary
60	Secure Industries Private Limited	Navi Mumbai	Company Secretary
61	Sequent Scientific Limited	Thane	Company Secretary
62	SGX Minerals Private Limited	Across India	Company Secretary
63	Shah Metacorp Limited	Ahmedabad	Assistant CS
64	Shri Swami Samarth Engineers Limited	Mumbai	Company Secretary
65	Stitched Textiles Limited	Ahmedabad	Associate CS
66	Suzuki Motor Gujarat Private Limited	Ahmedabad	Assistant Manager
67	Tamilnad Mercantile Bank	Tuticorin	Multiple Positions
68	TCPL Packaging Limited	Mumbai	Manager
69	TP Northern Odisha Distribution Limited	Baleswar	Assistant CS
70	Vector Finance Private Limited	Gurgaon	Company Secretary
71	Trident Infrahomes Private Limited	Kolkata	Company Secretary
72	Velnik India Limited	Indore	Company Secretary

For more details, kindly visit ICSI Placement Portal - <https://placement.icsi.edu>

STATUS OF REGISTRATIONS AND POSTINGS AT THE PLACEMENT PORTAL

(As on 31st December, 2023)

Registered Users			Total no. of Vacancies
Members	Students	Corporates	Jobs/ Trainings
18,477	24,979	5,766	10,922

ICSI-SECTION 8 COMPANIES

ICSI INSTITUTE OF INSOLVENCY PROFESSIONALS

- 1ST NATIONAL CONVENTION OF INSOLVENCY PROFESSIONALS & REGISTERED VALUERS**

The 1st National Convention of Insolvency Professionals & Registered Valuers was conducted jointly by ICSI, ICSI Institute of Insolvency Professionals and ICSI Registered Valuers Organisation on the theme Insolvency, Bankruptcy & Valuation: Achievements, Challenges & Expectations was held on January 13, 2024 at SCOPE Auditorium, Lodhi Estate, New Delhi. Hon'ble Mr. Ashok Kumar Bhardwaj, Member (Judicial) NCLT, Hon'ble Mr. Justice A. K. Sikri, Former Judge, Supreme Court, Hon'ble Dr. P.S.N. Prasad, Member (Judicial) NCLT, Mr. Santosh Kumar Shukla, Executive Director, IBBI.

- WEBINARS ON INSOLVENCY AND BANKRUPTCY CODE, 2016**

Date	Topic	Speaker(s)	YouTube link
December 08, 2023	Important Hon'ble NCLAT Judgments on Insolvency and Bankruptcy Code, 2016 – I	Adv. & IP Umesh Chandra Sahoo	https://youtube/zB-XZGtBmuQ
December 15, 2023	Important Hon'ble NCLAT Judgments on Insolvency and Bankruptcy Code, 2016 – II	Adv. & IP Umesh Chandra Sahoo	https://youtube/Qx9l2HGKAiE
December 29, 2023	Important Hon'ble NCLAT Judgments on Insolvency and Bankruptcy Code, 2016 - III	Adv. & IP Umesh Chandra Sahoo	https://www.youtube.com/watch?v=FdV37dFiVsk

- WORKSHOPS**

Date	Subject	Speaker(s)	YouTube link
December 02, 2023	Protection of Insolvency Professionals under IBC and Labour Laws	CS Siva Rama Prasad Puvvala (IP, CS and CMA) CS & IP Partha Kamal Sen	https://www.youtube.com/watch?v=Wn7MNPjI7Es
December 18, 2023	Perspectives on IBC - An Array (Series VII)	Mr. Madhusudan Sharma (IP) Mr. Avil Jerome Menezes (CA & IP)	https://www.youtube.com/watch?v=BNhqPGM2uyI
December 23, 2023	Enhancing Multifaceted Skills required under IBC - IP as an Interim CEO	Mr. Ashish Rathi (CA & IP)	https://www.youtube.com/watch?v=4YfdGflyY4g

- JOINT INITIATIVES**

Date	Event	Partner entity
December 01, 2023	Interactive/open session of IPs with IBBI on "CIRP"	other IPAs

ICSI REGISTERED VALUERS' ORGANISATION

Date	Activity	Topics / Title	Faculty
December 13, 2023	COP Training	Code of Conduct for Registered valuers Professional Ethics Drafting Valuation Report Soft Skills (How to communicate with clients and peers)	CA CS Rajesh Mittal CA CS Harish Chander Dhamija
December 16, 2023	Case Study Workshop	Insight in Merger & Amalgamation	CS Preeti Garg

ICSI INTERNATIONAL ADR CENTRE

Date	Topic	Speaker	Link
December 15, 2023	Orientation to Mediation	Ms. Tanu Mehta (Counsel and Mediator)	www.youtube.com/watch?v=KmtagxMOKso
December 29, 2023	Process and Stages of Mediation	Mr. Gaurav Sharma (Advocate)	www.youtube.com/watch?v=kIHLG2CsxVc

ICSI-CCGRTs

ICSI-CCGRT KOLKATA

3rd Centre for Corporate Governance, Research and Training (CCGRT) of ICSI was inaugurated at the hands of Dr. C.V. Ananda Bose, Hon'ble Governor of West Bengal in New Town, Kolkata on December 06, 2023 to facilitate research, training and consultancy to the corporate sector. Located in the Smart Green City of Kolkata, the ICSI CCGRT has an Educational Block of 27494 sq. ft. area and a Hostel Block of 21708 sq. ft. area. The Educational Wing houses classrooms, a library, two Moot Courts, a Conference Room, and an Auditorium with a capacity of 300 people. The Hostel Wing has 24 rooms, a Yoga/Meditation Centre. Besides this, the world-class centre has a Badminton Court and an open-air theatre laden with beautiful lawns.

ICSI-CCGRT NAVI-MUMBAI

- 15th Residential Corporate Leadership Development Program (CLDP) and 85th MSOP conducted

The inaugural session of the program was held on November 28, 2023, with a diverse cohort of 28 participants hailing from different regions of India. Beyond technical education, the program encompassed sessions on soft skills, focusing on effective communication skill and interview techniques, complemented by activities designed for comprehensive personality development. Prominent faculty members included CS. Kapil Mahajan, Company Secretary at Warner Bros. Pictures (India) Private Limited; CS Kaustubh Koparkar, Vice President at Link Intime India Pvt. Ltd.; CS Aditya Subramaniam from Jio Bank; CS Devendra

Deshpande, Immediate Past President, the ICSI; and CS Rajesh Tarpara, CCM & Chairman, Management Committee of ICSI-CCGRT, Navi-Mumbai. The valedictory ceremony was conducted on December 13, 2023 which was graced by CS B. Narasimhan, Vice-President, The ICSI.

- *One-Day Orientation Program*

On December 13, 2023, ICSI-CCGRT, Navi-Mumbai, organized one-day Orientation Program (ODOP) of three batches, which saw the participation of more than 135 students hailing from various parts of the state. This initiative of the Institute is designed with the overarching goal of familiarizing students with the intricacies of the company secretary course and profession. It aimed to shed light on the multifaceted roles and responsibilities inherent in this career, the wide opportunities it offers, and provide insights into the pathway leading to the attainment of the prestigious qualification of CS.

- *3rd Women Directors Conclave 2023 of MentorMyBoard*

The ICSI-CCGRT, Navi-Mumbai joined as institutional partner with MentorMyBoard to organise the 3rd Women Directors Conclave 2023 on December 15, 2023 in hybrid mode at the BSE International Convention Hall, attended by approximately 300 participants, amongst them 100 participants were ICSI members from across the country. The event was distinguished by virtual presence of Chief Guest, Hon'ble Smt. Smriti Irani, Union Cabinet Minister for Women and Child Development and Minority Affairs.

CS Divya Momaya, Founder of MentorMyBoard, delivered the Welcome address, while special addresses were presented by Shri Khushro Balsara, Head-BSE IPF, and CS Rajesh C Tarpara, Chairman, Management Committee, ICSI-CCGRT, Navi-Mumbai. The keynote speakers included Dr. Kiran Bedi, the 24th Lt. Governor of Puducherry and Founder of India Vision Foundation and Navjyoti India Foundation, as well as Smt. Yogita Jadhav, General Manager, SEBI.

CS Praveen Soni, Central Council Member, The ICSI, moderated the second session. The conclave, concluded with felicitation ceremony and the presentation of the iconic Women Directors Awards.

INITIATIVES FOR EMPLOYEES

- *Webinar on “Winter Diet – Nutrition for Healthy Life” by Dr. Reddy’s Foundation*

A webinar was organized on December 15, 2023 on the topic “Winter Diet – Nutrition For Healthy Life” by

Dr. Reddy’s Foundation for the benefit of ICSI employees and pensioners. All employees/veterans participated in the webinar.

- *General Healthcare Check-up Camp at Noida Office*

A general healthcare check-up camp was organized at Noida Office in collaboration with Fortis Escorts Heart Institute on December 22, 2023 for the welfare of the employees, as a part of continuous employee engagement programme. A team of 7-8 medical staff including a General Physician and Neuro Surgery consultation visited the Institute. All the employees participated in the camp.

INITIATIVES FOR STUDENTS

CENTRALIZED FREE ONLINE CLASSES FOR STUDENTS OF EXECUTIVE AND PROFESSIONAL PROGRAMME

ICSI introduced free online Centralized classes for the students of Executive and Professional Programme (New Syllabus) from December 01, 2023 onwards. These Classes will be conducted free of cost for the students. The classes are being conducted for the students eligible to appear in June 2024 examination and the duration of the classes will be 4-5 months. The best faculties in the country will be taking these classes and special sessions of experts will also be conducted. Students registered for these classes will be eligible to get exemption from pre-exam test subject to clearing of tests of respective group/s. Further, students registered for these classes will also be given free access to online doubt clearing classes conducted by the Institute.

YUVOTSAV-2024 ORGANISED ON JANUARY 11-12 2024

Yuvotsav-2024, National Conference of Student Company Secretaries was organized on January 11-12, 2024 at Jawahar Lal Nehru Stadium in Delhi. Students from across the country participated in various competitions in Yuvotsav-2024 through their Regional/Chapter Offices. Around 23 competitions including Legal Puzzle, Elocution Competition, Debate Competition, Fashion show were organized during Yuvotsav-2024. Shri Manoj Tiwari, Hon'ble Member of Parliament, Lok Sabha presided over as Chief Guest and felicitated the winners.

CENTRALIZED FREE ONLINE CLASSES FROM DECEMBER 01, 2023

ICSI is introducing free online Centralized classes for the students of Executive and Professional Programme (New Syllabus) from December 01, 2023 onwards. These Classes will be conducted free of cost for students

eligible to appear in June 2024 examination and the duration of the classes will be 4-5 months. The best faculties in the country will be taking these classes and special sessions of experts will also be conducted. Students registered for these classes will be eligible to get exemption from pre-exam test subject to clearing of tests of respective group/s. Further, students registered for these classes will also be given free access to online doubt clearing classes conducted by the Institute.

ICSI WAIVER/ CONCESSION SCHEME FOR INDIAN ARMED FORCES, PARAMILITARY FORCES, AGNIVEERS AND FAMILIES OF MARTYRS

The Institute in alignment with the various initiatives of Govt. of India has launched ICSI Waiver/ Concession scheme for Indian armed forces, paramilitary forces, Agniveers and families of Martyrs. Under the scheme, 100% concession will be given to the following categories in full Fee payable at the time of Registration in CS Executive programme. While all other fees, including those for trainings be applicable in full as per their respective category:

- *Wards and widows of martyrs (who have died during service; either during battle casualty or due to any other reason) of Indian Army, Indian Air Force, Indian Navy and all para-military forces.*
- *In Service/ Retired personnel of Indian Army, Indian Air Force, Indian Navy and all para military forces (including defence personnel who have taken retirement under short service commission).*
- *Wards of all personnel of Indian Army, Indian Air Force, Indian Navy and all para military forces (including wards of defence personnel who have taken retirement under short service commission).*
- *Candidates who are inducted as “Agniveer” under AGNEEPATH Scheme of the Government of India after completing four years under the Scheme (upon submission of documentary evidence for the same).*

SUCCESSFULLY CONDUCTED EXECUTIVE & PROFESSIONAL PROGRAMME UNDER OLD & NEW SYLLABUS DECEMBER 2023 EXAMINATION

First Executive Programme Examination under New Syllabus 2022 syllabus and Executive & Professional programme Examination under syllabus 2017 for December 2023 which was scheduled from 21st December to 30th December 2023 conducted smoothly with zero error. Admit Card released on scheduled date - December 12, 2023 for Executive & Professional for December 2023 Session of Examination.

ICSI SAMADHAN DIWAS

ICSI successfully conducted the 38th Samadhan Diwas, on Wednesday, December 13, 2023. Samadhan Diwas is a unique initiative of the ICSI wherein “on-the-spot” resolution is provided on issues/grievances of trainees and trainers.

The purpose of the Samadhan Diwas is to facilitate the stakeholders to resolve their queries on the spot. In the Samadhan Diwas students get opportunity to present their cases and directly interact with the ICSI officials.

REGISTRATION FOR CLASSES BY REGIONAL/ CHAPTER OFFICES AT THE TIME OF EXECUTIVE PROGRAMME REGISTRATION

Institute has facilitated Executive Programme students to register directly for the Executive Programme classes at the time of Executive registration. Executive Programme students can now register directly for the Executive Programme classes conducted by the Regional/Chapter Offices at the time of Executive Programme registration. This will help the students to join classes at their nearest Regional/chapter Office.

PAPER WISE EXEMPTION ON THE BASIS OF HIGHER QUALIFICATIONS

The Institute has decided that the students enrolling into the Company Secretary Course under New Syllabus, 2022 shall be eligible for paper-wise exemption (s) based on the higher qualifications acquired by them. Accordingly, necessary announcement including process of claiming paper-wise exemption has been shared for information to all concerned:

https://www.icsi.edu/media/webmodules/ATTENTION_STUDENTS_RECIPROCAL_EXEMPTION_NEW_SYLLABUS_2022_Updated.pdf

PROFESSIONAL PROGRAMME PASS CERTIFICATE OF ICSI IN DIGILOCKER

The Institute decided to issue Professional Programme Pass Certificate online via DIGILOCKER. The same initiative was Launched at 50th National Convention of ICSI at Kolkata with the support of the National e-Governance Division (NeGD), Ministry of Electronics and Information Technology (MeitY), Govt of India. The students who passed on or after June 2021 Session of Examination can download Professional Pass Certificate from DIGI Locker. Announcement and Communication via Bulk Mail has been sent to students for extracting their Professional Pass Certificate for June 2022 & December 2022 Session of Examination.

ACTIVATION OF CHANGE ELECTIVE SUBJECTS FOR STUDENTS OF PROFESSIONAL PROGRAMME NEW SYLLABUS (2022)

Automation of Professional Registration of New Syllabus 2022 with two elective subjects on SMASH w.e.f. 1st August 2023. After launching Professional Programme Registration of New Syllabus, the Institute received numerous requests to change the elective subject originally selected during registration. To facilitate these students, the Institute decided to accommodate change requests for Professional Programme New Syllabus (2022) students w.e.f., November 21, 2023.

REAL TIME GUIDANCE FOR STUDENTS

The Institute has prepared Frequently Asked Questions (FAQs) on the queries received from Stakeholders / Students to give more clarity on the issues and real time guidance. The FAQs are hosted on website at:

- *FAQ for Executive Switchover*
https://www.icsi.edu/media/webmodules/Executive_FAQ_SW_23022023.pdf; https://www.icsi.edu/media/webmodules/Declaration_to_cater_switchover_Request_of_executive_&_professional_old_syllabus_students.pdf
- *FAQ for Professional Switchover to New Syllabus:*
https://www.icsi.edu/media/webmodules/Executive_FAQ_SW_23022023.pdf

COMPANY SECRETARY EXECUTIVE ENTRANCE TEST (CSEET)

During the month, following initiatives were taken for the CSEET students:

- ***CSEET (January 2024 session)***
January 2024 session of CSEET to be held on January 06, 2024. Last date for registration for CSEET was December 15, 2023.
- ***ICSI introduced Centralized free online Classes of CSEET***
ICSI introduced free online Centralized classes for the students of CSEET from 16th December 2023 onwards. These Classes are being conducted free of cost for the students.
- ***CSEET classes (January 2024 session)***

CSEET Classes are being conducted by Regional/Chapter Offices for the students appearing in CSEET to be held in January 2024. Details of Regional/Chapter offices conducting classes are available at:

<https://www.icsi.edu/media/webmodules/websiteClassroom.pdf>

- ***Registration for CSEET Classes at the time of CSEET Registration***

CSEET students can now register directly for the CSEET classes conducted by the Regional/Chapter Offices at the time of CSEET registration. This will help the students to join classes hassle free at their nearest location.

Link to register https://smash.icsi.edu/Scripts/CSEET/Instructions_CSEET.aspx

- ***Exemption to Graduates and Post Graduates from appearing in CSEET and enabling them to take direct admission in CS Executive Programme***

The Institute has decided to grant exemption to the following categories of students from appearing in CSEET enabling them to take direct admission in CS Executive Programme.

Graduates (having minimum 50% marks) or Post Graduates (without any criteria of minimum % of marks) in any discipline of any recognized University or any other Institution in India or abroad recognized as equivalent thereto by the Council.

To get exemption from CSEET on the basis of above qualification, such students shall be required to pay applicable exemption fees along with the requisite registration fees for the Executive Programme. For more details, please click

https://www.icsi.edu/media/webmodules/granting_exemption_230621.pdf

- ***Paper bound CSEET Reading Material to be provided mandatorily to all students***

The Institute has decided that the *CSEET Guide – I* and *CSEET Guide – II* (will be sent to all the students registering for CSEET by post, for which ₹500 will be taken at the time of registration from the students registering for CSEET in addition to ₹1000 (CSEET Registration fee).

- ***CSEET Reference Reading Material (I and II) will be provided on optional basis to all students at the time of CSEET registration***

CSEET Reference Reading Material (I and II) will be provided optionally to all the students at the time of CSEET registration. Students are required to remit ₹1000 in addition to ₹1500. The same is available at: <https://www.icsi.edu/reference-reading-material/>

ACADEMIC INITIATIVES

- ***Student Company Secretary and CSEET Communique***

The Student Company Secretary e-journal for Executive/ Professional Programme students of ICSI and CSEET Communique covering the latest update

on the subject on the CSEET have been released for the month of December, 2023. The journals are available on the Academic corner of the Institute’s website at the link: <https://www.icsi.edu/e-journals/>

- *Research Tab under Academic Portal for students*

A new research tab has been added under the Academic Portal to sensitize the students on emerging issues through research based academic outputs. The Research Tab can be accessed at <https://www.icsi.edu/student-n/academic-portal/research-corner/>.

- *Recorded Video Lectures*

ICSI has been recording video lectures of eminent faculties for the students of ICSI which help them to prepare for the examination. Students of the Institute can access recorded videos available on the E-learning platform by logging in to <https://elearning.icsi.in>

Login credentials are sent to all registered students at email. After successful login, go to “My courses” or “My Communities” section, where you can find the recorded videos and other contents.

- *Info Capsule*

A Daily update for members and students, covering latest amendment on various laws for benefits of members & students available at <https://www.icsi.edu/infocapsule/>

TRANSCRIPTS & EDUCATION VERIFICATION

It has been observed that on completion of Course the professionals are also applying for Foreign Courses / degrees /or immigration based on CS Qualification. 31 such Transcripts were issued in this line in the month of December 2023 under review. Likewise, on request of the employer/PSU/government authorities and other Education verifier agencies, 7 Education Verification requests of CS students were processed in the month of December 2023.

ICSI CAREER AWARENESS

- ICSI through the support of Ministry of Defence is conducting extensive Career Awareness Programmes in various Army public Schools in the country to sensitize the students, parents and teachers about the CS Profession.
- Career Awareness Programmes, Career Fairs being conducted across the country by ICSI-HQ and Regional Chapter offices on regular basis to create awareness regarding CS Profession amongst the prospective students.

ICSI-HQ organised and conducted following Career Fairs in the month of December 2023 in addition to the other programmes being conducted by RC/Chapter offices across the country:

Event	Date	Venue
IVY World School	December 05, 2023	Jalandhar
Gems Cambridge International School	December 06, 2023	Hoshiarpur
Kanha Makhan Group of Schools	December 08, 2023	Mathura
Delhi Public School	December 08, 2023	Dwarka, New Delhi
Cambridge Foundation School	December 16, 2023	Rajouri Garden, New Delhi
Platinum Valley School	December 16, 2023	Ghaziabad
DLF Public School	December 19, 2023	Sahibabad (Ghaziabad)
St Kabir Public School	December 21, 2023	Chandigarh
The Mann School	December 21, 2023	Holambi Khurd, Delhi
JM International school	December 26, 2023	Dwarka, New Delhi
Gargi Girls school	December 28, 2023	Ganga Nagar Meerut

STUDY CENTRES

Hirachand Nemchand College of Commerce	Solapur	06.12.2023	Renewed
PVP College	Pravaranagar	09.12.2023	Renewed
Dhananjayrao Gadgil College of Commerce	Satara	11.12.2023	Renewed
Moreshwar Arts, Science and Commerce College	Jalna - I	11.12.2023	Renewed
Arts,Commerce & Science Residential College	Soygaon	11.12.2023	Renewed
Vivekanandha College of Arts and Sciences for Women (Autonomous)	Tiruchengode	14.12.2023	Renewed
Neshari’s T K Kolekar College of Arts, Science and Commerce	Kolhapur	21.12.2023	New



Hon'ble Mr. Justice T.S. Thakur, Former Chief Justice of India

Former CJI of India Hon'ble Mr. Justice Tirath Singh Thakur is a highly accomplished jurist who served as the 43rd Chief Justice of India (CJI) from 3 December 2015 to 4 January 2017. Before being elevated to the Supreme Court, he served as the Chief Justice of Punjab and Haryana High Court from August 2008 to November 2009. He has also served as a senior judge in Karnataka High Court from March 1994 to July 2004 and Jammu and Kashmir High Court from February to March 1994.

Being on the roadway to being the next global superpower, how can Indian corporates be guided to pursue business operations and functions globally staying within the lines of laws and not attract unnecessary legal action ?

India is an emerging global power with an economy that is expected to touch 5 trillion dollar mark. An ambitious mission of that magnitude will require the Government of India, the Regulators and the Corporates to rise to the occasion and make a sustained effort to place the economy on a global trajectory. For any Indian corporate to nurse the ambition of emerging as a global player, it is essential that it not only has a sustainable business model but also that it assiduously complies with the legal framework and the regulatory provisions. Business is not the same as charity. Any business venture can legitimately hope and indeed make a reasonable profit for the entrepreneurs and the investors alike. The problem arises when the objective of making a reasonable profit is overtaken by greed that pushes the corporates into violations of the legal framework and regulatory compliances. I think for the Indian corporates to emerge as reckonable global players they must ensure that they stay on the right side of the legal framework and do nothing that may jeopardize their business or reputation.

Having presided over as the Jury Chairman of the 23rd ICSI National Awards for Excellence in Corporate Governance, how far can recognition play the role of motivation in ensuring and strengthening good corporate governance?

The awards that the Company Secretary Institute gives away to different corporate entities, do not have any monetary aspect attached to it. The awards simply create a public perception, that the awardees are from the corporate governance point of view better than the others. That perception is a very rewarding recognition for the entities who win such awards. It benefits them in terms of strengthening the confidence of the investors and the consumers at large. In the process it does motivate the winners to continue adherence to the principles of good governance and compliance with laws, rules and the regulations. The awards also motivate and inspire others who are similarly situated to rise to the desired and

if possible higher level of good governance. The awards instituted by the ICSI in that sense do serve a salutary purpose.

What role do you see for professionals like Company Secretaries playing in the next decade or so in ensuring good governance and taking the Indian growth trajectory to the next level ?

I see the role of a Company Secretary in a corporate entity as that of a 'Conscience Keeper'. It is that role which is supposed to guide the corporate entity, the promoters and Board of Directors to faithfully comply with the regulatory and other legal framework from the stand point of corporate governance whether it relates to any internal practices and procedures or to compliances with legal and regulatory provisions. It is this pivotal role of the Company Secretary which helps the corporate entity to stay on course. So I think it is essential for not only corporates but it is an ethical and professional obligation of the Company Secretaries to guide the entity in the correct direction from the governance point of view. In that sense, they play a very important role which cannot be undermined.

Indian populace holds the Indian judicial system in high regard. The growing number of cases has brought forth equally intriguing issues and challenges. Although quasi-judicial authorities have been put in place, how can the Judiciary be strengthened further to resolve this and your comment on strengthening of tribunals specifically NCLT and NCLAT?

India today, is the most populous country in the world. In terms of growth also we are doing reasonably well. We have set our sight at a 5 trillion dollar economy. We are poised to emerge as a major global player, as we are not only a big market but we are a very young nation in terms of the human resource that we have. Having said that, any country which has the kind of diversity that we have, the kind of challenges that we face in every sphere, the proliferation of laws that is taking place in India, and the ever increasing levels of awareness amongst the people about their rights is bound to lead to an avalanche of cases coming to the courts. That is what we have seen over the

past 50 years or so. While we have grown on the economic front, the number of cases coming to the court has also phenomenally increased. In the last decade the number of cases pending in court was around 3 crores which number has now crossed the 4 crores mark. And I am sure the pace at which the litigation is increasing in this country, we will very soon find a 5 crores backlog of cases in the country. Now we may touch the 5 trillion mark in the growth of our economy, which will be a watershed in our history, but the fact that we have at the same time a backlog of 5 crore pending cases in the courts which would take the courts a few decades to decide, should put us to thought and ask whether we are neglecting the compelling need for ensuring speedy justice to the litigant public. This is a daunting challenge for the Indian legal system and indeed for the Indian democratic system as well where affordable, easily accessible and quick justice is a constitutional guarantee but remains a far cry especially for the less fortunate among us. The solution lies in not only the judiciary doing some introspection and attempting whatever it takes to train the judges for better performance and output and by streamlining procedures and practices in the court but also for the governments both Central and State to lend necessary financial and other support for augmenting manpower and infrastructure which the judiciary urgently needs to meet this challenge. And all this applies equally to Quasi-Judicial Authorities, Tribunals and Commissions which too have heavy docket congestion and lack the necessary infrastructure and manpower.

Having held the topmost position in the Indian judicial system, it comes with its own experiences. How has this long journey been? What has been your inspiration to reach the pinnacles in your career.

I was just about 20 years old when I was enrolled and started appearing in the courts. My father was a leading advocate of the state. I worked in his chamber till March 1973 when he got elevated to the bench. There were about 3000 pending cases in his chamber which eventually came to rest on my shoulders. I took this as a great opportunity and a challenge for me and worked hard on those cases. There was no looking back after that. I was designated as a senior Advocate at the age of 38 and recommended for elevation at the age of thirty eight and half. I was eventually raised to the bench at the age of 42 and transferred down to South India by the then Chief Justice of India, Hon'ble Mr. Justice M.N. Venkatachaliah. That is how I started my judicial career from Bangalore in 1994. I was transferred to Delhi High Court in the year 2004 and was its Acting Chief Justice for short while before I was elevated as Chief Justice of the High Court of Punjab and Haryana where I worked for a year before my elevation to the Supreme Court in the year 2009 and retired as the Chief Justice of India in the year 2017. This long judicial career of 23 years was in many ways placid in the sense that there were no ups and downs in it. It was some kind of **Tapasya** where you lead a detached life in conformity with judicial values. And yet it has been a very satisfying and rewarding experience

in pursuit of truth culminating in each case I heard in what was according to the beats of my conscience a just decision.

As far as inspirations are concerned, they have come from not one but several quarters. Parents, teachers, elders, friends and even adversaries have contributed to what I grew up to be. Having said that the nobility of my mother and my father who was a great lawyer and a very lovable and highly respected member of the Bar, an honest and upright judge, later a minister in the State Govt. for a decade, Deputy Chief Minister of Jammu and Kashmir and Governor of Assam and Arunachal Pradesh. His courage and fortitude, and the moral and ethical values he lived by and passed on to me and my siblings were the greatest inspiration for me in my journey as a human, as a lawyer and as a judge.

Transparency goes a long way in ensuring good governance. For an entity whose vision is “to be a global leader in promoting good corporate governance” what can be the possible initiatives and activities which the ICSI can undertake to assist the judicial systems in strengthening governance ?

I think the Institute is the breeding and training ground for Company Secretaries. As I told you the Company Secretaries are the conscience keepers of the corporate entities in which they are working. So long as they ensure that corporate bodies work within the framework of law they do their job and live up to the oath they take as professionals with a purpose. So ICSI should zealously ensure that their alumni live up to the professional and ethical standards expected of them and take action wherever they are found to be faltering. I think this is a very important role that ICSI plays as an institution that endeavours to produce independent instruments of reforms and enforcement of ethical standards in the corporate sector. I think that is the way forward. But generally it must while certifying and licensing its trainees, inculcate and motivate them to imbibe the culture of compliances with laws and regulations. That will not only help the corporate entities but even the law enforcement agencies including the judiciary which looks at a professionally trained Company Secretary as a reliable, independent and detached observer in the corporate world.

Your message to the Young Members of ICSI and readers of the Journal.

Stand by the true position regardless of the consequences even if it may at times involve paying a price for ones convictions and honesty of purpose. I think that would be a message, generally for your Company Secretaries and for the youth of the country. The future quivers in the hands of the youth. Challenges like unemployment and joblessness may result in a certain amount of frustration but those are passing phases. I think the future holds a great promise for the people of this country and its youth. There is nothing to feel frustrated about. Honesty and hard work should be the bulwark of their lives.

IPOs and FPOs: Decoding the Legislative Side

55

CS Meenu Sharma, ACS, and
CS Mahesh Verma, FCS

With a dream and vision of growth and success of a business Initial Public Offer (“IPO”) and Further Public Offer or Follow-on Offer (“FPO”) path had gained much favourability within the corporate world allowing them to fulfil the capital needs and enjoy the enhanced credibility in the eyes stakeholders and garner more visibility in the community at large.

An Overview of SME Financing Through IPOs with Special Reference to BSE SME Platform

60

CS Sapana Dey, ACS, and Mr. Debjyoti Dey

BSE SME is a platform which was setup by BSE Ltd. in accordance with the rules and regulations as laid down by SEBI. The platform offers SME entrepreneurs and start-ups to raise equity capital for their growth and expansion in a cost-effective manner. BSE SME platform also enables the listing of SMEs from the unorganized sector scattered across India, into a regulated and organized sector. This platform also provides an opportunity to the investors to identify good companies, those having potential growth prospect, at its early stage.

Navigating IPO Success: A Comprehensive Guide anchored by Company Secretaries in the Indian Financial Seas

64

CS Payal Gupta, ACS and
CS (Dr.) Arpita Agarwal, ACS

In the vast expanse of Indian capital markets, the role of Initial Public Offerings (IPOs) stands as a cornerstone for economic growth. As companies set sail on the IPO journey, the expertise of Company Secretaries (CS) becomes paramount. This article sheds light on the crucial navigational role played by CS professionals in guiding businesses through the complexities of listing on the Indian financial seas.

Dynamics Regulatory Aspects of Anchor Investors in an IPO

71

Dr. Nishant Gehlot, and
Dr. Amit Kumar Kashyap

This article delves into the nuanced role of anchor investors in the Indian book building mechanism, with a specific focus on their profound influence on information production, pricing transparency, and overall subscription dynamics in Initial Public Offerings (IPOs). The study addresses key inquiries, including the potential consequences for companies in the absence of anchor investors, the substantial impact of lock-in periods on corporate entities, the repercussions of weak anchor demand on IPO subscriptions, and the intricate relationship between anchor investors and share prices.

Initial Public Offer: Opening Doors of Funding and Opportunity

74

CS Dharma Chiranjeevi Raju, FCS

An IPO may be made either by way of inviting subscriptions for fresh allotment of shares or by offering existing shares held by shareholders of the issuer company. Making an IPO involves channelising huge amounts of funds from large number of unsophisticated investors to fuel the capital requirements of a company. Regulations are framed to ensure transparency in the fund raising activities and to prevent misappropriation of funds raised from the general public. Market regulators, while regulating IPOs, need to ensure that the investors are not exposed to unnecessary risks at the hands of fly-by-night operators and at the same time ensure that genuine companies setting up green field projects or young companies without any profitability track record are not disadvantaged on account of rigid eligibility criteria for accessing capital markets.

Public Offer: Widening the Stakeholder's Base

88

CS Gaurav Kumar Vohra, FCS

By going public, companies can access a vast reservoir of capital. This infusion of funds can be directed toward a range of strategic initiatives, including business expansion, research and development, debt reduction, and acquisition of assets or other businesses. Access to public capital equips companies with the financial muscle

needed to propel growth and solidify their market position.

IPO Frenzy: The Craze of Going Public

95

CS Aashita Vishwakarma, ACS

The allure of Initial Public Offerings (IPOs) has captured the imagination of investors, entrepreneurs, and the public alike. An IPO marks a pivotal moment in a company's journey, transforming it from a privately held entity to one that is publicly traded. Recent years have witnessed a remarkable surge in IPO activity, with high-profile companies making headlines as they navigate the intricate process of going public. This surge has not only redefined the way businesses raise capital but has also become a barometer reflecting the dynamism of the global economy.

From Hype to Action: Understanding the Dynamics of IPO Frenzies

102

CS Simranjeet Kaur, ACS

In the context of IPO frenzies, the role of various professionals involved in the entire process of initial public offerings comes into picture. The role of professionals like company secretary, auditors, merchant bankers, credit rating agencies etc is crucial. The article delves into the role of the aforesaid professionals. The articles also help us know how these professionals navigate the challenges which they come across, ensuring transparency and accountability in the entire IPO journey.

Employee Stock Option Plan (ESOP) : The Finer Nuances

109

CS Ashwani Singh Bisht, ACS

Pursuant to clause (b) of sub section (1) of section 62 of Companies Act, 2013, the Company can offer shares through employee stock option to their employees if shareholders approve such scheme by way of passing special resolution subject to the conditions specified under Rule 12, of Companies (Share Capital and Debentures) Rules, 2014. However, a Specified IFSC Public Company can offer shares through employee stock option to their employees through ordinary resolution.

Research Corner

P - 118

A Study on the Reasons for the Slow Pace Journey of the Existing Corporate Distress Resolution Mechanism in India

119

Alok Kumar Kuchhal and
Prof. (Dr.) Pradeep Kumar Varshney

The corporate distress resolution mechanism in India has been a topic of significant concern due to its sluggish pace, hindering the efficient resolution of distressed entities and impeding economic growth. The Insolvency and Bankruptcy Code, 2016 (IBC/ Code) was introduced in India to revolutionize the corporate distress resolution process and foster a more efficient and timely resolution mechanism. However, since its implementation, concerns have arisen regarding the slow pace of the corporate distress resolution journey under the IBC. This paper presents a comprehensive study that delves into the underlying reasons for the slow pace of the existing corporate distress resolution mechanism in India. By examining the legal, regulatory, and institutional framework, this research seeks to identify the key bottlenecks and challenges that impede timely and effective corporate distress resolution.

Legal World

P-126

- **LMJ 01:01:2024** we consider it fit and proper that the matter should be referred to a larger Bench to resolve the existing anomaly resulting from the different views expressed in the two above-mentioned cases.[SC]
- **LW 01:01:2024** We, thus, are of the view that application filed by the Financial Creditor was not barred by time and the debt and default being proved, the Adjudicating Authority did not commit any error in admitting Section 7 application.[NCLAT]
- **LW 02:01:2024** NCLT has the discretion to fix the Appointed Date which could be beneficial to the interests of the Company, which in the instant case ought to have been fixed at 01.10.2020 as having two different Appointed Dates, would render the Scheme unworkable.[NCLAT]
- **LW 03:01:2024** Neither the general nor the specific statute providing for an appeal from an order of the Commissioner of Payments

within a specified period of time, the Claimant – Appellants’ appeal cannot be said to be barred by time.[SC]

- **LW 04:01:2024** We are of the opinion that the learned Commercial court was not correct in holding that the shape of the appellants’ product being is identical to the shape of respondents’ product.[Del]
- **LW 05:01:2024** There seems to exist an inter-se dispute relating to the service of the Informant between the Informant and the OP and no competition issue or concern arises from the facts and allegations stated by the Informant.[CCI]
- **LW 06:01:2024** An impleadment of a party even at subsequent stages, therefore, is not a conclusive effective determination of any rights and obligations of parties involved, but is merely an action effectuating the enablement of the CCI to reach an informed conclusion on the question of violations under the competition law framework in the country.[Del]
- **LW 07:01:2024** Forfeiture of the gratuity would require initiation of criminal proceedings that would have culminated in conviction for an offence.[Del]
- **LW 08:01:2024** We are of the view that the Tribunal has rightly set aside the impugned demand of ₹2,12,866/- by the petitioner from the respondent.[Del]

From The Government P-135

- Settlement of Running Account of Client’s Funds lying with Trading Member (TM)
- Modifications to provisions of Chapter XXI of NCS Master Circular¹ dealing with registration and regulatory framework for Online Bond Platform Providers (OBPPs)
- Framework on Social Stock Exchange (“SSE”)
- Extension of timelines for providing ‘choice of nomination’ in eligible demat accounts and mutual fund folios
- Business Continuity for Clearing Corporations through Software as a Service (SaaS) Model
- Amendment to Circular dated July 31, 2023 on Online Resolution of Disputes in the Indian Securities Market
- Principles of Financial Market Infrastructures (PFMIs)
- Simplification of requirements for grant of accreditation to investors
- Upstreaming of clients’ funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs)
- Credit of units of AIFs in dematerialised form

- Revised framework for computation of Net Distributable Cash Flow (NDCF) by Infrastructure Investment Trusts (InvITs)
- Revised framework for computation of Net Distributable Cash Flow (NDCF) by Real Estate Investment Trusts (REITs)
- Extension of timeline for implementation of provisions of circular SEBI/HO/OIAE/IGRD/CIR/P/2023/156 dated September 20, 2023 on Redressal of investor grievances through the SEBI Complaint Redressal (SCORES) Platform and linking it to Online Dispute Resolution platform
- Basel III Framework on Liquidity Standards – Net Stable Funding Ratio (NSFR) – Review of National Development Banks
- Master Direction - Reserve Bank of India (Internal Ombudsman for Regulated Entities) Directions, 2023
- Fair Lending Practice - Penal Charges in Loan Accounts: Extension of Timeline for Implementation of Instructions
- Payments Infrastructure Development Fund - Extension of Scheme and Enhancements
- Classification of MSMEs
- MHP Exemption for Transfer of Receivables
- Reserve Bank of India (Financial Benchmark Administrators) Directions, 2023
- Reserve Bank of India (Government Securities Lending) Directions, 2023
- Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023
- Trade Credit for imports into India – Submission of return on issuance of bank guarantees for Trade Credits on the Centralised Information Management System (CIMS)
- Rupee Drawing Arrangement - Submission of statement/ return on CIMS Portal
- CIMS Project implementation - Discontinuation of submission in legacy XBRL
- Liberalised Remittance Scheme (LRS) for Resident Individuals- Reporting of monthly return and daily transactions
- Reverse Repo transactions - Reporting in Form ‘A’ Return
- Card-on-File Tokenisation (CoFT) – Enabling Tokenisation through Card Issuing Banks
- Investments in Alternative Investment Funds (AIFs)
- Formation of new district Mauganj in the State of Madhya Pradesh –Assignment of Lead Bank Responsibility
- Processing of e-mandates for recurring transactions
- Sovereign Gold Bond (SGB) Scheme 2023-24

Other Highlights P-153

- ❖ NEWS FROM THE INSTITUTE
- ❖ GST CORNER
- ❖ ETHICS IN PROFESSION
- ❖ CG CORNER

Call For ARTICLES

Call For Articles/ Research Papers in Chartered Secretary Journal – February 2024 Issue

We invite Articles/ Research papers/ Manuscripts to be published in 'Chartered Secretary' with the objective of creating proclivity towards research among its Members both in employment and practice. As views of authors and scientific approach towards an issue is necessary for arriving at concrete solutions, whether it is engineering, management, law, medicine, etc. without proper research, it is almost next to impossible to ascertain the solution of a problem.

Keeping in view the above, contributions may be sent on topics like Secretarial Practice, Auditing Standards, Company Law, Mercantile Law, Industrial Law, Labour Relations, Business Administration, Accounting, CG & CSR, Legal Discipline, and Digital Transformation & Artificial Intelligence or on any other subject and topic of professional interest.

Participants are requested to send their Articles/ Research papers with the following terms:

- ❖ The Article/Research papers should be original and exclusive for Chartered Secretary.
- ❖ It should be ensured that the Article has not been/will not be sent elsewhere for publication.
- ❖ Article/ Research paper should include a concise Title, Abstract name of the author(s) and address.

Members and other readers desirous of contributing articles may send the same latest by **Tuesday, January 30, 2024** at cs.journal@icsi.edu for the February 2024 issue of Chartered Secretary Journal.

The length of the Article/Research paper should ordinarily be between 2,500 - 4,000 words. The research paper should be forwarded in MS Word format.

All the contributions in form of Articles/Research Papers are subject to plagiarism check and will be blind screened. Direct reproduction or copying from other sources is to be strictly avoided. Proper references are to be given in the article either as a footnote or at the end. The rights for selection/rejection of the article/Research paper will vest with the institute without assigning any reason.

We look forward to your co-operation in making this initiative of the Institute a success.

Regards,

Team ICSI

1

ARTICLES



-
- IPOs AND FPOs: DECODING THE LEGISLATIVE SIDE
-
- AN OVERVIEW OF SME FINANCING THROUGH IPOs WITH SPECIAL REFERENCE TO BSE SME PLATFORM
-
- NAVIGATING IPO SUCCESS: A COMPREHENSIVE GUIDE ANCHORED BY COMPANY SECRETARIES IN THE INDIAN FINANCIAL SEAS
-
- DYNAMICS REGULATORY ASPECTS OF ANCHOR INVESTORS IN AN IPO
-
- INITIAL PUBLIC OFFER: OPENING DOORS OF FUNDING AND OPPORTUNITY
-
- PUBLIC OFFER: WIDENING THE STAKEHOLDER'S BASE
-
- IPO FRENZY: THE CRAZE OF GOING PUBLIC
-
- FROM HYPE TO ACTION: UNDERSTANDING THE DYNAMICS OF IPO FRENZIES
-
- EMPLOYEE STOCK OPTION PLAN (ESOP) : THE FINER NUANCES
-

Articles in Chartered Secretary Guidelines for Authors

1. Articles on subjects of interest to the profession of company secretaries are published in the Journal.
2. The article must be original contribution of the author.
3. The article must be an exclusive contribution for the Journal.
4. The article must not have been published elsewhere, and must not have been or must not be sent elsewhere for publication, in the same or substantially the same form.
5. The article should ordinarily have 2500 to 4000 words. A longer article may be considered if the subject so warrants.
6. The article must carry the name(s) of the author(s) on the title page only and nowhere else.
7. The articles go through blind review and are assessed on the parameters such as (a) relevance and usefulness of the article (from the point of view of company secretaries), (b) organization of the article (structuring, sequencing, construction, flow, etc.), (c) depth of the discussion, (d) persuasive strength of the article (idea/ argument/articulation), (e) does the article say something new and is it thought provoking, and (f) adequacy of reference, source acknowledgement and bibliography, etc.
8. The copyright of the articles, if published in the Journal, shall vest with the Institute.
9. The Institute/the Editor of the Journal has the sole discretion to accept/reject an article for publication in the Journal or to publish it with modification and editing, as it considers appropriate.
10. The article shall be accompanied by a summary in 150 words and mailed to cs.journal@icsi.edu
11. The article shall be accompanied by a 'Declaration-cum-Undertaking' from the author(s) as under:

Declaration-cum-Undertaking

1. I, Shri/Ms./Dr./Professor..... declare that I have read and understood the Guidelines for Authors.
2. I affirm that:
 - a. the article titled"....." is my original contribution and no portion of it has been adopted from any other source;
 - b. this article is an exclusive contribution for Chartered Secretary and has not been/nor would be sent elsewhere for publication; and
 - c. the copyright in respect of this article, if published in Chartered Secretary, shall vest with the Institute.
 - d. the views expressed in this article are not necessarily those of the Institute or the Editor of the Journal.
3. I undertake that I:
 - a. comply with the guidelines for authors,
 - b. shall abide by the decision of the Institute, i.e., whether this article will be published and/or will be published with modification/editing.
 - c. shall be liable for any breach of this 'Declaration-cum-Undertaking'.

Signature

IPOs and FPOs: Decoding the Legislative Side

The IPO is a process wherein an unlisted company issues its specified securities and offers them to the public for the first time. Post IPO, the privately owned company becomes a publicly traded company on a recognized stock exchange and going through this journey the IPO is also termed as “going public”. But all that looks attractive is not made easy – a thorough action plan, schedule, and communication system are essential components of a successful IPO.



CS Meenu Sharma, ACS

Company Secretary–Narmada Gelatines Limited,
Jabalpur, Madhya Pradesh
meenu.sharma@narmadagelatines.com



CS Mahesh Verma, FCS

Chief Financial Officer – Narmada Gelatines Ltd,
Jabalpur, Madhya Pradesh
mahesh.verma@narmadagelatines.com

INTRODUCTION

With a dream and vision of growth and success of a business Initial Public Offer (“IPO”) and Further Public Offer or Follow-on Public Offer (“FPO”) path had gained much favourability within the corporate world allowing them to fulfil the capital needs and enjoy the enhanced credibility in the eyes of stakeholders and garner more visibility in the community at large.

GOING PUBLIC WITH THE IPO AND FPO

The IPO is a process wherein an unlisted company issues its specified securities and offers them to the public for the first time. Post IPO, the privately owned company becomes a publicly traded company on a recognized stock exchange and going through this journey the IPO is also termed as “going public”. But all that looks attractive is not made easy-a thorough action plan, schedule, and

communication system are essential components of a successful IPO. Compared to an unlisted company, a listed entity has access to more and frequently deeper sources of finance. Listed entity cash in on a portion of the promoters’ equity without relinquishing control, in addition to monetizing an equity position in the company at high price-to-earnings multiples. An issuer seeking to raise capital through an IPO must, among other things, ensure compliance with corporate governance framework, make all relevant disclosures, review its accounting practices and controls, establish internal controls, and getting ready run for the benefit of stakeholders.

At times in pursuit of expansion or financing a debt or for any other legal motive which may require a substantial amount of funds, the listed entity aims to raise it through the FPO proceeds. An FPO is a subsequent offering of shares to the public post IPO.

REGULATORY REQUIREMENTS FOR IPOs AND FPOs

Various Acts, rules and regulations govern the regulatory framework for an IPO and FPO. The broader view is summarised as under:

- The Companies Act, 2013
- The Depositories Act, 1996
- SEBI Act, 1992 read with the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“ICDR Regulations”), SEBI (LODR) Regulations, 2015, SBEB & SE, PIT

PRELIMINARY CHECK FOR IPO & FPO

Regulation 5(1) & (2) of SEBI (ICDR) Regulations, 2018

Entities not eligible to make an initial public offer

1. If the issuer, any of its promoters, promoter group or directors or selling shareholders are debarred by SEBI from accessing the capital market or if any such person was or also is a promoter, director or person in control of any other company which is similarly debarred by SEBI.
2. If any of the promoter or directors of the issuer is a wilful defaulter or a fraudulent borrower.
3. If any of the promoter or directors of the issuer is a fugitive economic offender.

4. If there are any outstanding convertible securities or any other right which would entitle any person with any option to receive equity shares of the issuer.

date of filing of the red herring prospectus (in case of book-built issues) or the prospectus (in case of fixed price issues), as the case may be.

Non-applicability of Regulation 5(1) & (2)

1. Outstanding options granted to employees, whether currently an employee or not, pursuant to an employee stock option scheme in compliance with the Companies Act, 2013, the relevant Guidance Note or accounting standards, in this regard.
2. Fully paid-up outstanding convertible securities which are required to be converted on or before the

With respect to the FPO the conditions specified in point 1 to 3 mentioned above will only be considered as per Regulation 102 of SEBI (ICDR), Regulations 2018.

Apart from the eligibility as per SEBI regulations the issuer shall be administered by Section 24 of the Companies Act, 2013 in this regard the company is required to follow the procedure prescribed under the Schedule III of the Companies Act, 2013 and the rules framed thereunder.

ELIGIBILITY NORMS

Eligibility Criteria for Main Board Listing as per SEBI (ICDR) Regulations, 2018				
Entry Norm I (Profitability Route) Reg 6(1) of ICDR	Net tangible assets of at least Rs 3 crores (for past 3 years) of which not more than 50% be held in monetary asset.	Average operating profit of Rs. 15 crores in preceding 3 years (of 12 months each), with operating profit in each of the three preceding years.	Networth of at least Rs. 1 crore in each of the preceding three full years.	In case of name change in last 1 year, at least 50% of revenue in preceding full 1 year has been earned by it from activity indicated by new name.
Entry Norm II (QIB Route) Reg 6 (2) of ICDR	Issue through book building process with at least 75% of net offer is allotted to QIB.	If the QIB part is not subscribed, the issue will considered fail even if it is oversubscribed on overall basis and to refund full subscription money.		

Eligibility criteria For FPO as per SEBI (ICDR) Regulations, 2018		
Entry Norm I (No change in Name) Reg 103 (1) of SEBI (ICDR) Regulations, 2018	If it has not changed its name in the last one year period immediately preceding the date of filing offer document.	In case of name change, FPO can be made only if 50% of revenue in preceding full year was earned from activity indicated by new name.
Entry Norm II (QIB Route) Reg 103 (2) of SEBI (ICDR) Regulations, 2018	Issue through book building process with atleast 75% of net offer is allotted to QIB.	If the QIB part is not subscribed, the issue will be considered fail even if it is oversubscribed on overall basis and to refund full subscription money.

GENERAL CONDITIONS FOR IPO & FPO (REGULATION 7 & 104 OF SEBI (ICDR) REGULATIONS, 2018)

- 1) An issuer making an Initial Public Offer or Further Public offer shall ensure that:
 - a) In-principle approval for listing of its securities is made to any Stock Exchanges and has chosen one of them as the designated stock exchange;
 - b) Agreement with a depository for dematerialisation of the securities;
 - c) Securities held by the promoters should be in dematerialised form prior to filing of the offer document;
 - d) All its existing partly paid-up equity shares have either been fully paid-up or have been forfeited;
 - e) Financial arrangements of are made towards 75% of the stated means of finance (excluding IPO amount or through existing identifiable internal accruals) for specified project proposed.

	Limits for amount required for	Limits for utilisation	Overall limit
(a)	General corporate purposes	shall not exceed 25% of the amount being raised by the issuer.	shall not exceed 35% of the amount being raised by the issuer.
(b)	Such objects where the issuer company has not identified acquisition or investment target, as objects of the issue in the draft offer document and the offer document.	shall not exceed 25% of the amount being raised by the issuer.	(a)+(b)

Above mentioned limits will not apply if the proposed acquisition or investment object has been identified and disclosed in the draft offer document and the offer document at the time of filing of offer documents.

Additional conditions for an offer for sale [Regulation 8 and 8A]

Where Draft offer document filed under Regulation 6(1) of ICDR

- Shares must be fully paid-up and held by seller for at least a tenure of 1 year prior to the filing of the draft offer document. Where the shares being offered for sale were received on conversion/exchange of fully-paid up compulsorily convertible instruments then holding period of such instruments before conversion and after conversion to equity share will together be considered.
- For convertible instruments being offered for sale then the conversion must be completed prior to filing the offer document with complete disclosure of terms of conversion/exchange in draft offer document.

Exceptions to the period of holding equity shares for a period of one year-		
Offer for sale of a government company or statutory authority or corporation or any SPV set up and controlled by any one or more of them, engaged in the infrastructure sector;	Equity shares offered for sale were acquired pursuant to any scheme approved by a High Court or tribunal or the Central Government and having existence for more than one year prior to approval of such scheme;	Equity shares offered for sale were issued under a bonus issue on securities held for a period of at least one year prior to the filing of the draft offer document with SEBI.

Where Draft offer document filed under Regulation 6(2) of ICDR:

Shares offered for sale to the public by shareholders holding, more than 20% of pre-issue shareholding, shall not exceed 50% of their pre-issue shareholding on fully diluted basis;	Shares offered for sale to the public by shareholders holding, less than 20% of pre-issue shareholding of the issuer, shall not exceed 10% of pre-issue shareholding of the issuer on fully diluted basis;	Shareholders holding, more than 20% of pre-issue shareholding of the issuer based on fully diluted basis, provisions of lock-in shall be applicable.
--	--	--

PROMOTERS CONTRIBUTION

In case of IPO Promoter's holding should be atleast 20% of the post-issue capital.

In case of lower promoters holding the alternative investment funds (AIF) or foreign venture capital investors (FVCI) or scheduled commercial banks or public financial institutions (PFIs) or insurance companies may contribute to meet the shortfall subject to a maximum of 10% of the post-issue capital without being identified as promoter(s).

In case of FPO: Promoter's holding should be either to the extent of 20% of the proposed issue size or to the extent of 20% of the post-issue Capital. In case of a composite issue (further public offer cum rights issue) the rights issue component shall be excluded.

LOCK-IN

- Promoters' contribution including contribution made by AIF or FVCIs or PFIs or scheduled commercial banks, shall be locked-in for a period of 18 months from the date of allotment of the IPO/FPO. If majority of the issue proceeds excluding the portion of offer for sale is be utilized for capital expenditure, then the lock-in period shall be 3 years.
- Promoters' contribution in excess of minimum requirement shall be locked-in for 6 months. However, the tenure will be 1 year if majority of the issue proceeds excluding the portion of offer for sale is be utilized for capital expenditure.
- The SR equity shares shall be locked-in till their conversion to equity shares having voting rights same as that of ordinary shares, in compliance with the other provisions of SEBI(ICDR) Regulations, 2018.
- The entire pre-issue capital held by persons other than the promoters shall be locked-in for a period of 6 months from the date of allotment in IPO. But where the shares were allotted to employees under an ESOP or ESPS of the issuer prior to the IPO (if issuer made full disclosure of scheme in accordance with the Schedule VI of ICDR) the lock-in requirement will not be applicable.
- Equity shares held by a venture capital fund or AIF of category I & II or a FVCI and such equity shares shall be locked-in for a period of at least 6 months from the date of purchase by the venture capital or AIF or FVCI.

KEY CONSIDERATIONS

1. **KEY PARTIES FOR IPO/FPO:** The issuer will be required to appoint merchant bankers, syndicate member, bankers to issue, registrar to the issue, Legal counsel and Company Secretary and Compliance Officer.
2. **MINIMUM OFFER & ALLOTMENT SIZE:** Securities Contracts Regulation Act, 1956 (SCRA) and its Rules - Rule 19(2)(b) of the Securities Contracts Regulation Rules, 1957 prescribed the minimum equity shares percentage which are required to be offered to the Public-

Offer size in IPO	Minimum shares offer to Public	Time-line to increase minimum Public shareholding in case of IPO
Less than or equal to Rs.1600 crore rupees.	Atleast 25%	-
Greater than Rs. 1600 Crores but less than or equal to Rs. 4000 crores.	Such percentage of equity shares which is equivalent to Rs. 400 Crores shall be offered to public.	Public shareholding be increased to 25% within 3 years of listing in the manner specified by SEBI.
Greater than Rs. 4000 Crores but less than or equal to Rs. 100000 crores.	At least 10% to be offered to public.	
Greater than Rs. 100000 crores.	Such percentage of equity shares which is equivalent to Rs. 5000 Crores and at least 5% of each class shall be offered to public.	Public shareholding be increased to 10% within 2 years of listing and further to at least 25% within 5 years of listing in the manner specified by SEBI.

3. Minimum subscription to be received in the issue shall be at least 90% of the offer through the offer document, except in case of an offer for sale failing which all monies received shall be refunded not later than four days from the closure of the issue.
4. **PRICING:** The Pricing of IPO is flexible it can either be fixed price issue or a book-built issue. In a book-built issue, a Price band is determined, but the price discovery is made after the bidding process. In general the key factors considered for pricing of an IPO are as under:
 - Financial performance of the company for the past 3 years,
 - Distinctive quality of the offered goods or services,
 - Comparative valuation,
 - Qualitative elements like company governance, brands, and managerial pedigree.

There has been an unprecedented amount of activity on the Indian capital markets. This is mostly caused by the market's excessive liquidity as a result of stimulus policies along with this Investor confidence is vital for successful workings of the securities market and it is the result of trustworthy disclosures. SEBI has robust system to assure that disclosures given in the offer document provide investors all information important for wise investment decision.

The pricing of an IPO can vary significantly even after accounting for both qualitative and quantitative factors. This is because the indicative price band may ultimately be determined by the feedback received from brokers, institutional investors, particularly QIBs, the market conditions at the time of the IPO, and risks related to the Issuer. Because of this, the issue price may not always accurately represent the company's valuation, leading to overpricing or under pricing in some offers.

5. KEY ISSUE PROCEDURE AND CONDITIONS:

- Bids shall be accepted using ASBA facility in the manner specified by the SEBI.
- The issuer may obtain grading for its initial public offer from one or more credit rating agencies registered with the Board.
- If the issuer desirous of having the issue underwritten for other than book building process, it may do so by appointing merchant bankers or stock brokers, registered with the Board and by lead manager(s) and syndicate member(s) in case of book building process, to act as underwriters in manner specified by the SEBI.
- If the issue size exceeds Rs.100 crore the issue of proceeds shall be monitored by credit rating agency registered with the SEBI also referred as Monitoring Agency.
- Pre-issue advertisement in one English, Hindi and one regional language newspaper with wide circulation at the place where the registered office of the issuer is situated be made after filing the Red-Herring Prospectus (RHP) or prospectus with the ROC in format and with disclosure specified by SEBI.
- Minimum application sum per security shall be at least 25% of the issue price. However full issue price for security shall be payable in case of an offer for sale.
- Allotment in IPO cannot be made if the number of allottees is less than 1000.

IPOs and FPOs: Decoding the Legislative Side

- The lead manager(s) will ensure that a post-issue advertisement is released within 10 days from the completion of the various activities in at least one English, Hindi and regional language daily newspaper having wide circulation at the place where registered office of the issuer is situated also placed on stock exchange website.
- A post issue report along with due diligence certificate within 7 days of the date of finalization of basis of allotment or refund of money in case of failure of issue is submitted by lead manager(s) in specified formats prescribed in the SEBI ICDR.

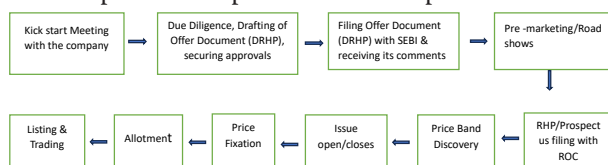
FAST TRACK FPO

The SEBI ICDR carves out a Fast track route for making FPO. As per Regulation 155 of SEBI (ICDR) Regulations, 2018 if an issuer fulfils the below mentioned conditions then it shall not be required to file the draft offer document with SEBI and obtain observations from SEBI for FPO.

- The shares of issuer are listed on any stock exchange for preceding 3 years.
- Entire promoter group holding in Demat form.
- Average market capitalisation of public shareholding of the issuer is at least Rs. 1000 crore.
- Issuer should have annualised trading turnover of at least 2% of the weighted average number of equity shares listed during preceding six months' period of reference date.
- Annualized delivery-based trading turnover of the equity shares of at least 10% of the annualised trading turnover.
- Compliance with the SEBI (LODR) Regulations, 2015, for preceding 3 years.
- Redressal of 95% of investor complains, if any, till the end of the quarter preceding reference date.
- No show cause notices by SEBI against issuer or its promoters or whole time directors or any settlement order compliance made.
- Equity shares of issuer were not suspended from trading in preceding 3 years.
- No conflict of interest between the lead manager(s) and the issuer or its group companies.
- Re-stated financial statements in case financial statements disclosed in offer documents contains for any audit qualification.

IPO PROCESS

The IPO process is depicted with the help of a chart below;



The IPO /FPO can be kept open for minimum 3 and maximum 10 working days.

PRE- FILING OPTION: The issuer are now allowed to file their draft offer document with SEBI and the stock



exchanges on a confidential basis as an alternative method to existing process for listing on main Board. Here the issuers who wish to keep their business information confidential may opt to pre-filing of DRHP. But with this the time-line for IPO increases with minor difference in pre-filing procedure than the existing framework.

POST-IPO: Post successful listing of the issuer it is required to comply with the SEBI (LODR) Regulations, 2015 with regards to material events, Board and committee compositions, compliance filings etc and other SEBI regulations including the Insider Trading Regulations, Takeover Regulations and for dealing and regulating the trading by insiders on the basis of unpublished price-sensitive information they may have access to.

CONCLUSION

Over the past year, there has been an unprecedented amount of activity on the Indian capital markets. This is mostly caused by the market's excessive liquidity as a result of stimulus policies along with this Investor confidence is vital for successful workings of the securities market and it is the result of trustworthy disclosures. SEBI has robust system to assure that disclosures given in the offer document provide investors all information important for wise investment decision. While the macroeconomic climate is crucial for a successful IPO, there are other external factors that the issuer cannot control, such as the state of the global and local markets, the political climate, and the government's perception of the industry, which can be discouraging to issuers considering an IPO.

REFERENCES:

- www.sebi.gov.in for SEBI Act, 1992 and its Rules and Regulations thereof*
- SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 as amended*
- SEBI (Listing obligations and Disclosure Requirements) Regulations, 2015 as amended*
- SEBI (Prohibition of Insider Trading) Regulations, 2011 as amended*
- The Companies Act, 2013*
- www.icsi.edu*
- The securities Contract (Regulation) Rules, 1957*



An Overview of SME Financing Through IPOs with Special Reference to BSE SME Platform

Upon successfully running the business, about 40% i.e., 2 in 5 companies which were primarily listed on BSE SME platform have been migrated to BSE Mainboard, this signifies the platform is indeed helping SMEs to blossom and to become a well-established structured company in long-run. It is further to note average daily return of BSE SME index is found to have been more than the daily return of BSE Mainboard index i.e., BSE Sensex and so as the risks measured by standard deviation. A strong degree of associationship, measured by Pearson's coefficient of correlation, has also been found between Sensex and BSE SME index.



CS Sapana Dey, ACS

Assistant Professor, Sister Nivedita University,
Kolkata
sapanamishra875@gmail.com



Mr. Debjyoti Dey

Assistant Director (Academics),
Indian Institute of Banking and Finance (IIBF), Mumbai
debjyoti.dey1@gmail.com

exploiting their full potential in contributing towards economic growth and sustainable development. Some of the key challenges are lack of access to finance, lack of innovation and lack of access to technology, challenges having access to domestic and global market, low skill levels in human capital, limited access to digitalizing their business and so on.

As mentioned above, one of the major challenges that SMEs have been facing *inter-alia* is to have access to finance, particularly in developing economies. SMEs in India have primarily relied on debt financing and the same requires the SMEs to serve the debt capital at approximately 10% to 15% along with locking their assets as security, which adds upto their financial risks.

Over the years, Government has taken various measures to address the problems of SMEs which includes issues pertaining to raising finance, skill development, technical know-how, market accessibility and may more. It is also important to note that most of the government sponsored financing schemes for SME financing are debt oriented. Until 2012, equity financing has remained a far from reach for SMEs. SEBI has taken proactive steps for bringing SMEs on board, thereby helping them to raise capital from equity issue. IPOs for SMEs normally result in positive return on the day of their listing. (Gupta & Anand, 2023). For a period of around 12 months post-listing, IPOs of SMEs overperform the benchmark index. (Arora & Singh, 2020).

INTRODUCTION

Small and Medium enterprises are significantly contributing towards employment generation and economic development of a country. SMEs represent approximately 90% of businesses and more than 50% of employment across the world and formal SMEs contribute up to 40% of national income (GDP) in emerging economies. It is also estimated that SMEs would create 7 out of 10 jobs in emerging markets¹.

SMEs across the world do experience some common challenges which are creating hindrances in the path of

¹. *Small and Medium Enterprises (SMEs) Finance: Improving SMEs' access to finance and finding innovative solutions to unlock sources of capital, World Bank (2023).*

AN INTRODUCTION TO BSE SME PLATFORM

BSE SME is a platform which was setup by BSE Ltd. in accordance with the rules and regulations as laid down by SEBI. The platform offers SME entrepreneurs and start-ups to raise equity capital for their growth and expansion in a cost-effective manner. BSE SME platform also enables the listing of SMEs from the unorganized sector scattered across India, into a regulated and organized sector. This platform also provides an opportunity to the investors to identify good companies, those having potential growth prospect, at its early stage. If the SME companies perform well in due course, they might migrate to the Main Board of BSE after complying with the requisite rules and

regulations. Over the period, it has been observed that the average size of issue of an individual IPO of SME is around 8 crores, which is quite impressive. (Tripathi, Pradhan, & Pandey, 2017).



Source: Google images

CRITERIA TO BE COMPLIED BY SMEs BEFORE GOING FOR AN IPO

The following criteria must be complied by the SMEs seeking to raise capital through IPOs on BSE SME platform:

1. The face value of paid-up capital shall be maximum upto Rs. 25 crores post issue.
2. The company should have positive net worth.
3. Net tangible assets of the SME should not be less than Rs. 1.5 crores.
4. The company or the partnership/LLP converted to company should have a combined track record of not less than 3 years. In case, the company is not found to have completed three years of operation before applying for being listed on BSE SME platform, then it should have been funded by banks or financial institution or Central /State governments or group companies which should be listed at least for two years in BSE main board or on BSE SME.
5. The company wanting to be on board should have a EBDT (Earnings Before Depreciation and Tax) at least in one out of immediately preceding three years.
6. It is mandatory on the part of the company to facilitate trading securities in dematerialise form and as regard to the same the company must enter into agreement with NSDL and CDSL (i.e., Depositories).
7. The company must not have changed any of its promoters in the preceding one year from the date of filling its application for listing on BSE SME segment.
8. The company should have a website.
9. There should not have been any winding up petition against the company which is accepted by the court.

10. If the applicant company is a **stock broking** company:
 - i) It should have a net worth of at least Rs. 5 crores with a profit after tax of Rs. 5 crores in any two out of three preceding financial year. Alternatively, an SME company may have a net worth of Rs. 25 crores with an amount of profit in any of the three financial years out of five preceding financial year for being eligible get listed on BSE SME platform. It is important to note financial year must comprise of a period of 12 months & net worth would include equity, preference share, reserve and surplus. For ascertaining profit, extraordinary income, if any, should not be considered.
 - ii) It should have net tangible assets of at least Rs. 3 crores as per the last audited balance sheet.
 - iii) Post issue paid up capital of the broking companies should be minimum of Rs. 3 crores.
11. If the applicant company is **NBFC-MFIs (non-deposit accepting)**, along with the other criteria mentioned in point number 1 to 9, it should have book value of not less than of Rs. 100 crore and a client base of 10,000 or above.

Table 1: Snapshot of BSE SME Market

No. of Companies Listed on SME till Date	469
Total Amount of Money Raised till Date (Rs. Cr.)	5,858.82
No. of Companies Migrated to BSE Main Board	181
No. of Companies Listed as of Date	288
No. of Companies Suspended	29
No. of Companies Eligible for Trading	250

Source: Compiled by authors (from BSE SME Website)

The above table shows that about 40% of the SMEs primarily listed on BSE SME have been migrated to BSE mainboard. Based on their post listing performance, 2 out of 5 SMEs were migrated to BSE mainboard which justifies effectiveness of the SME platform. The figures are also an indicative of the effective performance by the SMEs which has ensured their place on the BSE mainboard.

MIGRATION FROM BSE SME PLATFORM TO THE MAIN BOARD OF BSE

The following criteria must be complied by the companies on BSE SME platform seeking to migrate to Main board:

- i. The company must have a paid-up capital of more than Rs.10 crores.
- ii. Market capitalisation should be at least Rs.25 crores. In order to ascertain the market capitalisation, weighted

average price of 20 preceding trading days from the day of submission of application for migration should be taken into consideration.

- iii. The company seeking migration to BSE Main board must pass a special resolution in the AGM. Two-thirds of the shareholders excepting the promoter shareholders must be in favour of the migration.
- iv. The company/its directors/promoters must have not been debarred by SEBI.
- v. The companies migrating to Main Board must be complying with SEBI LODR (Listing Obligations and Disclosure Requirements) Regulations 2015 post migration.



Source: Google images

Table 2: BSE SME Platform vs. BSE Main Board

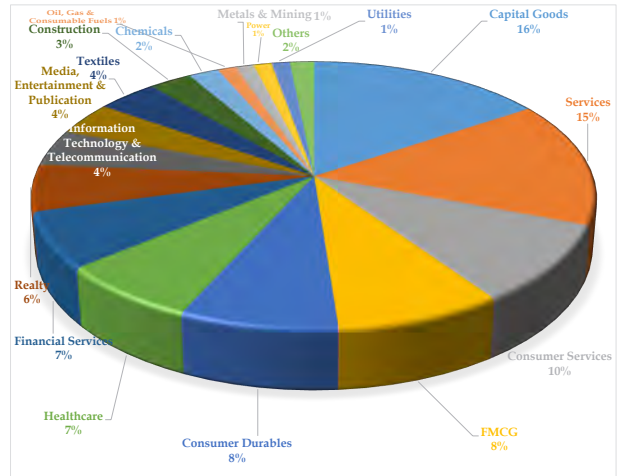
	BSE SME Platform	BSE MAIN BOARD
Size of IPO Application	Rs. 1,00,000 or more	Rs.10,000 to Rs.15,000
Who observes the Draft Red Herring Prospectus (DRHP)	Exchange	SEBI
IPO Grading	Not required	Mandatory
IPO underwriting	100% not underwritten with at least 15% of the issue size on the books of the merchant banker	Mandatory but not required when 3/4 th of the issue is offered to Qualified Institutional Investors (QIB)
Minimum number of allottees	Not less than 50	Not less than 1000
Market Making	Mandatory	Not Mandatory
Reporting requirement post IPO	Abridged Half-yearly	Comprehensive quarterly.

Source: Compiled by authors (from BSE SME Website)

SECTORAL COMPOSITION OF COMPANIES AT BSE SME PALTFORM

There are 250 SME companies which are presently being actively traded on BSE SME platform. The following pictorial representation depicts the sectoral composition of SME companies.

Figure 1: Sectoral Composition of BSE SME companies actively traded on BSE SME platform:

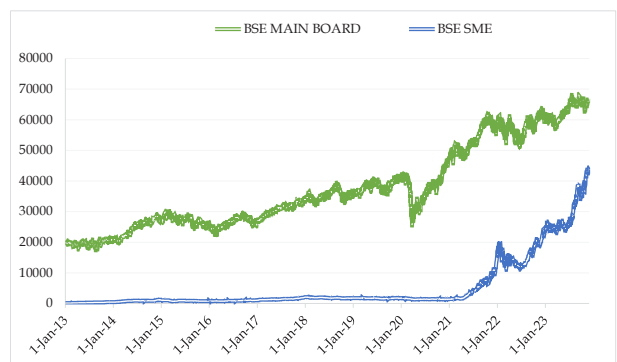


Source: Compiled by authors

The above figure shows sectoral distribution of the companies which are presently being actively traded on BSE SME platform. It is found that companies manufacturing capital goods are contributing 16% of the total SMEs presently on Board, followed by companies belonging to service industry, consumer services and so on. It has also been observed that companies belonging to metal mining, oil, gas and consumable fuels, power sectors contribute only 1% (individually) of the total companies actively traded on BSE SME platform.

BSE MAIN BOARD AND BSE SME INDEX CO-MOVEMENT

Figure 2: BSE SENSEX and BSE SME daily index over 9 years 11 months (1.01.2013 to 30.11.2023)



Source: Compiled by authors

The graph shown above represents daily values BSE Sensex and BSE SME Index over a period of 9 years 11 months (i.e., starting from 1.1.2013 to 30.11.2023). We observed a steep increase in BSE SME index from the year 2021. Before 2021, the curve remained flattened indicating slow growth during that phase.

Table 3: Return on BSE Main Board vis-à-vis Return on BSE SME:

Return on BSE Main Board		Return on BSE SME	
Mean	0.051	Mean	0.222
Standard Error	0.020	Standard Error	0.025
Median	0.068	Median	0.164
Standard Deviation	1.051	Standard Deviation	1.317
Sample Variance	1.105	Sample Variance	1.734
Minimum	-13.152	Minimum	-5.390
Maximum	8.974	Maximum	8.996

Source: Compiled by authors

Considering a sample of 2701 daily return of BSE Sensex and BSE SME index, (it is important to note daily return have been computed by $\frac{\text{Index of } t+1 \text{ day} - \text{index of } t \text{ day}}{\text{Index } t \text{ day}} \times 100$) it is found that the mean return of BSE SME is higher than the return of BSE Main Board. Risk measured by Standard Deviation is found to have been higher in case of BSE SME index.

Table 4: Pearson correlation between Log of Sensex and BSE SME index

		Log of SENSEX	Log of BSE SME Index
Log of Sensex	Pearson Correlation	1	.929**
	Sig. (2-tailed)		.000
Log of BSE SME	Pearson Correlation	.929**	1
	Sig. (2-tailed)	.000	

**Correlation is significant at the 0.01 level (2-tailed).

Source: Compiled by authors

The above table also indicates that there is significant high positive correlation between the log value of Sensex and BSE SME index, which implies that there is a strong degree positive association between the two. It implies BSE SME index moves in tandem with BSE mainboard index i.e., Sensex.



Till date, SMEs have been able to raise equity capital of Rs.5.86 thousand crores through IPOs which has helped them to reduce the burden of debt. Daily time series data on BSE SME index reveals that since inception till 2020, the growth of the SME index was not that rapid. However, from 2021 onwards, there has been a rapid growth of BSE SME index which indicates their evolution in performance over time.

CONCLUSION

SMEs play a crucial role in economic development and employment generation of our country. Over the last ten years 2 out of 5 SMEs have made their place on the BSE main board after showcasing their effective performance. Till date, SMEs have been able to raise equity capital of Rs.5.86 thousand crores through IPOs which has helped them to reduce the burden of debt. Daily time series data on BSE SME index reveals that since inception till 2020, the growth of the SME index was not that rapid. However, from 2021 onwards, there has been a rapid growth of BSE SME index which indicates their evolution in performance over time. A strong degree of positive association has also been found between BSE Main board index i.e., BSE Sensex and BSE SME Index. Finally, it can be concluded that SME platform is not only assisting the small and medium enterprises to raise equity capital but it is also helping the investors in identifying companies with good potentials at its initial stage.

REFERENCES:

- i. Arora, N., & Singh, B. (2020, June 15). *The long-run performance of SME IPOs in India: empirical evidence from Indian stock market*. *Journal of Asia Business Studies*. doi:10.1108/JABS-10-2019-0305
- ii. BSE. (2022, January 7). *BSE SME Brochure.cdr*. Retrieved December 18, 2023, from BSE SME: https://www.bsesme.com/downloads/BSE_SME_EBOOK.pdf
- iii. BSE. (2023). *Migration from SME Exchange to Main Board*. Retrieved December 20, 2023, from BSE Small and Medium Enterprises: https://www.bsesme.com/static/getlisted/Migration_from_SME_Exchange_to_Main_Board.aspx
- iv. Gupta, L., & Anand, A. (2023). *Do SME IPOs Beat the Market on Listing Day?* *Business Analyst*, 41(2), 107-135.
- v. Tripathi, A. R., Pradhan, G. P., & Pandey, S. N. (2017, July - September). *SME IPOs in Indian Capital Market*. *SCMS Journal of Indian Management*, 44-53.

Navigating IPO Success: A Comprehensive Guide anchored by Company Secretaries in the Indian Financial Seas

Capital markets, a driving force for economic growth, thrive on stability, transparent regulations, and strategic mobilization of savings. Factors such as a stable central government, transparent regulatory systems, and increased domestic savings contribute to the strengthening of Indian capital markets. The process is further fuelled by large IPOs conducted domestically, deepening and fortifying the financial landscape.



CS Payal Gupta, ACS

Founder, ERIX Advisors,
Mumbai
payalg@erixadvisors.com



CS (Dr.) Arpita Agarwal, ACS

Assistant Professor,
Manipal University Jaipur, Rajasthan
arpita.agarwal@jaipur.manipal.edu

INTRODUCTION

In the vast expanse of Indian capital markets, the role of Initial Public Offerings (IPOs) stands as a cornerstone for economic growth. As companies set sail on the IPO journey, the expertise of Company Secretaries (CS) becomes paramount. This article sheds light on the crucial navigational role played by CS professionals in guiding businesses through the complexities of listing on the Indian financial seas.

THE SIGNIFICANCE OF INDIAN CAPITAL MARKETS

Capital markets, a driving force for economic growth, thrive on stability, transparent regulations, and

strategic mobilization of savings. Factors such as a stable central government, transparent regulatory systems, and increased domestic savings contribute to the strengthening of Indian capital markets. The process is further fuelled by large IPOs conducted domestically, deepening and fortifying the financial landscape.

UNDERSTANDING 'LISTING' AND 'LISTED COMPANIES'

'Listing' signifies the admission of securities to recognized stock exchanges, transforming a company into a 'listed company.' While various securities can be issued to the public, this article focuses primarily on equity shares.

WHAT KIND OF SECURITIES MAY BE ISSUED TO THE PUBLIC?

Companies in India have diverse options when it comes to issuing securities to the public. The range includes equity shares, debt instruments, preference shares, and convertible instruments that can be transformed into equity shares. Additionally, non-convertible debt securities of Indian companies can be issued to the public, offering another avenue for fundraising and listing.

TYPES OF PUBLIC ISSUES

Under the guidelines of SEBI Regulations, a public issue of securities arises when an unlisted company initiates an "initial public offer" or a listed company opts for a further public offer, involving equity shares or convertible securities. Additionally, existing security holders can conduct a public issue through an "Offer For Sale," subject to specific conditions. Diverse Public Issue Strategies covers:

(I) Primary IPOs:

- *Nature:* Involves issuing new shares directly to the public.

- *Objective:* Infuses fresh capital for company growth.
- *Exemplified by:* Syrma SGS, Venus Pipes.

(II) Offer for Sale (OFS):

- *Nature:* Existing shareholders sell shares to the public.
- *Exemplified by:* LIC.

(III) Mixed IPOs:

- *Nature:* Combination of new share issuance and sale of existing shares.
- *Exemplified by:* Ethos Ltd, Aether Industries Limited.

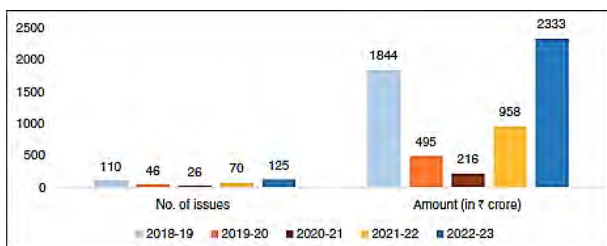
FUNDRAISING TRENDS AND SME IPO SURGE IN INDIA (2022-23)

In the fiscal year 2022-23, there was a notable shift in the landscape of public fundraising in India. The data reveals a nearly 50% decrease in fundraising through public issues compared to the preceding peak year of 2021-22. This moderation is attributed to various factors, including economic uncertainties, inflation, geopolitical tensions, and monetary tightening, impacting companies’ IPO plans and valuations. A standout in the IPO landscape was the listing of LIC, marking the largest IPO in India during the fiscal year 2022-23.

Despite the overall decrease in fundraising, there was a significant upswing in the number of newly listed companies. The count of IPOs surged to 164 in 2022-23, a marked increase from the 120 IPOs recorded in 2021-22. Notably, this rise in listings was driven by an increase in activities on the SME Platform. In October 2023 alone, 30 IPOs were listed at Indian stock exchanges, collectively mobilizing ₹5,158 crore. Among these, 24 issues were SME/start-up listings, contributing ₹680 crore to the total mobilized funds.

The SME platform demonstrated a significant uptrend in both the number of companies listed and the amount raised in 2022-23 compared to the previous fiscal year. During this period, 125 companies were listed on the SME platform, mobilizing ₹2,333 crore, a substantial increase from the ₹958 crore raised through 70 issues in 2021-22.

Here is a breakdown of the resource mobilization through SME IPOs:



Source: SEBI Annual Report for FY 22-23

IPO Performance Tracker – 2023



Source: <https://www.bseindia.com/publicissue.html>

STRATEGIC CHOICES FOR COMPANIES EYEING PUBLIC LISTING

In the early stages, companies meticulously weigh the advantages of listing on the Technology Startup platform or the Emerge Institutional Trading Platform (ITP) of NSE & BSE. These platforms offer not only heightened visibility but also serve as a springboard for fundraising opportunities. As companies progress to the growth stage, the SME platforms of both NSE and BSE emerge as a streamlined pathway, facilitating expanded market presence.



For those listed on the SME platform, aspirations often extend to migrating to the main board, unlocking broader market exposure and enhancing credibility. As companies mature into the growth stage, opting for a direct main board IPO becomes a strategic choice, enabling the unlocking of substantial capital. Following the listing, visionary companies deploy a multi-pronged approach to diversify funding sources. Instruments such as Rights Issues, Preferential Allotments, Qualified Institutional Placements (QIBs), and Follow-on Public Offers further fortify their financial standing and establish a resilient presence in the competitive market.



Amidst this dynamic landscape, where financial decisions shape a company’s trajectory, the Social Stock Exchange platform of Exchanges has emerged as an integral player. These platforms offer unique opportunities for organizations with a social impact agenda. As companies embark on the journey of going public, these

specialized avenues align with their commitment to social responsibility, amplifying their reach and influence in the market. The evolving financial ecosystem presents companies with strategic choices that extend beyond traditional fundraising, paving the way for sustainable growth and societal impact.

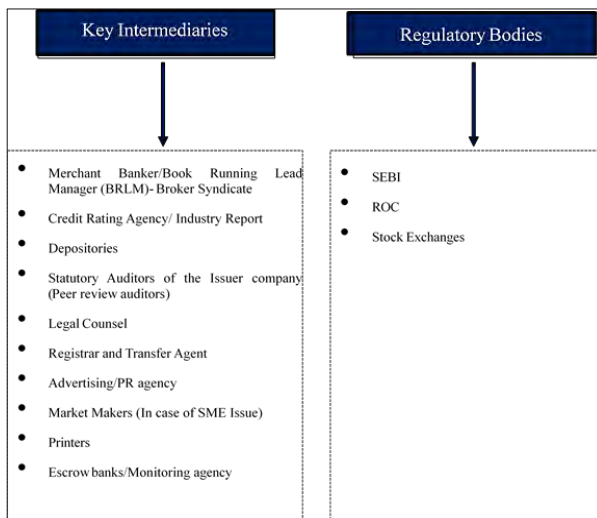
KEY ACTS AND REGULATIONS IN PUBLIC ISSUES

Embarking on the journey of public issues and subsequent listing, companies navigate a comprehensive framework governed by the Companies Act, 2013. As guardians of fairness and transparency, the Securities Contracts (Regulation) Act, 1956, and Securities Contracts (Regulations) Rules, 1957 regulate transactions, ensuring a level playing field.

SEBI, the sentinel in this regulatory ensemble, oversees the entire landscape with its guiding act of 1992. SEBI's detailed regulations, such as the Issue of Capital and Disclosure Requirements Regulations, 2018, illuminate the path for companies, offering clear guidelines and ensuring a transparent and credible journey through the realm of public issues.

The Listing Obligations and Disclosure Requirements Regulations, 2015 act as torchbearers of transparency, ensuring continuous disclosure and corporate governance. Further, sector-specific laws and labor and taxation regulations tailor the legal landscape for different industries.

KEY INTERMEDIARIES AND REGULATORY BODIES IN A PUBLIC ISSUE



SEBI LISTING STANDARDS FOR IPO ELIGIBILITY

In adherence to the SEBI Issue of Capital and Disclosure Requirements Regulations, 2018 (ICDR), an issuer aiming for an Initial Public Offer (IPO) must fulfill specific criteria:

MAIN BOARD ELIGIBILITY (REGULATION 6 OF ICDR)

1. Net Tangible Assets:

- For each of the three consecutive full years prior, the issuer's net tangible assets must have totaled at least three crore rupees.
- The proportion of monetary assets to total assets should not exceed 50%.
- The issuer must have used or committed to using the excess monetary assets in its company or project if more than 50% of net tangible assets are in the form of money.

(Note: The fifty percent limit on monetary assets is not applicable if the IPO is entirely through an offer for sale.)

2. Operating Profit:

- Over the three years prior, the issuer must show an average operational profit of at least fifteen crore rupees.
- For each of the three years prior, this operating profit ought to be computed using a restated and consolidated approach.

3. Net Worth:

- The issuer's net worth should be a minimum of one crore rupees in each of the preceding three full years.
- The calculation is done on a restated and consolidated basis for each of the preceding three years.

4. Name Change Impact:

- In the event that the issuer has renamed itself within the prior year, the activity designated by the new name must account for at least half of the revenue earned during the previous full year on a restated and consolidated basis.

An issuer not satisfying the above conditions, shall be eligible to make an initial public offer only if the issue is made through the book-building process and the issuer undertakes to allot at least seventy five percent. of the net offer to qualified institutional buyers and to refund the full subscription money if it fails to do so.

SME BOARD ELIGIBILITY (REGULATION 229 OF ICDR)

1. Post-Issue Paid-Up Capital:

- If an issuer's post-issue paid-up capital is less than or equivalent to 10 crore rupees, they are qualified for an IPO.

2. Higher Capital Limits:

- An issuer may issue certain securities in accordance with this chapter's rules if its post-issue face value capital is greater than ten crore rupees but not more than twenty-five crore rupees.

3. SME Exchange Eligibility:

- If an issuer satisfies the eligibility requirements and track record of the SME Exchange(s) where the planned listing of the specified securities will take place, then the issuer may proceed with an IPO.
- If the financial statements follow the structure required for Companies by the Companies Act of 2013, the operating profit history of issuers who were previously limited liability partnerships or partnership firms will be taken into account. The financial statements also have to comply with Schedule III of the Companies Act of 2013 and provide sufficient disclosures. b) Possess a valid certificate issued by the ICAI Peer Review Board, attesting to compliance with accounting standards and providing an accurate and impartial assessment of the company's financial statements. These auditors must be duly certified by ICAI-accredited peer reviewers.
- If an issuer is created through a merger or division of an already-existing Company, its performance history will be taken into account, provided that certain financial statement standards are met.

WHAT IS THE MINIMUM DILUTION REQUIRED IN AN IPO?

The Securities Contracts (Regulations) Rules, 1957, Rule 19 (2) (b), specify the minimum dilution required, is a critical aspect in the complex world of Initial Public Offerings (IPOs). This regulation sets out standards based on the company's post-issue capital, influencing the course of initial public offerings. Let's dissect the essential prerequisites:

1. **If the post-issue capital is less than or equal to ₹1,600 crore:**
 - A minimum of 25% of each class or kind of equity shares or convertible debentures must be offered to the public.
2. **If the post-issue capital is more than ₹1,600 crore but less than or equal to ₹4,000 crore:**
 - The company must offer a value equivalent to ₹400 Crore to the public.
3. **If the post-issue capital is above ₹4,000 crore but less than or equal to ₹1 lakh crore:**
 - At least 10% of each class or kind of equity shares or convertible debentures must be offered to the public.
4. **If the post-issue capital is above ₹1 lakh crore:**
 - The company is required to offer equity shares or convertible debentures equivalent to ₹5,000 Crore value, with a minimum of 5% to the public.
 - Furthermore, the company must increase public shareholding to at least 10% within 2 years and 25% within 5 years from the date of listing.

For companies falling under sub-clause (ii) or sub-clause (iii), the mandate is to increase public shareholding to at least 25% within three years from the date of listing. These regulations are pivotal in ensuring a balanced and transparent approach to public share offerings in the financial market.

WHAT ARE THE METHODS OF PRICING UNDER INDIAN LAW?

In the dynamic landscape of Indian securities markets, determining the pricing strategy is a pivotal decision for companies venturing into the public domain. The Securities and Exchange Board of India (SEBI) provides a framework that offers flexibility, allowing issuers to set the price through two primary methods: the Fixed Price Issue and the Book Building Process.

1. Fixed Price Issue:

- In this approach, the issuer collaborates with the lead merchant banker to establish a specific price for shares or convertible debt instruments. This fixed price is then disclosed to the public, offering a transparent and predetermined value for the securities in the Prospectus.
- The fixed price offering follows a two-stage process. Initially, the Draft Red Herring Prospectus is filed with SEBI and Exchanges for comments. Subsequently, the Final Prospectus is filed with the Registrar of Companies, SEBI, and Exchanges.

2. Book Building Process:

- Alternatively, issuers can choose the Book Building Process. This method involves determining the price through a bidding mechanism. The issuer, in conjunction with the lead merchant banker, establishes a price range, and investors participate by bidding for shares or debt instruments within that range.
- The final price is determined based on the demand generated during the bidding period, allowing for price discovery through active investor participation.



- The book-built offering unfolds in three stages. It commences with the filing of the Draft Red Herring Prospectus with SEBI and Exchanges for comments. Subsequently, the Red Herring Prospectus is updated based on Comments. Finally, the Prospectus, including the Issue Price, is filed with the Registrar of Companies, SEBI, and Exchanges.

LISTING PROCESS AND THE CRUCIAL ROLE OF COMPANY SECRETARIES



1. Preliminary Phase: Appointment of BRLMs and Legal Counsels

- The journey begins with the strategic appointment of Book Running Lead Managers (BRLMs) and legal counsels, setting the stage for the IPO process.

2. Five Phases of the IPO Process:

a. Pre-DRHP Filing Period:

- **Kick-off Meeting:** Initiate the process by organizing a kick-off meeting where senior management provides an overview of the issuer's business to BRLMs and legal counsels. This session sets the tone for IPO timelines and strategies.
- **Due Diligence Exercise:** Commence due diligence exercises simultaneously with the drafting of the Draft Red Herring Prospectus (DRHP).

b. Filing of the Draft Red Herring Prospectus:

The journey continues with the crucial step of filing the Draft Red Herring Prospectus (DRHP), a pivotal document outlining the company's financial health and prospects. Note that this step may not be applicable in fast-track issues.

- **Execution of Agreements:** Following the DRHP filing, the process advances with the execution of key agreements, including the issue agreement, registrar agreement, and service providers agreement etc.

Companies in India have diverse options when it comes to issuing securities to the public. The range includes equity shares, debt instruments, preference shares, and convertible instruments that can be transformed into equity shares. Additionally, non-convertible debt securities of Indian companies can be issued to the public, offering another avenue for fundraising and listing.

- **Due Diligence Certificates and Comfort Letters:** Simultaneously, the issuer, its directors, subsidiaries, promoters, promoter group, group companies, and selling shareholders (if any) contribute to the due diligence process. Executed standard certificates serve as crucial due diligence backup for underwriters. Additionally, comfort letters and certificates from auditors are provided and thoroughly discussed.

- **Submission to SEBI:** The comprehensive package, including the DRHP and due diligence certificate, is submitted to the Securities and Exchange Board of India (SEBI) for review and approval.

- **In-Principle Listing Approval:** Concurrently, applications along with the DRHP are filed with the stock exchanges to obtain in-principle listing approval. This marks a significant milestone in the journey toward a successful IPO. We need to select a designated stock exchange in case the application is filed with NSE and BSE both. The designated stock Exchange is the Exchange where security deposit would be kept at the time of listing and Listing Ceremony would be hosted.

c. Post-SEBI and Stock Exchanges Observation:

- **Reply to Final Observations:** Respond to final observations received from SEBI & Stock Exchanges and update the DRHP.
- **Execution of Agreements:** Execute issue, registrar, and service provider agreements.
- **Filing Red Herring Prospectus:** File the Red Herring Prospectus with the Registrar of Companies (RoC), SEBI and Stock Exchanges at the same time.

d. Issue Period:

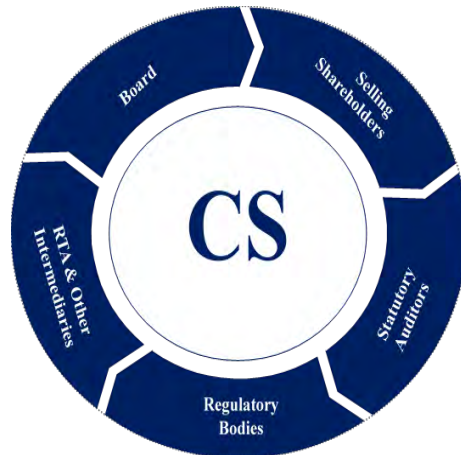
- **Price Band Announcement:** The issuer announces the Price Band at least two working days before opening the bid period.
- **Bidding Process:** Open the IPO for bidding, beginning with Anchor Investors for one day,

followed by a bidding period for all investors (excluding Anchor Investors) for at least three working days.

e. Post-Issue Period:

- **Registrar’s Approval:** Obtain electronic bid details from stock exchanges and submit the final Basis of Allotment to the designated stock exchange for approval along with final Prospectus.
- **IPO Price Finalization:** Finalize the IPO price and execute the underwriting agreement.
- **Listing and Trading Approval:** File listing and trading applications with stock exchanges. Stock exchanges provide final listing and trading approval within T+2 days T being the issue closure date.
- **Funds Transfer Instructions:** Registrars and BRLMs issue funds transfer instructions to collecting banks for the credit of funds into the Public Issue Account.
- **Commencement of Trading:** Trading commences, and equity shares are allotted and credited to the demat accounts of successful bidders.

- **Status Check Due Diligence:** Rigorous due diligence to identify and improve areas before IPO.
- **Intermediary Selection:** CS aids in selecting legal, financial, and regulatory experts aligned with company goals. Following are the parties with whom CS need to deal with in a Public Issue:



WHAT IS FOR “CS IN EMPLOYMENT” & “PRACTICING CS”

In navigating equity challenges and IPO complexities, CS professionals are strategic partners, guiding businesses toward sustainable growth.

1) Advising Equity Fund Raising:

- **Raise Growth Capital:** CS guides on using equity for growth, wealth creation, and unlocking value.
- **Equity for Project Finance:** Strategize equity alongside bank funding for robust project finance proposals.
- **Low-Cost Working Capital:** Utilize equity as a source of cost-effective working capital.
- **Currency for Growth:** Employ funds for inorganic growth, acquisitions, and expansions.
- **Succession Planning:** CS contributes to creating seamless succession plans.
- **Enhance Credit Score:** Advises on equity to boost credit score for favorable debt funding.

2) Pre-IPO Consultation:

- **Rationale Building for IPO:** CS supports in building a strong case for the IPO journey.
- **Management Discussions:** Facilitate meaningful discussions aligning management on IPO objectives.

3) IPO Management:

A. Preparatory Part:

CS professionals engage in a series of preparatory activities, ensuring a robust foundation for the challenges ahead.

1) Time-Consuming Activities:

- **Pre-IPO Due Diligence:** Conducting exhaustive due diligence to evaluate the company’s financial health, compliance status, and potential areas of improvement before entering the IPO landscape.
- **SEBI Compliance and Certification:** Ensuring conformity with SEBI regulations, CS professionals arrange for standard certifications, undertake compliance checks, and assist statutory auditors in issuing necessary deliverables.
- **Finalization of Board Composition:** Preparing a Promoter Matrix for clear identification and understanding of promoters and the promoter group. Additionally, scrutinizing the organization structure and composition of the board and its committees.
- **Capital Restructuring:** Strategizing and implementing capital restructuring initiatives to optimize the company’s financial structure in preparation for the IPO journey.
- **KMP and Strategic Team Formation:** Collaborating with key management personnel (KMP) to form a strategic team, aligning leadership with the company’s objectives and IPO aspirations.

- **Risk Factors Review and Continual Disclosure:** CS professionals review internal and external risk factors, engaging with the board and management. They ensure continual disclosure to statutory and regulatory authorities.

II) Lesser Time-Consuming Activities:

- **Regulatory and Company Secretarial Filings:** Navigating regulatory landscapes with finesse, CS professionals oversee necessary filings and documentation, ensuring compliance with legal requirements.
- **Constitution of Data Room:** Facilitating due diligence, CS professionals coordinate with various departments to make necessary documents available in the Virtual Data Room (VDR).
- **Road Shows and Listing Process:** Assisting in road shows, preparing presentations, and addressing queries, CS professionals play a key role. They also handle the process of filing the Red Herring Prospectus with the Registrar of Companies.
- **Basis of Allocation:** - Playing a key role in the Basis of Allocation process, CS professionals ensure a fair and transparent distribution of shares.
- **T Reporting with Exchanges:** - Managing T reporting, CS professionals navigate the intricacies of the regulatory landscape to provide accurate and timely reports.
- **Listing Assistance:** - CS professionals extend their expertise to facilitate listing, ensuring a seamless transition to the stock exchange.

B. Main IPO process

I) Due Diligence Process:

- **Drafting MOA/AOA, Resolutions, Key Agreements & Policies:** CS professionals contribute to the governance framework by drafting codes and policies, Resolutions, Key Agreements etc. ensuring alignment with corporate governance principles and disclosure requirements.
- **ROC Filings:** Overseeing Registrar of Companies (ROC) filings, CS professionals manage the documentation and submission process with precision.
- **Drafting of Offer Document:** Expertly crafting offer documents, CS professionals ensure comprehensive and accurate representations for potential investors.
- **Legal Due Diligence:** CS professionals identify and track pending litigation involving promoters, Directors, Key Managerial Personnel, subsidiaries, and associates, ensuring a transparent update through a Management Information System (MIS) tracker.

II) **Offer Document:** CS professionals take charge of the offer document, ensuring it complies with regulatory requirements and provides a transparent overview of the company's financial and operational standing.

III) **Filing Process Management:** Coordinating with the Book Running Lead Manager (BRLM), CS professionals actively manage the filing process, addressing queries and ensuring smooth resolution.

IV) Issue Management

- **Issue Advertisements:** - CS professionals contribute to issue management by overseeing the creation and dissemination of issue advertisements.

4) Post-IPO Excellence: Continuous Compliance Guidance and Support

CS professionals provide ongoing counsel on compliance matters, ensuring the company adheres to regulatory requirements and timely filings.

- **SEBI Stock Exchange Matters:** Guiding companies through the intricacies of SEBI and stock exchange matters, CS professionals facilitate smooth interactions and compliance with evolving regulations.
- **Future Fundraising:** CS professionals play a pivotal role in charting out strategies for future fundraising, aligning financial goals with market dynamics and regulatory frameworks.
- **Ongoing Certifications, Audits, and Reports:** CS professionals conduct continuous certifications, audits, and prepare comprehensive reports, ensuring transparency and accountability in post-IPO operations.

CONCLUSION

In summary, the journey of an Initial Public Offering (IPO) involves crucial steps guided by Company Secretaries (CS), who play a pivotal role in both employment and practice. From the preliminary phase to post-IPO excellence, CS professionals contribute significantly, providing strategic guidance, ensuring compliance, and facilitating seamless transitions for companies entering the public domain. As key strategic partners, CS professionals prove indispensable in the dynamic landscape of equity challenges and IPO complexities, guiding businesses toward sustainable growth and success.

REFERENCES:

- <https://www.bseindia.com/>
- <https://www.nseindia.com/>
- <https://www.sebi.gov.in/>



Dynamics Regulatory Aspects of Anchor Investors in an IPO

An important turning point in a company's history occurs when it decides to go through the process of becoming public. This transition from a private company to one that is sold on the stock market is accomplished via an initial public offering (IPO). The firm now has access to a multitude of resources as a result of this calculated decision, including enhanced visibility, a variety of finance channels, useful analyst support, and the possibility of using its shares for future acquisitions. These elements might have a favourable effect on how well the company performs in the product market.



Dr. Nishant Gehlot

Asst. Professor
Department of Management Studies,
Jai Narain Vyas University, Jodhpur
gehlot.nishant@gmail.com



Dr. Amit Kumar Kashyap

Asst. Professor
Institute of Law,
Nirma University, Ahmedabad
amit1law@gmail.com

INTRODUCTION

An important turning point in a company's history occurs when it decides to go through the process of becoming public. This transition from a private company to one that is sold on the stock market is accomplished via an initial public offering (IPO). The firm now has access to a multitude of resources as a result of this calculated decision, including enhanced visibility, a variety of finance channels, useful analyst support, and the possibility of using its shares for future acquisitions. These elements might have a favourable effect on how well the company performs in the product

market. Furthermore, a healthy IPO market creates an atmosphere that is favourable to investment in new and inventive businesses in addition to providing exit alternatives for entrepreneurs and venture capitalists. Securities & Exchange Board of India (SEBI) Public Issues framework protects investors and promotes efficiency in a transparent market. This architecture helps issuers raise cash and allow investors to invest safely. SEBI updates this system to meet the changing regulatory environment and achieve these goals.

The involvement of anchor investors in the market is of paramount importance as they provide valuable insights regarding pricing and facilitate price discovery throughout the IPO process. Anchor investors effectively foster confidence in the offering through their initial financial commitments and demonstrations of confidence in the matter. The establishment of this trust is of great importance as it creates a favourable precedent that inspires additional investors to partake in the initial public offering. Fundamentally, the participation of anchor investors serves as a means of communication that has the potential to impact the wider investment community.

ANCHOR INVESTORS

An accredited institutional investor is Anchor Investor. The initial investor who makes an investment in an IPO before it is made public is known as an anchor investor. Different sorts of investors, including banks, mutual funds, foreign institutional investors, provident funds, and others, can act as anchor investors. However, the anchor investment component is reserved for mutual funds by a third. They are QIIs, or Qualified Institutional Investors, which are companies that offer mutual funds, commercial banks, public financial institutions, and international portfolio investors.

REGULATORY ASPECTS OF ANCHOR INVESTOR

Anchor investors, introduced by the Securities and Exchange Board of India (SEBI) in 2009, are Qualified Institutional Investors (QIIs) who invest a minimum of Rs 10 crore in an IPO.

The involvement of anchor investors in the market is of paramount importance as they provide valuable insights regarding pricing and facilitate price discovery throughout the IPO process. Anchor investors effectively foster confidence in the offering through their initial financial commitments and demonstrations of confidence in the matter.

In an IPO, QIB investors encompass public financial institutions, banks, mutual funds, foreign portfolio investors, Venture Capital Funds (VCFs), Alternative Investment Funds (AIFs), and Non-Banking Financial Companies (NBFCs) that invest funds on behalf of their clients.

REGULATORY COMPLIANCE

Procedural:

A day before the IPO subscription process begins, shares are promised to anchor investors.

- They are required to hold the shares throughout the lock-in period and are not permitted to sell them before that because they previously purchased shares prior to the IPO subscription process.
- The shares given to anchor investors are now restricted for 90 days following the date of allocation. The 90-day lock-in period is still in place, despite a proposal from market regulator Securities and Exchange Board of India (SEBI) for a lengthier term.
- After a company is listed on the principal markets, the lock-in period prevents abrupt share price changes by prohibiting anchor investors from selling their shares.

Anchor Reservation:

- In the book building process for IPOs, the allocation for anchor investors is capped at 60% of the QIB reservation and 30% of the total issue size.
- One-third of the anchor investors' allocation is earmarked for domestic investment funds.

Anchor Investor Lock-in Period:

Shares acquired by anchor investors in the reserved category have a lock-up period of 30 days for 50% of the shares and 90 days for the remaining 50% from the grant date.

Anchor Investors Bidding:

- Bidding for anchor investors starts a day before the issue launch.

Dynamics Regulatory Aspects of Anchor Investors in an IPO

- Once placed, anchor investors cannot modify or withdraw their bids.
- The total bid amount must be paid at the time of application.
- Allocation to anchor investors is finalized on the same date as the bid submission.
- An anchor investor can apply for a minimum value of Rs. 10 Crores in mainboard IPO and Rs. 1 Crore in SME IPO.
- They can apply for the total number of shares offered in the anchor category.
- Family members, relatives, merchant bankers, or promoters are ineligible to apply for shares under the anchor investor category.

Anchor Investor Allotment:

- Up to 30.0% of the QIB Portion may be allocated to anchor investors at the company's discretion in consultation with merchant bankers.
- If the book-built price is higher than the anchor investor allocation price, additional funds are required. Conversely, if the book-built price is lower, the excess amount is not refunded to anchor investors.

DYNAMICS OF ANCHOR INVESTOR

When an initial public offering (IPO) occurs, anchor investors play a crucial role in reassuring ordinary investors and protecting them from any stock price swings. Investors like these, who are known as qualified institutional buyers, put a lot of money into the market—ten crore rupees or more. They are unable to trade or transfer their allocated shares during the one-month lock-in period. In light of worries about possible price volatility, this lock-in clause deters the hasty withdrawal of substantial investments soon after the company's listing. Retail investors may rest easy about the IPO's appeal thanks to this strategy, which guarantees stability and reduces the likelihood of abrupt changes in the positions of anchor investors.

IMPORTANCE OF ANCHOR INVESTORS IN IPOs

Pricing Transparency and Information Asymmetry

Anchor investors, being sophisticated institutional investors, possess access to non-public information, providing them with insights not available to regular investors. Their early involvement in the IPO process ensures greater subscription involvement, sending an early market signal about the issue's quality. This transparency mitigates information asymmetry between institutional and non-institutional investors.

Objectivity and Reputable Investments

Anchor investors, unaffiliated with the issuing company, bring objectivity to their investments. Their reputable



standing in the industry compels them to invest in quality issues, contributing to the overall market credibility. Moreover, anchor investors submit applications at prices they deem best, reinforcing the authenticity of their investment decisions.

Decreased Under-pricing and Increased Liquidity

The presence of anchor investors reduces underpricing in IPOs and encourages other investors to participate. IPOs with anchor backing tend to be more liquid, addressing liquidity concerns in the Indian market, the correlation between anchor investments and reduced market volatility.

Lock-In Period and Its Influence

The research investigates the lock-in period, a crucial element in the IPO process, and its impact on companies and investors. The lock-in period prevents anchor investors from selling their shares for 90 days, contributing to market stability. The stock performance after the lock-in period and identifies potential trends in share prices.

Impact on Share Prices

Anchor investors play a significant role in shaping pricing dynamics, particularly in determining IPO prices, impacting stock prices, and augmenting market value and goodwill for companies. Their active participation not only instills confidence among retail investors regarding the demand for shares but also strengthens their trust in the overall excellence of the IPO.

CONCLUSION

The confidence of retail investors is strengthened by anchor investors. It's also a positive sign for an IPO if several well-known investors invest in it. However,

one shouldn't base their choice only on the investors in the Anchor. Remember to research the company's fundamentals to determine the correct price before rushing to purchase these stocks. Spend some time learning more about the business, its future prospects, and its profitability.

REFERENCES:

- i. *Bhattacharya, A., Chakrabarti, B. B., Ghosh, C., & Petrova, M. (2020). Innovations in financing: The impact of anchor investors in Indian IPOs. European Financial Management, 26(4), 1059-1106.*
- ii. *Bubna, A., & Prabhala, N. (2014). Anchor investors in IPOs. National Stock Exchange, Mumbai, available at: www.nseindia.com/research/content/BS4.pdf (accessed January 15, 2019).*
- iii. *Espenlaub, S., Khurshed, A., Mohamed, A., & Saadouni, B. (2016). Committed anchor investment and IPO survival—The roles of cornerstone and strategic investors. Journal of Corporate Finance, 41, 139-155.*
- iv. *Gupta, V., Singh, S., & Yadav, S. S. (2020). Impact of anchor investors on IPO returns during pre-market and aftermarket: evidence from India. Journal of Advances in Management Research, 17(3), 351-368.*
- v. *Raghu Ram, J. (2009). Concept of Anchor Investor in the Indian Capital Markets. Company Law Journal, 6.*
- vi. *Sahoo, S. (2017). Do anchor investors create value for initial public offerings? An empirical investigation. IIMB management review, 29(4), 259-275.*
- vii. *Seth, R., Vishwanatha, S. R., & Prasad, D. (2019). Allocation to anchor investors, underpricing, and the after-market performance of IPOs. Financial Management, 48(1), 159-186.*

CS

Initial Public Offer: Opening Doors of Funding and Opportunity

Transactions require specialised rules and regulations ensuring safety and protection of investors against the fraudulent companies. These regulations are more focused on imposing restrictions and requiring proper disclosures before accessing the primary market and continuing same after raising capital as well. Secondary market transactions are trading transactions, wherein securities are bought and sold amongst investors and company does not raise any money from these transactions. The Companies Act, 2013 provide various forms of primary market transactions which companies registered under the said Act can make.



CS Dharma Chiranjeevi Raju, FCS

Senior Manager,
Coromandel International Limited
Hyderabad, Telangana
raju.chiranjeevi@gmail.com

INTRODUCTION

Based on the nature and purpose of transactions, Capital Market Transactions can broadly be divided into two categories viz

- (i) Primary Market Transactions; and
- (ii) Secondary Market Transactions.

While the former involves the creation of fresh securities of an issuer entity which are subscribed by the investor, wherein the Issuer Company raise capital from the investors (*Compare with "offer for sale"*). This subscription can be attained either by private placement to a select group of investors or by way of public offering to indefinite number of investors. These transactions require specialised rules and regulations ensuring safety and protection of investors against the fraudulent companies. These regulations are more focused on imposing restrictions and requiring proper disclosures before accessing the primary market and continuing same after raising capital as well.

Secondary market transactions are trading transactions, wherein securities are bought and sold amongst investors and company does not raise any money from these transactions.

The Companies Act, 2013 provide various forms of primary market transactions which companies registered

under the said Act can make. Section 23 provides for four ways in which a public company can issue their securities to raise capital –

1. Public Offer;
2. Private Placement;
3. Rights Issue; and
4. Bonus Issue.

All of these methods can be used for offering equity securities as well as convertible securities. If a company intend to offer Non-Convertible Debenture (NCD) it can be done either by public offer or Private placement. There cannot be Bonus issue or Rights Issue for NCD.

A Private company can raise capital through any process except Public offer as provided under Section 23(2) of the Companies Act, 2013. As Private Company through there Article of Association creates restriction on free transferability of shares of company and for a Public Offer Shares (securities) of the company should be freely transferable. Since the shares of a Private Company are not considered "securities" for the purpose of SCRA due to clog on free transferability, any of such transaction will not be part of organised capital market.

REGULATORY FRAMEWORK OF THE PRIMARY MARKET TRANSACTIONS

As we have noticed that there can be four types of Primary Market Transactions by a Public Company. Each of these transactions is governed by separate set of rules and regulations. Section 24 of the Companies Act, 2013 empowers SEBI to formulate regulations in relations to issuance of securities through public offer by a listed company or those companies which intend to get their securities listed on any recognised stock exchange in India. Rules and Regulations of SEBI will be in addition to all restrictions imposed under the Companies Act, 2013. Further, under Companies Act, 2013 Ministry of Corporate Affairs has also notified certain rules with respect to issuance of securities which is also required to be adhered to. Following charts below provide a glimpse of Regulatory structure for offering various forms of securities by a public company. It has to be kept in mind

Initial Public Offer: Opening Doors of Funding and Opportunity

that in all kinds of transaction Companies Act, 2013 and Companies (Share Capital and Debentures) Rules, 2014 will have their applicability. Following charts deals with transactions relating to equity and convertibles and relates to Non-convertible debentures.

CHART 1

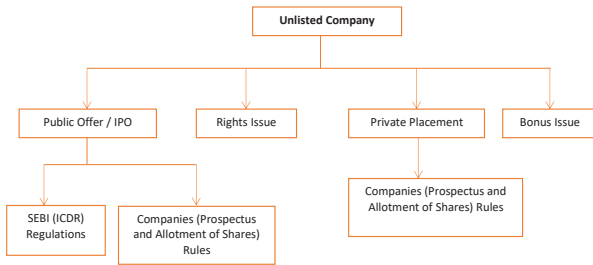


CHART 2

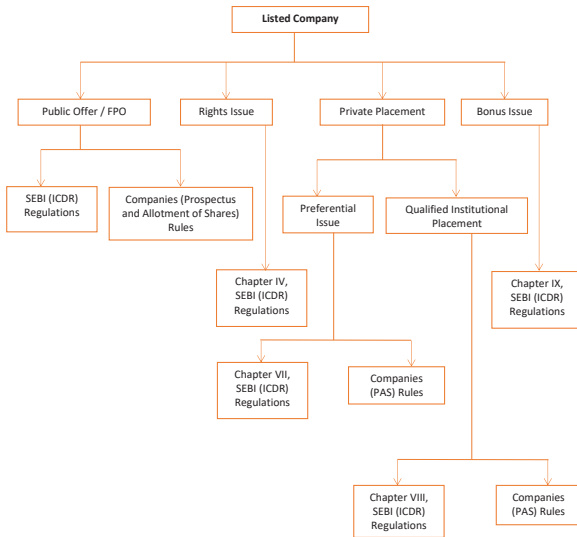
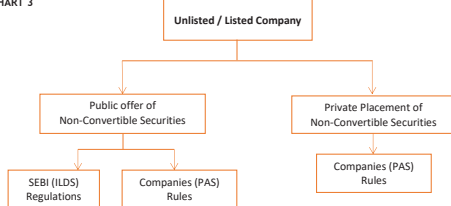


CHART 3



INITIAL PUBLIC OFFER

When an unlisted public company approach public investors for the first time, it is referred to as an Initial Public Offer (IPO). In an IPO, an unlisted public company makes an offering of its securities to the public by way of issuing a prospectus. IPO's are also referred as going public or listing of securities of a company. An IPO may be made either by way of inviting subscriptions for fresh allotment of shares or by offering existing shares held by shareholders of the issuer company. Making an IPO involves channelising huge amounts of funds from large number of unsophisticated investors to fuel the capital requirements of a company. Regulations are framed to ensure transparency in the fund raising activities and to prevent misappropriation of funds raised from the general public.

Market regulators, while regulating IPOs, need to ensure that the investors are not exposed to unnecessary risks at the hands of fly-by-night operators and at the same time ensure that genuine companies setting up green field projects or young companies without any profitability track record are not disadvantaged on account of rigid eligibility criteria for accessing capital markets. A defined set of securities regulations mandating disclosure requirements and regulatory supervision assists companies in attracting huge investments in their IPOs from retail as well as institutional investors.

There may be multitude of reasons behind the decision of a company to make an IPO. Some of the key objectives of an IPO are:

- Raising Capital:** One of the Primary reasons for companies to go public is to raise additional capital from the public market to fund their growth and expansion needs.
- Mobilising funds:** The IPO process assists companies in mobilising large amounts of funds from diversified set of investors, for their business needs. IPO assist in channelizing household savings from retail investors to corporations for development and to fuel economic growth.
- Risk Diversification:** The promoters or controlling shareholders who do not have access to capital or are unwilling to put personal wealth in the issuer company owing to the risk of overexposing themselves to the business risks of the company may utilise an IPO as an opportunity to allow outsiders to absorb this risk in a fragmented manner as per their risk-taking abilities.
- Lowering cost of Capital:** As opposed to debt financing, public offering of equity shares as a means for raising capital proves to be cost-efficient, especially for companies with high leverage of debt in their books. Private investments by financial investors like venture capital or private equity funds are not accessible for highly leveraged companies and often come with steep rates of return. Public offerings and listing of their shares open up the financing avenues of companies to an indefinite number of potential investors and enhance the visibility of the company.
- Liquidity:** Listing of securities on a recognised stock exchange with nationwide operations reduces transaction costs on securities and provides the necessary liquidity to the securities of the issuer companies, which assists in better price discovery of such securities. The listing also allows promoters to unlock and capitalise the value of their enterprise, which was otherwise locked in illiquid securities.
- Reputational Benefit:** IPOs by public companies and listing of securities carry reputational advantages and benefits to companies in their commercial and financial transactions. It becomes easier for them to take loans from banks, and it also has a positive impact on their customers.

NEGATIVE IMPLICATIONS OF GOING PUBLIC

1. **Loss of Confidentiality:** Listing of Securities subjects issuer companies to extensive disclosure requirements in relation to their business and financial position. Some of these disclosures may be sensitive for business, operations and competitive advantages of the issues companies and may have a deterring effect on issuers intending to make IPOs.
2. **Corporate Governance:** Securities regulations impose restrictions on the governance structure of IPO-bound companies. Requirements to induct Independent Directors on the Board and formation of various internal committees for investors grievance, audit etc. add to agency costs of the controlling shareholders who concede their solo control over the affairs of the company.
3. **Costs and liabilities:** Costs associated with modern day IPO are quite high. IPO regulations require issuer companies to hire various intermediaries and register advisors for raising funds by way of IPOs. In addition, issuer companies and their promoters and directors are subjected to both civil and criminal liabilities for violation of laws applicable to them during the IPO process and even after the completion of IPO.

LEGAL REQUIREMENTS UNDER COMPANIES ACT, 2013 & SECURITIES CONTRACT REGULATION ACT

Indian law makers under the newly incorporated Companies Act, 2013 consistent with the approach under the erstwhile 1956 Act, have accorded the following legal obligation resulting from public offerings of securities in India:

1. Requirement to file prospectus with the Registrar of Companies;
2. Requirement to list the securities on recognised stock exchange in India;
3. Requirement to comply with disclosures and other rules promulgated by SEBI; and
4. Issuer companies and other market participants involved in public offerings will be subject to both civil and criminal liabilities in case of violation of legal obligations.

PROSPECTUS AND ITS REQUIREMENTS

Section 23 (1) (a) of the Act of 2013 Act, makes it mandatory for all public companies to issue a prospectus for making any public offerings of securities.

The essential elements of a prospectus are as follows:

- i. There must be an invitation to the public at large.
- ii. The invitation must be made by or on behalf of the Company.

The agreement is of great importance and is executed under the common seal of the company. It provides a framework for governance of listed entities by the Stock Exchanges. Regulation 4 of SEBI (LODR) Regulations lays down major principles which have to be kept in consideration by any listed company while making disclosures and other listing obligations.

- iii. The invitation must be to subscribe or purchase its securities.

Section 25(3) of the Companies Act, 2013 requires issuer companies to make the following disclosures in the deemed prospectus, in addition to other disclosures as may be required under all applicable laws:

- i. The net amount of the consideration received or to be received by the company in respect of the securities to which the offer relates;
- ii. The time and place at which the contract, whereunder the said securities have been or are to be allotted, may be inspected.

Red Herring Prospectus: A Red Herring Prospectus (RHP) is issued when public offering of securities is made by way of the *book building procedure*. Section 32 of the 2013 Act, brings forward the meaning of Red Herring Prospectus as “Red Herring Prospectus means a prospectus which does not include complete particulars of the quantum or price of the securities included therein”. Public issue made under the book building procedure requires issuer companies to file a Red Herring Prospectus with RoC prior to the issue of the final prospectus. RHPs are not complete prospectus documents to the extent that they do not contain the final issue price at which securities are offered. RHPs contain a price band for the securities offered and invites bids from investors at various price levels within the price band. The issuer company and other intermediaries hired for the offering assist the issuer in collection of the bids from the investors, building an electronic book of the bids received, determining the issue price within the price band and allotment of securities to successful bidders. RHP is used as document to gauge investor demand in securities and assist in better price discovery of securities offered in a public offering. Up on the closing of the offer of securities, the prospectus must contain the total capital raised, the closing price of the securities and any other details which was not included in the red herring prospectus and should be filed with ROC and SEBI.

Abridged Prospectus: Section 33(1) of the Companies Act, prohibit issuance and /or circulation of forms of applications for purchase of securities to the public unless such forms are accompanied with an abridged prospectus.

Initial Public Offer: Opening Doors of Funding and Opportunity

Abridged Prospectus means the memorandum as prescribed in Form 2A. It contains all the salient features of a prospectus.

Disclosure Requirements: The basic framework and contents of a prospectus prescribed by securities regulations globally, can be broadly categorised into two sets of information:

1. **Information about the issuer company:** information describing the business, securities, financial position, director's management and other information about the issuer company;
2. **Information about the issue:** information describing the terms and conditions of the securities offered in the issue.

Rules 3-6 of the Companies (Prospectus and Allotment of Shares) Rules, 2014 (PAS Rules) read along with Section 26 (1) of the Company Act, 2013 deals with information and reports mandatorily required to be stated in prospectus.

In terms of Section 26(2) of the Companies Act, 2013 the obligation of making minimum disclosures in a prospectus is not applicable in case of:

1. for offer documents circulated in relation to rights issue of securities to existing shareholder of debentures holders; and
2. for prospectus issued in relation to further public offers of securities already listed on recognised stock exchanges in India.

Further disclosures are also required under SEBI (ICDR) Regulations, 2018 prescribes certain specific disclosure requirement in relation to IPOs of Equity and Convertible securities.

Framework of the prospectus or the draft offer documents to filed with SEBI should be in the manner prescribed in Part A of the Schedule VII of the ICDR Regulations. Issuer companies are required to follow a standard format and sequence of information, as prescribed in Schedule VIII for drafting their prospectus. Information disclosed in prospectus issued for an IPO of equity shares can be divided into 11 major sections:

1. *Cover Page*
2. *Risk Factors*
3. *Introduction to the Issue:*
 - a. *Summary of the industries in which the issuer company operates.*
 - b. *Summary of business activities of the issuer company.*
 - c. *Summary of financial information.*
 - d. *Summary of details about the issue.*
 - e. *General information about the persons involved in the issue.*
 - f. *Capital structure of the issuer company.*

4. *Particulars of the Issue:*
 - a. *Objects of the issue.*
 - b. *Basis of the Issue Price.*
 - c. *Statement of Tax Benefits.*
5. *Information about the Issuer Company:*
 - a. *Industry Overview.*
 - b. *Business of the issuer Company.*
 - c. *Regulations and Policies governing the issuer Company.*
 - d. *History and corporate structure of the issuer company.*
 - e. *Management of the issuer company.*
 - f. *Promoters and group entities of the issuer company.*
6. *Financial Information:*
 - a. *Financial Statements of the Issuer Company.*
 - b. *Management's discussion and analysis of financial condition and results of operations as reflected in the financial statements.*
7. *Legal and other Information:*
 - a. *Outstanding litigations and material developments.*
 - b. *Government approvals and other regulatory and statutory disclosures.*
8. *Issue Information:*
 - a. *Terms of the Issue.*
 - b. *Issue Procedure.*
9. *Main Provisions of the Articles of Association of the issuer company.*
10. *Material Documents for Inspection.*
11. *Declaration Page.*

LISTING OF SECURITIES

Listing is the forerunner to the process of capital formation and enables the trading of securities by companies in a regulated manner to ensure investor protection. Listing means admission of the securities of a company to trading privileges on a recognised stock exchange. Section 40 of the Companies Act, 2013 provides that every company intending to offer shares or debentures to the public for subscription by the issue of a prospectus shall, before such issue, make an application to one or more recognised Stock Exchanges for permission for the shares or debentures intending to be so offered to be dealt with in that Stock Exchange. Any allotment made in pursuance of the prospectus issued shall be void if the above permission is not granted before the expiry of ten weeks from the date of closing of the subscription lists unless an appeal is sought against this decision with SAT under Section 22A of SCRA, 1956. Thus, it is clear that a company going to the public must make an application for listing. Otherwise, the allotment shall be void.

Objectives of Listing: Listing of securities by a company on a recognized Stock exchange has the following objectives:

1. It provides 'Liquidity' and 'Free Transferability' to the securities.
 2. It affords certain tax benefits to companies under Income Tax Act.
 3. Institutional Investment in shares of the company becomes possible.
 4. It mobilises savings for economic development.
 5. The company has more credibility and better standing with the investors.
 6. It protects interests of the investors by ensuring full disclosures about half yearly results, new issues, dividends etc.
- It provide that a company intending to list its shares in recognised stock exchange has should along with the application of listing should also provide the details about the list of document and mentioned here below as:-
- (a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.
 - (b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.
 - (c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.
 - (d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.
 - (e) A statement showing:
 - i. dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company);
 - ii. dividends or interest in arrears, if any.
 - (f) Certified copies of agreements or other documents relating to arrangements with or between:
 - i. vendors and/or promoters,
 - ii. underwriters and sub-underwriters,
 - iii. brokers and sub-brokers.
 - (g) Certified copies of agreements with—
 - i. managing agents and secretaries and treasurers,
 - ii. selling agents,
 - iii. managing directors and technical directors,
 - iv. general manager, sales manager, manager or secretary.
 - (h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.
 - (i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.
 - (j) A brief history of the company since its incorporation giving details of its activities including any reorganization, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if any.
 - (k) Particulars of shares and debentures issued—
 - i. for consideration other than cash, whether in whole or part,
 - ii. at a premium or discount, or
 - iii. in pursuance of an option.
 - (l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.
 - (m) Certified copies of Acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India.
 - (n) Particulars of shares forfeited.
 - (o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.
 - (p) Particulars of shares or debentures for which permission to deal is applied for: Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.
- Apart from fulfilling these general conditions applicant company shall satisfy the stock exchange that;
- (a) Its article of association provide for the following among other –
 - i. That the company shall use a common form of transfer;
 - ii. That the fully paid shares will be free from all lien, while the case of partly laid shares, the company's lien, if any will be restricted to moneys called or payable at a fixed time in respect of such shares;

Initial Public Offer: Opening Doors of Funding and Opportunity

- iii. That any amount paid-up in advance of calls in any shares may carry interest but shall not entitle the holder of the shares to participate in respect thereof, in a dividend subsequently declared;
- iv. There will be no forfeiture of unclaimed dividends before the claim becomes barred by law;
- v. That option or right to call of shares shall not be given to any person except with the sanctions of the company in General Meeting.

However, recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next General Meeting so as to fulfill the forgoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

- (b) At least 10% of each class or kind of securities issued by a company was offered to the public for subscription through advertisement in newspaper for a period not less than two days and that applications received in pursuance of such offer were allotted subject to the following conditions:
 - i. Minimum 20 lakhs securities (excluding reservations, firm allotment and promoters contribution) was offered to public;
 - ii. The size of the offer to public i.e. the offer price multiplied by the number of securities offered to the public was minimum Rs. 100 Crores; and
- (c) The issue was made only through book building method with allocation of 60% of the issue size to the qualified institutional buyers as specified by SEBI.

A fresh application for listing will be necessary in respect of all new issues desired to be dealt in, provided that, where such new securities are identical in all respects with those already listed, admission to dealings will be granted on the company intimating to the stock exchange particulars of such new issues.

Listing Agreement

It is an agreement between the Stock Exchange and the company to list the securities of the latter on the Stock Exchange and abide by the rules and regulations of the exchange. Regulation 2(1) (q) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 [SEBI (LODR) Regulations] defines 'listing agreement' as an agreement that is entered into between a recognised stock exchange and an entity, on the application of that entity to the recognised stock exchange, undertaking to comply with conditions for listing of designated securities.

The agreement is of great importance and is executed under the common seal of the company. It provides a framework for governance of listed entities by the Stock Exchanges. Regulation 4 of SEBI (LODR) Regulations lays down major principles which have to be kept in consideration by any listed company while making disclosures and other listing obligations. These Principles are:

- (a) Information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosure.
- (b) The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and shall also ensure that the annual audit is conducted by an independent, competent and qualified auditor.
- (c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.
- (d) The listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors.
- (e) The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in a simple language.
- (f) Channels for disseminating information shall provide for equal, timely and cost efficient access to relevant information by investors.
- (g) The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.
- (h) The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.
- (i) Filings, reports, statements, documents and information which are event based or are filed periodically shall contain relevant information.
- (j) Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.

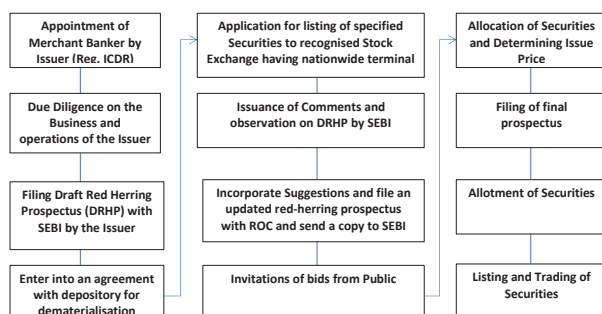
ROUTES FOR AN IPO

IPO of a public Company in India can be made through either Fixed Price Method or Book Building Method. In the fixed price method securities are offered at pre-determined price by the issuer. While in the book building method prices are discovered through demand. Under Book Building method, demand of securities proposed to be issued by a corporate body is elicited and built up and the price for such securities is assessed for the determination of quantum of such securities to be issued. In book build method, issuer companies offer their securities at a price band (not at a fixed price) and the final price is discovered based on the bids received from investors at various price levels.

Regulation 6 of the ICDR Regulations lays down eligibility conditions wherein fulfilling those conditions issuers can make their IPO by offering their securities at fixed price and the process is called as fixed price method. Since eligible issuer has proven track record of profitability and adequately capitalised, they have been given the dispensation to freely price their securities at any fixed price of their choice and they are not required to follow the book building process of price discovery. However, these eligible issuer companies are free to make their IPO through book building method as well, which in such case is called voluntary book building method. Companies which do not satisfy the requirements of Regulation 6(1) are compulsorily required to make their IPO by following the book building method as prescribed under ICDR regulations. These are called compulsory book building method.

In Fixed Price issues, companies are required to file draft prospectus with SEBI before making an offer to the public. The draft prospectus may contain a fixed price or a price band. SEBI has power to provide observations and suggest changes to the draft prospectus. Issuers are required to file updated prospectus with registrar of Companies specifying the fixed price at which it is offering securities. Issuer can then invite subscriptions from investors for sale of securities at a specified price. However, in Book built method, since the prices are elicited based on the demand of securities issuer files a Draft Red Herring Prospectus wherein the price of securities is left blank and a price band is provided within which bidding has to take place. After SEBI's observations and suggestions Red Herring Prospectus is submitted to RoC and subscriptions are invited through bidding process. Based on the bidding the prices are fixed and final prices are updated on the final prospectus and updated one is resubmitted to RoC.

Following flowchart will be relevant for explaining the process of an IPO.



PROMOTER CONTRIBUTION

Promoters of the company are required to contribute 20% of the post issue capital of the company in lock-in. Regulation 16 of SEBI (ICDR) Regulations states that, persons identified as promoters, along with members of the promoters group of the issuer companies, contribute in the IPO to a minimum of 20% of the total post issue capital of the issuer company. These restrictions are aimed towards ensuring that the promoters of issuer companies do not dilute their entire holding in the IPO. Lock-in

restrictions of promoter contribution prevent fly-by-night operators and vanishing companies to raise funds through IPO and exit from the companies within short time. In the event promoters are not able to meet the minimum contribution on their own, Alternative Investment Fund registered with SEBI may contribute in the capital of the issuer company to meet the shortfall.

MINIMUM SUBSCRIPTION

The concept of minimum subscription in an IPO is enshrined in Section 39(1) of the Companies Act, 2013. In furtherance to this, Regulation 45 of SEBI (ICDR) Regulations, 2018 prescribes minimum subscription level of 90% of the total number of shares offered to the general public (excluding reservations in the issue), for an IPO of equity shares to be successful. Issuer companies must also ensure minimum dilution as applicable in favour of public company. In addition to above requirement, Regulation 31 of SEBI (ICDR) Regulations puts restriction on allotment of securities if the number of prospective allottees in the issue is less than One thousand.

Important points

- The share escrow agreement is not required where there is no offer for sale component in the public issue.
- The RHP filed with the ROC contains all the details except for information in relation to the issue price and underwriting commitment. This offer document can be used for the purposes of marketing.
- The price band advertisement can be announced at least two working days before the issue opening according to the ICDR Regulations.
- A public issue shall be kept open for at least three working days but not more than 10 working days when there is a revision in price band. The issue period can be extended for a further minimum of three days in the case of force majeure events, bank strikes and similar circumstances under the ICDR Regulations.

APPLICATION SUPPORTED BY BLOCKED AMOUNT (ASBA)

- SEBI has mandated that all investors (except anchor investors) applying in an IPO are required to only use the ASBA facility for making payment. In the ASBA mechanism, the application money is blocked in the bank account provided in the application form until just prior to the allotment, or withdrawal or failure, of the IPO, or withdrawal or rejection of the application, as the case may be. If the bid is successful, the monies are transferred from the bank account to the public offer account opened by the issuer.
- All applications submitted by individual investors to the intermediaries must be through ASBA with UPI as a payment mechanism. For public issues, UPI will allow the facility to block funds at the time of making an application.

PRACTICAL ASPECTS OF PRIMARY MARKET

The Primary Market is, hence, the market that provides a channel for the issuance of new securities by issuers (Government companies or corporates) to raise capital. The securities (financial instruments) may be issued at face value, or at a discount /premium in various forms such as equity, debt etc. They may be issued in the domestic and / or international market.

Features of primary markets include:

1. The securities are issued by the company directly to the investors.
2. The company receives the money and issues new securities to the investors.
3. The primary markets are used by companies for the purpose of setting up new ventures/ business or for expanding or modernizing the existing business.
4. Primary market performs the crucial function of facilitating capital formation in the economy.

PREPARATION AND FILING OF OFFER DOCUMENT

1. A company wanting to raise capital from the public is required to prepare an offer document giving sufficient information and disclosures, which enables investors to make an informed decision. Accordingly, the offer document is required to contain details about the company, its promoters, the project, financial details, objects of raising the money, terms of the issue etc.
2. The companies that issue their shares are called issuers. The issuer company engages a SEBI registered merchant banker to prepare the offer document. Besides, due diligence in preparing the offer document, the merchant banker is also responsible for ensuring legal compliance. The merchant banker facilitates the issue in reaching the prospective investors.
3. The draft offer document thus prepared is filed with SEBI and is made available on SEBI's website.
4. Company is also required to make a public announcement about the filing English, Hindi and in regional language newspapers.
5. In case, investors notice any wrong / incomplete / lack of information in the offer document, they may send their representation /complaint to the merchant banker and / or to SEBI.
6. The Indian regulatory framework is based on a disclosure regime. SEBI reviews the draft offer document and may issue observations on the draft offer document with a view to ensure that adequate disclosures are made by the issuer company/merchant bankers in the offer document to enable the investor

to make an informed investment decision in the issue. It must be clearly understood that SEBI does not “vet” and “approve” the offer document.

7. SEBI's observations on the draft offer document are forwarded to the merchant banker, who incorporates the necessary changes and files the final offer document with SEBI, Registrar of Companies (RoC) and stock exchange(s). This is made available on websites of the merchant banker, stock exchange(s) and SEBI.

Opening of the Issue:

After completing legal formalities, the issuer company issues advertisements in English, Hindi and regional language newspapers and the issue is open to public for subscription. If the prospective investor is interested in subscribing to the shares of the issuer company based on what is disclosed in the offer document, he can apply for its shares before the issue closes, by duly filling up the application form and making the payment.

The entire back-office operation of the public issue, including processing of application forms, despatch of refunds, allotment of securities, is handled by the Registrar to the Issue (RTI) on behalf of the issuer company.

It is to be noted that only one application per PAN is allowed in any issue. If investor makes more than one application, all the applications are liable to be rejected. The RTI matches applicant's name in the application form and verifies it against the PAN, demat account details (DP ID and Demat A/c No) and also weeds out duplicate applications.

Allotment

The issue then closes, and the shares are allotted to the applicants proportionally, if there is over subscription. The merchant banker and RTI finalize the 'basis of allotment' and is made available in the website of the RTI. The issuer company issues advertisements in English, Hindi and regional language newspapers about the issue price and basis of allotment.

The allocation of shares happens according to the rules laid down by SEBI. There are 3 categories according to which the allocation is reserved:

1. Qualified Institutional Buyers (QIBs)
2. Non-Institutional Investors (NIIs)
3. Retail Individual Investors (RIIs)

It is impossible to know in advance whether an investor will receive an allocation of shares but understanding how the shares are allocated in IPO might help to set the expectations and explain why the shares may not get allocated.

Lot Size: When a company announces IPO, its total equity shares on offer are divided into lots, each lot comprising of an equal number of shares and each application made by retail investor is in multiple of these lots.

Example:

A Company ABC Ltd intends to issue 1 lakh shares in an IPO and has decided a lot size of 10 shares per lot.

FORMULA TO CALCULATE IN THE ABOVE CASE

Total no. of lots on Offer = (Total no. of shares / Total no. of shares in 1 lot), which equals to 10,000.

Total no. of lots on Offer = (1,00,000 / 10) = 10,000

Whenever a RII will bid for shares in an IPO, he/she will bid in terms of no. of lots like 1 lot, 2 lot, 3 lot and so on upto the maximum lots given by the issuer company, but they cannot bid in terms of no. of shares. Once all the bids are submitted a system process is run to eliminate all the improper submission of bids by the investors.

THERE ARE 2 CASES AFTER GETTING THE TOTAL NO. OF SUCCESSFUL BIDS**i. Total cumulative no. of bid lots less than total no. of lots offered**

In this case everyone gets the allocation of same number of lots that they had bid for.

ii. Total cumulative no. of bids more than no. of lots offered

In this case while allotting the shares, SEBI Rules are taken into consideration, according to which no individual can be allotted more than 1 lot.

There are 2 Sub cases in this are as follows:**i. Small Over Subscription**

In this case, each applicant with successful bid would be 1st allotted with 1 lot of shares and the balance shares shall be allotted proportionately.

ii. Large Over Subscription

In this case, if the subscription is extremely high then each applicant with successful bid cannot be allotted even 1 lot. In this situation, according to SEBI, the lots shall be allotted on a lucky draw basis. The process is all computerized so there are no chances of any partiality.

Reasons for no allotment of shares in an IPO

- i. Invalid bid because of
 - Invalid PAN
 - Invalid Demat Account number
 - Multiple applications submitted in same name
- ii. Applicant could not get assigned any lot after the lucky draw process for allocation of shares in case of over subscription.

Example of recent IPO - Tata Technologies Limited**Tata Technologies IPO details**

IPO Open Date	Wednesday, November 22, 2023
IPO Close Date	Friday, November 24, 2023
Cut-off time for UPI mandate confirmation	5 PM on November 24, 2023
Basis of Allotment	Tuesday, November 28, 2023
Initiation of Refunds	Wednesday, November 29, 2023
Credit of Shares to Demat	Wednesday, November 29, 2023
Listing Date	Thursday, November 30, 2023
Face Value	₹2 per share
Price Band	₹475 to ₹500 per share
Lot Size	30 Shares
Total Issue Size	60,850,278 shares (aggregating up to ₹3,042.51 Cr)
Offer for Sale	60,850,278 shares of ₹2 (aggregating up to ₹3,042.51 Cr)
Issue Type	Book Built Issue IPO
Listing At	BSE, NSE
Share holding pre issue	405,668,530
Share holding post issue	405,668,530

Lot Size

Application	Lots	Shares	Amount
Retail (Min)	1	30	₹15,000
Retail (Max)	13	390	₹195,000
S-HNI (Min)	14	420	₹210,000
S-HNI (Max)	66	1,980	₹990,000
B-HNI (Min)	67	2,010	₹1,005,000

IPO Reservation

Investor Category	Shares Offered	% of Shares	Maximum Allottees
Anchor Investor	15,821,071	26.00%	NA
QIB	10,547,382	17.33%	NA
NII (HNI)	7,910,537	13.00%	
bNII > ₹10L	5,273,691	8.67%	12,556
sNII < ₹10L	2,636,846	4.33%	6,278
Retail	18,457,919	30.33%	615,263
Employees	2,028,342	3.33%	NA
Others	6,085,027	10.00%	NA
Total	60,850,278	100%	

Anchor Investor means a qualified institutional buyer who makes an application for a value of at least ten crore rupees in a public issue on the main board made through

Initial Public Offer: Opening Doors of Funding and Opportunity

the book building process in accordance with these regulations or makes an application for a value of at least two crore rupees for an issue made in accordance with Chapter IX of ICDR regulations.

Anchor Investors Details

Bid Date	November 21, 2023
Shares Offered	15,821,071
Anchor Portion Size (In Cr.)	791.05
Anchor lock-in period end date for 50% shares (30 Days)	January 10, 2024
Anchor lock-in period end date for remaining shares (90 Days)	April 3, 2024

Subscription Status (Bidding Detail)

The Tata Technologies IPO is subscribed 69.43 times on November 24, 2023 7:02:00 PM. The public issue subscribed 16.50 times in the retail category, 203.41 times in the QIB category, and 62.11 times in the NII category.

Category	Subscription (times)
QIB	203.41
NII	62.11
bNII (bids above ₹10L)	70.67
sNII (bids below ₹10L)	44.98
Retail	16.50
Employee	3.70
Others	29.20
Total	69.43

Listing

Process for Company to list its shares:

1. Company files Draft Red Herring Prospectus (DRHP)/ Draft Prospectus (DP) with Stock Exchange.
2. Exchange uploads the DRHP/DP on the Website of the Exchange.
3. Company has to file an application on NEAPS and attach the relevant documents as per the Checklist specified by the Exchange.
4. Exchange does preliminary check & verifies the application and seeks replies to queries, if any.
5. Exchange issues in-principle approval to the Company.
6. Company has an intention to open the Issue, within 12 months, post the SEBI approval in case of Main Board & post Exchange approval in case of SME Issue.
7. One day prior, to the issue open, the company has to submit the 1% security deposit to Designated Stock Exchange (DSE).
8. One day prior, to the issue open, the company allocates the shares to the Anchor investor, if any.

9. Issue can be open for minimum of 3 days and maximum of 10 days.
10. Issue Close (T Day – Working day).
11. On T+1 working day the Company submits the documents as per the checklist of the Exchange.
12. On T+1 working day basis of allotment is carried out at DSE.
13. On T+2 working day company submits the Listing Documents to the Exchange.
14. On T+2 working day company submit Credit Confirmation from the Depository i.e. dematerialised shares to the allottee's account & Exchange will issue a circular to the Market for listing of shares with effect from T+3 working day.
15. On T+3 working day Company gets listed on the Exchange.

IPO Process Timeline

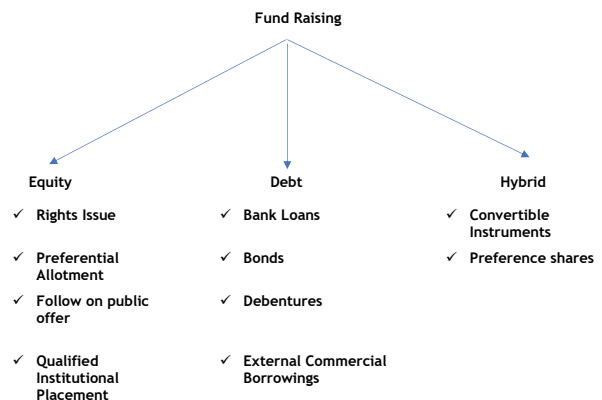
The duration of the IPO process in India ranges from 3 months to a year, depending on various factors such as the type of IPO, the complexity of the transaction, the size of the company, the market situation, etc.

Note: A company should complete an IPO within 12 months of receiving SEBI's comments on the initial filing.

IPO Process Timelines by Stages (Tentative)

Phase	Timeline
Planning	2 weeks
Due diligence	4-5 weeks
DRHP Preparation	1 week
SEBI Approval	4-8 weeks
RHP Submission	2-3 weeks
IPO Launch	Minimum 3 days
Allotment	Within 1 day of issue closure
Listing	Within 3 day of issue closure
Post issue activities	2-3 weeks

Various Funding Opportunities



Rights Issue

This method involves raising of capital from the existing shareholders on a priority basis. Through this issue, the company first offers its new shares to the existing shareholders who get the right of first refusal (ROFR). Shares are allotted to all those who agree and the shares meant/intended for all those who refuse are then offered to persons who are not equity shareholders at that point of time. They may not be shareholders at all. A peculiar feature of this kind of issue is that that it is only offered to the equity shareholders and not to any other types of shareholders.

PREFERENTIAL ISSUE/ALLOTMENT

Preferential issue is nothing but private placement made by the listed public company to specified persons. This issue to selected persons/entities by the listed company serves the same purpose as private placement Section 62 read with Section 42 of the Companies Act, 2013 read with Rule 13 of the Companies Share Capital and Debentures) Rules, 2014. Various disclosures are to be made when such issue is made. Certain formalities are relaxed if the preferential offer is targeted towards one or more existing members only. Rule 13(3) of the Companies Share Capital and Debentures) Rules, 2014. Such issue may be of shares or other kinds of securities and can also involve non-cash transactions.

FOLLOW-ON PUBLIC OFFER (FPO)

A Follow-On Public Offer (FPO) is a type of public offering in which a company already listed on the stock exchange issues new shares of its stock to the public. The companies that have already raised funds through IPOs by issuing their shares for the first time can issue additional shares through FPOs.

An FPO can be a good option for companies that have already established a track record of success and have a strong following of investors willing to buy additional shares. However, FPOs can also dilute the ownership and earnings per share of existing shareholders, which investors consider before participating in an FPO.

Generally, companies issue FPOs to raise additional funds for various reasons, such as financing expansion plans, paying off debt, or funding acquisitions. The FPO process is similar to an IPO, requiring issuers to draft an offering document and allot shares to investors before listing them on the stock exchanges.

In the financial spectrum, FPOs are of two types. One of the types results in diluting the ownership, while the other results in no valuation change.

I. **Dilutive FPO:** Dilutive FPO is a type of FPO where the companies issue additional shares, increasing the share float in the market. Since the outstanding shares increase, the ownership percentage for current shareholders decreases, decreasing the earnings per share.

Initial Public Offer: Opening Doors of Funding and Opportunity

II. **Non-Dilutive FPO:** In a non-dilutive FPO, the issuing company does not issue new shares of stock. Instead, the company's existing shareholders, such as institutional investors or insiders, sell their shares to the public. The sale does not alter the current shareholders' valuation or ownership percentage.

QUALIFIED INSTITUTIONAL PLACEMENT (QIP)

A Qualified institutional placement (QIP) is a way to issue shares to the public without going through standard regulatory compliance. The QIP allows an Indian-listed company to raise capital from domestic markets without the need to submit any pre-issue filings to market regulators. QIPs were created to avoid dependency on foreign resources for raising capital. The primary reason for developing QIPs was to keep India from depending too much on foreign capital to fund its economic growth. Before the QIP, there was a growing concern from Indian regulators that its domestic companies were accessing international funding too readily via American depository receipts (ADRs), foreign currency convertible bonds (FCCBs) and global depository receipts (GDR), rather than Indian-based capital sources. Authorities proposed the QIP guidelines to encourage Indian companies to raise funds domestically instead of tapping into overseas markets. QIPs are helpful for a few reasons. Their use saves time as the issuance of QIPs and the access to capital is far quicker than through a follow-on public offer (FPO). The speed is because QIPs have far fewer legal rules and regulations to follow, making them much more cost-efficient.

ROLES & RESPONSIBILITIES OF COMPANY SECRETARIES IN IPO

CS in employment plays a major role in entire process of IPO. First and foremost a CS to do is to identify a proper team i.e. **“Right TEAM with Right Attitude at the Right TIME plays a major role in successful completion of IPO.”**

1. Different parties in an IPO:

- Board of Directors
- Senior Management Team including Chief Financial Officer & Business Team
- Statutory Auditors
- Bankers
- Selling Shareholders
- Intermediaries
- Regulatory Bodies

Intermediaries includes:

- Merchant Banker/Book Running Lead Manager (BRLM)
- Registrar to the Issue

Initial Public Offer: Opening Doors of Funding and Opportunity

- Legal Counsels – Domestic & Foreign
- Credit Rating Agency / Industry Report
- Escrow Bankers
- Advertisement agencies
- Monitoring agencies
- Printers

Regulatory bodies include:

- Securities & Exchange Board of India
- Stock Exchanges basically BSE and NSE
- Registrar of Companies

Advertising agency:

An advertising agency is responsible for the publicity-related activities regarding the IPO and also provides the necessary information to the merchant bankers to enable them to submit a compliance certificate to SEBI.

Monitoring agency:

The ICDR Regulations require that if the issue size of the IPO (excluding the offer for sale by selling shareholders) exceeds 1 billion rupees, the issuer is required to ensure that the utilisation of IPO proceeds is monitored by a credit rating agency registered with SEBI. The monitoring agency will be required to submit its report to the issuer in the format specified in the ICDR Regulations on a quarterly basis until 100 percent of the proceeds of the issue have been utilised.

2. **Kick Start Process:** Kick-off meeting and commencement of the due diligence process.
3. **Due Diligence & preparation of draft offer document:** The legal counsel, along with the help of the issuer and the merchant bankers, conduct the due diligence of the issuer and prepare the draft offer document. Preliminary Due Diligence with Legal Counsel and reply to Requisition List. Review of all important litigations by or against the issuer company.
4. **Execution of Agreements:** Entering into agreements with intermediaries, setting out the mutual rights, obligations and liabilities relating to the IPO. The major part in agreement, among other things, to cover the following aspects:
 - Roles & responsibilities
 - Conditions precedent
 - Representations & Warranties
 - Indemnity
 - Termination
5. **Promoters Matrix:** Preparation of Promoters Matrix for identification of Promoters and Promoter Group.
6. **Pending litigations:** Identification of pending litigation of Promoters, Directors, Key Managerial Personnel, Subsidiaries, and Associates and update MIS tracker.
7. **Tentative timelines:** CS should prepare the tentative timelines for public issue. The indicative timeline for IPO is mentioned in the below table:

Indicative Timelines for IPO

S. No.	Particulars	Timelines (due date)
1.	Board Meeting to approve Public issue.	T
2.	Kick-off meeting & Execution of Agreements with Intermediaries.	T + 5
3.	Verification of documents & research presentation.	T + 10
4.	Commencement of the due diligence process - The legal counsel, along with the help of the issuer and the merchant bankers, conduct the due diligence of the issuer and prepare the draft offer document.	T + 60
5.	Publication of research report.	T + 61
6.	Filing of the draft offer document (the draft red herring prospectus (DRHP)) with SEBI & Stock Exchanges.	T + 62
7.	Receipt of in-principle approval from the stock exchanges.	T + 77
8.	Receipt of SEBI final observations. SEBI must provide observations or changes to be made to the DRHP of: <ul style="list-style-type: none"> • the date of receipt of the DRHP; • the date of receipt of satisfactory reply from the merchant bankers, where SEBI has sought any clarification or additional information from them; • the date of receipt of clarification or information from any regulator or agency, where SEBI has sought any clarification or information from such regulator or agency; and • the date of receipt of a copy of the in-principle approval letter issued by the stock exchanges. 	T + 122
9.	Incorporation of SEBI comments/observations in DRHP.	T + 129
10.	Filing of the updated DRHP with SEBI as Red Herring Prospectus (RHP).	T + 130

11.	Grant of SEBI approval for filing with the relevant Registrar of Companies (ROC).	T + 145
12.	Filing of the Red Herring Prospectus (RHP) with the ROC.	T + 146
13.	Grant of approval by ROC.	T + 149
14.	Marketing & Roadshows.	T + 161
15.	Opening of the IPO.	T + 163
16.	Closing of the IPO.	T + 168
17.	Finalisation of the basis of allotment.	T + 169
18.	Allotment of shares to the applicants.	T + 177
19.	Transfer of funds from Public Issue account to Company's account.	T + 180
20.	Application for final listing and trading approvals with the stock exchanges.	T + 181
21.	Commencement of listing and trading.	T + 182

Note: * SEBI has reduced the duration of the period between issue closure to listing from six to three working days. This change has been implemented over the course of three phases, effective from January 2019. While Phase I is over and Phase II continues to operate with the existing T+6 timelines, Phase III will operate with the T+3 timeline. Phase III will reduce the time period by three days between closing of the issue and commencement of trading. Recently, SEBI has approved the T+3 timeline to be optionally operational for issues opening on or after September 1, 2023 and to be mandatorily operational for issues opening on or after 1 December 2023.

8. Organization Structure and composition of Board & its Committees:

CS should structure the Board Committees according to statutory requirements and issue corporate governance certificate under SEBI (Listing Obligations & Disclosure Requirements) Regulations, 2015 with respect to compliance of the following:

- Composition of Board of Directors,
- Audit Committee & its composition,
- Stakeholders Relationship Committee & its composition,
- Nomination & Remuneration Committee & its composition,
- Risk Management Committee & its composition,
- Corporate Social Responsibility & Sustainability Committee & its composition.

Obligations with respect to:

- Promoters,
- Directors including Independent Directors, Executive Directors,
- Key Managerial Personnel,
- Senior Management.

9. Ensuring conformity with Corporate Governance

Drafting of policies & codes for corporate governance / for disclosure in DRHP.

- a) Policy on succession planning of Board of Directors.
- b) Policy on familiarization process of Independent Directors.
- c) Terms & Conditions for appointment of Independent Directors.
- d) Board Evaluation policy.
- e) Board diversity policy.
- f) Nomination & Remuneration policy.
- g) Whistle Blower policy.
- h) Corporate Social Responsibility Policy.
- i) Dividend Distribution Policy.
- j) Employee Stock Option (ESOP) policy.
- k) Prevention of Sexual Harassment (POSH) policy.
- l) Policy on preservation & archival of documents.
- m) Code of fair disclosure practices and procedure for disclosure of Unpublished Price Sensitive Information (UPSI).
- n) Code of Conduct to regulate, monitor & report trading by insiders.
- o) Code of conduct of Board of Directors and senior management.
- p) Policy on materiality of events.
- q) Policy for materiality of Related Party Transactions (RPT).
- r) Materiality of disclosures of group companies, litigation and creditors.
- s) Risk Management Policy.
- t) Policy on Material subsidiaries.



10. List out all Material Documents to be kept ready for inspection as mentioned under DRHP.
11. Assist statutory auditors, legal counsels etc.
12. Disclosures to all statutory & regulatory authorities.
13. Arrange for Standard Certifications / Undertaking.
14. Verification of peer review certificate and certificate of eligibility of Auditors.
15. ESOP has to be in compliance with SEBI (Share Based Employee Benefits & Sweat Equity) Regulations, 2021.
16. All data relating to IPO should be maintained confidentially.
17. Identification of Risk factors, discuss with Board and Management and if required, obtain opinion from legal counsel.
18. Convert the Private Company to Public Company, if it is a Private Company.
19. Increase the authorised capital of the Company.
20. Check the MOA & AOA of the Company, if required, alter the Articles of Association of the company.
21. Discuss with Board about issuance of Bonus shares or Split of shares.
22. Verification of agreements entered into with intermediaries.
23. Verification of capital structure of the Company.
24. Discuss with Board and appoint Merchant Bankers, in turn MBs will appoint BRLM, Legal Counsels, Registrar & Share Transfer Agent, Bankers to the issue and Designated Stock Exchange.
25. Obtain consent letters from BRLM, Bankers, Legal counsels, RTA & Auditors.
26. No Objection letters from Creditors and Vendors.
27. Discuss with Board & Management about pricing of public issue whether Fixed price or Book building process and accordingly as per the advice of BRLM fix the pricing.
28. Preparation of reply letters to SEBI comments or observations on DRHP.

29. Preparation of listing application for obtaining in-principle approval with Stock Exchanges.
30. Assist for Road shows, meeting Fund Managers and Equity Analysts.
31. After SEBI nod, filing of RHP with ROC.
32. Filing of various form with ROC.

POST IPO REQUIREMENTS

Once an entity is listed on the stock exchanges, it must comply with all the requirements of the SEBI Regulations.

- Securities and Exchange Board of India (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.
- Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018.
- Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.
- Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015.
- Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

CONCLUSION

An IPO is an important step in the growth of a business, it greatly increases the credibility and publicity that a business receives. In many cases, an IPO is the only way to finance quick growth and expansion. In terms of the economy, when a large number of IPOs are issued, it is a sign of a healthy stock market and economy. The Indian capital markets have seen an unprecedented level of activity in the past year. This is largely driven by high liquidity in the market as a result of stimulus measures.

REFERENCES:

- i. *Companies Act, 2013*
- ii. *SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018*
- iii. *SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015*
- iv. *Securities Contract and Regulation Act, 1956*
- v. *The Institute of Company Secretaries of India presentations*
- vi. *Internet*
- vii. *Case laws: Raymond Synthetics Ltd. and Others V. Union of India, (1992) 2 SCC 255 and Sahara India Real Estate Company v. SEBI, (2013) 1 SCC 1*



Public Offer: Widening the Stakeholder's Base

An IPO is a significant event in a company's life cycle, and it has implications for the Company's ownership structure, access to capital, and market presence. It allows both individual and institutional investors to become shareholders in the company and participate in its growth and success.



CS Gaurav Kumar Vohra, FCS

Certified CSR, Labour law Professional
Compliance Head, Vedika Credit Capital LTD.(NBFC-MFI)
Ranchi, Jharkhand
gauravkv_cs@yahoo.com

"An IPO is not just about raising capital; it's about inviting the world to become a part of your company's journey, expanding your family of stakeholders, and building a stronger, shared vision for the future."

INTRODUCTION

A public offering, whether in the form of an Initial Public Offering (IPO) or subsequent equity offerings, represents a pivotal juncture in the corporate journey. Beyond its financial implications, it's a transformative step that offers companies an unparalleled opportunity to diversify and expand their stakeholder base. In this comprehensive article, we will explore the multifaceted facets of public offerings and how they serve as a strategic imperative for widening the stakeholder base.

WHAT IS PUBLIC OFFER?

A public offer, also known as a public offering, is a financial process through which a company offers its shares, securities, or financial instruments to the general



public and institutional investors for purchase. It is a way for companies to raise capital by selling ownership stakes in the company to external investors. Here are some key points to understand about public offers:

TYPES OF PUBLIC OFFERS

- **Initial Public Offering (IPO):** This is the first time a company goes public and offers its shares to the public. It typically occurs when a privately-held company decides to become a publicly-traded entity.
- **Follow-On Public Offering (FPO):** After an IPO, a company may conduct additional public offerings to raise more capital or allow existing shareholders to sell their shares to the public.

Overall, a public offer is a significant event in a company's life cycle, and it has implications for the company's ownership structure, access to capital, and market presence. It allows both individual and institutional investors to become shareholders in the company and participate in its growth and success.

WIDENING STAKEHOLDER BASE:

One of the primary objectives of a public offer is to broaden the base of stakeholders in a company. By allowing the general public and institutional investors to buy shares, the ownership of the company becomes more dispersed.



HOW PUBLIC OFFERS WIDENING STAKEHOLDER BASE?

1. **Access to Public Capital: A Flood of Financial Opportunities:** The primary allure of a public offering is the influx of capital from public investors. By going public, companies can access a vast reservoir of capital. This infusion of funds can be directed toward a range of strategic initiatives, including business expansion, research and development, debt reduction, and acquisition of assets or other businesses. Access to public capital equips companies with the financial muscle needed to propel growth and solidify their market position.

Expansion: To elaborate, consider the example of a technology startup with innovative products but limited resources. Going public allows them to secure the capital required to scale up their operations, invest in cutting-edge research, and compete on a global scale. This capital infusion becomes the lifeblood for continued innovation and market leadership.

2. **Shareholder Diversity: A Mosaic of Investor Types:** Going public introduces a diverse array of shareholders. These stakeholders come from various backgrounds and have distinct investment objectives. Institutional investors, such as mutual funds, pension funds, and hedge funds, bring significant capital and long-term investment horizons. Retail investors, comprising individual shareholders, add a broad spectrum of investment philosophies, risk tolerances, and trading behaviours. This diversity not only enhances a company's resilience but also provides a more stable shareholder base less susceptible to rapid market fluctuations.

Diversity Amplified: The mix of shareholders extends well beyond simple numbers. Institutional investors often conduct in-depth research and analysis, contributing valuable insights into a company's performance. Retail investors, on the other hand, bring an emotional connection to the brand, fostering loyalty and brand advocacy. This diversity amplifies the benefits of a broad stakeholder base.

3. **Liquidity for Existing Shareholders: Realizing Value:** Public offerings provide liquidity to existing shareholders, unlocking the latent value of their investments. Founders, early investors, and employees can monetize their holdings, transforming previously illiquid assets into tradable securities. Liquidity not only rewards stakeholders but also fosters talent retention and attracts new talent through stock-based compensation programs.

Talent Attraction: For startups aiming to attract top talent in highly competitive industries, the promise of stock-based compensation is a powerful tool. Employees see the opportunity to not only contribute to the company's success but also share in its growth and success. This incentive aligns their interests with the company's long-term objectives.

4. **Widening Ownership Base: Minimizing Concentration:** Regulatory requirements often stipulate a minimum number of shareholders, leading to a more widely distributed ownership structure. A broader shareholder base reduces the concentration of ownership and mitigates the influence of a single entity or a small group of investors. This decentralization promotes transparency, accountability, and prevents undue concentration of power.

Balancing Act: The presence of numerous shareholders can act as a safeguard against excessive control by a single entity or group. It ensures that decisions affecting the company are made with the

broader shareholder base in mind, promoting fairness and equitable governance.

5. **Enhanced Visibility: Magnetizing Partnerships and Collaborations:** Publicly traded companies enjoy heightened visibility in the business ecosystem. This increased prominence attracts potential partners, collaborators, and customers. Business partners are drawn to the company's credibility and market presence, facilitating strategic alliances and growth opportunities. Enhanced visibility opens doors to collaborations and synergistic relationships that can drive innovation and market expansion.

Collaborative Advantage: Consider a pharmaceutical company that goes public with breakthrough research in drug development. The enhanced visibility not only attracts partnerships with other pharmaceutical giants but also accelerates clinical trials and product commercialization. This collaborative advantage can be a game-changer in the competitive healthcare industry.

6. **Market Capitalization and Valuation: Real-Time Reflection of Value:** Public offerings provide a dynamic valuation of the company based on prevailing market sentiment and investor demand. Market capitalization, the product of share price and outstanding shares, becomes a real-time indicator of the collective perception of the company's worth. A higher market capitalization enhances the company's appeal to investors and strengthens its competitive standing.

Market as Mirror: The market capitalization becomes a reflection of investor sentiment and confidence in the company's prospects. A steadily increasing market capitalization can attract institutional investors and analysts, further boosting the company's visibility and credibility in the financial markets.

7. **Regulatory Compliance and Transparency: The Bedrock of Trust:** Going public necessitates adherence to stringent regulatory standards and rigorous financial reporting requirements. This commitment to transparency and sound governance practices instills trust among shareholders, analysts, and the broader financial community. Investors are more inclined to support a company that demonstrates a dedication to ethical and responsible business practices.

Long-Term Trust: Transparency and adherence to regulations build a foundation of trust that extends beyond the initial public offering. Investors, both institutional and retail, are more likely to maintain confidence in the company's management and governance, fostering long-term partnerships.

8. **Strategic Growth and Acquisitions: Leveraging Public Currency:** Publicly traded companies wield their stock as a potent currency, often using it for strategic mergers and acquisitions (M&A). The ability

to employ shares as currency streamlines M&A activities, enabling strategic growth, diversification, and entry into new markets. It offers a powerful tool for capitalizing on growth opportunities and enhancing shareholder value.

M&A Agility: In a rapidly evolving business landscape, the agility to make strategic acquisitions can be a competitive advantage. Companies with the ability to leverage their stock for acquisitions can quickly adapt to changing market dynamics, expand into new markets, and capture synergies.

9. **Fostering Stakeholder Engagement: Cultivating Loyalty:** A diverse stakeholder base, including individual retail investors, can be highly engaged and passionate about the company's success. Engaged shareholders tend to be loyal advocates, promoting the company's products, services, and mission. This sense of ownership and involvement can be a significant asset in building brand loyalty and customer advocacy.

Loyal Advocates: Engaged shareholders not only invest in the company's stock but also in its success. They become brand ambassadors, spreading positive word-of-mouth and advocating for the company's products and services. This grassroots support can enhance the company's market presence.

10. **Evolution of Corporate Culture: Adaptation and Transformation:** The transition from a private entity to a publicly traded company often necessitates cultural shifts and adaptability. Companies must evolve to meet the expectations of a broader, more diverse stakeholder base, including enhanced transparency, accountability, and responsiveness. This evolution can foster resilience and long-term sustainability in a dynamic business environment.

Cultural Evolution: The shift in corporate culture involves embracing transparency, accountability, and a forward-looking approach. Companies must communicate effectively with shareholders, analysts, and the public. This evolution not only enhances the company's reputation but also positions it for long-term success.

11. **Employee Participation: Aligning Interests:** Public offerings often include stock-based compensation plans for employees, aligning their interests with the company's performance and long-term success. Employees become shareholders, and their financial well-being becomes closely tied to the company's growth and profitability. This alignment of interests can boost employee morale, productivity, and commitment to the company's mission.

Employee Ownership: When employees have a stake in the company's success, they are more likely to be motivated, productive, and dedicated to their roles. Stock-based compensation programs not only attract top talent but also retain and engage existing employees.

Publicly traded companies enjoy heightened visibility in the business ecosystem. This increased prominence attracts potential partners, collaborators, and customers. Business partners are drawn to the company's credibility and market presence, facilitating strategic alliances and growth opportunities.

12. **Corporate Governance Enhancements: Strengthening Oversight:** Public offerings necessitate the establishment and reinforcement of robust corporate governance practices. These practices include independent Boards of Directors, audit committees, and adherence to governance codes. Enhanced governance structures contribute to better decision-making, risk management, and accountability.

Governance Resilience: Robust corporate governance structures are essential for navigating the complexities of the public markets. They ensure transparency, ethical conduct, and responsible management practices, all of which enhance the company's resilience and long-term sustainability.

13. **Global Expansion and Market Access: A Gateway to New Horizons:** Going public can facilitate international expansion by providing the company with a global platform and increased visibility. Access to international investors and markets can open doors to new growth opportunities, partnerships, and customer bases. It enables companies to tap into the vast potential of the global economy.

Global Reach: Companies that go public gain access to a global pool of investors and customers. This can be particularly advantageous for companies with products or services that have international appeal. The ability to tap into global markets can drive substantial growth.

14. **Continuous Capital Raising: Fueling Ongoing Growth:** Beyond the initial public offering, public companies have the option to conduct follow-on offerings to raise additional capital. This ability to access capital in the public markets allows companies to seize growth opportunities, weather economic downturns, and adapt to changing market conditions. It provides an ongoing source of funds for strategic initiatives.

Strategic Agility: The ability to raise capital through subsequent offerings provides companies with the flexibility to respond to evolving market conditions. Whether it's investing in new technologies, expanding into new markets, or weathering economic challenges, public companies have a strategic advantage.

15. **Innovation and Research Investments: Driving Technological Advancements:** Public offerings empower companies to allocate resources to innovation and research and development (R&D) efforts. Investment in innovation can lead to breakthrough technologies, new products, and increased competitiveness. Companies can stay at the forefront of their industries by continuously investing in technological advancements.

Innovation Ecosystem: Publicly traded companies have the financial resources to invest in R&D and innovation. This not only drives technological advancements but also fosters an innovation ecosystem that attracts top talent and partners.

16. **Research and Development Investments: Fostering Innovation:** Public offerings provide the financial means to invest significantly in research and development (R&D) initiatives. Increased R&D spending can lead to the development of innovative products, services, and technologies that set the company apart from competitors. A strong commitment to innovation can position the company as an industry leader, attracting both customers and investors.

Innovative Advancements: A company that goes public can allocate a substantial portion of its capital to R&D. This investment fuels the creation of cutting-edge products or services, enabling the company to maintain a competitive edge and potentially disrupt its industry.

17. **Regulatory Framework for Sustainability: Environmental, Social, and Governance (ESG) Considerations:** Publicly traded companies are under greater scrutiny regarding their environmental, social, and governance (ESG) practices. The regulatory framework for sustainability is evolving, and companies that prioritize ESG initiatives may find it easier to attract socially responsible investors. Demonstrating a commitment to sustainability can enhance a company's reputation and access to capital.

Sustainability as a Competitive Advantage: In an era where sustainability is increasingly important to consumers and investors, public companies that embrace ESG principles can differentiate themselves. They can attract investors who prioritize ethical and sustainable investments, fostering long-term shareholder loyalty.

18. **Dividend Distributions: Rewarding Shareholders:** Publicly traded companies often have the option to distribute dividends to shareholders. Regular dividend payments can attract income-focused investors, such as retirees and dividend-focused funds. Dividend distributions can be a means of rewarding loyal shareholders and enhancing the company's reputation for shareholder-friendly policies.

Income Generation: Companies with stable cash flows can use dividends as a mechanism for returning

value to shareholders. This can appeal to a broader range of investors, including those seeking a steady income stream from their investments.

19. **Access to Debt Markets: Diversifying Capital Sources:** Going public can improve a company's access to debt markets, allowing it to raise additional capital through bonds or other debt instruments. Diversifying capital sources provides flexibility in funding strategies and can be advantageous during economic downturns or periods of financial stress. It offers an alternative to equity financing for specific growth initiatives.

Capital Flexibility: The ability to access debt markets can be particularly beneficial when interest rates are favourable. Companies can use debt to finance projects, acquisitions, or other strategic endeavors without diluting existing shareholders.

20. **Enhanced Brand Recognition: Building Consumer Trust:** Publicly traded companies often receive extensive media coverage and attention from financial analysts. This increased exposure can raise brand awareness and contribute to building consumer trust. A well-recognized brand can attract new customers and strengthen relationships with existing ones.

Brand as an Asset: A company's brand can become a valuable asset, influencing consumer purchasing decisions and loyalty. Publicly traded companies have the opportunity to leverage their market presence to enhance their brand and drive business growth.

21. **Long-Term Planning and Sustainability Reporting: Strategic Focus:** Publicly traded companies are encouraged to focus on long-term planning and sustainability reporting. This emphasis on strategic thinking can lead to more robust business plans and sustainable growth strategies. Investors often appreciate companies that have a clear vision for the future and are committed to responsible long-term growth.

Strategic Clarity: Public companies are expected to communicate their long-term vision and strategy to shareholders and the public. This process of strategic planning can lead to more thoughtful decision-making and a clearer path to achieving the company's objectives.

22. **Employee Stock Ownership Plans (ESOPs): Enhancing Employee Engagement:** Publicly traded companies can implement Employee Stock Ownership Plans (ESOPs) to offer employees a stake in the company. ESOPs can boost employee morale, productivity, and retention by aligning employee interests with company performance. Employees become more invested in the company's success, driving a culture of innovation and customer-centricity.

Employee Ownership Culture: ESOPs create a culture of ownership and responsibility among



employees. When employees have a direct stake in the company's performance, they are motivated to contribute to its growth and success, resulting in a more engaged and dedicated workforce.

23. **Investor Relations Programs: Building Trust and Communication:** Publicly traded companies often establish investor relations programs to engage with shareholders and the broader investment community. These programs facilitate regular communication, including earnings calls, investor presentations, and shareholder meetings. Effective investor relations can enhance trust, transparency, and alignment between the company and its shareholders.

Open Dialogue: Maintaining open and transparent communication with investors is vital for building trust. It allows companies to convey their strategic plans, address investor concerns, and provide insights into their financial performance, fostering a stronger investor-company relationship.

24. **Maturity and Stability: Establishing Credibility:** Publicly traded companies often enjoy a perception of maturity and stability in the eyes of investors, customers, and business partners. This credibility can be a valuable asset when seeking strategic partnerships, entering new markets, or negotiating business agreements. It can help attract long-term investors who prioritize stable and well-established companies.

Credibility Advantage: When considering potential business collaborations or partnerships, counterparties may perceive publicly traded companies as lower-risk and more reliable partners. This can lead to mutually beneficial agreements that drive growth and innovation.

25. **Access to Benchmark Indices: Inclusion in Investment Funds:** Companies that go public and meet specific criteria may become eligible for inclusion in benchmark stock indices. Being part of these indices can result in increased visibility and investment from index-tracking funds and exchange-traded funds (ETFs). It broadens the investor base and can lead to higher trading volumes and liquidity.

Index Inclusion Impact: When a company is included in widely followed indices like the S&P 500 or the Dow Jones Industrial Average, it becomes a staple in many investment portfolios. This can lead to increased demand for its shares, potentially driving up its stock price.

26. **Capital Allocation Discipline: Efficient Resource Management:** Publicly traded companies often face scrutiny from investors and analysts regarding their capital allocation decisions. This scrutiny encourages disciplined resource management, ensuring that capital is directed to projects and initiatives that generate the highest returns. It can result in more efficient use of funds and a focus on value creation.

Optimized Capital Deployment: Public companies are under constant pressure to allocate capital wisely. They must prioritize investments that create shareholder value, leading to a more strategic approach to resource allocation.

27. **Investor Activism: Catalyst for Change:** Publicly traded companies may encounter investor activism, where certain shareholders advocate for changes in strategy, governance, or leadership. While activism can be challenging, it can also serve as a catalyst for positive change, prompting companies to reassess their operations, governance, and long-term strategies. This can lead to improvements in performance, accountability, and shareholder value.

Activism's Influence: Investor activism can lead to necessary corporate adjustments, such as changes in board composition, capital allocation strategies, or divestitures of underperforming assets. While initially disruptive, it can ultimately enhance the company's competitiveness.

28. **Risk Mitigation and Hedging: Financial Strategies:** Publicly traded companies often have access to a broader array of financial instruments and strategies for risk mitigation and hedging. These tools can help companies manage currency risk, interest rate risk, commodity price risk, and other financial exposures. Effective risk management can protect profitability and shareholder value during volatile market conditions.

Risk Management Arsenal: Public companies can utilize financial derivatives, options, and futures contracts to hedge against various risks. This financial toolkit enhances the company's ability to navigate uncertain economic environments.

29. **Shareholder Democracy: Proxy Voting and Engagement:** Public companies engage with shareholders through proxy voting and shareholder

meetings. Shareholders have the opportunity to vote on key issues, including board elections, executive compensation, and corporate governance matters. This shareholder democracy fosters transparency, accountability, and alignment of interests between the company and its investors.

Shareholder Input: The ability for shareholders to influence key decisions through proxy voting ensures that their voices are heard. This democratic process can lead to changes that reflect shareholder preferences and expectations.

30. **Legacy and Exit Planning: Long-Term Vision:** Going public often involves long-term planning and vision for the company's legacy and eventual exit strategy. Companies can develop a roadmap for the future, considering factors such as succession planning, mergers and acquisitions, or transitioning to new leadership. This forward-thinking approach contributes to the company's sustainability and resilience.

Long-Term Legacy: Public companies can craft a legacy that extends beyond the current leadership. They can establish a framework for continuity, ensuring that the organization thrives for generations to come.

ROLE OF VARIOUS PROFESSIONALS AND STAKEHOLDERS IN INITIAL PUBLIC OFFERING (IPO)

"In the intricate ballet of an IPO, professionals and stakeholders play harmonious roles – Company Secretaries ensure the legal notes are in tune, investment bankers set the tempo, lawyers choreograph the legal steps, and auditors provide the financial rhythm. Together, they orchestrate a successful public debut that resonates with investors and shapes a company's future symphony."

In an Initial Public Offering (IPO), various professionals and stakeholders play crucial roles in the process. Among these, Company Secretaries are an important part of the team responsible for ensuring compliance and effective execution of the IPO. Here's an overview of their roles and the roles of other stakeholders in the IPO process:

Company Secretary's Role:

- **Regulatory Compliance:** Company Secretaries play a pivotal role in ensuring that the company complies with all the regulatory requirements related to the IPO. They help in drafting and filing the necessary documents with regulatory authorities such as the Securities and Exchange Board of India (SEBI) in India.
- **Corporate Governance:** They ensure that the company follows good corporate governance



practices, which is essential for gaining the trust of investors. This includes ensuring proper disclosure and transparency in financial reporting.

- **Board Support:** Company Secretaries assist the Board of Directors in understanding their responsibilities in the IPO process and ensure that board meetings and approvals are conducted as required.
- **Document Preparation:** They are involved in the preparation of various legal documents, including the prospectus, offer document, and application forms, ensuring that they contain accurate and complete information.
- **Communication:** Company Secretaries act as a bridge between the company, regulatory authorities, and investors, facilitating effective communication throughout the IPO process.

Other Key Stakeholders in IPOs:

- **Promoters:** The company's promoters are usually the driving force behind the IPO. They decide the timing, pricing, and overall strategy for going public.
- **Investment Bankers:** Investment banks underwrite the IPO and assist in setting the offering price, marketing the shares, and coordinating with regulatory bodies. They also help in selecting other professional advisors.
- **Auditors:** External auditors review the company's financial statements to ensure accuracy and compliance with accounting standards. Their audit reports provide assurance to potential investors.
- **Legal Advisors:** Legal professionals, including law firms, provide legal counsel to the company throughout the IPO process. They ensure that all legal requirements are met and handle any legal issues that may arise.
- **Financial Advisors:** Financial advisors assist in the financial planning and structuring of the IPO. They help in determining the valuation of the company and advise on financial aspects.
- **Market Regulators:** Regulatory authorities like SEBI oversee the IPO process, ensuring that it adheres to regulatory guidelines and protects the interests of investors.
- **Stock Exchanges:** Stock exchanges, where the shares will be listed for trading, play a role in reviewing the listing application and ensuring that the company meets the exchange's listing requirements.
- **Investors:** Institutional and individual investors participate in the IPO by purchasing shares. They

assess the company's prospectus and financials to make investment decisions.

- **Registrar and Transfer Agents:** These entities are responsible for handling the share application process, allotment of shares, and maintaining the share registry.
- **Rating Agencies:** Credit rating agencies may provide credit ratings for the IPO, which can influence investor perception of the company's creditworthiness.
- **Market Intermediaries:** Brokers and other market intermediaries assist in the distribution of shares to investors.

Overall, the success of an IPO depends on the collaboration and expertise of various professionals and stakeholders, including Company Secretaries, who ensure that the process is legally compliant, transparent, and well-executed. Each stakeholder has a unique role in making the IPO a successful transition from a private company to a publicly traded one.

CONCLUSION

In conclusion, the decision to go public extends far beyond the immediate financial implications. It transforms a company's strategic landscape, offering access to diverse capital sources, credibility, and opportunities for growth and innovation. Publicly traded companies must navigate investor relations, Corporate Governance, and sustainability expectations, all while optimizing resource allocation and mitigating risks. These factors collectively position them for long-term success, stability, and a legacy of innovation and responsible corporate citizenship. Public offerings have a far-reaching impact on a company's growth trajectory and stakeholder base. Beyond the immediate financial benefits, they enable companies to invest in innovation, embrace sustainability, reward shareholders, and engage employees. Access to diverse capital sources, enhanced brand recognition, and robust investor relations programs further contribute to long-term success. Public companies are better equipped to navigate the complexities of the modern business landscape, positioning themselves for sustainable growth and leadership in their industries. Public offerings are not just financial events; they are strategic imperatives for diversifying and expanding a company's stakeholder base. By accessing a broader capital market, introducing a diverse set of shareholders, and enhancing visibility, companies position themselves for resilience, adaptability, and strategic opportunities. The regulatory rigor and commitment to transparency associated with public offerings not only build trust among stakeholders but also reinforce ethical business practices. Ultimately, public offerings are transformative steps that shape a company's future trajectory and its ability to navigate the complexities of the business landscape while continually fueling growth and innovation.



IPO Frenzy: The Craze of Going Public

The multifaceted journey of Initial Public Offerings within the Indian context. The surge is ascribed to India's robust economic growth, a burgeoning middle class, and notable successes, particularly in the technology and e-commerce sectors. Regulatory reforms led by SEBI play a pivotal role in simplifying the IPO process, rendering it more accessible. Concurrently, government initiatives like 'Make in India' fuel entrepreneurial aspirations, contributing to a wave of startups opting for public listings.



CS Aashita Vishwakarma, ACS

Assistant Company Secretary
Seven Islands Shipping Limited
Mumbai, Maharashtra
aash.4345@gmail.com

INTRODUCTION

In the ever-evolving landscape of financial markets, the allure of Initial Public Offerings (IPOs) has captured the imagination of investors, entrepreneurs, and the public alike. An IPO marks a pivotal moment in a company's journey, transforming it from a privately held entity to one that is publicly traded. Recent years have witnessed a remarkable surge in IPO activity, with high-profile companies making headlines as they navigate the intricate process of going public. This surge has not only redefined the way businesses raise capital but has also become a barometer reflecting the dynamism of the global economy.

HISTORICAL PERSPECTIVE

Delving into the historical tapestry of IPOs unveils a fascinating journey that mirrors the evolution of financial markets. The roots of IPOs can be traced back to the early days of stock exchanges, where companies sought capital by issuing shares to the public.

However, it was in the 1600s with the formation of the Amsterdam Stock Exchange that a more organized market for trading stocks emerged. Over the centuries, IPOs became a conduit for funding ambitious ventures, notably during the industrial revolution. The 20th century witnessed the proliferation of IPOs, punctuated by landmark events such as the dot-com boom in the late 1990s. These historical milestones not only shaped the IPO landscape but also laid the groundwork for the fervour and excitement surrounding companies' decisions to go public in the present day.

FACTORS DRIVING THE IPO FRENZY

The IPO frenzy in India is fuelled by a confluence of factors that underscore the vibrant and dynamic nature of the country's capital markets. Firstly, robust economic growth and a burgeoning middle class have heightened investor appetite for opportunities in the equity market. Success stories of Indian companies achieving substantial valuations post-IPO, especially in the technology and e-commerce sectors, have further amplified this enthusiasm. Additionally, regulatory reforms and initiatives aimed at simplifying the IPO process, such as Securities and Exchange Board of India (SEBI) efforts to streamline listing requirements and initiatives like reducing the listing timeline, simplifying disclosure norms, and introducing the concept of anchor investors have made the IPO route more attractive for companies to go public. The government's focus on promoting startups and fostering entrepreneurship through initiatives like 'Make in India' has also contributed to the IPO surge, with numerous startups seeking public listings to scale their operations. The Indian IPO frenzy reflects a landscape where economic optimism, regulatory support, and entrepreneurial dynamism converge to create a compelling environment for companies to embrace the public markets.

THE IPO PROCESS

The IPO process in India involves a series of meticulously orchestrated steps, governed by regulatory frameworks to ensure transparency and protect investor interests. The Below are the specific steps/procedure involved for successful listing of the equity shares of a company on the stock exchanges:

a) Preparation and Due Diligence:

Before embarking on the IPO journey in India, companies engage in a comprehensive phase of preparation and due diligence. This critical stage involves a thorough examination of the company's internal operations, financial health, and adherence to regulatory requirements.

- 1. Internal Assessment:** Companies conduct a meticulous internal assessment, scrutinizing their financial records, operational processes, and overall business structure. This process aims to identify and address any potential issues that may impact the IPO.

2. **Financial Evaluation:** Rigorous financial due diligence is paramount. Companies ensure their financial statements are accurate, transparent, and comply with accounting standards. This involves scrutinizing revenue streams, expenses, assets, and liabilities.
3. **Governance Structures:** Companies review and strengthen their governance structures. This includes assessing the composition of the board, the effectiveness of internal controls, and compliance with corporate governance norms.
4. **Regulatory Compliance:** Ensuring compliance with regulatory requirements is a key facet. Companies must identify and rectify any lapses in adherence to legal and regulatory frameworks to avoid obstacles during the regulatory review process.
5. **Risk Analysis:** A comprehensive risk analysis is conducted to identify potential risks and uncertainties. Companies work to mitigate these risks or provide transparent disclosure in the IPO documents to keep investors informed.
6. **Legal Scrutiny:** Legal due diligence involves a detailed examination of contracts, agreements, and potential legal issues. This process ensures that the company is not encumbered by legal challenges that could affect its ability to go public.
7. **Technology and Operations:** Assessing the company's technological infrastructure and operational capabilities is vital. Companies need to ensure that their systems are robust enough to handle the demands of being a publicly traded entity.
8. **Preparation of IPO Documents:** Based on the findings of the due diligence process, companies prepare the necessary documents, including the DRHP. These documents provide a comprehensive overview of the company's business, financials, and risk factors.

Successful preparation and due diligence set the foundation for a smooth IPO process, instilling confidence in both regulators and potential investors. This proactive approach helps companies address issues beforehand, ensuring transparency and minimizing potential hurdles as they move forward in the IPO journey.

b) Selection of Advisors:

Engaging with experienced financial advisors, underwriters, and legal counsel is crucial. A successful transition to the public markets can be achieved by selecting seasoned advisors. These professionals play instrumental roles in guiding companies through the complexities of the IPO process, ensuring compliance with regulatory norms.

1. Financial Advisors:

Role: Provide financial expertise, valuation guidance, and assist in determining the IPO price.

Importance: Ensures that the company's valuation is aligned with market expectations, maximizing investor interest.

2. Legal Counsel:

Role: Navigate complex legal frameworks, conduct due diligence, and ensure compliance with regulatory requirements.

Importance: Helps in identifying and addressing legal issues, minimizing legal risks during the IPO.

3. Underwriters:

Role: Facilitate the offering by purchasing shares from the company and selling them to the public.

Importance: Underwriters play a crucial role in market-making, pricing, and distribution of shares, influencing the IPO's success.

4. Auditors:

Role: Conduct independent audits to validate the company's financial statements.

Importance: Builds investor trust by ensuring the accuracy and reliability of financial information.

5. Investor Relations Advisors:

Role: Develop communication strategies to engage with investors and manage relationships post-IPO.

Importance: Facilitates effective communication, fostering a positive relationship between the company and its shareholders.

6. Public Relations (PR) Firms:

Role: Craft a compelling narrative for the company, manage media relations, and enhance public perception.

Importance: Shapes the company's public image, crucial for building investor confidence and market interest.

7. Regulatory and Compliance Experts:

Role: Ensure adherence to regulatory requirements, guide the company through the regulatory approval process.

Importance: Helps in avoiding regulatory hurdles and ensures a smooth approval process with bodies like the SEBI.



8. **Technology Advisors:**

Role: Evaluate and enhance the company's technological infrastructure to meet the demands of being a publicly traded entity.

Importance: Ensures that systems are robust, secure, and can handle increased scrutiny and trading volumes.

Assembling a competent advisory team is akin to crafting a skilled crew for a voyage into uncharted waters. Each advisor brings unique expertise, contributing to the overall success of the IPO. The synergy of these professionals helps companies navigate the intricacies of the IPO process, from regulatory compliance to market positioning, ultimately maximizing the chances of a successful public debut.

c) **Filing the Draft Red Herring Prospectus (DRHP):**

The company, with the assistance of its advisors, prepares and files the DRHP with SEBI. This document provides detailed information about the company's business, financials, and the proposed IPO.

The filing of the DRHP is a pivotal stage in the IPO process, representing a formal step toward entering the stock markets. This stage involves the submission of a comprehensive document to the regulatory authorities, providing potential investors with a preliminary insight into the company's financial health, operations, and the proposed IPO.

1. **Documenting the Company's Story:** The DRHP serves as a narrative that outlines the

company's journey, detailing its business model, growth strategies, and competitive advantages. Comprehensive financial disclosures, including historical financial performance and future projections, are a key component of the document.

2. **Ensuring Regulatory Compliance:** The preparation of the DRHP involves a meticulous review to ensure adherence to the regulatory guidelines set by the SEBI. Companies must comply with SEBI's disclosure norms, governance standards, and other stipulations to safeguard investor interests.
3. **Legal Scrutiny and Due Diligence:** Legal counsel plays a crucial role in conducting due diligence to identify and address any potential legal challenges. The DRHP includes legal disclosures, risk factors, and pending litigations, offering a transparent view of the company's legal landscape.

The filing of the DRHP sets the stage for the company's foray into the public markets, providing investors with the foundational information needed to make informed decisions about participating in the IPO.

d) **SEBI Review:**

SEBI reviews the DRHP to ensure compliance with disclosure norms and investor protection regulations to validate compliance with regulatory norms. SEBI may provide feedback or seek clarifications during this stage, and the company along with its advisors must respond promptly to address SEBI's queries, providing additional information or clarification as required.

If necessary, the company makes amendments to the DRHP based on SEBI's feedback. This iterative process ensures that the document aligns with regulatory standards and effectively communicates essential information to potential investors.

e) Final Approval from SEBI:

Once SEBI is satisfied with the responses and amendments, it grants its final approval for the IPO. This approval is a green light for the company to proceed with the subsequent stages of the IPO process.

f) Pricing and Allotment Strategy Refinement:

Concurrently, the company, in consultation with underwriters and financial advisors, refines its IPO pricing and allotment strategy. The pricing of securities and the subsequent allotment process are crucial stages in the IPO journey. They determine the company's valuation, impact investor participation, and influence the funds raised. By carefully considering market conditions, financial performance, and investor sentiment, companies aim to strike a balance that maximizes capital infusion while ensuring fair and transparent distribution of shares.

In the context of an IPO, there are primarily two methods used for pricing securities: the Fixed Price Method and the Book-Building Method.

1. Book-Building Process : In a book-built IPO, the company and its underwriters assess investor demand during the subscription period to arrive at the final offer price. The company, along with its underwriters, determines a price range within which investors can bid for shares. Investors bid for shares within this range, indicating the price they are willing to pay.

Advantages:

- **Price Discovery:** The process helps discover the optimal price based on investor demand, ensuring a better alignment with market conditions.
- **Institutional Participation:** Institutional investors often prefer book-building as it accommodates their bidding preferences.

Challenges:

- **Retail Investor Involvement:** Retail investors may find the bidding process complex, potentially leading to lower participation.
- **Price Volatility:** The price range can be subject to volatility based on market dynamics and investor sentiment.

The IPO frenzy in India is fuelled by a confluence of factors that underscore the vibrant and dynamic nature of the country's capital markets. Firstly, robust economic growth and a burgeoning middle class have heightened investor appetite for opportunities in the equity market. Success stories of Indian companies achieving substantial valuations post-IPO, especially in the technology and e-commerce sectors, have further amplified this enthusiasm.

2. Fixed Price Offer: In a fixed price offer, the company decides a specific price at which all investors, both institutional and retail, can subscribe to the shares. The fixed price is often determined based on factors such as the company's financial performance, industry benchmarks, and valuation metrics.

Advantages:

- **Simplicity:** The process is straightforward, with a predetermined price that simplifies investor decision-making.
- **Retail Investor Participation:** This method can attract retail investors who may find fixed prices more accessible.

Challenges:

- **Limited Price Discovery:** The fixed price may not reflect the true market demand, potentially resulting in underpricing or overpricing of shares.
- **Less Flexibility:** The company may miss the opportunity to adjust the price based on investor appetite.

Other Considerations:

Anchor Investors: Companies may allocate a portion of shares to anchor investors before the IPO opens. These strategic investors commit to subscribing to shares at a specific price, providing an anchor for the book-building process.

Green Shoe Option: A green shoe option allows the underwriters to sell additional shares if demand exceeds expectations. It provides flexibility to meet excess demand and stabilize share prices.

Market Conditions: Both methods consider prevailing market conditions, industry trends, and peer comparisons to arrive at an appropriate valuation.



Financial Performance: The company's historical and projected financial performance is a critical factor. A company with strong financials may command a higher IPO price.

Industry and Peer Comparisons: Pricing considerations often involve analysing industry benchmarks and comparing the company's valuation with its peers.

The choice between the Fixed Price Method and the Book-Building Method depends on various factors, including the company's preference, regulatory requirements, and the target investor base. Regardless of the method chosen, the goal is to strike a balance that ensures fair pricing, maximizes capital infusion, and generates investor confidence in the company's value proposition.

g) Roadshows and Investor Outreach in the IPO Process:

Roadshows and investor outreach are integral components of the IPO process, providing companies with a platform to directly engage with potential investors where key executives present the investment proposition. This proactive interaction aims to generate interest, build confidence, and secure commitments for the IPO. These roadshows, often conducted in major financial centers, facilitate direct engagement with institutional investors.

1. Strategic Planning:

- Before embarking on roadshows, the company, along with its underwriters and advisors, strategically plans the locations, timing, and duration of the roadshow.
- Consideration is given to major financial centers, institutional investors, and regions where there is significant interest in the company.

2. Presentations and Meetings:

- Company executives, including key leadership and management, conduct presentations and meetings with potential investors.
- These interactions provide an opportunity to present the company's business model, growth strategies, financial performance, and key differentiators.

3. Q&A Sessions:

- Roadshows typically include question and answer sessions where investors can seek clarification on various aspects of the company's operations, financials, and future plans.
- This direct engagement allows for real-time communication and helps address investor concerns.

4. Showcasing Value Proposition:

- Companies use roadshows to showcase their value proposition and articulate the reasons why investors should consider participating in the IPO.
- The emphasis is on presenting a compelling investment case and demonstrating the potential for growth and profitability.

5. Gauging Investor Interest:

- Throughout the roadshow, the company and its advisors gauge investor interest and sentiment.

- This feedback is crucial for refining the IPO pricing strategy, determining the level of demand, and making necessary adjustments before the offering opens for subscription.

6. Global Reach:

- For companies with international appeal, global roadshows may be conducted to attract a diverse set of institutional investors.
- This expands the investor base and diversifies the shareholder profile.

7. Retail Investor Interaction:

- In addition to institutional investors, roadshows may include events or presentations aimed at engaging with retail investors.
- This broadens the investor base and enhances retail participation in the IPO.

8. Building Investor Confidence:

- Roadshows serve as a crucial opportunity to build investor confidence by providing transparent and detailed information.
- Companies aim to establish a positive rapport with potential investors and convey their commitment to shareholder value.

9. Feedback and Iterations:

- Feedback received during roadshows is carefully analyzed, and adjustments may be made to the IPO strategy, including pricing and marketing efforts.
- Iterations based on investor feedback help optimize the offering for maximum market reception.

Roadshows and investor outreach play a strategic role in shaping investor perceptions, establishing trust, and ultimately contributing to the success of the IPO. This direct engagement allows companies to communicate their story effectively and align their offerings with investor expectations.

h) Formal Initiation of the IPO Process:

Once SEBI grants approval and all regulatory requirements are met, the finalized DRHP is formally filed with the stock exchanges where the company intends to be listed. This filing marks the official initiation of the IPO process in the stock market, leading to the subsequent steps of book-building, allotment, and listing.

i) Opening the IPO for Subscription:

With SEBI's approval secured, the company opens the IPO for subscription. Investors, both institutional and retail, have the opportunity to subscribe to the offered shares within the specified time frame.

j) Allotment of Shares:

Once the subscription period concludes, the company in coordination with underwriters allot shares to investors. Allotment is based on factors such as the number of shares applied for by each investor, the price at which they bid, and regulatory guidelines.

k) Listing on Stock Exchanges:

Once the IPO subscription is complete, and shares are allotted, the company makes its debut on the stock exchanges. The listing marks the culmination of the IPO process, and the company's shares become tradable on the open market.

l) Post-IPO Compliance:

As a publicly traded entity, the company must adhere to continuous disclosure and compliance requirements. This involves regular financial reporting, disclosure of material events, and adherence to corporate governance standards.

Post-IPO compliance involves a set of ongoing responsibilities and regulatory obligations that a company must adhere to after its successful listing on the stock exchange. Here's a gist of key aspects related to post-IPO compliance:

1. Continuous Disclosure:

- Listed companies must provide regular updates and disclosures to the public and regulatory authorities.
- This includes financial results, material events, changes in management, and any information that may impact the company's operations or stock price.

2. Financial Reporting:

- Companies are required to submit periodic financial reports, including quarterly and annual statements.
- Adherence to accounting standards and transparent financial reporting is crucial for maintaining investor trust.

3. Corporate Governance:

- Upholding high standards of corporate governance is essential for listed entities.
- Companies must have robust governance structures, independent board members, and transparent decision-making processes.

4. Regulatory Filings:

- Compliance with regulatory filings, including those required by the SEBI and other relevant authorities, is mandatory.

- This ensures that the company is operating within the legal framework and abiding by regulatory guidelines.
- 5. Shareholding Disclosures:**
 - Changes in shareholding patterns, ownership structures, and insider trading activities must be promptly disclosed.
 - This transparency helps prevent market manipulation and ensures fair trading practices.
 - 6. Board Meetings and Resolutions:**
 - Companies are required to hold regular board meetings to discuss strategic decisions, financial performance, and other pertinent matters.
 - Resolutions passed in these meetings should be appropriately communicated to shareholders and regulatory bodies.
 - 7. Compliance Officers:**
 - Designating a compliance officer responsible for ensuring adherence to regulatory requirements is a common practice.
 - The compliance officer plays a crucial role in overseeing regulatory compliance and communication.
 - 8. Shareholder Communication:**
 - Establishing effective communication channels with shareholders is imperative.
 - Companies often conduct annual general meetings (AGMs) to provide updates, address concerns, and engage with shareholders.
 - 9. Ethical Conduct and Insider Trading Policies:**
 - Companies must implement and enforce ethical conduct policies.
 - Insider trading policies help prevent unlawful trading based on non-public information.
 - 10. Risk Management:**
 - Implementing robust risk management practices is vital to identify, assess, and mitigate potential risks.
 - Companies should disclose major risks and uncertainties in their periodic filings.

11. Adherence to Stock Exchange Rules:

Once the equity shares of the Company are listed on the stock exchanges, the Companies must comply with rules and regulations set by the stock exchange(s) where they are listed. Any non-compliance can result in penalties, fines, or even delisting.

Post-IPO compliance is an ongoing commitment that ensures transparency, accountability, and legal adherence, fostering investor confidence and maintaining the integrity of the capital markets.

m) Investor Relations and Communication:

Post-listing, effective communication with investors becomes crucial. Investor relations teams engage with stakeholders, providing updates, addressing queries, and maintaining transparent communication.

n) Market Performance Monitoring:

The company and its advisors closely monitor the market performance of its shares post-listing. This ongoing assessment helps the company navigate the dynamics of the stock market and respond to evolving investor sentiment.

CONCLUSION

The IPO process in India is a well-regulated and meticulously structured journey that requires careful planning, transparency, and adherence to regulatory guidelines. While it offers companies a significant avenue for capital infusion, it also opens doors to enhanced visibility, liquidity, and scrutiny. Navigating this process successfully requires collaboration with experienced professionals and a commitment to upholding the highest standards of corporate governance and transparency. As India continues to witness a surge in IPO activity, the process remains a vital mechanism for companies to realize their growth ambitions and for investors to partake in the nation's economic journey.

REFERENCES:

- What is the IPO process in India? :*
<https://www.mstock.com/articles/ipo-process-in-india#:~:text=The%20IPO%20steps%20in%20India,%2C%20and%20post%20DIPO%20compliance.>
- IPO Process in India:*
<https://www.indiaonline.com/knowledge-center/ipo/ipo-process-in-india>
- The ABC of IPOs in India: A Beginner's Guide:*
<https://www.adityabirlacapital.com/abc-of-money/understanding-the-ipo-process-in-india>
- About Initial Public Offerings (IPO):*
<https://www.nseindia.com/products-services/about-initial-public-offerings>
- Initial Public Offerings Laws and Regulations 2023, India:*
<https://www.globallegalinsights.com/practice-areas/initial-public-offerings-laws-and-regulations/india>
- How Can Companies Register for an IPO:*
<https://www.motilaloswal.com/blog-details/how-can-companies-register-for-an-ipo/21738>



From Hype to Action: Understanding the Dynamics of IPO Frenzies

Exploring the intricate dynamics that shape and define the phenomenon of going public as companies plunge into the journey of going public, there is a lot of enthusiasm and activity that is seen in the financial markets, commonly referred to as an IPO frenzy. There are roles of different stakeholders, viz- a viz, companies, investors, underwriters, Company Secretary and regulatory bodies, in navigating the complexities of an IPO frenzy.



CS Simranjeet Kaur, ACS

Lecturer, Amity University,
Mohali
simranjeetkaur1947@gmail.com

*“An IPO is not the end but actually the beginning.”
- Nitin Kamath, Zerodha*

INTRODUCTION

According to Oxford Learners definition, the term “frenzy” refers to the “state of great emotion or activity that is not under control”.¹ According to Merriam Webster “frenzy” means “a temporary madness”. Thus, IPO frenzy means “a state of temporary madness, heightened excitement or state of increased activity surrounding the entire process of Initial Public Offering”.

According to Regulation 2 of SEBI (ICDR) Regulations, “Initial Public Offer means an offer of specified securities by an unlisted issuer to the public for subscription and includes an offer for sale of specified securities to the public by any existing holders of such specified securities in an unlisted issuer”.² In India, the primary laws and regulations that regulate Initial Public Offerings (IPOs) are governed by the Securities and Exchange Board of India (SEBI). SEBI is the regulatory authority established with the following aim:

“...to protect the interest of investors in securities and to promote the development of, and to regulate the securities market and for the matters connected therewith or incidental thereto.”³

¹ [https://www.oxfordlearnersdictionaries.com/definition/english/frenzy#:~:text=\(plural%20frenzies\),an%20outbreak%20of%20patriotic%20frenzy](https://www.oxfordlearnersdictionaries.com/definition/english/frenzy#:~:text=(plural%20frenzies),an%20outbreak%20of%20patriotic%20frenzy)

² Regulation 2 of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018

³ Preamble of the Securities Exchange Board of India

THE KEY REGULATIONS AND GUIDELINES RELATED TO IPOs INCLUDE

- A. SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018: These regulations, commonly known as the ICDR Regulations, provide the eligibility norms and general conditions for initial public offer on the main board and also specify entities that are not eligible to make initial public offer. They specify the disclosure requirements, appointment of lead managers, other intermediaries and compliance officer.⁴
- B. Companies Act, 2013: Chapter III of the Companies Act, 2013, contains provisions with regard to IPOs. Section 24 talks about the power of SEBI to regulate issue and transfer of securities. Sections 23 of the Companies Act, 2013 provides for Public Offer and Private Placement, Section 25 specifies deemed prospectus concept, Section 26 of the aforesaid act provides for matters to be stated in Prospectus, Section 34 and 35 of the said acts specifies criminal and civil liability for mis-statement in the prospectus and Section 62 provides for further Issue of Share Capital.⁵
- C. SEBI Act, 1992: The SEBI Act provides for the establishment of the Board which is called as the Securities and Exchange Board of India (SEBI). Following is considered to be the main function of the board.
“...to protect the interest of investors in securities and to promote the development of, and to regulate the securities market and for the matters connected therewith or incidental thereto.”⁶
- D. SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015: In exercise of the powers conferred by Section 11, sub-Section (2) of Section 11A and Section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) read with Section 31 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Securities and Exchange Board of India hereby makes the following Regulations, namely:⁷-

⁴ SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018

⁵ Companies Act, 2013

⁶ Preamble of the Securities Exchange Board of India

⁷ SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015. These regulations prescribed certain norms that have to be complied with after getting listed on stock exchange.

- E. **Securities Contracts (Regulation) Act, 1956:** This act provides the legal framework for application and grant of recognition. It also talks about corporatization and demutualisation of stock exchange.⁸
- F. **Depositories Act, 1996:** The Depositories Act enumerates the rights and obligations of the depositories, participants, issuers, and beneficial owners. It provides for dematerialization of securities as IPO shares are typically issued in dematerialized form.
- G. **SEBI (Bankers to an Issue) Regulations 1994:** SEBI has regulations that define the role and conduct of bankers to an issue. They play an active role in the entire IPO process.
- H. **SEBI (Credit Rating Agencies) Regulations, 1999:** - SEBI regulations define and provides for the registration of the credit rating agencies and also specifies the eligibility criteria for the same. The credit rating agency is the one that is engaged in rating of the securities. They play a pivotal role in the IPO process.
- I. **SEBI (Merchant Bankers) Regulations, 1992:** - SEBI regulations define and lay down the process of registration for the merchant bankers and underwriters.
- J. **SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011:** - Where an IPO (Initial Public Offer) leads to a change in control or triggers an open offer, the Takeover Code regulates the acquisition of shares and change in control of listed companies.

After understanding the primary laws and regulations that regulate Initial Public Offerings (IPOs), it is pertinent to understand several factors can contribute to an IPO frenzy:

FACTORS THAT CONTRIBUTE TO IPO FRENZY

1. **Bull vs Bear and IPO Frenzy:** A bull market means “prices are up, optimism rules, and investors are smiling. Conversely, a bear market brings gloom due to falling prices.”⁹

The below mentioned factors lead to market optimism or the bullish market: -

- Compliance with corporate governance norms as enumerated under the aforesaid regulations which enhances transparency, accountability, and investor confidence. The said

Act mandates Companies to provide accurate and comprehensive disclosures in financial statements and other documents like prospectus. Transparent disclosure practices are vital for investors trust and confidence and thus it contribute to market optimism.

- Section 23 outlines the process of making public offers, providing the regulatory framework for obtaining necessary approvals.
- Section 26 matters to be stated in prospectus are enumerated. This section outlines the information that must be stated in the prospectus, emphasizing transparency and accuracy. A prospectus is stated in Section 2(70) of the Companies Act, 2013. There are two - fold requirements for a prospectus i.e., firstly, it invites subscription to, for purchase of either the shares or debentures or any other security of the issuer company and secondly, the offer is made to the public.¹⁰ The prospectus forms to be the heart and blood of the entire public issue process. Moreover, in the case of Sahara India Real Estate Corp. Ltd v. SEBI¹¹ it was held that any issuer offering the securities to public by way of prospectus must make an application on the recognized stock exchange.
- Moreover, the Sections 34 to 38 of Companies’ Act call for punishment in case there is any untrue disclosure of information in the prospectus. Companies must undergo rigorous due diligence, ensuring that all material information is presented to investors. This transparency is essential for market optimism as investors rely on accurate information for their investment decisions.
- According to Section 34 companies and their officers can be held criminally liable for misstatements in the prospectus under this section. Where a prospectus, issued, circulated or distributed, includes any statement which is untrue or misleading in form or context in which it is included or where any inclusion or omission of any matter is likely to mislead, every person who authorises the issue of such prospectus shall be liable for fraud.¹²

Provided that nothing in this Section shall apply to a person if he proves that such statement or omission was immaterial or that he had reasonable grounds to believe, and did up to the time of issue of the prospectus believe, that the statement was true or the inclusion or omission was necessary.

- Furthermore, Section 134 mandates the inclusion of the board’s report, financial statements, and other crucial information in the annual report,

^{8.} Securities Contracts (Regulation) Act, 1956

^{9.} <https://www.bajajfinserv.in/bullish-vs-bearish#:~:text=A%20bull%20market%20means%20prices,phase%20and%20why%20they%20matter.>

^{10.} Section 2(70) of Companies Act, 2013

^{11.} https://www.sebi.gov.in/sebi_data/attachdocs/1351500106870.pdf

^{12.} Section 34 of Companies Act, 2013

contributing to Corporate Governance standards and Section 177 state that during periods of economic growth, companies are often required to establish an audit committee to enhance corporate governance, as per this Section.

- The Companies Act emphasizes on shareholder protection and rights. The Act enumerates the rights of minority shareholders and mechanism for their participation in significant decision making of the company. Such protection instigates the confidence of the shareholders/investors contributing to positive bullish market.
- Under Section 241 of the Act application can be made to the Tribunal for Relief in Cases of Oppression.
- Section 245 of the said Act allows for class action suits, whereby investors can collectively seek redressal for wrongs done to them.

Furthermore, The ICDR Regulations along with other regulations enumerated above, govern the process of raising capital through IPOs. These regulations provide a roadmap for companies going public and include disclosure requirements, pricing guidelines, and other provisions.

- Regulation 24 enumerates the disclosure requirement in the draft offer document and offer document. It shall contain all material disclosures which are true and adequate to enable applicant to take informed investment decision.
- Regulation 26 provides for “Draft offer document and offer document to be available to the public”. The draft offer document filed with the Board shall be made public for comments, if any, for a period of at least twenty-one days from the date of filing, by hosting on websites of the issuer, the board, the stock exchange, where specified securities are proposed to be listed and lead manager associated with the issue.¹³ Thus the regulation provides guidelines on the allotment of securities, which in turn ensure fairness and thus preventing unjust enrichment during periods of high demand. It is the issuer and the lead manager who ensure that the offer documents are hosted on the websites and its contents are the same as the versions filed with registrar of companies, board and stock exchange.¹⁴ Thus preventing unjust enrichment.
- The regulations also state the listing norms, promoter contribution and allotment process and outlines rules with regard to underwriting of issue.

Adherence to these regulations increase the confidence in investors, assuring them that the IPO process is conducted transparently.

¹³ Regulation 26 SEBI (ICDR) Regulations

¹⁴ Regulation 26 SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018

2. **Legal Counsels and IPO frenzy:-** In the context of an IPO frenzy, legal counsels play a critical role in navigating the legal complexities associated with taking a company public. Their involvement becomes even more pronounced during periods of heightened activity and excitement in the IPO market. So, selecting the legal counsel and the advisor, the issuer is advised to adhere to certain selection criteria. The issuer has to check the independence, conflict of interest (whether or not the advisor or counsel is advising the issuer’s competitor), has relevant experience, check relationship with lead manager/ underwriters.¹⁵

Many companies have in-house counsel, the role of outside and in-house counsel would materially be different for the IPO of the issuer. The role of outside legal counsels during IPO frenzy is important as they conduct thorough due diligence to identify and address any legal issues that could impact the IPO process, drafting of the offer document and generally advising on the offering.

In-house counsel is responsible for consultation on important policy issues, such as Chinese Walls publicity issues, research guidelines and review legal documents such as mandate letters, underwriting agreement, syndicate agreement, escrow agreement, private placement agreement, confidentiality agreement etc.¹⁶

Legal counsels ensure that the company complies with all regulatory requirements related to the IPO. They work closely with regulatory bodies such as the Securities and Exchange Commission (SEC) to ensure that the company’s disclosures meet the necessary standards and that the IPO process follows legal guidelines.

After the IPO, legal counsels continue to play a role in ensuring ongoing compliance with securities laws and regulations. The role legal counsels become more essential, during IPO frenzy as there are more potential legal challenges. Their experience helps to navigate the complexities of the entire IPO process. They help in mitigating legal risks and thus safeguarding the interests of the stakeholders at large.

3. **Merchant Banker and IPO frenzy:** They are regulated by SEBI (Merchant Bankers) Regulations, 1992. According to Regulation 2 of the said regulation Merchant Banker means “any person who is engaged in the business of issue management either by making arrangements regarding selling, buying or subscribing to securities or acting as manager, consultant, adviser or rendering corporate advisory service in relation to such issue management.” Merchant Bankers play a vital role in the success of any IPO. They are often called as investment bankers or Book Running Managers or Lead Managers.¹⁷ They channelise money

¹⁵ Vivek Sadhale, Vikas Agarwal, “Legal Counsels- Role in IPO”, (2008) 83 SCL 82 (MAG)

¹⁶ Vivek Sadhale, Vikas Agarwal, “Legal Counsels- Role in IPO”, (2008) 83 SCL 82 (MAG)

¹⁷ Vivek Sadhale, Vikas Agarwal, “Role of Merchant Bankers in the IPO”, (2008) 83 SCL 82 (MAG)

from investors to the issuer company. They conduct due-diligence and finalize disclosure in the offer document. They assist the legal counsel in drafting of the offer document (prospectus), they co-ordinate with auditors on restated financials for including in the offer document. They do pre-marketing of the IPO; they publish research reports in the issuer company. They act as underwriters/ syndicate members.

The merchant banker should have the capability and the experience to handle IPO and must be able to reach a larger mass of people since today investors are located also in tier II and tier III cities.¹⁸

While big investors have access to the expert information about the issuer company, it is difficult for the retail investors to have access to such information. The primary role of a merchant banker is to act as a bridge between the issuer company and the investors. The merchant banker should have brand image in the market. The credentials of the merchant banker are very important particularly for retail investors to subscribe to the shares of the issuer company, whom they do not know.¹⁹

Many a times, companies raise the expectation level of the investors but fail to meet them. This results in investors' confidence getting shattered and consequently withdrawal of the retail investors from the markets for considerable amount of time.²⁰

It is also pertinent to note that SEBI has stricter norms with regard to the working of merchant bankers. SEBI had suspended the registration certificate of Almondz Global Securities as a merchant banker for six months for violating norms in the Initial Public Offer (IPO) of Bharatiya Global Info media. The case relates to Bharatiya Global Infomedia (BGIL) using the proceeds from its IPO in a substantially different manner from the purpose disclosed in the draft prospectus. It was alleged that Almondz, as lead manager of this IPO, prima facie failed to exercise the required due diligence.²¹

4. **Role of Company Secretary and IPO frenzy:** The role of Company Secretary is very crucial in ensuring that the company complies with all the regulatory and the legal requirements. It assists the company in maintaining good Corporate Governance practices. It also plays a crucial role in the entire IPO process; they act as the "conscience of the company".

An IPO is the process by which for the first a private company becomes public by issuing shares to the general public. It is a very significant and important aspect in the life of the company, and hence the role of Company Secretary also becomes crucial. They act

as a primary point of contact for advice and guidance in the organization. They build "firewalls" in the organization for information flow and its use.

Before the Initial Public Offering, a Company Secretary is involved in ensuring that the company coming up with IPO complies with all applicable laws and regulatory requirements. The Company Secretary assist in necessary documentation and ensures accurate record-keeping.

In the entire IPO process, there is heightened scrutiny from the regulators and potential investors and thus role of Company Secretary in navigating the legal landscape and ensuring its compliance is important.

Disclosure and transparency being the pillar of corporate governance, Company Secretary are often involved in disclosure aspect of IPO. They assist in preparing documents like prospectus wherein information with regard to company is provided to the potential investors. They ensure relevant and important information with regard to company is disclosed. They also address queries from potential investors, ensuring good Corporate Governance practices.

Thus, the Company Secretary helps in navigating the legal complexities, maintain communication with the potential investors, help in drafting prospectus, ensuring compliances and managing disclosure and transparency in the entire IPO process.

5. **Role of Auditors and IPO frenzy:** Under the Companies Act, 2013 in India, the role of auditors in the context of an Initial Public Offering (IPO) is guided by various Sections of the Act.

Section 139 outlines the procedure for the appointment of auditors by a company. For IPO-bound companies, auditors are appointed to conduct the audit of the financial statements, ensuring they are accurate and comply with accounting standards.

According to Section 143 every auditor of a company shall have a right of access at all times to the books of account and vouchers of the company, whether kept at the registered office of the company or at any other place and shall be entitled to require from the officers of the company such information and explanation as he may consider necessary for the performance of his duties as auditor.²² Auditors under this Section have a duty to report on the accounts examined by them. They are required to provide a report to the company's shareholders on various matters, including the company's financial position and adequacy of its internal financial controls. This Section also mandates the auditor to report any fraud or suspected fraud to the central government. If the Auditor fails to comply with the aforesaid provisions, they are subject to penalties. The auditors are punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

^{18.} Vivek Sadhale, Vikas Agarwal, "Role of Merchant Bankers in the IPO", (2008) 83 SCL 82 (MAG)

^{19.} Vivek Sadhale, Vikas Agarwal, "Role of Merchant Bankers in the IPO", (2008) 83 SCL 82 (MAG)

^{20.} Vivek Sadhale, Vikas Agarwal, "Role of Merchant Bankers in the IPO", (2008) 83 SCL 82 (MAG)

^{21.} <https://www.taxmann.com/research/search?searchData=initial%20public%20offer>

^{22.} Section 143, Companies Act, 2013

According to Section 177 of Companies Act, 2013, Companies required to constitute an audit committee, this Section mandates the audit committee to oversee the financial reporting process and the audit of financial statements. Auditors interact with the audit committee to discuss audit findings and related matters.

Section 210 mandates Publication of Audited Accounts in the Annual Report-

Auditors play a role in the publication of audited accounts in the annual report of the company, presenting a true and fair view of the financial position.

The role of auditors becomes especially critical during an IPO, as they contribute to building investor confidence and trust in the financial information presented by the company.

6. **Positive outcomes and IPO frenzy:** Successful IPO's and substantial returns from the said IPOs can create a domino effect, inspiring companies to go public. This chain is called as the snowball effect. For example, the case of Alibaba Group, a Chinese e-commerce and technology conglomerate, founded in 1999 by 18 people led by Jack Ma. On November 6, 2007, Alibaba.com debuted on the Hong Kong Stock exchange, raising US \$1.5 billion. By second quarter of 2007, Alibaba.com was the largest online B2B e-commerce company in China. On 18 September, 2014, Alibaba's IPO priced at US \$68, raised US \$21.8 billion for the company and investors making it the biggest U.S. IPO in history.²³ It created massive investor interest, they had a record-breaking size. Alibaba's IPO had a broader impact on global markets. The frenzy around the Alibaba's IPO showed the enthusiasm of the investors.
7. **Green Shoe Option and IPO frenzy:-** Companies that want to venture out and start selling their shares to the public have ways to stabilize their initial share prices.²⁴ One of these ways is through a legal mechanism called green shoe option.²⁵ The "green shoe option," also known as an over-allotment option, is a provision that allows the underwriters of an Initial Public Offering (IPO) to sell more shares than originally planned by the issuer.²⁶ This option provides flexibility to meet excess demand in the market, and it can be particularly relevant during periods of heightened activity and excitement in the IPO market, often referred to as an IPO frenzy.

The first issue of capital by the public limited companies is popularly known as the initial public

SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018: These regulations, commonly known as the ICDR Regulations, provide the eligibility norms and general conditions for initial public offer on the main board and also specify entities that are not eligible to make initial public offer. They specify the disclosure requirements, appointment of lead managers, other intermediaries and compliance officer.

offer or IPO.²⁷ One of the most successful and used method of initial issue of capital is through book building method, it is a process which aids in price and demand discovery. It is a mechanism where, during the period for which the book for the IPO is open, bids are collected from the investors at various prices, which are above or equal to the price of the stock. At times in order to bring stability in the prices of the stock in the market, some companies opt for an over-allotment of shares. This idea was introduced by the Green Shoe Manufacturing Co. in the 1930's. The name is, hence derived from the first offer containing an over-allotment option, underwritten by Panie, Webber, Jackson & Curtis for the Green Shoe Manufacturing Co. in October 1960.²⁸

Now the concept called Reverse Green Shoe has also come into use. A Reverse Green Shoe is a special provision in an IPO prospectus, which allows underwriters to sell shares back to the issuer. Reverse green shoe has exactly the same effect on the share price as a traditional option but is structured differently. It is used to support the share price in the event that the share price falls in the post-IPO aftermarket. In this case, the underwriter buys shares in the open market and then sells them back to the issuer, stabilising the share price.

Price stabilization under Green Shoe Option: This is how a green shoe option works:

The underwriter works as a liaison (like a dealer), finding buyers for the shares that their client is offering.

A price for the shares is determined by the sellers (company owners and directors) and the buyers (underwriters and clients);

²³ <https://www.slideshare.net/KingAbidi/ali-baba-a-case-study>

²⁴ Dibyojuoti Sarkar, "The IPO Shock Absorber- Green Shoe Option", (2009) 96 SCL 35 (MAG)

²⁵ Dibyojuoti Sarkar, "The IPO Shock Absorber- Green Shoe Option", (2009) 96 SCL 35 (MAG)

²⁶ Dibyojuoti Sarkar, "The IPO Shock Absorber- Green Shoe Option", (2009) 96 SCL 35 (MAG)

²⁷ Dibyojuoti Sarkar, "The IPO Shock Absorber- Green Shoe Option", (2009) 96 SCL 35 (MAG)

²⁸ Dibyojuoti Sarkar, "The IPO Shock Absorber- Green Shoe Option", (2009) 96 SCL 35 (MAG)



When the price is determined, the shares are ready to public trade. The underwriter has to ensure that these shares do not trade below the offering price;

If the underwriter finds that there is a possibility of the shares trading below the offering price, he can exercise the green shoe option. In order to keep the price under control, the underwriters' oversells or shorts up to 15 percent more shares than initially offered by the company.

For example, if a company decides to publicly sell 1 million shares, the underwriters can exercise their green shoe option and sell 1.15 million shares. When the shares are priced and can be publicly traded, the underwriters can buy back 15 percent of the shares. This enables underwriters to stabilize fluctuating share price by increasing or decreasing the supply of shares according to initial public demand.

If the market price of the shares exceeds the offering price that is originally set before trading, the underwriters could not buy-back the shares without incurring loss. This is where the green shoe option is useful; it allows the underwriters to buy back the shares at the offering price, thus, protecting them from the loss.

If a public offering trades below the offering price of the company, it is referred to as a 'break issue'. This can create the assumption that the stock being offered might be unreliable, which can push investors to either sell the shares they already bought or refrain

from buying more. To stabilize share prices in this case, the underwriters exercise their option and buy back the shares at the offering price and return the shares to the lender (issuer).

In an IPO frenzy, there is often a high demand for the company's shares. The green shoe option allows the underwriters to address this excess demand by issuing additional shares beyond the initially planned offering.

However, the use of the green shoe option is subject to regulatory approval, and the total number of shares issued, including the overallotment, must comply with regulatory guidelines.

Thus green shoe option means "an option of allotting equity shares in excess of the equity shares offered in the public issue as a post-listing price stabilizing mechanism"²⁹; thus it is a valuable tool during frenzy as it allows or permits the underwriters to respond to the ever changing dynamic market.

8. **IPO Grading and IPO frenzy:** Initial Public Offering (IPO) grading being optional at the inception has been made mandatory by the Securities & Exchange Board of India (SEBI) with effect from May 1, 2007. The SEBI introduced a new requirement that a firm planning to be listed in the Stock Exchange should obtain a grading of its IPO, prior to the IPO issue, from at least

²⁹ SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018

³⁰ Abhinav Kumar, Prashant Pranjali, "Blind leading the halfblind: A need for diagnosis and treatment of IPO grading process", (2013) 30 *Taxmann.com* 308

one rating agency that is registered with the SEBI. While IPO grading itself may not directly contribute to an IPO frenzy, it can play a role in shaping investor perceptions and confidence during such periods.

There are five registered Credit Rating Agencies (CRAs) in India, viz., Credit Rating Information Services of India Ltd. (CRISIL), ICRA Limited (ICRA), Credit Analysis & Research Ltd. (CARE), Fitch Ratings India Pvt Ltd. (FITCH) and Brickwork Ratings India Pvt. Ltd. (Brickworks). These CRAs are permitted by the SEBI to grade equities and equity like IPOs.³⁰

IPO grading increases investor confidence. During IPO frenzy, there is often heightened investor interest and increased participation in new stock offerings. IPO grading can provide an additional layer of information to investors, potentially boosting their confidence by offering an independent assessment of the IPO's fundamentals.

In IPO frenzy, where many companies are going public, investors may face challenges in evaluating the companies. IPO grading can come for the rescue of the investors. They serve as a tool for differentiation, helping investors identify companies with stronger fundamentals and potentially avoiding those with lower grades. But there is typically no accountability on rating agencies if the post issue scenario erodes the wealth of the investors. Therefore, if an investor follows a grade 4 recommendation (i.e. above average fundamentals) of an issue and the share crashes on the day of listing, as many cases, the investor cannot seek compensation from the rating agencies for any loss as the Credit Rating Agencies only give opinions and not guarantees.

Positive IPO grading may attract more investors and lead to higher subscription levels, especially during a frenzy when demand for new issues is high. Investors may be more inclined to participate in IPOs with favourable grades, contributing to the overall frenzy. It is pertinent to note that IPO grade is generally assigned on a five- point scale with higher score indicating stronger fundamentals and vice versa:

Grade 1- Poor fundamentals

Grade 2: Below- Average fundamentals

Grade 3: Above fundamentals

Grade 4: Above Average fundamentals

Grade 5- Strong Fundamentals

Positive IPO grading can attract media attention and positive publicity, creating additional buzz around the IPO.

It is pertinent to note that while IPO grading can provide valuable insights about the company, still investors should not rely solely on the IPO

grading. Thorough research before investing, analysis and understanding of the financial model is a critical component of making well informed investment decisions, especially during periods of frenzy.

9. Stakeholder Activism and IPO frenzy: The stakeholders who participated in an IPO may become activist stakeholders if they firmly believe that the company's post-listing performance or corporate governance practices were not meeting their expectations, this may be called as post IPO Activism. This stakeholder activism may be triggered by many factors. Factors which raise the concern of various stakeholders are as follows:

- Poor financial performance,
- Inadequate disclosure, or;
- Concerns about the company's strategic direction.

IPO frenzy can lead to a situation of activism whereby the stakeholders draw attention to various Corporate Governance norms mandated by various regulations previously discussed. This also address concerns whether the company is adequately prepared for public scrutiny. Activist stakeholders may use the IPO frenzy situation as an opportunity to scrutinize the Company's Governance norms of the company and may advice on the improvement of the same.

If a company experiences a significant drop in stock price post-IPO the stakeholders become more vocal in seeking changes to address perceived issues. This puts the company in the spotlight.

It is pertinent to note that the term IPO frenzy and stakeholder activism may initially seem disconnected, they can intersect when the performance of a newly listed company is not according to the expectations of the activist stakeholders.

CONCLUSION

Thus, process of conducting an Initial Public Offering (IPO) in India is governed by a various combination of provisions that have been discussed above. These regulations establish a comprehensive framework to regulate the issuance, allotment, and listing of securities on stock exchanges. The legal and regulatory framework for IPOs in India is designed to strike a balance between fund raising for companies and protecting the interests of various stakeholders. It reflects a commitment to accountability, transparency and good governance practices. Thus, creating a foundation for a vibrant financial market ecosystem. Companies that are seeking to go public, along with their advisors and underwriters, must navigate these provisions diligently to ensure a successful and compliant IPO journey.



Employee Stock Option Plan (ESOP) : The Finer Nuances

An Employee Stock Option Plan (ESOP) is an employee benefit plan that gives workers ownership interest in the company in the form of shares or stock of the company. One thing we should keep in mind that it is an option and it is not an obligation.



CS Ashwani Singh Bisht, ACS

Company Secretary & Compliance Officer
Bartronics India Limited
Madhapur, Hyderabad
ashwanisingh900@gmail.com

INTRODUCTION

Employee Stock option plan or Employee Stock Ownership Plan (ESOP) is an employee benefit scheme that enables employees to own shares in the company. These shares are purchased by employees at price below market price, or in other words, a discounted price.

Thus, an Employee Stock Option Plan (ESOP) is an employee benefit plan that gives workers ownership interest in the company in the form of shares or stock of the company. One thing we should keep in mind that it is an option and it is not an obligation. If employee is willing to take such an option, he/she may take it and vice versa.

Such plans are given to existing employees as reward based on tenure or on the basis of their performance. The purpose of providing ESOP is to make the employee more committed towards the company and it also helps to retain employees. In other words, ESOP motivates the employees to be committed towards the company for a long term and also take ownership of the company.

Eligible employees are required to complete a specified period with the company, as mentioned in the scheme of ESOP to claim the benefit of the ESOP. This period is called vesting period. After the completion of the vesting period the employees become eligible to purchase

the specified number of shares of the Company at pre-determined price. Generally, the duration of vesting period is one year from the date of issue/grant of options.

MEANING OF THE SPECIFIC TERMS USED

Option means: Means the option given to an employee that gives such an employee a right to purchase or subscribe at a future date, the shares offered by the company, directly or indirectly, at a pre-determined price.

Employee Stock Option: Pursuant to clause (b) of Sub Section (1) of Section 62 of Companies Act, 2013, the Company can offer shares through employee stock option to their employees if shareholders approve such scheme by way of passing special resolution subject to the conditions specified under Rule 12, of Companies (Share Capital and Debentures) Rules, 2014.

However, a Specified IFSC Public Company can offer shares through employee stock option to their employees through ordinary resolution.

Option Grantee: It means an employee having a right but not an obligation to exercise an option in pursuance of an ESOS. Regulation 2(1) (aa) of SEBI (Share Based Employee Benefits & Sweat Equity) Regulations, 2021.

Meaning of Vesting Period: The ESOP vesting period is the time frame between when employees get their ESOPs and when they are able to exercise any attached rights to options or shares. The employees are only able to obtain these shares once the ESOP vesting term has completed.

Exercise period: It means the time period which starts after the completion of vesting period within which an employee can exercise his/her right to apply for shares against the vested options in pursuance of the scheme of ESOP approved by the shareholders in general meeting by way of Special Resolution.

Exercise price: Means the price payable by an employee for exercising the options granted in pursuance of the scheme of ESOP.

FAQs**Q. What is an ESOP?**

A. Thus, we can say that 'ESOP' stands for 'Employee Stock Option Plan' which is a kind of employee benefit plan that gives employees the right to purchase shares of their employer company at a pre-determined price after a certain time period.

Q. Does the ESOP supplement the salary of an employee?

A. From the point view of monetary benefits, we can say that ESOPs are often used to supplement the salaries of employees. Instead of paying high salary, employees may be offered ESOPs, which may generate more wealth for employees if the Company is growing and generating good amount of earnings which is over and above break-even point.

Q. Is ESOP risky and having any possibility of monetary loss?

A. It may be risky, if an employee accepts ESOPs instead of a higher salary, and the organization where they are employed is not growing as per the market standards or in comparison to its competitors, ESOP may result in monetary loss.

Q. How does exercise price determine for ESOP?

A. Companies are free to decide the exercise price, which may be issued at a discount or premium but the exercise price determined by the Company shall not be less than the par value of the shares.

Q. Does it mandatory for the Company to issue and allot only fresh shares under ESOP scheme?

A. No, it is not mandatory for the company to issue and allot only fresh shares under ESOP scheme, but it may choose either option:

1. If Company is willing to issue fresh shares, it should adopt direct route to issue and allot shares under the scheme of ESOP.
2. If the Company is willing to channelize its existing share only, in such case Company should adopt Trust route to issue and allot shares under the scheme of ESOP.

Q. How are ESOP taxed in India?

A. ESOPs have dual tax effects:

1. When an employee exercises their rights and purchases company's stock.
2. When the employee sells the stock after exercising the option.

TAX TREATMENT AT THE TIME OF BUYING THE SHARES

Employees can exercise his option and purchase shares after the vesting date is over at a pre-determined price, which is usually less than the share's Fair Market Value

(FMV). As a result, the difference between the FMV and the exercise price of the share is considered a perquisite in the employee's hands and taxed at his income tax slab rate. However, in the case of new businesses, the government has softened the tax implications of ESOPs.

Employees at the start-up would not have to pay the tax on the perk in the year in which they exercise the ESOP.

TDS on ESOPs would be delayed until the sooner of the following dates:

- i. Five years from the date of the ESOP grant.
- ii. When does the employee sell the ESOP?
- iii. Date of departure from the company.
- iv. Tax treatment at the time of selling the shares.

WHEN THE EMPLOYEE SELLS THE STOCK AFTER EXERCISING THE OPTION

If the employee sells the shares, difference between the selling price and the fair market value (FMV on the date when option was exercised to acquire shares) is taxable as capital gains.

If ESOP shares are sold after 12 months of buying them, it shall be deemed as long-term capital gain. If the shares are sold before completion of 12 months from the date of buying them, the income arise shall be deemed as Short-term capital gain.

Note: - Taxation of foreign ESOPs in India is also similar, and would be taxed in India on the perquisites earned from a foreign company.

Q. Whether ESOP may be considered as a part of managerial remuneration if ESOPs are offered to the Directors?

A. If the ESOPs are offered to the Directors it is treated as perquisite and hence it becomes part of managerial remuneration under section 197 & 198 of the Companies Act, 2013.

APPLICABILITY OF VARIOUS LAWS TO ISSUE SHARES UNDER EMPLOYEE STOCK OPTION (ESOP)

1. The Companies Act, 2013 and rules made thereunder.
2. SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.
3. SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

1. PROVISIONS OF COMPANIES ACT, 2013:- Section 62 (1) (b) of Companies Act, 2013 states that where at any time, a company having a share capital proposes to increase its subscribed capital by the issue of further shares, such shares shall be offered:

Employee Stock Option Plan (ESOP) : The Finer Nuances

to employees under a scheme of employees' stock option, subject to special resolution passed by company and subject to such conditions as may be prescribed.

Such prescribed conditions are mentioned in Rule 12 of The Companies (Share Capital and Debentures) Rules, 2014.

Conditions as per the Rule 12 of The Companies (Share Capital and Debentures) Rules, 2014:

A company, other than a listed company, shall not offer shares to its employees under a scheme of employees' stock option (ESOP), unless it complies with the following requirements, namely: -

- (1) The issue of Employees Stock Option Scheme has been approved by the shareholders of the company by passing a special resolution.

Explanation: For the purposes of clause (b) of Sub-Section (1) of Section 62 and this rule "Employee" means-

- (a) A permanent employee of the company who has been working in India or outside India; or
- (b) A Director of the company, whether a whole-time Director or not but excluding an Independent Director; or
- (c) An employee as defined in clauses (a) or (b) of a subsidiary, in India or outside India, or of a holding company of the company but does not include-
 - (i) An employee who is a promoter or a person belonging to the promoter group; or
 - (ii) A Director who either himself or through his relative or through any-body corporate, directly or indirectly, holds more than ten percent of the outstanding equity shares of the company.

As per Rule 12 of the Company (Share Capital and debenture) Rules, 2014, Employees have no right to receive any dividend or to vote or in any manner or enjoy the benefits of a shareholder in respect of option granted to them, till shares are issued on the exercise of the option.

Rule 16 of The Companies (Share Capital and Debentures) Rules, 2014:

- (1) The company shall not make a provision of money for the purchase of, or subscription for, shares in the company or its holding company, if the purchase of, or the subscription for, the shares by trustees is for the shares to be held by or for the benefit of the employees of the company, unless it complies with the following conditions, namely: -

- (a) The scheme of provision of money for purchase of or subscription for the shares as aforesaid is approved by the members by passing special resolution in a general meeting;

- (b) Such purchase of shares shall be made only through a recognized stock exchange in case the shares of the company are listed and not by way of private offers or arrangements;

- (c) Where shares of a company are not listed on a recognized stock exchange, the valuation at which shares are to be purchased shall be made by a registered valuer;

- (d) The value of shares to be purchased or subscribed in the aggregate together with the money provided by the company shall not exceed five percent of the aggregate of paid up capital and free reserves of the company.

- (2) The explanatory statement to be annexed to the notice of the general meeting to be convened pursuant to Section 102 shall, in addition to the particulars mentioned in sub-rule (1) of rule 18, contain the following particulars, namely: -

- (a) The class of employees for whose benefit the scheme is being implemented and money is being provided for purchase of or subscription to shares;

- (b) The particulars of the trustee or employees in whose favor such shares are to be registered;

- (c) The particulars of trust and name, address, occupation and nationality of trustees and their relationship with the promoters, Directors or Key Managerial Personnel, if any;

- (d) The any interest of Key Managerial Personnel, Directors or promoters in such scheme or trust and effect thereof;

- (e) The detailed particulars of benefits which will accrue to the employees from the implementation of the scheme;

- (f) The details about who would exercise and how the voting rights in respect of the shares to be purchased or subscribed under the scheme would be exercised;

- (3) A person shall not be appointed as a trustee to hold such shares, if he-

- (a) Is a director, Key Managerial Personnel or promoter of the company or its holding, subsidiary or associate company or any relative of such Director, Key Managerial Personnel or promoter; or

- (b) Beneficially holds ten percent or more of the paid-up share capital of the company.

- (4) Where the voting rights are not exercised directly by the employees in respect of shares to which the scheme relates, the Board of Directors shall, inter alia, disclose in the Board's report for the relevant financial year the following details, namely: -

- (a) The names of the employees who have not exercised the voting rights directly;
- (b) The reasons for not voting directly;
- (c) The name of the person who is exercising such voting rights;
- (d) The number of shares held by or in favour of, such employees and the percentage of such shares to the total paid up share capital of the company;
- (e) The date of the general meeting in which such voting power was exercised;
- (f) The resolutions on which votes have been cast by persons holding such voting power;
- (g) The percentage of such voting power to the total voting power on each resolution;
- (h) Whether the votes were cast in favour of or against the resolution.

LISTING REGULATIONS -SEBI (SHARE BASED EMPLOYEE BENEFIT & SWEAT EQUITY) REGULATIONS, 2021

As per regulation 2(1) (J) of SEBI (Share Based Employee Benefit & Sweat Equity) Regulations, 2021:

“Employee stock option scheme or ESOS means a scheme under which a company grants stock options to its employees directly or through a trust”.

Thus, it is clear from the above definition that a Listed Company may implement the scheme of ESOS either directly or by setting up an irrevocable trust.

Provided that if the scheme is to be implemented through a trust, the same has to be decided upfront at the time of taking approval of the shareholders for setting up the scheme.

Pursuant to the regulation 3(2) of SEBI (Share Based Employee Benefits & Sweat Equity) Regulations, 2021, A company may implement several schemes as permitted under these regulations through a single trust.

Provided that such single trust shall keep and maintain proper books of account, records and documents for each scheme so as to explain its transactions and to disclose at any point of time, the financial position of each scheme and in particular give a true and fair view of the state of affairs of each scheme.

Employees eligible for ESOP: Employee who are eligible for ESOP are as under:

Employee except in relation to issue of sweat equity shares, means,

- (i) An employee as designated by the company, who is exclusively working in India or outside India; or

Employee Stock Option Plan (ESOP) : The Finer Nuances

- (ii) A Director of the company, whether a whole-time Director or not, including a Non-Executive Director who is not a promoter or member of the promoter group, but excluding an Independent Director; or
- (iii) An employee as defined in sub-clauses(i) or (ii), of a group company including subsidiary or its associate company, in India or outside India, or of a holding company of the company, but does not include—
 - (a) An employee who is a promoter or a person belonging to the promoter group; or
 - (b) A Director who, either himself or through his relative or through anybody corporate, directly or indirectly, holds more than ten percent of the outstanding equity shares of the company.

Note: Employee on probation shall also be eligible for ESOP. Employee on 3 years or 4 years contract etc. are also eligible for ESOP if they are on the payroll of the Company.

Employees/directors who are ineligible for ESOP: The following employees and Directors shall be ineligible for ESOP:

1. An employee or Director belonging to promoter or promoter group is ineligible to take part in ESOPs.
2. Any Director if he/she holds more than 10% of paid-up share capital of the Company individually or together with his relatives or Body Corporate in the company is also ineligible to take part in ESOP.

Exemption for Start-ups: - However, in case of Start-up Company, as defined in notification number GSR 180(E) dated 17th February, 2016, issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry Government of India, the conditions mentioned in (i) and (ii) shall not apply upto five years from the date of its incorporation or registration.

BENEFITS OF EMPLOYEE STOCK OPTION PLAN (ESOP)

1. Helpful to increase Productivity of the Company.
2. Helpful in attracting fresh talent.
3. Employee Retention.
4. Helpful to generate the sense of ownership among the employees.
5. Strong public image of the Company.
6. Helps to motivate the employees to perform well against their roles in the Company.
7. Employee Stock Option Scheme (ESOP) also helps the organization to maintain long lasting relationship with the employees.
8. Increases the loyalty of its Employees.

Employee Stock Option Plan (ESOP) : The Finer Nuances

9. Offers a sense of job security and satisfaction to the Employees.
10. Helps in wealth creation for the employees.
11. Helps to create motivated and committed workforce for the organization.
12. Special benefit from the point view of Company Secretaries.

ESOP also provides special benefit to the Secretarial department, if employees of the Company will also be its shareholders, there will be no difficulty to meet the quorum requirements as prescribed for AGM & EGM under the Companies Act, 2013.

WAYS TO ISSUE SHARES UNDER ESOP

There are two ways to issue and allot shares to the employees under ESOP they are as follows:

1. Direct Route and 2. Trust Route
1. **Direct Route:** It is a route where the Company issues stock options under ESOP to the eligible employees and such employees after the vesting period is over directly exercise their options and Company allots shares against options exercised by the employees. Here in this route mainly fresh issue of shares is done thus employee becomes shareholder of the Company.
2. **Trust Route:** Under this route a separate entity is created, which is called employee welfare trust and this trust keeps shares in a fiduciary position for the employees and whenever employee exercises his option, trust transfers shares to the concern employee who has exercised his options.

Note: If Company is willing to shift or change the ESOP routes from direct to Trust or Trust to direct route it can be done.

Points to keep in mind if Trust Route is adopted:

1. Under trust route existing shares and fresh issue of shares both options may be taken.
2. If trust involves secondary market acquisition, in such case acquisition limit for each financial year is 2% of paid-up equity capital. And overall limit is 5% of paid-up equity capital at any point time.
3. If trust acquire shares directly from the Company, there is no limit of acquisition.
4. In the shareholding pattern shares issued to the trust shall be shown under non promoter non-public category.
5. If scheme is over or completed and trust has still some shares with it, as per the latest provisions such extra shares may be utilized for another scheme but after taking approval from shareholders Or sell the extra shares and utilize the money received as per the options available in the trust deed.

6. Section 67 provides that a Company may give loan to buy its own shares if such shares are for the purpose of ESOP.
7. If trust takes loan from the Company to buy shares from the secondary market the loan is repaid from the proceed received by the trust as exercised price paid by the employees.
8. As in the shareholding pattern shares acquired by trust is categorized non promoter non-public category. Trustees have no power to vote on behalf of the employees against the shares held by the trust.

FEMA ASPECTS OF ESOP

If a Company grants ESOPs to its foreign employees, it has to comply the Foreign Exchange & Management Act 1999.

In the context of FEMA regulations, investment received from the foreign employee is treated as FDI;

And any investment made by the foreign employee shall be subject to the entry routes (Automatic or Approval route), Sectoral Cap, investment limits, pricing guidelines.

In case of approval route, approval from RBI is mandatory prior to the grant of such ESOP to the foreign employees. But for automatic route there is no approval required.

Note: If Indian holding company issues ESOP to employees of its foreign subsidiary, who are working in the land sharing border countries such as Pakistan, Bhutan, China, Taiwan, Nepal, Macao, Hong Kong, Myanmar etc the approval from the Reserve Bank of India is mandatory.

Forms to be filed:

In case if FEMA regulations trigger there shall be filing in two ways:

1. At the time of granting of options issuer needs to file Form ESOP Reporting Form with RBI.
2. And at the time of issue and allotment of Capital Instruments the Form FCGPR shall be filed.

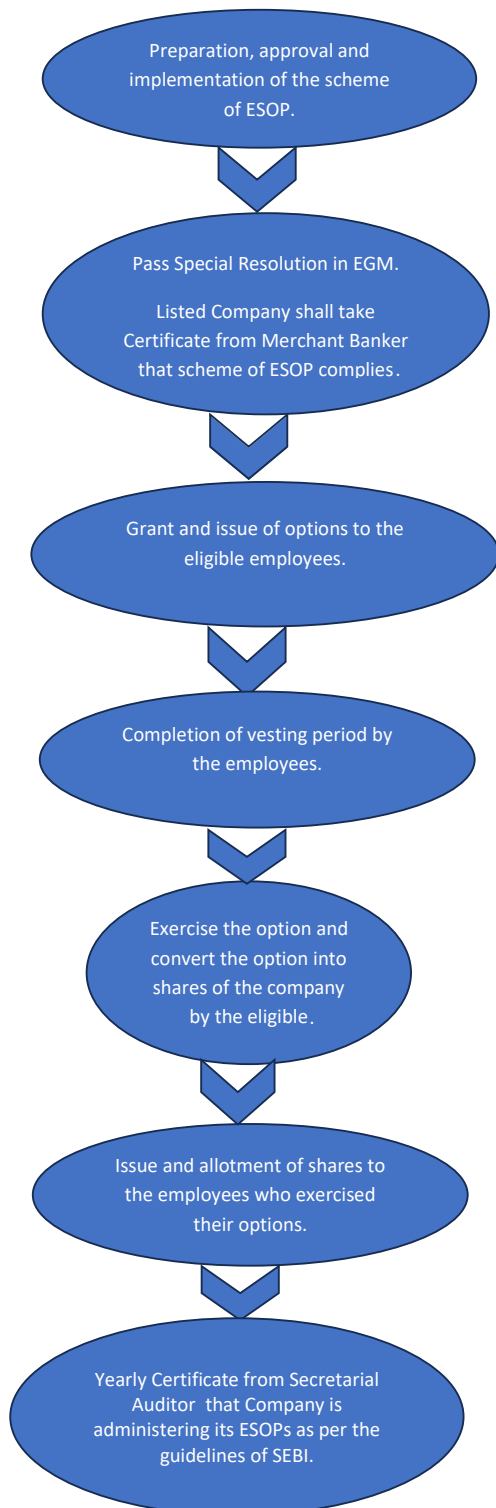
ISSUE OF ESOP

Before proceeding for Employee Stock Option Plan (ESOP) one aspect must be kept in mind, if a company plans to issue shares under the scheme of Employee Stock Option Plan (ESOP), it should ensure that the Articles of Association (AoA) authorizes for issuance of shares through ESOP. If the Articles does not authorize, the company should first hold an extraordinary general meeting to alter its Articles to include the provisions of issuance of shares through ESOP and then proceed with holding the Board Meeting for the passing of the resolution and getting the shareholder's approval for ESOP Scheme.

- Section 62(1)(b) of the Companies Act, 2013 and Rule 12 of Companies (Share Capital and Debentures) Rules, 2014 govern the issuance of Employee Stock Option Plan (ESOP) in case of Private and Unlisted Companies.

In case of Listed Companies compliance requirements as specified under the Companies Act, 2013 and SEBI (Share Based Employee Benefit & Sweat Equity) Regulations, 2021, SEBI(LODR) Regulations, 2015 and rules made thereunder must be followed.

BRIEF SNAPSHOT OF THE FLOW OF ESOP



Employees can exercise his option and purchase shares after the vesting date is over at a pre-determined price, which is usually less than the share's Fair Market Value (FMV). As a result, the difference between the FMV and the exercise price of the share is considered a perquisite in the employee's hands and taxed at his income tax slab rate.

THE PROCESS FOR ISSUING EMPLOYEE STOCK OPTIONS BY A COMPANY IS AS FOLLOWS

- Nomination & Remuneration Committee (if applicable), shall identify the employees and Directors eligible for ESOPs and shall determine the criteria for eligibility for ESOPs. (The approval of NRC committee is required. The Board may also authorize NRC to act as the Compensation Committee for the purpose of ESOPs.)
- Prepare the draft scheme of Employee Stock Option Plan (ESOP) and take valuation report issued by a Chartered Accountant or SEBI registered merchant banker.

[Private and Unlisted Companies shall comply the provisions of the Companies Act, 2013, and Listed Companies shall comply, Companies Act, 2013 + SEBI (Share Based Employee Benefit & Sweat Equity) Regulations, 2021, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and Rules made thereunder.]

- Prepare the notice for the Board Meeting along with the draft resolution to be passed in the Board Meeting and send draft notice and agenda to each Director at least 7 days in advance to each director.
- In case of Listed Company, give intimation to the Stock Exchange(s) at least two days in advance about the Board meeting in which scheme of ESOP and other details related to the ESOP shall be discussed. (excluding the day of intimation and day of meeting).
- Pass the Board resolution for the issuance of shares through ESOP, approve the draft scheme and valuation report to determine the price of shares to be issued pursuant to ESOP.
- Fix time, date and venue to convene the Extra Ordinary General Meeting to pass Special Resolution for issuing ESOP.
- Give outcome of Board meeting to Stock Exchange(s) within 30 minutes from the conclusion of the meeting.

Employee Stock Option Plan (ESOP) : The Finer Nuances

- Send the draft minutes of the Board Meeting to all the Directors within fifteen days of its conclusion and file Form MGT-14 with the Registrar of Companies for the resolutions passed in Board meeting.
- In case of Listed Company, take certificate from Merchant Banker that scheme of ESOP complies the SEBI guidelines.
- Send notice of the General Meeting, the explanatory statement to be annexed to the notice of the General Meeting to be convened pursuant to Section 102 shall, in addition to the particulars mentioned in sub-rule (1) of rule 18, contain the following particulars, namely; to all the directors, auditors, shareholders and secretarial auditors of the company at least twenty-one days in advance from the date of meeting by post or electronic means, if notice is sent by post in such case notice shall be sent still 48 hours earlier excluding the day of sending notice and day of meeting (e.g., 21 +2+2=25 days in advance).
- Convene General Meeting and pass Special Resolution for issuance of shares under the Employee Stock Option Plan (ESOP). However, a Specified IFSC Public Company can offer shares through employee stock option to their employees through ordinary resolution.
- Pass the separate Special Resolution if any employee holds upto 1% of paid-up Share Capital of the Company in any financial year and the Company still wants to give him/her Employee Stock Option.
- Give outcome of EGM/AGM to the Stock Exchange(s) within 12 hours from the conclusion of meeting.
- Disclose voting results with scrutinizer's report to Stock Exchange(s) within 48 hours from the conclusion of the meeting.
- In case of Listed Company apply for the In-Principle approval of the Stock Exchange(s) for the proposed issue of shares under the scheme of employee stock option.
- File Form MGT-14 with the Registrar of Companies within thirty days of passing the special resolution along with the necessary documents.
- Give at least two days advance intimation to the Stock Exchange(s) (Excluding the day of intimation and the day of meeting in case of Listed entity).
- Convene Board Meeting to grant options to the eligible employees and pass Board Resolution.

MAIN CONTENT/DISCLOSURE OF EXPLANATORY STATEMENT U/S 102 OF THE COMPANIES ACT, 2013, AND RULES MADE THEREUNDER

1. The total number of stock options to be granted;
 2. Identified classes of employees entitled to participate in the Employee Stock Option Scheme;
 3. The appraisal process for determining the eligibility of employees to the Employee Stock Option Scheme;
 4. The requirements of vesting and period of vesting;
 5. Maximum period within which the options shall be vested;
 6. Exercise price or the formula for arriving at the same;
 7. Exercise period and process of exercise;
 8. Lock-in period, if any;
 9. The maximum number of options to be granted per employee and in aggregate;
 10. Method which the company shall use to value its options;(Listed Company shall comply pricing requirements as prescribed in SEBI (Share Based Employee Benefit & Sweat Equity) Regulations, 2021;
 11. Conditions under which option vested in employees may lapse e.g., in case of termination of employment for misconduct;
 12. The specified time period within which the employee shall exercise the vested options in the event of a proposed termination of employment or resignation of employee; and a statement to the effect that the company shall comply with the applicable accounting standards.
- **Note:** A company may authorize its Nomination & Remuneration Committee to act as compensation committee for the purpose of ESOP.
 - Give outcome of Board Meeting to the Stock Exchange(s) within 30 minutes from the conclusion of the meeting.
 - Send options to the employees, directors and officers of the company for purchasing shares under ESOP.
 - Maintain a 'Register of Employee Stock Options' in Form No.SH-6 and enter the particulars of the ESOP granted to the employees, Directors or officers of the company.

COMPLETION OF VESTING PERIOD AND EXERCISING OF OPTIONS

- After vesting period when eligible employees exercise their options; Company is required to convene Board Meeting to allot shares under the ESOP scheme to the employees who exercised the option.



- For convening Board Meeting for allotment, if Listed Company give at least two days advance intimation to the Stock Exchange(s) (Excluding the day of intimation and the day of meeting).
- Convene Board Meeting, authorize allotment of shares under ESOP and allot shares to eligible employees who exercised the options.
- Give outcome of Board Meeting to the Stock Exchange(s) within 30 minutes from the conclusion of the Meeting.
- Company now is required to apply for Listing Approval of Stock Exchange(s) to list the shares issued under the ESOP.

Note: Here one thing is necessary to keep in mind that in case of ESOP Listing Approval is Listing cum Trading Approval and no need to apply separately for Trading Approval.

- File Form MGT-14 and PAS-3 with the Registrar of Companies within 30 days from the date of Board Resolution.
- If there is no Lock-in applicable for ESOP, employees who exercised their options are free to trade their shares in market.
- Listed Company requires to take Certificate from Secretarial Auditor that Company is administering its Scheme of ESOPs as per the SEBI guidelines.

KEY POINTS TO KEEP IN MIND WHILE EXERCISING OF OPTIONS

- If an eligible employee exercises the option, it shall not be considered as trading.
- Sale of shares acquired pursuant to exercising of ESOP, will be considered as open market trade.
- Designated persons can only sell their shares acquired pursuant to exercising the ESOP, if they have not acquired the Company's shares (Except ESOP shares) prior to six months from the date of such selling.
- Designated persons cannot sell their shares when trading window is closed.

Note: If a Listed issuer issues and allots its shares to the eligible employees through ESOP and the scheme of ESOP is executed through a trust where acquisition of shares from secondary market is involved, Company may acquire shares only upto the extent of 2% of its paid-up capital in a financial year.

Pursuant to the regulation 3(11) of SEBI (Share Based Employee Benefit & Sweat Equity) Regulations, 2021:

The total number of shares under secondary acquisition held by the trust shall at no point of time exceed the

below mentioned limits as a percentage of the paid-up equity capital of the company as at the end of the financial year immediately prior to the year in which the shareholders' approval is obtained for such secondary acquisition:

Sl. No	Particulars	Limit
A	For the schemes enumerated in Part A, Part B or Part C of Chapter III of these regulations	5%
B	For the schemes enumerated in Part D or Part E of Chapter III of these regulations	2%
C	For all the schemes in aggregate	5%

SHARE BASED EMPLOYEE BENEFIT SCHEMES UNDER SEBI (SHARE BASED EMPLOYEE BENEFIT SCHEME AND SWEAT EQUITY) REGULATIONS, 2021

1. Employee Stock Option Plan (ESOP)
2. Employee Stock Purchase Scheme (ESPS)
3. Stock Appreciation Rights Scheme (SAR)
4. General Employee Benefit Scheme (GEBS)
5. Restricted Stock Units Scheme (RUS)
6. Retirement Benefit Scheme (RBS)

RESTRICTIONS IF COMPANY DOES NOT COMPLY (MINIMUM PUBLIC SHAREHOLDING (MPS) CRITERIA/ REQUIREMENTS

If any Listed Company does not comply minimum public shareholding (MPS) criteria as prescribed under Securities (Contract and Regulation) Act, 1956 and ESOP is proposed as one of the ways to reduce promoters holding, in such case allotment of shares under ESOP pursuant to exercise of options by the eligible employees shall be limited to 2% of paid-up share capital of the Listed entity this restriction is pursuant to SEBI circular dated 3rd February, 2023:- *SEBI circular No. SEBI/HO/CFD/PoD2/P/CIR/2023/18, dated 03, February, 2023.*

ROLE OF THE COMPANY SECRETARIES WITH RESPECT TO EMPLOYEE STOCK OPTION PLAN (ESOP)

The role of Company Secretaries for issue, implementation allotment and monitoring the successful ESOP Scheme is not only limited to convening meetings of Board, Committees and the Shareholders, but also in:

- The determination of criteria of employees and members of Board of Directors eligible for employee stock option;

- Conducting due diligence;
- Preparation of scheme of employee stock option plan (ESOP);
- Providing guidance to the Board of Directors regarding various legal aspects of issuing employee stock option plans (ESOP);
- Preparing and maintaining various secretarial records relating to ESOP, e.g. ESOP Scheme, ESOP Register, minutes of Board and Committee etc;
- Preparation and filing of various e-forms with the Registrar of Companies;
- Preparation of application to get in-principle approval, listing, trading approval of Stock Exchange(s) etc.

Thus, the Company Secretary plays a vital role in the issue, implementation, allotment and monitoring of ESOP Scheme.

DISCLOSURE REQUIREMENTS IN THE BOARD REPORT

- Total number of options granted under the scheme of ESOPs.
- Details of vesting, exercise price, route of ESOPs, source of shares (Fresh issue or acquisition from secondary market).
- Material changes in the Scheme if any during the year.
- Disclosure in terms of Accounting Standards.
- Diluted EPS on issue of ESOP shares.
- Method to compute intrinsic and fair value of shares.

CONCLUSION

We have reached the end and after a lot of research and analysis on the topic of Employee Stock Option Plan (ESOP), it can now be said that the one of the best ways to reward employees, enhance profitability, generate the spirit of ownership and make employees more loyal towards the Company is issue and allotment of shares to the eligible employees under the Employee Stock Option Plan (ESOP).

Thus, it becomes a way to attract the best talent for the Company and promises stability or stable career to the employees.

REFERENCES:

Secondary data was taken from the following sources:

- <https://www.mca.gov.in/>
- <https://www.rbi.org.in/>
- <https://www.sebi.gov.in/>



2

RESEARCH CORNER



- A STUDY ON THE REASONS FOR THE SLOW PACE JOURNEY OF THE EXISTING CORPORATE DISTRESS RESOLUTION MECHANISM IN INDIA

A Study on the Reasons for the Slow Pace Journey of the Existing Corporate Distress Resolution Mechanism in India

In the years preceding the establishment of the Insolvency and Bankruptcy Code, India encountered a significant deficiency in its legal infrastructure concerning insolvency and enterprise. This dearth of a comprehensive and cohesive legal framework led to a fragmented system where different laws including the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA), the Recovery of Debts and Bankruptcy Act, 1993, and the Companies Act, 2013, governed various aspects of insolvency, including corporate insolvency, recovery, regulation, and restructuring.



Alok Kumar Kuchhal

Research Scholar,
Mewar University Gangrar,
Chittorgarh (Raj.)
akkuchhal@hotmail.com



Prof. (Dr.) Pradeep Kumar Varshney

Professor, Department of Management,
Faculty of Management and Commerce,
Mewar University, Gangrar, Chittorgarh (Raj.)
pkvarshney.aligarh@gmail.com

INTRODUCTION

In the realm of modern corporate governance and economic sustainability, the resolution of distressed entities holds paramount importance. India, as a rapidly evolving global economy, recognizes the necessity for an efficient and expeditious mechanism to address corporate distress, thereby preserving economic stability, safeguarding investor confidence, and fostering sustainable growth. However, despite the enactment of the seminal Insolvency and Bankruptcy Code, in 2016, the journey of the existing

corporate distress resolution mechanism in India has been beset by challenges, resulting in a resolution.

The corporate distress resolution framework, exemplified by the Code, is designed to be a transformative force, providing a structured and time-bound process to revive distressed companies, protect the interests of stakeholders, and optimize asset utilization. Yet, the current landscape reflects a narrative of delays and complexities, raising pertinent questions about the underlying factors impeding the timely realization of these objectives. This paper embarks on a systematic and comprehensive study to unravel the bottlenecks that contribute to the slow-paced progress of the existing corporate distress resolution mechanism in India.

Against this backdrop, this paper navigates through the loopholes in the existing corporate distress resolution mechanism in India. It explores the legislative landscape, institutional inefficiencies, examines stakeholder interests, and evaluates the impact of the existing mechanism in order to understand the underlying reasons for the slow pace of the journey. Ultimately, this research endeavour seeks to contribute to the ongoing dialogue on corporate distress resolution and provides for actionable strategies to propel the mechanism towards a more efficient and expeditious future.

RESEARCH METHODOLOGY

The present study employs a methodology grounded in secondary data analysis. It aims to systematically explore the causes of inefficiencies in the corporate distress resolution processes in India, and evaluate the impact of the Insolvency and Bankruptcy Code, 2016 on the landscape of dispute resolution mechanisms while identifying key areas primed for improvement. To achieve this, the research draws upon a combination of quantitative data sourced from the World Bank Reports, Insolvency and Bankruptcy Board of India (IBBI), National Company Law Tribunal (NCLT), as well as qualitative data from Research Journals and News Articles.

The World Bank's reports from 2014 and 2019 offer a snapshot of a country's business environment. On the other hand, the pendency of cases before different High



Courts, Supreme Courts, and Tribunals is representative of the delay in judgment delivery. This data helps in analyzing the status quo and lacunas in the resolution mechanism. In shaping the researcher's trajectory, the selected research literature is categorized into two distinct sections: before 2016 and after 2016 when IBC was introduced. This deliberate division facilitates a comprehensive evaluation of the consequential impact of IBC.

BACKGROUND

In the years preceding the establishment of the Insolvency and Bankruptcy Code, India encountered a significant deficiency in its legal infrastructure concerning insolvency and enterprise. This dearth of a comprehensive and cohesive legal framework led to a fragmented system where different laws including the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA), the Recovery of Debts and Bankruptcy Act, 1993, and the Companies Act, 2013, governed various aspects of insolvency, including corporate insolvency, recovery, regulation, and restructuring. This complex situation led to the involvement of various courts and tribunals, spanning District Courts, the Company Law Board, the Board for Industrial and Financial Reconstruction (BIFR), and the High Courts, each exercising jurisdiction at different stages of the process, wherein, while the liquidation of Companies fell under the purview of the respective High Courts, individual cases were dealt under the twin Acts, viz. the Presidency Towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920. However, these legislations and regulations operated in isolation, which eventually culminated in jurisdictional conflicts and protracted delays, thereby hampering the efficient resolution of insolvency cases.

Amidst such a complex situation, the enactment of the Insolvency and Bankruptcy Code marked a paradigm shift from the erstwhile insolvency regime in India as it

strives to maximize the value of the corporate debtor's assets while balancing the interests of all stakeholders during the process. At its core, the primary objective of the Code, is to unify and revise the laws pertaining to reorganization and resolution of insolvency for corporate entities, partnership firms, and individuals, within a specified timeframe, with the intent of maximizing the value of their assets. By consolidating disparate laws and reconciling conflicting provisions, the Code mitigated jurisdictional clashes, ushering in a more streamlined and efficient insolvency regime.

ASSESSING THE IMPACT OF THE INSOLVENCY AND BANKRUPTCY CODE SO FAR

Over the years, India's stature as a thriving hub for economic advancement has garnered global recognition. A pivotal juncture materialized in 2016, marked by the inception of the Insolvency and Bankruptcy Code, 2016 within India's legislative framework. The Code has brought with it a unified and time-bound framework for insolvency resolution, thereby providing the stakeholders with a well-defined roadmap.

The establishment of the Insolvency and Bankruptcy Board of India (IBBI), has brought with it a realm of expertise and operational efficiency into the landscape of insolvency proceedings. In tandem, while the Hon'ble NCLT benches act as the Adjudicating Authority, diligently upholding equitable and transparent resolution processes, the Board has assumed the role of the regulatory body, tasked with exercising regulatory authority over Insolvency Professionals, Insolvency Professional Agencies, and Information Utilities.

This landmark legislation has assumed the role of a prime stimulant for economic expansion, furnishing an efficient and coherent mechanism for resolving insolvencies.

In doing so, it has not only harnessed India's latent economic capabilities but also established the bedrock for sustainable growth.

An analysis of the key data pertaining to the filing, resolution, liquidation, and realizations, as presented in Table 1 hereinbelow reveals a nuanced interplay of successes and challenges within the realm of the Code over the past seven years. It is important to note that figures mentioned in Table 1 pertain to CIRPs in respect of 6566 corporate debtors, which excludes 1 corporate debtor that has moved directly from BIFR to resolution. The said figures are a compilation from the NCLT's website coupled with filing by Insolvency Professionals.

Over the years, India's stature as a thriving hub for economic advancement has garnered global recognition. A pivotal juncture materialized in 2016, marked by the inception of the Insolvency and Bankruptcy Code, 2016 within India's legislative framework. The Code has brought with it a unified and time-bound framework for insolvency resolution, thereby providing the stakeholders with a well-defined roadmap.

Table 1: Corporate Insolvency Resolution Process as on 30th June, 2023

Year/ Quarter	Admitted	Closure by				CIRPs at the end of the Period
		Appeal/ Review/ Settled	Withdrawal u/s 12A	Approval of Resolution Plan	Liquidation	
2016 - 17	37	1	0	0	0	36
2017 - 18	707	94	0	19	91	539
2018 - 19	1157	155	97	77	305	1062
2019 - 20	1988	344	217	134	540	1815
2020 - 21	537	89	162	121	350	1630
2021 - 22	890	115	177	147	344	1737
Apr - Jun, 2022	365	39	64	39	96	1864
Jul – Sep, 2022	260	49	53	45	103	1874
Oct – Dec, 2022	283	33	35	34	80	1975
Jan – Mar, 2023	347	40	43	62	121	2056
Apr – Jun, 2023	244	46	49	42	90	2073
TOTAL	6815	1005	897	720	2120	2073

Source: IBBI Quarterly Newsletter April – June, 2023

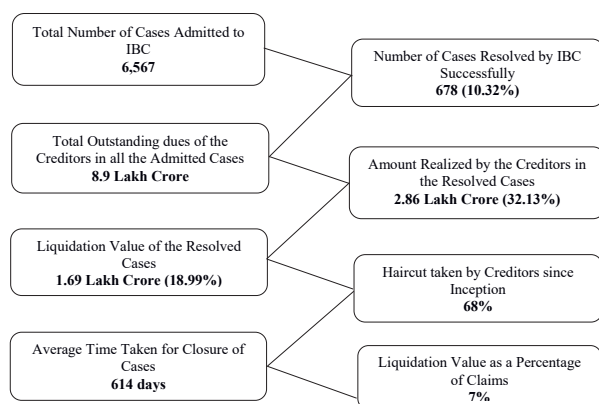
Upon analyzing the aforementioned data, a two-fold perspective unfolds. Firstly, while the number of cases admitted under the Code demonstrates a swift escalation, this ascent has not been mirrored in proportion to the rise of successfully concluded resolutions. Secondly, it is important to acknowledge that with 2120 cases resulting in liquidation, the Companies that resulted in liquidation found themselves in a position to attain a substantive closure, sparing them from being entangled in prolonged litigation or caught in a state of deadlock.

Nevertheless, it wouldn't be wrong to point out that despite several amendments and well-intentioned efforts, the Code has been facing persistent challenges. This in-depth analysis explores the inherent shortcomings of the Code and proposes measures to enhance its efficacy. As a matter of fact, approximately six months ago, Ind-Barath Energy, headquartered in Hyderabad, concluded its insolvency proceedings under the Code by successfully securing a new buyer i.e. JSW Energy, following nearly

four years of legal processes.¹ In accordance with the Code's stipulated timelines, this resolution should have ideally taken six months, or at most, a year. However, the actual outcome proved to be disheartening, with financial institutions recovering only Rs 1,047 crore out of the total dues of Rs 5,500 crore owed by the thermal power producer.

Ind-Barath is not the only case with such a delayed outcome, as a significant majority of default cases within the framework of the Code have encountered protracted delays exceeding nine months without achieving resolution. Furthermore, the primary stakeholders in these cases, predominantly financial institutions such as banks, often realize only a fraction of the total admitted claims. On an average, recoveries have hovered at approximately 34 percent of the total claims since the enactment of this transformative legislation in 2016.

¹ In the matter of M/s Ind-Barath Energy (Utkal) Ltd. [IA No. 882/2019 in CP (IB) No. 276/7/HDB/2018 dated 25th July, 2022

Figure 1: Hits and Misses – Evaluating Seven Years of Progress

In a nutshell, till the financial year 2022-23, 678 cases initiated against corporate debtors have been resolved successfully by resolution plans, wherein creditors realized Rs. 2.86 lakh crore in the said resolved cases. The Liquidation value of the assets available with the said corporate debtors, when they entered the corporate insolvency resolution process, was at Rs. 1.70 lakh crore against the total claims of the creditors worth Rs. 8.99 lakh crore. The realization to the creditors was 31.84% and 168.47% as against their admitted claims and liquidation value, respectively.

Further on, acknowledging the remarks delivered by Shri M. Rajeswar Rao, Deputy Governor, Reserve Bank of India in the International Research Conference on Insolvency and Bankruptcy, held at IIM Ahmedabad, that *another often ignored aspect relating to the impact of the Code is the credible 'threat of insolvency'*². A key metric for assessing this impact is the number of CIRP applications that are withdrawn before admission. Up until March 2023, 25,565 applications seeking initiation of CIR process, having a total underlying default of Rs. 8.23 lakh crore were withdrawn before admission³.

To sum up, the Code represents a pivotal reform that has instigated significant transformations within the insolvency framework of India. Its ongoing evolution is aligned with a promising trajectory, and it is foreseeable that, with time, the Code will yield substantial enhancements in economic efficiency and foster increased economic growth by bolstering the confidence and capacity of creditors to extend lending.

KEY BOTTLENECKS AND CHALLENGES THAT CONTRIBUTE TO THE SLOW-PACED PROGRESS

Though the Insolvency and Bankruptcy Code represents a significant growth within India's insolvency framework, however, it is an accepted axiom that a robust legal

² Resolution of Stressed Assets and Insolvency and Bankruptcy Code - Address delivered by Shri M. Rajeswar Rao, Deputy Governor, Reserve Bank of India in the International Research Conference on Insolvency and Bankruptcy held at IIM Ahmedabad on 30th April, 2022

³ IBBI Quarterly Newsletter April – June, 2023

ecosystem is always a work in progress, necessitating consistent improvements brought by insights gained and experiences garnered during the journey. Practically speaking, the Code is facing certain challenges that warrant careful consideration and resolution in a timely manner, which would otherwise have the potential to significantly fortify and invigorate the Code in a substantial manner.

As the Code enters its seventh year, the law finds itself entangled within a maze of litigation, evolving interpretations, a substantial number of amendments, contentions from various stakeholders, and evolving judicial precedents established by the Hon'ble Supreme Court. This complex landscape starkly contrasts with the intended purpose of the Code, which primarily aims to restructure and revive financially distressed Companies. It would not be wrong to state that the Code is being used as a mere revival tool, not just by operational creditors and suppliers, but also by financial creditors.

Within this context, even after the implementation of the Code, some key bottlenecks and challenges that contribute to the slow-paced progress of the existing corporate distress resolution mechanism in India are as follows:

Inadequate Infrastructure and Skilled Professionals

The successful resolution of corporate distress cases requires a robust infrastructure and a pool of skilled professionals with expertise in insolvency and restructuring matters. Persistent delays attributed to infrastructure challenges and lack of sufficient members have notably eroded the confidence of creditors in the efficacy of the process envisaged in the Code. While the Code itself is inherently robust and dynamic, it is the execution and implementation thereof where we currently encounter deficiencies. Undoubtedly, infrastructure poses a significant challenge contributing to the overwhelming backlog of cases and protracted delays in proceedings, consequently impeding the overall resolution process. Therefore, it is imperative for the Central Government to earnestly address this matter, strengthening the NCLT(s) to align with the objectives of the Code. As the number of filings continues to rise, the matter of ensuring adequate and comprehensive infrastructure assumes paramount significance.

Talking about skilled professionals, it is observed that the number of insolvency professionals has increased at an alarming rate of roughly 4300, however, the sad part is that only half of the entire lot has the authorization to be appointed in a case.

Delays and Non-Adherence to Timelines

Over the years, the dynamics surrounding the Code have considerably evolved as compared to the days of resolution seen in the matter of Essar Steel and Binani Cement, wherein banks had substantial recoveries of 90 to 100 percent, however, the adherence to prescribed timelines for the process of resolution has always posed

as a formidable hurdle during this journey. According to the stipulations of the Code, the Tribunal is expected to decide the presence of a default within a period of 14 days subsequent to receiving the insolvency application as well as the 90-day period for the submission of claims. In such stipulated time constraints, effectively harmonizing the judicial process remains an intricate challenge for the Tribunals. Nonetheless, this timeframe has frequently been extended to a span of several months. To examine the actual timelines taken up for CIRP as well as liquidation cases, the below-mentioned tables incorporate the data collated by IBBI for the quarter April – June, 2023.

Table 2: Timelines of ongoing CIRPs as on 30th June, 2023

Time Taken	Percentage of Cases
More than 270 days	65 %
More than 180 days but less than 270 days	10 %
More than 90 days but less than 180 days	15 %
Less than 90 days	10 %

Source: IBBI Quarterly Newsletter April – June, 2023

In context with the corporate insolvency resolution process, the aforesaid table depicts that as on 30th June, 2023, a majority of cases have taken a longer time period of more than 270 days for resolution of the Corporate Debtor as compared to a smaller fraction of cases wherein the corporate debtors were resolved within the stipulated time frame of 90 days.

Table 3: Timelines of Liquidation cases as on 30th June, 2023

Time Taken	Percentage of Cases
More than 2 years	37 %
More than 1 year but less than 2 years	19 %
More than 270 days but less than 1 year	5 %
More than 180 days but less than 270 days	11 %
More than 90 days but less than 180 days	19 %
Less than 90 days	9 %

Source: IBBI Quarterly Newsletter April – June, 2023

Similarly, in context with the liquidation proceedings taken place as on 30th June 2023, the aforesaid table indicates that a significant portion of these cases have been ongoing the process of liquidation for extended periods of more than 2 years. Moreover, the variation in the duration of cases highlights the complexity and variability of the liquidation process across different situations and companies.

In addition to the above, another layer of complexity emerges from instances where creditors submit objections, and the Tribunals entertain such petitions, thereby consuming a significant amount of time in deciding whether a default has taken place or not.

Procrastination in Initiating the process for CIRP of distressed assets

One of the most pressing concerns in the insolvency resolution process is the substantial lag observed in initiating proceedings by submitting an application before the Tribunal. This delay represents a pivotal bottleneck in the entire process, often leading to exacerbated financial strains on all stakeholders involved. Timely initiation of proceedings is imperative to prevent further erosion of the distressed entity's value, thereby safeguarding the interests of creditors, shareholders, and employees.

Furthermore, the progress of the insolvency resolution process has encountered a setback due to a significant legal development in *Vidarbha Industries Power Limited versus Axis Bank Limited*⁴, a case wherein the financial creditor had initiated insolvency proceedings against a defaulting power firm. The course of events took a pivotal turn with the pronouncement of the Hon'ble Supreme Court's verdict in 2022 wherein the Hon'ble Apex Court had ruled that both the NCLT and the NCLAT had misconstrued their stance by presuming that an application to initiate the resolution process as set out under Section 7 of the Code is obligatory when a corporate debtor defaults. The Supreme Court's discernment hinged on the nuanced differentiation between the terms "may" and "shall" within the context of Section 7(5)(a). This differentiation indicated that the provision is not endowed with mandatory status. In the wake of this judgment, the adjudicating bodies are now tasked with assessing not only the demonstration of default but also the intricate circumstances that led to the default.

Inefficient Implementation of Resolution Plan

Under the framework of the Code, the CoC is the highest decision-making body. A landmark judgment passed by the Hon'ble Apex Court, involved the critical question on the scope of judicial scrutiny over the commercial decision of the CoC. The Hon'ble Court had categorically held that neither the NCLT nor the NCLAT has the jurisdiction to reverse the commercial wisdom of the CoC cannot apply the commercial mind of the CoC. The CoC should set the highest levels of standards in conduct and performance, but financial creditors heading the CoC often take a long time to take a call on a resolution plan. For instance, in Reliance Capital's bidding war case, Torrent Group had emerged as the highest bidder by offering Rs 8,640 crore in December 2022. However, the CoC later decided to conduct another bidding round, in which a Hinduja Group entity emerged as the highest bidder. Notably, this matter of second bidding process was even challenged before the Hon'ble Apex court by Torrent Investments Private Limited, wherein the Court had refused to stay the order of the Hon'ble NCLAT wherein it was held that the CoC has the power to negotiate a call for a higher bid, and allowed the lenders of Reliance Capital to

⁴ Judgment dated 12th July, 2022 passed by Hon'ble Supreme Court in Civil Appeal No. 4633 of 2021.

conduct another round of auction and made it clear that the outcome of the auction would be subject to what is decided in the case⁵.

In view of the above case, it is apparent that the approach of the Banks lacks a consistent rule-based framework and tends to be ad hoc, varying from one case to another. Furthermore, challenges arise in connection with bids originating from company promoters and other competitive bidders. Ensuring the integrity of asset valuations in such scenarios becomes paramount, necessitating robust measures to insulate these valuations from their previous promoters and owners. Such individuals occasionally employ proxies with the intent of disrupting the bidding process or artificially inflating asset valuations, underscoring the importance of vigilant oversight and safeguards in this regard.

The Hon'ble Supreme Court in the case of *Ebix Singapore Private Limited v. Committee of Creditors of Educomp Solutions Limited & Anr.*⁶ has in detail given the sanctity of a Resolution Plan upholding the procedural design and sanctity of the process is critical to the functioning of the Adjudicating Authority. Delay in the approval of the resolution plan will erode the substratum of the plan itself, thus defeating its purpose. The approval of a resolution plan by the NCLT is only the first step. The Code's goal would only be met if the approved plan is properly implemented. It should be noted that the Resolution Applicants (RA) have expressed problems in implementing resolution plans due to a lack of specificity on issues resulting from previous contingent liabilities and action by investigative agencies against corporate debtors. A fair request is for appropriate support and protection for the resolution applicant from prior liabilities, which is a well-established international practice. Instances in which the resolution applicant postpones or abandons the implementation of approved resolution plans may set an unfavorable precedent. A Resolution Applicant should not be permitted to take the CoC and the resolution process to the breaking point and then fail to complete the process on time. To make sure that the overall resolution process is not jeopardized, punitive actions against such renegade or obstreperous RAs may be incorporated into the Code. However, issues such as the availability of information and past contingent liabilities, which underpin a rogue bidder's reasoning, must also be addressed.

Ineffectual Recovery of Values

IBBI stated that the primary goal of the Code is to help distressed corporate debtors. Through resolution plans, the Code has managed to rescue 678 corporate debtors (21% of completed CIRPs). Another metric used to assess the Code's effectiveness is the amount of money paid out to creditors. As of March 2023, in 678 cases where the resolution plan was sanctioned, the debtors owed a total of Rs 8.99 lakh crore out of which creditors may

be able to recover Rs 2.86 lakh crore, i.e. 32% percent. When these 678 corporate debtors entered CIRP, the value of their assets was only Rs 1.70 lakh crore⁷. In 2017, RBI instructed banks to start CIRP in the case of 12 distressed companies (referred to as Twelve Large Accounts), including Bhushan Steel, Essar Steel, and Jaypee Infratech. The resolution plan for eight of these debtors has been approved, three are still undergoing CIRP, and liquidation has been ordered for the other two as of March 2023.

ACTIONABLE STRATEGIES TO PROPEL THE MECHANISM TOWARDS A MORE EFFICIENT AND EXPEDITIOUS FUTURE OF THE CODE

With the intent to propel the Code towards a future marked by enhanced efficiency and expeditious resolution of corporate distress and insolvency, it is imperative to consider several actionable strategies that may be proposed. The fundamental objective of the Code is to establish a time-bound and effective framework for addressing and resolving such challenges. Therefore, it becomes imperative to delineate strategies that can further elevate its operational efficiency and overall effectiveness. Accordingly, the author outlines a set of proposals aimed at achieving these objectives and optimizing the Code's capacity to fulfill its intended purpose.

Number of NCLT Benches Be Enhanced

The Report by the Standing Committee on Finance for the financial year 2020-21 on "Implementation of Insolvency and Bankruptcy Code - Pitfalls and Solutions" has highlighted a critical observation that a substantial proportion of cases exceeding 71% are currently pending, surpassing the prescribed threshold of 180 days. This pattern of substantial delays signifies a noticeable departure from the intended objectives as envisioned for the Code's seamless operation. Moreover, this departure further mounts due to the prevailing delays in the appointment of new NCLT judges. Besides, an additional challenge arises from instances where a single judicial or technical member of the NCLT is assigned to preside over proceedings in multiple benches on a given day, thereby exacerbating the issue. Thus, considering the issue at hand, it would be desirable to increase the number of NCLT benches from 16 (presently) to 30, which is imperative due to the varied responsibilities of the Adjudicating Authority, who deal with a wide spectrum of cases including but not limited to mergers and acquisitions, winding up cases, competition commission matters and also provide adequate manpower to avoid adjournments. Additionally, the requirement for increasing the number of NCLT benches, in tandem with the allocation of adequate manpower, holds the promise of significantly curtailing the time taken to complete the CIR process.

⁵ *In the matter of Torrent Investments Private Limited vs. Vistra ITCL (India) Private Limited [Civil Appeal No. 1695-1698/2023] order dated 25.08.2023*

⁶ *Civil Appeal No. 3224 of 2020*

⁷ *Quarterly Newsletter of the Insolvency and Bankruptcy Board of India (January – March, 2023)*

Imperative to Enhance Efficiency and Timelines through Procedural Reforms

In order to expedite and enhance the efficiency of the protracted insolvency resolution process and mitigate delays arising from creditor objections, it is imperative to institute a series of procedural refinements. These include the early assessment of creditor objections, advocating for mediation and negotiation between parties before formal involvement of the Tribunal, and establishing well-defined criteria for the submission of documentation. Additionally, the imposition of pre-filing prerequisites and incentives designed to expedite resolutions can help to curtail the frequency of objections. Furthermore, the integration of digital technology to streamline processes and the exploration of specialized insolvency tribunals can further expedite the process. Upholding transparency in the decision-making process and ensuring accountability for any resultant delays are also fundamental tenets to maintain equilibrium and enhance the overall efficiency of the resolution process.

Moreover, to ensure timely initiation of proceedings, it is advisable to incorporate a provision within the CIRP Regulations⁸ which would mandate the timely filing of insolvency resolution applications, promptly following the classification of the borrower's account as a Non-Performing Asset (NPA). To operationalize this concern, a stipulated timeframe of 6 to 12 months for initiating the application could be prescribed in the said regulations. Such a provision holds the potential to enhance the accuracy of asset valuation of the Corporate Debtor, while significantly acting as a robust deterrent against any undue diversion of assets or funds from the Company through fraudulent means, which is anticipated to reduce the frequency of avoidance transactions.

CONCLUSION

Given India's history of distressed asset resolution, judicial capacity, and stubborn promoters; forecasting a drastic change in 2016 as a result of the Code's implementation may have been difficult. However, in the last seven years, the Code has significantly contributed to consistent improvement in India's ranking which moved up to 52 from 136 in terms of 'Resolving Insolvency' in three years in the World Bank's Doing Business Reports⁹, as IBC framework has been compared to those prevailing in better rated OECD countries. As per the Global Innovation Index (GII) 2022, India's rank improved from 111 in 2017 to 40 in 2022 in regard to 'Ease of Resolving Insolvency'¹⁰, proven to be the symbolic statute in the annals of Indian corporate law. Any legislation's jurisprudence takes time to evolve, and the Code is no exception. However, it should be noted, that delays, multiple litigations, and inconsistent and unpredictable outcomes in the courts has created a fog of uncertainty in

⁸ Insolvency and Bankruptcy Board of India (Insolvency Resolution Professional for Corporate Persons) Regulations, 2016

⁹ Press Release dated 25th November 2021 issued by the Ministry of Commerce & Industry – "Insolvency and Bankruptcy Code (IBC), 2016 a "gamechanger reform". Shri Piyush Goyal"

¹⁰ Global Innovation Index 2022 released by World Intellectual Property Organization



practice. As of March 13, 2023, a total of 21,205 cases were pending before the NCLT, with 12,963 of them relating to IBC. Approximately 3,000 cases are in the process of being resolved and liquidated, implying that 9,000 cases are awaiting admission.

Since the enactment of the Insolvency and Bankruptcy Code, India has made significant strides, but the journey ahead requires more extensive efforts. It is worth acknowledging that the roll-out of the Code coincided with the most distressed Non-Performing Asset (NPA) cycle, the nation has encountered over the past seven decades, all while lacking proportional growth in both the legal and institutional infrastructure. The absence of viable non-judicial avenues for recapitalization has shifted the Code's role primarily to that of a principal mechanism for corporate distress restructuring and reorganization, which might lead to less-than-optimal outcomes.

As India continues its journey towards becoming a more robust and investor-friendly economic destination, the effective functioning of the Insolvency and Bankruptcy Code stands as a linchpin in this transformation. In order to elevate outcomes and empower the Code to fulfill its intended objectives, enhancing capacity across the entire spectrum is unquestionably imperative. While the Code and its associated stakeholders will continue evolving, it's essential to fortify the insolvency framework against detrimental trends to preserve the robustness, integrity, and effectiveness of the bankruptcy system. In addition, a stringent focus on adhering to established timelines and providing post-approval implementation support in the foreseeable future will propel India's insolvency landscape toward its next developmental phase. By heeding the lessons learned from this study and implementing the necessary reforms, India can aspire to have a corporate distress resolution framework that not only accelerates the recovery process but also fosters a conducive environment for entrepreneurship, investment, and sustainable economic growth. This journey toward a more agile and responsive corporate insolvency regime is a shared responsibility and a crucial step in India's ongoing economic evolution.

3

LEGAL WORLD



-
- ZENITH STEEL TUBES & INDUSTRIES & ANR v. SICOM LTD [SC]

 - JUBIN KISHORE THAKKAR v. PHOENIX ARC PVT. LTD. & ANR [NCLAT]

 - STERLITE PORTS LIMITED & ORS v. REGIONAL DIRECTOR (SOUTHERN REGION) [NCLAT]

 - NORTHEASTERN CHEMICALS INDUSTRIES (P) LTD v. ASHOK PAPER MILL (ASSAM) LTD & ANR [SC]

 - SUMAN INTERNATIONAL & ANR v. MAHENDRA GULWANI & ANR[DEL]

 - DEEPAK KUMAR v. AIR INDIA LTD & ANR [CCI]

 - ULTRATECH CEMENT LTD v. COMPETITION COMMISSION OF INDIA & ANR [DEL]

 - SANJAY KAURA v. AIR INDIA LIMITED[Del]

 - DELHI TRANSPORT CORPORATION v. BALWAN SINGH [DEL]



Corporate Laws

Landmark Judgement

LMJ 01:01:2024

ZENITH STEEL TUBES & INDUSTRIES & ANR v. SICOM LTD [SC]

Appeal (Civil) No. 5347 of 2007

Altamas Kabir & B. Sudershan Reddy, JJ. [Decided on 21/11/2007]

Equivalent citations: (2008) 141 Comp Cas 428; (2008) 82 CLA (Snr) 10

SICA- recovery of loan by financial institution-borrower company became sick- could the guarantor be proceeded- divergent view of the courts- Supreme court referred the issue to the larger bench.

Brief facts:

The core issue involved in this appeal was whether, in a proceedings against a sick company, its director who stood as guarantor could be proceeded, as the company was under moratorium under Section 22 of the SICA.

Decision: Referred to larger bench.

Reason:

In the decisions of this Court cited before us, two divergent views have been expressed in respect of the same issue involved in this appeal. In the other decisions, this Court had no occasion to go into the said issue which involved the interpretation of the Section 22(1) of the SICA in respect of either proceedings or suits respectively. In *Kailash Nath Agrawals case* (supra) this Court has taken the view that the legislature appears to have knowingly used two different expressions in Section 22(1) of SICA, namely, proceeding in the first part and the expression suit in the second part and the protection of Section 22 extended to guarantors in respect of suits alone and the use of the expression proceeding could not be extended to include suits as well nor could the expression suit be extended to include the expression proceeding also. On the other hand, in *Paramjeet Singh Pathejas case* (supra) it was held that the expression suit which extends the protection of Section 22(1) to guarantors, would have to be interpreted to include proceeding also, in view of the intention of the legislature to protect sick industrial companies where references were pending before the BIFR. It is also evident from the decision in *Paramjeet Singh Pathejas case* (supra) that the views expressed in *Kailash Nath Agrawals case* (supra) had not been

brought to the notice of the learned Judges who decided the matter. Even if we are inclined to agree with one of the two interpretations, the anomalous situation will continue since the decisions are that of coordinate Benches.

In such circumstances, we consider it fit and proper that the matter should be referred to a larger Bench to resolve the existing anomaly resulting from the different views expressed in the two above-mentioned cases.

Accordingly, the Registry is directed to place this matter before the Hon'ble Chief Justice of India for appropriate orders in the light of what has been stated hereinbefore.

LW 01:01:2024

JUBIN KISHORE THAKKAR v. PHOENIX ARC PVT. LTD. & ANR [NCLAT]

Company Appeal (AT) (Insolvency) No.273 of 2023

Ashok Bhushan & Arun Baroka.[Decided on 22/12/2023]

Insolvency and Bankruptcy Code, 2016- CIRP under section 7- corporate debtor was a borrower to the bank – declared NPA in the year 2015- assignment of debt to financial creditor by bank in the year 2018 - fresh letter of acceptance signed by the financial creditor and the corporate debtor in the year 2019 - CIRP initiated by financial creditor in the year 2021- NCLT admitted the petition - whether petition time barred-Held,No – whether admission of the petition correct-Held, Yes.

Brief facts:

This Appeal has been filed against order dated 24.02.2023 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench-IV by which order Section 7 application filed by the Respondent No.1- Financial Creditor has been admitted. The Appellant, Suspended Director of the Corporate Debtor aggrieved by the admission has come up in this Appeal. Brief facts of the case necessary to be noticed for deciding this Appeal are:

- i. A consortium of Bank extended various financial facility to the Corporate Debtor in the year 2002.
- ii. The account of Corporate Debtor was declared NPA by Bank of India on 31.03.2015.
- iii. On 16.09.2016, Bank of India issued Recall Notice to the Appellant recalling monies payable by the Corporate Debtor under the various credit facilities.
- iv. On 22.11.2018, Bank assigned the debt along with all underlying security interest under the Deed of Assignment to the Respondent No.1.
- v. Letter of acceptance was issued on 24.04.2019 and an agreement was entered under which the Corporate Debtor was to repay the amounts payable to the Financial Creditor.
- vi. On 01.11.2021, Section 7 application was filed by the Respondent No.1.

- vii. On 26.09.2022, Consent Terms were entered between the Corporate Debtor and the Financial Creditor in the proceedings before Debts Recovery Tribunal.
- viii. By order dated 24.02.2023, the Adjudicating Authority finding debt and default admitted Section 7 application. Aggrieved by which order this appeal has been filed.

Decision: Dismissed.

Reason:

We have considered the submissions of learned counsel for the parties and perused the record.

There is no doubt that date of default has been mentioned as 31.03.2015 on which date the account of Corporate Debtor was declared as NPA, however, the Letter of Acceptance dated 24.04.2019 has also been pleaded in Part IV, as noticed above. The Adjudicating Authority in the impugned order has noticed the DRT Consent Terms dated 26.09.2022 and observed that fresh period of limitation shall start, hence the objection on the ground of limitation have no merit.

In Para 13 of the Adjudicating Authority two documents have been noticed; Consent Terms dated 26.09.2022 and Letter of Acceptance dated 24.04.2019. We are of the view that in so far as Consent Terms dated 26.09.2022 and fresh period of limitation thereafter, they have no relevance in the present application which was filed in the year 2021. However, the later part of the order where Letter of Acceptance dated 24.04.2019 has been noted is relevant for the purpose of limitation. Letter of Acceptance dated 24.04.2019 issued by Respondent No.1, Financial Creditor has been filed at page 493 of the appeal. The Letter of Acceptance has been signed by the Financial Creditor and the Directors of the Corporate Debtor including the Appellant before us. The Letter of Acceptance is in the nature of agreement which is signed by all parties and amounts to fresh agreement between the parties. This fresh agreement acknowledges the debt of Rs.106,97,76,398.83/- along with interest. The Letter of Acceptance further provides that the Obligors shall jointly and/or severally to pay Rs.43,89,46,000/- along with interest towards the settlement of assigned debt due. The Letter of Acceptance which is an agreement between the parties shall give a fresh period of limitation after 24.04.2019, which is within three years of 01.11.2021, date on which Section 7 application was filed.

In view of the law laid down by the Hon'ble Supreme Court (in *Kotak Mahindra Bank Ltd. vs. Kew Precision Parts (P) Ltd.*, (2022) 9 SCC 364), there shall be fresh period of limitation from 24.04.2019 and the application filed by the Appellant within three years from the said date was well within time. The Adjudicating Authority in Para 13 has also noticed the Letter of Acceptance dated 24.04.2019 for holding that objection on ground of limitation does not have any merit. We fully concur with the view of the Adjudicating Authority that objection raised on the ground of limitation has no merit.

In the present case, there is no dispute to the debt and default there being acknowledgments by the Corporate

Debtor. We have also noticed that in this Appeal several opportunities were taken by the Appellant to settle the debt which could not fructify. We, thus, are of the view that application filed by the Financial Creditor was not barred by time and the debt and default being proved, the Adjudicating Authority did not commit any error in admitting Section 7 application. There is no merit in the Appeal. Appeal is dismissed.

LW 02:01:2024

STERLITE PORTS LIMITED & ORS v. REGIONAL DIRECTOR (SOUTHERN REGION) [NCLAT]

Company Appeal (AT) (CH) No. 99 of 2023/(IA No. 1262 / 2023)

Rakesh Kumar Jain & Shreesha Merla. [Decided on 21/12/2023]

Companies Act, 2013- Sections 230-232 – scheme of amalgamation- Mumbai NCLT allowed the scheme with appointed date 01.10.2020 (on transferee's petition)- Chennai NCLT allowed the scheme with appointed date 01.10.2022 (transferor's petition) - whether tenable-Held, No.

Brief facts:

This Appeal was filed by the Appellants (Transferor Company), aggrieved by the Order NCLT- Chennai Bench in the amalgamation petition filed by them. The Mumbai -NCLT had allowed the amalgamation petition filed by SESA Mining Corporation Limited (Transferee Company) with the appointed date being 01.10.2020 as mentioned in the Scheme. However, the NCLT-Chennai while sanctioning the Scheme, modified the Appointed Date to 01.10.2022 as against the Appointed Date of 01.10.2020, as stated in the Scheme approved by NCLT, Mumbai.

Decision: Allowed.

Reason:

The brief point which falls for consideration in this Appeal is whether the NCLT was correct in fixing the Appointed Date to 01.10.2022, while allowing the Chennai Second Motion Petition and sanctioning the Scheme, when the NCLT - Mumbai, had sanctioned the Scheme filed by the Transferee Company with the Appointed Date of 01.10.2020.

It is not in dispute that the NCLT, Mumbai had already sanctioned the Scheme with the Appointed Date of 01.10.2020, vide Order dated 06.06.2022. In the IA filed on 31.03.2023, the Appellants had sought for rectification of the Appointed Date to 01.10.2020, which was dismissed on the ground that NCLT did not have the power to review its own order. It is seen from the record that the Appointed Date as per the Scheme is 01.10.2020 and the same is within a period of one year from the date of filing of the Application for Approval of the Scheme with NCLT i.e., 29.09.2021.

At this juncture, it is relevant to rely on the Judgment of this Tribunal, *Accelyst Solutions Private Limited* reported in *2021 SCC OnLine NCLAT 548*, in which matter, this Tribunal placed reliance on the Judgment of the Hon'ble

Apex Court in *Miheer H. Mafatlal v. Mafatlal Industries Limited.*, (1997) 1 SCC 579, in which case, the Court had laid down the broad contours of the jurisdiction of the Company Court in granting a sanction to the Scheme.

It is held by this Tribunal in the aforementioned *Accelyst Solutions Private Limited* (supra), that the settled legal position, while exercising its power in sanctioning a Scheme of Amalgamation, the Courts / Tribunal has to examine as to whether, the Provision of Statute has been complied with. The Courts / Tribunal would have no further jurisdiction to sit in Appeal over the Commercial Wisdom of the Shareholders of the Company.

In the instant case, apart from the fact that NCLT - Mumbai, had already fixed the Appointed Date of the Scheme as 01.10.2020, the date of filing of the Application for Approval of the Scheme with NCLT - Chennai is 29.09.2021 and therefore is within a period of one year, and hence, attracts Clause 6(c) of the MCA General Circular No. 09/2019 dated 21.08.2019.

Additionally, NCLT has the discretion to fix the Appointed Date which could be beneficial to the interests of the Company, which in the instant case ought to have been fixed at 01.10.2020 as having two different Appointed Dates, would render the Scheme unworkable. The NCLT has powers under Rule 11 of the NCLT Rules, 2016, to fix the Appointed Date, which would be beneficial to the Scheme of Amalgamation.

For all the foregoing reasons, this Company Appeal is allowed and the Orders of the National Company Law Tribunal, Chennai, dated 22.03.2023 and 09.10.2023 are set aside.



General Laws

LW 03:01:2024

NORTHEASTERN CHEMICALS INDUSTRIES (P) LTD v. ASHOK PAPER MILL (ASSAM) LTD & ANR [SC]

Civil Appeal No. 2669 of 2013

Abhay S. Oka & Sanjay Karol,JI. [Decided on 11/12/2023]

Limitation Act ,1963 read with Jogighopa (Assam) Unit of Ashok Paper Mills Limited (Acquisition Transfer of Undertaking) Act, 1990- delay in filing claim for interest-whether provisions of the Limitation Act applicable-Held, Yes.

Brief facts:

The issue involved in the present case is with respect to interest payable and the impact of the limitation act and the Jogighopa Act to the claim of interest.

The questions to be determined in this lis were:

- Whether Article 116 of the Limitation Act, 1963, applies to proceedings under the Jogighopa (Assam) Unit of Ashok Paper Mills Limited (Acquisition Transfer of Undertaking) Act, 1990?
- Contingently, if the Limitation Act does not apply then, in the absence of Limitation being placed within the text of the Statute in question, could the Appeal filed against the Order of the Commissioner of Payments be held as maintainable having been filed after a period of nearly three years from the said order?

Decision: Allowed.

Reason:

Having come to the conclusion as above, we are required to consider, whether the instant appeal, filed against the order of the Commissioner of Payments is maintainable or not?

Prior to delving into such a question, we would also need to examine as to whether in the absence of an expressly prescribed limitation, can an appeal from an order passed by the Commissioner of Payments, be entertained, irrespective of passage of time?

This dispute concerns the exercise of a statutory right. The issue of no express limitation being provided in regard to the exercise of a right to assail the order has captured the attention of this Court, earlier, on certain occasions.

In light of above discussion, it is clear that when a Court is seized of a situation where no limitation stands provided either by specific applicability of the Limitation Act or the special statute governing the dispute, the Court must undertake a holistic assessment of the facts and circumstances of the case to examine the possibility of delay causing prejudice to a party. When no limitation stands prescribed it would be inappropriate for a Court to supplant the legislature's wisdom by its own and provide a limitation, more so in accordance with what it believes to be the appropriate period. A court should, in such a situation consider in the facts and circumstances of the case at hand, the conduct of the parties, the nature of the proceeding, the length of delay, the possibility of prejudice being caused, and the scheme of the statute in question. It may be underscored here that when a party to a dispute raises a plea of delay despite no specific period being prescribed in the statute, such a party also bears the burden of demonstrating how the delay in itself would cause the party additional prejudice or loss as opposed to, the claim subject matter of dispute, being raised at an earlier point in time.

In determining the question at hand, it would also be useful to take note of the statutory scheme of the Jogighopa Act. Section 17 of the Act states that the State government or government company shall, within 30 days of the appointed day, pay in cash all amounts under Sections 8 and 9 of the Act to the Commissioner for

discharge of the liability of the company. Section 19 states that every person having a claim to payments under the schedule shall make a claim before the Commissioner within a period of 30 days from specified date. The proviso thereto states that the Commissioner also has the power to entertain claims made for an additional 30 days after the expiry of the initial period, but not thereafter. Section 20 read with the schedule, prescribes priority of payments when discharging the liabilities. As evident from the above referred to provisions, the state legislature was conscious of the aspect of limitation and has categorically therefore, prescribed periods for claims to be made so as to not leave open the possibility of a claim, indefinitely. Crucially, the legislature omitted placing any period of limitation when it came to Section 22 (8) of the Act.

When a statute, either general or specific in application, provides for a limitation within which to file an appeal, the parties interested in doing so are put to notice of the requirement to act with expedition. However, opposite thereto, in cases such as the present one where neither statute provides for an explicit limitation, such urgency may be absent. While it is still true that, as held in *Ajaib* (supra), this does not entitle parties to litigate issues decades later, however shorter delays, in such circumstances, would not attract delay and laches.

Consequent to the discussion made hereinabove, i.e., neither the general nor the specific statute providing for an appeal from an order of the Commissioner of Payments within a specified period of time, the Claimant – Appellants' appeal cannot be said to be barred by time. The same would therefore, be maintainable.

The questions raised in this appeal are answered as under:

The *Jogighopa* (Assam) Unit of Ashok Paper Mills Limited (Acquisition Transfer of Undertaking) Act, 1990, is not governed by the prescription of limitation under Article 116 of the Limitation Act, 1963, as the appeal thereunder, from an order of the Commissioner of payments cannot be said to be an appeal under the Code of Civil Procedure, 1908 for the Legislature of the State of Assam has been categorical in limiting the application of the code to certain aspects of the Act only. Given that the *Jogighopa* Act allows for a Judge of the High Court to be the Commissioner of Payments and then categorically provides for an appeal to lie therefrom, Division Bench of the High Court further evidences the sui generis nature of the appeal procedure provided therein.

In the absence of any particular period of time being prescribed to file an appeal, the same would be governed by the principle of 'reasonable time', for which, by virtue of its very nature, no straitjacket formula can be laid down and it is to be determined as per the facts and circumstances of each case. In the present lis, having regard to the sequence of events, as taken note of above-the Claimant - Appellants cannot be said to have transgressed the boundaries of reasonable time in filing their appeal before the District Judge. The appeal is allowed in the aforesaid terms.

LW 04:01:2024

SUMAN INTERNATIONAL & ANR v. MAHENDRA GULWANI & ANR[DEL]

FAO (COMM) 199/2021& CM APPL. 44021/2021

Vibhu Bakhru & Amit Mahajan ,JJ. [Decided on 14/12/2023]

Trademarks Act- competing businesses- shape of the packaging of the products is similar- whether entitled to copyright/trademark protection-Held, No.

Brief facts:

The Appellants/Defendants and Respondent No.1/Plaintiff both are engaged in the business of manufacturing confectionery items (non- medicated) including the hardboiled sugar candies, chocolates, lollipops, wafers biscuits etc.

The dispute is with respect to the shape of the package of competing products and the issue was whether copyright/trademark protection is available for the shape of the package of the products. The Trial court had allowed the protection to the Respondent/Plaintiff and restrained the Appellant/Defendant from adopting the shape of the package.

Decision: Allowed.

Reason:

The learned Commercial Court has held both packaging to be similar and held that the packaging and other features show that the appellants have copied many features of the Respondent No.1's packaging. In our opinion, the learned Commercial Court failed to give any reason or to mention as to how packaging of the parties, are held to be prima facie similar to each other.

The similarity as claimed by the respondents is that the packs for display of the product being made by the appellants, also contain the photograph of a 'Rose' and mentioning of the word 'Rose' in the packaging. It was also alleged that the top half of the packs being, transparent displaying the lollipops, is unique to the Respondent no.1's packaging.

As mentioned above, the learned Commercial Court itself held that no one can be allowed to monopolise the use of the word 'Rose'. Therefore, the same, in our opinion, will not entitle the respondents for an order of injunction. The colour scheme and the placement of words in both the packages are also different. The colour scheme being different where the appellant has used yellow colour as dominant colour of the packaging, whereas the respondent has used blue as a dominant colour in its packaging.

The arrangement of features even though if looked into on an individual basis, may appear similar but their arrangement in the packaging, are not similar so as to project a similar overall appearance of the competing packaging.

The transparent top half of the packaging for display of the product also, prima facie, appears to be commonly used by various entities for the purpose of displaying their product. The appellants have produced enough material to show that the similar kind of packaging is used by many manufacturers for selling their confectionary items. The main purpose being, to display the items for the purpose of being seen by the consumer.

There is another aspect, which cannot be ignored while considering the competing marks, that is, the words 'Rose', 'Sweet' and 'Lollipop', are essentially descriptive and indicate the kind, quality, or other characteristics of the product. Section 30(2)(a) of the Trademarks Act, 1999, categorically provides that a trademark is not infringed where the same is used in relation to goods or services indicating the kind, quality, quantity, intended purpose, value, etc of such goods or services.

It is well settled that an Appellate Court would normally not interfere with a prima facie, view of the Trial Court unless it finds that the Trial Court has exercised the jurisdiction arbitrarily, capriciously or in ignorance of the settled principle of law. In this case, we find that the learned Commercial court has erred in finding that the competing marks are similar only on the basis that shape of both the products is that of a rose flower. The learned court failed to give any reason for holding albeit prima facie that the mark / label 'SWEET ROSE LOLLIPOP' is deceptively similar to the mark 'MADHUR ROSE POP LOLLIPOP' despite holding that no one can monopolise the word 'Rose'.

In view of the above, we are of the opinion that the learned Commercial court was not correct in holding that the shape of the appellants' product being is identical to the shape of respondents' product being ; the mark 'SWEET ROSE LOLLIPOP' is deceptively similar to the trademark 'MADHUR ROSE POP LOLLIPOPS'; the packaging is deceptively similar to packaging . In view of the above, the impugned judgment is set aside.



LW 05:01:2024

DEEPAK KUMAR v. AIR INDIA LTD & ANR [CCI]

Case No. 32 of 2023

Ravneet Kaur, Anil Agrawal, Sweta Kakkad & Deepak Anurag. [Decided on 15/12/2023]

Competition Act,2002- sections 3 and 4- merger of airline entities- employee filing complaint alleging abuse of dominance and anti-restrictive agreements- whether maintainable-Held,No.

Brief facts:

The Informant is an individual who is a former pilot with Air India Limited. The OP is an airlines company operating domestic and international flights in India. In 2022, OP was acquired by Tata group. Subsequently, the Commission vide its order dated 01.09.2023 approved the merger of Tata SIA Airlines Limited into the OP, and the acquisition of certain shareholding by Singapore Airlines Limited in the OP, subject to compliance of voluntary commitments offered by the parties.

The Informant seems to be aggrieved by such merger of Tata SIA Airlines Limited and Air India Limited. As per the Informant, the same has led to an adverse impact on his career and service record. The Informant has alleged that under the garb of the said transaction, the Informant's service records have been maliciously destroyed by the OP. The Informant has also made allegations of criminal nature against certain individuals, alleging their complicity in such actions of the OP.

Based on the above, the Informant has filed the present Information seeking relief that merger of Air India Limited with any other airline or business group be not approved by the Commission.

Decision: Dismissed.

Reason:

The Informant has inter alia alleged contravention of the following provisions of the Act by the OP:

- Tata Group and the OP have formed a cartel as Singapore Airlines is trying to acquire share in the OP by concealing all material facts related to the service of the Informant.
- There exists bid-rigging in the process adopted for acquisition of Air India Limited.
- Principal Employer of the Informant i.e., the OP, is refusing to deal with the Informant.
- The OP is abusing its dominant position by (i) directly and indirectly imposing prohibitory orders upon the Informant; (ii) limiting and restricting the scientific and technical development of the Informant's career as a pilot; (iii) adopted predatory practices against the Informant; and (iv) denying him market access by withholding his service records/ not approving his flying records/ destroying his service records/ fabricating the public registers/ creating false documents, to screen the accused persons and defaming the Informant by making grave remarks about him in his removal from service records, which is not only to the prejudice of the Informant but also to the end consumers and passengers who are general public not knowing such dishonest intentions.

From the documents annexed with the Information, the Commission notes that there is no evidence placed on record by the Informant which may suggest any case of

cartelisation or bid rigging. Rather, there seems to exist an inter-se dispute relating to the service of the Informant between the Informant and the OP.

In view of the Commission, no competition issue or concern arises from the facts and allegations stated by the Informant. As such, the Commission is of the considered opinion that no prima facie case of contravention of any provisions of the Act can be made out against the OP in the present matter. Hence, the matter is directed to be closed in terms of the provisions contained in Section 26(2) of the Act.

LW 06:01:2024

ULTRATECH CEMENT LTD v. COMPETITION COMMISSION OF INDIA & ANR [DEL]

W.P.(C).No. 9854 of 2023

Subramonium Prasad, J. [Decided on 18/12/2023]

Competition Act, 2002- suo moto investigation against cement companies- builders association sought impleadment in the proceedings- CCI allowed the same- whether correct-Held, Yes.

Brief facts:

The present Writ Petition was filed under Article 226 seeking the issuance of a writ of certiorari or any appropriate writ for quashing the impugned Order passed by Respondent No.1, Competition Commission of India (CCI), allowing the impleadment application of the Respondent No. 2, Builders Association of India, in an ongoing proceeding before the CCI titled, *Suo Moto Case No. 2 of 2019*, to investigate allegations of cartelisation and price manipulations of Grey Cement Manufacturers.

Decision: Dismissed.

Reason:

An impleadment of a party even at subsequent stages, therefore, is not a conclusive effective determination of any rights and obligations of parties involved, but is merely an action effectuating the enablement of the CCI to reach an informed conclusion on the question of violations under the competition law framework in the country. This is more so relevant in the present scheme of the Competition Act, 2002, under which proceedings are in the nature of rights in rem, as seen above, thereby making the nature of the impleadment not for the benefit of the party being impleaded but rather for the benefit of the CCI to conclusively reach an appropriate decision on the matter before it. This can be clearly seen from the language of Regulation 25 which places the complete onus of satisfaction on CCI as to the twin-test of substantial interest in the proceedings outcome and the necessity in public interest. It is therefore noted that the nature of the proceedings before CCI being that of 'in rem' and not 'in personam' does not bear a bar on the impleadment of BAI and the provisions of the General Regulations 2009 being Regulation 25 which grants the power to CCI to allow persons or enterprises to take part in the proceedings as done in the present case with *Suo Moto Case No. 2 of 2019*.

It is to be noted at this juncture that after the rejection of the initial impleadment application of BAI dated 29.11.2021 via an Order dated 29.12.2021 by CCI, BAI approached this Hon'ble Court by way of Writ Petition titled, W.P. No. 8958 of 2022, whereby this Hon'ble Court, in its Order dated 26.09.2022, granted liberty to BAI to approach CCI to participate in the proceedings before *Suo Moto Case No. 2 of 2019* in terms of Regulation 25 of the General Regulations 2009 which may be considered by CCI. It is only in view of this Order did BAI, on 27.09.2022, file a fresh application before CCI seeking permission to be impleaded as a party in terms of Section 18 and Section 36 of the Act read with Regulation 25 of the General Regulations 2009. This was finally accepted via the impugned Order dated 05.07.2023.

The application dated 27.09.2022 is therefore, not in the nature of a review application of a previous decision without any intervening facts and circumstances, but it is a fresh impleadment application filed in view of the liberty granted by this Hon'ble Court in its Order dated 26.09.2022. Moreover, the adequacy of the satisfaction of CCI at this juncture, keeping in mind the context of the case such as orders by this Hon'ble Court including the proceedings of the *Suo Moto Case No. 2 of 2019* being at a different stage that before, cannot be interjected by this Court via its writ jurisdiction.

The procedural safeguards for sharing information obtained under the proceedings of CCI with different parties to such proceedings within the framework of the Competition Act is dealt with under Section 57 of the Act. The intent of the provision as extracted below can be construed in the backdrop of enquiries under the Act being more often than not, necessarily conducted on the basis of sensitive commercial information of the players involved to determine whether they are indeed offending parties under the Act.

The Petitioner contended that the impugned Order dated 05.07.2023 is ultra vires Section 57 of the Act as it entails sharing information obtained via the course of the proceeding in the *Suo Moto Case No. 2 of 2019*, despite lack of written consent of the enterprises involved.

The impugned Order categorically mentions that in addition to the application for impleadment by BAI, the request made by BAI to allow the inspection of non-confidential record ought to be done in terms of Regulation 37(1) of the General Regulations 2009.

It is therefore clear that the impugned Order passed by CCI does not ensue the grant of confidential records of proceedings to BAI. Moreover, it is also clear that the grant of non-confidential information is also explicitly recorded to be done within the bounds of Regulation 37(1) which can only be exercised subject to conformity with the safeguards enumerated within Section 57 of the Act and Regulation 35 of the General Regulations 2009 as noted above. The contention of the Petitioner that adequate safeguards under Section 57 have been ignored by CCI in its passing of the impugned Order cannot be accepted by this Court. The requisite procedural provisions on

sharing information with parties to the proceedings have been duly paid attention to and followed by CCI as far as the impugned Order dated 05.07.2023 challenged in the present Writ is concerned.

Finally, the Petitioner's claim that a compensation application may be filed by BAI under Section 53N of the Act instead of pressing for impleadment under Regulation 25 and that it is an effective alternate remedy, cannot be accepted by this Court.

It is evident that the stage at which compensation under Section 53N can be invoked is that of an Appellate Stage, post the final orders of CCI in any proceedings initiated before it. Therefore, at the present stage of proceedings in the Suo Moto Case No. 2 of 2019, invoking Section 53N is neither an option for the Petitioner, nor is there any reason to prefer an application for compensation when there exists a carved out provision in the form of Regulation 25 which allows the party to take part in the proceedings before the CCI after its satisfaction. The fact that the proceedings under the Competition Act apply in rem is of no consequence when the CCI is adjudicating the allegations regarding the cartelization and price manipulation.

In the view of the above, this Court is not inclined to entertain the present Writ Petition which prays for quashing of the impugned Order dated 05.07.2023 passed by the CCI. This Court is not in agreement with the contentions put forth by the Petitioner, and the petition is therefore dismissed. Pending applications, if any, also stand dismissed.



Industrial & Labour Laws

LW 07:01:2024

SANJAY KAURA v. AIR INDIA LIMITED[Del]

W.P.(C). No. 768 of 2019 with connected petition

Anish Dayal, J. [Decided on 15/12/ 2023]

Payment of Gratuity Act, 1972- dismissal from service on the grounds of serious misconduct-criminal cases were pending against the dismissed employees – management forfeited the gratuity-whether correct-Held,No.

Brief facts:

The petitioners were employees of the Respondent who were dismissed for serious allegations of misconduct. Their gratuity were forfeited by the Respondent. The Controlling Authority allowed the payment of gratuity while on the appeal of the Respondent the Appellate

authority allowed the appeal by upsetting the judgement of the Controlling authority.

Therefore, these petitions have been filed assailing two separate decisions ("impugned decisions") passed by the Deputy Chief Labour Commissioner (Central) and the Appellate Authority under the Payment of Gratuity Act, 1972 ("Appellate Authority").

Decision: Allowed.

Reason:

Heard the learned counsel for the parties and examined the documents placed on record. The central issue relates to forfeiture of gratuity in circumstances where employees have been terminated for an act which constitutes an offence involving moral turpitude, having committed the same during the course of their employment.

It is evident that the charges were framed against the petitioners by the respondent/management involving unauthorised appropriation of stock of CVDs from the company stores and using them in conspiracy and in connivance with other persons for illegal and unjust enrichment. A full process of enquiry was carried out by the management, the petitioners were given full opportunity to represent their case and the charges were held to be proven. Subsequently, the disciplinary authority again examined the report and the documents, concurred with the findings of the Enquiry Officer and proposed a major punishment involving dismissal from the services of the company with immediate effect and without any terminal benefits. There cannot be any dispute with the fact that the petitioners' services were indeed terminated by the respondent/management for the reasons cited above.

Issue then arises of show cause notice to the petitioners for forfeiture of gratuity. The respondent/management contended that there is no specific format of notice which is prescribed under the Act for the purpose of forfeiture of gratuity. However, what would be relevant is whether the principles of natural justice were adhered to. It is not denied that letters dated on 15 th April, 2011 and 30 th August, 2011 were sent to the petitioners respectively which notified them that the disciplinary authority had proposed the punishment of "dismissal from services of the company with immediate effect without terminal benefits" and time of 7 days was given to them to show cause as to why the punishment proposed not be imposed on them.

This Court is not deliberating further on the necessity of a specific and separate notice to be issued under the Act for forfeiture, in view of the notice of dismissal of services without any terminal benefits being given above; as also in light of opinion of this Court on the legality of the forfeiture itself (as elaborated hereunder).

It is not denied that an FIR was lodged by the CBI in the year 2000 and a charge sheet was also filed subsequently. It is another matter that charges have not been framed

for the last two decades in the proceedings arising out of the said FIR and charge sheet. This, however, cannot be a reason to contend, at this stage, that petitioners will possibly be convicted for the offence charged. It would be up to the petitioners / State to seek whatever remedies are at their disposal to complain of and assail this long delay in consideration of the charge sheet and completion of the criminal procedure in accordance with law and before the court of competent jurisdiction.

It will be then up to the criminal court to apply its mind on the charge sheet, decide whether or not to frame charges and as to whether the petitioners have to be sent for trial, and finally whether they will be convicted or not.

The issue which arises before this Court, therefore, is whether the petitioners not being convicted at this stage, permit the management to invoke section 4(6) (b)(ii) of the Act for forfeiture of gratuity. In essence, it involves determination by the management that the act for which the services of the employees have been terminated, constitutes an offence involving moral turpitude.

Other courts have also followed Union Bank of India (supra) and held that forfeiture of the gratuity would require initiation of criminal proceedings that would have culminated in conviction for an offence. The High Court of Judicature at Bombay in Western Coal Fields Ltd. v. The Presiding Officer Appellate Authority under the Payment of Gratuity Act, 1972 & Anr. 2020 SCC OnLine Bom 168 held as under:

“16. Therefore, for an employer to deprive an employee of gratuity under Section 4(6)(b)(ii) of the said Act, would necessarily require initiation of criminal proceedings that would culminate in conviction for an “offence”. The employer could then come to a conclusion that such an offence does involve moral turpitude and then forfeit the gratuity of an employee. This is because the said provision has to be interpreted strictly as it has the consequence of depriving an employee of gratuity for which he would otherwise be eligible, based on long years of continuous service.” (emphasis supplied)

Considering the principles laid down by the Hon’ble Supreme Court, as well as the consistent view taken by various courts including this Court, the submission of the petitioners has to be accepted.

The stress laid by the respondent-management that the seriousness of the offence entails a stricter view and ought to lead to forfeiture of gratuity, cannot be countenanced, simply since whatever the situation, due process of law cannot be circumvented.

Needless to state, the issue relating to their dismissal and termination forms a separate litigation stream. For the reasons stated above, impugned decisions passed by the Deputy Chief Labour Commissioner (Central) and the Appellate Authority under the Payment of Gratuity Act, 1972 are set aside.

LW 08:01:2024

DELHI TRANSPORT CORPORATION v. BALWAN SINGH [DEL]

W.P.(C).No. 5453 of 2023

V. Kameswar Rao & Purushaindra Kumar Kaurav, JJ. [Decided on 15/12/ 2023]

Retirement benefits- employee retired-management recovered certain sum on the ground of excess payment due to wrong fixation of pay scale- whether tenable-Held, No.

Brief facts:

The Petitioner corporation deducted Rs. 2,12,866/- from the settlement dues payable to the respondent on the ground that his pay scale was fixed at higher rate. This deduction was made only after the retirement of the respondent. The CAT allowed the claim of the respondent and directed the Petitioner to pay the sum of Rs.2,12,866/- to the Respondent. Aggrieved by the order the Petitioner corporation was before the High Court challenging the said direction.

Decision: Dismissed.

Reason:

Today, before us, the learned counsel for the DTC would make a similar submission by relying upon the judgment of the Supreme Court in High Court of Punjab and Haryana and Others v. Jagdev Singh, (2016) 14 SCC 267, to contend that the respondent having given an undertaking, permitting the petitioner herein to make a recovery, the Tribunal could not have set aside the recovery of ₹2,12,866/-.

We are not in agreement with the said submission made by learned counsel for the petitioner inasmuch as in the present case, the pay fixation was made w.e.f. December 17, 2009, but without any undertaking given by the respondent. In the said judgment, the Supreme Court was concerned with a benefit which was bestowed on the respondent therein w.e.f., January 07, 2002. At the time of granting the benefit, the respondent therein had given an undertaking that if the payment to be made is found to have been made in excess, the same would be required to be refunded. It is not such a case here, as the undertaking sought to be relied upon by the petitioner herein is an undertaking given by the respondent on September 05, 2018, i.e., just immediately preceding the date of retirement when recovery sought to be affected and not at the time of grant of benefit to him in the year 2009, which is the case in the above judgment. Such an undertaking cannot be taken against the respondent to affect the recovery that too from 2009.

We are of the view that the Tribunal has rightly relied upon the judgment of the Supreme Court in the case of State of Punjab v. Rafiq Masih (White Washer), (2015) 4 SCC 334, to set aside the impugned demand of ₹2,12,866/- by the petitioner from the respondent. The Supreme Court in the case of Rafiq Masih (supra) has culled out five situations when recovery cannot be affected.

The case of the respondent shall be covered by situation (i), (ii) and (iii) above. We do not find any reason to interfere with the impugned order. The writ petition being without any merit is dismissed. No cost.

4

FROM THE GOVERNMENT



- SETTLEMENT OF RUNNING ACCOUNT OF CLIENT'S FUNDS LYING WITH TRADING MEMBER (TM)
- MODIFICATIONS TO PROVISIONS OF CHAPTER XXI OF NCS MASTER CIRCULAR¹ DEALING WITH REGISTRATION AND REGULATORY FRAMEWORK FOR ONLINE BOND PLATFORM PROVIDERS (OBPPs)
- FRAMEWORK ON SOCIAL STOCK EXCHANGE ("SSE")
- EXTENSION OF TIMELINES FOR PROVIDING 'CHOICE OF NOMINATION' IN ELIGIBLE DEMAT ACCOUNTS AND MUTUAL FUND FOLIOS
- BUSINESS CONTINUITY FOR CLEARING CORPORATIONS THROUGH SOFTWARE AS A SERVICE (SAAS) MODEL
- AMENDMENT TO CIRCULAR DATED JULY 31, 2023 ON ONLINE RESOLUTION OF DISPUTES IN THE INDIAN SECURITIES MARKET
- PRINCIPLES OF FINANCIAL MARKET INFRASTRUCTURES (PFMIs)
- SIMPLIFICATION OF REQUIREMENTS FOR GRANT OF ACCREDITATION TO INVESTORS
- UPSTREAMING OF CLIENTS' FUNDS BY STOCK BROKERS (SBs) / CLEARING MEMBERS (CMs) TO CLEARING CORPORATIONS (CCs)
- CREDIT OF UNITS OF AIFs IN DEMATERIALIZED FORM
- REVISED FRAMEWORK FOR COMPUTATION OF NET DISTRIBUTABLE CASH FLOW (NDCF) BY INFRASTRUCTURE INVESTMENT TRUSTS (INVTs)

- REVISED FRAMEWORK FOR COMPUTATION OF NET DISTRIBUTABLE CASH FLOW (NDCF) BY REAL ESTATE INVESTMENT TRUSTS (REITs)
- EXTENSION OF TIMELINE FOR IMPLEMENTATION OF PROVISIONS OF CIRCULAR SEBI/HO/OIAE/IGRD/CIR/P/2023/156 DATED SEPTEMBER 20, 2023 ON REDRESSAL OF INVESTOR GRIEVANCES THROUGH THE SEBI COMPLIANT REDRESSAL (SCORES) PLATFORM AND LINKING IT TO ONLINE DISPUTE RESOLUTION PLATFORM
- BASEL III FRAMEWORK ON LIQUIDITY STANDARDS – NET STABLE FUNDING RATIO (NSFR) – REVIEW OF NATIONAL DEVELOPMENT BANKS
- MASTER DIRECTION - RESERVE BANK OF INDIA (INTERNAL OMBUDSMAN FOR REGULATED ENTITIES) DIRECTIONS, 2023
- FAIR LENDING PRACTICE - PENAL CHARGES IN LOAN ACCOUNTS: EXTENSION OF TIMELINE FOR IMPLEMENTATION OF INSTRUCTIONS
- PAYMENTS INFRASTRUCTURE DEVELOPMENT FUND – EXTENSION OF SCHEME AND ENHANCEMENTS
- CLASSIFICATION OF MSMEs
- MHP EXEMPTION FOR TRANSFER OF RECEIVABLES
- RESERVE BANK OF INDIA (FINANCIAL BENCHMARK ADMINISTRATORS) DIRECTIONS, 2023
- RESERVE BANK OF INDIA (GOVERNMENT SECURITIES LENDING) DIRECTIONS, 2023
- FOREIGN EXCHANGE MANAGEMENT (MANNER OF RECEIPT AND PAYMENT) REGULATIONS, 2023
- TRADE CREDIT FOR IMPORTS INTO INDIA – SUBMISSION OF RETURN ON ISSUANCE OF BANK GUARANTEES FOR TRADE CREDITS ON THE CENTRALISED INFORMATION MANAGEMENT SYSTEM (CIMS)
- RUPEE DRAWING ARRANGEMENT - SUBMISSION OF STATEMENT/RETURN ON CIMS PORTAL
- CIMS PROJECT IMPLEMENTATION - DISCONTINUATION OF SUBMISSION IN LEGACY XBRL
- LIBERALISED REMITTANCE SCHEME (LRS) FOR RESIDENT INDIVIDUALS- REPORTING OF MONTHLY RETURN AND DAILY TRANSACTIONS
- REVERSE REPO TRANSACTIONS - REPORTING IN FORM 'A' RETURN
- CARD-ON-FILE TOKENISATION (COFT) – ENABLING TOKENISATION THROUGH CARD ISSUING BANKS
- INVESTMENTS IN ALTERNATIVE INVESTMENT FUNDS (AIFs)
- FORMATION OF NEW DISTRICT MAUGANJ IN THE STATE OF MADHYA PRADESH –ASSIGNMENT OF LEAD BANK RESPONSIBILITY
- PROCESSING OF E-MANDATES FOR RECURRING TRANSACTIONS
- SOVEREIGN GOLD BOND (SGB) SCHEME 2023-24



Corporate Laws

01 Settlement of Running Account of Client's Funds lying with Trading Member (TM)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2023/197 dated 28.12.2023]

1. In order to safeguard the interests of investors, SEBI in 2018 had mandated settlement of running account of client's funds on first Friday of the quarter/month. This has been incorporated as clause 47 of "Master Circular on Stock Brokers" issued on May 17, 2023.
2. Broker's Industry Standards Forum (ISF) had represented various problems faced by brokers due to single day of settlement viz. hectic activities on the day of settlement leading to chances of errors, missing out on payment timings of banks due to late finalization, delayed instructions, etc. They have recommended that TMs may be allowed to settle the running account of clients on Friday and/or Saturday to address these operational difficulties.
3. After due consideration, SEBI has decided to accept the recommendation to settle the running account of clients on Friday and/or Saturday, which streamlines the process of settlement and ensures ease of doing business for various stakeholders viz. stock brokers and banks, while at the same time safeguarding the interests of the investors by ensuring error free settlement. In view of this the following changes are made in the Master circular dated May 17, 2023 :
 - 3.1. Clause 47.1.1 stands modified as follows:

"47.1.1 The TM, after considering the End of the Day (EOD) obligation of funds across all the Exchanges, shall settle the running accounts at the choice of the clients on quarterly and monthly basis, on the dates stipulated by the Stock Exchanges."
 - 3.2. To ensure uniformity and clarity on dates of such monthly and quarterly settlement of client accounts, clause 47.1.2 is modified as follows:

"47.1.2 Stock exchanges shall, jointly, issue the annual calendar for the settlement of running account (quarterly and monthly) at the beginning of the financial year."
 - 3.3. Further, to safeguard against any possibility of misuse of one client's funds to settle another clients' running account, it is stipulated that

any funds received from clients shall remain in the upstreaming account. To incorporate this safeguard, clause 47.1.3 is inserted as follows:

"47.1.3 TM shall ensure that funds, if any, received from clients, whose running account has been settled, remain in the "Up Streaming Client Nodal Bank Account" and no such funds shall be used for settlement of running account of other clients. Stock Exchanges shall evolve a monitoring mechanism for this purpose."

4. The provisions of this circular shall be applicable with effect from the quarterly settlement of Jan-Mar 2024 and monthly settlement of January 2024.
5. All other provisions under Clause 47 of the circular dated May 17, 2023 shall continue to remain applicable.
6. Stock Exchanges shall:
 - 6.1. bring the provisions of this Circular to the notice of their members and also disseminate the same on their websites;
 - 6.2. make amendments to the relevant Bye-laws, Rules and Regulations, as may be necessary;
 - 6.3. issue the calendar for settlement of the client accounts for the financial year;
 - 6.4. issue operational guidelines to their members in this regard;
 - 6.5. continue online monitoring of timely settlement of running account for funds of client and to verify that excess clients' funds are not retained by the TM as on the date of settlement of running account;
 - 6.6. put in place an appropriate reporting requirement by TM to enforce the above system; and
 - 6.7. communicate the status of the implementation of the provisions of this Circular in their monthly development report to SEBI.
7. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.

AMRITA SHUKLA
Deputy General Manager

02 Modifications to provisions of Chapter XXI of NCS Master Circular¹ dealing with registration and regulatory framework for Online Bond Platform Providers (OBPPs)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS/POD1/P/CIR/2023/194 dated 28.12.2023]

1. Chapter XXI of the NCS Master Circular specifies the provisions for registration and regulatory framework for OBPPs. Representations have been received from Stock Exchanges and market participants including

online bond platforms seeking relaxations from certain provisions of the said chapter. The proposed modifications shall aid in ease of doing business for OBPPs.

2. In light of the above, the following provisions stand modified as under:

2.1 Clause 5.2 of the NCS Master Circular is substituted and shall read as under:

“An entity acting as an Online Bond Platform Provider shall offer only the following products or securities or services on its Online Bond Platform:

5.2.1. Listed debt securities, listed municipal debt securities and listed securitised debt instruments;

5.2.2. Debt securities, municipal debt securities and securitised debt instruments proposed to be listed through a public offering;

5.2.3. Listed Government Securities, State Development Loans and Treasury Bills;

5.2.4. Listed Sovereign Gold Bonds; and

5.2.5. Other products or securities or services that are regulated by a financial sector regulator viz. SEBI, RBI, IRDAI or PFRDA.

In case of the products or securities or services mentioned at 5.2.5 above,

a. they may be offered by the entity either under a different tab on its online bond platform or on any other website/ platform.

b. they will be governed by the directions/ stipulations of the respective financial sector regulator.”

PRADEEP RAMAKRISHNAN

General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

03 Framework on Social Stock Exchange (“SSE”)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/CFD/PoD-1/P/CIR/2023/196 dated 28.12.2023]

1. SEBI vide its circular SEBI/HO/CFD/PoD-1/P/CIR/2022/120 dated September 19, 2022 notified the detailed framework on Social Stock Exchange.

2. Pursuant to the feedback received through public consultation the Board approved amendments to the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“ICDR Regulations”) and the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”). SEBI vide Notification dated

December 21, 2023 has notified amendments to ICDR Regulations and LODR Regulations. The Board also approved the following modifications/ additions to the aforesaid Circular :-

a. In Paragraph 1, sub-paragraph A, titled “Minimum requirement to be met by a Not for Profit Organization (NPO) for registration with SSE in terms of Regulation 292F of the ICDR Regulations”, the following requirement under the Board Parameter in the table given below shall read as under:

Broad Parameter	Indicator	Details
Exemption under Income-tax Act, 1961:	Registration Certificate under section 12A/ 12AA/ 12AB/ 10(23C)/ 10(46) under Income-tax Act, 1961	<p>a. Registration Certificate under section 12A/ 12AA/ 12AB/ 10(23C)/ 10(46) to be valid for at least the next 12 months.</p> <p>b. Details regarding pending notices or scrutiny cases from all regulatory and statutory authority shall be disclosed at the time of making the application for the registration</p> <p>c. Fines or penalties if imposed shall be disclosed as paid or appealed within 7 days.</p> <p>The Stock Exchanges shall have the right to refuse registration of those applicants, if the notices/ scrutiny cases are grave and debilitating enough to endanger the registration of the NPO under the Income-tax Act, 1961 or other relevant laws.</p>
Deduction under Income-tax Act, 1961	Valid 80G registration under Income Tax Act, 1961 for entities registered under section 12A/ 12AA/ 12AB of the Income-tax Act, 1961	Entity to ensure disclosure whether tax deduction is available or not to investors.

YOGITA JADHAV

General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

04 Extension of timelines for providing 'choice of nomination' in eligible demat accounts and mutual fund folios

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/POD-1/P/CIR/2023/193 dated 27.12.2023]

- SEBI, vide circular nos. SEBI/HO/MIRSD/POD-1/CIR/2023/158 dated September 26, 2023 and SEBI/HO/IMD/IMD-I POD1/P/CIR/2023/160 dated September 27, 2023, extended the last date for submission of 'choice of nomination' for demat accounts and mutual fund folios respectively to December 31, 2023.
- Based on representations received from the market participants, for ease of compliance and investor convenience, it has been decided to extend the last date for submission of 'choice of nomination' for demat accounts and mutual fund folios to June 30, 2024.
- Depository Participants, AMCs and RTAs shall encourage the demat account holders/ mutual fund unit holders to fulfil the requirement for nomination/opting out of nomination by sending a communication on fortnightly basis by way of emails and SMS to all such demat account holders/ mutual fund unit holders who are not in compliance with the requirement of nomination. The communication shall provide guidance to provide nomination or opting out of nomination.
- Stock Exchanges, Depositories, AMCs, RTAs and Listed Companies are further advised to:
 - take necessary steps to implement the provisions of this circular, including making necessary amendment to the relevant bye-laws / business rules / regulations / operational instructions, as the case may be;
 - bring the provisions of this circular to the notice of their respective constituents and also disseminate this circular on their websites;
 - communicate to SEBI, the status of the implementation of the provisions of this circular; and
 - monitor the compliance of this circular.
- All other provisions related to requirement of Nomination as provided in SEBI Master Circular No. SEBI/HO/IMD/IMD-PoD-1/P/CIR/2023/74 dated May 19, 2023 for Mutual Funds and SEBI Master Circular No. SEBI/HO/MRD/MRD-PoD-2/P/CIR/2023/166 dated October 06, 2023 for Depositories shall remain unchanged.
- This circular is issued in exercise of powers conferred by Section 11(1) of the Securities and Exchange Board of India Act, 1992, read with Section 19 of the

Depositories Act, 1996 and Regulation 77 of SEBI (Mutual Funds) Regulations, 1996, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

- This circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework -> Circulars".

SRISHTI AMBOKAR
Deputy General Manager

05 Business Continuity for Clearing Corporations through Software as a Service (SaaS) Model

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MRD/TPD/P/CIR/2023/192 dated 20.12.2023]

- Clause 9 of Chapter 2 of SEBI Master Circular dated October 16, 2023 for Stock Exchanges and Clearing Corporations as well as Clause 4.31 of Section 4 of SEBI Master Circular dated October 06, 2023 for Depositories provide guidelines for Business Continuity Planning (BCP) and Disaster Recovery Site (DRS) for Market Infrastructure Institutions (MIIs). While DRS is meant to ensure Business Continuity of the MIIs in case of any disaster, it may have limited utility for any major malfunction of software, as software deployed at Primary Site as well as at DRS remains identical.
- In order to strengthen the Business Continuity framework of MIIs particularly from the perspective of handling major software malfunction, discussions were held with MIIs and it was decided that in the first phase, systems would be designed to provide additional tool for business continuity in case of issues with Risk Management Systems (RMS) of CCs. The existing interoperability arrangement between CCs, mentioned in Clause 4 of Chapter 6 of SEBI Master Circular dated October 16, 2023 for Stock Exchanges and Clearing Corporations and which resulted in increased standardization between CCs, may be leveraged to achieve this objective.
- RMS is classified as a critical system of CC and plays an important role in ensuring smooth and uninterrupted functioning of the securities market by carrying out online real time risk management of trades happening on stock exchanges. Non-availability of RMS poses a major risk to the continuity of trading on stock exchanges. In order to further manage disruptions impacting availability of RMS, it is proposed to have another contingency measure in place under Software as a Service (SaaS) model. The framework in the first phase would operate for existing interoperable segments of CCs (Cash Market, Equity Derivatives Segment, Currency Derivatives) as follows:

Outline of SaaS model for RMS:

- Each CC shall design a system to run its RMS related operations, to risk manage trades for its clearing

members, using the RMS related software components of another CC. This instance would be called SaaS-RMS. For instance, when NCL designs SaaS-RMS using software of ICCL, NCL would be considered as client CC and ICCL would be considered as service provider CC.

ANSUMAN DEV PRADHAN

Deputy General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

06 Amendment to Circular dated July 31, 2023 on Online Resolution of Disputes in the Indian Securities Market

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/OIAE/OIAE_IAD-3/P/CIR/2023/191 dated 20.12.2023]

1. SEBI issued circular no. SEBI/HO/OIAE/OIAE_IAD-1/P/CIR/2023/131 dated July 31, 2023 providing the guidelines for online resolution of disputes in the Indian securities market. Amendments cum Corrigendum to the same was issued vide circular no. SEBI/HO/OIAE/OIAE_IAD-1/P/CIR/2023/135 dated August 04, 2023. These regulatory norms were consolidated vide Master Circular No. SEBI/HO/OIAE/OIAE_IAD-1/P/CIR/2023/145 dated August 11, 2023.
2. Pursuant to feedback received for providing clarity on certain aspects, it has been decided to modify the circular dated July 31, 2023 (as amended) as under:
 - I. In clause 2 of the circular, the words and brackets “(including institutional/corporate clients)” are added after the words “Investors/Clients”.
 - II. In Clause 3(b) of the circular, the words ‘independent institutional’ are added before the word ‘conciliation’ and the word ‘online’ as appears before the words ‘arbitration institution in India’ is substituted with the word ‘independent’.
 - III. In Clause 3(b) of the circular, after the end of the existing paragraph, the following is added:

“The seat and venue of mediation, conciliation and/or arbitration shall be in India and can be conducted online.

The fees, charges and costs for the independent mediation institution or independent conciliation institution and/or independent arbitration institution (and of the mediators/conciliators/arbitrators), and other applicable costs, charges and expenses may be as prescribed by such institution/s or as agreed upon by the parties with such institution/s.

The claims / complaints / disputes that arise from the activities or roles performed or to be performed by the specified intermediaries or regulated entities pertaining to the Indian securities market are in scope of this clause¹.”

- IV. Clause 5 of the circular shall include the following as a footnote to ‘ODR Portal’:

URL - <https://smartodr.in/login>

- V. Clause 8 of the circular shall include the following after the end of the last line: “Entities that obtain registration from the Board as an intermediary or issuers that are getting their securities listed on or after the date of implementation of this circular, shall enrol in the ODR Portal immediately upon grant of registration or listing, as the case may be”.

- VI. In Clause 13 of the circular, the following are added at the end of the line: “or is against the Government of India / President of India or a State Government / Governor of a State. It is clarified that Listed companies (and their registrars and transfer agents), specified intermediaries and regulated entities specified in Schedules A and B as well as institutional or corporate clients shall initiate claims or disputes in accordance with Clause 3(a) and/or 3(b), as applicable, unless the matter is non-arbitrable in terms of Indian law (including when moratorium under the Insolvency and Bankruptcy Code is in operation due to the insolvency process or if liquidation or winding up process has been commenced) or is against the Government of India / President of India or a State Government / Governor of a State.”

- VII. In Clause 20(a) of the circular, at the end of the current paragraph, the following sentence is added: “The nature of determination made by the conciliator is only to provide an admissible claim value of the complaint / dispute for purposes of appropriate slab for computation of fees being applied for online arbitration. Subject to the forgoing, the investor / client, the market participant and the arbitrator/s would not be bound by such determination for the making or defending or deciding the claim / complaint / dispute, as the case may be”.

S. MANJESH ROY

General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

07 Principles of Financial Market Infrastructures (PFMIs)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MRD/MRD-PoD-3/P/CIR/2023/190 dated 19.12.2023]

1. SEBI vide its Circulars No. CIR/MRD/DRMNP/26/2013 dated September 04, 2013 and No. SEBI/HO/CDMRD/DMP/CIR/P/2016/137 dated December 16, 2016 stated that as a member of IOSCO, SEBI is committed for adoption and implementation of the CPSS-IOSCO Principles for Financial Market

Infrastructures (FMIs) in its regulatory functions of oversight, supervision and governance of the key FMIs under its purview. The PFMIs issued on April 2012 comprise of 24 principles (Annexure 1), which are designed to ensure that the infrastructure supporting global financial markets is robust and well placed to withstand financial shocks.

2. Full, timely and consistent implementation of the PFMIs is fundamental to ensuring the safety, soundness and efficiency of key FMIs and for supporting the resilience of the global financial system. Global central clearing requirements reinforce the importance of strong safeguards and consistent oversight of derivatives CCPs in particular.

Financial Market Infrastructure (FMI)

3. The Principles apply to systematically important FMI entities such as Central Counterparty (CCP), Central Securities Depository (CSD)/ Securities Settlement System (SSS), Payment and Settlement Systems (PSS) and Trade Repository (TR) which are responsible for providing clearing, settlement and recording of monetary and other financial transactions. The principles are international standards set forth to –
 - 3.1. Enhance safety and efficiency in payment, clearing, settlement, and recording arrangements,
 - 3.2. Reduce systemic risk,
 - 3.3. Foster transparency and financial stability and
 - 3.4. Promote protection of participants and investors.

HRUDA RANJAN SAHOO

Deputy General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

08 Simplification of requirements for grant of accreditation to investors

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/AFD/PoD1/CIR/2023/ 189 dated 18.12.2023]

1. SEBI vide Circular No. SEBI/HO/IMD/IMD-I/DF9/P/CIR/2021/620 dated August 26, 2021 on 'Modalities for implementation of the framework for Accredited Investors', specified a framework for accreditation of investors by Accreditation Agencies. Based on the feedback received from various stakeholders, to provide flexibility and facilitate ease of accreditation of investors, it has been decided to simplify the requirements for grant of accreditation to investors as under:
 - 1.1. Accreditation Agencies, which are also KYC Registration Agencies (KRAs), may access Know Your Customer (KYC) documents of applicants available with them in capacity of KRA and may also access the same from the database of other KRAs, for the purpose of accreditation.

- 1.2. The Accreditation agencies shall grant accreditation solely based on the KYC and the financial information of the applicants.

- 1.3. To this effect, the accreditation certificate issued by accreditation agencies shall include the following disclaimer:

"the assessment of the applicant for accreditation is solely based on the applicant's KYC and financial information and does not in any manner exempt market intermediaries and pooled investment vehicles from carrying out necessary due diligence of the accredited investors at the time of on-boarding them as their clients."

- 1.4. The validity period of the accreditation certificate has been revised as under:

- 1.4.1. If the applicant meets the eligibility criteria for preceding one financial year, the accreditation certificate issued shall be valid for a period of two years from the date of issuance. (earlier the accreditation was valid for one year)

- 1.4.2. If the applicant meets the eligibility criteria in each of the preceding two financial years, the accreditation certificate issued shall be valid for a period of three years from the date of issuance. (earlier the accreditation was valid for maximum two years)

- 1.4.3. If the applicant is a newly incorporated entity, which does not have financial information for the preceding financial year but meets the applicable net-worth criteria as on the date of application, the accreditation certificate issued shall be valid for a period of two years from the date of issuance.

2. Accordingly, Annexure A ('Modalities of accreditation') and Annexure B ('List of documents to be submitted by applicant for accreditation') to the SEBI Circular No. SEBI/HO/IMD/IMD-I/DF9/P/CIR/2021/620 dated August 26, 2021 have been revised and are given at Annexure 1 and Annexure 2 of this circular respectively.
3. Further, Stock Exchanges and Depositories are directed to bring the provisions of this circular to the notice of their subsidiaries who are recognized by SEBI as Accreditation Agencies.
4. The provisions of this circular shall come into force with immediate effect.
5. This circular is issued with the approval of the competent authority.
6. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

7. The circular is available on SEBI website at www.sebi.gov.in under the categories “Legal framework - Circulars” and “Info for - Alternative Investment Funds”.

SANJAY SINGH BHATI

Deputy General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

09 Upstreaming of clients' funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/187 dated 12.12.2023]

1. With a view to safeguard clients' funds placed with Stock Brokers (SBs) / Clearing Members (CMs), SEBI, vide circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/084 dated June 08, 2023, and vide circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/110 dated June 30, 2023 (collectively hereinafter referred to as “June Circulars”), had specified the framework requiring SB/CMs to upstream (i.e. placed with) clients' funds to CCs.
2. Representations have been received from various stakeholders viz. stock brokers, and Brokers' associations citing certain operational difficulties in implementation. In order to address the issue, SEBI advised the industry associations to consult with MIIs under the aegis of Broker's Industry Standards Forum (ISF) and submit a proposal to SEBI so that the principle of upstreaming is complied with and operational difficulties are suitably addressed.
3. The recommendations made by ISF have been considered by SEBI and accordingly as a step towards ease of doing business, the revised framework is specified below.
4. Principle: SBs/CMs shall upstream all the clients' clear credit balances to CCs on End of Day (EOD) basis. Such upstreaming shall be done only in the form of either cash, lien on Fixed Deposit Receipts (FDRs) created out of clients' funds, or pledge of units of Mutual Fund Overnight Schemes (MFOS) created out of clients' funds.

A. Receipt/payment of funds by SBs and CMs from/to their clients:

- I. Clause 15.3.2.1 of SEBI's “Master Circular on Stock Brokers” dated May 17, 2023 mandates stock brokers to maintain designated client bank account(s) (“Name of SB/CM - Client Account”) to receive/pay funds from/to their clients. The nomenclature of all such accounts shall be changed to either of the following two categories of bank accounts:
 - a. Up Streaming Client Nodal Bank Account (USCNBA): SB/CM shall receive clients' funds in USCNBA. The nomenclature for such accounts shall be “Name of the SB/CM – USCNB account”.

- b. Down Streaming Client Nodal Bank Account (DSCNBA): Payment to clients shall be done only from DSCNBA account. The nomenclature for such accounts shall be “Name of the SB/CM – DSCNB account”.

- II. In addition, CMs, who clear trades for other SBs, shall only use the designated bank account(s) maintained with the nomenclature “Name of the CM –TM prop account” to receive/pay proprietary funds from/to stock brokers.
- III. Payment to Clients: The clients may request SBs/CMs to release funds at any time during the day. The processing of such release requests shall be as per respective risk management practices of SB/CMs. All payment requests of the client received on a day shall be processed on or before the next settlement day. In cases, where the payment request is not processed on the same day, SB/CMs need to ensure that the funds of the client are placed with CC in terms of this circular.

ARADHANA VERMA

General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

10 Credit of units of AIFs in dematerialised form

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/AFD/PoD1/CIR/2023/186 dated 11.12.2023]

1. In terms of para 3.1 of SEBI circular no. SEBI/HO/AFD/PoD1/CIR/2023/96 dated June 21, 2023 on ‘Issuance of units of AIFs in dematerialised form’, all schemes of Alternative Investment Funds (‘AIFs’) were mandated to dematerialise their units as per the following timeline:

Particulars	Schemes of AIFs with corpus ≥ INR 500 Crore	Schemes of AIFs with corpus < INR 500 Crore
Dematerialisation of all the units issued	Latest by October 31, 2023	Latest by April 30, 2024
Issuance of units only in dematerialised form	November 01, 2023 onwards	May 01, 2024 onwards

2. As per the timeline given at para 1 above, schemes of AIFs with corpus ≥ INR 500 Crore have created International Securities Identification Numbers (ISINs) for their units issued, and have commenced crediting the units to the investors' demat accounts. Based on feedback received from the stakeholders, it has been decided to specify the process to be followed for dematerialising/ crediting the units issued, in cases where investors are yet to provide demat account details to AIFs.
3. Managers of AIFs shall continue to reach out to existing investors to obtain their demat account details and credit the units issued to them to their respective demat accounts. Depositories shall also aid in this process as advised by SEBI. In this regard, AIF industry and

depositories shall adopt implementation standards as formulated by the pilot Standard Setting Forum for AIFs ('SFA'), along with the two depositories, in consultation with SEBI. The standards shall detail steps to be taken by AIF managers and depositories to reach out to investors and facilitate conversion and credit of their units in demat form.

- Units already issued by schemes of AIFs to existing investors who have not provided their demat account details, shall be credited to a separate demat account named "Aggregate Escrow Demat Account". This account shall be opened by AIFs for the sole purpose of holding demat units of AIFs on behalf of such investors. New units to be issued in demat form shall be allotted to such investors and credited to the Aggregate Escrow Demat Account.
- As and when such investors provide their demat account details to the AIF, their units held in Aggregate Escrow Demat Account shall be transferred to the respective investors' demat accounts within 5 working days. No transfer of units of AIFs from/within Aggregate Escrow Demat Account shall be allowed, other than for the aforesaid purpose.

SANJAY SINGH BHATI

Deputy General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

11 Revised framework for computation of Net Distributable Cash Flow (NDCF) by Infrastructure Investment Trusts (InvITs)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS/DDHS-PoD/P/CIR/2023/184 dated 06.12.2023]

- Regulation 18(6) of SEBI (Infrastructure Investment Trust) Regulations, 2014 ("InvIT Regulations"), provides that the Net Distributable Cash Flow (NDCF) shall be computed at the level of InvIT and HoldCo/SPV. Further, the minimum distribution shall be 90% of the NDCF at the Trust level as well as the HoldCo/SPV level, subject to applicable provisions in the Companies Act, 2013 or the Limited Liability Partnership Act, 2008. Paragraph F of Chapter 3 of the Master Circular for Infrastructure Investment Trusts provides an indicative framework for calculating NDCF at SPV level and at the InvIT level.
- In order to promote Ease of Doing Business, it has been decided to standardize the framework for calculation of available Net Distributable Cash Flows. Accordingly, the revised framework for computation of NDCF by InvITs and its Holdcos/SPVs shall be as per Annexure A.

Applicability of revised NDCF Framework:

- The revised framework shall be applicable with effect from April 1, 2024 and supersedes the Framework for calculation of Net Distributable Cash Flows provided in Paragraph F of Chapter 3 of the Master Circular for Infrastructure Investment Trusts (InvITs) dated July 06, 2023.

- This circular is being issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 and Regulation 33 of the InvIT Regulations. This circular is issued with the approval of the competent authority.
- This Circular is available on the website of the Securities and Exchange Board of India at www.sebi.gov.in under the category "Legal" and under the drop down "Circulars".

RITESH NANDWANI

Deputy General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

12 Revised framework for computation of Net Distributable Cash Flow (NDCF) by Real Estate Investment Trusts (REITs)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS/DDHS-PoD/P/CIR/2023/185 dated 06.12.2023]

- Regulation 18(16) of SEBI (Real Estate Investment Trust) Regulations, 2014 ("REIT Regulations"), provides that the Net Distributable Cash Flow (NDCF) shall be computed at the level of REIT and HoldCo/SPV. Further, the minimum distribution shall be 90% of the NDCF at the Trust level as well as the HoldCo/SPV level, subject to applicable provisions in the Companies Act, 2013 or the Limited Liability Partnership Act, 2008. Paragraph F of Chapter 3 of the Master Circular for Real Estate Investment Trusts provides an indicative framework for calculating NDCF at SPV level and at the REIT level.
- In order to promote Ease of Doing Business, it has been decided to standardize the framework for calculation of available Net Distributable Cash Flows. Accordingly, the revised framework for computation of NDCF by REITs and its Holdcos/SPVs shall be as per Annexure A.

Applicability of revised NDCF Framework:

- The revised framework shall be applicable with effect from April 1, 2024 and supersedes the Framework for calculation of Net Distributable Cash Flows provided in Paragraph F of Chapter 3 of the Master Circular for Real Estate Investment Trusts (REITs) dated July 06, 2023.
- This circular is being issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 and Regulation 33 of the REIT Regulations. This circular is issued with the approval of the competent authority.
- This Circular is available on the website of the Securities and Exchange Board of India at www.sebi.gov.in under the category "Legal" and under the drop down "Circulars".

RITESH NANDWANI

Deputy General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

13 Extension of timeline for implementation of provisions of circular SEBI/HO/OIAE/IGRD/CIR/P/2023/156 dated September 20, 2023 on Redressal of investor grievances through the SEBI Compliant Redressal (SCORES) Platform and linking it to Online Dispute Resolution platform

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/OIAE/IGRD/CIR/P/2023/183 dated 01.12.2023]

1. The provisions of circular with ref. no. SEBI/HO/OIAE/IGRD/CIR/P/2023/156 dated September 20, 2023 related to work flow of processing of investor grievances by Entities and framework for monitoring and handling of investor complaints by the Designated Bodies were required to come into force with effect from December 04, 2023.
2. Further, the designated bodies referred to in the Schedule II of circular SEBI/HO/OIAE/IGRD/CIR/P/2023/156 dated September 20, 2023 were required to apply for SCORES Authentication and/or for Application Programming Interface (API) integration with SCORES within such period so as to ensure that Designated Bodies can comply with provisions of the said circular by December 04, 2023 and onwards.
3. It has been decided to extend the effective date of implementation of above said provisions to April 01, 2024.
4. Accordingly, Circular SEBI/HO/OIAE/IGRD/CIR/P/2023/156 dated September 20, 2023 shall rescind the Master Circular on the redressal of investor grievances through the SEBI Complaints Redress System (SCORES) platform SEBI/HO/OIAE/IGRD/P/CIR/2022/0150 dated November 07, 2022 on SCORES with effect from April 01, 2024.
5. The Entities however, shall continue to submit the Action Taken Report ("ATR") on SCORES within 21 calendar days from the date of receipt of the complaint as directed in circular SEBI/HO/OIAE/IGRD/CIR/P/2023/156 dated September 20, 2023.
6. This Circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
7. This Circular is available on SEBI website at www.sebi.gov.in.

VANDANA RAJESH KUMAR

Deputy General Manager

14 Basel III Framework on Liquidity Standards – Net Stable Funding Ratio (NSFR) – Review of National Development Banks

[Issued by the Reserve Bank of India vide RBI/2023-24/103 DOR.LRG. REC.62/03.10.001/2023-24 dated 29.12.2023]

Please refer to circular DBR.BP.BC.No.106/21.04.098/2017-18 dated May 17, 2018 on Basel III Framework on Liquidity Standards - Net Stable Funding Ratio (NSFR) – Final Guidelines.

2. NABARD, NHB and SIDBI are considered as National Development Banks (NDBs) under the extant NSFR framework. On a review, it has been decided that the other All India Financial Institutions (AIFIs) i.e. EXIM Bank and National Bank for Financing Infrastructure and Development (NaBFID) shall also be considered as NDBs for NSFR computation.
3. Further, unencumbered loans to NDBs with a residual maturity of one year or more that would qualify for a 35 per cent or lower risk weight under the Standardised Approach for credit risk¹ shall be assigned a Required Stable Funding (RSF) factor of 65 per cent (as against 100 per cent currently).
4. Accordingly, the select instructions have been amended as detailed in Annex.

Applicability

5. This circular is applicable to all Scheduled Commercial Banks (excluding Payments Banks and Regional Rural Banks).
6. These instructions shall come into force with immediate effect.

R. LAKSHMI KANTH RAO

Chief General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.rbi.org.in

15 Master Direction - Reserve Bank of India (Internal Ombudsman for Regulated Entities) Directions, 2023

[Issued by the Reserve Bank of India vide RBI/CEPD/2023-24/108 CEPD. PRD.No.S1228/13.01.019/2023-24 dated 29.12.2023]

The Reserve Bank institutionalized the Internal Ombudsman mechanism in various regulated entities vide instructions / guidelines contained in the Internal Ombudsman Scheme 2018- Implementation by banks dated September 3, 2018, Internal Ombudsman Scheme for Non-Bank System Participants, 2019 dated October 22, 2019, Appointment of Internal Ombudsman by Non-Banking Financial Companies dated November 15, 2021 and Reserve Bank of India (Credit Information Companies - Internal Ombudsman) Direction, 2022 dated October 6, 2022. The Internal Ombudsman mechanism has been set up with a view to strengthen the Internal Grievance Redress system of the regulated entities.

2. A review of Internal Ombudsman schemes has been undertaken by the Reserve Bank in line with the integration of the erstwhile three RBI Ombudsman Schemes as also with the objective to improve the customer service standards in regulated entities. The framework reaffirms that the Internal Ombudsman mechanism should work as envisaged and the Internal Ombudsman shall be positioned as an independent, apex level authority on consumer grievance redress within the regulated entities.
3. Accordingly, in exercise of the powers conferred by Section 35A of the Banking Regulation Act, 1949, Section 45L read with 45M of the Reserve Bank of India Act, 1934, sub-section (1) of Section 11 of Credit Information Companies (Regulation) Act, 2005 and Section 18 of the Payment and Settlement Systems Act, 2007, the Reserve Bank of India, being satisfied that it is necessary and expedient in public interest to do so, hereby directs that all the regulated entities as indicated in Clause 4 of the Master Direction shall comply with the Direction with immediate effect.
4. The regulated entities are further advised as follows:
 - (i) The Internal Ombudsman appointed by the regulated entity, under the erstwhile Internal Ombudsman Schemes / Direction shall continue to hold office till the expiry of their tenure.
 - (ii) The regulated entities not currently falling under the Internal Ombudsman Schemes / Direction may closely monitor their eligibility as per the prescribed provisions for timely appointment of Internal Ombudsman in their entity, as required.
 - (iii) The regulated entities are advised to forward the contact details of the Internal Ombudsman / Deputy Internal Ombudsman to Consumer Education and Protection Department, Central Office, Reserve Bank of India, 1st Floor, Amar Building, Sir P M Road, Fort, Mumbai 400 001 (e-mail: iocepd@rbi.org.in) and ensure to update the same as and when there is any change.

NEENA ROHIT JAIN

Chief General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.rbi.org.in

16 Fair Lending Practice - Penal Charges in Loan Accounts: Extension of Timeline for Implementation of Instructions

[Issued by the Reserve Bank of India vide RBI/2023-24/102 DoR.MCS. REC.61/01.01.001/2023-24 dated 29.12.2023]

Reference is invited to RBI circular DoR.MCS. REC.28/01.01.001/2023-24 dated August 18, 2023 on 'Fair Lending Practice - Penal Charges in Loan Accounts'.

2. In terms of paragraph 3 (viii) of the circular, the instructions were to come into effect from January 1, 2024. However, considering that certain clarifications and additional time has been sought by some regulated entities (REs) to reconfigure their internal

systems and operationalize the circular, it has been decided to extend the timeline for implementation of the instructions by three months. Accordingly, REs shall ensure that the instructions are implemented in respect of all the fresh loans availed from April 1, 2024 onwards. In the case of existing loans, the switchover to new penal charges regime shall be ensured on the next review/ renewal date falling on or after April 1, 2024, but not later than June 30, 2024.

3. A set of frequently asked questions (FAQs) providing clarifications related to implementation of the circular will be uploaded in the FAQs section of the RBI website shortly.

SANTOSH KUMAR PANIGRAHY

Chief General Manager

17 Payments Infrastructure Development Fund – Extension of Scheme and Enhancements

[Issued by the Reserve Bank of India vide RBI/2023-24/101 CO.DPSS. POLC.No.S940/02-29-005/2023-24 dated 29.12.2023]

Please refer to the Reserve Bank of India circular DPSS. CO.AD No.900/02.29.005/2020-21 dated January 05, 2021, on "Operationalisation of Payments Infrastructure Development Fund (PIDF) Scheme" and subsequent amendments made thereto.

2. As announced in the Statement on Development and Regulatory Policies dated October 06, 2023, the PIDF Scheme is being extended by two years, i.e., upto December 31, 2025. Further, with a view to provide impetus to deployment of acceptance infrastructure, the following enhancements are being made to the Scheme:
 - a) The beneficiaries identified as part of the PM Vishwakarma Scheme, across the country, shall be included as merchants for deployment under the PIDF Scheme. All eligible installations since the inception of the PM Vishwakarma Scheme, i.e., September 17, 2023, may prefer claims under the PIDF Scheme.
 - b) The PIDF Scheme presently subsidises deployment of acceptance infrastructure based on category of device – physical or digital. It has been decided to enable other contemporary devices, viz., (i) Soundbox devices – providing instant audio payment confirmation along with payment acceptance by "scan & pay" and Near Field Communication (NFC), and (ii) Aadhaar-enabled biometric devices – certified biometric scanner devices facilitating Aadhaar authentication for acceptance of payment by merchant through BHIM Aadhaar Pay, would be eligible for subsidy under the Scheme, for installations made from October 01, 2023 onwards.
 - c) The amount of subsidy for devices deployed in special focus areas, viz., North Eastern States, Union Territories of Jammu & Kashmir and

Ladakh, is increased from 75% to 90% of the total cost, irrespective of the type of device, for installations made from October 01, 2023 onwards.

- The above enhancements, along with detailed guidelines, have been incorporated in the framework of PIDF Scheme, enclosed as Annex.
- These instructions are issued under Section 18 read with Section 10 (2) of Payment and Settlement Systems Act, 2007 (Act 51 of 2007).

GUNVEER SINGH
Chief General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.rbi.org.in

18 Classification of MSMEs

[Issued by the Reserve Bank of India vide RBI/2023-24/100 FIDD.MSME & NFS.BC.No.13/06.02.31/2023-24 dated 28.12.2023]

Please refer to para 2.4 to 2.7 of the Master Direction - Lending to Micro, Small & Medium Enterprises (MSME) Sector dated July 24, 2017 (as updated on July 29, 2022), inserted in terms of the circular FIDD.MSME & NFS.BC.No.3/06.02.31/2020-21 dated July 2, 2020 on the new definition of MSME. The revised criteria for classification of enterprises as Micro, Small and Medium enterprises were notified by the Ministry of MSME, GoI vide Gazette Notification S.O. 2119 (E) dated June 26, 2020. Subsequent amendment has been made to the above notification by Government of India (GoI) vide Gazette Notification S.O. 4926 (E) dated October 18, 2022.

- As classification / re-classification of MSMEs is the statutory responsibility of Ministry of MSME, GoI as per the provisions of the MSMED Act, 2006, regulated entities shall be guided by the notifications issued by the Ministry of MSME in this regard, from time to time.
- Accordingly, the following amendments are made in the above Master Direction- Lending to Micro, Small & Medium Enterprises (MSME) Sector:

Existing para	Revised para
Para 2.2: All the above enterprises are required to register online on the Udyam Registration portal and obtain 'Udyam Registration Certificate'.	Para 2.2: All the above enterprises are required to register online on the Udyam Registration portal and obtain 'Udyam Registration Certificate'. For PSL purposes banks shall be guided by the classification recorded in the Udyam Registration Certificate (URC).
Para 2.4 to 2.7	Deleted

The Master Direction has been updated accordingly.

R GIRIDHARAN
Chief General Manager

19 MHP Exemption for Transfer of Receivables

[Issued by the Reserve Bank of India vide RBI/2023-24/99 DOR.STR. REC.60/21.04.048/2023-24 dated 28.12.2023]

Please refer to clause 39, of the Master Direction – Reserve Bank of India (Transfer of Loan Exposures) Directions, 2021 (“MD-TLE”), regarding requirement of Minimum Holding Period (MHP) on transfer of loans.

- In order to develop secondary market operations of receivables acquired as part of ‘factoring business’ as defined under the Factoring Regulation Act, 2011, it has been decided that transfer of such receivables by eligible transferors will be exempted from MHP requirement, subject to fulfilment of the following conditions:
 - The residual maturity of such receivables, at the time of transfer, should not be more than 90 days, and
 - As specified under clauses 10 and 35 of these directions, the transferee conducts proper credit appraisal of the drawee of the bill, before acquiring such receivables.
- Accordingly, a suitable proviso has been added to clause 39 of MD-TLE, through amendment dated December 28, 2023.
- All other provisions of the MD-TLE shall continue to be applicable, as hitherto.

VAIBHAV CHATURVEDI
Chief General Manager

20 Reserve Bank of India (Financial Benchmark Administrators) Directions, 2023

[Issued by the Reserve Bank of India vide RBI/2023-24/98 FMRD. FMSD.07/03.07.35/2023-24 dated 28.12.2023]

Please refer to paragraph 1 of the Statement on Developmental and Regulatory Policies dated August 10, 2023 regarding review of the Financial Benchmark Administrators (Reserve Bank) Directions, 2019 dated June 26, 2019 (‘the Directions’).

- Accordingly, the Directions have been reviewed to put in place a holistic risk-based framework covering all benchmark administrators in financial markets regulated by the Reserve Bank. The revised Directions are enclosed herewith.
- These Directions have been issued in exercise of the powers conferred under section 45W of the Reserve Bank of India Act, 1934 read with section 45U of the Act and of all the powers enabling it in this behalf.

DIMPLE BHANDIA
Chief General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.rbi.org.in

21 Reserve Bank of India (Government Securities Lending) Directions, 2023

[Issued by the Reserve Bank of India vide RBI/2023-24/97 FMRD.DIRD. No.05/14.03.061/2023-2024 dated 27.12.2023]

Please refer to paragraph 1 of the Statement on Developmental and Regulatory Policies, issued as a part of the Bi-monthly Monetary Policy Statement for 2022-23 dated February 08, 2023 on introduction of Securities Lending and Borrowing in Government Securities. In pursuance of the announcement, the Draft Reserve Bank of India (Government Securities Lending) Directions, 2023 were placed on the Reserve Bank's website, on February 17, 2023, to invite comments from banks, market participants and other interested parties.

2. Based on the comments received, the Directions have been finalized and are being issued herewith.
3. These Directions have been issued in exercise of the powers conferred under section 45W of the Reserve Bank of India Act, 1934 read with section 45U of the Act and of all the powers enabling it in this behalf.
4. These Directions shall come into immediate effect.

DIMPLE BHANDIA

Chief General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.rbi.org.in

22 Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023

[Issued by the Reserve Bank of India vide No. FEMA 14(R)/2023-RB dated 21.12.2023]

In exercise of the powers conferred by Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in supersession of Notification No. FEMA 14(R)/2016-RB dated May 02, 2016, except as respects things done or omitted to be done before such supersession, the Reserve Bank makes the following regulations, namely:

1. Short title and commencement - (1) These regulations shall be called the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023.
 - (2) They shall come into force on the date of their publication in the Official Gazette.
2. Definitions - (1) In these regulations, unless the context otherwise requires,-
 - i. 'Act' means the Foreign Exchange Management Act, 1999 (42 of 1999);
 - ii. 'Authorised Bank' shall have the same meaning as given in the Foreign Exchange Management (Deposit) Regulations, 2016 as amended from time to time.
 - (2) The words and expressions used but not defined in these regulations shall have the same meanings respectively assigned to them in the Act.

3. Manner of receipt and payment - (1) Save as otherwise in a manner as provided in the Act or the rules or regulations made or directions issued under the Act, no person resident in India shall make or receive payment from a person resident outside India:

Provided that the Reserve Bank may, on an application made to it, permit a person resident in India to make or receive payment under the Act.

- (2) The receipt and payment between a person resident in India and a person resident outside India shall, unless provided otherwise, be made through an Authorised Bank or Authorised Person and in the manner as specified below:

- (I) Trade transactions - (a) receipt/payment for export to or import from the countries given below of eligible goods and services shall be made as under:

- (i) Nepal and Bhutan - in Indian Rupees provided that in case of exports from India where the importer in Nepal has been permitted by the Nepal Rashtra Bank to make payment in foreign currency, such receipts towards the amount of the export may be in foreign currency;

- (ii) Member countries of ACU, other than Nepal and Bhutan - through ACU mechanism or as per the directions issued by the Reserve Bank to authorised dealer from time to time:

Provided that in case of imports where the goods are shipped to India from a member country of the ACU (other than Nepal and Bhutan) but the supplier is resident of a country other than a member country of the ACU, the payment may be made in a manner as specified at (iii) below.

- (iii) Countries other than member countries of ACU - In Indian Rupees or in any foreign currency.

- (b) Notwithstanding anything contained in this sub-regulation, receipts and payments may also be made in a manner as may be provided in the extant Foreign Trade Policy framed by the Central Government.

Explanation: The expression 'ACU' (Asian Clearing Union) shall have the same meaning assigned to it under Article I of the ACU agreement and the ACU mechanism shall be construed accordingly.

- (II) Transactions other than trade transactions - receipt and payment shall be made as under:

- (i) Nepal and Bhutan - In Indian Rupees provided that in case of overseas investment in Bhutan, payment may also be made in foreign currency;
- (ii) Other Countries – In Indian Rupees or any foreign currency.
- (3) Payment and receipt in India for any current account transaction, other than a trade transaction, between any person resident in India and a person resident outside India, who is on a visit to India, may be made only in Indian Rupees.

Provided that any payment or receipt under regulation 3 may also be made by debit/ credit to a bank account maintained in terms of the rules, regulations or directions issued under the Act.

DR. ADITYA GAIHA
Chief General Manager

23 Trade Credit for imports into India – Submission of return on issuance of bank guarantees for Trade Credits on the Centralised Information Management System (CIMS)

[Issued by the Reserve Bank of India vide RBI/2023-24/96 A.P. (DIR Series) Circular No. 10 dated 22.12.2023]

Attention of Authorised Dealer Category – I banks is invited to A.P. (DIR Series) Circular No. 75 November 19, 2013 read with A.P. (DIR Series) Circular No. 20 dated March 13, 2018 relating to Trade Credits for imports into India and submission of quarterly statement on issuance of guarantees therefor by AD banks on the eXtensible Business Reporting Language (XBRL) platform.

2. With the launch of the Reserve Bank's next generation data warehouse viz., the Centralised Information Management System (CIMS), it has been decided to shift the arrangement for reporting of quarterly data on issuance of guarantees for trade credits by AD banks, from XBRL platform to CIMS. The statement has been assigned return code- 'R131' on CIMS.
3. AD Category I banks have already been onboarded on the CIMS platform and are currently submitting the aforesaid return on XBRL site as well as the CIMS portal. Henceforth, AD Category- I banks shall furnish the return only on the CIMS portal (URL: <https://sankalan.rbi.org.in/>) as submission of the return through the XBRL site will be discontinued with effect from December 26, 2023.
4. The Master Direction - External Commercial Borrowing, Trade Credit and structured Obligation dated March 26, 2019 (as amended from time to time) shall accordingly be updated to reflect the above changes. AD banks may bring the contents of this circular to the notice of their constituents.

5. The directions contained in this circular have been issued under Section 10(4) and 11(2) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

DR. ADITYA GAIHA
Chief General Manager

24 Rupee Drawing Arrangement - Submission of statement/return on CIMS Portal

[Issued by the Reserve Bank of India vide RBI/2023-24/95 A.P. (DIR Series) Circular No.09 dated 22.12.2023]

Attention of Authorised Dealer Category – I (AD Category – I) banks is invited to the A.P. (DIR Series) Circular No.71 dated May 19, 2016, in terms of which AD Category – I banks were required to submit statement E on total remittances received every quarter.

2. It has now been decided that with effect from December 26, 2023, submission of the above-mentioned statement through the XBRL site will be discontinued and shifted to the Centralized Information Management System (CIMS), which is Bank's new data warehouse. AD Category – I banks have already been onboarded on CIMS portal and are currently submitting the return on XBRL site as well as CIMS portal. The statement has been assigned return code - 'R129' on CIMS portal.
3. Accordingly, all AD Category – I banks shall upload the above-mentioned statement on CIMS portal (URL: <https://sankalan.rbi.org.in>) from the quarter ending December 2023. In case no data is to be furnished, AD Category – I banks shall upload a 'NIL' report.
4. FED Master Direction No. 18/2015-16 dated January 1, 2016 is being updated to reflect the changes.
5. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

PUNEET PANCHOLY
Chief General Manager

25 CIMS Project implementation - Discontinuation of submission in legacy XBRL

[Issued by the Reserve Bank of India vide RBI/2023-24/94 A.P. (DIR Series) Circular No.12 dated 22.12.2023]

Attention of Authorised Dealer Category-I (AD Category-I) banks is invited to A.P. (DIR Series) Circular No. 103 dated April 03, 2012 and of A.P. (DIR Series) Circular No. 30 dated September 15, 2014 in terms of which, AD Category-I banks were required to submit the following statements on XBRL site –

- (i) Statement on half yearly basis (end March/end September) showing the quantity and value of gold imported by the nominated banks/ agencies/ EOUs/ SEZs in Gem & Jewellery sector, mode of payment-wise,
 - (ii) Statement on monthly basis showing the quantity and value of gold imports by the nominated agencies (other than the nominated banks)/ EOUs/ SEZs in Gem & Jewellery sector during the month under report as well as the cumulative position as at the end of the said month beginning from the 1st month of the Financial Year.
2. It has now been decided to discontinue submission of the return through the XBRL system and shift to Centralised Information Management System (CIMS), Bank's new data warehouse for data collection, with effect from December 26, 2023. AD Category-I banks have already been onboarded on CIMS portal and are currently undertaking parallel submission of the return on both XBRL site as well as CIMS portal. The returns have been named 'Import of gold by EOUs, units in SEZ/EPZ and nominated agencies(M)', "Import of gold by EOUs, units in SEZ/EPZ and nominated agencies(HY)' and has been assigned return codes- 'R132' & 'R133' respectively on CIMS portal.
 3. Accordingly, AD Category-I banks shall upload the two statements as mentioned at para 1 (i) and (ii) on CIMS portal (URL: <https://sankalan.rbi.org.in>) with effect from December 26, 2023. In case no data is to be furnished, AD Category-I banks shall upload a 'NIL' report.
 4. The directions contained in this circular have been issued under Section 10 (4) and 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

PUNEET PANCHOLY
Chief General Manager

PUNEET PANCHOLY
Chief General Manager

27 Reverse Repo transactions - Reporting in Form 'A' Return

[Issued by the Reserve Bank of India vide RBI/2023-24/92 DoR.RET.REC.59/12.01.001/2023-24 dated 22.12.2023]

Please refer to the circular DoR.RET.REC.43/12.01.001/2023-24 dated October 16, 2023 on the captioned subject.

2. On a review, it has been decided to revise the instructions contained in Para B of the above circular. Accordingly, the Reverse Repo transactions of a bank with non-banks (other institutions) should be reported as under:
 - i. For original tenors up to and inclusive of 14 days - Not required to be reported in Form A.
 - ii. For original tenors more than 14 days - Item VI(a) of Form A. [i.e. Loans, cash credits and overdrafts under Bank Credit in India (excluding inter-bank advances)]
3. All other instructions specified in the above circular dated October 16, 2023 remain unchanged.

BRIJ RAJ
Chief General Manager

26 Liberalised Remittance Scheme (LRS) for Resident Individuals- Reporting of monthly return and daily transactions

[Issued by the Reserve Bank of India vide RBI/2023-24/93 A.P. (DIR Series) Circular No.11 dated 22.12.2023]

Attention of all Authorised Dealer Category-I (AD Category- I) banks is invited to A.P. (DIR Series) Circular No. 07 dated June 17, 2021, in terms of which, AD Category-I banks were required to upload data in respect of number of applications received and the total amount remitted under Liberalised Remittance Scheme (LRS) on a monthly basis on XBRL site and A.P. (DIR Series) Circular No. 23 dated April 12, 2018, in terms of which, AD Category-I banks were required to upload daily transaction-wise information undertaken by them under LRS on XBRL site.

28 Card-on-File Tokenisation (CoFT) – Enabling Tokenisation through Card Issuing Banks

[Issued by the Reserve Bank of India vide RBI/2023-24/91 CO.DPSS.POLC.No.S-919/02-14-003/2023-24 dated 20.12.2023]

The card tokenisation services are being currently provided by card issuers and card networks in terms of Reserve Bank of India circulars DPSS.CO.PD No.1463/02.14.003/2018-19 dated January 8, 2019 on “Tokenisation – Card transactions”, CO.DPSS.POLC.No.S-516/02-14-003/2021-22 dated September 07, 2021 on “Tokenisation – Card Transactions: Permitting Card-on-File Tokenisation (CoFT) Services” and CO.DPSS.POLC.No.S-567/02-14-003/2022-23 dated June 24, 2022 on “Restriction on Storage of Actual Card Data [i.e. Card-on-File (CoF)]”.

2. As announced in the Statement on Development and Regulatory Policies dated October 6, 2023, it has been decided to enable CoFT directly through card issuing banks / institutions also. This will provide cardholders with an additional choice to tokenise their cards for multiple merchant sites through a single process. Detailed requirements for the same are listed in the Annex.
3. This directive is issued under Section 10 (2) read with Section 18 of Payment and Settlement Systems Act, 2007 (Act 51 of 2007).

GUNVEER SINGH

Chief General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.rbi.org.in

29 Investments in Alternative Investment Funds (AIFs)

[Issued by the Reserve Bank of India vide RBI/2023-24/90 DOR.STR.REC.58/21.04.048/2023-24 dated 19.12.2023]

Regulated entities (REs) make investments in units of AIFs as part of their regular investment operations. However, certain transactions of REs involving AIFs that raise regulatory concerns have come to our notice. These transactions entail substitution of direct loan exposure of REs to borrowers, with indirect exposure through investments in units of AIFs.

2. In order to address concerns relating to possible evergreening through this route, it is advised as under:
 - (i) REs shall not make investments in any scheme of AIFs which has downstream investments either directly or indirectly in a debtor company of the RE.

Explanation: The debtor company of the RE, for this purpose, shall mean any company to which the RE currently has or previously had a loan or investment exposure anytime during the preceding 12 months.

- (ii) If an AIF scheme, in which RE is already an investor, makes a downstream investment in any such debtor company, then the RE shall liquidate its investment in the scheme within 30 days from the date of such downstream investment by the AIF. If REs have already invested into such schemes having downstream investment in their debtor companies as on date, the 30-day period for liquidation shall be counted from date of issuance of this circular. REs shall forthwith arrange to advise the AIFs suitably in the matter.
- (iii) In case REs are not able to liquidate their investments within the above-prescribed time limit, they shall make 100 percent provision on such investments.
3. In addition, investment by REs in the subordinated units of any AIF scheme with a ‘priority distribution model’ shall be subject to full deduction from RE’s capital funds.

Explanation: ‘Priority distribution model’ shall have the same meaning as specified in the SEBI circular SEBI/HO/AFD-1/PoD/P/CIR/2022/157 dated November 23, 2022.

4. These instructions have been issued in exercise of the powers conferred by the Sections 21 and 35A of the Banking Regulation Act, 1949 read with Section 56 of the Banking Regulation Act, 1949; Chapter IIIB of the Reserve Bank of India Act, 1934 and Sections 30A, 32 and 33 of the National Housing Bank Act, 1987.
5. The above instructions shall become effective immediately.

VAIBHAV CHATURVEDI

Chief General Manager

30 Formation of new district Mauganj in the State of Madhya Pradesh –Assignment of Lead Bank Responsibility

[Issued by the Reserve Bank of India vide RBI/2023-24/89 FIDD.CO.LBS.BC.No.12/02.08.001/2023-24 dated 18.12.2023]

The Government of Madhya Pradesh has notified formation of a new district, viz., Mauganj in the state of Madhya Pradesh vide Gazette Notification No. F-Rev-6-0006-2023-VII-Sec-7 dated August 13, 2023. Accordingly, it has been decided to designate the Lead Bank of the new district as below:

Sr No	Newly Created District	Lead Bank Responsibility assigned to	District Working Code allotted to new district
1.	Mauganj	Union Bank of India	02N (to be read as 'numeral zero, numeral two, alphabet N')

2. There is no change in the Lead Banks of the other districts in the state of Madhya Pradesh.

NISHA NAMBIAR
Chief General Manager

31 Processing of e-mandates for recurring transactions

[Issued by the Reserve Bank of India vide RBI/2023-2024/88 CO.DPSS. POLC.No.S-882/02.14.003/2023-24 dated 12.12.2023]

A reference is invited to our circular CO.DPSS. POLC.No.S-518/02.14.003/2022-23 dated June 16, 2022 in terms of which relaxation in Additional Factor of Authentication (AFA) was permitted while processing e-mandates / standing instructions on cards, Prepaid Payment Instruments and Unified Payments Interface, for subsequent recurring transactions with values up to ₹15,000/-, subject to conditions listed therein.

- In this regard, as announced in the Statement on Developmental and Regulatory Policies dated December 08, 2023, it has been decided to increase the limit from ₹15,000/- to ₹1,00,000/- per transaction for the following categories: (a) subscription to mutual funds, (b) payment of insurance premiums, and (c) credit card bill payments.
- This circular is issued under Section 10 (2) read with Section 18 of the Payment and Settlement Systems Act, 2007 (Act 51 of 2007), and shall come into effect immediately.

GUNVEER SINGH
Chief General Manager

32 Sovereign Gold Bond (SGB) Scheme 2023-24

[Issued by the Reserve Bank of India vide RBI/2023-2024/87 IDMD.CDD. No.2128/14.04.050/2023-24 dated 11.12.2023]

Government of India, vide its Notification No F.No.4(6)-B (W&M)/2023 dated December 08, 2023, has announced Series III and IV of Sovereign Gold Bond Scheme 2023-24. Under the Scheme, there will be a distinct series (Series III and IV) which will be indicated on the Bond issued to the investor. The terms and conditions of the issuance of the Bonds shall be as per the above notification.

2. Date of Issue

The bonds shall be issued as per the details given below:

S. No.	Tranche	Date of Subscription	Date of Issuance
1.	2023-24 Series III	December 18 - December 22, 2023	December 28, 2023, Thursday
2.	2023-24 Series IV	February 12 - February 16, 2024	February 21, 2024, Wednesday

3. Period of subscription

The Subscription of the Gold Bonds under the Scheme shall be open (Monday to Friday) on the dates specified above, provided that the Central Government may, with prior notice, close the Scheme at any time before the period specified above.

4. Application

Subscription for the Bonds may be made in the prescribed application form 'Form A' or in any other form as near as thereto, stating clearly the units (in grams) of gold and the full name and address of the applicant. Every application must be accompanied by valid 'PAN details' issued by the Income Tax Department to the investor(s). Designated Scheduled Commercial Banks, Designated Post Offices, Stock Holding Corporation of India Ltd., Clearing Corporation of India Ltd. and the recognized stock exchanges, viz. National Stock Exchange of India Ltd. and Bombay Stock Exchange Ltd. are the Receiving Offices which are authorized to receive applications for the Bonds either directly or through agents and render all services to the customers. The Receiving Office shall issue an acknowledgment receipt in Form B to the applicant.

- All online applications should be accompanied by email Id of the investor/s which should be uploaded on the Ekuber portal of Reserve Bank of India along with the subscription details.
- In addition to receipt of application, the Receiving Offices are also entrusted with the responsibility of providing service to the investors of the SGB and are required to be guided by the instructions issued by the Reserve Bank of India in this regard from time to time. With a view to facilitate availability of all current operative instructions regarding servicing of these bonds at one place, Reserve Bank of India has issued Consolidated Procedural Guidelines vide circular IDMD.CDD.1100/14.04.050/2021-22 dated October 22, 2021 (updated as on October 04, 2022) and the same is available on its website. The Receiving Offices shall be guided by these instructions while dealing with all the procedural aspects and providing service to the investors.
- All other terms and conditions specified in the notification of the Government of India, Ministry of Finance (Department of Economic Affairs) F.No.4(2)-W&M/2018 dated March 27, 2018 shall apply to the Bonds.

G ANANDAKRISHNAN
Chief General Manager

CHARTERED SECRETARY

Advertisement

Tariff



(With Effect from September 2018)

BACK COVER (COLOURED)			COVER III/III (COLOURED)		
Non – Appointment			Non – Appointment		
Per Insertion	₹1,00,000		Per Insertion	₹ 70,000	
4 Insertions	₹ 3,60,000		4 Insertions	₹2,52,000	
6 Insertions	₹ 5,28,000		6 Insertions	₹ 3,69,000	
12 Insertions	₹ 10,20,000		12 Insertions	₹ 7,14,000	
FULL PAGE (COLOURED)			HALF PAGE (COLOURED)		
	Non – Appointment	Appointment		Non – Appointment	Appointment
Per Insertion	₹ 50,000	₹ 15,000	Per Insertion	₹ 25,000	₹ 7,500
4 Insertions	₹ 1,80,000	₹ 54,000	4 Insertions	₹ 90,000	₹ 27,000
6 Insertions	₹ 2,64,000	₹ 79,200	6 Insertions	₹ 1,32,000	₹ 39,600
12 Insertions	₹ 5,10,000	₹ 1,53,000	12 Insertions	₹ 2,55,000	₹ 76,500
PANEL (QTR PAGE) (COLOURED)			EXTRA BOX NO. CHARGES		
Per Insertion	₹15,500	₹4,500	For 'Situation Wanted' ads	100	
(Subject to availability of space)			For Others	200	
MECHANICAL DATA					
Full Page - 18X24 cm		Half Page - 9X24 cm or 18X12 cm		Quarter Page - 9X12 cm	

- ♦ The Institute reserves the right not to accept order for any particular advertisement.
- ♦ The Journal is published in the 1st week of every month and the advertisement material should be sent in the form of typed manuscript or art pull or open file CD before 20th of any month for inclusion in the next month's issue.

For further information
write to:

The Editor

CHARTERED SECRETARY

Mail to : cs.journal@icsi.edu

Ext. 0120-4082123



सत्यं वद। धर्मं चर।

"speak the truth abide by the law"

THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

Spl.
Attraction

30%

rebate on the total
billing for 36 insertions
in 3 years in any
category

5

NEWS FROM THE INSTITUTE



- MEMBERS RESTORED DURING THE MONTH OF NOVEMBER 2023
- CERTIFICATE OF PRACTICE SURRENDERED DURING THE MONTH OF NOVEMBER 2023
- LIST OF PEER REVIEWED UNITS
- NEW ADMISSIONS
- UPLOADING OF PHOTOGRAPH AND SIGNATURE
- OBITUARIES
- CHANGE / UPDATION OF ADDRESS



Institute News

MEMBERS RESTORED DURING THE MONTH OF NOVEMBER 2023

SL. NO	NAME	MEMB NO	REGION
1	CS NEELAM DAMJI SHAH	ACS - 10518	WIRC
2	CS R RAMANATHAN	ACS - 10981	SIRC
3	CS YOGESH KUMAR SHARMA	ACS - 15406	WIRC
4	CS SAKSHI BHATIA	ACS - 22640	NIRC
5	CS VINOD KUMAR SHARMA	ACS - 22799	WIRC
6	CS MOHIT JINDAL	ACS - 24099	NIRC
7	CS JAYALAKSHMI G	ACS - 25310	SIRC
8	CS A S DEEPASREE	ACS - 25941	SIRC
9	CS AJAY JAGDISH WAGLE	ACS - 30806	WIRC
10	CS KANCHAN AGARWAL	ACS - 33220	NIRC
11	CS ATITHI CHIRAG JAIN	ACS - 35010	WIRC
12	CS NISHA AGARWAL	ACS - 37289	SIRC
13	CS RAKHI JAIN	ACS - 38409	SIRC
14	CS TANUJA ANAND DESHPANDE	ACS - 38642	WIRC
15	CS SUKHBIR	ACS - 39095	NIRC
16	CS GAURAV TYAGI	ACS - 40454	NIRC
17	CS DEEPSHIKHA CHAINANI	ACS - 42308	NIRC
18	CS HARSHA SARAF	ACS - 43641	EIRC
19	CS PRADEEP KUMAR TIWARI	ACS - 44124	WIRC
20	CS SHOUVIK DAWN	ACS - 44375	EIRC
21	CS CHHAVI KOTHARI	ACS - 45673	NIRC

22	CS KAVITA DHINGRA	ACS - 46346	NIRC
23	CS JYOTI AGARWAL	ACS - 49935	EIRC
24	CS PAYAL T TEKCHANDANI	ACS - 51830	NIRC
25	CS MADHURIMA SABHARWAL	ACS - 52769	NIRC
26	CS VARDAN SHARMA	ACS - 54917	NIRC
27	CS NIDHI TULSYAN	ACS - 56251	SIRC
28	CS SHILPA BANSAL	ACS - 59967	NIRC
29	CS ANURAG LATA	ACS - 61675	WIRC
30	CS KARAN LAKHOTIA	ACS - 61751	EIRC
31	CS ANKITA AGARWAL	ACS - 63569	EIRC
32	CS D P KHANDELWAL	FCS - 412	NIRC
33	CS UMAKANTA PANDA	FCS - 1815	EIRC
34	CS UMA SANGHI	FCS - 4588	NIRC
35	CS ANIL KUMAR	FCS - 5903	NIRC
36	CS RAJEEV JAIN	FCS - 6049	WIRC

CERTIFICATE OF PRACTICE SURRENDERED DURING THE MONTH OF NOVEMBER 2023

SL. NO	NAME	MEMB NO	COP NO	REGION
1	CS AKSHAY RAMANUJAM DEKONDA	ACS - 57060	25127	WIRC
2	CS BISHAKHA BOSE	ACS - 47748	26057	EIRC
3	CS DEEPAK RASTOGI	FCS - 9502	11538	NIRC
4	CS DEEPAKKUMAR KUSHALCHANDRA CHAUBISA	ACS - 45536	26627	WIRC
5	CS JYOTI CHITLANGIYA	ACS - 54112	23094	WIRC
6	CS KAMAL JEET SINGH KALRA	FCS - 8278	9107	NIRC
7	CS KOMAL RINGAN	FCS - 10788	24745	NIRC
8	CS MAYANK VASHIST	ACS - 48820	19885	NIRC
9	CS NEERAJ PURI	ACS - 45591	18321	NIRC

10	CS POOJA ANAND	FCS - 7032	5450	NIRC
11	CS POOJA JEETENDRA OJHA	ACS - 41693	26773	SIRC
12	CS POONAMCHAND RAJSINGH KANOJIA	ACS - 61027	25658	WIRC
13	CS PRADEEP SHARMA	ACS - 45867	16732	WIRC
14	CS PRADEEP RANJAN RATH	FCS - 4591	26427	WIRC
15	CS PREETI SHARMA	ACS - 27218	26004	NIRC
16	CS SATISH KUMAR	FCS - 9491	11467	NIRC
17	CS SHERLYN PRIYA REBELLO	FCS - 11165	16401	WIRC

18	CS SHREYA JAIN	ACS - 63594	24772	EIRC
19	CS SHRUTI GUPTA	ACS - 48854	20711	NIRC
20	CS SONAM KHANDELWAL	ACS - 50045	23314	EIRC
21	CS SURAJ PRAKASH	ACS - 38992	19464	NIRC
22	CS THEJA R	ACS - 67014	26415	SIRC
23	CS VARSHA TIWARI	ACS - 63507	25727	NIRC
24	CS VARSHA CHIDAMBAR PATHAK	ACS - 46232	19161	SIRC
25	CS VENKATA SUBRAMANYA RAVI KUMAR GANNAVARAPU	FCS - 8529	17178	SIRC

LIST OF PEER REVIEWED UNITS

The List of Peer Reviewed Units is updated on ICSI Website from time to time and can be accessed at <https://tinyurl.com/PRList2023>

We request members to visit the list for their reference and records.

Peer Review Secretariat

ICSI

NEW ADMISSIONS

For latest admission of Associate and Fellow Members, Life Members of Company Secretaries Benevolent Fund (CSBF), Licentiatees and issuance of Certificate of Practice, kindly refer to the link <https://www.icsi.edu/member>



UPLOADING OF PHOTOGRAPH AND SIGNATURE

Members are requested to ensure that their latest scanned passport size front-facing colour photograph (in formal wear) and signature in .jpg format (each on light-colored background of not more than 200 kb file size) are uploaded on the online portal of the Institute.

Online Steps for Uploading of photo and signature.

- Use ONLINE SERVICES tab on www.icsi.edu
- Select Member Portal from dropdown
- Login using your membership number e.g. A1234/F1234
- Enter your password
- Under My Profile --- Click on View and Update
- Upload/update the photo and signature as required
- Press Save button

OBITUARIES

Chartered Secretary deeply regrets to record the sad demise of the following member:

CS (Dr.) P.V.S. Jagan Mohan Rao (1955-2024), Former President, The Institute of Company Secretaries of India (2001)

CHANGE / UPDATION OF ADDRESS

The members are requested to check and update (if required) your professional and residential addresses ONLINE only through Member Login. Please indicate your correspondence address too.

The steps to see your details in the records of the Institute:

1. Go to www.icsi.edu
2. Click on **MEMBER** in the menu
3. Click on **Member Search** on the member home page
4. Enter your membership number and check
5. The address displayed is your Professional address (Residential if Professional is missing)

The steps for online change of address are as under:

1. Go to www.icsi.edu
2. On the Online Services ----select **Member Portal** from dropdown menu
3. Login using your membership number e.g. A1234/F1234
4. Under **My Profile** --- Click on View and update option and check all the details and make the changes required and save
5. To change the mobile number and email id click the side option "**Click Here to update Mobile Number and E-mail Id**"
6. Check the residential address and link the Country-State-District-City and check your address in the fields Add. Line1/Add. Line2 & Add. Line3 (Click Here to change residential address)
 - a) Select the Country[#]
 - b) Select the State
 - c) Select the City
 - d) Submit the Pincode which should be 6 digits without space.
 - e) Then click on "Save" button.
7. Select the appropriate radio button for Employment Status and check your address in the fields Add. Line1/ Add. Line2 & Add. Line3 click the link on the right (Click Here to change Professional address)
 - a) Select the Country[#]
 - b) Select the State
 - c) Select the City
 - d) Submit the Pincode which should be 6 digits without space.
 - e) Then click on "Save" button.
8. Go back to the Dashboard and check if the new address is being displayed.

[#]in case of Foreign Country and State is not available in options then Select "**Overseas**" – A pop-up will open and you can add the "City, District, State" of that Country alongwith Zipcode

Members are required to verify and update their address and contact details as required under Regulation 3 of the CS Regulations, 1982 amended till date

For any further assistance, we are available to help you at <http://support.icsi.edu>

6

MISCELLANEOUS CORNER



- GST CORNER
- ETHICS IN PROFESSION
- CG CORNER

CENTRAL TAX NOTIFICATIONS**NOTIFICATION NO. 55/2023- CENTRAL TAX DATED 20TH DECEMBER, 2023**

Extension of due date for filing of return in FORM GSTR-3B for the month of November, 2023 for the registered persons whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu and Kancheepuram in the state of Tamil Nadu.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1009957/ENG/Notifications>

NOTIFICATION NO. 56/2023- CENTRAL TAX DATED 28TH DECEMBER, 2023

This notification seeks to extend dates of specified compliances in exercise of powers under Section 168A of CGST Act, 2017.

The Government, on the recommendations of the Council, hereby, extends the time limit specified under sub-Section (10) of Section 73 for issuance of order under sub-Section (9) of Section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, relating to the period as specified below, namely: –

- (i) For the financial year 2018-19, up to the 30th day of April, 2024;
- (ii) For the financial year 2019-20, up to the 31st day of August, 2024.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1009964/ENG/Notifications>

INSTRUCTION ISSUED BY CBIC GST POLICY WING ON DATED 13TH DECEMBER 2023 TO THE GST OFFICIALS

Regarding Judgment of the Hon'ble Supreme Court in the case of Northern Operating Systems Private Limited (NOS).

The Hon'ble Supreme Court's judgment dated 19.5.2022 in the case of CC, CE & ST, Bangalore (Adj.) etc. Vs. Northern Operating Systems Private Limited (NOS) in Civil Appeal No. 2289-2293 of 2021 on the issue of nature of secondment of employees by overseas entities to Indian firms and its Service Tax implications. Representations have been received in the Board that, subsequent to the aforesaid judgment, many field formations have initiated proceedings for the alleged evasion of GST on the issue of secondment under Section 74(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act').

The matter has been examined by the Board. It appears that the Hon'ble Supreme Court in its judgment *inter-alia* took note of the various facts of the case like the agreement between NOS and overseas group companies, and held that the secondment of employees by the overseas group company to NOS was a taxable service of 'manpower supply' and Service Tax was applicable on the same. It is noted that secondment as a practice is not restricted to Service Tax and issue of taxability on secondment shall arise in GST also. A

careful reading of the NOS judgment indicates that Hon'ble Supreme Court's emphasis is on a nuanced examination based on the unique characteristics of each specific arrangement, rather than relying on any singular test.

Hon'ble Supreme Court in the case of Commissioner of Central Excise, Mumbai Versus M/s Fiat India(P) Ltd in Civil Appeal 1648-49 of 2004 has given the following observation

"66.Each case depends on its own facts and a close similarity between one case and another is not enough because either a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

It may be relevant to note that there may be multiple types of arrangements in relation to secondment of employees of overseas group company in the Indian entity. In each arrangement, the tax implications may be different, depending upon the specific nature of the contract and other terms and conditions attached to it. Therefore, the decision of the Hon'ble Supreme Court in the NOS judgment should not be applied mechanically in all the cases. Investigation in each case requires a careful consideration of its distinct factual matrix, including the terms of contract between overseas company and Indian entity, to determine taxability or its extent under GST and applicability of the principles laid down by the Hon'ble Supreme Court's judgment in NOS case.

It has also been represented by the industry that in many cases involving secondment, the field formations are mechanically invoking extended period of limitation under Section 74(1) of the CGST Act.

In this regard, Section 74 (1) of CGST Act reads as follows:

"(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax,"

From the perusal of wording of Section 74(1) of CGST Act, it is evident that Section 74(1) can be invoked only in cases where there is a fraud or wilful mis- statement or suppression of facts to evade tax on the part of the said taxpayer. Section 74(1) cannot be invoked merely on account of non-payment of GST, without specific element of fraud or wilful mis-statement or suppression of facts to evade tax. Therefore, only in the cases where the investigation indicates that there is material evidence of fraud or wilful mis- statement or suppression of fact to evade tax on the part of the taxpayer, provisions of section 74(1) of CGST Act may be invoked for issuance of show cause notice, and such evidence should also be made a part of the show cause notice.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1000492/ENG/Instructions> &

https://main.sci.gov.in/emecourt/2021/14156/14156_2021_2_1501_36077_Judgement_19-May-2022.pdf

Ethics in profession: Company Secretary

Members of the Institute, whether in practice or not, are expected to abide by all the provisions of the Company Secretaries Act, 1980; the Company Secretaries Regulations, 1982 and Guidelines issued by the Council from time to time. It is necessary for all the members to go through the provisions of the Company Secretaries Act, 1980 and the Regulations made thereunder and make themselves fully acquainted with the guidelines issued by the Council from time to time and to follow them in true letter and spirit.

Members are expected to maintain the relationship of trust and confidence with their employer and to keep secret all the confidential information acquired during the course of employment and should not disclose it to others, under any circumstances, directly or indirectly. Such confidential information may be a technical secret, important policy decision, business strategy or any other matter having bearing on the interest of the employer and if disclosed, it might be harmful or may have potential to cause harm to the employer.

Members are expected to furnish correct particulars in any information, statement, return or form, to be submitted with the various authorities in the Institute.

Members should not share emoluments of their employment with the others and the members should not accept any secret benefit from employment such as commission from their clients, customer, agent, broker; or any professional engaged by the employer. It will maintain the trust and confidence of their employer. It is an implied term for any employment that the employee concerned should not secretly benefit from the employment.

Members are expected to address issues of conflict of interest, if any, and should confidently express their professional opinion to their employer, in order to safeguard their own professional values and the larger public interest. Members are expected to upkeep the dignity and reputation of the Institute and the Company Secretary profession at the highest possible level.

CASE STUDY

Two Information of Professional or other misconduct were filed against a Company Secretary wherein the Informants had *inter-alia* alleged that the Respondent is working as a full time Company Secretary for various companies.

He is acting as a whole time Company Secretary in two companies simultaneously and the date of his Appointment with the first company is 1st February, 2003 and date of his Appointment with the second company is 1st October, 2011 as found on website of Ministry of Corporate Affairs. The details of the companies on MCA website as on 18th March, 2015 was also provided.

The Respondent contended that he was a Part-Time Company Secretary of the first company, and he had already resigned from the second company. Earlier he came to a Metropolitan city and was struggling for job and joined a third company as a Company Secretary and resigned for better prospectus and joined fourth company as a Company Secretary. His salary was very low then to have alternative job to increase his income he started some own work and also joined a part-time (dummy) Company Secretary with the first company in 2003 to survive.

In year 2005 he was approached by the first company for resignation from the post of Company Secretary but still the company has not accepted and filed his resignation (Form-32) with the ROC. The Respondent further accepted his mistake because he was busy with his own work.

In year 2011, the Respondent was suffering from illness, and he required money for operation, then he again joined part-time (dummy name) with second company as a Company Secretary for three months and resigned. But the company failed to file his resignation (Form-32) with ROC.

The Respondent accepted the allegation and felt sorry for the same and stated that he has approached both the companies for deleting his name and inform the ROC accordingly.

The Director (Discipline) on examination, observed that the Respondent was serving as 'Company Secretary' for two companies as detailed below: -

First company:

Date of Appointment	1 st February, 2003
Date of Termination/Cessation	14 th July, 2015

Second company:

Date of Appointment	1 st October, 2011
Date of Resignation/Cessation	21 st July, 2016

The Director (Discipline) found that the Respondent was working as 'Company Secretary' in two companies simultaneously for a period of 3 years & 9.5 months approximately, as the overlapping period of his employment with both the companies was from 1st October, 2011 to 14th July, 2015. Moreover, the Respondent in his written statement has admitted that he has joined as part-time (dummy) Company Secretary with first company in 2003 but the company has not accepted and filed his resignation with the ROC. Further, he has joined part-time (dummy name) with the second company as a Company Secretary for 3 months and resigned but the company failed to file his resignation with the ROC. The Respondent further accepted the allegation and felt sorry for the same and stated that he has approached both the companies for deleting his name and inform the ROC accordingly. The details were also called from the concerned companies as well, which were provided by them.

The Director (Discipline) *prima facie* opined that the matter may be referred to the Council for its opinion as to whether the act of the Respondent of accepting part-time employment in 'dummy name' as Company Secretary and also working as 'Company Secretary' simultaneously with two companies has brought disrepute as per Clause (2) of Part IV of the First Schedule of the Company Secretaries Act, 1980. The Board of Discipline considered the same and referred the matter to the Council of the Institute for its opinion under Clause (2) of Part IV of the First Schedule to the Act.

The Council of the Institute opined under clause (2) of Part IV of the First Schedule to the Company Secretaries Act, 1980 that the actions of the Respondent have brought disrepute to the profession and the Institute. Moreover, the Respondent also pleaded 'guilty' before the Board of Discipline during hearing. The Board of Discipline passed a combined Order against the Respondent imposing a Fine of Rs. 30,000/- (Rupees Thirty thousand) and 'Removal of name of the Respondent from the Register of Members for a period of 3 (three) months.

Social Governance–Examples of Best Practices

ESG (Environmental, Social and Governance) has become indispensable in business arena. Corporate houses across the globe are giving due emphasis to the components covered under “E”, “S” and “G”. ESG can be described as a set of practices (policies, procedures, metrics etc.) that organisation implement to limit negative impact or enhance positive impact on the environment, society, and governance. Here, the “S”, i.e., social governance have been discussed in light of the best practices embraced by select corporate houses.

The components covered under social governance are-

- Customer Satisfaction.
- Well-being of employees.
- Occupational Health and Safety.
- Gender and Diversity.
- Employee Engagement.
- Community Relations.

BEST PRACTICES / CASE STUDIES OF SOCIAL GOVERNANCE

Case studies focusing on the aforesaid components of social governance have been covered under the ensuing paragraphs.

i) Customer Satisfaction:

Vodafone UK

- Vodafone UK developed a graphical and interactive representation of its network performance, which is a first for the UK telecoms market and meant that a heavily technical subject was made simpler for customers.
- The main objective was to reduce network related queries into call centre via a self-serve tool and create a system for communicating planned outages to those customers affected.
- The tool had to be easy to maintain and hold the ability to update in real time, 24 hours a day, seven days a week. It should also improve network specific T-NPS scores.
- Vodafone kicked off a substantial cross-channel working group, touching areas of the business such as online, network operations, service operations, public relations, technology, security and a third party supplier (Aricent).

- Vodafone carried out extensive usability studies with the public to validate graphic design and user experience before implementing, analysing and ultimately improving it.
- The team built a system where information could be updated on-the-fly by field engineers via a network operation centre, linked to an email notification centre.
- Affected users can register their email address with the system, which then sends an email to those registered as soon as the issue is reported as closed with the network operations centre.

Outcomes:

- 40% increase in visitor traffic since launch
- 25% reduction in network-related topics posted on the forum
- 66% reduction in views of network-related forum topics
- Since launch, it has been able to decommission the forum for communicating network issues, reducing manual intervention from the social operations team
- 9% reduction in network related complaints
- 54% reduction in escalated queries requiring a customer call back
- 13% improvement in network related T-NPS
- 90% improvement in time to load faults online for customer viewing

ii) Well-being of employees

ITC Limited

- Periodic preventive health check-ups, medical assistance (including hospitalisation), group accident insurance, annual leave along with leave encashment, maternity leave for women employees, retirement benefits, employee assistance programmes and employee counselling programmes.
- Most of the company’s units have a health centre and a resident doctor.
- Regular advisories, guidelines and precautionary measures issued during pandemic along with financial assistance through an emergency loan for medical treatment of employees’ parents, and a voluntary, self-funded Group Health Insurance Policy.
- Wellbeing on the Web-Online Employee Assistance Programme.

iii) Occupational Health and Safety

Cipla

- The Company has an 'Environment Safety & Health' policy which is disclosed on website and covers supply chain partners and associates also.
- Occupational Health and Safety management system (ISO 45001:2018) implemented at all manufacturing sites in India.
- Safety audit is conducted as per Factories Act, 1948.
- Need-based external specialist audits are conducted.
- Employees report safety events through the digital platform MySetu Incident Tracking System.
- Occupational Health Centre with qualified doctors and nurses are functional at all manufacturing sites.
- The Company has a collective bargaining process in place with three associations at Patalganga, Kurkumbh and Bengaluru.

iv) Gender and Diversity

Nike

- Nike has had a year peppered with controversy in the world of gender, culminating when four women hit the sportswear company with a lawsuit over alleged discrimination. The women maintain that Nike violated US equal pay laws and fostered a work environment that allowed for sexual harassment.
- Prior to the suit being filed, Nike responded to the issues raised by ousting a number of high-profile executives in what was termed a "harassment reckoning". A month before the suit was filed, Nike HR chief Monique Matheson admitted in a staff memo obtained by *The Wall Street Journal* that the company had failed women and that it wants to "to create a culture of true inclusion" and that, in order to do this, it needs to "improve representation of women and people of colour". That same month, the company revealed that it planned to adjust the pay of 7,000 of its employees after an internal compensation review in order to address pay disparities.
- It may be opined that the above mentioned steps are more about putting out fires than they are about instituting structural change, but it's an excellent start from the footwear giant.

Larsen & Toubro

- Most of the Company's permanent office buildings and manufacturing locations are accessible to differently-abled employees and workers.

- The culture encourages cross-pollination of ideas and perspectives and challenges the 'business as usual' approach to seek feasible solutions to concerns that really matter.
- The platform 'Renew' empowers female professionals to continue their corporate journey following a maternity and child-rearing break.

v) Employee Engagement

Microsoft

- The company has wholeheartedly embraced a data-driven approach through its "One Microsoft" program, and the results are a testament to the power of listening to employees.
- Central to Microsoft's strategy is the regular collection of feedback from its employees. This feedback isn't just for show; it serves as a valuable resource for making strategic improvements.
- One of the most compelling outcomes of this data-driven approach is the transformation of Microsoft's performance review process.
- The company believes that a performance review process centred on employee development and growth, rather than competition, was more conducive to employee engagement.
- Microsoft's data-driven approach demonstrates a key principle of employee engagement: the importance of actively listening to the workforce and acting upon their feedback.
- By showing that employee opinions drive meaningful change, Microsoft has created an atmosphere of trust and collaboration that enhances engagement and, ultimately, benefits both the company and its employees.

vi) Community Relations

Ben & Jerry's Social Mission

- In 2012, the company became a certified B Corporation, a business that balances purpose and profit by meeting the highest standards of social and environmental performance, public transparency, and legal accountability.
- As part of its overarching commitment to leading with progressive values, the ice cream maker established the Ben & Jerry's Foundation in 1985, an organization dedicated to supporting grassroots movements that drive social change.
- Each year, the foundation awards approximately \$2.5 million in grants to organizations in Vermont and across the United States. Grant recipients have included the United Workers Association, a human rights group striving to end poverty, and the Clean Air Coalition, an environmental health and justice organization based in New York.

- The foundation's work earned it a National Committee for Responsive Philanthropy Award in 2014, and it continues to sponsor efforts to find solutions to systemic problems at both local and national levels.

HDFC

- HDFC Bank Parivartan encourages marginalised communities and businesses to include social and environmental consideration in their operations.
- Holistic Rural Development Programme (HRDP) which identifies and addresses the critical needs of each village through multiple interventions designed after consultation with the village community and other stakeholders.
- Under Skill Training and Livelihood Enhancement, Parivartan extends support to multiple projects that are focused on competency based skill oriented training and placements, capacity building, promoting financial literacy, credit and entrepreneurial activities as well as upskilling for agricultural and allied practices.
- Bank's education programme are structured to promote learning by creating a conducive and effective learning environment in schools. Under Parivartan's second pillar of education, the interventions are focused on teacher training in alternate, promoting innovation, improving school infrastructure through refurbishment etc.
- Under healthcare and hygiene, the key interventions are focused on championing the Government of India's Swachh Bharat Abhiyan through awareness, behavioural change and construction of toilets.
- Bank through its branches have organised financial literacy camps.

REFERENCES:

- <https://www.cgi.org.uk/about-us/policy/what-is-corporate-governance>
- <https://econsultancy.com/six-brand-case-studies-that-proved-the-value-of-customer-experience/>
- <https://www.dataprotection.ie/en/dpc-guidance/dpc-case-studies#202003>
- <https://www.siliconrepublic.com/careers/gender-gap-case-studies>
- <https://testlify.com/employee-engagement-case-studies/>
- <https://v.hdfcbank.com/csr/our-initiatives.html>

OPPORTUNITY

Required a qualified Company Secretary for a private limited Company in the mining sector having its registered office in Kolkata. Candidates having minimum 1 year of work experience in corporate laws may apply by sending their CV at varsham7@yahoo.com. Remuneration will be at par with the industry standards.



YOUR OPINION MATTERS

'Chartered Secretary' has been constantly striving to achieve Excellence in terms of Coverage, Contents, Articles, Legal Cases, Govt. Notification etc. for the purpose of knowledge sharing and constant updation of its readers. However, there is always a scope for new additions, improvement, etc.

The Institute seeks cooperation of all its readers in accomplishing this task for the benefit of all its stakeholders. We solicit your views, opinions and comments which may help us in further improving the varied segments of this journal. Suggestions on areas which may need greater emphasis, new sections or areas that may be added are also welcome.

You may send in your suggestions to the Editor, Chartered Secretary, The ICSI at cs.journal@icsi.edu

7

BEYOND GOVERNANCE

Case Study

In order to make the Chartered Secretary Journal (CSJ) more interactive for the members and students, the Case Study section has been introduced from April issue. Each Case Study is followed by question(s) which are to be solved by member(s)/student(s). The answer(s) are to be sent to cs.journal@icsi.edu latest by 25th of each month.

The answer(s) will be reviewed by a Panel of reviewer(s). The winner will be given:

- (i) Certificate of Appreciation.
- (ii) His/Her name will be published in the next issue of the Journal.
- (iii) He/She will be awarded cash award of ₹ 2,500.

Crossword

A new section 'Crossword' containing terminologies/concepts from Companies Act, IBC, NCLT and such related areas of profession is introduced. Members/ students are to send the answers of Crossword to cs.journal@icsi.edu latest by 25th of each month.

- The answer(s) will be published in the next issue of CSJ.
- The winners will be selected randomly.
- The name of three winners will be published in the next issue of CSJ.



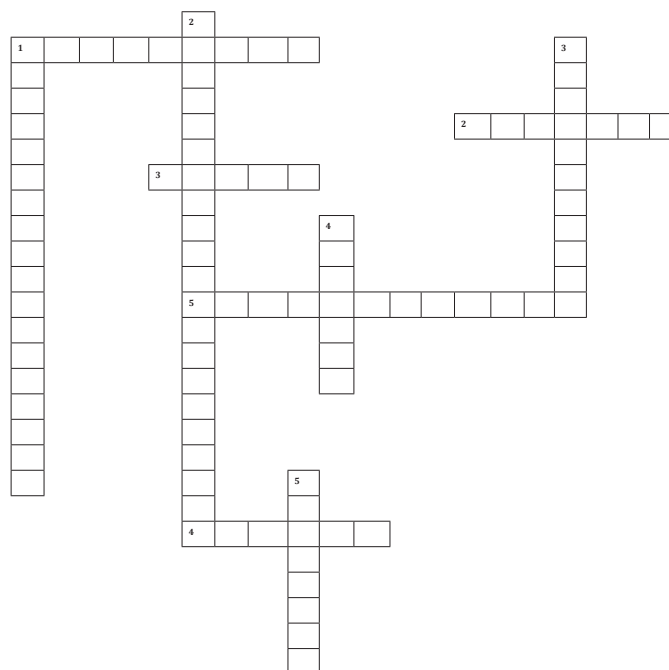
CASE STUDY

A company XYZ Limited had made preferential allotment of equity shares to a total of 100 persons on three instances from November 01, 2012 to November 10, 2012. Since the number of allottees were above the prescribed limit of 49 persons under Section 67 of the Companies Act, 1956, the Company was under an obligation to file a prospectus in connection with the issue of securities and comply with the provisions of the Companies Act, 1956 as well as the provisions of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 ("ICDR Regulations"). A show cause notice, dated September 19, 2018 was issued which alleged that the Company and its directors had violated Section 56(1) & (3), 60,73(1),(2) & (3) read with Section 67(1), (2) & (3) of the Companies Act, 1956 and Regulations 4(2) (d), 4(2)(e), 5,6,7,25,26,36,37,46,47,57 and 59 of the ICDR Regulations. Subsequently, a supplementary show cause notice dated November 21, 2019 was issued calling upon the appellants to show cause why directions to refund the subscription money in terms of Section 73 of the Companies Act, 1956 should not be issued and further why the appellants should not be restrained from accessing the securities market. It has come on record that after the allotment of preferential shares, the Company also came out with an Initial Public Offering ("IPO") issue and, upon successful completion of the IPO, the shares of the Company was listed on March 12, 2013 on the Bombay Stock Exchange.

- (i) Was the issuance of the preferential allotment to 100 persons in violation of Section 67(3) of the Companies Act and the ICDR Regulations?
- (ii) What could be the order given by SEBI in such cases, if proved to be violation of the above provisions?
- (iii) In an appeal filed before SAT, it was urged by the learned counsel for the appellants, that the allotment of preferential shares never exceeded 49 persons at a time and, therefore, there was no violation of Section 67 of the Company Act. Is this submission acceptable?
- (iv) Whether in the given circumstances, the direction of the WTM to refund the amount in terms of Section 73(2) of the Companies Act was an appropriate direction in the facts of the present case? Decide in view of the fact that the shares of the company got listed on March 12, 2013 at the Bombay Stock Exchange.
- (v) Can you take a plea of Law of Limitation w.r.t. issue of show cause notice?
- (vi) Which of the order of SEBI may be upheld by SAT in such cases?

Disclaimer: The case study has been framed from the facts and figures available in the public domain with some modifications/assumptions so as to enable members to apply their professional skills to answer the same and hide the identity of the case. Author is not to be held liable for any resemblance of the facts and figures with any case.

CROSSWORD PUZZLE – COMPANY LAW - JANUARY 2024



ACROSS

1. Under SEBI LODR 2015, a listed entity having outstanding SR equity shares, at least _____ of the Risk Management Committee shall comprise independent directors.
2. Under the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 Where a meeting of the committee could not be held for want of quorum, unless the committee has previously decided otherwise, the meeting shall automatically stand adjourned at the same time and place on the _____.
3. Under Companies Act, 2013, Any application for removal of disqualification of directors shall be made in FORM _____ and filed before the Regional Director.
4. Under SEBI LODR 2015, the listed entity shall ensure that it is registered on the _____ platform or such other electronic platform or system of the Board as shall be mandated from time to time, in order to handle investor complaints electronically in the manner specified by the Board.
5. Under Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023 Every private company, other than a _____, shall within the period mentioned in rules- (a) issue the securities only in dematerialised form; and (b) facilitate dematerialisation of all its securities.

DOWNWARDS

1. Under Companies Act, 2013, Every Public Company having Turnover of _____ rupees or more is required to have a Woman Director.
2. Under the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 the liquidator shall call upon the financial creditors, being _____, to contribute the excess of the liquidation costs over the liquid assets of the corporate debtor, as estimated by him, in proportion to the financial debts owed to them by the corporate debtor.
3. Under the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, Where the appointment of resolution professional is delayed, the interim resolution professional shall perform the functions of the resolution professional from the _____ of the insolvency commencement date till a resolution professional is appointed.
4. Under Companies Act, 2013, A company may pay a sitting fee to a director for attending meetings of the Board or committees thereof, such sum as may be decided by the Board of directors thereof which shall not exceed _____ rupees per meeting of the Board or committee thereof.
5. Under Insolvency and Bankruptcy Code, 2016, a person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person is disqualified to act as a _____ under the Companies Act, 2013.



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)
www.icsi.edu

Vision

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

Motto

सत्यं वद। धर्मं चर। इच्छते ते तृपतेः केषुते by the law.

Mission

"To develop high calibre professionals facilitating good corporate governance"



2024

JANUARY

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

FEBRUARY

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

MARCH

S	M	T	W	T	F	S
31					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

APRIL

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

MAY

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

JUNE

S	M	T	W	T	F	S
30						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

JULY

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

AUGUST

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

SEPTEMBER

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

OCTOBER

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

NOVEMBER

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

DECEMBER

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

GAZETTED HOLIDAYS

(APPLICABLE FOR HEADQUARTERS, NOIDA OFFICE, NIRO & ITS CHAPTERS)

JANUARY	AUGUST
26 Republic Day	15 Independence Day
MARCH	26 Janamastami (Vaishnva)
25 Holi	SEPTEMBER
29 Good Friday	16 Milad-un-Nabi or Id-e-Milad (Birthday of Prophet Mohammad)
APRIL	OCTOBER
11 Id-ul-Fitr	02 Mahatma Gandhi's Birthday
17 Ram Navami	12 Dussehra
21 Mahavir Jayanti	31 Diwali (Deepavali)
MAY	NOVEMBER
23 Buddha Purnima	15 Guru Nanak's Birthday
JUNE	DECEMBER
17 Id-ul-Zuha (Bakrid)	25 Christmas Day
JULY	
17 Muharram	

RESTRICTED HOLIDAYS

(APPLICABLE FOR HEADQUARTERS, NOIDA OFFICE, NIRO & ITS CHAPTERS)

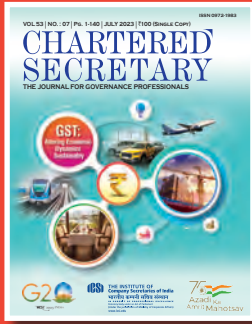
JANUARY	MARCH	MAY	NOVEMBER
01 New Year's Day	06 Swami Dayananda Saraswati Jayanti	08 Guru Rabindranath Tagore Birthday	11 Dussehra (Maha Ashtami) Dussehra (Maha Navmi)
13 Lohri	08 Maha Shivraatri	JULY	17 Maharishi Valmiki's Birthday
14 Makar Sankranti	24 Holika Dahan	07 Rath Yatra	20 Karaka Chaturthi (Karwa Chouth)
15 Magha Bihu/Pongal	25 Dolyatra	AUGUST	31 Naraka Chaturdasi
17 Guru Gobind Singh's Birthday	31 Easter Sunday	15 Parsi New Year's Day/ Navroz	NOVEMBER
25 Hazarat Ali's Birthday	05 Jamat-ul-Vida	19 Raksha Bandhan	02 Govardhan Puja
FEBRUARY	09 Chaitra Sukladi/Gudi Padava/Ugadi/Cheti Chand	SEPTEMBER	03 Bhai Duj
14 Basant Panchami/ Sri Panchami	13 Vaisakhi/Vishu	07 Ganesh Chaturthi	07 Pratihara Sashthi or Surya Sashthi (Chhat Puja)
19 Shivaji Jayanti	14 Meshadi/Vaisakhadi (Bengal)/ Bohag Bihu (Assam)	15 Onam or Thiru Onam Day	24 Guru Teg Bahadur's Martyrdom Day
24 Guru Ravidas's Birthday		OCTOBER	DECEMBER
		10 Dussehra (Saptami)	24 Christmas Eve

Connect with ICSI

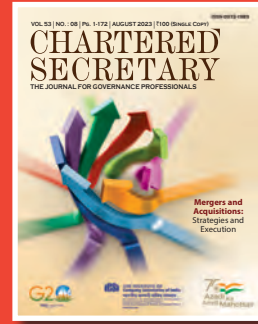
www.icsi.edu



Online helpdesk : http://support.icsi.edu



Subscribe to India's No. 1 Journal for Governance Professionals



Chartered Secretary, a prestigious monthly corporate Journal having a readership of more than 100,000 per month is rated to be one of the best journals for the professionals. The Journal enjoys a revered position amongst its peer journals not only for its thought provoking articles contributed by leading professionals from the Corporate World and the Government, but also other information such as:

- ❖ Articles on **special issues of the Chartered Secretary** on current or contemporary topic like Governance from Grassroots to Global, Companies (Amendment) Act, 2020 & Recent Labour Reforms, Futuristic Governance, MSMEs and Role of Professionals in Self-Reliant India, Ease of doing Business, Revival of Economy and Role of Professionals, Governance from Ancient Indian Scriptures, Women Leadership etc.
- ❖ Articles from international author, recognised leader, eminent expert etc.
- ❖ Special article of Guest Author such as MD, CEO of top companies, chairman / members of NCLT / NCLAT, senior functionaries in MCA, Regulators, veterans etc.
- ❖ Gist of latest Corporate & related laws
- ❖ Important notifications, circulars and clarifications from the Government
- ❖ Economic, trade and related events of corporate relevance.
- ❖ Information/Events of the Institute
- ❖ International best practices, etc., as per the Code Manual
- ❖ Global Corporate Corner
- ❖ Quality research-based articles on global contemporary issues
- ❖ Corporate Governance
- ❖ Start-up India
- ❖ Ethics in Profession
- ❖ GST Corner
- ❖ Research Corner
- ❖ Important Announcement, Publications released etc.

YES I WISH TO SUBSCRIBE TO THE CHARTERED SECRETARY JOURNAL

(Please tick your subscription choice and send the form to Printing Cell, ICSI, C-36 Sector 62, Noida 201301 (Uttar Pradesh). The mega subscription for multiple years guarantee uninterrupted supply of journal at a discounted rate.

Annual Subscription (12 issues) From - January - December	Subscription for 3 years (36 issues)	Subscription for 4 years (48 issues)	Subscription for 5 years (60 issues)
Rs.1000/- by Ordinary Post, Plus Rs.500 for Registered/Speed Post	Rs.2400/- by Ordinary Post, Plus Rs.1500 for Registered/Speed Post	Rs.3200/- by Ordinary Post, Plus Rs.2000 for Registered/ Speed Post	Rs.4000/- by Ordinary Post, Plus Rs.2500 for Registered/ Speed Post

Subscription Form :
 The Institute of Company Secretaries of India
 I wish to subscribe Chartered Secretary for a period of years (tick the box /write for the years you wish to subscribe). Please send the journal at the address given below :

 I enclose a cheque /Draft No..... dateddrawn on
 For Rs.....Payable to the Institute of Company Secretaries of India
 Date : Signature.....
 Place : Name

Students and others can also subscribe to the journal by using ICSI online services at the following link (by filling the online form and selecting the payment mode/gateway) : <https://smash.icsi.in/Scripts/CSJ/Default/SubscribeCSJournal.aspx>

❖ **Students Annual Subscription (12 issues) - Rs. 500/-by Ordinary Post, Plus Rs. 500 for Registered/Speed Post**

Please rush your order to -
 The Joint Director (Printing) ICSI, C-36 Sector 62, Noida 201301 (Uttar Pradesh)

Regn. No. 21778/71

Postal Regn. No. DL(S)-17/3197/2024-26

Posting Date : 10/11-12-2024 of Every Month

Date of Publication : 10th and 11th of Every Month

India's top companies trust us to make their hybrid and virtual events come alive

e-AGMs • Investor Conferences • Investor Day Events • Earnings Calls



For a decade now, *VCNow* has been at the forefront of B2B video solutions, making it easy for companies of all sizes to intelligently use video technologies for seamless collaboration and extending the boundaries of their reach.

We take end-to-end responsibility of your virtual/hybrid events so that you can focus on the event content without worrying about the technological and operational aspects.

Virtual Environment Design:	e-lobby, e-auditorium, custom virtual environment, etc.
Site Certification and Pre-testing:	Audio, Video, Network, Lighting and Backdrop testing and corrections if required
Complete On-site Support:	Professional AV and Video Conferencing (VC) setup, feed capture from multiple locations and mixing, online editing, content playback
Rich Suite of Features:	Live multilingual translation, transcription services, virtual backgrounds for speakers, branded screen layovers/supers

**Our presence in 23 cities helps us serve a large number of companies across India.
Put *VCNow* in charge of your next virtual/hybrid event and make it a grand success.**

☎ (+91) 9930376938 | ✉ vishwajeet.dutta@vcnow.in



**A DECADE OF HELPING WORKPLACES
CONQUER THE CHALLENGE OF DISTANCE
2014-2024**

Virtual & Hybrid Events • Managed Video Conferencing Services • Intelligent Audio Visual (AV) Solutions • AV Equipment Sourcing
• Cloud Video Conferencing Services • HD Video Conferencing Centers • Virtual Market Research • Executive Education